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Remember "In re Yamashita"?

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by Sodei Rinjiro

During the recent Congressional testimonies by Secretary of Defense Donald Rumsfeld and others, the air ran thick with military jargon such as "command influence" and "chain of command", but nowhere was the word "command responsibility" uttered. In 1945, following Japan's surrender to the Allied Powers, General Tomoyuki Yamashita, commander of Japanese military forces in the Philippines, was tried for war crimes by a U.S. military tribunal, found guilty, and hanged. His crime: failure to uphold "command responsibility" over all the Japanese troops operating in the Philippines.

Reeling from the onslaught of General Douglas MacArthur's invasion of the archipelago, the isolated Japanese force (mainly Navy) ran amok in Manila in early 1945, raping and massacring tens of thousands of innocent civilians. The Rape of Manila was a crime under the Articles of War as codified in international law. According to the U.S. military commission that tried him, General Yamashita was legally liable for all abuses and atrocities committed by his troops because he alone held command responsibility and should have known of such depredations. Yamashita appealed his case to the U.S. Supreme Court, which upheld the tribunal's verdict, ruling five to two against him.

In his minority opinion, however, Justice Murphy argued that "... in the sober afterglow will come the realization of the boundless and dangerous implications of the procedure sanctioned today. No one in a position of command in an army, from sergeant to general, can escape those implications. Indeed, the fates of some future President of the United States and his chief of staff and military advisers may well have been sealed by this decision." But Justice Murphy's was a minority view, and the doctrine of command responsibility was established in American law.

Sadly, the United States subsequently chose to ignore this precedent. In 1971, only Lt. William Calley was properly punished under law for the 1968 massacre of 567 Vietnamese civilians at Mylai, receiving a life sentence (later substantially reduced and then commuted). His Commander in Chief, who reduced the sentence, was never impeached, or even held responsible, for that crime. America the Mighty makes a law and then, when expedience dictates, breaks it with impurity.

America's atrocities against Iraqi detainees take many forms, not necessarily involving outright killing. But the violation of human rights by U.S. Army interrogators amounts to moral and spiritual murder. America has yet to understand how much it has wronged and outraged the proud Iraqi people, and how much esteem it has lost in the eyes of international opinion. Should Secretary of Defense Rumsfeld be hanged? Should President George Bush be impeached? The world awaits the verdict of the American people.

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