

CRIMES OF OBEDIENCE

Herbert C. Kelman & V. Lee Hamilton

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Toward A Social Psychology of Authority and Responsibility

Herbert C. Kelman and
V. Lee Hamilton

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Crimes of Obedience

To the Memory of
Martin Luther King, Jr.

. . . far more, and far more hideous,
crimes have been committed in the name
of obedience than have ever been
committed in the name of rebellion.

C. P. Snow (1961)

. . . an individual who breaks a law
that conscience tells him is unjust,
and willingly accepts the penalty by
staying in jail to arouse the
conscience of the community over its
injustice, is in reality expressing
the very highest respect for law.

Martin Luther King, Jr. (1963)

Preface

This book deals with the consequences that often ensue when authority gives orders exceeding the bounds of morality or law: with crimes of obedience. For both of us the book has roots in autobiography—in life experiences that shaped our scientific research interests.

Herbert Kelman grew up as a Jew in an anti-Semitic Vienna. He was eleven at the time of the Anschluss in 1938; he spent a year under Nazi rule and another year as a refugee in Antwerp. Along with his immediate family, he had the good fortune of escaping to the United States just a few weeks before the German invasion of Belgium. The experiences of the Nazi era, and especially the Holocaust, have deeply influenced his thinking and actions throughout his life. They have led him to focus attention on the question of how such atrocities become possible and how they can be prevented. As a social psychologist, he was drawn to research on the sources of unquestioning obedience versus principled resistance to unjust authority. As a citizen, he periodically felt the need to challenge policies that he considered immoral—for example, by actively participating in nonviolent direct action campaigns against racial segregation, by resisting the draft during the Korean War, and by refusing to pay war taxes during the Vietnam War.

Lee Hamilton was born in Dixie. Her concerns with authority, orders, and responsibility for the consequences were awakened while growing up in the American South in the 1950s and 1960s. Home was Richmond, Virginia, the former capital of the Confederacy. The moral dilemmas of these times were race and war. The civil rights movement was evident everywhere in Southern life; resistance to local laws and customs in the name of a higher law of justice was so common even a child could know about it. Late in the 1960s the antiwar movement came to the South. The reality of an unpopular conflict in Vietnam clashed with a tradition of military service and reverence for doing one's duty. Some of her friends resisted the draft; others served; some died. In that place and those times it was impossible not to ask questions about what right authority has to give orders and what right citizens have to resist them.

The research reported in this book began in 1971, as we observed the trial and conviction of Lt. William Calley for his part in the My Lai massacre. Other incidents such as the Watergate scandal and the Iran-contra affair—pieces of the autobiography of Americans in the 1970s and 1980s—continued to shape our thinking. This book presents a general picture of the social psychology of authority and responsibility in the hope that we may better prevent future excesses of obedience.

Many organizations and people made this book possible. The first of two surveys reported in this work was supported by U.S. Public Health Service Grant No. MH-17669 from the National Institute of Mental Health to H. C. Kelman, as well as by funds provided him by the Faculty of Arts and Sciences, Harvard University. The second was supported partly by a grant from the Gordon Allport Memorial Fund of Harvard University to Kelman and partly by National Science Foundation Grant No. 76-01113 and a Rackham grant from the University of Michigan to V. L. Hamilton. The sample of the first survey was selected and the interviews were conducted for us by the Roper Organization and its national staff; we are grateful to Carolyn Crusius and Burns Roper for their advice in the development of the interview schedule. The data for the second survey were gathered for us by the Survey Research Program of the University of Massachusetts-Boston under the direction of Floyd J. Fowler, whose help and advice were of great value to us throughout.

Kelman's work on this book in its earlier phases was greatly facilitated by a Guggenheim Fellowship and a year's residence as a fellow at the Woodrow Wilson International Center for Scholars in 1980-81. In 1985 he was able to continue work on the book as a resident scholar at the Rockefeller Foundation's Bellagio Study and Conference Center in Italy and at the Tantur Ecumenical Center for Theological Research in Jerusalem. He is deeply indebted to these organizations for providing material support as well as physical and intellectual environments conducive to scholarly pursuits.

A number of people contributed to the research itself. We would like to thank those members of the Vietnam Veterans Against the War who gave interviews to Hamilton during and after the Second Winter Soldier Investigations, held in Boston in 1971. Although we eventually decided not to report the interviews in this book, they helped to shape the image it portrays of the experience of following orders in Vietnam. We are grateful to Andre Modigliani, William Gamson, Neil Lutsky, and the late Paul Rosenkrantz, whose ideas helped us in planning the first survey and interpreting its results. Frederick D. Miller was a full collaborator in the development of the attitude scales described in chapter 12; we are greatly indebted to him for the time and effort he devoted to this project over several years and for the essential substantive contributions that he made to it. John D. Winkler also contributed to the scale development and testing. For several years Richard Hogan helped heroically in the data analysis.

Preparation of the book itself stretched across nearly a decade. Portions were

written in four states, as well as Italy, Japan, Jerusalem, and the District of Columbia. We must offer a blanket thanks to all those secretaries and support staff without whom we could not have proceeded. We are particularly grateful to Becky Hunt and Ruth Grodinsky who processed the latest drafts of the manuscript with exceptional care, skill, and dedication.

We thank our editor at Yale University Press, Gladys Topkis, for being so kind to our text and so indulgent of its length. We are also grateful to her and to our copy editor, Cecile Watters, for polishing up the prose throughout the manuscript. Thoughtful editorial comments, many of which were heeded, were made by Maria Ascher, Charles Hamilton, Robert Wilcox, and Laura Wolff. Among our colleagues in social psychology, we thank William Gamson, Jeffrey Rubin, and Tom Tyler for their thoughtful and constructive reactions to the entire manuscript. For the end result and its remaining flaws, we take responsibility.

Speaking of responsibility, it may be of interest to readers to know which of us is more or less responsible for which parts of the work. Kelman handled the final drafts of all chapters and the continuity between chapters in the final editing. Hamilton handled the data analyses and structured the first draft of the entire manuscript. In first draft, each of us wrote portions of chapters 1 and 13; Kelman drafted all or most of chapters 2, 4, 5, 6, and 11; and Hamilton did all or most of chapters 3, 7, 8, 9, 10, and 12. The entire book, however, is a genuinely collaborative enterprise, based on a process of sharing ideas and learning from one another that extended over many years.

Special thanks go to Rose Kelman for assisting in the research itself by helping to develop coding categories for the open-ended questions in our first survey and personally coding all 989 interviews; for proofreading innumerable versions of the manuscript in all stages of its development; and for countless hours of helpful support to both of us during the research and writing. Kelman also thanks her for her unstinting encouragement, love, and friendship over the years. Hamilton thanks her husband, David Rauma, for putting up with her during the book's last several years of development.

H.C.K.
V.L.H.

April 1988

Crimes of Obedience

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1 | The My Lai Massacre: A Military Crime of Obedience

March 16, 1968, was a busy day in U.S. history. Stateside, Robert F. Kennedy announced his presidential candidacy, challenging a sitting president from his own party—in part out of opposition to an undeclared and disastrous war. In Vietnam, the war continued. In many ways, March 16 may have been a typical day in that war. We will probably never know. But we do know that on that day a typical company went on a mission—which may or may not have been typical—to a village called Son (or Song) My. Most of what is remembered from that mission occurred in the subhamlet known to Americans as My Lai 4.

The My Lai massacre was investigated and charges were brought in 1969 and 1970. Trials and disciplinary actions lasted into 1971. Entire books have been written about the army's year-long cover-up of the massacre (for example, Hersh, 1972), and the cover-up was a major focus of the army's own investigation of the incident. Our central concern here is the massacre itself—a crime of obedience—and public reactions to such crimes, rather than the lengths to which many went to deny the event. Therefore this account concentrates on one day: March 16, 1968.¹

Many verbal testimonials to the horrors that occurred at My Lai were available. More unusual was the fact that an army photographer, Ronald Haeberle, was assigned the task of documenting the anticipated military engagement at My Lai—and documented a massacre instead. Later, as the story of the massacre emerged, his photographs were widely distributed and seared the public conscience. What might have been dismissed as unreal or exaggerated was depicted in photographs of demonstrable authenticity. The

1. In reconstructing the events of that day, we consulted Hammer (1970), in addition to the sources cited in the text. Schell (1968) provided information on the region around My Lai. Concerning Vietnam and peasant rebellions, we consulted FitzGerald (1972), Paige (1975), Popkin (1979), and Wolf (1969).

2 *The My Lai Massacre*

dominant image appeared on the cover of *Life*: piles of bodies jumbled together in a ditch along a trail—the dead all apparently unarmed. All were Oriental, and all appeared to be children, women, or old men. Clearly there had been a mass execution, one whose image would not quickly fade.

So many bodies (over twenty in the cover photo alone) are hard to imagine as the handiwork of one killer. These were not. They were the product of what we call a crime of obedience. Crimes of obedience begin with orders. But orders are often vague and rarely survive with any clarity the transition from one authority down a chain of subordinates to the ultimate actors. The operation at Son My was no exception.

“Charlie” Company, Company C, under Lt. Col. Frank Barker’s command, arrived in Vietnam in December of 1967. As the army’s investigative unit, directed by Lt. Gen. William R. Peers, characterized the personnel, they “contained no significant deviation from the average” for the time. Seymour S. Hersh (1970) described the “average” more explicitly: “Most of the men in Charlie Company had volunteered for the draft; only a few had gone to college for even one year. Nearly half were black, with a few Mexican-Americans. Most were eighteen to twenty-two years old. The favorite reading matter of Charlie Company, like that of other line infantry units in Vietnam, was comic books” (p. 18). The action at My Lai, like that throughout Vietnam, was fought by a cross-section of those Americans who either believed in the war or lacked the social resources to avoid participating in it. Charlie Company was indeed average for that time, that place, and that war.

Two key figures in Charlie Company were more unusual. The company’s commander, Capt. Ernest Medina, was an upwardly mobile Mexican-American who wanted to make the army his career, although he feared that he might never advance beyond captain because of his lack of formal education. His eagerness had earned him a nickname among his men: “Mad Dog Medina.” One of his admirers was the platoon leader Second Lt. William L. Calley, Jr., an undistinguished, five-foot-three-inch junior-college dropout who had failed four of the seven courses in which he had enrolled his first year. Many viewed him as one of those “instant officers” made possible only by the army’s then-desperate need for manpower. Whatever the cause, he was an insecure leader whose frequent claim was “I’m the boss.” His nickname among some of the troops was “Surfside 5½,” a reference to the swashbuckling heroes of a popular television show, “Surfside 6.”

The Son My operation was planned by Lieutenant Colonel Barker and his staff as a search-and-destroy mission with the objective of rooting out the Forty-eighth Viet Cong Battalion from their base area of Son My village. Apparently no written orders were ever issued. Barker’s superior, Col. Oran Henderson, arrived at the staging point the day before. Among the issues he reviewed with the assembled officers were some of the weaknesses of prior operations by their units, including their failure to be appropriately aggressive in pursuit of the enemy. Later briefings by Lieutenant Colonel Barker and his staff asserted that no one except Viet Cong was expected to be in the village after 7 A.M. on the following day. The “innocent”

would all be at the market. Those present at the briefings gave conflicting accounts of Barker's exact orders, but he conveyed at least a strong suggestion that the Son My area was to be obliterated. As the army's inquiry reported: "While there is some conflict in the testimony as to whether LTC Barker ordered the destruction of houses, dwellings, livestock, and other foodstuffs in the Song My area, the preponderance of the evidence indicates that such destruction was implied, if not specifically directed, by his orders of 15 March" (Peers Report, in Goldstein et al., 1976, p. 94).

Evidence that Barker ordered the killing of civilians is even more murky. What does seem clear, however, is that—having asserted that civilians would be away at the market—he did not specify what was to be done with any who might nevertheless be found on the scene. The Peers Report therefore considered it "reasonable to conclude that LTC Barker's minimal or nonexistent instructions concerning the handling of noncombatants created the potential for grave misunderstandings as to his intentions and for interpretation of his orders as authority to fire, without restriction, on all persons found in target area" (Goldstein et al., 1976, p. 95). Since Barker was killed in action in June 1968, his own formal version of the truth was never available.

Charlie Company's Captain Medina was briefed for the operation by Barker and his staff. He then transmitted the already vague orders to his own men. Charlie Company was spoiling for a fight, having been totally frustrated during its months in Vietnam—first by waiting for battles that never came, then by incompetent forays led by inexperienced commanders, and finally by mines and booby traps. In fact, the emotion-laden funeral of a sergeant killed by a booby trap was held on March 15, the day before My Lai. Captain Medina gave the orders for the next day's action at the close of that funeral. Many were in a mood for revenge.

It is again unclear what was ordered. Although all participants were still alive by the time of the trials for the massacre, they were either on trial or probably felt under threat of trial. Memories are often flawed and self-serving at such times. It is apparent that Medina relayed to the men at least some of Barker's general message—to expect Viet Cong resistance, to burn, and to kill livestock. It is not clear that he ordered the slaughter of the inhabitants, but some of the men who heard him thought he had. One of those who claimed to have heard such orders was Lt. William Calley.

As March 16 dawned, much was expected of the operation by those who had set it into motion. Therefore a full complement of "brass" was present in helicopters overhead, including Barker, Colonel Henderson, and their superior, Major General Koster (who went on to become commandant of West Point before the story of My Lai broke). On the ground, the troops were to carry with them one reporter and one photographer to immortalize the anticipated battle.

The action for Company C began at 7:30 as their first wave of helicopters touched down near the subhamlet of My Lai 4. By 7:47 all of Company C was present and set to fight. But instead of the Viet Cong Forty-eighth Battalion, My Lai was filled with the old men, women, and children who were supposed to have

gone to market. By this time, in their version of the war, and with whatever orders they thought they had heard, the men from Company C were nevertheless ready to find Viet Cong everywhere. By nightfall, the official tally was 128 VC killed and three weapons captured, although later unofficial body counts ran as high as 500. The operation at Son My was over. And by nightfall, as Hersh reported: "the Viet Cong were back in My Lai 4, helping the survivors bury the dead. It took five days. Most of the funeral speeches were made by the Communist guerrillas. Nguyen Bat was not a Communist at the time of the massacre, but the incident changed his mind. 'After the shooting,' he said, 'all the villagers became Communists'" (1970, p. 74). To this day, the memory of the massacre is kept alive by markers and plaques designating the spots where groups of villagers were killed, by a large statue, and by the My Lai Museum, established in 1975 (Williams, 1985).

But what could have happened to leave American troops reporting a victory over Viet Cong when in fact they had killed hundreds of noncombatants? It is not hard to explain the report of victory; that is the essence of a cover-up. It is harder to understand how the killings came to be committed in the first place, making a cover-up necessary.

Mass Executions and the Defense of Superior Orders

Some of the atrocities on March 16, 1968, were evidently unofficial, spontaneous acts: rapes, tortures, killings. For example, Hersh (1970) describes Charlie Company's Second Platoon as entering "My Lai 4 with guns blazing" (p. 50); more graphically, Lieutenant "Brooks and his men in the second platoon to the north had begun to systematically ransack the hamlet and slaughter the people, kill the livestock, and destroy the crops. Men poured rifle and machine-gun fire into huts without knowing—or seemingly caring—who was inside" (pp. 49–50).

Some atrocities toward the end of the action were part of an almost casual "mopping-up," much of which was the responsibility of Lieutenant LaCross's Third Platoon of Charlie Company. The Peers Report states: "The entire 3rd Platoon then began moving into the western edge of My Lai (4), for the mop-up operation. . . . The squad . . . began to burn the houses in the southwestern portion of the hamlet" (Goldstein et al., 1976, p. 133). They became mingled with other platoons during a series of rapes and killings of survivors for which it was impossible to fix responsibility. Certainly to a Vietnamese all GIs would by this point look alike: "Nineteen-year-old Nguyen Thi Ngoc Tuyet watched a baby trying to open her slain mother's blouse to nurse. A soldier shot the infant while it was struggling with the blouse, and then slashed it with his bayonet." Tuyet also said she saw another baby hacked to death by GIs wielding their bayonets. "Le Tong, a twenty-eight-year-old rice farmer, reported seeing one woman raped after GIs killed her children. Nguyen Khoa, a thirty-seven-year-old peasant, told of a thirteen-year-old girl who was raped before being killed. GIs then attacked Khoa's wife, tearing off her clothes. Before they could rape her, however, Khoa said, their

six-year-old son, riddled with bullets, fell and saturated her with blood. The GIs left her alone" (Hersh, 1970, p. 72). All of Company C was implicated in a pattern of death and destruction throughout the hamlet, much of which seemingly lacked rhyme or reason.

But a substantial amount of the killing was *organized* and traceable to one authority: the First Platoon's Lt. William Calley. Calley was originally charged with 109 killings, almost all of them mass executions at the trail and other locations. He stood trial for 102 of these killings, was convicted of 22 in 1971, and at first received a life sentence. Though others—both superior and subordinate to Calley—were brought to trial, he was the only one convicted for the My Lai crimes. Thus, the only actions of My Lai for which *anyone* was ever convicted were mass executions, ordered and committed. We suspect that there are commonsense reasons why this one type of killing was singled out. In the midst of rapidly moving events with people running about, an execution of stationary targets is literally a still life that stands out and whose participants are clearly visible. It can be proven that specific people committed specific deeds. An execution, in contrast to the shooting of someone on the run, is also more likely to meet the legal definition of an act resulting from intent—with malice aforethought. Moreover, American military law specifically forbids the killing of unarmed civilians or military prisoners, as does the Geneva Convention between nations. Thus commonsense, legal standards, and explicit doctrine all made such actions the likeliest target for prosecution.

When Lieutenant Calley was charged under military law it was for violation of the Uniform Code of Military Justice (UCMJ) Article 118 (murder). This article is similar to civilian codes in that it provides for conviction if an accused:

without justification or excuse, unlawfully kills a human being, when he—

1. has a premeditated design to kill;
2. intends to kill or inflict great bodily harm;
3. is engaged in an act which is inherently dangerous to others and evinces a wanton disregard of human life; or
4. is engaged in the perpetration or attempted perpetration of burglary, sodomy, rape, robbery, or aggravated arson. (Goldstein et al., 1976, p. 507)

For a soldier, one legal justification for killing is warfare; but warfare is subject to many legal limits and restrictions, including, of course, the inadmissibility of killing unarmed noncombatants or prisoners whom one has disarmed. The pictures of the trail victims at My Lai certainly portrayed one or the other of these. Such an action would be illegal under military law; ordering another to commit such an action would be illegal; and following such an order would be illegal.

But following an order may provide a second and pivotal justification for an act that would be murder when committed by a civilian. As chapter 3 will discuss in more detail, American military law assumes that the subordinate is inclined to follow orders, as that is the normal obligation of the role. Hence, legally, obedient subordinates are protected from unreasonable expectations regarding their capacity to evaluate those orders:

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An order requiring the performance of a military duty may be inferred to be legal. An act performed manifestly beyond the scope of authority, or pursuant to an order that a man of ordinary sense and understanding would know to be illegal, or in a wanton manner in the discharge of a lawful duty, is not excusable. (Par. 216, Subpar. d, Manual for Courts Martial, United States, 1969 Rev.)

Thus what *may* be excusable is the good-faith carrying out of an order, as long as that order appears to the ordinary soldier to be a legal one. In military law, invoking superior orders moves the question from one of the action's consequences—the body count—to one of evaluating the actor's motives and good sense.

In sum, if anyone is to be brought to justice for a massacre, common sense and legal codes decree that the most appropriate targets are those who make themselves executioners. This is the kind of target the government selected in prosecuting Lieutenant Calley with the greatest fervor. And in a military context, the most promising way in which one can redefine one's undeniable deeds into acceptability is to invoke superior orders. This is what Calley did in attempting to avoid conviction. Since the core legal issues involved points of mass execution—the ditches and trail where America's image of My Lai was formed—we review these events in greater detail.

The day's quiet beginning has already been noted. Troops landed and swept unopposed into the village. The three weapons eventually reported as the haul from the operation were picked up from three apparent Viet Cong who fled the village when the troops arrived and were pursued and killed by helicopter gunships. Obviously the Viet Cong did frequent the area. But it appears that by about 8:00 A.M. no one who met the troops was aggressive, and no one was armed. By the laws of war Charlie Company had no argument with such people.

As they moved into the village, the soldiers began to gather its inhabitants together. Shortly after 8:00 A.M. Lieutenant Calley told Pfc. Paul Meadlo that "you know what to do with" a group of villagers Meadlo was guarding. Estimates of the numbers in the group ranged as high as eighty women, children, and old men, and Meadlo's own estimate under oath was thirty to fifty people. As Meadlo later testified, Calley returned after ten or fifteen minutes: "He [Calley] said, 'How come they're not dead?' I said, 'I didn't know we were supposed to kill them.' He said, 'I want them dead.' He backed off twenty or thirty feet and started shooting into the people—the Viet Cong—shooting automatic. He was beside me. He burned four or five magazines. I burned off a few, about three. I helped shoot 'em" (Hammer, 1971, p. 155). Meadlo himself and others testified that Meadlo cried as he fired; others reported him later to be sobbing and "all broke up." It would appear that to Lieutenant Calley's subordinates something was unusual, and stressful, in these orders.

At the trial, the first specification in the murder charge against Calley was for this incident; he was accused of premeditated murder of "an unknown number, not less than 30, Oriental human beings, males and females of various ages, whose names are unknown, occupants of the village of My Lai 4, by means of shooting them with a rifle" (Goldstein et al., 1976, p. 497).