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## Crimes of Obedience: Toward Social Psychology of Authority and Responsibility

Michael Kenneth Isenman  
*University of Michigan Law School*

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CRIMES OF OBEDIENCE: TOWARD A SOCIAL PSYCHOLOGY OF AUTHORITY AND RESPONSIBILITY. By *Herbert C. Kelman* and *V. Lee Hamilton*. New Haven: Yale University Press. 1989. Pp. xiii, 382. \$29.95.

When a number of highranking Nazi civilian and military officials were tried at Nuremberg for war crimes and "crimes against humanity," many of those on trial defended themselves by asserting that they had merely followed orders. The use of this defense in such a context seemingly discredited it. Yet, more than forty years later, Lieutenant Colonel Oliver North relied upon essentially the same "good soldier" or "superior orders" defense — and the strategy was, to some extent, successful.<sup>1</sup> The events leading to both of these trials, according to Herbert Kelman and V. Lee Hamilton's *Crimes of Obedience*, exemplify what can happen when the individual obeys orders unquestioningly without taking personal responsibility for the ethical repercussions. In this ambitious multi-disciplinary work, Kelman<sup>2</sup> and Hamilton<sup>3</sup> articulate a theory of individual responsibility, recognize a societal deficiency that permits individuals to commit crimes of obedience, attempt to identify the factors contributing to this deficiency, and propose a number of remedial changes that society must undertake to limit future crimes of obedience.

Perhaps the authors' choice of coverage proves too ambitious. The treatment of these topics in *Crimes of Obedience* is, at times, simplistic. Although its analysis of the motivations that lead individuals to follow what appear to be outrageous orders is a helpful contribution to the literature, two problems in particular leave the book open to criticism: its use of dubious anecdotal evidence and its failure to consider adequately the potential costs of a society's adoption of the book's proposals.

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1. See, e.g., Engelberg, *The North Verdict: On the Big Questions, the Jury is Still Out*, N.Y. Times, May 7, 1989, at D1, col. 1 ("The jurors rejected the instructions from Judge Gerhard A. Gesell, who told them that neither the President nor anyone else had the authority to order someone to violate the law."); Rosenbaum, *Jurors See North as a Scapegoat for his Superiors*, N.Y. Times, May 6, 1989, at A1, col. 1 ("The jurors in the trial of Oliver L. North saw the defendant as a scapegoat blamed unfairly for following the instructions of his superiors, and that is why they voted to acquit him on the nine charges that involved lying to Congress and Federal investigators.").

2. Herbert C. Kelman is the Cabot Professor of Social Ethics and Chairman of the Middle East Seminar at the Center for International Affairs at Harvard University. He recently attracted public notice by organizing a conference of a number of prominent Israelis and Palestinians. See Lewis, *Abroad at Home: "We Don't Have Time,"* N.Y. Times, June 4, 1989, at D31, col. 1.

3. V.L. Hamilton is an associate professor of sociology at the University of Maryland, College Park. While seeking her doctorate degree at Harvard, she collaborated with Kelman on the surveys contained in *Crimes of Obedience*.

*Crimes of Obedience* represents research spanning more than fifteen years, its initial impetus provided by the trial of Lieutenant William Calley for crimes committed at the My Lai massacre.<sup>4</sup> Not surprisingly, then, *Crimes of Obedience* begins with a description of the atrocity at My Lai that so shocked the nation and of Lieutenant Calley's subsequent use of the "superior orders" defense at his trial (pp. 1-12). *Crimes of Obedience* treats "sanctioned massacres" such as My Lai, the Nazi "final solution," and the Soviet purges as the ultimate crimes of obedience. The book presents a number of other, somewhat less horrifying events as possible crimes of obedience, including the Watergate scandal (pp. 25-29), then-Acting Attorney General Robert Bork's firing of Watergate special prosecutor Archibald Cox (pp. 37-38), Oliver North and the Iran-Contra affair (pp. 38-41), the Chrysler odometer case,<sup>5</sup> the Challenger space shuttle explosion (p. 308), and Ford's defective Pintos (pp. 311-12).

As the above list might suggest, the authors adopt an expansive view of the conduct encompassed by the term "crime of obedience." They define the term to mean "an illegal or immoral act committed in response to orders or directions from authority" (p. 307). Their notion of what constitutes a "crime" thus includes not only conduct that violates the law, but also conduct that, although legally permissible, is morally wrong. Given this broad definition, the authors do not attempt to explore the availability of "superior orders" as a criminal law defense,<sup>6</sup> but instead focus their analysis on the sociological factors

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4. Lieutenant Calley commanded an infantry platoon in Vietnam. In March 1968, Calley and his men entered the South Vietnamese village of Son My, located in an area the Americans called My Lai. American military intelligence strongly suspected that the inhabitants of Son My were Viet Cong or Viet Cong sympathizers. Any Viet Cong had apparently left Son My at the time of Calley's attack, however; only women, children, and old men remained. Calley and a number of his men systematically rounded up and shot most of these remaining unarmed civilian inhabitants in Son My. See *United States v. Calley*, 22 C.M.A. 534, 538-39, 48 C.M.R. 19, 23-24 (1973); R. HAMMER, *ONE MORNING IN THE WAR: THE TRAGEDY AT SON MY* 115-53 (1970). Calley's superior officer allegedly ordered the killing of all Son My residents, although it is unclear whether he knew noncombatants would be there at the time of the attack. See 1 *REPORT OF THE DEPARTMENT OF THE ARMY REVIEW OF PRELIMINARY INVESTIGATIONS INTO THE MY LAI INCIDENT* ch. 5, at 13 (1970). Calley was later charged with 102 counts of murder. A. EVERETT, K. JOHNSON, & H. ROSENTHAL, *CALLEY* 97-98 (1971). At his court-martial, Calley asserted a superior orders defense. See *Calley*, 22 C.M.A. at 540, 48 C.M.R. at 25.

5. P. 45. Over an 18-month period, Chrysler Corporation shipped approximately 39,500 cars that Chrysler executives had "test-driven" with the odometers disconnected. Some cars were driven as much as 300 miles. Dealers sold these cars as "new" and did not inform buyers of the unrecorded mileage already accumulated. In some cases, cars had been in accidents and were repaired only superficially. The corporation's actions led to criminal charges against Chrysler and a \$16-million settlement for restitution to buyers of the affected cars. See Holusha, *Chrysler to Pay Some 40,000 Owners in Settlement*, N.Y. Times, Aug. 24, 1988, at A17, col. 2; Holusha, *Chrysler Enters No Contest Plea Over Odometers*, N.Y. Times, Dec. 15, 1987, at A1, col. 5; *Chrysler Acts in False Mileage Case*, N.Y. Times, July 2, 1987, at D1, col. 3.

6. For an analysis of the superior orders defense in criminal law, see Y. DINSTEIN, *THE DEFENCE OF "OBEDIENCE TO SUPERIOR ORDERS" IN INTERNATIONAL LAW* (1965), and Daniel, *The Defense of Superior Orders*, 7 U. RICH. L. REV. 477 (1973) (article by the prosecuting attorney in Lieutenant Calley's trial reviewing some of the legal precedent for the defense).

that lead individuals to follow orders they know to be wrong. From their analysis, Kelman and Hamilton construct a theory of individual responsibility.

*Crimes of Obedience* hypothesizes that the evolution of society in general, and the government in particular, toward the Weberian legal, or rational bureaucratic, type of authority<sup>7</sup> has permitted actors within the system to become accustomed to following orders and accomplishing their given tasks without question (pp. 137, 139). Furthermore, the authors see the political state as tending "to inhibit members' recourse to alternative sources of authority within and outside the system" (p. 139), thereby discouraging members from considering options other than blind obedience. Kelman and Hamilton then examine the Milgram authority experiments<sup>8</sup> to illustrate a person's propensity to obey authority and, therefore, to commit crimes of obedience (pp. 148-62). Based on the results of the Milgram experi-

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In the United States, an order to commit an illegal act is itself illegal, and the denial of culpability for committing a crime on the basis of duty to obey an illegal order is disfavored as a defense. In *Little v. Barreme*, 6 U.S. (2 Cranch) 170 (1802), Chief Justice Marshall held that the captain of a naval ship that had illegally seized a foreign vessel could not defend against a civil action for damages by proving that he merely followed the President's (illegal) orders. The courts continue to disallow the defense in most cases. See, e.g., *McNamara v. Johnston*, 522 F.2d 1157, 1165 (7th Cir. 1975) ("an agent cannot be insulated from criminal liability by the fact that his principal authorized his conduct"); *Calley v. Callaway*, 519 F.2d 184, 193 (5th Cir. 1975) (in trial of Lieutenant Calley, if Calley should have known that "an order to kill unresisting Vietnamese [was] an illegal order," then superior orders is "not a valid defense"); *United States v. Tobin*, 195 F. Supp. 588, 614 (D.D.C. 1961) ("It is a generally accepted doctrine in criminal law that orders of another are no legal defense to a charge of performing an act otherwise illegal, except where they carry a threat of physical retaliation.") (footnote omitted). See generally W. LAFAVE & A. SCOTT, *SUBSTANTIVE CRIMINAL LAW* § 5.3(g) (1986). Despite the general judicial aversion to the defense of superior orders, jury nullification provides a device for its continued use at the trial level. See *supra* note 1 and accompanying text (discussion of Oliver North case).

The Model Penal Code section on military orders states: "It is an affirmative defense that the actor, in engaging in the conduct charged to constitute an offense, does no more than execute an order of his superior in the armed services *that he does not know to be unlawful*." MODEL PENAL CODE § 2.10 (1962) (emphasis added). In this special case, the Model Penal Code permits ignorance of the law as a justification. In most other cases, ignorance of conduct's illegality provides no excuse. See MODEL PENAL CODE § 2.04 (1962).

7. The German sociologist Max Weber categorized "legitimate authority" into three types: legal, traditional, and charismatic. Weber described the three types as follows:

In the case of legal authority, obedience is owed to the legally established impersonal order. It extends to the persons exercising the authority of office under it only by virtue of the formal legality of their commands and only within the scope of authority of the office. In the case of traditional authority, obedience is owed to the *person* of the chief who occupies the traditionally sanctioned position of authority and who is (within its sphere) bound by tradition. But here the obligation of obedience is not based on the impersonal order, but is a matter of personal loyalty within the area of accustomed obligations. In the case of charismatic authority, it is the charismatically qualified leader as such who is obeyed by virtue of personal trust in him and his revelation, his heroism or his exemplary qualities so far as they fall within the scope of the individual's belief in his charisma.

M. WEBER, *THE THEORY OF SOCIAL AND ECONOMIC ORGANIZATION* 328 (1947). Under the Weberian framework, Kelman and Hamilton treat crimes of obedience as occurring when the subordinate, in a system of legal authority, proves incapable of challenging the legitimacy of an order by his superior. See p. 135.

8. Psychologist Stanley Milgram described the basic experiment as follows:

Two people come to a psychology laboratory to take part in a study of memory and learn-

ments, Kelman and Hamilton conclude that each "individual's conception of personal responsibility for actions taken under superior orders" (p. 166) determines his or her willingness to defy immoral or illegal orders from a legitimate authority.

The Milgram study revealed a tendency in many individuals to obey. To discover what personal characteristics correlate with such a tendency, Kelman and Hamilton undertook two statistical studies based on surveys they administered in 1971 (following Lieutenant Calley's conviction) and 1976. Kelman and Hamilton devote half of *Crimes of Obedience* to an analysis of these studies. Despite the fact that American law generally disallows the defense of superior orders,<sup>9</sup> the 1971 survey revealed that a majority of participants disapproved of the Calley trial and that fully half stated that they would have obeyed orders in a My Lai-type situation.<sup>10</sup> In the intervening five years between the two surveys, public attitudes shifted somewhat. In the later survey, a majority of the participants approved of the Calley trial and claimed that they would refuse to shoot in a My Lai-type situation (p. 241).

In analyzing their data, Kelman and Hamilton initially divide their sample into two broad categories: (1) those who would accept responsibility for their actions and would favor prosecution of My Lai participants (AR respondents), and (2) those who would deny responsibility (DR respondents). One distinction between the two categories lies in where respondents in each group assigned primary blame: "DR respondents emphasized blameworthiness of top superiors, whereas AR respondents emphasized that of subordinates" (p. 258).

While the AR/DR categorization broadly distinguishes between

ing. One of them is designated as a "teacher" and the other as a "learner." The experimenter explains that the study is concerned with the effects of punishment on learning. . . .

The real focus of the experiment is the teacher. After watching the learner being strapped into place, he is taken into the main experimental room and seated before an impressive shock generator. Its main feature is a horizontal line of thirty switches, ranging from 15 volts to 450 volts, in 15-volt increments. There are also verbal designations which range from SLIGHT SHOCK to DANGER — SEVERE SHOCK. The teacher is told that he is to administer [a] learning test to the [learner] in the other room. When the learner responds correctly, the teacher moves on to the next item; when the [learner] gives an incorrect answer, the teacher is to give him an electric shock. He is to start at the lowest shock level (15 volts) and to increase the level each time the man makes an error . . . .

The "teacher" is a genuinely naïve subject who has come to the laboratory to participate in an experiment. The learner . . . is an actor who actually receives no shock at all. The point of the experiment is to see how far a person will proceed in a concrete and measurable situation in which he is ordered to inflict-increasing pain on a protesting victim. At what point will the [teacher] refuse to obey the experimenter?

S. MILGRAM, OBEEDIENCE TO AUTHORITY: AN EXPERIMENTAL VIEW 3-4 (1974). Despite the learner's apparent objections, screams of pain, and finally silence, almost two thirds of the teachers administered shocks up to the highest possible voltage. *See id.* at 32-35.

9. *See supra* note 6.

10. P. 173. These statistics perhaps explain the continued utility of the superior orders defense through jury nullification. *See supra* notes 1 & 4.

those who accepted superior orders as a defense and those who did not, it does not explain what motivates an individual to obey or defy. The authors analyze the survey data, therefore, in order to develop a tripartite psychological measure of a person's relevant motivations. Their analysis reveals three Weberian ideal types:<sup>11</sup> rule orientation, role orientation, and value orientation (pp. 267-68). A mechanical following of rules due to a sense of powerlessness characterizes rule orientation: "Rule orientation disposes subordinates to obey in order to get by and stay out of trouble; they view responsibility in terms of sanctions administered for non-compliance" (p. 317). In contrast, a sense of obligation characterizes role orientation: "Role orientation leads subordinates to obey in order to do their duty and live up to authoritative expectations; responsibility is seen in terms of the obligations that adhere to the subordinate role" (p. 317). Both rule and role orientations permit crimes of obedience to occur, the authors argue, because they encourage the unquestioning carrying out of orders. In contrast, value orientation allows an individual enough autonomy to evaluate an order in the context of his own values: "Exercise of independent moral judgment vis-à-vis the demands of authorities is a defining characteristic of [value] orientation. Value-oriented citizens, therefore, should be more willing to challenge authority and to disobey orders that violate central values" (p. 316). Unlike the AR respondents, who assigned blame to subordinates only, value-oriented individuals stress individual responsibility at all levels. Because these orientations are ideal types, each individual possesses all three in varying degrees.

As their inclusion of a value orientation suggests, the authors recognize the individual's potential to disobey orders and to defy authority. They trace this ability to the historical "split between religious and secular organizations" (p. 75), which allows the individual access to a separate source of authority. This access to a higher, or at least coequal, authority characterizes all forms of defiance. The alternate authority may exist either outside the system (as with religious values) or within the system. *Crimes of Obedience* identifies three possible bases for defiance within the system: an appeal to the authority's superior, a claim that the order is invalid or illegal, and (within our government) a claim that even if the order is "legal," it is nonetheless unconstitutional.<sup>12</sup> The authors theorize that the existence of alter-

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11. Weber utilized the concept of a pure or "ideal" categorical construct as a methodological device. Terming these constructs "ideal types," Weber noted that their usefulness lies in permitting abstract study of a topic, rather than describing any particular instance: "[I]t is probably seldom if ever that a real phenomenon can be found which corresponds exactly to one of these ideally constructed pure types. . . . Theoretical analysis in the field of sociology is possible only in terms of such pure types." M. WEBER, *supra* note 7, at 110.

12. Pp. 140-45. The authors borrow the latter two bases from M. KADISH & S. KADISH, *DISCRETION TO DISOBEY: A STUDY OF LAWFUL DEPARTURES FROM LEGAL RULES* 100-20, 153-70 (1973). *Discretion to Disobey* focuses generally on the *privilege* of disobedience, rather

nate authorities allows the individual to resist blind obedience to immoral or illegal orders, thereby preventing crimes of obedience.

Hamilton and Kelman also present a number of proposals meant to decrease the occurrence of such crimes. Their goals include encouraging individuals to defy not only illegal orders, but also immoral orders (pp. 316, 319-20). The authors advocate societal changes that will decrease rule and role orientation while increasing value orientation. For example, they suggest the dispersion of authority through "rotation of leadership roles in all organizations" (p. 323). Further, they recommend "changes in social structures, educational experiences, and group supports that will ensure citizens and subordinates in bureaucratic hierarchies regular access to *multiple perspectives*, external to and independent from the authority" (p. 328; emphasis in original). The authors conclude that the societal solution lies in redefining the concept of what being a "good citizen" entails (pp. 21-22, 329). The good citizen under this schema would do more than disobey illegal orders; she would also question all official laws and policies that she finds morally objectionable.

Under this redefinition of the good citizen, dissent becomes not merely permissible, but an "obligation of citizenship" (p. 330). It is scarcely surprising, then, that Kelman and Hamilton view those who exercise civil disobedience as paradigmatic of the good citizen, because such individuals refuse to obey authorities they find morally wrong. The authors' dedication of *Crimes of Obedience* to Dr. Martin Luther King, Jr., reflects this admiration. The book thus condones the refusal to follow immoral laws.<sup>13</sup>

Yet it seems ironic that in Kelman and Hamilton's world of good citizens, societies would still need individuals who exhibited qualities indicative of a "bad" citizen. Their good citizen, while well-qualified for civil disobedience, would be uniquely unsuited for certain necessary tasks, such as soldier, where society wants individual obedience to all but the most egregious commands.<sup>14</sup> This unsuitability of the good

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than on the *obligation* of disobedience. For a more recent exploration of the privilege of disobedience, see K. GREENAWALT, *CONFLICTS OF LAW AND MORALITY* (1987).

13. One can characterize such a refusal as a general form of conscientious objection: just as pacifist conscientious objectors refuse to fight because they believe war is wrong, general conscientious objectors refuse to obey immoral laws. See J. RAZ, *THE AUTHORITY OF LAW: ESSAYS ON LAW & MORALITY* 287 (1979). Raz raises some practical objections to permitting this general form of conscientious objection as a schema, including, for example, abuse by individuals without the requisite moral convictions. See *id.* at 287-88.

14. To take a more extreme example, consider the individuals charged with staffing nuclear missile silos in our nation's defense. One hopes that these individuals will never actually be called upon to carry out their assigned tasks; yet, in selecting the individuals to fill these positions, one would be well advised to choose strongly role-oriented persons, rather than value-oriented persons, because the value-oriented person might well decide that launching a nuclear attack certain to kill many innocent civilians violates practically anyone's moral values. Nonetheless, for a system based on deterrence to work, one's opponents must believe that one would "push the button" under appropriate circumstances. Someone strongly motivated by duty would

citizen for certain necessary tasks suggests a more general criticism. One may well agree with the authors' premise that society suffers when crimes of obedience occur. But even if one accepts that increased value orientation, and decreased rule and role orientation, might lead to fewer such crimes, it does not follow that such a program would benefit society. The authors fail to discuss the potential costs of a value-oriented society.

One potential flaw in a value-oriented society arises from the lack of any universal set of values. Kelman and Hamilton define a "crime of obedience" as a situation in which "the actors knew their orders were illegal or inconsistent with general moral principles" (p. 46). But how are we to define "general moral principles?" From the authors' point of view, an individual's strong value orientation benefits society only when the individual shares the authors' liberal-humanist ideology. *Crimes of Obedience* discusses the role of Oliver North in the Iran-Contra scandal, and characterizes his actions as partially a crime of obedience (pp. 40-41). The roles of some of those involved in Watergate are similarly characterized (pp. 29-30). But would a commitment to defying illegal or immoral authority really prevent such conduct? North and many of the Watergate participants knew that in obeying orders they violated the law — but they thought they did so for a higher good. Is North's willingness to break the law for a higher good not symptomatic of his value orientation, since he consciously defies an authority he believes wrong or even immoral — namely, the law? In fairness, the authors do recognize that ideology had some impact on North's actions (p. 40). One might just as well characterize North's conduct as a crime of *ideology* rather than a crime of *obedience*. Kelman and Hamilton do not seem to appreciate that to the extent strong value orientation encourages individuals to disobey unjust or immoral laws, that orientation might also encourage individuals to commit crimes of ideology.<sup>15</sup>

If one equates ideology and values, then civil disobedience becomes indistinguishable from a crime of ideology. Some citizens might find certain laws objectionable. No one can deny those citizens the right to try to *change* those laws. But *disobeying* the law is different. A fundamental inconsistency exists in the state's providing a right to disobey any law an individual finds morally objectionable, for then the ques-

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present the best credentials for such a position. Cf. Boyle, *The Relevance of International Law to the Paradox of Nuclear Deterrence*, 80 NW. U. L. REV. 1407, 1430 & n.80 (1986) ("nuclear deterrence theory and practice must be reexamined" because some members of the military might refuse to carry out orders to launch a nuclear attack).

15. The authors might respond to this criticism by categorizing a crime of ideology as a subset of crimes of obedience that occurs when an individual is too role-oriented. See p. 318 (attributing the conduct of the complicit White House officials in the Watergate and Iran-Contra scandals to excessive role orientation, characterized by loyalty to the President). This response seems unconvincing, however, because it fails to explain how a crime of ideology could be based on values (*i.e.*, ideology) as well as on duty.



tion of which laws bind each individual becomes entirely subjective.<sup>16</sup> Civil disobedience must therefore be seen as a special method of trying to change the law. Those who commit civil disobedience do so not, as the authors seem to suggest, because they feel free to defy immoral authority. Rather, they wish to focus attention on the immorality of the law precisely through the act of disobedience to effect a change in the law.<sup>17</sup> Their ultimate objective is ensuring that no one need obey that particular law, rather than obtaining a special dispensation for themselves.

Furthermore, authority may provide an impetus to act illegally in situations the authors find quite laudable. The individual who commits civil disobedience may not be very far removed from the subordinate who wishes to commit some morally or legally questionable act but who refrains from doing so until his superior authorizes it. Most individuals do not participate in civil disobedience spontaneously, but rather do so at the instigation of some leader. That leader's urging permits them to take action they might have wished previously to take but were unwilling to do so without support. The fact that one finds civil disobedience noble but Oliver North infamous is rooted in one's perspective, that is, in one's values.<sup>18</sup>

In describing some of the examples of past crimes of obedience, the authors note that "[o]ne can reasonably ask in these cases whether one is really dealing with crimes of obedience or with cynical use of the defense of superior orders to avoid or reduce criminal responsibility" (p. 49). Here, the authors have hit the nail on the head. Following orders may be a frequent, and often ineffectual, trial defense. In many cases, however, it is neither the sole, nor even the most important reason, for an actor to engage in the given conduct. The fact that Calley and North used superior orders as a defense may show only that their attorneys knew the importance of exercising every possible trial strategy; it does not show that either defendant committed the crime in

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16. Cf. K. GREENAWALT, *supra* note 12, at 186 (Natural law theorists argue that "[c]itizens will have a hard time drawing a line between just and unjust laws, and if they perceive their duty to obey as reaching only just laws, they will end up disobeying many just laws that they think are unjust.").

17. *But see* M.L. KING, WHY WE CAN'T WAIT 84 (1963) ("[O]ne has a moral responsibility to disobey unjust laws. I would agree with St. Augustine that 'an unjust law is no law at all.'") Whether one agrees with Martin Luther King's formulation depends on how one defines unjust. For example, if one believes that the state should not act in a paternalistic manner, and that it therefore should not prohibit the use of hallucinogenic drugs, does one then have a "moral responsibility" to use such substances? One might argue that drug laws are "wrong" or "bad policy" rather than "unjust," but the distinction is at best fuzzy. At any rate, an individual's values determine what he considers unjust. Does a drug abuser engage in civil disobedience if he believes drug laws unjust? And should society encourage his conduct?

18. This is not to suggest that the two draw on similar motivations. One distinction between civil disobedience and a government official's failure to obey the law lies in the fact that an individual participating in the former makes no secret of the activity, whereas the official presumably does not publicize his conduct. *See supra* text accompanying note 17.

question genuinely out of blind obedience. Thus, by categorizing these and other instances as crimes of obedience, the book may mischaracterize many of the situations it describes. In their anecdotal evidence, Kelman and Hamilton fail to distinguish between (1) those who commit crimes because they obey orders without considering their legality or morality, and (2) those who engage in given conduct for their own reasons and who also happen to have higher authority "permitting" them to engage in that conduct.

Doubtless some individuals at My Lai, some involved in Watergate, and some implicated in the Iran-Contra scandal went along only out of misplaced obedience. But one should not mistakenly place too much emphasis on such factors. Events like the Iran-Contra scandal do not occur simply because of blind obedience; they occur because individuals think their own goals or values are more important than the goals or values embodied in the laws or in the Constitution. Someone who commits civil disobedience may do so at the behest of a civil rights leader — but she does so not only out of obedience, but because she sees it as morally right. Why, then, should one attribute North's conduct to obedience? Given this problem of characterization, one may wonder whether application of the authors' proposals would really lead to fewer events such as My Lai or Watergate.

As the Milgram experiments and Kelman and Hamilton's surveys illustrate, society has socialized individuals in such a way that they often fail to question the orders they carry out, leading to crimes of obedience. Unfortunately, Kelman and Hamilton's use of examples where superior orders seem more of a *post hoc* excuse for immoral or illegal behavior and their failure to appreciate the problems of universal dissent detract from their effort to show the seriousness of the problem and the utility of their solution. While its jurisprudence is open to criticism, *Crimes of Obedience* does contribute original sociological analysis in its identification of traits correlating to the propensity to commit crimes of obedience. The book thus succeeds in presenting a thought-provoking framework for studying a troubling phenomenon. On the other hand, the normative aspects of the authors' theory really entail no more than instilling a greater sense of morality — Kelman and Hamilton's morality — in the populace. While a more moral society may reduce the occurrence of crimes of obedience, the obscuring of this argument behind a tripartite categorization does not make the argument any more convincing.

— Michael Kenneth Isenman