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Conscience and Authority - Virtues and Pitfalls of Military Obedience

I would like to start with an example from my experience as a teacher of military ethics in the Austrian Armed Forces. When I am discussing the ethics of command and obedience with young soldiers, especially focusing on the possible tensions or even moral dilemmas between military obedience and authority on the one hand, and individual conscience and responsibility on the other, there is often a tendency to reducing the problem to the efficient functioning of the military system. That means that there exists a certain predisposition to avoid the tensions and the possible dilemmas by stressing the need to obeying orders without questioning them, for the sake of fulfilling the tasks entrusted to the military.

This attitude, however, is not so much a consequence of a traditional authoritarian mentality, but it rather stems from a deep intuitive desire of soldiers to be embedded into a clear chain of command and authority, providing for comprehensible orders for military action and resulting in coherent responsibility. Of course, it cannot be excluded that this position also reflects a trend to feel safe and secure and to avoid difficult and tricky questions inherent in the military profession and the actions of soldiers. Soldiers normally do not want things to be too complicated as preparing for military action is in itself strenuous enough.

Nevertheless, when soldiers are confronted with historical examples, especially from recent totalitarian regimes that illustrate the often times awful consequences of "blind obedience", one can notice that the attitude of young soldiers toward this problem changes significantly. If you are able to illustrate that in this set of questions not only their identity as soldiers, but also as human beings, is at issue, the sensibility for the actuality and complexity of this problem rises. They become aware that these problems necessarily involve questions of moral identity, of self-respect, self-esteem and moral judgments. *Soldiers and Ethics: A Moral Challenge*

The challenge to reflect upon command and authority as well as conscience and obedience in the military context inevitably implies some very fundamental ethical, moral and legal issues. As history has abundantly shown, the possible tensions existing between obedience and conscience can lead soldiers to the best, but also to the worst decisions in moral terms, with profound impact and consequences upon their moral identity as human persons.

Soldiers facing these challenges can find themselves at crossroads of different and sometimes divergent influences; e.g. the clash of moral and legal factors, the authority of superiors, the challenges of military necessity, the pressure of tense and endangering situations, ties of loyalty within their units. However, all of this cannot simply override their own conscience and moral judgments of a concrete situation. In the end one has to decide and to act amidst this ensemble of influencing factors, and the situation imposes the necessity to give or to obey an order.

The difficulty to detect and even acknowledge a moral challenge is today immensely aggravated by the fact that moral convictions and attitudes have undergone a profound change during the last decades. This has to be taken in the sense that ethical relativism and often-simplified forms of utilitarian thinking and "situation ethics" have increased uncertainties regarding the binding nature of fundamental moral and legal principles. In combination with the above-mentioned inclination of young soldiers to define themselves primarily in terms of efficiency and functionality, all this creates a very challenging situation for everyone who attempts to teach the norms and principles of traditional philosophical and theological ethical thinking, especially with regard to the military world.

Not the least the challenge of terrorism and the ensuing war on terrorism revived the discussion of legal and moral standards when it comes to the application of violence and force. As the validity or, at least, the applicability of some very fundamental standards of international humanitarian law,

e.g. non-combatant immunity, became increasingly questioned, the armed forces were forced to reflect more radically upon moral norms and standards. In fighting terrorism and other non-state actors violating the humanitarian laws of war, the question arises of how to meet the challenges in an effective, but nevertheless, ethically justifiable manner. We have to deal very carefully with this problem, as on all levels of military operation commanders and soldiers may have to face situations in which they are confronted with not only illegal but moreover repulsive behavior, which must not lead them to abandon or sacrifice fundamental moral standards of humanitarian and international law.

Basically, all nations have incorporated provisions of international legislation and ethical criteria into their military legal and ethical code of conducts. These standards are normally guiding the exercise of command and authority in the military forces. Notwithstanding, although orders contrary to provisions of both national and international criminal law must not be given by military commanders, the military penal codes in developed and mature nations even obliges the subordinate soldier not to obey any orders whose execution would violate provisions of the penal code. This hints to the fact that the military establishment not only demands from every soldier to know about the legal framework, but also opens up a space of individual moral responsibility.

Even without referring explicitly to ethical norms, clear limits are stated e.g. by criminal law. In developed legal frameworks there exist explicit guidelines concerning the mere formal validity of orders in the military. We also find references to basic moral concepts like "human dignity" as a fundamental guideline and at the same time as an essential limit for command and obedience in the military context.

But all of this cannot change the fact that ethics as a rational reflection and foundation of human behavior, as a set of internal norms guiding our behavior and relationship to others, never lose their significance and necessity. Predominantly for the reason that a mere legalistic point of view is often not sufficient if it comes to concrete decisions, simply because legal norms can never cover all possible incidents one might encounter. Therefore, a core precondition for the understanding of conscience and obedience is to accept, even to internalize, the moral principles and norms upon which legal frameworks are based and the moral values that are incorporated in constitutions and legislations. Consequently, an explicit reflection on the meaning of such values, norms and principles is indispensable for the understanding of legal norms and even more so for problems arising when legal provisions and individual convictions collide.

It is exactly at this point, when our rational reasoning regarding our decisions, acts and behavior toward others comes into play, where we enter the field of ethics. Naturally, ethics is not bound to a mere clarification of legal norms and values; it has deeper foundations and offers broader views. As a philosophical and theological scientific discipline, ethics is based on the capacity of human reason to ask and to answer fundamental and critical questions regarding the whole range of the possible relations between norms and actions.

Ethical thinking transcends mere legality or even the concept of sheer "external" obedience to norms and values, and points to an "inner sphere" of human individuality. This is traditionally called "conscience", and implies freedom and self-determination in our decisions and acts in response to the choice between good and bad. This means that ethical thinking cannot avoid the problem how we are qualifying ourselves in deciding between right or wrong, good or bad, how we realize our human potential confronting these decisions, and, as a consequence, how we qualify and realize ourselves as human persons, living together with others and donated with freedom, reason and responsibility.

Basic Element of Ethics: Moral Consciousness

This is a crucial point in our argument. How is it possible to find a reasonable approach to the moral point of view, not only as something we decide to adhere to on a mere subjective basis—so that the existence of the 'moral universe' would be constituted only by our decisions—, but as an

'objective' reality that conveys a real moral structure to the world we are living in, a 'moral universe' we are called to acknowledge and to adhere to in our acts and decisions? This is one of the most basic problems moral theory is facing from its beginnings, and different answers have been given to this question in the history of ethical thinking. One could rightly say that the most influential and fruitful approaches are ontological ones, based on the classical Greek philosophy, mainly on Aristotle, and transcendental approaches, following the ideas of Immanuel Kant.

I would like to present a short reflection on some basic characteristics we could designate as 'moral experience', an experience we presuppose in every debate on ethics and moral problems. This reflection starts with the assumption that we all have a basic 'moral consciousness', a kind of common experience as humans that we can analyze by reflecting on the specific way we decide and act. That means that by reflecting on our self-experience we can gain, in a more intuitive or in a more explicit way, some insights of basic concepts and structures of morality. Without this "pre-conception" ("Vorverständnis") of morality we would neither be able to understand ethical questions, nor would we be able to communicate our often different views on this complex subject. The background to this argument is a certain form of natural law thinking developed in the tradition of the Catholic Social Doctrine.

In our human behavior, in our acts and decisions, we find the element of reflection in a more or less developed manner. We ask ourselves or others why we acted or decided in a certain manner; we give motives and discuss reasons for certain acts and decisions, and we accept or reject them. This process of reflection and discussion reveals one fundamental aspect of our human self-experience: we do not live in an unreflected immediacy of our behavior. On the contrary, our acting affects others and the results of our acts and deeds echo in our capacity of moral reasoning, which justifies or refutes acts and decisions on rational grounds. One of the basic aspects of our self-experience is precisely this fact that we experience ourselves as 'persons', as human beings living, acting and deciding consciously in a human context.

This basic experience reveals another aspect of our moral consciousness: freedom as an elementary characteristic of human behavior. In fact, we have to presuppose a certain kind of freedom as the basis of our acts and decisions since we would be totally determined otherwise and the process of moral reasoning would be meaningless as we would not have any individual choice anyway. To live and to act in the light of consciousness implies this freedom for decision to act in one way or another, to act or not to act. Of course, the question of human freedom is one of the most discussed philosophical issues. For our context, it is only necessary to acknowledge freedom as one fundamental element of our common moral consciousness.

Closely connected with the element of freedom is the dimension of responsibility. In fact, in our legal systems as well as in our daily life we assume full responsibility for our actions and for the resulting consequences as an outcome of our freedom of decision. Responsibility implies freedom and vice versa. Freedom of decision is the primary prerequisite for why we can be held accountable for the new reality we create through our acts, the consequences that are affecting others and the world within the range of our decisions.

Here we encounter again the already above mentioned important element of our common moral consciousness, namely that our acts and decisions relate us to 'others'. They relate us to other persons, but also to our common world in a more general sense, not only regarding material but also immaterial and spiritual dimensions of reality. 'Sociality' thus constitutes an essential aspect of our human existence as a whole, an ethical challenge rooted in the anthropological and even ontological conditions of our being.

Through all of this we are constantly related to those aspects of our human reality we refer to by the notion of values. In our daily experiences we are forced to make value judgments in very different ways and in different forms, ranging from very personal expressions of sympathy and love to despise and hatred. When concerned with social and cultural standards, we produce judgments in terms of beauty, utility or capacity. Our value judgments can refer to things, to institutions, to

actions, or to persons, and many of these value judgments qualify us only with respect to mere external or partial aspects of our personality. However, there are judgments that give an expression of our entire personality and qualify us internally, in our essential human capacity. Although the judgments of this kind can differ significantly from one culture to another and can even more undergo significant historic changes, the fact remains that these judgments reveal a realm of values, related to the internal Self of our personal individuality—something the Bible calls "the heart"—where we are responsible in an indispensable manner. This view is the fruit of a substantial philosophical and theological development of Western civilization, but this core dimension of one's individual moral judgment can also be found in ancient and even remote cultural and religious entities. Through this approach we have reached the vital experience of "conscience" as a capacity of human reason to decide based upon values. Those values determine our acts and ultimately reveal ourselves as human beings before the court of moral law that decides about good and bad.

Naturally, at this point of the argument, terms like right or wrong, good or bad, have a very general and formal meaning. But it is exactly this general and formal structure of practical reasoning, based on traditional natural law theory, which enables us to apply the normative idea of right and wrong, good or bad, to all empirical situations. In other words: The empirical situation gives us the material upon which we exert the normative and rational categories to bring about an act morally justified before our conscience. We always decide under what we consider morally right or good in a very general and formal sense, but we realize it in a particular situation where we apply this formality in a concrete way.

At this point it appears appropriate to turn from our reflections on the notion of moral consciousness to the concept of conscience. The tradition of natural law theory comprehends 'conscience' as the capacity of practical reason to differentiate between right and wrong, good and bad, and to deciding and acting according to the perceived right or good. Thus, in its most general form, the principle of practical reason enables us "to do the good and to avoid the bad". The subjective dimension of moral reasoning has understandably led to relativistic views on morality, assigning no true significance to it. But notwithstanding, conscience means precisely to grasp subjectively one's own understanding of right and wrong, good and bad, including the wide range of subjective elements, of potential flaws, errors, or misperceptions. It is essential to the concept of conscience that we decide and act in light of what we truly consider as 'good' in a concrete situation. And it is exactly for this reason that all human beings face the obligation to 'educate' and 'instruct' their conscience, to gain insight into the world and the condition and relation of things and circumstances.

This reflection in the light of concrete circumstances leads us to the idea of moral duty, which constitutes another important element in this subject under discussion. To act and to realize the idea of good imposes an inescapable moral 'necessity' of a person, manifesting itself in the call upon one's conscience to decide and to act according to his moral values. This necessity is by no means a predetermined reaction, but it generates an act of freedom in response to the situation demanding one to act. Both, theological and philosophical schools of thought have often reflected on this character of 'absoluteness' of conscience, and interpreted it in the sense that a transcendent power reveals itself in our moral consciousness.

The outlined essential structure of conscience is the basis for the personal dignity of every human being, manifesting itself in the command for mutual recognition and respect. It was exactly the growing awareness about the invaluable worth of human dignity in the course of Western philosophy that resulted in the legal and political expression of essential human rights and freedoms. But we can find the normative manifestation of moral consciousness as a fundamental moral principle—at least in the form of the 'Golden Rule' of not doing to somebody else what one does not want to suffer himself—also in other cultural and religious traditions. The mutual recognition and respect for the personal dignity of one another appears to be somehow universal. This fact might be best represented in the third formula of Immanuel Kant's Categorical Imperative where he states that one should treat others never as mere instruments, but always as ends in

themselves. In this light, moral decisions imply an act of self-determination in relation to others and result consequently in a moral self-assessment as a human being.

Authority and Obedience—The Military Context

In military ethics, the moral principles and the notion of conscience have to be applied in the military context. This means that moral concepts have to be viewed in the light of the fundamental characteristics and the organizational peculiarities of the military organization as a social and political institution.

This particularly includes the questions of authority and command, of order and obedience. Whereas elements and structures of authority and obedience—in different forms and levels of intensity though—are essential characteristics of every social or political group, institution or organization, they apply in a most distinct form to the military world.

Principally, the legitimacy of authority is based on the occupational competence of a person. This competence focuses in the responsibility for the most effective realization of the goals and actions of a specific community, including the well-being and prosperity of its members. Of course, the strength and character of the relation between authority and obedience differ notably among the various organizational structures and, in addition, they dynamically change in their form and intensity as we can see in the historical development of social institutions, such as the family, society, state, and others.

The particular character of authority and obedience is essentially determined by the purpose and nature of an organization. Although hierarchical structures do have some basic and general elements in common, it is not difficult to understand why in organizations like the armed forces where the organizational purpose lies in the potential application of violence and force, demanding strict hierarchies, tight structures of order and obedience, and clear chains of command, the exercise of authority and the obeying of orders become particularly challenging issues. Authority and obedience are thus legitimized in their function to secure the efficient fulfillment of the goals and tasks the military organization and its elements, the individual soldiers, have to accomplish. As a logical consequence, the rather authoritarian nature of the military cannot take away the respect that is owed to every single individual, and a soldier is entitled to enjoy the same human rights and dignity of his humaneness as they apply to all other human beings as well. In other words, authority must be morally legitimized and implies moral duty, and order and obedience in the military remains in the context of morality and conscience.

This has important and basically twofold consequences. On the one hand, so to say externally, order and obedience in the military are based on the moral legitimacy of the military organization as such, related to the essential goals in the service of a political community, and to the moral legitimacy of concrete tasks and missions assigned to the military. On the other hand, internally, soldiers live and act in a complex social environment featured by personal relations among themselves and to superiors and subordinates. These relationships undergo significant changes and come under immense pressure when they have to be carried out under the circumstances of armed conflict and war. In this case the structures of order and obedience are ultimately challenged.

The laws of war bring about consequences for the exercise of authority, for leadership, for command and obedience in concrete situations or armed conflict. The factor of responsibility rises to the most serious levels as those holding leadership authority have to put their own live but also the lives of their subordinate soldiers at risk. In the strenuous conditions of armed conflict the humanitarian principles of international law have to be observed, such as to discriminating between combatants and noncombatants, to even care about wounded enemy soldiers, and to do everything possible to maintain humane, which in essence means moral conditions.

All these circumstances constitute an ultimate testing ground for the professional and moral quality of soldiers, especially of commanders on all levels of the military hierarchy. To uphold

moral responsibility and endorsing the concept of human dignity and the basic rights of persons even in the midst of the necessities and pressures of armed conflict, form an essential part not only of the professional ethics of soldiers, but of the notion of military professionalism itself. This factor denies the approach to restricting professionalism exclusively to the idea of military functionality and effectiveness, simply because it would reduce the soldier to something like a simple "war machine". But soldiers remain human individuals with their own conscience and dignity. This essential human dimension is and remains an integral part of the profession, and to underestimate this facet could seriously endanger their professional identity.

At this point it becomes clear that the idea of military professionalism is closely connected to essential and far-reaching ideas of a lawful and just order between nations and states, as well as to the challenges deriving from a constantly changing security environment. The normative ideas of international law, grounded in the moral-philosophical tradition of the West, have thus profound consequences for the exercise of authority, for command and obedience in the military system. While the ethical principles of the Just War theory for going to war, the ius ad bellum-criteria, challenge primarily the political leadership, the ius in bello-criteria concerning the appropriate behavior in war, are of utmost importance to the military establishment.

The recent, profound political and social developments are putting the military as a whole more and more into an international context, where the idea to defend, to protect and to serve a just and lawful international order becomes essential part of the military identity itself. This results in the fact that soldiers are essentially no longer exclusively ready for classical national defense, but are ever more integrated into regional and global policies of crisis prevention and conflict resolution, including also peace support reaching from rescue missions to humanitarian aid. Thus, the moral side of military identity always present in the timeless tension between command and obedience, becomes ever more visible in the character of contemporary and future military missions and tasks.

To transform the ethical ideas and principles successfully into the practice of soldierly duty demands the overcoming of a wide range of serious challenges to soldiers, especially in the fields of formation and training. Finding the necessary equilibrium between obedience and individual responsibility in the sense of using one's conscience as the ultimate gage for actions in extraordinary situations where orders might not be available or no longer valid, will definitely be the most crucial challenge to educating ethics as part of professional military education.

In democratic states and given the openness of socialization and education, we are normally and for good reasons assuming that the authority exerted within the military by responsible leaders will always be exercised in a morally correct manner. We presume that given orders and resulting obedient behavior take place within the legal framework and are restricted to also morally legitimate conduct, never violating the dignity and the human rights of all persons involved.

Nevertheless, although this assumption is principally a justified one, violations and transgressions cannot be excluded in specific situations as even the best educated commander is in the end somebody who is human, and thus fallible. Even though we can expect a profound and institutionally incorporated degree of moral awareness, of ethical values and norms as well as moral responsibility in the armed forces of democracies, due to the fragility of human nature and as a consequence of the temptations connected with the application of force as well as with the exercise of power, tensions and frictions between orders and conscience always remain possible. But the individual moral responsibility of soldiers might not primarily be challenged because of illegitimate order, but rather by conditions and circumstances demanding soldiers to rely on their own judgments and sense of responsibility simply because there is no order available or where concrete law provisions might not serve as sufficient guidelines.

Therefore, even in the military context and intricate as it might be, the personal conscience of soldiers has to be 'trained' and 'encouraged', so that ethical norms and standards as well as the cerebral moral awareness of soldiers can work for the benefit of moral orientation and as a critical moral authority in situations where it is demanded.

To meet these challenges touching upon the deepest regions of human nature, highly trained moral and human capacities on all levels of the military hierarchy are needed. The potential application of force leads us ultimately to questions of life and death, with all the inherent physical and spiritual consequences. Notwithstanding, we should also be aware that the difficulties and possible pitfalls of this subject matter offer great chances. The tensions can indeed have very fruitful consequences.

It makes clear to every soldier and even more every military officer, how serious and profound the core dimensions of his profession are. In a final conclusion we can stipulate that reflecting the challenges of military ethics, to order and obey, to decide and to act in the face of utmost danger, may also lead us to metaphysical and religious insights not only referring to the military world, but to our existence in general.

But the final answer to questions of this kind will always have to be given by every individual human being alone, listening to the voice of his or her personal conscience.

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