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Criminality and Sociality

Vicente L. Rafael



Crime, Society, and the State in the Nineteenth Century Philippines.

By Greg Bankoff. Quezon City: Ateneo de Manila University Press, 1996.

Amid the orgy of centennial celebrations, much attention has been focused on the key figures of the revolution, those patriarchs of the nation that make up the fetish objects of our ancestor cult called "nationalism." However, the reverential treatment of their deaths as sacrifices from which we have all somehow benefited has kept us from thinking more critically about the particular worlds they moved in and, more importantly, about the contradictory social forces within which their thoughts and actions took place.

Historical scholarship aims to demystify this quasi-religious regard of the past. Yet as we had seen in the recent outcry and name-calling around the book of Glenn May on Andres Bonifacio (*Reinventing a Hero*, New Day 1997), nationalist scholars are themselves prone to maintaining a clerical vigilance against the infidels and skeptics of the one true faith. Under such conditions, Greg Bankoff's admirable history of criminality in nineteenth-century Philippine society comes as a useful antidote to the triumphalist tedium regarding the centennial.

Influenced by the social histories and theories around crime and criminality in Western Europe, the United States, and Latin America, Bankoff's book is steeped in archival sources, travel accounts, government reports and the smattering of statistics from the later eighteenth century to 1898. Seen from the modernizing lenses of other colonial powers such as the French, Dutch or later on, the United States, the Spanish regime was notoriously inept, unable to keep consistent records, centralize administrative functions, and police both officials and population. In short, it was unable to project state power as the source and referent of all other powers in the colony. It relied instead on the moral and coercive influences of the church and the erratic collaboration of local elites to sustain its rule. Bankoff argues, however, that beginning the latter half of the nineteenth century, reforms were introduced that would enlarge the judicial and policing capaci-

ties of the state, extending its abilities to intrude into and regulate various aspects of everyday life. Such reforms included the extension of the Spanish penal code to the colony and greater accountability among judges and lawyers; the organization of the first supra-local police force, the *guardia civil*; the reorganization of the prisons and their personnel; and the shift from a punitive to a reformatory approach to punishment where incarceration and deportation took the place of (without totally eliminating) public floggings, mutilations, and summary executions.

These changes were responses to shifting conditions in the colony, beginning with the civil disorders caused by the British Occupation of 1762. The imperative to safeguard the tobacco monopoly from smugglers and illegal growers, protect haciendas from bandits—many of whom were peasants displaced by the growing commercialization of agriculture and privatization of land—and keep a semblance of social peace in a colonial capital increasingly made up of rural *indio* migrants seeking work, Chinese immigrant traders, and *mestizo*, European and Spanish elites further drove the colonial state to use the law to consolidate its power and preserve the existing social hierarchy. Bankoff argues that what emerged by the latter nineteenth century was a “judicial state,” one where the law was used less in the interest of justice as in the conservation of unequal relations and the securing of privileges among those on top from the demands of and perceived threats from those below.

The social history of crime turns out then to be intimately tied up with the history of the colonial state. Indeed, some of the most insightful moments of Bankoff's book consist in his detailed exposition of the ways by which the various agencies of state power tended to regard the law as instruments for pursuing their personal and local ends. Given the absence of the liberal distinction between executive and judicial powers in the colony, local officials served as judges who used their position in order to extract gains, extend their influence, intimidate opponents, and evade accountability. Court clerks whose only qualification was that they could read and write Spanish served with little or no wages and, like judges, charged exorbitant fees for their services. Local police forces, whether loosely formed as night watchmen, or more militarily organized like the *guardia civil*, were often helpless in the face of bandits, given that the latter had better weapons and faster horses at their disposal.

In fact, one of the fears that haunted Spanish authorities was the prospect of arming *indio* police forces with guns, thinking that they would turn these against their Spanish officers. It was not uncommon then that police forces were limited to the kinds of weapons they could carry and often had their guns stored in a separate building to which they had limited access. And like other officials up and down the bureaucracy, the police were inadequately and erratically paid so that they themselves resorted to banditry, extortion, and other criminal activities. Just as bandits often disguised them-

selves as police when raiding a town, judges, clerks and police were widely assumed to be robbers and not advocates of the people.

In a context where law was productive of criminality, and where crime was a hallmark of the judicial apparatus, it is small wonder that the popular response to the law would consist of evading if not challenging it. Bankoff points out that the question of the "criminal" necessarily opens up to a consideration of what other scholars have called a history of everyday life. Through his reading of court transcripts, Bankoff reconstructs a geography of criminality, pointing out the prevalence of banditry in rural areas where cattle rustling and smuggling were lucrative activities, prostitution and petty theft in the cities especially among servants and recent rural migrants, and assaults on the Chinese in both areas who were seen by indio and Spaniards alike as a foreign element ripe for all sorts of extortion. Most of those accused of crime in courts were indio, male and illiterate people who were largely unable to defend themselves and depended on the intercession of Spanish or mestizo lawyers without whom they would have no standing in court. Women were just as disempowered. Battered and raped women, especially prostitutes, were often systematically discriminated against, their rights nearly nonexistent in colonial society. While it is difficult, as Bankoff points out, to make a case for crime as class conflict by other means, there exists some evidence that domestic servants often lashed out against their masters in a fit of class resentment. Finally, the state itself was an active participant in the commission of crimes it sought to regulate. Unable to rid Manila of gambling and drugs, the Spanish state moved instead to control them by selling licenses to operate cockpits, gaming houses and opium dens. In such a context, it makes little sense to speak of a culture of corruption, since one would have to assume that there existed an uncorrupted notion of justice that the law was meant to realize. There seemed to be none.

The plural society of the nineteenth century came about through the expansion of market relations and the increasing commercialization of everyday life. Capitalist penetration and technologies of transportation made for increasing movements within the archipelago, from countryside to city, and between the colony and the outside world. Yet the colonial state responded to the very conditions it had helped to spawn by seeking to regulate and control such movements of people and goods. Laws were meant to fix the location of populations for taxation and the exaction of labor, *cedulas* were issued not only to designate the racial identity of its bearer and thus determine his or her tax liability but also to serve as internal passports that made travelling more difficult, and the limits on trade and immigration, especially of the Chinese, as well as the censorship of books and newspapers were enforced to insulate the colony from outside influences whose effects it could not fully control. It is not surprising, then, that the most prevalent and persistent crimes consisted of those acts that circumvented government control on movement and mobility: flight, vagrancy, banditry, smuggling, and the

like. Thus the most common way of acknowledging state power was to evade its demands.

By the 1880s, such a tactic was precisely what an emergent group of university-educated, Spanish speaking indios, mestizos and creoles were resorting to, taking flight to Europe to evade the law and smuggling their writings and thoughts past colonial censors back into the Philippines. Nationalism would emerge as the biggest crime of all, as it would come to expose the criminal foundations of colonial society. Not surprisingly, nationalists were branded as "filibusteros" which, while meaning "subversive," originally derives from the Dutch word for "freebooter," that is, a pirate and therefore a thief. One can think then of filibusteros as those who bore with them an illegitimate—from the point of view of the church and the state—knowledge of colonial relations and sought to smuggle these notions into colonial society. While Bankoff does not delve into the connections between criminality and nationalism, he has written a book whose usefulness for thinking through such matters cannot be underestimated. And in writing about the history of criminality in the past, he has given us a great deal of material to reflect about the criminality which permeates the present moment.