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The Sociological Aspect of Crime Control

JOHN J. CARROLL, S.J.

I was sufficiently flattered by the invitation of your chairman, Mrs. Romero, that I thought it better not to ask why *I* had been accorded the honor of addressing this distinguished group. Nevertheless I was puzzled, and the more so when I learned the names of the outstanding speakers who were to precede me on the platform. I hope there has been no mistake; and I must assume that I was chosen as one who has some knowledge of sociology as a science and who for most of his adult life — since the year 1946 in fact — has been a close observer of Philippine society. And for this opportunity to share with you some of my reflections, I am humbly grateful.

There is one factor which I am sure did *not* count in my favor as a possible speaker on the subject of crime control: the fact that I was born in the United States. For with the assassinations within a few months of each other of Martin Luther King and Bob Kennedy, with recurrent rioting in the major cities and growing fear of violence against the individual on the streets or in his own home, it is clear that the United States has not solved for itself the problem of crime control. And yet even the difficulties encountered by America, France, and many of the nations of Latin America today in maintaining law and order may be useful in focusing our attention on a key problem. The angry question of Black Power advocates, "*Whose law? whose order?*" is being taken up now by churchmen and theologians; thus a certain minority opinion of sociologists comes to the fore, an opinion which holds that law is in fact only a set of rules imposed by a power elite upon the subject classes for the purpose of protecting the persons and property of the elite, of maintaining and enhancing its position. Crime in this view is a rebellion on the part of the subject groups against an imposition from above. The question arises, therefore, of the relationship between law and society — not in theory but in empirical fact. And to this question as it applies to the Philippines, I suggest we devote ourselves this afternoon.

Fundamental in any consideration of the organization of Philippine society is the fact that it is still basically a *peasant society*. There is of course the statistical fact that a majority of our people are born, live, and die in small communities relatively isolated from the outside world; they live their lives in familiar surroundings among people known

to them since childhood, people known to them *personally* as friends on whom one can count in time of trouble or enemies of whom they must beware; strangers come rather infrequently into their lives and the stranger as such tends not to be trusted. And there is the additional fact that even the city dweller in our society retains many of the personalistic, small-group orientations of the peasant; physically, more and more Filipinos are gathering together in towns and cities; yet an important element of urban life has been slow in developing — namely a commitment to an *impersonal* rule of law applicable to all and backed up by effective and impartial social power. In a speech to the Manila Rotary Club some months ago, Father Horacio de la Costa pointed out the relationship — historical as well as etymological — between law and particularly *civil law*, *civilization*, and the Latin *civitas* meaning a town or city with its body of citizens and its institutions. Of civilized men he says “unlike barbarians, who respect only force, they have learned to live under law; and this they have learned by living together in peace in a city.” And Professor Aprodicio Laquian has noted that Metropolitan Manila is a composite of hundreds of small communities, many of them still organized in rural patterns; of Barrio Magsaysay in Tondo particularly he observed the police — the representatives of impersonal law — seldom enter the place and the methods of social control are traditional and personal — *pakikisama*, shame, ostracism, and latent or open violence.¹

The limited range of trust characteristic of peasant societies ties in with another feature of Philippine social organization, namely the great importance assigned to power. And by power here is meant not just the ability to insist on generally acknowledged rights which are balanced by equally enforceable obligations, but the ability to impose one's will regardless of rights or obligations. Perhaps an indication of this concern for power is the prevalence of “gun-toting,” and vicious-looking bodyguards among politicians and their sons, labor leaders, movie actors, government agents of all kinds, and even ordinary citizens. Not that all of them are contemplating acts of violence; in many cases their very lack of confidence in the rule of law makes them feel a need for more personal “equalizers.” This is, of course, physical power. Beyond it is the bureaucratic power of those whose positions enable them to help or harm others and who fail to recognize the responsibilities which in theory are associated with these positions: the policeman mulcting the jeepney driver; the government agent who specializes not in service but in extortion; the politician who feels he must demonstrate how *malakas* he is by his disregard for the rights of others. Beyond physical and bureaucratic power there is of course economic

¹ “Barrio Magsaysay: A Hard Look at Squatter Politics” (Philippine Sociological Society, Third Annual Convention, 1966, mimeo), p. 9.

power: the ability, until recently at least, of the large landlord to dictate what share of the crop his tenant shall receive without regard for what the law stipulates, and to drive the tenant from his land if he protests; the power of the industrialist to ignore the minimum wage law, and of the distributor to create artificial shortages of the commodity which he handles.

Here it may be worth recalling that the reliance on power in the absence of effective law is by no means peculiar to the Philippines and may have been more prevalent in the days of the "sixgun" in the American West than at any time in recorded Philippine history. The saga of the West, of Marshal Wyatt Earp and others, was in fact the story of the establishment of the rule of law in a lawless land. Marshal Earp stood for a set of rules applicable to all and backed by his badge and his gun.

There are obstacles to effective crime control in the Philippines other than resistance to impersonal norms and the high value assigned to power. I shall discuss three of these obstacles briefly. The first may be summarized succinctly as "rising expectations and limited opportunities" for the great mass of the people. Through the school, moving pictures, the radio, the comic books, through the example of the resident foreigner in his midst and the Filipino who has had opportunities to study and to travel abroad, through modern advertising techniques and intricate distribution networks reaching ever more remote barrios, the Filipino's concept of the good life is being changed. No longer is he satisfied with the standard of living which his father and grandfather knew; his wants and expectations have been formed by the standard of living of another society ten thousand miles away with the standard of income twenty times that of the Philippines. Sometimes we can see this in the language itself, as when all toothpaste is given the name of Colgate and all electric ice boxes are "prijidaires"; there is no mistaking it in the style of life — recreation, travel, medical care, education, automobile — adopted by the wealthy Filipino. A report from Hong Kong printed in yesterday's newspapers notes that the average Filipino *tourist* there, until the recent currency regulations of the Central Bank, stayed four days and spent \$265 or more than ₱1000.² When we recall that the average *Filipino* has less than ₱500 to live on *per year*, that the real wages of workers in Manila are no higher now than they were in 1949 despite a 50% increase in real national income per capita, that the level of housing has declined even by comparison with the immediate postwar period, and that is evidence of a growing concentration of income in the hands of the wealthy, we can easily imagine the frustrations which this state of affairs engenders in those who see no opportunity to improve their condition by legitimate means. We hardly need social scientists to tell us that one of the best ways

² *Manila Bulletin* (November 22, 1968).

to *increase* the crime rate is to create needs in the hearts of men and yet provide large numbers of them with no legitimate opportunity for satisfying those needs.

A second obstacle to effective crime control is more delicate to discuss, particularly for an outsider; and yet I would be less than honest were I to pass over it in silence. The basic fact is suggested by a comic strip which I remember seeing many years ago. A stranger in town asks some information from a little girl on the street: "Young lady, can you tell me whether there is a criminal lawyer in this town?" Perhaps many of you remember the answer: "We think so, but none has been able to prove it." I have no intention here of pointing a finger at lawyers particularly but of raising the issue of "white-collar crime" committed by businessmen, politicians, accountants, policemen, clergymen and university presidents as well as by lawyers. These are not crimes of violence, housebreaking and assault and the like. They are rather the "nice" and genteel crimes committed often with the stroke of a pen: falsification of documents, tax evasion, perjury; violations of the banking laws, the labor laws, the food and drug laws; false advertising and fraudulent sale of securities; bribery of public officials, violations of public trust; land-grabbing, illegal logging, and technical smuggling. The criminologist Edwin R. Sutherland did studies, as you may remember, of white-collar criminality in the United States.³ He concluded that it exists on a vast scale and that the white-collar criminal is by far the most dangerous type in terms of effects on private property and social institutions. Yet in the Philippines as elsewhere, such criminals are seldom detected and more seldom arrested by uniformed policemen, never given the "third degree", and rarely tried in criminal court or committed to prison; their cases are handled by administrative bodies and the penalty imposed is often negligible in comparison with the damage they have done or the gains they have made by their crimes.

The question must therefore be raised: when we talk of crime control, are we concerned only with crime of violence, the crimes of the poor and uneducated which threaten our own security and make it unsafe for us to walk the streets at night? And if this is all that crime control means to us, must we not face the question of the Black Power militant: *Whose law? whose order?* Is crime control only an instrument for protecting *ourselves* from violence? And can we in all honesty ask public officials whose lucrative "white-collar criminality" is corroding the fabric of society itself to be vigorous in controlling the unlicensed street-vendor and the hungry pickpocket?

³ Sutherland and Donald R. Cressey, *Principles of Criminology* (New York: J. P. Lippincott Company, Seventh Edition, 1966), pp. 43-44.

The third obstacle to effective crime control is related to the second: it is the increasingly efficient *organization* of crime, gangsters entering into alliances with white-collar criminals, or with "legitimate" businessmen and politicians. We spoke earlier of three kinds of power—physical, bureaucratic, and economic. More and more the clever operator is learning to use all three in combination, notably for purposes of smuggling, in the organization of prostitution and begging—I am told — in and around Manila, for the winning of election campaigns, and for the management of much of life in Central Luzon. The pattern should not surprise us; we are familiar with it from the crime syndicates in the United States and the *Mafia* in Sicily (which seems to have worked out alliances even with some elements in the Church). Yet it is ominous, given the limited resources available for combatting organized crime, to realize how well established the pattern already is among us; and it is perhaps more ominous to hear politicians talk of stockpiling weapons for the coming election, and then to read in the papers of shipments of machine-guns intercepted *en route* to Mindanao.

I have spoken at great length of the difficulties of crime control in the Philippine situation; it is time I made some positive suggestions. Since I have no technical competence in police work, I shall leave the technical suggestions to others and reflect a little on how we might get at the roots of crime as they appear in our analysis. We can, first of all, reflect on ourselves and ask whether we in our personal and professional lives support as energetically as we should the objective rule of law in society. Have we trained ourselves to respect the rights of those who may be strangers or adversaries to us, or do we on occasion rely on power, pressure, and privilege, in achieving our goals?

Beyond the personal examination of conscience is the larger question, what can the legal profession as such do to help build a society in which the objective rule of law is not imposed by one class on another but emerges as an expression of the central values of a people and the guarantee of the rights of all? This as you recognize is not a matter of legal enactments alone, but involves the development and integration of a whole society and all its institutions. In my opinion it will require far more attention to social justice and an equitable sharing of both the costs and the rewards of economic development than the Philippines has known up till now. More specifically it may require a tax structure which apportions the burdens more equitably. It will almost certainly demand of the wealthy greater restraint on the inclination to "live it up" in the American manner and the investment of more of its economic surplus in productive enterprise. It will demand also the organization or strengthening of the many institutions by which the peasant is incorporated into modern society: the school system, labor and peasant unions, land reform, vocational training, welfare services of various kinds, legal aid to the indigent such as your

organization has been very laudably providing, slum clearance and housing programs and the rest. Perhaps there is a need for changes in the basic law of the nation itself, by which this law may be brought more into tune with the genius of the people and the requirement of a developing society.

Certainly this task will require leadership, not just at the national level but equally so in the town and barrio and urban slum—leadership which will introduce the mass of the Filipino people in an orderly and organized way to the structures of modern society. And it will require idealism and sacrifice, not for a day or a month, but through years and perhaps decades of patient and unremitting labor. In all of this the lawyer is capable of making a unique contribution by his awareness of the needs of the nation, by his professional commitment to the objective rule of law, and by the skills in communication which are part and parcel of his training.

A final reflection centers on the role of the lawyer as prosecutor and judge in dealing with those who persist in violating the law. The French sociologist Emile Durkheim long ago pointed out that punishment of malefactors is not merely a negative function, nor does it serve merely to protect society from repetition of the crime.⁴ It is in a sense a ritual, almost a religious act whereby the society reasserts and reaffirms its basic values when these have been challenged by the wrongdoer. This may help to explain the solemnity which is associated with the passing of sentence upon a criminal and particularly the carrying out of the death penalty; and some have gone so far as to assert that a society may need a certain amount of crime in order that in punishing it it may recall and renew its values which might otherwise be forgotten. But what strikes me about Philippine judicial practice is the *light* penalties which seem to be meted out to those who have violated public trust in the carrying out of official duties, who have received bribes or kickbacks or alienated to the nation's patrimony for example. Does it not appear that by these light penalties, suspension from office or fines often less than the profit gained from the wrongdoing, we are saying that the public interest is not really very important after all?

In summary, then, I have pointed out that part of the problem of crime control consists in the fact that the Philippines is in transition from a peasant way of life in which there is a little trust in an impersonal rule of law and a tendency to rely on power in one's relations with those beyond one's circle of family and friends. Then I pointed out three additional obstacles: the rising expectations and limited economic opportunities available to the poor; the prevalence of

⁴ *On the Division of Labor in Society*, Trans. G. Simpson (New York: Macmillan, 1933).

white-collar crime; and the growing organization of criminal elements, often in alliance with legitimate businessmen and politicians. And finally, I have suggested that we examine our own attitudes toward the rule of law, that we see the problem as one of building a society in which law serves the people as a whole and not the interests of a few, and that we ask ourselves whether light penalties imposed on violators of public trust really reflect our values as a people.