Summer 1964

Underworld, Conventional and Ideological Crime

Ruth Shonle Cavan

Recommended Citation

COMMENTS

UNDERWORLD, CONVENTIONAL AND IDEOLOGICAL CRIME*

RUTH SHONLE CAVAN†

Conforming and nonconforming behavior may be thought of as falling into a continuum running from career-type criminal nonconformity through conventional conformity to ideological nonconformity.[1] Each kind of nonconformity consists of deviations from a central measure of conformity which actually has not one but three related norms. 1) Law is the central, most precisely formulated norm. 2) Public tolerance of criminal behavior creates the second norm. It represents a practical adjustment of legal behavior to meet certain inconveniences and exigencies of socio-economic life. A simple example is the disregard for exact compliance with traffic laws, especially running a red light, speeding, or violating parking regulations. The tendency now is to omit such violations from statistics on crime. Violators routinely pay a small fine, or sometimes pay the arresting officer not to make the arrest. The attitude is very similar to that toward paying a toll fee for the privilege of driving on a certain highway or over a bridge. In traffic violations, the payment of the fine is popularly regarded as a fee covering the privilege of violating the law. Only when traffic violations result in a serious accident, injury, or death are they regarded as crimes. Otherwise, they are tolerated and widely practiced law violations, about which the violator has no feeling of guilt or remorse. Many types of white-collar or business crimes are also tolerated. Many retail stores include in their budget an item for shrinkage, a term that includes thefts by employees and shoplifting by customers. Small thefts, when detected, are rarely reported to the police. The customer may be warned not to return to the store or be required to sign a confession to be used in any case of a future theft. The thieving employee is discharged and of course may find it difficult

to obtain another position without a recommendation from his former employer. Many types of theft are covered by insurance and again may not be reported to the police, or valuable property may be returned to the owner or insurance company after payment of a reward to someone (presumed to be a middleman) who has "discovered" the property.[2] No one knows how many embezzlers are permitted to make restitution or are simply discharged. Many income-tax evasions are handled as noncrimes; the offender may pay a fine or he may be allowed to settled a large default by payment of a small portion of it. Only when a crime of the tolerated type is large, damaging to the business involved, or made known to the public is it likely to lead to arrest, trial, and legal punishment.[3] 3) The third and most restrictive norm is set by values that add an ethical or idealistic ingredient to law observance. Values may be thought of as ultimate goals assumed to be of benefit either to the entire society or some portion of it. They call for a refusal to yield to exigent demands for law-breaking and for more than formal obedience to laws. The idealists as a rule do not demand social reforms or drastic changes of laws. Their objective is increased respect for and obedience to law and closer adherence to ideal behavior. This degree of idealism lies within the area of public acceptance as does the tolerated criminal behavior. Conventional behavior, observed by most people, fluctuates between the limits set by public tolerence on one side and idealism on the other.[4] For the most

---

[1] For a more complete discussion of the behavior continuum, see CAVAN, CRIMINOLOGY, ch. 3 (3d ed. 1962). For an application to juvenile delinquency, see Cavan, *The Concepts of Tolerance and Contraculture as Applied to Delinquency*, 2 SOCIOLOGICAL Q. 243 (1961), and JUVENILE DELINQUENCY, chs. 2 & 3 (1962).

[2] In his book THE OPERATORS (1960), Frank Gibney refers to the United States as the genial society which tolerates and admires the clever crook. He gives many illustrations of tolerated criminal behavior.

[3] Vilhelm Aubert has called attention to the ambivalent attitudes toward white-collar crime when the perpetrators and the law enforcers come from the same social strata and share many of the same (conflicting) attitudes. The offender supports law enforcement but rationalizes his violations. *White-Collar Crime and Social Structure*, 58. AM. J. SOCIOLOGY 263 (1952).

[4] The complete hypothesis of the behavior continuum includes a bell-shaped curve superimposed on the line representing the continuum. The behavior of most people lies within the central, highest portion of the curve. A decreasing number of people make up the descending curve on each side, until the extremes of

part, tolerated offenses and idealism coexist within conventional society—sometimes in the behavior of a single individual—with compromises and rationalizations and a minimum of tension and conflict. In this respect, the social structure may be compared with the steel structure of a bridge, designed to tolerate a certain amount of deviation as the bridge withstands vibration; tension beyond a certain point however threatens society, just as vibration beyond a certain point causes the collapse of the bridge.

THE BALANCE BETWEEN LAW-ABIDING BEHAVIOR, TOLERATED LAW-BREAKING, AND IDEALIZED BEHAVIOR

Tolerated crimes and idealized behavior are component forces in maintaining the balance of the social structure. The social structure may be thought of as the interrelated basic institutions, such as governmental, economic, educational, religious, family, health, and welfare. These institutions are the formal agencies through whose operations the society carries out its functions. Anything that threatens the existence or functions of any of these institutions is a threat to the entire society because of their interdependence. Public attitudes of tolerance and idealism, pulling against each other, help to maintain the balance among institutions and preserve the normal functioning of society.

From time to time some members of conventional society extend their illegal activities beyond the boundary of public tolerance. This boundary is not clearly defined, and the probability of punishment is low. Under special pressures, otherwise conventional persons exceed the limits of tolerance. Sometimes an entire community becomes lax in suppressing career criminals or organized criminal activities. When criminal behavior exceeds the bounds of public condonation, idealists begin a counter movement against the specific types of crime or groups involved. This action often is initiated or carried out by a committee of outstanding citizens, a ministerial association, or a reform government. The resulting public condemnation and pressure for law enforcement cause crime to recede, although not to disappear. The balance of toleration is restored.

Conversely, idealists sometimes are severely

behavior are reached. In this paper only the central or conventional portion of the curve and the two extremes are discussed. The intervening portions of the curve (intermediate types of behavior) are not included.

condemnatory of tolerated deviations from law or succeed in having laws passed or enforced that are more repressive than the public will endure. A movement against repressive idealism begins. When the penalties for income-tax evasion become too severe, the avaricious businessman may enter into a contest to outsmart the government; he may find pseudo-legal ways to avoid payment or clever ways to conceal his real income. When the red light district is closed, prostitution goes underground. The Prohibition Amendment led to unnumbered violations and the development of vicious criminal organizations. Overly severe punishment for juvenile escapades may lead to reprisals in the way of vandalism, baiting of policemen, or wanton attacks on surrogates for hated authoritarian figures. Such results of high pressure idealism may be as destructive of normal functioning of society as the growth of crime. The rebellion and criminal behavior usually result in less oppressive and rigid demands for ideal behavior; witness the repeal of the Prohibition Amendment and the substitution of controlled use of liquor for complete abstinence.

By reciprocal checking of both criminal behavior and unrealistic idealism, tolerance and idealism maintain a balance of behavior that is neither destructively criminal nor repressively idealistic. The social order is maintained at a functioning level.

THE CRIMINAL UNDERWORLD—ONE EXTREME OF THE BEHAVIOR CONTINUUM

Both extreme points on the continuum—the criminal underworld and the ideological deviators—are a threat to the social structure, although in different ways. In each case, however, the threat is met in the same way, by rejection of both the behavior and the persons involved, and by legal prosecution. In each case, the result is counter rejection of conventional society by criminals or ideologists and withdrawal into a closed subsociety that is not fully responsive to legal standards.

The criminal underworld is a world of calculated criminal behavior, with crime as the central motif for personal and social organization. The underworld has its own distinctive philosophy of life, code of conduct, power structure, and status symbols. It is referred to by some criminologists as a criminal subculture. A more discriminating term is contraculture, a term that emphasizes not only its differences from conventional culture

but its opposition to conventional standards and ways of attaining goals.[5]

The relation of the underworld or contraculture to conventional society differs greatly from that of the tolerated law-breaker, even when he occasionally slips beyond the boundary of tolerance in some aspect of his behavior. The underworld contains the public enemies, the hunted men. In turn, they regard conventional society as their enemy.[6]

However, on both sides there are various nuances in the completeness of the rejection. It never goes so far that either side desires the complete destruction of the other. A certain degree of commensalism and cooperation exists. Criminals are no more eager than businessmen to change the system of free economic enterprise; they depend upon the capitalist, the large corporation, the large labor union, and various economic institutions for their income. Without the capitalist, kidnapping for ransom would be wasted effort. The corporation opens the way for extortion; for example, the construction company will pay large sums to avoid a threatened strike. The labor union seems to exist to be exploited. The accumulation of money in banks is an invitation to burglary. Also, criminals are favored by high ethical standards and the idealistic attempts to destroy such indulgences as gambling, prostitution, use of drugs, or use of alcohol. Each such repression opens the way for the operation of a criminal syndicate.

It must also be noted that conventional society cooperates in many ways with career criminals. Members of conventional society as well as of the

---

[5] Yinger, *Contraculture and Subculture*, 25. AM. Soc. REV. 625 (1960).

[6] Although in general the underworld constitutes a closed social system, some successful criminals tend to look toward an equivalent financial stratum of conventional society for a model. This trend is not observable in the lower and middle-status criminal groups. Successful career criminals, however, may move into upper middle-class neighborhoods or suburbs, copy the dress and manners of conventional middle-class men, contribute to welfare drives, and sometimes gain a degree of acceptance into conventional organizations. However, full acceptance is rare. The final step may come for their children and grandchildren, who may rub shoulders with upper middle-class children in school and college, secure conventional positions, and perhaps marry out of the criminal underworld. One may even speculate whether in time it will be socially acceptable to have had a successful bootlegger or muscleman as the founder of the family fortune, as it now is to have had a "robber baron" of the 1890's. The passage of time plus the persistence of family wealth lend glamor to earlier criminal or unethical activities.

underworld patronize criminal syndicates that offer illegal services. Each businessman who yields to extortion and treats it as a business expense to avoid delay in production furthers crime. The gullible citizen who allows himself to be hoodwinked by the swindler and fails to report the matter to the police is also a partner in crime. In innumerable ways conventional society cooperates actively with criminals or condones crime by passive acceptance of exploitation.

Although criminal operations are accepted by some members of conventional society, crime, especially organized crime, is a serious threat to the total social organization, through the control over legitimate business gained by threats and extortions and through actual intrusion of individual criminals into legitimate businesses and labor unions. The greatest danger comes when criminals penetrate governmental positions or exert control over law-making and law-enforcing bodies through some combination of threats and financial rewards. Government itself then becomes a part of the criminal contraculture and perverts its primary function of protecting and furthering public welfare to protecting and furthering crime.

IDEOLOGICAL CRIME—THE OTHER EXTREME OF THE BEHAVIOR CONTINUUM

Some persons who seek a better society move away from the idealists who accept the social structure as it is but strive for its more perfect functioning and devise ways in which the structure or functions of society or of its institutions might be changed. It they seek gradual changes by peaceful means, they are social reformers; if they advocate overthrow of major institutions and especially of the government by violence they are revolutionists. In either case they develop a basic set or system of ideas usually with some means for putting them into force.[7] Most proposed reforms are innocuous in nature and method; they do not offer a threat to the social organization and hence no attempt is made to interfere with them. In other instances, however, either the ideology itself or the method of putting it into force is in conflict with dearly held ideals, laws, or the pres-

---

[7] For a brief discussion of ideological crime and the need for research in this area, see Newman, *Legal Norms and Criminological Definitions*, in SOCIOLOGY OF CRIME 71–75 (Roucek ed. 1961). For a discussion of the conflicts between ideal and real ideologies see Frumpkin, *Ideological Aspects of Crime*, in *id.* at 193–208.

ent operation of basic institutions. In the effort to put to rout threatening ideological movements, arrests may be made for violation of laws unrelated to the ideology of the movement; for example, laws forbidding unlawful assembly, disorderly conduct, littering the street (with tracts), and so forth.

Sometimes new laws are passed whose enforcement is intended to destroy the movement or to force it into conformity with conventional standards and the status quo of society. An example is the passing of state laws beginning in 1917 and known as criminal syndicalism laws which made it a felony to recommend any doctrine advocating crime, sabotage, violence, or other unlawful methods of terrorism as a means of accomplishing industrial or political reform. Idaho, the first state to pass such a law, placed the penalty at ten years imprisonment or a fine of $5,000 or both. The laws were directed at the labor organization, the Industrial Workers of the World. Membership in any organization advocating violence was sufficient to convict. During the period of World War I and immediately thereafter, fears almost reached the panic stage regarding criminal syndicalism. It was feared that organizations with this ideology might obstruct the war effort and also that a revolution similar to that in Russia might occur. A large number of convictions was obtained in the western states, some of which were reversed by higher courts. Other convicted persons were later pardoned. By 1929, these fears had passed and no one in the United States was in prison for violation of these laws.[8]

Fears of overthrow of the government were not allayed, however, and in 1940, a federal law, the Smith Act, was passed, prohibiting any conspiracy that advocates the overthrow of the United States government by force and violence. This law was enforced against the Socialist Workers Party, and later, with other laws, against the Communist Party.

Ideologies that advocate the overthrow of the federal government by force bring the most severe legal reprisals. Other ideologies that threaten the operation of the federal government or imply lack of national loyalty are also feared. For religious reasons, Jehovah's Witnesses refuse to register for the military draft; when convicted they are sentenced to federal prison.

Other ideological movements attack basic institu-

tions. Those that pertain to the family, a traditionally sacred institution, are especially feared. The most striking case in the United States was presented by the Mormons in the nineteenth century. From 1830, the date of origin of the Church of Jesus Christ of Latter-day Saints, until 1843, when Joseph Smith recorded a revelation sanctioning polygamy, opposition toward the Mormons was based primarily on their break with traditional Christianity and the vigor with which they attempted in several communities to establish their promised land of Zion. Although the revelation giving approval to polygamy was not openly announced to the church until 1852, Joseph Smith in his lifetime taught the new doctrine to certain of his associates and the practice began and was soon known outside the Mormon community. Polygamy was openly advocated and practiced from 1852 until 1892, when the President of the church issued a Manifesto proclaiming the end of polygamy among Mormons. During the forty years of its practice, polygamy became the focus of public and legal opposition. In addition, the widespread temporal power of the Mormon Church in the territory of Utah seemed to oppose the requirement for separation of church and state. Concentration of property in the name of the church also seemed to threaten private ownership. Many laws were proposed in Congress intended to break the power of the church as well as to dispose of polygamy. In 1862, Congress passed an act which forbade polygamy, disincorporated the church, and prohibited it from owning more than $50,000 worth of property exclusive of that used for devotional purposes. This law was difficult to enforce. Another act, studded with heavy penalties, was passed in 1882, replacing elective (Mormon) officials by federal non-Mormon appointive officers, denying certain civil rights to polygamists, and making polygamy or unlawful cohabitation punishable by fines and/or imprisonment. Further drastic action came in 1887 with an amendment to the 1862 Act that effectively destroyed the financial power of the church. By 1892, the church had yielded to the pressures against polygamy, and within the next few years in accordance with informal agreements had limited the power of the church. Utah then was admitted to Statehood.[9]

[8] 4 ENCYCLOPAEDIA OF THE SOCIAL SCIENCES 582–84 (1936).

[9] This very abbreviated statement is based in large part upon ERICKSON, THE PSYCHOLOGICAL AND ETHICAL ASPECTS OF MORMON GROUP LIFE (1922), and

The case of the Mormon Church throws light on factors contributing to the persistence of ideological crime. More than most other deviating ideological groups, the Mormons had an all-inclusive ideology, not confined to one aspect of life, but encompassing economic system, government within the group, educational institutions, religion, and social and family life. The ideology was given practical expression through interrelated institutions. The individual member could find all his needs met within the ideological group. Through religion and reliance on the Bible—primarily the Old Testament—a connected and authoritative religious and social creed was established. Leaders and members alike believed in the rightness of their ideology and way of life. They were able to develop their way of life after they removed to the territory of Utah. During the first few decades of their occupancy of the land they had a high degree of physical isolation from outsiders. However, they were not allowed complete isolation and freedom. Non-Mormons soon came into the territory, and various of the Mormon beliefs and activities were legally designated as crimes.

In the United States, deviant ideological groups have organized their beliefs chiefly into political and religious movements. Politically motivated groups usually wish to make some change in the form or operation of government. They directly propagandize for the change to be achieved through new laws, or they advocate violent over-throw of the present government and establishment of a new form.

Religiously motivated groups tend to withdraw from society, either isolating themselves socially or withdrawing into separate communities. They seek a religious way of life for themselves—a new Zion—or they prepare themselves for the Kingdom of God or the second coming of Christ. They may be content to augment their group only through births within the group, or they may pursue a vigorous missionary program. When their ideologies oppose or seek to replace the ideologies and laws of the society at large, they may be subjected to anti-propaganda or illegal but often condoned persecution; when they oppose laws, they may be legally prosecuted and thus fall into the category of ideological criminals.

What if any functions do deviant ideological

ARRINGTON, GREAT BASIN KINGDOM, AN ECONOMIC HISTORY OF THE LATTER-DAY SAINTS, 1830-1900, esp. ch. 12 (1958).

groups play in the social structure? It seems probable that deviant ideological groups serve as a receiving agency for dissident individuals who are unable to adjust to conventional society. In the ideological group they find their needs met. Individually, they might be more harmful than when they are incorporated within a group. Many ideological groups are not threatening and even those that are exert control over their members and channel their dissatisfactions into certain programs of action. These become known publicly and are more readily controlled by conventional society than is the unpredictable behavior of a number of unorganized, discontented, and often fanatical individuals.

COMPARISON OF ORGANIZED AND IDEOLOGICAL CRIMINAL GROUPS

Although organized criminal groups and deviant ideological groups have a number of characteristics in common, they cannot be thrown into the same category simply because they both break criminal laws and are subject to the same penalties. The key motivations of the two groups are very different. Organized criminals of any type have as a key motivation the exploitation of conventional society. The origin of this motivation may not always be the same: some career criminals seem to have been reared in situations where socialization into crime seemed the normal training and where few counter-motivations were instilled into the youth. Others may act from underlying envies and resentments toward people who seem to have wealth which they acquire with little or no effort, for example, by inheritance. In any case, the opportunity to secure money without work seems uppermost. The key motivation for the ideological deviant seems to be a desire to establish a better social order for themselves and often for the nation. In this respect, organized criminals and ideological deviants seem at opposite poles, one bent on direct injury to society, the other on bettering society according to their own concepts of betterment. One represents the extreme to which disregard of criminal law may go, the other the extreme to which idealism and the search for a better society may go.

In spite of these marked differences, many similarities also exist. In each case, the group has developed a philosophy to support its activities in a positive fashion. The philosophy is supported by a code of approved conduct and is incorporated in a distinctive way of life with its own institu-

tions, patterns of informal associations, methods of control of individual members, and patterns of leadership.

Because both philosophy and activities of both groups are viewed by society as a threat to the status quo, pressures are brought against both criminal and ideological groups to try to force them to abandon their way of life and return to conventional society. However, their group affiliation, their belief in their way of life, serve as a strong barrier. Severe punishment further alienates the criminal or the ideological deviant. He draws back still further into his group, and the group may withdraw from all unnecessary contacts with conventional society: the criminal associates himself with other criminals and partially withdraws into certain areas of a city; the ideological group seals itself off socially from others, or withdraws into physically isolated communities. Both groups go into hiding to escape legal persecution: the criminal may take an assumed name and move to another state or go abroad; the ideological offender goes underground, true of communists and also true of the polygamous Mormons who went into hiding during the period when law enforcement officials were making a vigorous effort to prosecute them in the courts.

A spiral of reciprocal rejection is often established between conventional society and the deviant group, whether criminal or ideological. The more severe the penalties and the pursuit become, the further the deviant group withdraws from society and the more tightly its members encapsulate themselves within their group. Both criminals and ideological deviants are rejected and in turn reject conventional society.

The same types of legal penalties and the same procedures are used against both criminals and ideological deviants. The laws under which prosecution takes place are federal or state criminal laws. In each case special criminal laws may be enacted to control an especially threatening type of behavior. Kidnapping led to a special federal law; Mormon polygamy also caused the enactment of special federal laws; communism has its own criminal laws. Criminal violators and ideological violators alike are arrested, tried before a judge, and if convicted given similar penalties. They may be fined, or they may serve prison terms. They are placed in the same prisons, under the same regimes, and they show the same resistances to reform.

The most serious threats of criminal or of ideo-

logical deviance are raised by organized groups. Their danger to the status quo exceeds that of the individual criminal or the individual ideological fanatic. When the individual is convicted and imprisoned, his activity stops. The activity of an organized group usually does not stop because one or a few leaders are imprisoned; the organization itself must be destroyed. Organizations tend to persist and convictions and penalties sometimes make the members all the more determined to continue their existence and pursue their projects. New leaders replace old ones. However, the organization may temporarily cease operations in one place until a more favorable time. Thus organized criminals forced into inactivity in one city by unrelenting legal prosecution may transfer their operations to some city in a different legal jurisdiction. Ideological groups respond in the same way. At the time of Joseph Smith's death in 1844, the Mormons were under heavy pressure to disband. One group did split off. But the main body rallied around a new leader and crossed the plains to Utah, where their activities were less obvious to non-Mormons. The second great crisis in the 1880's was met first by polygamists going into hiding and later by a compromise that permitted the organization to survive with less opposition.

There seems to be little if any direct relationship between the criminal groups and the ideological groups. In fact the attitudes seem to be mutually abhorrent. Some ideological groups seek to convert criminals to a different way of life. From the limited information available it seems probable that those converted are on the fringe of criminality, hence insecure, and perhaps personally disorganized. Organized criminal groups do not attempt to convert ideological groups to criminality; it is conceivable of course that individual members of deviant ideological groups may occasionally become "converted" to a criminal way of life.

SUMMARY

In summary, tolerated crime and tolerated idealism act as antidotes to each other and maintain a flexible range of conventional behavior; the extremes of crime or of ideological deviancy are regarded as threats to society and the adherents may be severely punished. They are nevertheless part of the total social organization and never entirely eliminated.