

CLASSIC

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CROSS-CULTURAL

30 The Functions of Crime

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Common sense leads us to view crime, and all kinds of deviance, as pathological—that is, as harmful to social life. Despite the obvious social costs of crime, however, Durkheim argues that crime is normal because it is part of all societies. Furthermore, he claims that crime makes important contributions to the operation of a social system.

Crime is present not only in the majority of societies of one particular species but in all societies of all types. There is no society that is not confronted with the problem of criminality. Its form changes; the acts thus characterized are not the same everywhere; but, everywhere and always, there have been men who have behaved in such a way as to draw upon themselves penal repression. . . . There is, then, no phenomenon that presents more indisputably all the symptoms of normality, since it appears closely connected with the conditions of all collective life. To

make of crime a form of social morbidity would be to admit that morbidity is not something accidental, but, on the contrary, that in certain cases it grows out of the fundamental constitution of the living organism; it would result in wiping out all distinction between the physiological and the pathological. No doubt it is possible that crime itself will have abnormal forms, as, for example, when its rate is unusually high. This excess is, indeed, undoubtedly morbid in nature. What is normal, simply, is the existence of criminality. . . .

Here we are, then, in the presence of a conclusion in appearance quite paradoxical. Let us make no mistake. To classify crime among the phenomena of normal sociology is not to say merely that it is an inevitable, although regrettable, phenomenon, due to the incorrigible wickedness of men; it is to affirm that it



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is a factor in public health, an integral part of all healthy societies. This result is, at first glance, surprising enough to have puzzled even ourselves for a long time. Once this first surprise has been overcome, however, it is not difficult to find reasons explaining this normality and at the same time confirming it.

In the first place crime is normal because a society exempt from it is utterly impossible. Crime . . . consists of an act that offends certain very strong collective sentiments. In a society in which criminal acts are no longer committed, the sentiments they offend would have to be found without exception in all individual consciousnesses, and they must be found to exist with the same degree as sentiments contrary to them. Assuming that this condition could actually be realized, crime would not thereby disappear; it would only change its form, for the very cause which would thus dry up the sources of criminality would immediately open up new ones.

Indeed, for the collective sentiments which are protected by the penal law of a people at a specified moment of its history to take possession of the public conscience or for them to acquire a stronger hold where they have an insufficient grip, they must acquire an intensity greater than that which they had hitherto had. The community as a whole must experience them more vividly, for it can acquire from no other source the greater force necessary to control these individuals who formerly were the most refractory. For murderers to disappear, the horror of bloodshed must become greater in those social strata from which murderers are recruited; but, first it must become greater throughout the entire society. Moreover, the very absence of crime would directly contribute to produce this horror; because any sentiment seems much more respectable when it is always and uniformly respected.

One easily overlooks the consideration that these strong states of the common consciousness cannot be thus reinforced without reinforcing at the same time the more feeble states, whose violation previously gave birth to mere infraction of

convention—since the weaker ones are only the prolongation, the attenuated form, of the stronger. Thus robbery and simple bad taste injure the same single altruistic sentiment, the respect for that which is another's. However, this same sentiment is less grievously offended by bad taste than by robbery; and since, in addition, the average consciousness has not sufficient intensity to react keenly to the bad taste, it is treated with greater tolerance. That is why the person guilty of bad taste is merely blamed, whereas the thief is punished. But, if this sentiment grows stronger, to the point of silencing in all consciousnesses the inclination which disposes man to steal, he will become more sensitive to the offenses which, until then, touched him but lightly. He will react against them, then, with more energy; they will be the object of greater opprobrium, which will transform certain of them from the simple moral faults that they were and give them the quality of crimes. For example, improper contracts, or contracts improperly executed, which only incur public blame or civil damages, will become offenses in law.

Imagine a society of saints, a perfect cloister of exemplary individuals. Crimes, properly so called, will there be unknown; but faults which appear venial to the layman will create there the same scandal that the ordinary offense does in ordinary consciousnesses. If, then, this society has the power to judge and punish, it will define these acts as criminal and will treat them as such. For the same reason, the perfect and upright man judges his smallest failings with a severity that the majority reserve for acts more truly in the nature of an offense. Formerly, acts of violence against persons were more frequent than they are today, because respect for individual dignity was less strong. As this has increased, these crimes have become more rare; and also, many acts violating this sentiment have been introduced into the penal law which were not included there in primitive times. . . .¹

Crime is, then, necessary; it is bound up with the fundamental conditions of all social life, and by that very fact it is useful, because these conditions

of which it is a part are themselves indispensable to the normal evolution of morality and law.

Indeed, it is no longer possible today to dispute the fact that law and morality vary from one social type to the next, nor that they change within the same type if the conditions of life are modified. But, in order that these transformations may be possible, the collective sentiments at the basis of morality must not be hostile to change, and consequently must have but moderate energy. If they were too strong, they would no longer be plastic. Every pattern is an obstacle to new patterns, to the extent that the first pattern is inflexible. The better a structure is articulated, the more it offers a healthy resistance to all modification; and this is equally true of functional, as of anatomical, organization. If there were no crimes, this condition could not have been fulfilled; for such a hypothesis presupposes that collective sentiments have arrived at a degree of intensity unexampled in history. Nothing is good indefinitely and to an unlimited extent. The authority which the moral conscience enjoys must not be excessive; otherwise no one would dare criticize it, and it would too easily congeal into an immutable form. To make progress, individual originality must be able to express itself. In order that the originality of the idealist whose dreams transcend his century may find expression, it is necessary that the originality of the criminal, who is below the level of his time, shall also be possible. One does not occur without the other.

Nor is this all. Aside from this indirect utility, it happens that crime itself plays a useful role in

this evolution. Crime implies not only that the way remains open to necessary changes but that in certain cases it directly prepares these changes. Where crime exists, collective sentiments are sufficiently flexible to take on a new form, and crime sometimes helps to determine the form they will take. How many times, indeed, it is only an anticipation of future morality—a step toward what will be! According to Athenian law, Socrates was a criminal, and his condemnation was no more than just. However, his crime, namely, the independence of his thought, rendered a service not only to humanity but to his country. . . .

From this point of view the fundamental facts of criminality present themselves to us in an entirely new light. Contrary to current ideas, the criminal no longer seems a totally unsociable being, a sort of parasitic element, a strange and unassimilable body, introduced into the midst of society. On the contrary, he plays a definite role in social life.

CRITICAL-THINKING QUESTIONS

1. On what grounds does Durkheim argue that crime should be considered a “normal” element of society?
2. Why is a society devoid of crime an impossibility?
3. What are the functional consequences of crime and deviance?

NOTE

1. Calumny, insults, slander, fraud, etc.