REBELLION MAY BE SIMPLE OR COMPLEX

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OUR Supreme Court recently ruled with finality that the criminal overt acts mentioned in article 135 of the Revised Penal Code, committed in furtherance of rebellion, become part and parcel of rebellion itself and cannot be considered as giving rise to a composite crime that, under article 48 of said Code, would constitute a complex one with that of rebellion.[1] The present Article is an attempt to show why the writer believes, with due respect to the aforementioned opinion of the majority members of our Supreme Court, that, pursuant to said article 48 (on complex crimes), common (as distinguished from the purely political) crimes perpetrated against non-combatant civilians in the course of rebellion qualify the resulting interlocking crimes as rebellion complexed with such common crimes.

A. Ingredients or elements of the political crime of rebellion. — Rebellion is defined in our Revised Penal Code as follows:

> Art. 134. *Rebellion or insurrection. — How committed.* — The crime of rebellion or insurrection is committed by rising publicly and taking arms against the Government for the purpose of removing from the allegiance to said Government or its laws, the territory of the Philippine Islands or any part thereof, of any body of land, naval or other armed forces, or of depriving the Chief Executive or the Legislature, wholly or partially, of any of their powers or prerogatives.

It is obvious from this that there are only two ingredients or elements of the crime of rebellion, namely: (a) a public armed uprising against the government; and (b) the political purpose or purposes mentioned in article 134 of our Revised Penal Code. Expressed in the reverse order, the ingredients or elements of rebellion are: (a) a political purpose; and (b) overt acts consisting of armed uprising against the government.

B. Overt acts must be against government forces or government property. — The unfailing guide in determining what are the overt acts constitutive of the crime of rebellion is the clause in article 134 "rising publicly and taking arms against the government," which is very much more mild

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[1] People v. Geronimo, G.R. No. L-8936, Oct. 23, 1956.

than the more positive phrase "levies war" used in the definition of treason contained in our Revised Penal Code.[2] Indeed, according to our Supreme Court, rebellion is "engaging in combat" rather than "engaging in war."[3] This goes to show that rebellion is of a lesser magnitude than treason, and a public uprising does not need to amount to a war in order to be considered as a rebellion.[4] For rebellion to exist it is sufficient that there be a mass rising in armed hostility to the government for the political purposes mentioned in article 134, without necessarily resulting in military or civilian casualties. Indeed, examples of rebellion or *coup d'etat* successfully carried out by mere silent marches of superior number of armed and unarmed men are not wanting in contemporary history of which the courts may take judicial notice. In fact, as early as June 30, 1954, our Court of Appeals already held that rebellion may be committed even without bloodshed.[5] In the apt words of Mr. Justice Marcelino R. Montemayor of our Supreme Court:

> ...our law on rebellion contemplates only armed clashes, skirmishes, ambuscades, and raids, not the whole scale conflict of civil war like that between the Union and Confederate forces in the American Civil War, where the rebels were given the status of belligerency under the laws of war, and consequently, were accorded much leeway and exemption in the destruction of life and property and the violation of personal liberty and security committed during the war.[6]

Rebellion being an armed uprising against the government, if actual shooting becomes advisable, the only shooting that may be deemed in law as indispensable and therefore an element of rebellion is that directed against the police or armed forces of the government. Armed operation affecting the civilian population is not at all an indispensable necessity in rebellion, for if the cause of the rebels is righteous, as when the government becomes oppressive, commits unpardonable abuses, and not only becomes destructive of the life, liberty, and happiness of the people, but by suppressing civil liberties also blocks all peaceful avenues for seeking redress for the people's grievances, then the civilians, as they did during the Japanese regime, would willingly cooperate by silently evacuating the vicinity of the chosen field of the rebels' military operation against the loyalist government forces.

In other words, if the rebels' cause is really patriotic, there is no need for the rebels to employ terroristic pressure on the civilian population, such as killing innocent non-combatant men, women, and children, or committing arson, kidnapping, physical injuries, or other common crimes against them

[2] See art. 114 REVISED PENAL CODE.
[3] People v. Geronimo, *supra* note 1.
[4] U.S. v. Lagnason, 3 Phil. 472, 479 (1904).
[5] People v. Perez, (CA) G.R. No. 9185-R, June 30, 1954.
[6] People v. Geronimo, *supra* note 1, (concurring and dissenting opinion).

in an effort to force them to toe the rebels' line. Such common crimes are legitimate overt acts of rebellion only when they are perpetrated against the loyalist police and armed forces of the government, or are directed against government funds or properties as emphasized in article 135 of our Revised Penal Code.

C. Common crimes perpetrated against civilians as necessary means of committing rebellion produce the composite crime of rebellion complexed with such common crimes. — This conclusion is inevitable from the plain provisions of article 48 of our Revised Penal Code, which reads as follows:

> Art. 48. *Penalty for complex crimes.* — When a single act constitutes two or more grave or less grave felonies, or *when an offense is a necessary means* for committing the other, the penalty for the most serious crime shall be imposed, the same to be applied in its maximum period. (Emphasis added.)

However, disregarding the underlined clause in the text of article 48 of our Revised Penal Code reproduced above, our Supreme Court ruled in the *Hernandez* bail incident as follows:

> ...that, under the allegations of the amended information against the defendant-appellant Amado V. Hernandez, the murders, arsons and robberies described therein are mere ingredients of the crime of rebellion allegedly committed by said defendant, *as means "necessary"* for the perpetration of said offense of rebellion; that the crime charged in the aforementioned information is, therefore, simple rebellion, not the complex crime of rebellion with multiple murder, arsons and robberies; that the maximum penalty imposable under such charge cannot exceed twelve (12) years of *prision mayor*, and a fine of P20,000.00; and that, in conformity with the policy of this Court in dealing with accused persons amenable to a similar punishment, said defendant may be allowed bail.[7]

In other words, completely disregarding the plain provision of article 48 of the Revised Penal Code that "when an offense is a necessary means for committing" another, the two offenses give rise to a complex crime for which the penalty for the most serious crime shall be imposed in its maximum period, our Supreme Court ruled, instead, that the resulting composite crime must be deemed a mere simple crime for which only the penalty for the principally intended crime must be imposed. This is plain judicial legislation.

D. The error of our Supreme Court stems from its failure to distinguish what is indispensable from what is merely necessary. — The majority opinion in the *Hernandez* and *Geronimo* cases correctly holds that when an offense, perpetrated as a *necessary* means of committing another, is an *element* of the latter, the resulting interlocking crimes should be considered as only one simple offense and must be deemed outside the operation of the complex crime provision of our Revised Penal Code. But our Supreme Court, by failing to distinguish what is indispensable from what is merely necessary in the commission of an offense, unwittingly brought forth a *non-sequitur* when it ruled that murder, arson, etc., committed in the course of rebellion are absorbed in the latter as elements thereof.

[7] People v. Hernandez, 52 O.G. 5506, 5531-32 (1956).

This distinction between what is indispensable and what is merely necessary is important: for it is obvious that a crime which is indispensable in the commission of another must necessarily be an element of the latter; but one that is merely necessary but not indispensable in the commission of another is not an element of the latter, and, if and when actually committed, brings the resulting interlocking crimes within the operation of the complex crime provision of our Revised Penal Code. Thus as we have discussed before, common crimes committed against government forces and property in the course of rebellion are indispensably necessary overt acts of rebellion and are logically absorbed in it as virtual ingredients or elements thereof, but common crimes committed against the civilian population in the course of rebellion and in furtherance thereof may be necessary but not indispensable in committing the latter, and may, therefore, not be considered as elements of said crime of rebellion.

E. Historical background overlooked as guide to interpretation. — The majority members of our Supreme Court cites in favor of their opinion in the *Hernandez* bail incident the fact that in the past said highest Court never convicted any person of the complex crime of rebellion with murder and other common crimes. What is more, adds their majority opinion, "it appears that in every one of the cases of rebellion published in the Philippine Reports, the defendants were convicted of simple rebellion, although they had killed several persons, sometimes peace officers."[8]

Said majority opinion appears to have lost sight of the historical fact that up to 1932 the provision on complex crimes was, by special mandate of existing laws then in force in this jurisdiction, not made applicable to rebellion. In other words, rebellion was, by special provision of law, withdrawn from the operation of the complex crime provision of the Spanish Penal Code in force in the Philippines up to 1932. Said Penal Code had a provision governing complex crimes,[9] but the crime of rebellion was withdrawn from the operation thereof, a special provision regarding rebellion having been embodied in said Code, to wit:

> Art. 244. Los delitos particulares cometidos en una rebelión, o sedición, o con motivo de ellas, serán castigados respectivamente según las disposiciones de este Codigo.
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> Cuando no puedan descubrirse sus autores, serán penados como tales los jefes principales de la rebelión o sedición.[10]

[8] *Ibid.*
[9] Art. 87 PENAL CODE OF SPAIN OF 1870.
[10] GUEVARA, CODIGO PENAL DE LAS ISLAS FILIPINAS 120.

Later, that is, on November 4, 1901, the Philippine Assembly repealed said Code's provision on rebellion and supplanted it with a new one of American origin.[11] Consequently, from 1901 to 1932, rebellion in the Philippines was governed by special law and, again, by mandate of existing law, the complex crime provision of the Penal Code of Spain then in force in the Philippines did not apply to rebellion as punished in the aforementioned special law, said Penal Code expressly providing in this regard as follows:

> Art. 7. No quedan sujetos a las disposiciones de este Codigo los delitos que se hallen penados por leyes especiales.[12]

It is no wonder, therefore, that up to 1932 not one of those who committed rebellion with murder and other crimes was ever prosecuted and convicted of the complex crime of rebellion, with murder, etc., the complex crime provision of our penal law not having been applicable to rebellion cases in the Philippines during all the years prior to 1932.

A Revised Penal Code, based mainly on the aforesaid Penal Code of Spain of 1870, was approved on December 8, 1930, but its very first article expressly provided that it shall take effect on the first day of January, 1932.[13] In its article 347, said Revised Penal Code expressly repealed Act No. 292, and in lieu of the latter's rebellion provisions, articles 134 and 135 on rebellion were embodied in said Revised Penal Code. By the express repeal *in toto* of the old Penal Code then in force, article 244 of said old Penal Code, which contained the provision withdrawing rebellion from the operation of the complex crime provision of said old Penal Code, and which was eliminated from said Revised Penal Code, was thereby repealed.

It is contended, however, that the elimination of the provisions of said article 244 from our Revised Penal Code has no significance, because, after all, the first paragraph of said article 244 refers solely to "private misdeeds," committed for purely private non-political ends, totally unrelated to the over-all operation of rebels, and for the commission of such "private misdeeds" the penalty provided in the corresponding separate pertinent provision of said Code should be imposed as if the first paragraph of said article 244 had not been written.[14] In other words, it is claimed that said article 244 of the Spanish Penal Code in force in the Philippines up to 1932 was a mere surplusage and was properly eliminated from our Revised Penal Code.

This view is most unkind, for it in effect subjects the framers of said Spanish Penal Code to the charge of not knowing what they were doing

[11] Act No. 292.
[12] GUEVARA, *op. cit. supra* note 10, at 7.
[13] Act No. 3815.
[14] People v. Geronimo, *supra* note 1.

when they drafted said Code. More specifically, this view amounts to a charge that the framers of said Code embodied in it a totally useless and unnecessary provision. Said article 244, however, speaks for itself, and in plain words withdraws the crime of rebellion from the complex crime provision of said Spanish Penal Code. On the other hand, the conclusion that said article 244 is a mere surplusage runs counter to the cardinal principle of statutory construction that every word of the written law must be given effect, unless any word therein be incapable of any sensible meaning or is repugnant to the rest of the statute and tends to nullify it. Article 244 of the old Penal Code was not meaningless, much less was it repugnant to the other provisions of said Code.

Said article 244 was not a mere surplusage, and its omission from our Revised Penal Code simply means that henceforth the crime of rebellion may no longer be deemed withdrawn from the operation of the complex crime provision of the same Code. It is obvious that if not for said article 244 of the Spanish Penal Code in force in the Philippines up to 1932, its complex crime provision[15] would have been logically applicable to the crime of rebellion defined in article 229 *et seq.* of said Code. The elimination of said article 244 from our Revised Penal Code means, therefore, that henceforth the complex crime provision of our Revised Penal Code will apply as well to rebellion. In fact, in the absence of special provision of law to the contrary, the complex crime provision of our Revised Penal Code logically applies to *all* less grave and grave offenses defined and punished in said Code.

Indeed, whenever the legislature desired to remove from the operation of the complex crime provision any of the crimes defined and punished in said Code and perpetrated in aid of another crime, the legislature expressly provided a special appropriate penalty for the resulting interlocking crimes.[16] Such was not done as regards rebellion, and any offense perpetrated as a necessary but not indispensable means of committing rebellion must, from January 1, 1932, be deemed to qualify the resulting interlocking crimes as a complex crime of rebellion with murder, etc., as the case may be. It is true that in the *Sakdalista* cases[17] filed after 1932, the accused were not convicted of the complex crime of rebellion, with murder, etc., but it was apparently because the prosecution obviously suffered from a hang-over of the old law, and forgot all about complex crimes. Consequently, the informations in said cases were for simple rebellion merely, and our Supreme Court simply acted on the trial court's decision finding the accused guilty of simple rebellion for which they were tried in the lower court.

[15] Art. 87 PENAL CODE OF SPAIN OF 1870.
[16] See: robbery with homicide, art. 294 (1) REVISED PENAL CODE; robbery with rape, art. 294 (2) *id.*; kidnapping with physical injuries, art. 267 (3) *id.*
[17] League v. People, 73 Phil. 155 (1941); People v. Almazan, (CA) 37 O.G. 1932 (1939).

F. Misapplication of decisions in some treason cases. — In some treason cases our Supreme Court held that murder, robbery, etc., committed in furtherance of treason, are merged in and identified with the latter and do not qualify the resulting multiple crimes as a complex crime of treason, with murder, etc.[18] Invoking these cases, it is now contended that, by analogy, murder, robbery, etc., committed in furtherance of rebellion do not give rise to the complex crime of rebellion, with murder, etc.

This view is based on a false analogy. In said treason cases the crimes of multiple murders, arson, robbery, etc., were alleged and proven as the very overt acts of giving aid and comfort to the enemy, — the very second element of treason,[19] — for which information for treason was filed against each accused. Consequently, said crimes must be and were held as merged with the crime of treason for which the accused were indicted. As Mr. Justice Pedro Tuason aptly expressed the ruling on this point:

> It is where murder or physical injuries are charged as overt acts of treason that they can not be regarded separately under their general denomination.[20]

On the other hand, as we have already shown, not all murders, etc., committed in the course of a public armed uprising are indispensable overt acts of rebellion. At any rate, the doctrine that there is no such complex crime as treason, with murder, etc., appears to have been subsequently abandoned or overruled by our Supreme Court. Thus, in a decision promulgated as early as May 12, 1949, our Supreme Court said:

> ...the verdict of guilt must be affirmed. Articles 48, 114, and 248 of the Revised Penal Code are applicable to the offense of *treason with murder*.[21]

Again, on March 1950, our Supreme Court, in a per curiam decision, applied article 48 and held the accused guilty of the complex crime of treason with murder, concluding as follows:

> The Solicitor-General, however, recommends that the penalty of death be imposed upon the appellant. Considering that the treason committed by the appellant was accompanied not only by the apprehension of Americans (U.S. citizens) and their delivery to the Japanese Forces which evidently later executed them, but also by killing with his own hands not only one but several Filipinos, his countrymen, and that in addition to this, he took part in the mass killings and slaughter of many other Filipinos, we are constrained to agree to said recommendation. However unpleasant, even painful, is the compliance with our duty, we hereby impose upon the appellant Teodoro Barrameda the penalty of death which will be carried out on a day to be fixed by the trial court within thirty days after the return of the record of the case to said court.[22]

[18] People v. Jardinico, 47 O.G. 3508 (1950); People v. Adlawan, 46 O.G. 4299 (1949); People v. Ingalla, 45 O.G. 4831 (1949); People v. Prieto, 45 O.G. 3329 (1948).

[19] Art. 114 REVISED PENAL CODE.

[20] People v. Prieto, 45 O.G. 3329, 3333 (1948).

[21] People v. Labra, G.R. No. L-1240, May 12, 1949.

G. Confusion regarding intent and overt acts. — Influenced by the earlier treason cases, the ruling in which was subsequently abandoned as shown above, our Supreme Court held in *People v. Geronimo:*

> As in treason, where both intent and overt act are necessary, the crime of rebellion is integrated by the coexistence of both the armed uprising for purposes expressed in Art. 134 of the Revised Penal Code, *and* the overt acts of violence described in the first paragraph of Art. 135. That both purpose and overt acts are essential components of one crime, and that without either of them the crime of rebellion legally does not exist, is shown by the absence of any penalty attached to Art. 134.[23]

It is true that in treason as well as in rebellion both intent and overt acts are necessary. But we fail to find merit in what appears to be the view of our Supreme Court that article 134 of our Revised Penal Code merely specifies the intent, citing the fact that it does not impose any penalty; and that it is article 135 which actually defines and punishes rebellion. For convenience of reference, we reproduce hereunder the full texts of said provisions of our Revised Penal Code.

> Art. 134. *Rebellion or insurrection. — How committed.* — The crime of rebellion or insurrection is committed by rising publicly and taking arms against the Government for the purpose of removing from the allegiance to said Government or its laws, the territory of the Philippine Islands or any part thereof, of any body of land, naval or other armed forces, or of depriving the Chief Executive or the Legislature, wholly or partially, of any of their powers or prerogatives.
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> Art. 135. *Penalty for rebellion or insurrection.* — Any person who promotes, maintains, or heads a rebellion or insurrection, or who, while holding any public office or employment takes part therein, engaging in war against the forces of the Government, destroying property or committing serious violence, exacting contributions or diverting public funds from the lawful purpose for which they have been appropriated, shall suffer the penalty of *prision mayor* and a fine not to exceed 20,000 pesos.
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> Any person merely participating or executing the commands of others in a rebellion shall suffer the penalty of *prision mayor* in its minimum period.
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> When the rebellion or insurrection shall be under the command of unknown leaders, any person who in fact directed the others, spoke for them, signed receipts and other documents issued in their name, or performed similar acts, on behalf of the rebels shall be deemed the leader of such rebellion.

As has already been shown, article 134 aforequoted defines rebellion by giving *both* its intent and the overt act. It is true that article 134 specifies no penalty, but our Revised Penal Code abounds in definitions of offenses,

[22] People v. Barrameda, 47 O.G. 5082, 5087 (1950).

[23] People v. Geronimo, *supra* note 1.

with the penalty given in separate articles.[24] According to article 134 the intent in rebellion is political, namely, to remove "from the allegiance to said Government or its laws, the territory of the Philippine Islands, or any part thereof, of any body of land, naval or other armed forces, or of depriving the Chief Executive or the Legislature, wholly or partially, of any of their powers or prerogatives"; while the overt act is the "rising publicly and taking arms against the Government," a classification of overt act broad enough to include any or all of the acts mentioned in article 135.

From the plain provisions of said articles of our Revised Penal Code it is apparent that, contrary to the belief of the majority members of our Supreme Court, article 135 does not define rebellion or name its elements. That was, on the one hand, done in article 134, by there giving a definition (rising publicly and taking arms against the Government) broad enough to cover every conceivable overt act that may be committed against the loyalist Government forces or officials. Article 135, on the other hand, merely supplements article 134 by classifying the *principals* in the commission of the crime of rebellion, and by imposing the *penalty* for each kind of principal.

Thus, the least guilty of the various categories of principals in the commission of the crime of rebellion is the simple follower, that is, one who merely participates or executes the commands of others in carrying out the mass armed uprising, as to whom a penalty of only *prision mayor* in its minimum period is imposed.[25] On the other hand, a penalty consisting of the higher periods of *prision mayor* and a fine of not exceeding ₱20,000.00 is imposed on two other categories of principals in the commission of the crime of rebellion namely:

(1) The leader, or one who promotes, maintains, or heads a rebellion or insurrection; and

(2) The fifth-columnist, or one who, while holding any public office, or employment takes part in rebellion by: first, engaging in war against the forces of the Government; second, destroying property; third, committing serious violence; fourth, exacting contributions; or fifth, diverting public funds from lawful purposes.

The five acts mentioned in paragraph (2) above are particular acts, within the broad classification "rising publicly and taking arms against the Government," which, when committed by fifth-columnists still holding public office or employment, make them, by legal fiction, leaders of the rebels. Specifically, the first act (engaging in war against the forces of the Government), mentioned in article 135, is heavily punished, apparently in order to discourage the staging of a military *coup d'etat* by a rebel sector of the armed forces seizing the powers of government and/or engaging in war

[24] See: arts. 139, 293, and 308, REVISED PENAL CODE.
[25] Art. 135 (2) REVISED PENAL CODE.

against the rest of the loyalist forces of the government; while the other four acts therein mentioned clearly refer to finance and property officers of the government, who commit sabotage against, or collects and then diverts and delivers to the rebels, government funds or property. It being clear from the text of article 135 that the five acts there mentioned are those directed against the Government, said article 135 thereby serves as further indication that only acts directed against the Government may be deemed as ingredients of simple rebellion, merged with it, and absorbed in the comparatively light penalty imposed for said crime.

H. Undesirable results, imaginary rather than real. — Summing up the considerations taken into account by our Supreme Court in holding that there is no complex crime of rebellion, with murder, etc. under our existing penal laws, our highest tribunal said:

> ...we have already pointed out in the Hernandez resolution that to admit the complexing of the crime of rebellion with the felonies committed in furtherance thereof, would lead to these undesirable results: (1) to make the punishment for rebellion heavier than that of treason, since it has been repeatedly held that the latter admits no complexing with the overt acts committed in furtherance of the treasonable intent, and, in addition, requires two witnesses to every overt act, which is not true in the case of rebellion; (2) to nullify the policy expressed in Art. 135 (R.P.C.) of imposing a lesser penalty upon the rebel followers as compared to their leaders, because under the complexing theory every rebel, leader or follower, must suffer the heavier penalty in its maximum degree; and (3) to violate the fundamental rule of criminal law that all doubts should be resolved in favor of the accused: "in dubiis, reus est absolvendus"; "nullum crimen, nulla poena, sine lege."[26]

As regards the penalty, it cannot be denied that the trend of legislation since 1830 has inclined towards leniency to political offenders who are looked upon as deterrents against abuse in the exercise of the powers of government by the duly constituted authorities. On the other hand, there are also rebels who are inclined to commit excesses in promoting their vaunted cause, or who are beasts and tyrants at heart, and are moved not by patriotism but by greed for power. As well said by Mr. Justice Marcelino R. Montemayor:

> The majority explains and gives reasons for the great difference between murder on the one hand, penalized with *reclusion temporal* to death, and rebellion on the other, punished with mere *prision mayor*, due to the political purpose that impels every rebellious act, and quotes Groizard, Vol. III, p. 239, who discusses the great difference between the crime of, say, murder or robbery, and the offense of rebellion; that no one would care to befriend one convicted as an assasin or robber, but on the other hand would gladly, even fondly, shake the hand of one convicted of rebellion, and that when the rebellion succeeds, the rebel not only secures impunity to his rebellious act, but also attains power, even the government itself and the glory. I agree. It is not less true, however, that Groizard must be referring to a rebel with clean hands

[26] People v. Geronimo, *supra* note 1.

and a clean conscience, for it is gravely to be doubted, whether one would shake the hand of a rebel dripping and stained with the blood of innocent civilians, a hand responsible for the devastation and desolation caused to those very persons and communities which the rebellion pretended to help and liberate from oppression. That is why Groizard in his next paragraph, in advocating for the reduction of the very severe penalty attached to rebellion under the Spanish Penal Code, distinguished between simple rebellion and one in which common crimes like murder, robbery, etc., are committed.[27]

The application of the complex crime provision of our Revised Penal Code to rebellion will not produce any undesirable result. On the contrary, it will have this salutary effect: it will render our law on rebellion most adequate to meet all contingencies, that is, will render it flexible enough to be lenient towards responsible and well meaning rebels, and, in conjunction with the complex crime provision of our Revised Penal Code, sufficiently harsh enough to be an effective deterrent to irresponsible and totalitarian minded agents of Communism or other unwelcome ideologies.

Regarding the intent of article 135 to impose a lesser penalty upon the rebel followers, as compared to the rebel leaders, suffice it to say that the concept of complex crimes does not at all abrogate such policy in so far as perpetrators of simple rebellion are concerned; for, in simple rebellion, a heavier penalty is imposed on the rebel leaders than that imposed on the rebel followers. However, when the rebels over-step the bounds of simple rebellion, and become terrorists, bandits, murderers, or sex-maniacs, rather than patriotic rebels, they should, whether leaders or followers, be treated for what they really are, — not patriotic rebels, but bandits, murderers, terrorists, or sex-maniacs, — and for them the complex crime provision of our Revised Penal Code is an obvious necessity. As well said by one legal luminary, it —

...would be sheer naivete to believe that while an ordinary person committing murder, kidnapping or rape, may be sentenced to 20 years imprisonment or death, a rebel perpetrating the same acts can only be sentenced to a minimum of 12 years imprisonment. This is tantamount to making of the crime of rebellion a license to commit murder or rape.

As to resolving all doubts in favor of the accused, it is sufficient to state here that as far as we are concerned there is no doubt to resolve. The provisions of article 48 of the Revised Penal Code is plain and unambiguous and calls for no interpretation. It says that when less grave or grave offenses are perpetrated as necessary (the Code advisedly uses necessary, not indispensable) means of committing another, the penalty for the most serious crime shall be imposed in its maximum period. It is, therefore, not a question of law, but a question of evidence, whether murder and other common crimes perpetrated in the course of rebellion were necessary (as distinguished from indispensable) means of attaining the ends of rebellion or were perpetrated for purely personal ends. The doubt, if any can arise, will be one of fact and not of law.

[27] *Id.*, (concurring and dissenting opinion).

I. Conclusion. — As has been shown above, rebellion may be simple or complex. For those patriotic rebels for whom the provision of our Revised Penal Code on simple rebellion was intended, said Code correctly imposes a penalty of only *prision mayor*, and a fine not to exceed ₱20,000.00. For the rebels of the irresponsible, terroristic, tyrannical, or opportunistic type, we have the complex crime provision of our Revised Penal Code as an adequate means of imposing on them the penalty appropriate for their dastardly deeds, including death, when murder or other capital offenses are perpetrated.

As has also been shown above, our present law on rebellion, properly interpreted and applied, is both just and adequate. It is, therefore, hoped that our Supreme Court will ultimately abandon its unfortunate ruling in the *Hernandez* bail incident and in the *Geronimo* case, and thus again breathe both justice and adequacy into our law on rebellion.