

What about crime?

from The Anarchist FAQ

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I.5.8 What about crime?

For anarchists, “crime” can best be described as anti-social acts, or behaviour which harms someone else or which invades their personal space. Anarchists, in other words, “*believe that to act criminally means to violate the liberty of others*” and so criminals in a free society would be “*those who would encroach on personal integrity, liberty and the well being of others.*” [Malatesta, **At the Café**, p. 100 and p. 132]

This definition of crime is similar, of course, to that used in capitalist society but libertarians note that the state defines as “crime” many things which a sane society would not (such as, say, consensual acts of adults in private or expropriation of private property). Similarly, a free society would consider as anti-social many acts which the state defends under capitalism (such as the appropriation of resources or exploitation of others labour). This is to be expected, as social customs evolve and reflect the socio-economic basis of a given society. Hence Malatesta:

“Naturally the crimes we are talking about are anti-social acts, that is those which offend human feelings and which infringe the right of others to equality in freedom, and not the many actions which the penal code punishes simply because they offend against the

privileges of the dominant classes.” [Errico Malatesta: His Life and Ideas, pp. 105–6]

Anarchists argue that the root cause for crime is not some perversity of human nature or “original sin” but is due to the type of society by which people are moulded. For example, anarchists point out that by eliminating private property, crime could be reduced significantly, since most crime today is currently motivated by evils stemming from private property such as poverty, homelessness, unemployment, and alienation. Moreover, by adopting anarchist methods of non-authoritarian child rearing and education, most of the remaining crimes could also be eliminated, because they are largely due to the anti-social, perverse, and cruel “secondary drives” that develop because of authoritarian child-rearing practices (see section J.6). However, as long as the few “violates the equal freedom of others ... we must defend ourselves.” [Malatesta, **Op. Cit.**, p. 106]

First, it cannot be said that governments are required to protect people from crime and criminals. Rather, as Alexander Berkman argued, “[d]oes not government itself create and uphold conditions which make for crime? Does not the invasion and violence upon which all governments rest cultivate the spirit of intolerance and persecution, of hatred and more violence?” Crime, then, “is the result of economic conditions, of social inequality, of wrongs and evils of which government and monopoly are parents. Government and law can only punish the criminal. They nei-

*ther cure nor prevent crime. The only real cure for crime is to abolish its causes, and the government can never do because it is there to preserve those very causes.” This suggests that crimes “resulting from government, from its oppression and injustice, from inequality and poverty, will disappear under Anarchy. These constitute by far the greatest percentage of crime.” [What is Anarchism?, p. 151] Nor should we forget that today we are subject to rule by the anti-social, for the “owners and rulers” are “criminals” who are “powerful and have organised their dominance on a stable basis” (“Who is more of a thief than the owners who get wealthy stealing the produce of the workers’ labour?”). [Malatesta, **At the Café**, p. 100 and p. 130]*

“Crime”, therefore, cannot be divorced from the society within which it occurs. Society, in Emma Goldman’s words, gets the criminals it deserves. For example, anarchists do not think it unusual nor unexpected that crime exploded under the pro-free market capitalist regimes of Thatcher and Reagan. Crime, the most obvious symptom of social crisis, took 30 years to double in Britain (from 1 million incidents in 1950 to 2.2 million in 1979). However, between 1979 and 1992 the crime rate more than doubled, exceeding the 5 million mark in 1992. These 13 years were marked by a government firmly committed to the “free market” and “individual responsibility.” It was entirely predictable that the social disruption, atomisation of individuals, and increased poverty caused by freeing capitalism from social controls would rip society apart and increase criminal activity. Also unsurprisingly

(from an anarchist viewpoint), under these pro-market governments we also saw a reduction in civil liberties, increased state centralisation, and the destruction of local government. As Malatesta put it, the classical liberalism which these governments represented could have had no other effect, for *“the government’s powers of repression must perforce increase as free competition results in more discord and inequality.”* [**Anarchy**, p. 47]

Hence the apparent paradox of governments with flowing rhetoric about “individual rights,” the “free market” and “getting the state off our backs” increasing state power and reducing rights while holding office during a crime explosion is no paradox at all. *“The conjuncture of the rhetoric of individual freedom and a vast increase in state power,”* argues Carole Pateman, *“is not unexpected at a time when the influence of contract doctrine is extending into the last, most intimate nooks and crannies of social life. Taken to a conclusion, contract undermines the conditions of its own existence. Hobbes showed long ago that contract — all the way down — requires absolutism and the sword to keep war at bay.”* [**The Sexual Contract**, p. 232]

Capitalism, and the contract theory on which it is built, will inevitably rip apart society. It is based upon a vision of humanity as isolated individuals with no connection other than that of money. Such a vision cannot help but institutionalise anti-social acts. As Kropotkin argued *“it is not love and not even sympathy upon which Society is based in mankind. It is the conscience — be it*

only at the stage of an instinct — of human solidarity. It is the unconscious recognition of the force that is borrowed by each man [and woman] from the practice of mutual aid; of the close dependency of every one's happiness upon the happiness of all; and of the sense of justice, or equity, which brings the individual to consider the rights of every other individual as equal to his [or her] own.” [**Mutual Aid**, p. 16] The social atomisation required and created by capitalism destroys the basic bonds of society — namely human solidarity — and hierarchy crushes the individuality required to understand that we share a common humanity with others and so understand **why** we must be ethical and respect others rights. Significantly, as Richard Wilkinson and Kate Pickett note in **The Spirit Level: Why More Equal Societies Almost Always Do Better**, more unequal societies have more crime and bigger prison populations (equality, as well as reducing crime, consistently deliver other advantages for people).

We are not saying, however, that anarchists reject the concept of individual responsibility. While recognising that rape, for example, is the result of a social system which represses sexuality and is based on patriarchy (i.e. rape has more to do with power than sex), anarchists do not “sit back” and say “it’s society’s fault.” Individuals have to take responsibility for their own actions and recognise that consequences of those actions. Part of the current problem with “law codes” is that individuals have been deprived of the responsibility for developing

their own ethical code, and so are less likely to develop “civilised” social standards (see section I.7.3).

Therefore, while anarchists reject the ideas of law and a specialised justice system, they are not blind to the fact that anti-social action may not totally disappear in a free society. Nor are they blind to the fact that, regardless of our hopes about a free society reducing crime, we will not create it over-night (*“all the bad passions ... will not disappear at a stroke. There will still be for a long time those who will feel tempted to impose their will on others with violence, who will wish to exploit favourable circumstances to create privileges for themselves”* [Malatesta, **At the Café**, p. 131]). Therefore, some sort of justice system would still be necessary to deal with the remaining crimes and to adjudicate disputes between people.

This does not, it must be stressed, signify some sort of contradiction within anarchism. Anarchists have never advocated the kind of “freedom” which assumes that people can do what they want. When people object to anarchy, they often ask about those who would steal, murder, rape and so forth and seem to assume that such people would be free to act as they like. This is, needless to say, an utter misunderstanding of both our ideas and freedom in general. Simply put, if people impose themselves by force on others then *“they will be the government”* and *“we will oppose them with force”* for *“if today we want to make a revolution against the government, it is not in order to submit ourselves supinely to new oppressors.”* [Malatesta, **Op. Cit.**, p. 99] This

applies to defending a free society against organised counter-revolution and against those within it conducting anti-social (“criminal”) activities. The principle is the same, it is just the scale which is different.

It should be remembered that just because the state monopolises or organises a (public) service, it does not mean that the abolition of the state means the abolition of what useful things it provided. For example, many states own and run the train network but the abolition of the state does not mean that there will no longer be any trains! In a free society management of the railways would be done by the rail workers themselves, in association with the community. The same applies to anti-social behaviour and so we find Kropotkin, for example, pointing to how “*voluntary associations*” would “*substitute themselves for the State in all its functions,*” including “*mutual protection*” and “*defence of the territory.*” [**Anarchism**, p. 284]

This applies to what is termed justice, namely the resolution of disputes and anti-social acts (“crime”). Anarchists argue that “*people would not allow their wellbeing and their freedom to be attacked with impunity, and if the necessity arose, they would take measures to defend themselves against the anti-social activities of a few. But to do so, what purpose is served by people whose profession is the making of laws; while other people spend their lives seeking out and inventing law-breakers?*” [Malatesta, **Anarchy**, pp. 43–4] This means that in a free society the resolution of anti-social behaviour would rest in the

hands of all, **not** in a specialised body separate from and above the masses. As Proudhon put it, an anarchy would see the “*police, judiciary, administration, everywhere committed to the hands of the workers*” [**General Idea of the Revolution**, p. 281] And so:

“Let each household, each factory, each association, each municipality, each district, attend to its own police, and administer carefully its own affairs, and the nation will be policed and administered. What need have we to be watched and ruled, and to pay, year in and year out, ... millions? Let us abolish prefects, commissioners, and policemen too.”
[Op. Cit., p. 273]

Precisely how this will work will be determined by free people based on the circumstances they face. All we can do is sketch out likely possibilities and make suggestions.

In terms of resolving disputes between people, it is likely that some form of arbitration system would develop. The parties involved could agree to hand their case to a third party (for example, a communal jury or mutually agreed individual or individuals). There is the possibility that the parties cannot agree (or if the victim were dead), then the issue could be raised at a communal assembly and a “court” appointed to look into the issue. These “courts” would be independent from the com-

mune, their independence strengthened by popular election instead of executive appointment of judges, by protecting the jury system by random selection of citizens, and so *“all disputes ... will be submitted to juries which will judge not only the facts but the law, the justice of the law [or social custom], its applicability to the given circumstances, and the penalty or damage to be inflicted because of its infraction”*. [Benjamin Tucker, **The Individualist Anarchists**, p. 160] For Tucker, the jury was a *“splendid institution, the principal safeguard against oppression.”* [**Liberty**, vol. 1, no. 16, p. 1]

As Malatesta suggested, *“when differences were to arise between men [sic!], would not arbitration voluntarily accepted, or pressure of public opinion, be perhaps more likely to establish where the right lies than through an irresponsible magistrate which has the right to adjudicate on everything and everybody and is inevitably incompetent and therefore unjust?”* [**Anarchy**, p. 45] It is in the arbitration system and communal assemblies that what constitutes anti-social behaviour will be discussed and agreed.

In terms of anti-social events when they happen, *“when there remains a residue of criminals, the collective directly concerned should think of placing them in a position where they can do no harm, without delegating to anyone the specific function of persecuting criminals”* [Malatesta, **At the Café**, p. 101] In the case of a “police force”, this would not exist either as a public or private specialised body or company. If a local community did

consider that public safety required a body of people who could be called upon for help, we imagine that a new system would be created. Such a system would “*not be entrusted to, as it is today, to a special, official body: all able-bodied inhabitants will be called upon to take turns in the security measures instituted by the commune.*” [James Guillaume, “*On Building the New Social Order*”, pp. 356–79, **Bakunin on Anarchism**, p. 371]

This system could be based around a voluntary militia, in which all members of the community could serve if they so desired. Those who served would not constitute a professional body; instead the service would be made up of local people who would join for short periods of time and be replaced if they abused their position. Hence the likelihood that a communal militia would become corrupted by power, like the current police force or a private security firm exercising a policing function, would be vastly reduced. Moreover, by accustoming a population to intervene in anti-social as part of the militia, they would be empowered to do so when not an active part of it, so reducing the need for its services even more. In this way “*we will defend ourselves ... without delegating to anyone the special function of the defence of society*” and this is “*the only effective method*” of stopping and reducing anti-social activity. [Malatesta, **Op. Cit.**, p. 132]

Such a body would not have a monopoly on protecting others, but would simply be on call if required. It would no more be a monopoly of defence (i.e. a “police

force”) than the current fire service is a monopoly. Individuals are not banned from putting out fires today because the fire service exists, similarly individuals will be free to help stop anti-social crime by themselves, or in association with others, in an anarchist society.

Of course there are anti-social acts which occur without witnesses and so the “guilty” party cannot be readily identified. If such acts did occur we can imagine an anarchist community taking two courses of action. The injured party may look into the facts themselves or appoint an agent to do so or, more likely, an ad hoc group would be elected at a community assembly to investigate specific crimes of this sort (subject to control and recall by the community). Once the investigating body thought it had enough evidence it would inform the community as well as the affected parties and then organise a court. Of course, a free society will produce different solutions to such problems, solutions no-one has considered yet and so these suggestions are just that, suggestions.

As is often stated, prevention is better than cure. This is as true of crime as of disease and so crime is best fought by rooting out its **causes** as opposed to punishing those who act in response to these causes. As Emma Goldman argued, crime *“is naught but misdirected energy. So long as every institution of today, economic, political, social, moral conspires to misdirect human energy into wrong channels; so long as most people are out of place doing things they hate to do, living a life they loathe to live,*

crime will be inevitable, and all the laws on the statues can only increase, but never do away with, crime” [Red Emma Speaks, p. 71] Erich Fromm, decades later, made the same point:

*“It would seem that the amount of destructiveness to be found in individuals is proportionate to the amount to which expansiveness of life is curtailed. By this we do not refer to individual frustrations of this or that instinctive desire but to the thwarting of the whole of life, the blockage of spontaneity of the growth and expression of man’s sensuous, emotional, and intellectual capacities. Life has an inner dynamism of its own; it tends to grow, to be expressed, to be lived . . . the drive for life and the drive for destruction are not mutually interdependent factors but are in a reversed interdependence. The more the drive towards life is thwarted, the stronger is the drive towards destruction; the more life is realised, the less is the strength of destructiveness. **Destructiveness is the outcome of unlived life.** Those individual and social conditions that make for suppression of life produce the passion for destruction that forms, so to speak, the reservoir from which particular hostile tendencies — either against*

others or against oneself – are nourished.”
[**The Fear of Freedom**, p. 158]

Therefore, by reorganising society so that it empowers everyone and actively encourages the use of all our intellectual, emotional and sensuous abilities, crime would soon cease to be the huge problem that it is now. As for the anti-social behaviour or clashes between individuals that might still exist in such a society, it would be dealt with in a system based on respect for the individual and a recognition of the social roots of the problem. Restraint would be kept to a minimum. Anarchists think that public opinion and social pressure would be the main means of preventing anti-social acts in an anarchist society, with such actions as boycotting and ostracising used as powerful sanctions to convince those attempting them of the errors of their way. Extensive non-co-operation by neighbours, friends and work mates would be the best means of stopping acts which harmed others. Thus Malatesta:

“In order for crime to be treated rationally, in order to seek for its causes and really do everything possible to eliminate it, it is necessary for this task to be entrusted to those who are exposed to and suffer the consequences of crime, in other words the whole public, and not those to whom the existence of crime is a source of power and earnings.” [**At the Café**, p. 135]

An anarchist system of justice, we should note, would have a lot to learn from aboriginal societies simply because they are examples of social order without the state. Indeed many of the ideas we consider as essential to justice today can be found in such societies. As Kropotkin argued, “*when we imagine that we have made great advances in introducing, for instance, the jury, all we have done is to return to the institutions of the so-called ‘barbarians’ after having changed it to the advantage of the ruling classes.*” [**The State: Its Historic Role**, p. 18] Like aboriginal justice (as documented by Rupert Ross in **Returning to the Teachings: Exploring Aboriginal Justice**) anarchists contend that justice be achieved by the teaching and healing of all involved. Public condemnation of the wrongdoing would be a key aspect of this process, but the wrong doer would remain part of the community and so see the effects of their actions on others in terms of grief and pain caused. It would be likely that wrong doers would be expected to try to make amends for their act by community service or helping victims and their families.

So, from a practical viewpoint, almost all anarchists oppose prisons on both practical grounds and ethical grounds. Prisons have numerous negative affects on society as well as often re-enforcing criminal (i.e. anti-social) behaviour. Anarchists use the all-to-accurate description of prisons as “*Universities of Crime*” wherein the first-time criminal learns new techniques and have adapt to the prevailing ethical standards within them.

Hence, prisons would have the effect of increasing the criminal tendencies of those sent there and so prove to be counter-productive. In addition, prisons do not affect the social conditions which promote many forms of crime. Simply put, prison “*does not improve the prisoner ... it does not prevent him from committing more crimes. It does not then achieve any of the ends it has set itself*” [Kropotkin, **Anarchism**, p. 228] Moreover, they are a failure in terms of their impact on those subject to them: “*We know what prisons mean — they mean broken down body and spirit, degradation, consumption, insanity*”. [Voltairine de Cleyre, quoted by Paul Avrich, **An American Anarchist**, p. 146] The Makhnovists took the usual anarchist position on prisons:

“Prisons are the symbol of the servitude of the people, they are always built only to subjugate the people, the workers and peasants ... Free people have no use for prisons. Wherever prisons exist, the people are not free ... In keeping with this attitude, [the Makhnovists] demolished prisons wherever they went.” [Peter Arshinov, **The History of the Makhnovist Movement**, p. 153]

With the exception of Benjamin Tucker, no major anarchist writer supported the institution. Few anarchists think that private prisons (like private policemen) are compatible with their notions of freedom. However, all

anarchists are against the current “justice” system which seems to them to be organised around **revenge** and punishing effects and not fixing causes.

However, there are psychopaths and other people in any society who are too dangerous to be allowed to walk freely. Restraint in this case would be the only option and such people may have to be isolated from others for their own, and others, safety. Perhaps mental hospitals would be used, or an area quarantined for their use created (perhaps an island, for example). However, such cases (we hope) would be rare and “*should be cared for according to the most humane methods of treating the mentally afflicted.*” [Voltairine de Cleyre, **The Voltairine de Cleyre Reader**, p. 160]

The one thing that needs to be avoided is the creation of a professional and specialised “justice” system as this would be a key means by which the state could reconstitute itself. As Malatesta explained, “*the major damage caused by crime is not so much the single and transitory instance of the violation of the rights of a few individuals, but the danger that it will serve as an opportunity and pretext for the constitution of an authority that, with the outward appearance of defending society will subdue and oppress it.*” In other words, it “*would truly be a great piece of foolishness to protect oneself from a few violent people, a few idlers and some degenerates, by opening a school for idleness and violence*” [Op. Cit., p. 101 and p. 132] The libertarian perspective on crime does not rest on an idealised vision of people. “*We do not believe*”, as Malatesta sug-

gested, “*in the infallibility, nor even the general goodness of the masses*”, rather “*we believe even less in the infallibility and goodness of those who seize power and legislate*” and so we must “*avoid the creation of bodies specialising in police work*”. [Errico Malatesta: **His Life and Ideas**, p. 109 and p. 108] As George Barrett argued:

“All that we can say is that ... disputes are very much better settled without the interference of authority. If the two [parties] were reasonable, they would probably mutually agree to allow their dispute to be settled by some mutual friend whose judgement they could trust. But if instead of taking this sane course they decide to set up a fixed authority, disaster will be the inevitable result. In the first place, this authority will have to be given power wherewith to enforce its judgement in such matters. What will then take place? The answer is quite simple. Feeling it is a superior force, it will naturally in each case take to itself the best of what is disputed, and allot the rest to its friends.

“What a strange question is this. It supposes that two people who meet on terms of equality and disagree could not be reasonable or just. But, on the other hand, it supposes that a third party, starting with an unfair advantage, and backed up by violence, will

be the incarnation of justice itself. Common-sense should certainly warn us against such a supposition, and if we are lacking in this commodity, then we may learn the lesson by turning to the facts of life. There we see everywhere Authority standing by, and in the name of justice and fair play using its organised violence in order to take the lion's share of the world's wealth for the governmental class." [**Objections to Anarchism**, pp. 349–50]

So instead of prisons and a legal code based on the concept of punishment and revenge, anarchists support the use of public opinion and pressure to stop anti-social acts and the need to therapeutically rehabilitate those who commit them. Rather than a parasitic legal system which creates and defends inequality and privilege, anarchists agree with Kropotkin: "*Liberty, equality, and practical human sympathy are the most effective barriers we can oppose to the anti-social instinct of certain among us*". [**Op. Cit.**, p. 218] "*We want justice, not rigid, but elastic*", argued Tucker, "*we want justice, not stern, but tempered with mercy, with eyes sharp enough to detect causes, conditions, and circumstances; we want justice, not superficial, but profound.*" The current system of rigid law imposed by the state and implemented by a judge was false and "*no such justice is wanted in any civilised community.*" [**Op. Cit.**, Vol. 13, No. 5, p. 4]

In summary, then, anarchists have spent considerable time discussing the issue. Somewhat ironically, given that many think the issue of crime is the weakest point of the anarchist case, the outlines of a solution to this problem are well established in anarchist theory, both in terms of what **not** to do and in terms of combating both crime and its causes. Anarchy is based on people being free but freedom does **not** mean the “freedom” to violate the equal freedom of others. That is oppression, that is exploitation, that is the embryo of the state and capitalism.

We can recommend the section “*Crime and Punishment*” by Malatesta (**Errico Malatesta: His Life and Ideas**) as well as Kropotkin’s essays “*Law and Authority*” and “*Prisons and their moral influence on prisoners*” (both within the **Anarchism** collection). Emma Goldman’s “*Prisons: A social crime and Failure*” (**Red Emma Speaks**), de Cleyre’s “*Crime and Punishment*” (**The Voltairine de Cleyre Reader**) and Colin Ward’s “*How Deviant Dare you get?*” (**Anarchy in Action**) are also worth reading. A useful collection of writings on this issue are found in **Under the Yoke of the State: Selected Anarchist Responses to Prisons and Crime** (edited by the Dawn Collective).