

THROUGH CLASS UNITY AND RESISTANCE Freedom



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**Freedom without Socialism is Privilege, Injustice
Socialism without Freedom is Slavery, Brutality - BAKUNIN**

Crime and Punishment

by **Errico Malatesta**

Every anarchist propagandist is familiar with the key objections: who will keep criminals in check [in the anarchist society]? To my mind their concern is exaggerated since delinquency is a phenomenon of little importance compared with the vastness of ever present and general social realities. And one can believe in its automatic disappearance as a result of an increase in material well-being and education, not to mention advances in pedagogy and medicine. But however optimistic may be our hopes, and rosy the future, the fact remains that delinquency and the fear of crime today prevents peaceful social relations, and it will certainly not disappear from one moment to the next following a revolution, however radical and thoroughgoing it may turn out to be. It could even be the cause of upheaval and disintegration in a society of free men, just as an insignificant grain of sand can stop the most perfect machine.

It is worthwhile and indeed necessary that anarchists should consider the problem in greater detail than they normally do, not only in order the better to deal with a popular "objection" but in order not to expose themselves to unpleasant surprises and dangerous contradictions.

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.

Crime, in our opinion, is any action which tends to consciously increase human suffering, it is the violation of the right of all to equal freedom and to the greatest possible enjoyment of material and moral well-being.

We know that having thus defined delinquency, it is always difficult even for those who accept the definition, to determine in fact what actions are criminal and which are not; for Man's views differ as to what causes pain or happiness, what is good and what is bad, except in those bestial crimes which offend fundamental human feelings and are therefore universally condemned.

I imagine that no one would be prepared, theoretically, to deny that freedom understood in the sense of reciprocity, is the basic prerequisite of any civilisation, of "humanity"; but only anarchy represents its logical and complete realisation. On this assumption, he is a criminal-not against nature or the result of a metaphysical law, but against his fellow men and because the interests and feelings of others have been offended - whoever violates the equal freedom of others. And so long as such people exist, we must defend ourselves.

This necessary defence against those who violate not the status quo but the deepest feelings that distinguish men from beasts, is one of the pretexts by which governments justify their existence. One must eliminate all the social causes of crime, one must develop in man brotherly feelings, and mutual respect; one must, as Fourier put it, seek useful alternatives to crime. But if, and so long as, there are criminals, either the people will find the means, and have the energy, to directly defend themselves against them, or the police and the magistrate will reappear and with them, government.

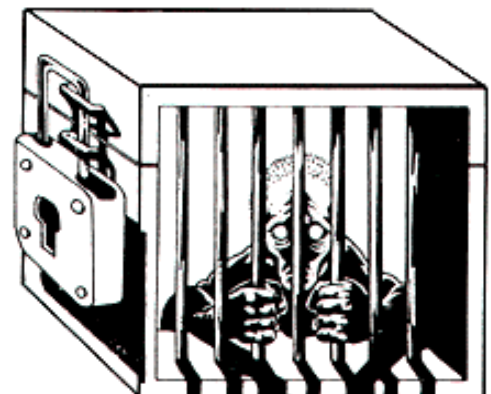
It is not by denying a problem that one solves it.

One can, with justification fear that this necessary defence against crime could be the beginning of and the pretext for, a new system of oppression and privilege. It is the anarchists' mission to see that this does not happen. By seeking the causes of each crime and making every effort to eliminate them; by making it impossible for anybody to derive personal advantage out of the detection of crime, and leaving it to the interested groups themselves to take whatever steps they deem necessary for their defence; by accustoming oneself to consider criminals as brothers who have strayed, as sick people needing loving treatment, as one would for any hydro-phobe or dangerous lunatic - it will be possible to reconcile the complete freedom of all with defence against those who obviously and dangerously threaten it.

Obviously this is possible when crime will be reduced to sporadic, individual and truly pathological cases. If it were a fact that criminals were too numerous and powerful. If, for example, they were what the bourgeoisie and fascism are today [1922], then it is not a question of discussing what we will do in an anarchist society.

With the growth of civilisation, and of social relations; with the growing awareness of human solidarity which unites mankind; with the development of intelligence and a refinement of feelings there is certainly a corresponding growth of social duties, and many actions which were considered as strictly individual rights and independent of any collective control will be considered, indeed they already are, matters affecting everybody, and must therefore be carried out in conformity with the general interest. For instance, even in our times parents are not allowed to keep their children in ignorance and bring them up in a way that is harmful to their development and future well-being. A person is not allowed to live in filthy conditions and neglect those rules of hygiene which can affect the health of others; one is not allowed to have an infectious disease and not have it treated. In a future society it will be considered a duty to seek to ensure the good of all, just as it will be considered blameworthy to procreate if there are reasons to believe that the progeny will be unhealthy and unhappy. But this sense of our duties to others and of theirs to us must, according to our social concepts, develop without any

other outside sanction than the esteem or the disapproval of our fellow citizens. Respect, the desire for the well-being of others must enter



into the customs, and manifest themselves not as duties but as a normal satisfaction of social instincts.

There are those who would improve the morality of people by force, who would wish to introduce an Article into the penal code for every possible human action, who would place a gendarme alongside every nuptial bed and by every table. But these people if they lack the coercive powers to impose their ideas, only succeed in making a mockery of the best things; and if they have the power to command, make what is good hateful and encourage reaction. For us the carrying out of social duties must be a voluntary act, and one has the right to intervene with material force only against those who offend against others violently and prevent them from living in peace. Force, physical restraint, must only be used against attacks of violence and for no other reason than that of self-defence.

But who will judge? Who will provide the necessary defence? Who will establish what measures of restraint are to be used? We do not see any other way than that of leaving it to the interested parties, to the people, that is the mass of citizens, who will act in different ways according to the circumstances and according to their different degrees of social development. One must, above all, avoid the creation of bodies specialising in police work, perhaps something will be lost in repressive efficiency but one will also avoid the creation of the instrument of every tyranny.

We do not believe in the infallibility, nor even in the general goodness of the masses; on the contrary, but we believe even less in the infallibility and goodness of those who seize power and legislate, who consolidate and perpetuate the ideas and interests which prevail at any given moment.

In every respect the injustice and transitory violence of the people is preferable to the leaden-rule, the legalised State violence of the judiciary and police.

We are, in any case, only one of the forces acting in society, and history will advance, as always, in the direction of the resultant of all the [social] forces.

We must reckon with a residue of delinquency that we hope will be eliminated more or less rapidly, but which in the meantime will oblige the mass of workers to take defensive action. Discarding every concept of punishment and revenge, which still dominate penal law, and guided only by the need for self-defence and the desire to rehabilitate, we must seek the means to achieve our goal, without falling into the dangers of authoritarianism and consequently finding ourselves in contradiction with the system of liberty and free-will on which we seek to build the new society.

For authoritarians and statesmen, the question is a simple one: a legislative body to list the crimes and prescribe the punishments; a police force to hunt out the delinquents; a magistrate to judge them and a prison service to make them suffer. And, as is understandable, the legislative body seeks through its penal laws to defend, above all established interest, which it represents, and to protect the State from those who seek to "subvert" it. The police force exists to suppress crime, and having therefore an interest in the continued existence of crime becomes provocative, and develops in its officers aggressive and perverse instincts; the magistrate also lives and prospers thanks to crime and delinquents, and serves the interests of the government and the ruling classes, and acquires, in the course of exercising its function, a special way of reasoning, which makes it into a machine for awarding a maximum number of people the longest sentences it can. The warders are, or become, insensitive to the suffering of prisoners and at best, passively observe the rules without a spark of human feeling. One sees the results in statistics on

delinquency. The penal laws are changed, the police force and the magistrate are reorganised, the prison system is reformed, and delinquency persists and resists all attempts to destroy or reduce it. It is true of the past and the present, and we think it will apply in the future too. If the whole concept of crime is not changed, and all the organisms which live on the prevention and repression of delinquency are not abolished!

There are in France stringent laws against the traffic in drugs and against those who take them. And as always happens, the scourge grows and spreads in spite, and perhaps because of, the laws. The same is happening in the rest of Europe and in America. Doctor Courtois Suffit, of the French Academy of Medicine, who, already last year 1921, had sounded the alarm against the dangers of cocaine, noting the failure of penal legislation, now demands new and more stringent laws.

It is the old mistake of legislators, in spite of experience invariably showing that laws, however barbarous they may be, have never served to suppress vice or to discourage delinquency. The more severe the penalties imposed on the consumers and traffickers of cocaine, the greater will be the attraction of forbidden fruits and the fascination of the risks incurred by the consumer, and the greater will be the profits made by the speculators, avid for money.

It is useless, therefore to hope for anything from the law. We must suggest another solution. Make the use and sale of cocaine free [from restrictions], and open kiosks where it would be sold at cost price or even under cost. And then launch a great propaganda campaign to explain to the public, and let them see for themselves, the evils of cocaine - no one would engage in counter-propaganda because nobody could exploit the misfortunes of cocaine addicts.

Certainly the harmful use of cocaine would not disappear completely, because the social causes which create and drive those poor devils to the use of drugs would still exist. But in any case the evil would decrease, because nobody could make profits out of its sale, and nobody could speculate on the hunt for speculators. And for this reason our suggestion either will not be taken into account or it will be considered impractical and mad.

Yet intelligent and disinterested people might say to themselves: Since the penal laws have proved to be impotent, would it not be a good thing, as an experiment, to try out the anarchist method?

We will not repeat the classical arguments against the death penalty. They seem lies, when we hear them used by those who then come out in favour of life imprisonment and other inhuman substitutes for the death penalty. Nor will we speak of the "sanctity of life" which all affirm but violate when it suits them, either by actually taking life or treating others, in such a way as to torment or shorten their lives.

Fortunately only few men are born, or become, moral bloodthirsty and sadistic monsters whose death we would not know how to mourn. If these poor devils were to be a continuous threat to everybody and there were no other way of defending ourselves other than by killing them, one could also admit the death penalty. But the trouble is that in order to carry out the death penalty one needs an executioner. The executioner is, or becomes, a monster, and on balance it is better to let the monsters that there are go on living, rather than to create others.

And this applies to real delinquents, anti-social beings who arouse no sympathy and provoke no commiseration. When it comes to the death penalty as a means of political struggle, then well history teaches us what can be the consequences.

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