

# IMPLEMENTING ANARCHIST CRIMINOLOGY: FROM THEORY TO PRACTICE

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## *ABSTRACT*

*An anarchist theory of criminology describes a societal response to harmful acts when there is no ruling authority. The author extends anarchist criminology theory into the realm of practice, describing practical methods of implementation.*

At the ACJS 2011 annual conference the author presented “Anarchist criminology: a new way to understand a set of proven practices.” (Ruth-Heffelbower, 2011) It identified restorative justice principles as an embodiment of anarchist criminology. This paper moves beyond description of the concept to describing current applications of the theory. Anarchist criminology is different from all other criminological theories in that it does not assume a central authority being in charge of criminal justice. Neither does it assume that the purpose of criminal justice is to keep social deviance at a level acceptable to a ruling class.

Penal codes serve many different interests. At the basic level they describe behaviors that are not socially acceptable and prescribe punishments for those who do them. They create a bounded set of behaviors that can be engaged in without fear of punishment. The need for careful description flows from the threat of punishment. If punishment follows certain behavior, it is in everyone’s best interests to know exactly what is forbidden.

Who gets to decide which behaviors merit punishment? Political units which create a central authority expect the central authority to make the rules. This is true whether the central authority is a hereditary king or a popularly elected legislative body. Where the political unit is small it is reasonable to expect some level of consensus on what behaviors require punishment. With greater size comes greater diversity of interests and less assurance of consensus.

Economic disparities play a role in diversity of opinion within a group. During Europe’s feudal period it was common for the nobility to have a monopoly on hunting in certain areas. This arrangement works until the peasants living around that land need more food. This same dynamic can be seen today in Africa and other places where species preservation competes with hungry poachers. Hungry people do not value species protection in the same way well-fed people do.

Great disparities in wealth create great disparities of thought when it comes to identifying some behaviors as unacceptable. This paper is not about economics, but recognition of how economics and criminology fit together is necessary to the discussion. Jared Diamond described the “big man culture” of the south Pacific in *Guns, Germs and Steel* (Diamond 1999). In a simple big man

culture the big man gets his status by giving gifts to his fellows. Being able to get more material goods and distribute them to your followers is the essence of headship in this type of culture.

Small kings follow the same pattern, except that they rule over more people and their gifts are not shared equally. Wealth acquired from the poor or from conquest is distributed to the noble class which responds by supporting and protecting the king's power. This is the basic pattern everywhere. As the political unit grows, the nobility becomes a smaller percentage of the population. In *Changing Lenses* Howard Zehr describes how these kings begin to accrete power, eventually usurping all responsibility for criminal law and benefitting financially from the monopoly (Zehr, 1990).

The process of creation of a body of law relating to social deviance begins by focusing on harm to people through the behavior of others. Since restitution is the way to repair most harms, a society in the process of creating such a system will focus on reintegrating the deviant into a productive role and taking care of the needs of the injured party. The Hebrew and Islamic scriptures describe the development of this restitutionary law in tribal societies.

Modern democracies and authoritarian governments usually have a more diffuse nobility than a kingdom does, forming an oligarchy. Common people have a role in the political system, but it is limited and indirect.

Criminal law in all of these systems serves to define some behavior as injurious, and forbids it under threat of punishment. From the death penalty for poaching one of the king's deer to years in prison for robbing a merchant, many criminal laws serve to protect wealth and wealthy persons. These same laws apply to robbery of a poor person, who may well be more greatly harmed by losing property than a rich person, but once we get past the level of tribal government these laws rarely focus on restitution. If a person is punished for stealing from a poor person the poor person rarely benefits.

### *THE PROBLEM OF CENTRAL AUTHORITY*

It seems strange to consider the problem of central authority, since most people assume that a political unit needs one, but does it? We are all familiar with political units that have no central authority able to make rules and punish their violation. For the most part these are smaller groups that govern themselves as a committee of the whole. Decisions that need to be made are discussed and decided by the whole group. Behavioral standards are handled in the same way. Clubs and committees would be common examples. Churches where the highest authority is the local congregation fall into this category, as do 12 step groups. Some homeowner or condominium organizations operate in this way. The reader can probably identify other such groups.

As a political unit grows in size and complexity it becomes more difficult to operate as a committee of the whole. The traditional New England town meeting may be at the size limit. When a group decides that it can no longer go on as a committee of the whole it will typically elect representatives and delegate some authority to them. Operational details are easily delegated, while policy may be kept by the whole group.

Even at this low level, central authority begins to experience problems. People who were accustomed to having direct influence on decisions find themselves learning of decisions they care about after the fact. Decisions that affect individuals are made without consulting those individuals. This change is perfectly reasonable, but not comfortable. If no conflict management system is available there will be passive-aggressive or even active-aggressive behavior by disappointed citizens. The theme of these problems is the separation from decision making of those directly affected by the decisions.

As the size and complexity of the unit grows, more power is delegated to the central authority. At some point the only decisions left to the citizens is the election of representatives. This describes most municipal government and the levels above it today.

An inevitable outcome of creating a central authority is that decisions are no longer made by considering how each individual will be impacted. Since there is no practical way to consider and address individual interests, rules are made which address the interests of the most people reasonably possible. This leads to differential treatment which can seem unfair. The typical response is to try making rules which treat similarly situated people similarly, even though that can have strange results. Avoiding differential treatment becomes an end in itself, even though most people recognize that it can't be done very well under the best of circumstances. When we think about it we prefer equity to equality.

A simple illustration of the difference between equity and equality is three people who want to look over a fence to see an event. There are three boxes to stand on. One person is tall enough to see over the fence without a box, one needs one box and one needs two boxes. Equal treatment gives each one a box, but equity distributes the boxes according to need.

This process of rulemaking to achieve equal treatment is how we get sentencing guidelines which focus on behavior and not on the reasons behind the behavior. These guidelines yield similar results for similar offenses, but often result in waste of resources when people who aren't dangerous are incarcerated.

### *HOW IS AN ANARCHIST APPROACH DIFFERENT?*

Anarchy is feared by people who only know it as the description of a society where a central authority has broken down. Societies whose mores focus on obeying rules promulgated and enforced by a central authority have no fallback response when the central authority fails, and that is a fearful state of affairs. Russia after the revolution comes to mind, with marauding bandits and feuding bands of soldiers vying to create the new central authority. It is no wonder that people don't generally feel attracted to anarchy.

Political units with a weak or barely functioning central authority have citizens who arrange their lives without counting on a central authority. The author lived in Indonesia during the period after the authoritarian government fell in 1998, coinciding with a severe economic recession. Since Indonesia had no external enemy to fear, and the services provided by the central government were minimal, life continued much as before. Outlying areas away from the central power on

Java were glad that the military was unable to exert the level of control it once had. Less government generally meant fewer people to pay for permission to do things.

When citizens of an industrialized democracy think of losing their central authority the prospect can be frightening. Many aspects of daily life require government services, everything from police to garbage collection. In less developed places communities police themselves, take care of their own garbage, and do not generally expect anything positive from the central authority. Living in these places a person can see anarchy as doable, so long as communities work together.

Working together is the key to successful anarchy. Central authorities maintain their sway in part by setting citizens in opposition to each other. So long as interest groups argue among themselves they do not join together in opposition to the central government. This approach is so common that it is rare to find a united opposition. The Arab Spring movement happened when opposition groups decided to focus on removing their countries' central authority. That strategy worked quickly and well, showing just how rare it is. Syrian opposition groups were not able to stay focused on removing the central government and are now in a discouraging, protracted struggle. Palestinians have been divided into competing camps since the existence of Israel was decreed, preventing effective opposition.

It is common to think of democratic systems as being cooperative, but they are not. In democratic systems the majority has authority over the minority. So long as the sides are relatively equal in size, and the ascendancy switches back and forth over time, a reasonable level of cooperation is managed. When there is a prolonged shift toward one side the stronger group often becomes coercive. The polarization of the United States Congress offers an example.

An anarchist approach that is adopted as a deliberate strategy, rather than being the de facto state of affairs after a government has collapsed, requires a commitment to be cooperative from all or most of the players. A competitive approach to relations among citizens works well with a strong central authority prepared to sort out differences through structured systems. Where there is no central authority a competitive approach falls quickly into coercion akin to banditry, something like North America's wild west.

Put simply, anarchy requires cooperation for the needs of its citizens to be met. Competition, on the other hand, can work well when a strong central authority holds the more extreme elements in check and generally levels the playing field. A political unit committed to cooperation can make a go of anarchy.

### *WHERE IS ANARCHY WORKING?*

One clarification is in order before we begin identifying places having success with anarchy. Anything that one expects from a central authority will be absent where there is anarchy. For some this is tantamount to saying that anarchy doesn't work. For this discussion those persons are asked to suspend disbelief, since the deeper question is whether a political unit needs the things it gets from a central authority.

One of the first things missing when a central authority is absent is an army. That is not to say that there are no armed forces, but by definition there is no national military force under the authority of a central government. One such place with which the author is personally familiar is the tribal area of western Pakistan. When forces of the central government enter these areas they are accompanied by tribal militia. This mountainous area is unsuitable for weapons much heavier than a belt-fed machine gun or RPG, so the army's heavier weapons don't matter much. Air power has its uses, but is limited in its effectiveness. Missile firing drones are the main air weapons used in these areas. The tribal areas are self-governing, using the traditional Jirga method. (Yousufzai and Gohar, 2005) Militia members are loyal to tribal chieftains who cooperate on some level on issues of mutual interest.

This arrangement between the central government of Pakistan and the tribes has been working fairly well. The tribal areas have never been conquered, even though Alexander the Great and the British tried. Under the circumstances a central government is well-advised to allow anarchy in regions within its borders.

Nations that have no military, but something like a national police force, tend to be small and have protective agreements with nations having large standing armies. Caribbean and south Pacific islands account for most of these. Costa Rica and Panama are among the largest mainland countries choosing not to have a military. These examples also show that declining to have a military is not the same as choosing anarchy. All of these nation states without a military have a central government.

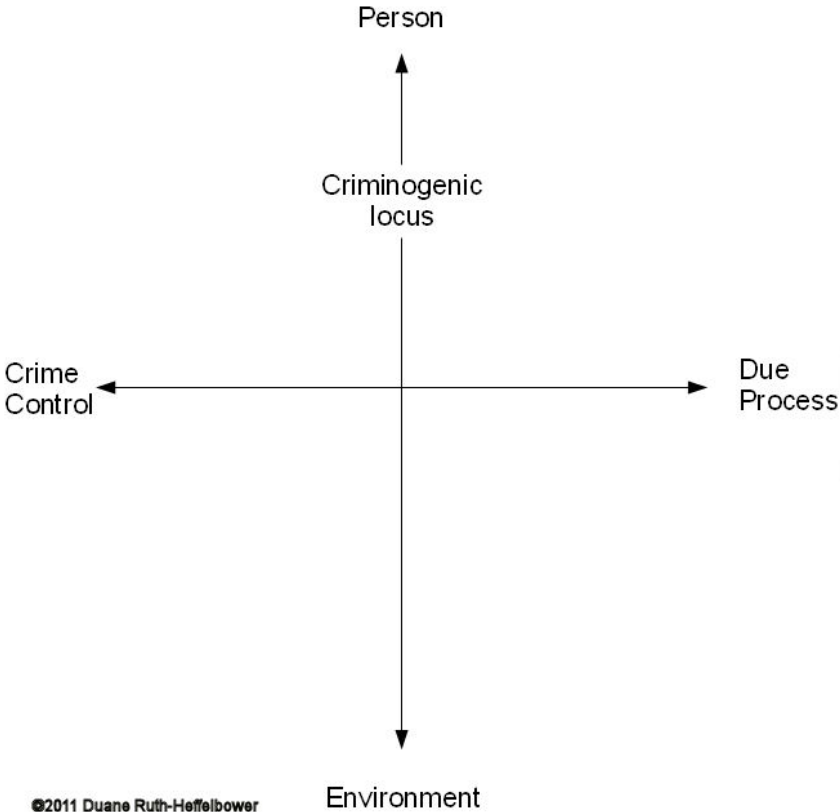
Two larger mainland countries have anarchy in its unintended and unfortunate sense. Western Sahara and Somalia are divided into areas with varying levels of control by political groups. Western Sahara suffered from sudden decolonization and the unsurprising competition among neighboring countries and internal groups to divvy up the shell. Somalia, with its sharp differences in tribal and religious identity, has not had a central government for twenty years. Neither is a good place to live.

Anarchy works well when it is deliberately established and valued for its benefits. Based on the evidence available it is also better suited to smaller geographical areas with relatively homogeneous populations. There can be pockets of anarchy within a larger area controlled by a central government. This last type is de facto in many places, allowing tribal autonomy in an area supposedly, but not actually under the control of a central government. Native American tribes come close to this last example, particularly the smaller ones.

### *THEORY OF ANARCHIST CRIMINOLOGY*

The author first described the elements of an Anarchist Theory of Criminology in a 2011 paper titled "Anarchist criminology: a new way to understand a set of proven practices." (Ruth-Heffelbower 2011) It used Packer's polar opposite Due Process Model and Crime Control Model (Packer, 1968) as the poles of the x-axis and added the y-axis of criminogenic locus to create a new model, locating anarchist criminology at the juncture of the axes.

**Criminological Theory Graph**



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The author's 2011 paper also listed a set of principles of anarchist criminology, drawing on principles of restorative justice:

1. Harm creates needs and responsibilities.
2. Collectives respond to harm by assessing the needs of those harmed and providing a process allowing those harmed and those responsible for the harm to meet the needs created with the assistance of the collective.
3. Collectives provide pro-social support for those engaged in responding to needs created by harm.
4. Collectives respect and celebrate efforts to respond to needs created by harm.
5. Collectives offer alternatives for those who are unable or unwilling to avoid causing harm, to assist the collective in avoiding harm.

This brings us to a description of an anarchist theory of criminology, offered here in the form of assertions:

#### Assertions of an anarchist theory of criminology

1. Crime, in a collective without a central authority, is action or inaction which causes harm to others.
2. The collective is responsible for responding to harm suffered by its members, particularly where the harm derives from the action or inaction of another member of the collective.
3. The collective is responsible for responding to action or inaction by its members which causes harm to others, and which is therefore considered criminal.
4. The collective is responsible for discouraging action and inaction by its members which is likely to cause harm to other members.
5. The collective is responsible for providing pro-social support to those harmed by the inaction or action of others, and to those causing the harm.
6. The collective is responsible for encouraging pro-social behavior by those who commit crimes, and discouraging harmful behavior.
7. The collective is responsible for responding to persons unwilling to refrain from harming others.

#### *CONCLUSION*

This paper and its predecessor aim to begin describing an anarchist theory of criminology. This new theory of criminology is unique in that it does not assume a central authority. Where there is no central authority collectives of various sizes still have a need to respond to the sorts of things central authorities call criminal. At the same time, the needs of central authority are different from the needs of particular collectives. A collective, for instance, has much less need to prove that it is in charge. Collectives are also less likely to be supporting a noble class which needs to

protect its privileged position. At the same time, a collective needs to respond to harm and to avoid future harm like any other group.

As suggested in the previous paper, Restorative Justice has much to offer a collective without a central authority. Its focus on addressing the needs arising from harm fit well with the assertions of anarchist criminology. Continued examination of the needs of collectives without a central authority will help to develop this anarchist theory of criminology. Its study can also benefit the discussion of other theories by asking how they address harm.

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