

carry on a good and loyal polemic; let us give the world an example of learned and far-sighted tolerance, but let us not pose as apostles of a new religion, even if it be the religion of logic, the religion of reason. Let us gather together and encourage all protests, let us brand all exclusiveness, all mysticism; let us never regard a question as exhausted, and when we have used our last argument, let us begin again, if need be, with eloquence and irony. On that condition I will enter your association. Otherwise no.[†]

The dogmatism of Marx was anathema to the anarchists, who believed that there could be no “blueprint” for the future. To try to impose one, no matter how clear-sighted the planners thought themselves to be, would resurrect the very tyranny which impelled the revolution in the first place. If the Marxists advocated a proletarian-run state, the anarchist advocated no state at all: the Marxist prophecy of the disappearance of the state, once economic relationships were made equitable, is a partial borrowing from the anarchists, who were not inclined toward the state at all.

It is the disagreement over the role of the state that has created chasms between the two predominant left philosophies. Power to the people is perhaps more anarchist than Marxist, although both groups endorse a power shift from the powerful to the powerless. Marxists anticipate a transfer of power back to the state to hold fast revolutionary gains; anarchists want to maximize the opportunities for direct action by the people themselves. If this sounds reminiscent of current political rhetoric, it is because politicians in both major parties frequently tap the American antipathy to government. The invocation of anarchist-like slogans is often rhetorical, however, since defense spending, national debt, and other centrist practices inevitably lead to more government rather than less.

Under neither left philosophy does legal order, as generally constituted, get much respect. Under both it is seen as a regime of domination rather than a source of protection for average people. To give a better idea of the unique features of anarchistic thought, here follows a reading from the most famous modern anarchist, Peter Kropotkin (1841–1921).

[†]Ibid., pp. 72, 73.

6.2 Law and Authority *Peter Kropotkin*

I

WE ARE SO PERVERTED by an education which from infancy seeks to kill in us the spirit of revolt, and to develop that of submission to authority; we are so perverted by this existence under the fer-

rule of a law, which regulates every event in life—our birth, our education, our development, our love, our friendship—that, if this state of things continues, we shall lose all initiative, all habit of thinking for ourselves. Our society seems no longer able to understand that it is possible to exist otherwise than under the reign of law, elaborated by a representative government

From *Kropotkin's Revolutionary Pamphlets*, ed. by Roger N. Baldwin (Vanguard Press, 1927).

and administered by a handful of rulers. And even when it has gone so far as to emancipate itself from the thralldom, its first care has been to reconstitute it immediately. "The Year I of Liberty" has never lasted more than a day, for after proclaiming it men put themselves the very next morning under the yoke of law and authority.

Indeed, for some thousands of years, those who govern us have done nothing but ring the changes upon "Respect for law, obedience to authority." This is the moral atmosphere in which parents bring up their children, and school only serves to confirm the impression. Cleverly assorted scraps of spurious science are inculcated upon the children to prove necessity of law; obedience to the law is made a religion; moral goodness and the law of the masters are fused into one and the same divinity. The historical hero of the schoolroom is the man who obeys the law, and defends it against rebels.

Later when we enter upon public life, society and literature, impressing us day by day and hour by hour as the water-drop hollows the stone, continue to inculcate the same prejudice. Books of history, of political science, of social economy, are stuffed with this respect for law. Even the physical sciences have been pressed into the service by introducing artificial modes of expression, borrowed from theology and arbitrary power, into knowledge which is purely the result of observation. Thus our intelligence is successfully befogged, and always to maintain our respect for law. The same work is done by newspapers. They have not an article which does not preach respect for law, even where the third page proves every day the imbecility of that law, and shows how it is dragged through every variety of mud and filth by those charged with its administration. Servility before the law has become a virtue, and I doubt if there was ever even a revolutionist who did not begin in his youth as the defender of law against what are generally called "abuses," although these last are inevitable consequences of the law itself. . . .

The confused mass of rules of conduct called law, which has been bequeathed to us by slavery, serfdom, feudalism, and royalty, has taken the place of those stone monsters, before whom human victims used to be immolated, and whom slavish savages dared not even touch lest

they should be slain by the thunderbolts of heaven.

This new worship has been established with especial success since the rise to supreme power of the middle class—since the great French Revolution. Under the ancient regime, men spoke little of laws; . . . Obedience to the good pleasure of the king and his lackeys was compulsory on pain of hanging or imprisonment. But during and after the revolutions, when the lawyers rose to power, they did their best to strengthen the principle upon which their ascendancy depended. The middle class at once accepted it as a dyke to dam up the popular torrent. The priestly crew hastened to sanctify it, to save their bark from foundering amid the breakers. Finally the people received it as an improvement upon the arbitrary authority and violence of the past.

To understand this, we must transport ourselves in imagination into the eighteenth century. Our hearts must have ached at the story of the atrocities committed by the all-powerful nobles of that time upon the men and women of the people before we can understand what must have been the magic influence upon the peasant's mind of the words, "Equality before the law, obedience to the law without distinction of birth or fortune." He who until then had been treated more cruelly than a beast, he who had never had any rights, he who had never obtained justice against the most revolting actions on the part of a noble, unless in revenge he killed him and was hanged—he saw himself recognized by this maxim, at least in theory, at least with regard to his personal rights, as the equal of his lord. Whatever this law might be, it promised to affect lord and peasant alike; it proclaimed the equality of rich and poor before the judge. The promise was a lie, and to-day we know it; but at that period it was an advance, a homage to justice, as hypocrisy is a homage rendered to truth. This is the reason that when the saviors of the menaced middle class . . . proclaimed "respect for law, the same for every man," the people accepted the compromise; for their revolutionary impetus had already spent its force in the contest with a foe whose ranks drew closer day by day; they bowed their neck beneath the yoke of law to save themselves from the arbitrary power of their lords.

The middle class has ever since continued to make the most of this maxim, which with

another principle, that of representative government, sums up the whole philosophy of the bourgeois age, the nineteenth century. It has preached this doctrine in its schools, it has propagated it in its writings, it has molded its art and science to the same purpose, it has thrust its beliefs into every hole and corner . . . and it has done all this so successfully that . . . men who long for freedom begin the attempt to obtain it by entreating their masters to be kind enough to protect them by modifying the laws which these masters themselves have created!

But times and tempers are changed. Rebels are everywhere to be found who no longer wish to obey the law without knowing whence it comes, what are its uses, and whither arises the obligation to submit to it, and the reverence with which it is encompassed. The rebels of our day are criticizing the very foundations of society which have hitherto been held sacred, and first and foremost amongst them that fetish, law.

The critics analyze the sources of law, and find there either a god, product of the terrors of the savage, and stupid, paltry and malicious as the priests who vouch for its supernatural origin, or else, bloodshed, conquest by fire and sword. They study the characteristics of law, and instead of perpetual growth corresponding to that of the human race, they find its distinctive trait to be immobility, a tendency to crystallize what should be modified and developed day by day. They ask how law has been maintained, and in its service they see the atrocities of Byzantinism, the cruelties of the Inquisition, the tortures of the middle ages, living flesh torn by the lash of the executioner, chains, clubs, axes, and gloomy dungeons of prisons, agony, curses and tears. In our own days they see, as before, the axe, the cord, the rifle, the prison; on the one hand, the brutalized prisoner, reduced to the condition of a caged beast by the debasement of his whole moral being, and on the other, the judge, stripped of every feeling which does honor to human nature, living like a visionary in a world of legal fictions, revelling in the infliction of imprisonment and death, without even suspecting, in the cold malignity of his madness, the abyss of degradation into which he has himself fallen before the eyes of those whom he condemns.

They see a race of law-makers legislating without knowing what their laws are about; to-day voting a law on the sanitation of towns, without the faintest notion of hygiene, tomorrow making regulations for the armament of troops, without so much as understanding a gun; making laws about teaching and education without ever having given a lesson of any sort, or even an honest education to their own children; legislating at random in all directions, but never forgetting the penalties to be meted out to ragamuffins, the prison and the galleys, which are to be the portion of men a thousand times less immoral than these legislators themselves.

Finally, they see the jailer on the way to lose all human feeling, the detective trained as a blood-hound, the police spy despising himself; "informing," metamorphosed into a virtue; corruption, erected into a system; all the vices, all the evil qualities of mankind countenanced and cultivated to insure the triumph of law.

All this we see, and, therefore, instead of inanely repeating the old formula, "Respect the law," we say, "Despise law and all its attributes!" In place of the cowardly phrase, "Obey the law," our cry is "Revolt against all laws!"

Only compare the misdeeds accomplished in the name of each law with the good it has been able to effect, and weigh carefully both good and evil, and you will see if we are right.

II

[Relatively speaking, law is a product of modern times. For ages and ages mankind lived without any written law, even that graven in symbols upon the entrance stones of a temple.] During that period, human relations were simply regulated by customs, habits and usages, made sacred by constant repetition, and acquired by each person in childhood, exactly as he learned how to obtain his food by hunting, cattle rearing, or agriculture. . . .

Every tribe has its own manners and customs; customary law, as the jurists say. It has social habits, and that suffices to maintain cordial relations between the inhabitants of the village, the members of the tribe or community. Even amongst ourselves—the "civilized" nations—

when we leave large towns, and go into the country, we see that there the mutual relations of the inhabitants are still regulated according to ancient and generally accepted customs, and not according to the written law of the legislators. The peasants of Russia, Italy and Spain, and even of a large part of France and England, have no conception of written law, it only meddles with their lives to regulate their relations with the State. As to relations between themselves, though these are sometimes very complex, they are simply regulated according to ancient custom. Formerly, this was the case with mankind in general.

Two distinctly marked currents of custom are revealed by analysis of the usages of primitive people.

As man does not live in a solitary state, habits and feelings develop within him which are useful for the preservation of society and the propagation of the race. Without social feelings and usages, life in common would have been absolutely impossible. It is not law which has established them; they are anterior to all law. Neither is it religion which has ordained them; they are anterior to all religions. They are found amongst all animals living in society. They are spontaneously developed by the very nature of things, like those habits in animals which men call instinct. They spring from a process of evolution, which is useful, and, indeed, necessary, to keep society together in the struggle it is forced to maintain for existence. . . . The hospitality of primitive peoples, respect for human life, the sense of reciprocal obligation, compassion for the weak, courage, extending even to the sacrifice of self for others which is first learnt for the sake of children and friends, and later for that of members of the same community—all these qualities are developed in man anterior to all law, independently of all religion, as in the case of the social animals. Such feelings and practices are the inevitable results of social life. Without being, as say priests and metaphysicians, inherent in man, such qualities are the consequence of life in common.

But side by side with these customs, necessary to the life of societies and the preservation of the race, other desires, other passions, and

therefore other habits and customs, are evolved in human association. The desire to dominate others and impose one's own will upon them; the desire to seize upon the products of the labor of a neighboring tribe; the desire to surround oneself with comforts without producing anything, while slaves provide their master with the means of procuring every sort of pleasure and luxury—these selfish, personal desires give rise to another current of habits and customs. The priest and the warrior, the charlatan who makes a profit out of superstition, and after freeing himself from the fear of the devil cultivates it in others; and the bully, who procures the invasion and pillage of his neighbors that he may return laden with booty and followed by slaves. These two, hand in hand, have succeeded in imposing upon primitive society customs advantageous to both of them, but tending to perpetuate their domination of the masses. Profiting by the indolence, the fears, the inertia of the crowd, and thanks to the continual repetition of the same acts, they have permanently established customs which have become a solid basis for their own domination. . . .

The spirit of routine, originating in superstition, indolence, and cowardice, has in all times been the mainstay of oppression. In primitive human societies it was cleverly turned to account by priests and military chiefs. They perpetuated customs useful only to themselves, and succeeded in imposing them on the whole tribe. So long as this conservative spirit could be exploited so as to assure the chief in his encroachments upon individual liberty, so long as the only inequalities between men were the work of nature, and these were not increased a hundredfold by the concentration of power and wealth, there was no need for law and the formidable paraphernalia of tribunals and ever augmenting penalties to enforce it.

But as society became more and more divided into two hostile classes, one seeking to establish its domination, the other struggling to escape, the strife began. Now the conqueror was in a hurry to secure the results of his actions in a permanent form, he tried to place them beyond question, to make them holy and venerable by every means in his power. Law made its appearance under the

sanction of the priest, and the warrior's club was placed at its service. Its office was to render immutable such customs as were to the advantage of the dominant minority. Military authority undertook to ensure obedience. This new function was a fresh guarantee to the power of the warrior; now he had not only mere brute force at his service; he was the defender of law.

If law, however, presented nothing but a collection of prescriptions serviceable to rulers, it would find some difficulty in insuring acceptance and obedience. Well, the legislators con-founded in one code the two currents of custom of which we have just been speaking, the maxims which represent principles of morality and social union wrought out as a result of life in common, and the mandates which are meant to ensure external existence to inequality. Customs, absolutely essential to the very being of society, are, in the code, cleverly intermingled with usages imposed by the ruling caste, and both claim equal respect from the crowd. "Do not kill," says the code, and hastens to add, "And pay tithes to the priest." "Do not steal," says the code, and immediately after, "He who refuses to pay taxes, shall have his hand struck off."

Such was law; and it has maintained its twofold character to this day. Its origin is the desire of the ruling class to give permanence to customs imposed by themselves for their own advantage. Its character is the skilful commingling of customs useful to society, customs which have no need of law to insure respect, with other customs useful only to rulers, injurious to the mass of the people, and maintained only by the fear of punishment.

Like individual capital, which was born of fraud and violence, and developed under the auspices of authority, law has no title to the respect of men. Born of violence and superstition, and established in the interests of consumer, priest and rich exploiter, it must be utterly destroyed on the day when the people desire to break their chains. . . .

Notes and Questions

1. The promise of equality after the French Revolution must have looked especially appealing to those who had suffered under the

old regime of royalty and nobility. Should people have rejected the promise of more equality through the rule of law, on the grounds that other tyrannies would creep in with the institutions that were said to be necessary to preserve equality?

If they did, how would the gains of the revolution have been consolidated, or is the idea of consolidation itself an illusion?

2. Kropotkin argues that law has a mixed character, that is, something to hold the interest of average people and preserve the legitimacy of law-as-a-whole, while providing substantial gains to a minority. Could the desirable elements of law be retained while preferential elements are purged, or is the whole institution of law *inherently* flawed?
3. Could there be a society where there are no leaders? Or where every person is a leader with no followers? Would it be possible to have a society in which all people agreed with Kropotkin? While skeptical about the prospects of peace through law, Kropotkin did have great faith in mutual aid and wrote a book to counter Darwin's theory of relentless competition. How would the people involved in strictly voluntary relationships settle their differences?
4. In the society ordered through custom, Kropotkin states that upon occasions of dispute people "prefer appealing to a third party to settle their differences." Would such reference of disputes to third parties give rise to law? To a hierarchy with people who settle differences between disputants being in a preferred place? Should good anarchists like Kropotkin reject third-party intervention in disputes because they are suspicious of the beneficial effects of the state?
5. According to Kropotkin, the usual relationship between law and custom is the incorporation into law of prior practices *both* of equality and of inequality and domination. Compare this view of Kropotkin with the observations by Stanley Diamond found in the introduction to this chapter. Is Diamond more enamored of custom than Kropotkin?
6. Kropotkin argues that people who make laws about health know nothing of hygiene, those who legislate about education know nothing of teaching, and so on. Would he advocate the transferring of questions from law to scientists and other experts? Would experts come to rule the inexpert?