

On the Question of Courts and Justice in Anarchy

By Michael Storm for Toward Anarchy

I find it genuinely amusing when, on the question of courts and justice in anarchy, the inquirer appears to assume to understand how these things function now. Anyone who knows how courts and justice work within our existing state system should know there would be no substantial legal difference. Someone who knows this would not have to ask the question to begin with. Is it more accurate of these inquiring minds to ask, “Who will enforce political and social opinion in the absence of the state”? I think it is and, simply put, nobody. And that is just fantastic!

Anarchy is No Rulers

So, there can be no confusion about my intent and meaning, Anarchy is no rulers. Anarchy is not chaos, nor is it without rules. We live in anarchy daily. We generally get along, solve problems and make society work through incalculable dealings every second of every day without consideration of political authority, or need or use for rulers. It should also be understood that, when I speak of anarchy, I mean to affix no particular claim to morality, wisdom or ability on the part of the practitioner. Only that the anarchist believes he holds the principal claim to self. It should logically follow that the anarchist would afford every individual claim to themselves. I would go so far as to say it is imperative of any avowed anarchist.

Courts in Anarchy

There is no significant legal difference in courts now than would be in absence of the state. I have found the problem here is a failure to understand how courts work in general. We first need to separate criminal violations of individuals and property from state claims of violations of political or social opinions. In law, the word “crime” is fairly specific and, generally assumes a felonious violation of real people or property. I say fairly because there is a loose yet specific definition that purposely allows the state to make its own and varying interpretations of crime. Personally, I prefer very specific language when I’m accused. Ambiguity in the language of adjudication is contrary to the notion of justice but, it suits the state.

“A crime is an offense against a public law. This word, in its most general signification, comprehends all offenses but, in its limited sense, it is confined to felony. 1 Chitty, Gen. Pr. 14.” – Bouvier’s

Courts in anarchy will not adjudicate state claims because there is no state. Courts hereafter referred to as arbiters, will adjudicate claims of violations of people and property. This is what so-called “civil courts” do today. A real person makes a claim he is due compensation because his neighbor damaged his property. He files his claim with his insurance company or other legal

advocate chosen from the free market. The advocate then contacts the neighbor or the neighbor's advocate to answer to the claim. Being an honest man, the neighbor responds and agrees to arbitration. The people or their advocates ask the arbiter to review the claims and any evidence or witnesses and judge each violation on the claim's merits. Problem solved.

Justice in Anarchy

The state fails to provide individual justice. Lawmakers sap the justice system of vital resources to protect themselves from backlash for the gangsteresque thefts they commit and, outright tyrannous political and social opinions they legislate. State justice is a fraud and façade; instead, of arbitrating disputes between people, the state has made itself adversarial. The state often acts as the creator of law, the accuser of a violation, judge of guilt, decider of penalty, dictator of recompense and benefactor of justice. Even when acting as a true arbiter the state concerns itself primarily with its own interests. The state often doesn't have voluntary clients and is almost never accountable for its decisions or actions.

Justice is personal and should be commensurate with demonstrable damages. Stare Decisis (precedent), circumstance, value, replacement cost, depreciation, and time are only some considerations in justice. Anarchy does not pretend to answer these questions but, arbiters do. Advocates (lawyers and attorneys and counsel) can and do argue these points ad infinitum and, arbiters consider them and render judgment. This is simply the practice of law. It would not change in the absence of the state.

Some Special Circumstances (That Aren't Particularly Special)

A regular follow-up question to that of courts and justice in anarchy is, "What about Crime A, it's different than Crime B"? Circumstances of crimes are different whereas crimes are generally universally acknowledged, theft, fraud, murder, damage to property, etc. But, what about something like IP (intellectual property) claims? IP is a circumstance, not a different crime. The crime in question is a claim of theft. Is it possible to steal somebody's idea? If there is a physical theft or breach of contract or digital private property (someone else's server) to steal data, that is clearly violating someone's property and taking their actual work. It is not a question for me to decide because nobody has asked me to arbitrate their dispute. If they did, I would decide each case on its merits.

Jurisdiction is a construct of the state, for regional political control of centralized law and, would not really exist without it. I qualify my statement with "really" because one could voluntarily agree by contract to submit to a particular jurisdiction. I, however; would be suspect of any demand by contract to arbitrate on anything but neutral grounds. Your credit card company probably insists that third party arbitration takes place at their choice of venue in their jurisdiction. The argument of jurisdiction is moot when the parties agree.

Failure to Agree or Comply

What happens when the respondent refuses to answer the claim or, will not agree to arbitrate or fails to meet the obligations of a judgment? Primarily the same thing that happens now. The accused is afforded an opportunity to respond and refuses. At some point, the arbiter could offer default judgment in absentia. If the accused is insured, his insurer may drop him or raise his rates as a "risk". His credit could be flagged. Publicly he would suffer the social and financial stigma of failure to answer a claim or judgment against him.

The question of the "ultimate penalty" invariably enters the conversation. Death is a natural consequence of violating other people or their property. As a means of justice, it is absolute and carries a heavy burden with it. In a stateless society, there will be no less reason or excuse for death but, there will not be a gang authorized to kill without consequence. It is safe to say that most people would not then, do not now, choose to kill someone over small things but, it could happen. That is a circumstance to consider as a crime or punishment and it should be adjudicated and considered on the merits just like every other crime or penalty. Consider that; dead people cannot pay other people back for damages. Even gangsters and the state, though I repeat myself, use it only as a final option.

Judge Judy is Anarchist Justice

I often tell people that Judge Judy is a better representative of the law than the local courthouse is. Judge Judy brings adversaries together voluntarily to hear and judge the merits of their claims to resolve their dispute. For all the hype of television presentation, Judge Judy IS courts and justice in anarchy. If you find that to be a funny notion, you probably are not yet clear on the purpose of the law in nature (natural law, what we have been talking about this whole time). It is about consequences for actions regarding other people and their property. It is not about taxation and punishment to benefit the state or politically motivated or socially driven Juris-expedience.

Arbiters and advocates of courts and justice in anarchy would be subject to the same social standards and market influences of any service industry. They would not and could not hold themselves above the law as the state does through disallowing most competition in justice. They could not provide bad service, for long, because the market weeds that out in a flash. As soon as word hits the street that an arbiter or advocate has failed to provide good service or has shown themselves to be prejudiced, their reputation is put in jeopardy. That is called market justice and, that is how the courts and justice work in anarchy.