



THE INDEPENDENT INSTITUTE is a non-profit, non-partisan, scholarly research and educational organization that sponsors comprehensive studies of the political economy of critical social and economic issues.

The politicization of decision-making in society has too often confined public debate to the narrow reconsideration of existing policies. Given the prevailing influence of partisan interests, little social innovation has occurred. In order to understand both the nature of and possible solutions to major public issues, The Independent Institute's program adheres to the highest standards of independent inquiry and is pursued regardless of political or social biases and conventions. The resulting studies are widely distributed as books and other publications, and are publicly debated through numerous conference and media programs. Through this uncommon independence, depth, and clarity, The Independent Institute expands the frontiers of our knowledge, redefines the debate over public issues, and fosters new and effective directions for government reform.

FOUNDER & PRESIDENT

David J. Theroux

RESEARCH DIRECTOR

Alexander Tabarrok

SENIOR FELLOWS

Bruce L. Benson
Ivan Eland
Robert Higgs
Alvaro Vargas Llosa
Richard K. Vedder

ACADEMIC ADVISORS

Herman Belz
UNIVERSITY OF MARYLAND
Thomas E. Borcherding
CLAREMONT GRADUATE
SCHOOL
Boudewijn Bouckaert
UNIVERSITY OF GHENT,
BELGIUM
James M. Buchanan
GEORGE MASON UNIVERSITY
Allan C. Carlson
HOWARD CENTER
Robert D. Cooter
UNIVERSITY OF CALIFORNIA,
BERKELEY
Robert W. Crandall
BROOKINGS INSTITUTION
Richard A. Epstein
UNIVERSITY OF CHICAGO
B. Delworth Gardner
BRIGHAM YOUNG
UNIVERSITY
George Gilder
DISCOVERY INSTITUTE
Nathan Glazer
HARVARD UNIVERSITY

Ronald Hamowy
UNIVERSITY OF ALBERTA,
CANADA

Steve H. Hanke
JOHNS HOPKINS UNIVERSITY

Ronald Max Hartwell
OXFORD UNIVERSITY

James J. Heckman
UNIVERSITY OF CHICAGO

H. Robert Heller
INTERNATIONAL PAYMENTS
INSTITUTE

Lawrence A. Kudlow
KUDLOW & COMPANY

Deirdre N. McCloskey
UNIVERSITY OF ILLINOIS,
CHICAGO

J. Huston McCulloch
OHIO STATE UNIVERSITY

Forrest McDonald
UNIVERSITY OF ALABAMA

Thomas Gale Moore
HOOVER INSTITUTION

Charles Murray
AMERICAN ENTERPRISE
INSTITUTE

Michael J. Novak, Jr.
AMERICAN ENTERPRISE
INSTITUTE

June E. O'Neill
BARUCH COLLEGE

Charles E. Phelps
UNIVERSITY OF ROCHESTER

Paul Craig Roberts
INSTITUTE FOR POLITICAL ECONOMY

Nathan Rosenberg
STANFORD UNIVERSITY

Simon Rottenberg
UNIVERSITY OF
MASSACHUSETTS

Paul H. Rubin
EMORY UNIVERSITY

Bruce M. Russett
YALE UNIVERSITY

Pascal Salin
UNIVERSITY OF PARIS,
FRANCE

Arthur Seldon
INSTITUTE OF ECONOMIC
AFFAIRS, ENGLAND

William F. Shughart II
UNIVERSITY OF MISSISSIPPI

Pablo T. Spiller
UNIVERSITY OF CALIFORNIA,
BERKELEY

Joel H. Spring
STATE UNIVERSITY OF NEW
YORK, OLD WESTBURY

Vernon L. Smith
GEORGE MASON UNIVERSITY

Richard L. Stroup
MONTANA STATE UNIVERSITY

Thomas S. Szasz
STATE UNIVERSITY OF N.Y.,
SYRACUSE

Robert D. Tollison
UNIVERSITY OF CLEMSON

Arnold S. Trebach
AMERICAN UNIVERSITY

Gordon Tullock
GEORGE MASON UNIVERSITY

Richard E. Wagner
GEORGE MASON UNIVERSITY

Sir Alan A. Walters
AIG TRADING CORPORATION

Walter E. Williams
GEORGE MASON UNIVERSITY

Charles Wolf
RAND CORPORATION

Anarchy and the Law

The Political Economy of Choice

Edited by
Edward P. Stringham



Transaction Publishers
New Brunswick (U.S.A.) and London (U.K.)

THE INDEPENDENT INSTITUTE
100 Swan Way, Oakland, California 94621-1428, U.S.A.
Telephone: 510-632-1366 • Facsimile: 510-568-6040
Email: info@independent.org • Website: www.independent.org

All life is a purposeful struggle, and your only choice is the choice of a goal. Do you wish to continue the battle of your present, or do you wish to fight for my world?... Such is the choice before you. Let your mind and your love of existence decide.”

Let us walk forward into the sunlight, Miss Rand. You belong with us.

Yours in liberty,

R.A. Childs, Jr.

cc: Nathaniel Branden, Leonard Peikoff, Robert Hessen, Murray N. Rothbard

P.S. I would like to thank Murray Morris and Joe Hoffman for their advice and suggestions.—R.A.C., Jr.

14

Do We Ever Really Get Out of Anarchy?¹

Alfred G. Cuzán

Introduction

A major point of dispute among libertarian theorists and thinkers today as always revolves around the age-old question of whether man can live in total anarchy or whether the minimal state is absolutely necessary for the maximization of freedom. Lost in this dispute is the question of whether man is *capable* of getting out of anarchy at all. Can we really abolish anarchy and set up a Government in its place? Most people, regardless of their ideological preferences, simply assume that the abolition of anarchy is possible, that they live under Government, and that anarchy would be nothing but chaos and violence.²

The purpose of this paper is to question this venerated assumption and to argue that the escape from anarchy is impossible, that we always live in anarchy, and that the real question is what kind of anarchy we live under, market anarchy or non-market (political) anarchy.³ Further, it is argued that political anarchies are of two types—hierarchical or plural. The more pluralist political anarchy is, the more it resembles market anarchy. The performance of hierarchical and plural anarchies is evaluated in terms of their ability to minimize the level of force in society. It is shown that plural anarchies are much less violent than hierarchical anarchies. We conclude that the real question libertarians must solve is not whether minimalism or anarchy, but which type of anarchy, market or political, hierarchical or plural, is most conducive to the maximization of freedom.

I

Anarchy is a social order without Government, subject only to the economic laws of the market.⁴ Government is an agent external to society, a “third party” with the power to coerce all other parties to relations in society into accepting its conceptions of those relations. The idea of Government as an agent external to society is analogous to the idea of God as an intervener in human affairs. For an atheist, a good analogy might be to assume that omnipotent Martians fill the role we usually ascribe to Government, i.e., an external designer and enforcer of rules of behavior by which everyone subject to those rules *must* abide.⁵

However, that the idea of Government exists is no proof of its empirical existence.⁶ Few of us would be convinced by an argument such as: “I believe the

idea of God is possible, therefore God exists." Yet such is the structure of the argument which underlies all assumptions about the existence of Government. That societies may have some form of organization they call the "government" is no reason to conclude that those "governments" are empirical manifestations of the *idea* of Government.

A closer look at these earthly "governments" reveals that they do not get us out of anarchy at all. They simply replace one form of anarchy by another and hence do not give us real Government. Let's see how this is so.

Wherever earthly "governments" are established or exist, anarchy is officially prohibited for all members of society, usually referred to as subjects or citizens. They can no longer relate to each other on their own terms—whether as merchants at a port or a vigilante unit and its prey in the open desert or the streets of Newark, N.J. Rather, all members of society must accept an external "third party"—a government—into their relationships, a third party with the coercive powers to enforce its judgments and punish detractors.

For example, when a thief steals my wallet at a concert, I am legally required to rely on the services of members of a third party to catch him (policemen), imprison him (jailers), try him (prosecutors, judges, even "public" defenders), judge him (trial by a group of individuals coerced into jury duty by the courts), and acquit or punish him (prisons, hangmen). At most, I am legally authorized to catch him, but I am prohibited from settling the account myself. Such prohibitions have reached tragi-comic proportions, as when government punishes victims of crime for having defended themselves beyond the limits authorized by "law."⁷ In short, I or any other citizen or subject must accept the rulings of government in our relations with others. We are required to abide by the law of this "third party."

However, such a "third party" arrangement for society is non-existent among those who exercise the power of government themselves. In other words, there is no "third party" to make and enforce judgments among the individual members who make up the third party itself. The rulers still remain in a state of anarchy *vis-à-vis* each other. They settle disputes *among themselves*, without regard for a Government (an entity outside themselves). Anarchy still exists. Only whereas without government it was market or natural anarchy, it is now a *political* anarchy, an anarchy inside power.⁸ Take, for example, the rulers of our own Federal government. It is a group composed of congressmen, judges, a president and a vice-president, top level bureaucrats in civilian and military agencies, and their armies of assistants who together oversee the work of the millions of public employees who man the several Federal bureaucracies. These individuals together make and enforce laws, edicts, regulations and vast arrays of orders of all kinds by which all members of society must abide.

Yet, in their relations among each other, they remain largely "lawless." Nobody *external to the group* writes and enforces rules governing the relations among them. At most, the rulers are bound by flexible constraints imposed by a "constitution" which they, in any case, interpret and enforce among and

upon themselves. The Supreme Court, after all, is only a *branch* of the government, composed of people appointed by and subjected to pressures from other members of the government. Moreover, their decisions are enforced by some *other* branch of the government, the executive, over whom the judges have no power, only authority. Further, the Congress, through vocal pressures and the manipulation of budgetary allocations to the judiciary, also exercises pressures which the judges must contend with. Similarly, congressmen have no "third party" arbiters either among themselves or in their relations with the executive. Furthermore, even the various federal bureaucracies and all their component parts are without a "third party" to govern their relations, internally or externally. In short, looking *inside* the government reveals that the rulers remain in a state of anarchy among themselves. They live in a political anarchy.⁹

The anarchic relations of government officials can be illustrated in the following example: Suppose that a congressman manages to divert streams of moneys from the government's flows to his private estate. This is a crime, theft, the stealing of money. But from whom? From you or me? Only in the sense that we were coerced into contributing to the public treasury which the congressman viewed as booty. It was no longer ours; it belonged to someone else. But who? Why, the members of the government who have the power to allocate those flows of resources.

In short, the congressman stole from *other* government officials, congressmen, bureaucrats, a president, etc. But what is done about the crime? Is the congressman publicly accused, indicted, and tried for his crime like an ordinary citizen who steals from another citizen? Sometimes; but what usually happens is a flurry of political maneuverings at high levels; mutual threats are delivered behind closed doors and forces marshaled against each other; occasional battles take place in which either reputations are destroyed, money changes hands, or resource flows or access to them are altered.

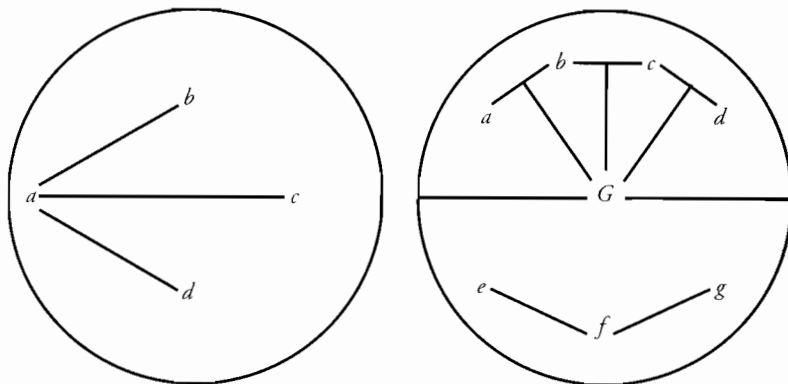
The hue and cry is soon forgotten, the congressman receives a "clean bill of health" by the prosecution, or the charges are dismissed or not pressed, and the congressman wins reelection at the polls. Occasionally, if the infractor was a weak or declining public figure, or one much hated by his colleagues, he is brought before the courts, tried, and given a minimal or even a suspended sentence. In most instances, small fish near the bottom of the bureaucracies are sacrificed for the crimes higher-ups directed, profited from or sanctioned. But make no mistake: no "third party," no Government, ever made or enforced a judgment. The rulers of the government themselves literally took the law into their own hands and produced what outside the government would be considered "vigilante justice."¹⁰

In short, society is *always* in anarchy. A government only abolishes anarchy among what are called "subjects" or "citizens," but among those who rule, anarchy prevails.

Figure 1 illustrates this situation. The circle on the left shows a state of true or market or natural anarchy, in which all members of society relate to each other

in strictly bilateral transactions without third party intervention. The circle on the right shows the situation prevalent under government. In the higher compartment we see individuals whose relations among each other are no longer bilateral. All relations are legally "triangular," in that all members of society are forced to accept the rule of government in their transactions. However, in the lower compartment, inside the "government" itself, relations among the rulers remain in anarchy.¹¹

Figure 1



II

Having shown that anarchy is not completely abolished by government but reserved, so to speak, for the rulers only, among whom it is the prevailing condition, it is proper to inquire whether this is beneficial for society. Its proponents and defenders claim that without government society would be in a state of intolerable violence. Thus it is logical to inquire whether the effect of government is to increase, reduce, or in no way affect the level of violence in society.

Is political anarchy less violent than natural or market anarchy? Minimalists argue that it is, provided government is strictly confined to the role of acting as a third party in property disputes. While government necessarily involves the use of limited violence, minimalists say, the level of violence in a minimal state would be lower than that in natural anarchy.

Figure 2 illustrates the minimalist idea. By providing the amount of government of the minimal state, the level of violence in society drops below the level in natural anarchy. Presumably, judging from the vociferous anti-interventionist stand of the minimalists, if government grows beyond the size of a limited state, either there are no further gains in reducing violence—and thus more government is pointless and costly in other ways—and/or beyond a certain size the level of violence in society rises to meet or perhaps surpass the amount of natural violence. (See Figure 3.)

Figure 2

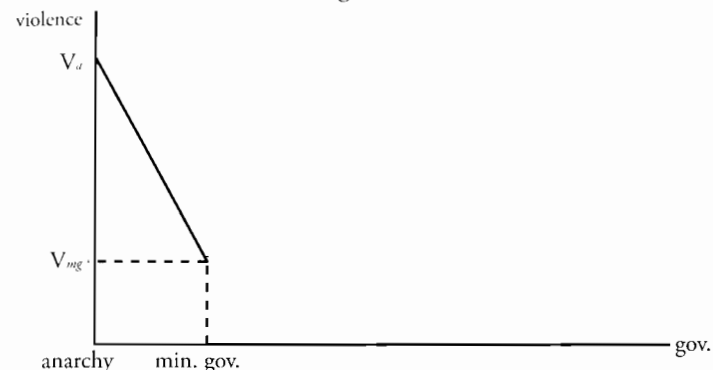
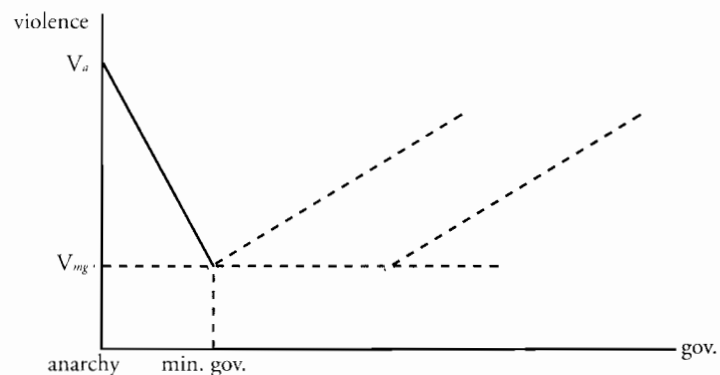


Figure 3*



*Broken lines represent possible effects on violence from enlarging government beyond the minimal state.

That violence under political anarchy might exceed the violence of market anarchy is not inconceivable.¹² Hitler's concentration camps and Stalin's Gulags are evidence of violence in such proportions that one could hardly venture to say that natural anarchy would be worse than that. Similarly, the political anarchy of nation-states has produced interstate violence on such a scale that it must give pause even to the most devoted disciple of Hobbes.¹³

A third view is possible and theoretically the most interesting. This view says that the relation between government (the substitution of political for market anarchy) and violence, is qualified by a third element, the structure of the government, measured along a centralization dimension. The more authoritative powers are dispersed among numerous political units, the more pluralistic the government. The more centralized the structure, i.e., the more authoritative powers are concentrated, the more hierarchical the government. Note that the more hierarchical the government, the more government is run

on the assumption of an ultimate arbiter. In other words, the more centralized the structure, the greater the effort to *create* a single "third party" inside the government itself in the form of a God-like figure such as a Hitler, Stalin, Mao or Castro. Such a "third party," however, remains in complete anarchy from the rest of his countrymen and the rest of the world.¹⁴

The more plural the politics of a country, the more the rulers behave without any reference to a "third party" and thus the more society resembles natural anarchy. The less plural or more hierarchical the politics of a country, the more society appears to be ruled by a truly "external" element, a god-like figure sent from the heavens of history, religion or ideology.

A cursory glance at contemporary societies and recent history shows that, empirically, it is precisely those societies ruled by such earthly personifications of Government where the level of violence in the form of political repression, coercion and intimidation is highest. In contrast, violence is lowest in societies with highly pluralistic politics, such as Switzerland. This is true even in the "communist" world: the more pluralistic communist politics of Poland or Yugoslavia are less violent than the more hierarchical politics of the Soviet Union. Similarly, in the Western world, the more pluralistic politics of the United States are less violent than those of Italy, where politics are much more hierarchical.¹⁵

But why would the degree of centralization determine whether political anarchy is violent in hierarchical states such as China or Cuba, and relatively peaceful in pluralist states such as India and Costa Rica? The answer may simply lie in the fact that centralized states are more likely to make mistakes than decentralized states.¹⁶ Political mistakes are in the form of *wrong* or *false* conceptions about the nature of bilateral relations in society and in politics, such as conceptions held about the relation between worker and capitalist in communist states. If judgments are wrong, they are not voluntarily accepted by one or both of the parties to the transactions. Under those conditions, the only way for the rulers to enforce their "third party" conceptions is to use force, which, under different conditions, will or will not be resisted by the opposition.

In a pluralist government, wrong conceptions about bilateral relations in society are less likely to occur. This is because there are numerous units independently interacting with each other and with the citizens and subjects, so that more and better information about the effect of these judgments on bilateral relations exist. Moreover, wrong conceptions are more easily checked as various autonomous political units, each capable of marshaling political resources of their own, confront each other in a successive series of political transactions.

In a hierarchical government, however, not even the members of the government are permitted to settle disputes among themselves. *All* relations are subjected to the judgment of some supreme leader. Such a leader must maintain a vast network of spies and enforcers to accomplish such a superhuman feat. Of course, one man's ability to control the behavior of others is quite limited, and so even in Hitler's Germany, truly Machiavellian, feudalistic deals were made right under the Fuhrer's nose. Naturally, such arrangements were prohibited so

everyone lived in a state of fearful insecurity, not knowing when his enemies would succeed in turning Hitler against him.¹⁷

Whether this explanation is a good one or not, we still have with us the *explanandum*, i.e., the fact that hierarchical politics are more violent than pluralist politics. But if society with a pluralist political anarchy experiences less violence than societies with a hierarchical or "governed" government, isn't it logical to inquire whether natural anarchy is less violent than political anarchy? Why should the relation between government and violence be curvilinear? Isn't it possible that it is upward sloping *all* the way, so that government always produces more violence than the market?¹⁸

Summary and Conclusion

We have shown that anarchy, like matter, never disappears—it only changes form. Anarchy is either market anarchy or political anarchy. Pluralist, decentralized political anarchy is less violent than hierarchical political anarchy. Hence, we have reason to hypothesize that market anarchy could be less violent than political anarchy. Since market anarchy can be shown to outperform political anarchy in efficiency and equity *in all other respects*,¹⁹ why should we expect anything different now? Wouldn't we be justified to expect that market anarchy produces less violence in the enforcement of property rights than political anarchy? After all, the market is the best economizer of all—wouldn't it also economize on violence better than government does, too?²⁰

Notes

1. 2006 addition: It's been almost three decades since I wrote this essay. A couple of years ago, when he was still editor of *The Journal of Libertarian Studies*, Hans-Hermann Hoppe invited me to revisit it. His successor renewed the invitation. But the pursuit of other interests and the fulfillment of other obligations have stood in the way. In lieu of that task, which I hope to accomplish some day, I take this opportunity to insert a few reflections in the footnotes. Also, I have found passages in Locke's *Second Treatise* and Hobbes' *Leviathan* that are consistent with the idea that the escape from anarchy is illusory, and these have been inserted in footnotes, as well.
2. Even Gordon Tullock writes, "If, as I believe is correct, people under anarchy are every bit as selfish as they are now, we would have the Hobbesian jungle...." From the point of view of this paper, it is interesting that in the very next sentence he adds: "...we would be unable to distinguish a fully corrupt government from no government." Gordon Tullock, "Corruption and Anarchy," in Gordon Tullock (ed.) *Further Explorations in the Theory of Anarchy* (Blacksburg, Virginia: University Publications, 1974).
3. 2006 addition: In the original essay I used "market anarchy" and "natural anarchy" interchangeably. Today I would consistently use the latter term, which is equivalent to what Hobbes and Locke called "the state of nature."
4. 2006 addition: As well as market laws, anarchy would be subject to whatever other sociological laws govern (in the naturalistic sense) interpersonal or intergroup relations. For example, the outbreak of violent conflict in the state of nature could be a function of the distribution of capabilities for exerting force among individuals or groups, much like the onset of interstate war may well be at least partly a function of the dyadic or systemic distribution of military power among nations.

