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Is “anarcho” capitalism against the state?

Iain MacSaorsa

“Anarcho”-capitalism implies a class division of society into bosses and workers, due to its support of private property. Any such division will require a state to maintain it. However, it need not be the same state as exists now. In so far as this goes, “anarcho” capitalism plainly states that “defence associations” would exist to protect property. For the “anarcho” capitalist, these companies are not states. According to Rothbard [Nomos XIX], a state must have one or both of the following characteristics:

1. The ability to tax those who live within it.

2. It asserts and usually obtains a coerced monopoly of the provision of defence over a given area.

Instead of this, the “anarcho”-capitalist thinks that people should be able to select their own defense companies, which would provide police, courts, etc. These associations would “all… would have to abide by the basic law code” [op cit, p.206]. Thus a “general libertarian law code” would govern the actions of these companies.

Like anything else under capitalism, this "law code" would reflect supply and demand, particularly if "judges… will prosper on the market in proportion to their reputation for efficiency and impartiality" [Rothbard, op cit, p. 204].

It does not take much imagination to think who's interests "prosperous" judges and defense companies would defend. Their own, as well as those who pay their wages, other members of the rich elite. If the system is based on $1, one vote, its easy to see whose values the "law" would defend. The terms of "free agreements" under such a law system would be titled in favour of lenders over debtors, landlords over tenants, employers over employees, in a way which is identical to the current system. As would be expected in a system based on "absolute" property rights and the free market. How the laws would actually be selected is anyone's guess, although I would imagine most "anarcho"- capitalists support the myth of "natural law", the authoritarian implications of which are discussed in section X.X.X. In any event, it would not be based on one person, one vote and so the "general law" code would reflect invested interests and be very hard to change, and so would not develop as society develops.

In a free market, supply and demand would soon result in a legal system which favoured the rich over the poor. As rights would be like everything else, a commodity, they would soon reflect the interest of the rich.

However, some "anarcho" capitalists claim that just as cheaper cars were developed to meet demand, so would defense associations for the poor. This forgets a few key points, the general "libertarian" law code would be applicable to all associations, so they would have to operate within a system determined by the power of money. Secondly, in a race between a jaguar and a mini, who do you think will win? And lastly, as with any business, the free market would soon result in a few companies dominating the market as capital costs increase as the result of profit making and competition. With obvious implications for "justice".

So it appears that "anarcho" capitalism would have laws, police, armies and so forth. Sounds familiar, doesn't it? However, there is one slight difference. Property owners would be able to select between competing companies for their "services". Hence, "anarcho" capitalism does not get rid of the state, it only privatises it.

Far from wanting to abolish the state, "anarcho" capitalists only desire to privatise it. Their "companies" perform the same service, for the same people, in the same manner. By being employed by the boss, they only reinforce the totalitarian nature of the capitalist firm by having the police being not even slightly accountable to ordinary people.

Therefore, far from being anarchists, "anarcho"-capitalism are just capitalists who desire to see private states develop, states which are strictly accountable to their pay masters without even the sham of democracy we have today. Therefore, a far better name for "anarcho"-capitalism would be "private state" capitalism, at least that way you get a fairer idea of what they are trying to sell you.

As far as even meeting its own definitions, "anarcho"-capitalism runs into trouble. Under capitalism, most people send a large part of their day on other people's property — namely they work and/or live in rented accommodation. Hence, if property owners select a "defense association", would this not appear as a "coerced monopoly of the provision of defence over a given area"? Even considering the "common law code", could this not be considered a monopoly? Particularly if ordinary people have no real means of affecting it (either it is market driven, and so would be money determined, or it will be "natural" law and so unchangeable by mere mortals). In addition, the costs for these associations will be deducted from the wealth created by those who use, but do not own, the property. Hence workers would pay for the agencies that enforce their employers authority over them, taxation in a different form.

In effect, "anarcho"-capitalism has a *different* sort of state, one in which bosses can fire the policeman. As Peter Sabatini notes [Libertarianism: Bogus Anarchy], "Within Libertarianism, Rothbard represents a minority perspective that actually argues for the total elimination of the state. However Rothbard's claim as an anarchist is quickly voided when it is shown that he only wants an end to the public state. In its place he allows countless private states, with each person supplying their own police force, army, and law, or else purchasing these services from capitalist vendors.[Murray N. Rothbard, "Society Without A State", in Pennock and Chapman, eds., p. 192.] Rothbard has no problem whatsoever with the amassing of wealth, therefore those with more capital will inevitably have greater coercive force at their disposal, just as they do now."

As Peter Marshall again notes, "anarcho" capitalists "claim that all would benefit from a free exchange on the market, it is by no means certain; any unfettered market system would most likely sponsor a reversion to an unequal society with defense associations perpetuating exploitation and privilege" [Demanding the Impossible, p. 565].

The "anarcho" capitalist imagines that they will be police agencies, "defence associations", courts and appeal courts all organised on a free market basis and available for hire. As David Wieck notes however, the major problems with such a system is not the corruption of "private" courts and police forces (although this is a problem):

> "There is something more serious than the "Mafia danger", and this other problem concerns the role of such "defense" institutions in a given social and economic context.
>
> "[The] context… is one of a free-market economy with no restraints upon accumulation of property. Now, we had an American experience, roughly from the end of the Civil War to the 1930's, in what were in effect private courts, private police, indeed private governments. We had the experience of the (private) Pinkerton police which, by its spies, by its *agents provocateurs*, and by methods that included violence and kidnapping, was one of the lost powerful tools of large corporations and an instrument of oppression of working people. We had the experience as well of the police forces established to the same end, within corporations, by numerous companies… (The automobile companies drew upon additional covert instruments of a private nature, usually termed vigilante, such as the Black Legion). These were in effect, and as such they were sometimes described, private armies. The territories owned by coal companies, which frequently included entire towns and their environs, the stores the miners were obliged by economic coercion to patronize, the houses they lived in, were commonly policed by the private police of the United States Steel Corporation or whatever company owned

> the properties. The chief practical function of these police was, of course, to prevent labour organisation and preserve a certain balance of "bargaining"."
>
> "These complexes were a law unto themselves, powerful enough to ignore, when they did not purchase, the governments of various jurisdictions of the American federal system. This industrial system was, at the time, often characterised as feudalism…."

Here we have one of the closest examples to the "ideal" of "anarcho" capitalism, limited state intervention, free reign for property owners, etc. What happened? The rich reduced the working class to a serf-like existence, capitalist production undermined what forms of independent producers that existed (much to the annoyance of individualist anarchists at the time) and basically produced the corporate america most "anarcho" capitalists say they are against.

The rise of Corporations within America indicates exactly how a "general libertarian law code" would reflect the interests of the rich and powerful. The laws recognising corporations were *not* a product of "the state" but of the law system, something which Rothbard has no problem with. As Howard Zinn notes, "the American Bar Association, organised by lawyers accustomed to serving the wealthy, began a national campaign of education to reverse the [Supreme] Court decision [that companies could not be considered as a person]… By 1886… the Supreme Court had accepted the argument that corporations were "persons" and their money was property protected by the process clause of the Fourteenth Amendment… The justices of the Supreme Court were not simply interpreters of the Constitution. They were men of certain backgrounds, of certain [class] interests" [A People's History of the United States, p. 255].

This would be the obvious result for "when private wealth is uncontrolled, then a police-judicial complex enjoying a clientele of wealthy corporations whose motto is self-interest is hardly an innocuous social force controllable by the possibility of forming or

affiliating with competing "companies" [Weick, op cit, p225]. Particularly if these companies are themselves Big Business, and so with a large impact on the laws they are enforcing.

Wieck's sums up by saying "any judicial system is going to exist in the context of economic institutions. If there are gross inequalities of power in the economic and social domains, one has to imagine society as strangely compartmentalised in order to believe that those inequalities will fail to reflect themselves in the judicial and legal domain, and that the economically powerful will be unable to manipulate the legal and judicial system to their advantage. To abstract from such influences of context, and then consider the merits of an abstract judicial system… is to follow a method that is not likely to take us far. This, by the way, is a criticism that applies … to any theory that relies on a rule of law to overrider the tendencies inherent in a given social and economic system."[Weick, op cit]

In evaluating "anarcho" capitalism's claim to be a form of anarchism, Peter Marshall notes that "private protection agencies would merely serve the interests of their paymasters" [Demanding the Impossible, p. 653]. With the increase in private "defense associations" under "really existing capitalism" which many "anarcho" capitalists point to as examples of their ideas, we see that this is the case. There have been many documented experiences of protesters being badly beaten by private "security guards". As far as market theory goes, the companies are only supplying what the buyer is demanding. The rights of others is *not a factor* (yet more externalities, obviously) . With the reversion to "a general libertarian law code" enforced by private companies, this form of "defense" of "absolute" property rights can only increase, to levels which we have indicated above in American history.

It is clear from considering section C.1 (what is the state), that the "anarcho"-capitalist defense associations meet the criteria of state-hood. They defend property and authority relationships, they exercise coercion and they are hierarchical institutions which govern those under them for those who employ them both.