
The Voluntaryist

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"If one takes care of the means, the end will take care of itself."

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Changing Minds

By Jim Davies

[Editor's Note: During early June 2006, one of my subscribers put me in touch with Jim Davies, author of The On Line Freedom Academy (TOLFA). TOLFA is a web-based series of study lessons devoted to expounding the free market. I was so impressed with Jim's work that I asked him to write an article about his background and the events which led to the creation of TOLFA. The On Line Freedom Academy reminds me of Bob LeFevre's Freedom School. Although there are some differences, its basic outlook is voluntaryist, and I highly recommend it to my readers. As Jim writes, if each one of us can introduce one person per year to TOLFA and convince them that that freedom works, both morally and practically, we will all be that much closer to achieving freedom in our lifetime.]

In June 2006, I launched "The On Line Freedom Academy" or TOLFA, at www.tolfa.us. It has the modest aim of changing the minds, over a period of a little over two decades, of 268 million literate Americans. It has the potential of changing our society from one where many decisions are made under compulsion, to one in which all decisions would be made voluntarily - that is, changing our society from a culture of force to one embracing voluntarism.

It will do so one by one, with every graduate or "full member" bringing to the Academy from among his circle of friends at least one new student per year. Thus, membership doubles annually; since 268 million is 2 to the 28th power the job would take 28 years if there were nobody starting but me. In fact there are quite a lot more than me already, so the job will be complete within the decade of the 2020s. If on average members bring *more* than one new participant per year, we might even see that free society start during the decade of the 2010s.

One key underlying assumption is that people generally are open to reason, and that's what Carl Watner has asked me to explore in this article. What, exactly, changes minds? - and more particularly, he asked me, what caused my own mind to change; what brought me to this point, of launching TOLFA? These questions are very good, because it may be that peoples' positions are formed and fixed by means *other* than reason - for example, by emotions such as fear. Politicians, certainly, are expert at playing on emotion and prejudice (pre-judgments.) Must we emulate those creeps? I, for one, hope not.

And I think not, too. Pols "fool most of the people,

most of the time" by lies and appeals to emotion not just because those tricks do, alas, work - but also because if they resorted to reason they would have nothing to say. There are absolutely no votes generated by announcing "I am here to steal from you to pay to brainwash your neighbor's children in my institutions." It's a real turn-off, when stated plainly, truthfully and reasonably. So instead he disguises the truth and speaks just of his noble and selfless wish to see "our children educated" and leaves unspoken all those pesky financial and moral details.

But we freedom-seekers do have reason on our side. When we think it through, we can see government for the fraud that it is. We can start with the undeniable premise of human self-ownership and reason through to the inescapable conclusion that government needs to be totally eliminated from human society - not just for the evil it *does*, but primarily for the evil that it *is*. That is where TOLFA leads its members, and that is our great strength. All we need is to know that minds are receptive to reason.

Mine was - eventually. Presumably, since you're reading this, so was yours. Here's what happened to me.

I was born in England, am fairly bright (for neither of which I can claim credit), rather shy (for which I accept no blame), and of parents with a good work ethic. That's the hand life dealt me. It's not a bad one, and I have been very fortunate. By age 12, I remember having decided to be an atheist - and somehow I got there by reason, for there was no pressure or emotion driving me that way, that I can recall, but it was probably my first big decision. At 13, I made a second, namely to follow my parents' sound advice to attend boarding school, which certainly led me to a first class education including a Cambridge degree.

But I move too fast: at 16, still at school, I underwent a religious conversion, after which for 18 years I was a Christian. That too was a very big decision with lots of implications but I'd say it was *not* based on reason. My shyness had left me somewhat pummeled at boarding school so when I encountered a very warm, friendly environment of kindly Evangelicals who wanted me to join them it wasn't hard to respond; I didn't consciously go against my intellect or violate reason, it was just that reason played no part in the change and my atheism kind of melted away. If it had (had there been someone present to remind me that this or that premise I was hearing was unsupported) I can't say how my deci-

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Potpourri from the Editor's Desk

No. 1 "Williams' Law"

Whenever the profit incentive is missing, the probability that people's wants can be safely ignored is greatest. If a poll were taken asking people which services they are most satisfied with and which they are most dissatisfied with, for-profit organizations (supermarkets, computer companies, and video stores) would dominate the first list while ... [government] organizations, (schools, offices of motor vehicle registration) would dominate the latter. In a free economy, the pursuit of profits and serving people are one and the same. No one argues that the free enterprise system is perfect, but it's the closest we'll come here on Earth.

—Walter Williams, "The Entrepreneur As American Hero," 34 IMPRIMIS (March 2005), p. 5.

No. 2 "Of Voluntaryism and Geometry"

If one were to have recourse to solid geometry for analogies to social systems, an institutionally-dominated society would resemble a pyramid, with [state] authority centered in the hands of a few at the top, and the bulk of humanity responding to the directions issued vertically and unilaterally. A society characterized by individual liberty [voluntaryism], on the other hand, might appear as a sphere. On the surface of a sphere there are no preferred locations, no positions from which power would be more likely to flow than others. Spherically-based relationships would take the form of inter-connected networks, with neither "tops" nor "bottoms."

—Butler Shaffer, in "What the Struggle Is All About," August 1, 2005, lewrockwell.com

3. "Freedom: The Fundamental Condition of Morality"

Freedom is the primal and basic condition of morality. Without it there can neither be virtue nor vice. When a person is accused of a crime, we consider him exculpated just so far as it can be shown that he was coerced in to the conduct which

is laid to his charge. And this irresponsibility holds equally, regardless of virtuous and vicious conduct. A person who was forced to aid one in distress, who in previous years had placed him under deep obligation, could not be accounted grateful, Good and evil, in a moral sense, arise out of the free choice of the individual, and can arise in no other way. Coercion, so far as it goes, is destructive of the very soil in which moral conduct is reared - it is *pro tanto*, a denial of the very opportunity to be virtuous or the reverse.

—J. H. Levy in A. Goff and J. H. Levy, *POLITICS AND DISEASE*, London: P. S. King & Co. for The Personal Rights Association, 1906, p. 200.

4. "Is Punishment Necessary for Law?"

European explorers often said, "Indians have no law." Why? They couldn't see the police; they couldn't find the courts; they didn't see uniforms, jails, and all the trappings of power. But they also couldn't see the clan mothers [and tribal elders] who are so important to our Native legal institutions. ... We deal with each other in ways to *avoid* confrontation and the use of force. Force, coercion, and the ability to punish are not necessary to have law [i.e., social order and peace].

—Robert Yazzie, "Healing As Justice: the American Experience," in *JUSTICE AS HEALING* (Spring 1995), p. 7.

No. 5 "The People Were Reduced to A State of Anarchy"

The old constitution being taken away by act of parliament, and the new one being rejected by the people, an end was put to all forms of law and government in the province of Massachusetts's Bay, and the people were reduced to the state of anarchy, in which mankind are supposed to have existed in the earliest ages. The degree of order, however, which, by the general concurrence of the people, was preserved in this state of anarchy, will forever excite the astonishment of mankind, and continue amongst the strongest proofs of the efficacy of long established habits, and to a constant submission to [natural] laws. Excepting the general opposition to the new government and the excesses arising from it, in the outrages offered to particular persons, who were upon that account, obnoxious to the people, no other very considerable marks appeared of the cessation of [political] law and order.

—CALEDONIAN MERCURY (Edinburgh), August 20, 1776, cited in Donald W. Livingston, *PHILOSOPHICAL MELANCHOLY AND DELIRIUM* (1998), p. 313. [Livingston adds "that Americans had achieved the maturity necessary for self-government, because they were able to conduct themselves with propriety in a state without government."] ▢

Changing Minds

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sion might have gone. But there wasn't.

So for a couple of decades I buckled down to an interesting and successful career with IBM and to raising a family and preaching on occasion in the local chapel. Government was, as far as I knew and was interested, just "there" like the weather; it was a fact of life. I was definitely Conservative rather than Socialist - I could see that clearly into the political arena, and voted that way at elections - but I had no interest in taking further part.

In 1972, however, I asked myself a question and pressed it rather harder than I ever had before: "How do you *know* that Christianity is all true, objectively?" The usual answer was that the Resurrection was a proven fact, so I checked again and to my astonishment found that it was not proven at all! - that a natural, possible explanation for the empty tomb does in fact exist. Details appear at <http://takelifeback.com/oto/stone.htm> for those interested. I ran the finding past several theologians of high repute and none of them had a coherent answer - so I left the Christian world; without regrets, for it had been a pleasant pair of decades with many good friendships formed. But now I knew that it was all actually no more than a benevolent fairy tale.

That however left a vacuum: what purpose, from then on, was to excite and color my life?

I felt liberated, and so was inclined to an interest in freedom. In 1976 I was astonished to learn from a BBC broadcast of a visiting Milton Friedman that there was a whole dimension of economic freedom of which I'd been unaware, and obtained (by having to order it, from a bookstore that had never heard of him!) a copy of his *CAPITALISM AND FREEDOM* and just lapped it up. I'd also for long been an admirer of the American style of life, so when a chance came in 1978 to move with IBM to New York, I grabbed it with both hands.

Then in 1979 I found myself waiting 45 minutes for a tank of gas, and did not understand why; for I had learned that queues (I didn't yet know to call them "lines") formed only in Communist countries. At Cambridge I had read some Economics, heavily influenced by that well-known alumnus John Maynard Keynes, so I was not wholly ignorant of the subject. When I searched high and low in the *NY TIMES* and *TIME* and *NEWSWEEK* but found no credible, comprehensible explanation whatever, I knew something was up.

Then I saw a full-page ad in the *TIMES*, placed by the Libertarian Party; and I filled out the form for more info.

It came, a few weeks later, with an elegant explanation for the gas lines based on government retail-price manipulation and foreign policy, and once again I was lapping things up and was introduced to a

whole library of magazines and books which I bought and devoured and it all made perfect sense! And although not qualified to vote (as a mere resident alien) I played an active part in the LP of Connecticut and later of New Hampshire.

This last quarter century has therefore been the most exciting of my life - understanding more and more about freedom and enjoying the company of freedom seekers, and trying to spread news of liberation. It has been my high privilege to meet a few of the really great pioneers in the movement, like Murray Rothbard, David Friedman, Harry Browne, and Anthony Alexander.

I came fairly quickly to see that partial pregnancy is not an option - that is, that "minarchism" is plain silly. That perception has deepened and hardened over the years. Rather later, however - the late 90s - I reached another key decision: that politics was not the way to achieve a free society. I doubt if it was wrong to try (probably the compromises Rothbard made, to try to unite a political movement, were worth trying) even though logically it makes little sense - but in fact it clearly will not work, so the point may be moot. The LP has striven mightily for three and a half decades, and has totally failed to break through. Further, dogged by lack of success, it has morphed into an outfit which Rothbard would hardly recognize, with more and more compromise of principle in a desperate attempt to gain recognition and votes. So I have quit politics, and have been trying to figure out what is needed to replace it - that is, how it is possible to end the Age of Government and so enjoy real freedom.

"The thought of how far the human race [might] have advanced without government simply staggers the imagination."

—Attributed to Doug Casey, 1979

It surprises me somewhat to find no such "strategic plan" anywhere. I never found one, even, in the LP! There were and probably are great-sounding Plans to Gain More Members or to Restore Revenue, but there was no grand strategy for getting from here to there; no road map, showing key steps to be achieved, with dates, and how and when government will implode as a result. Not in the Party, and - worse yet - not even outside it. I knew from my time in IBM that if you don't have a plan for achieving something, you certainly won't achieve it! (You may not achieve it even *with* a plan, and for sure the plan will need to be modified as you go along; but without a plan, you never even start.)

So I figured that since nobody else had done it and I saw the need, I might as well cook up a plan myself, which I called The On Line Freedom Academy. It provides a credible, reasonable, peaceful way to achieve a zero-government society within a single generation - not of course by force, but simply by the

withdrawal of all the support without which government absolutely cannot survive. Go join!

So there you are; a rather long and rambling tale of one person's search for liberty. Did I get here by emotion, or by reason? - ten thousand times, BY REASON! There was only one key decision in my life that was *not* based on reason, and it led me on an 18-year digression into religion. At all the other major turning points, I went where reason led me.

I often wonder, though, whether I would have reached my present understanding and purpose *much sooner*, if some reasonable person had reasoned with me earlier in the tale. Suppose someone had pointed me to something similar to TOLFA while busy with sermon prep? I have to say no; probably I'd not have been receptive. At that time I had no inkling that I was less than free already, and could have shown some proof-texts to explain. I knew that Socialists did deplorable things, but knew also that governments had been instituted by God so must in the end be obeyed; so any anarchist bearer of good news would not have kept my attention long. Like government, religion is a powerful twister of the mind and destroyer of reason and open inquiry; that was just not the right time, for me.

Suppose though that Anthony Alexander had crossed my path, back in '76 as I finished reading CAPITALISM AND FREEDOM and given me a copy of THE MARKET FOR LIBERTY to which he contributed; would I have lapped that up too, and moved directly from a bland and unthinking acceptance of Statism into hard-core anarchism, without my 20-year excursion into Libertarian politics?

I don't know how to know for sure, but I certainly hope so and cannot think of any reason why not. Anthony would have had to sit with me for quite a while, to lead me through the steps of reason that inevitably produce the conclusion that government is 100% a myth and a fraud, but I do think that at that time (1976) there were no obstacles in my mind that would have prevented him succeeding. Give or take a year, therefore, it seems to me that I'd have saved a couple of decades, had such reasoned help been available.

By the wonder of the Internet, reasoned help like that *is* now available, with TOLFA's interactive Q&A, to millions - completely free of charge. My own story suggests though that timing is vital - that the offer must arrive when the person is ready to use it - and that's the other strength of TOLFA, for in every case it will be drawn to his attention *by someone he knows* and probably more than once over a period of several years. That means he will eventually encounter it at or near *the very time he is ready* to consider what it says, just as I was back in 1976. And so I foresee we are going to have a very exciting pair of decades, and that our goal is, at last, now within reach. ▣

What is Kritarchy?

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litical systems of today's world, courts of law and police do not constitute and are not incorporated into a coercive monopoly. Anyone is entitled to offer judicial or police services to willing others. None can be forced to support any court of law or police force against his will. In short, in a kritarchy, judicial and police services are offered in a free market—which, in so far as exchanges of goods and services are concerned, is the natural law of the human world.

Because of its commitment to *equal justice for all*, a kritarchy does not know the usual political distinction between subjects and rulers. It lacks a government in the modern sense of the word, i.e. an organization with coercive powers that claims both the obedience of and the right to use the labour or property of those living in the area over which it effectively exercises control. Governing and taxing people by public or private force is not among the functions of the political system of kritarchy. People are free to govern their own affairs, either individually or in voluntary association with others, which means that each, in governing his own affairs, is required to leave others free to govern theirs. In this sense, freedom is the basic law of a kritarchy.

It follows that a kritarchy can only exist in societies where, and for as long as, a commitment to justice is sufficiently strong to defeat the efforts of persons who would use unlawful methods such as aggression, coercion, or fraud to further their ends or to evade responsibility and liability for wrongs they have caused others. While it is theoretically conceivable that freedom could be maintained by nothing more than unorganised, spontaneous actions of self-defence, in a kritarchy the commitment to justice manifests in its political system, which guarantees a free market for the enterprise of justice.

Origin of the Term

The term "kritarchy," compounded from the Greek words *kritēs* (judge) or *krito* (to judge) and *archè* (principle, cause), was coined in 1844 by the English author Robert Southy. In its construction it resembles terms such as "monarchy," "oligarchy" and "hierarchy." "Kritarchy" is mentioned, among other places, in *Webster's Unabridged Dictionary*, *The Oxford English Dictionary*, and *The American Collegiate Dictionary*. According to its etymological roots, a *kritarchy* is a political system in which justice (more exactly the judgment that seeks to determine justice) is the ruling principle or first cause. Similarly a *monarchy* is a system in which one person is supposed to be the ruling principle or first cause of every legal action, everyone else being no more than an obedient subject of the monarch. In an *oligarchy* a few persons (the oligarchs), acting in concert but without a fixed hierarchy among them, are held to be the source of all legal actions. In the modern system of parliamentary sovereignty, for

example, members of parliament constitute an oligarchy and have equal standing within the parliament. However, the results of their deliberations and decisions are supposed to bind all people who, because of citizenship or residence, are considered subject to the state's authority.

If "monarchy" denotes rule by one person and "oligarchy" denotes rule by a few, it is tempting to understand "kritarchy" as rule by judges. However, the use of the word "rule" should not mislead us into thinking that the rule of judges is like that of monarchs and oligarchs, and least of all that it is a particular sort of oligarchy.

"If you ever wonder if a bureaucrat has the 'right' to do something, then just ask yourself this question: Does my neighbor have a right to do this to me?"

—Marc Stevens, *ADVENTURES IN LEGAL LAND* (2005), p. 159.

Monarchs and oligarchs aspire to political rule, i.e. to being able to enforce on their subjects obedience to their commands, rules, decisions, and choices. In short, monarchs and oligarchs rule by a mixture of direct command and legislation. Judges, on the other hand, are supposed not to legislate but only to find ways and means of managing conflicts in a lawful manner. They do not seek to enforce obedience to their commands as such. Rather they seek respect for law, which is an order of things objectively given and not just anything that corresponds with whatever desires or ideals the judges may have.

Judges in a kritarchy have no subjects. In other political systems, judges have been incorporated as magistrates into a system of political rule and empowered to use coercive means to drag citizens and residents before their benches. Monarchs and oligarchs in those systems impose, or allow their servants (judges, prosecutors) to impose their rulings on those subjects on whom they want to impose their rulings. In other words, they "pick" their subjects (which is the root meaning of the Latin *legere*, from which the word *lex* for legislated or statute law is derived). In a kritarchy, judges do not choose which persons will appear before them. Instead, those people desiring to have their conflicts and disputes resolved by judicial judgment will "pick" their judge.

The distinctive characteristic of a kritarchy, therefore, is that it is a political system without the institution of political rule. If we think of it as "the rule of judges," we must remember that these judges enjoy no particular privileges or special powers. Kritarchy is not the rule of legislators, judges or any other category of privileged officials. It is simply the *rule of law*.

Historical Approximations

Examples abound, recent as well as historical, of kritarchy or near-kritarchy, and also of attempts to use constitutions and other charters to introduce elements

of kritarchy as checks on the powers of states and governments. In many parts of the world, even though they derive their authority merely from custom and not from a conscious and explicit commitment to natural law, unwritten customary laws memorized by clansmen frequently provide strong support for the dispersal of power that characterizes kritarchy.

At the end of the second millennium before Christ, the Hebrews lived in a system described in the biblical book of the Judges. Their "judges" were not judges in the technical sense of modern legal systems. They were influential, respected men who provided leadership and counsel without having power to coerce or tax. The history of Celtic and Germanic peoples both before and during their confrontation with Roman imperialism is replete with examples, as is the medieval period after the collapse of the Roman Empire in the West. Kritarchy was firmly established in medieval Ireland until the middle of the thirteenth century, and in Frisia into the sixteenth century. In the first half of the nineteenth century, European immigrants who settled in the Midwest and the Far West of North America developed their own brand of kritarchy. Clan societies in Asia and Africa adhere to some forms of kritarchy so far as they have not been submerged in the statist structures imposed by the colonial powers and taken over by indigenous political rulers in the post-colonial period.

While these historical realizations or near-realizations of kritarchy may suggest that it is a primitive political system, it should be borne in mind that most of them fell victim to conquest or to the firm hold on power established by military lords in times of war, who then turned ostensibly temporary structures for the mobilization of men and resources into a permanent apparatus of political rule. It is certainly true that kritarchies are ill equipped to make or endure war for long periods of time. The vulnerability of kritarchies in the face of massive military operations is comparable to that of a small or technologically backward state confronting the might of a large or technologically advanced neighbour. This is a problem, however, that we can acknowledge without losing sight of what a kritarchy has to offer for more "normal" times.

Democracy

Democracy, despite some of its advantages over other forms of political rule, is nevertheless a system in which some presume to have the right to govern the rest regardless of their consent. As such, it is unacceptable from the viewpoint of natural law and is incompatible with the political system of kritarchy. Under a democracy people vote to determine which individuals will be their political representatives, and there is no fault in that. The central defect and, in fact, the irreparable defect of democracy is that it embodies the 'right' of the representatives to rule over those who did not vote for them as well as over those who did. It allows the elected rulers to violate the natural rights of people with impunity—at least if

they do so in a properly legal way by specifying in advance and in sufficient detail how it should be done, by which magistrates or officers of the state, where people can complain if they feel their rights are improperly violated, and so forth. As in other systems of political rule, however much formal independence of the legislature and the executive the judiciary may enjoy, there is in a democracy no truly independent—*no non-governmental*—police or judiciary to which people can appeal. A democracy outlaws all independent sources of protection of natural rights as a matter of constitutional necessity, in order to make sure that no natural rights can be invoked against the legal rights of democratic rule.

Democracy is often presented as “government by consent,” but that is never more than the consent of a majority and, as a rule not even that. As a political device, democracy was no doubt a great invention. Regular elections provide a rough mechanism for ensuring an alignment of rulers and a sizeable part of the subjects over whom they rule. Elections thereby help to prevent or minimize the violent confrontations and unrelenting repression and exploitation that are permanent risks in other systems of rule. Nevertheless, elections have no basis in natural law. To understand this, it suffices to ask how a person could lawfully authorize another to do what he himself has no right to do. The question is pertinent because, to repeat, democracy is a system of political rule in which there is a distinction between the rulers and the ruled, and between the legal rights of the rulers and those of the ruled. If you attempted to do to your neighbours what a democratic government does to its citizens, let us say, tax them, fix their hours of work, force them to send their children to schools of your choice, or accept the money you have printed, you would very likely end up in jail. No democracy allows you to do such things. Nor does it allow you to undertake these activities in conspiracy with others. But it does allow you to have someone else do them in your name and on your behalf! All you have to do is to vote for your “political representative.”

To deny anyone the natural right to withdraw his consent, moreover, makes a nation a closed community to which one is assigned by birth and for life: a life sentence. The inability to withdraw consent—to secede—except by permission of the government itself makes a farce of the whole idea of consent.

There's only one way to abolish war, and that's to abolish government.

—Jim Davies, THE ON LINE FREEDOM ACADEMY, Segment 10, Sec. 4.

But the great mystery of democracy is that “representatives” are vested with powers the people who empowered them are not and should not be allowed to exercise. Of course, the mystery is only apparent. It disappears as soon as we recall the Hobbesian foun-

dation of democracy, that there is nothing wrong with injustice as long as it is properly monopolized. More fundamentally, in a democracy every voter is assumed to have a right to decide who should control the coercive monopoly and rule everyone else in the state. That becomes obvious in the unlikely scenario where only a single voter shows up at the polls. His vote then decides which party should take over parliament and the government, as if he were an absolute monarch picking his counsellors and ministers.

Constructions of Artificial Law

Leaving no room for the idea that human beings are natural persons in a natural world, current legal and political ideologies make any man or woman an artificial being, a “citizen,” whose very essence is defined and created by the legal rules of the state to which he or she belongs. Within the state, human beings have no rights except in so far as some legal authority regulates their existence and freedom. That is why the United Nations’ Universal Declaration of Human Rights, in its Articles 6 and 15, names “a legal personality” and “a nationality” among the things people have a right to. From the point of view of the Declaration’s underlying philosophy, a legal personality and a nationality, in a word, “citizenship,” are desirable because they are the necessary conditions of legal existence in the state. Without them a person is a nobody. Once we substitute the perspective of legal rule for that of natural law, we must admit that what a person has a right to do or to call his own depends, not on what he is or does, but on his status in the legal order in which he happens to find himself. He becomes an artificial person in an artificial order, like a piece of wood that is assigned different “rights and duties” depending on whether it is used in a game of chess, checkers, or backgammon.

The glorification of such artificial legal orders is common in contemporary legal and political thought, where fiction seems invariably to triumph over reality. These orders are based on artificial or imaginary distinctions and on the neglect of or disregard for natural distinctions. Some of them arbitrarily or systematically refuse to acknowledge certain persons as persons at all. Others define some or all persons as being in some or all respects a “part” of others, to which they are therefore said to belong. Some go so far as to define human beings as parts of non-existent imaginary or fictitious persons. In fact, however, natural persons are never “parts” of other natural persons or legal fictions. They may become members of some association or society, and in that sense become “participants” in its activities, but that does not imply that they are thereby mysteriously transformed in mere “parts” of a person—nor does it imply that the association is a person in its own right.

No matter what the philosophical pretensions behind the constructions of artificial law may be, they all share a common practical implication. They deny the freedom and equality of certain human beings. These

artificial constructions cannot hide the fact that from the perspective of law some people either do not exist at all or exist only in so far as they are “represented” by others. Thus, by denying natural law and the natural distinctions that constitute it, they conjure up an idea of law that makes the non-consensual ‘government’ of one person by another seem “lawful.”

It should be sufficiently clear by now that natural law is not a question of idle speculation, but of natural fact. In this sense a kritarchy is a political system based on respect for the facts of the human world. Respect for natural law is therefore an objective category of human action. Human actions that respect law are lawful and therefore just. Those that do not are unlawful and unjust.

Justice

Justice in the general sense is the art or skill of acting in conformity with law, with due regard for the rights of other persons. In the particular “technical” sense it is the art or skill of discovering rules, methods, and procedures that effectively and efficiently provide for the defence and, if need be, fortification and restoration of the law of the human world. The discovery, refinement, and systematisation of such rules, methods, and procedures are the proper field of jurisprudence as a rational discipline.

I was once asked if I thought the ‘Founding Fathers’ had good intentions. I replied that this was subjective and irrelevant. The only pertinent issue is whether they or any present day advocates of constitutional government believe[d] that protection and the other services governments provide should be provided on a voluntary basis. Would they arrest and place in jail a person who refused to contribute to the government?

—paraphrased from Marc Stevens,
ADVENTURES IN LEGAL LAND
(2005), p. 224.

In an evolved kritarchy, jurisprudence is the business of specialists—jurists—who supply their skills in an open market to individuals and organizations. In more complex societies, they render this service primarily to courts of law, police forces, and other organizations involved in enforcing observance of natural law and helping people make their actions conform to the requirements of justice. As noted before, in a kritarchy neither the courts of law nor the police forces have any legal monopoly. Their clientele and membership remain free to shift their demand from an unsatisfactory to a hopefully more satisfactory supplier of justice. Consequently, courts of law and police forces in a kritarchy have a strong economic incentive to avoid using violence or other coercive means to, say, compel a person to appear in court, unless they have good reason to believe that

he is guilty as charged, is obstructing the course of justice, or is not insured to cover his liabilities.

Not being above the law, the courts and police forces of a kritarchy always run the risk, should they deprive others of their rights when justice does not require it, of being charged with unlawful behaviour in another court. That other court might be a competitor or a group of competitors. It might also be a parliament, i.e. a representative body that acts as a public guardian of the law. Such a parliament would sit only as a court of law, however; it would not have the power to govern or to make laws that restricted anyone’s rights. However, it could be an effective agent of justice, for instance by convincing the public that the courts of law or police forces it convicts are not worthy of the public’s trust, or by convincing other organizations of justice to enforce its verdicts against recalcitrant convicts. Because they need the consent of all parties if they wish to avoid the risk of using violence against an innocent person, the courts in a kritarchy must offer adequate guarantees of competence and impartiality. They must do so in order to elicit the cooperation of the accused and defendants as well as to assure the plaintiffs and claimants, who initiate the proceedings, that their verdicts are unlikely to be contested in another court. Short of seeking a monopoly by the violent elimination of its competitors, an organisation of justice has no alternative but to build up a solid reputation for justice.

Working out details, conventions, and protocols for an operational and efficient system of justice is no mean task. Like every other significant practical undertaking, it requires knowledge of the general principles of law as well as experimentation with different types of organization for supplying justice. It is the task of applying entrepreneurial creativity to recombine available social, technical, administrative, and financial resources and skills to improve the prospect for effective justice. It is not likely that this task can be carried out with any consistency within the stifling confines a legal monopoly. On this conviction, the case for kritarchy rests.

[Frank van Dun, born 1947 in Antwerp, Belgium, studied law and philosophy at the University of Ghent. His Ph.D. dissertation in 1982, *The Fundamental Principle of Law* (in Dutch), attracted the attention of Michael van Notten, who used it to develop his own views on freedom and law into a framework of thought and action for his libertarian projects. Prof. van Dun teaches legal theory, philosophy of law, fiscal theory, and logic at the universities of Ghent and Maastricht. In addition to many papers on those subjects, he has published two books in Dutch, one on Utopias (*The Utopian Temptation*, 1997, with Hans Crombag) and another on fiscal practices (*Man, Citizen and Fisc*, 2000). This essay originally appeared as “Appendix B” in Michael van Notten, *THE LAW OF THE SOMALIS*, Trenton: The Red Sea Press, 2005, pp. 187-196. Reprinted by permission of Spencer MacCallum and Isabelle van Notten.] ▣

What is Kritarchy?

By Frank van Dun

The most distinctive contribution of Africa to human history has been precisely in the civilized art of living reasonably peacefully without a state.

—Jean-Francois Bayart (1989:58)

Kritarchy is an ideal legal and political system most closely approximated in the institutional structures of traditional societies, especially those described by anthropologists as “acephalous,” “polycentric,” or “stateless.” Such societies are based on customary rather than statutory law. This type of law fares poorly under statutory regimes, and stateless societies have diminished drastically in numbers with the spread of political states over the past several millennia. Nevertheless, though endangered, societies approximating kritarchies are far from extinct. Nor should they be considered primitive. The Somali system of customary law Michael van Notten describes in this book, for example, is not a curiosity of some backward tribe. It is a living and highly developed juridical system looking to the future rather than the past.

Somalia is unique in the world today for being free of even the titular domination of a central legislative apparatus. The central government of the Somali Democratic Republic was dismantled in 1991 when, after the ouster of dictator Siad Barre, no

agreement was reached on a successor. For more than a decade, Somalis have resisted the unremitting efforts of the United Nations and its supporters to reimpose that government. If they continue to be successful in their resistance, then it can be reasonably expected, as Van Notten argues in this book, that the Somali customary law system will evolve into a full body of common law capable of meeting every need of a developed, free-market society.

Rule of Law

Kritarchy as a form of government is based on equal justice for all, where justice is understood as adherence to the principles of natural law. Natural law is the body of principles underlying all spontaneous human social organization. Implicit in these principles are certain universal natural rights of individuals, notably property rights, including rights in one's own person, and freedom of contract.

Its consistent adherence to the rules of justice under natural law distinguishes kritarchy from other political systems. Under this ideal, even courts of law, police forces, and other organizations concerned with the day-to-day maintenance of law are denied any power, privilege, or immunity not in conformity with natural law. That means that a police force in a kritarchy can lawfully use its weapons and coercive powers only to maintain the law, i.e. to defend or remedy violations of people's natural rights. It also means that, unlike their counterparts in the prevailing po-

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