

Privatisation of the judiciary system: is ordered anarchy stable?

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This paper builds further on the discussion on possible consequences of a total privatisation of the judiciary system. Total privatisation implies the absence of a state monopoly on rule making, on litigation and on the execution of court decision. When collective violence (war making) and the need for military defence is assumed away such total privatisation means anarchy. The prediction of Hobbesian anarchy (war of all against all) as a result of such privatisation constitutes the classical argument for a state backed legal and judiciary system. This position has been tackled by anarcho-capitalist literature, especially by David Friedman, arguing that private judiciary companies will avoid violent conflicts by reciprocal agreements, similar to the treaties between nation states in the context of international anarchy. Other, especially Tyler Cowen however argue that ordered anarchy is likely in a first stage but lacks stability and will evolve soon into a new monopoly, similar to present state monopolies. The network of agreement between the private companies will be converted into a collusion network, limiting entry to the judiciary market. In this discussion coordination games concerning network industries and prisoner dilemmas concerning collusion stability are crucial. In this paper we explore first further whether and under which conditions the coordination-collusion- conversion thesis of Tyler Cowen is plausible. We also analyse which empirical cases of network industries and collusion –experiences lend support of or falsify this conversion-thesis.