Do We Need the State?
Guest: Gary Chartier
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Gary Chartier is a professor of law and business ethics and associate dean of the Tom and Vi Zapara School of Business at La Sierra University. He is the author of several books, including *The Conscience of an Anarchist*.

WOODS: *The Conscience of an Anarchist* is quite a provocative title. We have had Barry Goldwater's ghostwritten book *The Conscience of a Conservative*. We have Paul Krugman's book *The Conscience of a Liberal*. Heaven help us, we have Wayne Allyn Root's book *The Conscience of a Libertarian*. But now *The Conscience of an Anarchist*. What are you thinking, man? When you say "anarchist," what do you have in mind? Are you talking about bombing buildings and assassinating presidents? What do you mean by anarchist?

CHARTIER: I guess by "anarchist" I mean somebody who cares about peaceful, voluntary cooperation, who wants to see society organized in such a way there's not top-down control. There's not aggressive violence, but the people are cooperating peacefully and voluntarily to achieve their goals.

WOODS: I think when most people hear a description like that, they think it sounds like something they favor, but then would be intimidated by this word "anarchist," because they associate anarchy with chaos. They think those two words are synonyms.

CHARTIER: That's right, Tom. They very often do. If we look at it etymologically, of course, anarchy just means the absence of rulers, and probably if you ask most people whether they much like to be ruled, they probably would say no. But I suppose they tend to associate the idea of the absence of rulers with chaos, because it often seems for whatever reason to them as if the absence of rulers has to mean that people can't possibly get along in an orderly, peaceful fashion. Only if Leviathan is holding his sword over their heads will people actually cooperate, and I don't think that's right.

WOODS: I think there are a lot of libertarians out there who will go with you to a certain length, and they'll say yes, it's true we don't need government for agriculture to work. We don't need government in industry. We don't need government in the drug war. We don't need it in a lot of these things, but, but, but…. We need it for the most fundamental reason of all, which is to create the legal framework and the framework of peace within which the private sector can operate. Now that, I think, is the most common objection to the sort of system that you're advocating here.

CHARTIER: Yeah, I think that's right, and it does seem to me that the historical evidence and the theoretical arguments both point in another direction. So I think historically we can see certainly not perfect examples of anarchy, but we can see everywhere from ancient Iceland and Ireland all the way to modern Somalia instances in which law can be generated on a bottom-up basis. Law doesn't require Leviathan. Now people think, well, if you don't have Leviathan imposing law, if you don't have an all-powerful state defining and imposing law, won't there constantly be conflicts over which law to apply in a particular case? And will some laws be better than others? I guess the thing I'd want to say in response to that idea is that, of course, no human institution is going to generate perfect law.

But on the other hand, I think there's good reason to expect convergence on better laws when people can choose among legal systems, and is there necessary conflict when there's disagreement about legal rules? Well, clearly not. Within the United States we've got mechanisms both for choice of law and conflict of law, problems that occur when people from different states are involved in legal disputes. The same thing is true internationally. People can and clearly have evolved orderly mechanisms for sorting out disagreements

even when they're operating under different legal rules. So I don't think you've got to have Leviathan to create the law and impose it. I think there's good evidence that people in fact can do that themselves.

WOODS: You mention Somalia. I'm going to try and get Ben Powell on the program.

CHARTIER: Excellent.

WOODS: To talk about Somalia in particular. But before we go any further on this legal system thing, let's back up. Maybe I should have done this at the beginning, but I think it's more fun to shock people first and then ease them in a little later.

There could well be a lot of constitutional conservatives listening in, wondering what in the world we're talking about. They just want to get back to the Founding Fathers, and we're talking about competing legal systems. In your book, the introduction is called "Open Your Mind to Anarchy." What are the types of arguments you advance to make people question the minarchist idea that yes, we want freedom, and we want the private sector to handle all these things, but certainly we have to have Nancy Pelosi for at least three or four things. How do you break that down?

CHARTIER: I organized the book around several arguments. I begin by talking about the legitimacy of government power. Americans, certainly constitutional conservatives, are likely to be very familiar with the language of the Declaration of Independence, which talks about the roots of political authority in the consent of the government. That's such a familiar phrase for so many Americans. What I want people to do is stop and ask themselves the question whether any actually existing government has the consent of the governed. Whether any actually existing government is realistically imaginable as having the consent of the governed, and I suggest the answer there is no. Then, of course, there's the fallback position that a lot of people take. We think that consent is really important, but by George, there's going to be widespread violence and chaos if we don't have the top-down ordering control of a monopolistic government. So the second argument I consider is this question of the necessity of the state for social order, and there I look at both historical examples and some theoretical considerations that might point in a different direction.

Then I focus on three ways in which I think the state is not only not necessary and illegitimate as I've argued in the first two chapters but actually dangerous. And I note the ways in which the state parcels out favors to corporate cronies. Something we're certainly seeing right now in the implementation of Obamacare, but I think we could find lots of other examples in which the same thing has happened. The state makes war violently and destructively, and it's just prone to engage in violence in a way that non-state institutions, I think, would not be. And then the state constantly interferes in violent, destructive ways with people's freedom, as for instance in connection with the drug war. So I've got three chapters in which I lay out the really destructive nature of state action in those areas.

Then finally, in a more suggestive and less argumentative way, in the last chapter I talk about the way in which moving beyond the state really could give all of us the freedom to experiment creatively with new ways of living and working and being together. The opportunity for creativity and exciting possibilities for a better future I suggest provides a further attractiveness to the idea of anarchy.

WOODS: One kind of argument you can also make, which doesn't settle the matter but gets people thinking, is the kind of argument that Gustave de Molinari made in the nineteenth century: there seems to be a natural law that monopolies are bad, that they have bad consequences. You get worse service for a higher cost over time.

CHARTIER: Absolutely.

WOODS: That seems to hold in the case of dispute resolution in the U.S. and even in the provision of security. When we look at the real record of the police in the U.S., I mean, how many murders do they

actually solve, and the murderer gets punished? They don't want you to know how few it is. It's probably in the single digits percent. I talked to a policeman here in my city of Topeka, and he says they're spread so thin, they don't know how they can possibly provide the security that people need. So in other words, the budget for it is totally arbitrary. In a free market, there's no arbitrariness. It's how much do people want the service. That's how much of it they get.

CHARTIER: Absolutely. I think that's a great argument. As Roderick Long suggests, nobody would want a monopoly in the provision of shoes. It would be obvious to everybody how ridiculous that would be. And yet, when people think about the most valuable services they can imagine, the services of providing the basic protection that they need to go about the business of their lives, they somehow think monopolies going to do a better job for them, and there's just no reason to think that.

WOODS: I do have to raise the objection that I think is on everybody's mind. Let's imagine your preferred system, and you stole my TV set, and I want to get it back. You refuse to appear in court, and now I'm just out a TV. Then other people realize they can take TVs with no consequences, and before you know it, we're going to be begging to have Nancy Pelosi back.

CHARTIER: That's a lot of begging. I think that if we envision the way in which a set of competing dispute-resolution institutions would work, it's pretty obvious that the potential for violent conflict which nobody wants is dramatically enhanced if there aren't ways of resolving disputes between people who are customers of different protection agencies, right? So you're a customer of one agency, I'm a customer of another, and you do just what you've described. You refuse to compensate me for some act of aggression against me. It seems as if there's going to be a pretty obvious incentive—just as there is in the international context, for instance, where there's not a direct jurisdiction available right now—for your agency and my agency to have not an ad hoc agreement about our particular dispute but a more generic agreement governing disputes involving their respective clients or customers or members as the case may be, and arranging for the enforcement of judgments across the (as it were) boundaries of these institutions, just as we can enforce judgments across state boundaries or national boundaries today. Clearly nobody wants the kind of outcome that you've described, and precisely because nobody does, there would be a really strong incentive for the agencies involved to create mechanisms to prevent those kinds of outcomes from happening.

WOODS: Right. I think there's also this fear that these firms providing security services would go to war with each other. But we don't realize how necessary a state is for war, because a state has endless supplies of revenue. Whereas a private firm does not have endless supplies for revenue, doesn't have the kind of legitimacy. The state has legitimacy in people's minds, for better or for worse. They can get the money they need through taxation. These firms can't go and do that. War is extremely expensive. Peace is much cheaper, and most people are cheapskates. So there's going to be a presumption in favor of peace, I think.

CHARTIER: I think that's right, and I also think that a firm that started to behave in that kind of rogue way would pretty quickly become the target of defensive responses on the part of other people acting through their own agencies who wanted to prevent this kind of thing from happening. There are ways of containing rogues, and as you say, a rogue that can't depend as a rogue state can on not only tax revenue but also conscription really has a much tougher time of it in response to those sorts of defensive actions.

WOODS: Now let's think about what a left-progressive might say in response to what you're saying. Let's think about the New Left from the 1960s. They might say something like this: we favor a participatory system, we favor free speech, and we favor people making decentralized decisions and all that, but the system that Gary Chartier is advocating here is one in which, sure, we wouldn't be governed by the plutocrats in Washington; we'd be governed by other plutocrats. The corporations would have free reign, and we would just be the serfs of big business. That's another one you have to tackle.

CHARTIER: Absolutely, and that's why I devote such an extended chapter in the book to talking about the ways in which plutocrats who want power over people's lives depend in such a profound way on access to state power. It seems as if whether we're going to talk about eminent domain or intellectual property or any number of other things that give corporate access to power over people's lives rather than just requiring them to serve customers as a market system would expect, really are unimaginable without state power. And if we look, ironically enough, at the history of progressivism in this country what we find too often is that the best-intentioned Progressives are too often co-opted precisely by corporations that wish to use progressive rhetoric to mask their acquisition of political influence in power.

So we think about the way in which Gabriel Kolko documents this with regard to the later part of the nineteenth century. The way in the which response by progressives to Gilded Age corporate mischief really just resulted in the creation of regulatory bodies that gave corporations the cartel powers they wanted. And then of course Butler Shaffer has documented this so effectively in *In Restraint of Trade*, looking at the New Deal period and the period immediately before this, that here corporations wanted their profit margins protected, wanted themselves secured against creative destruction by the market, and what did they do? They convinced Progressive politicians to endorse cartelizing measures that made their lives a whole lot easier even though with those measures of course also worked against the interests of consumers.

I guess my basic response to that progressive concern is if we get rid of the privileges that the state accords corporations and other business entities what we'd begin to see I think very quickly is the diminution in their power over us and the ability of consumers to get what they want in the market rather than being manipulated and run roughshod over by the corporate elite.

WOODS: As you say, particularly citing that Butler Schaffer book, the fact that big business worked so hard to get government privilege, and they want government privileges, and there's a revolving door between regulatory agencies and people in business firms, suggests that there's a symbiotic relation here.

CHARTIER: Right.

WOODS: These people would die a thousand deaths before giving up the state. There are some anarchists maybe on the Left who think of the state as being the great protector of private property, whereas our view is that it's the aggressor against private property. That leads me to the next question. Do you believe in the nonaggression principle, and if so, can you just state it?

CHARTIER: Sure. So the nonaggression principle as it's been embraced by lots of libertarians, finds different formulations, but I think the basic idea which I'm very happy to endorse is leave other peoples bodies and stuff alone. Don't initiate force against other people. It's one thing to engage in defensive or rectificatory action against other people's bodies and their possessions, their justly acquired possessions. But it's another thing to *initiate* force against their bodies and their possessions, and when I talk about peaceful voluntary cooperation, peaceful and voluntary I think are meant to capture the heart of that idea that there's a protected sphere that each person has that it's important that we all respect.

WOODS: Here's where I'm going with this. We have two competing systems that libertarians tend to believe in, and there are some conservatives who are limited-government conservatives. We have limited-government libertarians; minarchists is the word that's used. So how does the nonaggression principle come to bear on the issue of whether somebody who wants to be consistent ought to be a minarchist or an anarchist? I'd be much happier if we had a more limited government than what we have now, so I am trying to work for change here and there to make things more tolerable for us. But how does the nonaggression principle come to bear on deciding between those two options?

CHARTIER: So let's say that your model is one in which nonaggression is the basic constraint on how we interact with each other. There's no way that the vast majority of the things states do will qualify as legitimate on the basis of that principle. So if we think about taxation, if we think about regulation, if we

think about conscription, if we think about all the basic things that states do to get their way in the world, they depend on the ability of state actors to initiate force against people.

WOODS: This is why, when I was a limited-government person, I was uncomfortable with this. I didn't know how to answer the question: if you're against aggression, then how can you support the state even for the limited things that you advocate? The Objectivists will come back and say the state should be funded by voluntary donations, and then there's no aggression involved. What do you say about that?

CHARTIER: Obviously at some point, there's a fuzzy line between when there's a state and when there's not. But it seems as if the Objectivists, as I understand their position, still want to have a monopolistic state, and so the monopolistic state is still going to be using force to exclude competitors in the provision of defense and of their services. If it doesn't do that, if it doesn't use force to exclude, then it seems to me it's really stopped being a state. But if it is using force to exclude competitors and maintain a monopoly position, then unavoidably it's engaging in aggression. It's initiating force.

WOODS: Just to close, I think there's something very attractive about what's being described here, the type of society we're talking about in which people interact with each other peacefully. There's no institution that can initiate violence, and that's all great. But the concern I think some people would have is that it sounds like a system devised by philosophers. And yes, you can point to medieval Iceland and Ireland and this and that, but what if we tried this out and it turned out that the philosophers were all wrong? It just doesn't work out. Then it seems like it's a bit much to ask people to take this sort of on faith. In other words if the government had been providing shoes to everybody, and then somebody advocated privatizing shoe service, we'd all wonder how the private sector would ever provide shoes. And we'd say: well, we'll just have to wait and see. That's all well and good for providing shoes, but for providing security, I'm not sure people are willing to wait and see.

CHARTIER: So two quick responses to that. First of all, I think that the problem is that when the government monopolizes the provision of security and when its security providers engage in the mischief that they so often do, so much police violence, so much just destructive action, sometimes on the part of military agencies, it's not then that we're just confronting a problem in which service is being provided inefficiently or at too high a cost. There are immediate, destructive consequences that have really obvious negative significance for people's lives here and around the world. So it seems to me on that basis, because state involvement in the provision of security is dangerous and not really inefficient, there's really more reason, I think, to be open to experimenting with alternatives, point one.

Point two, the claim that some scheme cooked up by philosophers and economists is really just a pie-in-the-sky fantasy maybe takes the wrong sort of perspective on the approach that I'd want to defend. I often hear people suggest that an anarchic model really only works if everybody's an angel, of course a reference to the end of the famous Madison quote about needing government, because people aren't angels. My response is always that we don't have an unduly optimistic and naïve view of human nature. It's precisely, I think, because anarchists have a realistic view of human nature that they're not willing to trust ordinary humans like themselves with a monopoly force. They're perfectly aware of how prone people are to mischief.

And of course, when you think about the fact that those who acquire power in any system aren't randomly selected members of the population but are instead people who are especially interested in power, especially ambitious and likely therefore unprincipled, there's even more reason to doubt that it's good to trust those people with monopolistic power. So I don't think it's a matter of being naïve and interested only in what works in theory. It's precisely because we're aware of how dangerous it is for people to exercise monopolistic power, whether in the area of security provision or elsewhere, that I think we're very rightly skeptical about the state.