

Against Sovereign Immunity



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“One Voluntarist’s Perspective” is an original column appearing most Mondays at Everything-Voluntary.com, by the founder and editor Skyleer J. Collins. Archived columns can be found here. OVP-only RSS feed available here.

Statists are quick to defend the state on the grounds that it’s nothing more than collective decision-making, akin to a group of castaways deciding on the rules for their new home. If that’s what the state was, I would not be opposed to statism. In fact, I would be a full-fledged participant. But the truth of the matter is that the state was not born of cooperation, but of conquest, and continues that conquest through the violent enforcement of the doctrine known as “sovereign immunity.”

Monopoly and Immunity

In “Government vs. the State” I differentiated between the two as follows, “Government is the provision of law and order... The state is the firm (or institution) that claims a monopoly on the provision of law and order within a certain territory.” The law side of the provision of law and order includes dispute adjudication. When two parties have a dispute, they are required to take it before the state’s judicial arm, or a state-licensed private arbitrator. If one party to the dispute is a functionary of the state or the state itself, the state’s monopoly privilege allows it to either dismiss the case or let it proceed at the expense of the taxed.

The power to permit disputes against the state is called sovereign immunity. The sovereign, or “the master or ruler” of society, ie. the state, has immunity, or “an exemption from service or obligation” from hearing or participating in disputes involving itself. In the words of the United States Supreme Court, “The government is not liable to suit unless it consents thereto.” And in even plainer language, “the sovereign or state cannot commit a legal wrong and is immune from civil suit or criminal prosecution.”

Does any other institution in society have the power to dismiss disputes involving itself? Must businesses, churches, and charities answer for the wrongs committed by their officers? Absolutely. And not only must they answer for their crimes, but they must pay for damages out of their own pockets. They can’t force their customers, members, or donors to

pay the cost of their malfeasance. If a group of castaways elected one of their own to keep order, and he instead violated their rights, could he claim “sovereign immunity”? The state is categorically different than any other provider of law and order on the basis of sovereign immunity.

Final Thoughts

If we were permitted to bring our disputes against the state for the crimes that it systematically commits, it would soon dissolve and its resources re-allocated to better uses. Sovereign immunity is a violation of justice and a perversion of jurisprudence. The state’s monopoly on the provision of law and order that creates sovereign immunity is an illegitimate construction borne of the conquest of innocent people. Only one solution will suffice: the state and its sovereign immunity must go.

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