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Methodological Anarchism

Jason Lee Byas and Billy Christmas

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chism. That is, they should come to see the restrictiveness of the policy framework itself, and liberate themselves from its confines.

that policy. Given the internal dynamics of state power, even expressively benign policies can work to re-entrench existing social problems and create others. With the state demystified, we can reject those policies and instead seek direct action alternatives.

This brings us back to where we were at the start of this chapter. For part of what makes political anarchism so absurd to its critics is that the policy framework renders government “just another word for the things we do together.” In those terms, the abolition of government sounds like the abolition of society and collective action, as shown by questions like “Who will feed the hungry? Who will keep us safe? Who will build the roads?” Because those asking these questions speak a different methodological language, they cannot understand the anarchist reply: “We will.”⁴

Anarchism’s critics might still find that answer lacking. Entering into a serious conversation about it, though, requires speaking the same language. Justice and politics cannot be definitionally to refer only to concerns of the state. They instead are features of social institutions and social norms broadly. It is implausible that solutions to injustice cannot be found beyond the state, or that the anarchists’ “We will” is never the right answer to their critics’ questions. Even for those who cannot accept the conclusions of political anarchism, methodological anarchism usefully expands the scope of political philosophy.

The policy framework is thoroughly lacking as a tool of analysis when its implicit premises are pushed to their limit. And employing this framework privileges an institution that has been an enormous source of injustice throughout its history, and thereby risks legitimizing such injustice. Political philosophers, then, should reason, write, teach, and speak within the terms of methodological anar-

⁴ Cf. Johnson, Charles W. 2009. “We Are Market Forces,” in Charles W. Johnson & Gary Chartier (eds) *Markets Not Capitalism: Individualist Anarchism Against Bosses, Inequality, Corporate Power, and Structural Poverty*. New York, NY: Autonomedia.

I. Introduction

Anarchists all share the same basic public policy proposal: abolish public policy. With regard to foreign policy, their position is to abolish the military. With regard to education policy, abolish state schools. With regard to law enforcement policy, abolish the police. And so on and so forth.¹

Given this total agreement on policy goals, it might seem like anarchists should be free from infighting. As anyone familiar with the anarchist movement knows, they aren’t. Each form of anarchism is vigorously opposed by at least one other form, with each often writing the other out of “anarchism” altogether. In anarcho-communist Alexander Berkman’s 1929 account of these differences,² they are in part disputes about *justice*. For communists like himself, private property and commerce drive domination and injustice, and so must be abolished. For individualists, private property and commerce are fundamental constituents

¹ Anarchists do have some differences in policy preferences under the assumption that the state continues to exist, however. For example, see Long, Roderick T. 2010. “Chomsky’s Augustinian Anarchism,” *Center for a Stateless Society*, January 7, <https://c4ss.org/content/1659>, accessed 12/28/17; cf. Byas, Jason Lee. 2019. “The Political Is Interpersonal: An Interpretation and Defense of Libertarian Immediatism,” in Roger E. Bissell, Chris Matthew Sciabarra, & Edward W. Younkens (eds), *The Dialectics of Liberty: Exploring the Context of Human Freedom*. New York, NY: Lexington; Carson, Kevin A. 2019. “Formal vs. Substantive Statism: A Matter of Context,” in Roger E. Bissell, Chris Matthew Sciabarra, & Edward W. Younkens (eds), *The Dialectics of Liberty: Exploring the Context of Human Freedom*. New York, NY: Lexington. The point is just that *even these* anarchists ultimately agree on the ideal policy proposal of abolishing the state altogether.

² Berkman, Alexander. 1929. *Now and After: The ABC of Communist Anarchism*. New York, NY: Vanguard Press. Ch. 23.

of freedom and justice, and so must be unleashed. Even between marketfriendly anarchists, the contents of justice are controversial. For instance, Murray Rothbard puts justice purely in terms of self-ownership, whereas Gary Chartier argues for a much broader conception that includes distributive and relational concerns.³ These differences are rendered unintelligible within a set of assumptions predominant within academic political philosophy. We refer to this discourse as “the policy framework”: it regards prescriptions of justice as little more than prescriptions of public policy.

For instance, in “The Zig-Zag of Politics,” where Robert Nozick explained why he had greatly moderated his libertarianism, he wrote that “[t]he libertarian view looked solely at the purpose of government, not at its *meaning*.”⁴ Taking questions of meaning seriously, he said, means that certain laws and programs must exist to voice “social solidarity and humane concern for others.”⁵ Beyond that, “[j]oint political action [by which Nozick means state action] does not merely symbolically express our ties of concern,

³ Rothbard, Murray N. 1982. *The Ethics of Liberty*. Atlantic Highlands, NJ: Humanities Press; Chartier, Gary. 2009. *Economic Justice and Natural Law*. Cambridge: Cambridge University Press; Chartier, Gary. 2012. *Anarchy and Legal Order: Law and Politics for a Stateless Society*. Cambridge: Cambridge University Press. In addition, the preferred structure of property rights may differ significantly between market anarchists. Rothbard defends familiar Lockean arrangements sans the Lockean proviso, whereas Benjamin Tucker rejects absentee ownership in favor of an occupancy-and-use standard for the validity of an ongoing property right. There may also be a variety of views on the extent to whether the preponderance of property forms ought to be private property or common property. See Rothbard 1982; Tucker, Benjamin. 1897. *Instead of a Book, by a Man Too Busy to Write One*; Christmas, Billy. 2019a. “Ambidextrous Lockeanism,” *Economics and Philosophy*, online first.

⁴ Nozick, Robert. 1989. *The Examined Life: Philosophical Meditations*. New York, NY: Simon & Schuster. Ch. 25; cf. Sanchez, Julian. 2001. “An Interview with Robert Nozick,” July 26, juliansanchez.com/an-interview-with-robert-nozick-july-26-2001, accessed 1/30/19.

⁵ Nozick *Life* 288.

justice grounds, since such laws limit the range of available social safety nets.

Rejecting the policy framework should also lead us to reject particular policies because of the demystification of the state that comes with embracing methodological anarchism. It cautions against the naïve view in which state laws seem to bark from the heavens, “*Fiat iustitia!*” It is essentially this methodologically anarchist point that legal theorist and trans liberationist Dean Spade makes when he argues that LGBTQIA activists should “focus less on what the law says ... and more on what impact various legal regimes have on distressed populations.”² In that spirit, the Sylvia Rivera Law Project, a transgender legal advocacy group founded by Spade in 2002, argues against hate crimes legislation:

[H]ate crime laws ... expand and increase the power of the ... criminal punishment system. Evidence demonstrates that hate crime legislation, like other criminal punishment legislation, is used unequally and improperly against communities that are already marginalized in our society. These laws increase the already staggering incarceration rates of people of color, poor people, queer people and transgender people based on a system that is inherently and deeply corrupt.³

This point can be generalized. Because states are not justice machines, whose pronouncements can be taken as the pronouncements of society itself, state policies that express recognition for certain individuals are not the be-all-and-end-all of efforts designed to foster the social equality of those individuals. When we need not rely upon a particular state policy to express recognition, we can turn our attention to the concrete costs and benefits of

² Spade *Life* 17.

³ Sylvia Rivera Law Project. No date. “SRLP On Hate Crimes Laws.” *Sylvia Rivera Law Project*. srlp.org/action/hate-crimes/, accessed 12/29/17.

V. Conclusion: The Policy Implications of Rejecting the Policy Framework

Rejecting the policy framework does not make state policy irrelevant, nor do arguments for a politics of direct action conclusively rule out ever participating in efforts designed to foster reform—or, indeed, in extreme cases, in revolution. Methodological anarchism simply puts those efforts in context, offering a greater awareness of alternatives. Seeing the state as just one relevant institution in society among many doesn't mean ignoring the fact that it is, indeed, a relevant institution. That the state's laws cast a backdrop of violence over everything else renders it particularly important, even for the methodological anarchist.

Odd as it might sound, then, there are important *policy implications* of rejecting the policy framework. Though methodological anarchism does not directly entail political anarchism, it does present at least two important reasons to move closer in that direction.

One reason methodological anarchism points toward policy-negativity is that, with direct action on the table, justice will often most forcefully demand that the state get out of the way. For example, among explanations given for why earlier mutual aid societies fell to the wayside is that licensure laws worked to combat mutual aid societies' model of insurance and delivery of medical care.¹ We can therefore see how a case for liberalizing or even abolishing licensure laws could be made on *distributive*

¹ Long *Government*.

it also *constitutes* a relational tie itself.”⁶ If true, this presents a considerable problem for anarchists. If the means by which a society not only communicates but *constitutes* certain social relations demanded by justice must involve the state, then justice—or at least part of justice—is conceptually impossible in a stateless society. Moreover, these intra-anarchist disputes look nonsensical, given that there is no institutional organ to institute their different conceptions of justice to begin with.

Anarchists and their critics, then, seem to be speaking different languages. There is a basic methodological difference in the way anarchists and non-anarchists think about politics, often more implicit than explicit. Anarchists see politics and justice as being concerns of social institutions, norms, and relations generally—both inside and outside the state. Much of academic political philosophy talks of politics and justice as if they are definitionally concerns about what states should do, or our relationships with each other through the state. In this chapter, we argue that the anarchists are on the right side of this difference. We call the insight that undergirds the anarchists' understanding of politics and justice “methodological anarchism.” We seek to exorcise the policy framework in favor of methodological anarchism. Indeed, we believe it should be embraced by all political philosophers, not only the anarchists among their ranks.

Political philosophers ought to abstain from the policy framework for two reasons. First, it is analytically impoverished inasmuch as, when followed to its logical conclusion, it is unable to engage with enormous areas of analysis that are relevant to what makes a society just or unjust. Second, it instills subtle prejudice against other important approaches to mitigating injustice that are unconcerned with public policy. This also carries the danger of lending ideological support for existing injustices and thereby entrenching them. Accepting our critique of the policy framework

⁶ Nozick *Life* 288.

and adopting methodological anarchism does not necessarily require the acceptance of any kind of substantive political anarchism. But it does mean thinking a bit more like an anarchist about how to make society more just—thus our characterization of it as “methodological.”

rule out a libertarian conception of rights. It must be further argued that social enforcement is insufficient,⁴ and that violence is an acceptable means of shoring up the difference.⁵

While we are sympathetic to this general picture, our point in raising it here is not to defend it. Rather, the foregoing is meant to show the sorts of conceptual space made available by clearing away the policy framework. When theories of justice are uniformly shoved into rough policy approximations, this creates brute incompatibilities not present in more abstract statements. Accordingly, the greater variation in practical implementation offered by methodological anarchism reveals greater variation in theoretical explanation. There is still significant disagreement, but it takes place on a terrain that affords more philosophical mobility. With access to subtler points of partial agreement, this reduces the risk of stalemate. Both practically and theoretically, methodological anarchism helps us break free from political stagnation.

chists. It also has clear precedent in the market egalitarian currents of classical liberalism highlighted in the first chapter of Anderson *Government*.

⁴ The second chapter of Anderson *Government* can be seen as making this sort of argument, by appeal to greater economies of scale following the Industrial Revolution. A libertarian rejoinder might begin by challenging the attribution of workplace authoritarianism to the spontaneous workings of the market. What we mean to emphasize here is a further point: beyond the spontaneous workings of market exchange, we must also consider the merits of non-state actions intentionally taken towards the social enforcement of justice.

⁵ For instance, the nonlibertarian relational egalitarian could raise worries specific to the idea of natural property rights.

is right about which policies justice requires, the other is wrong. Libertarians, then, have reason to deny relational egalitarianism altogether, and relational egalitarians have reason to deny libertarianism altogether. Arguments for and against those total denials are well worn, and unlikely to sway theorists already committed one way or the other.

More interesting permutations can be advanced once we leave the policy framework. Suppose that we grant natural rights libertarianism. It does not follow from the strictures this puts on state policy that relational egalitarian demands must be discarded. Libertarian rights put strictures on the use of force and fraud, but they do not say much about forms of collective social pressure stopping short of violence. It may still be the case, then, that justice demands robust social norms of a kind that develop and maintain relationships of social equality, and that those norms may be enforced through various means of non-violent social coercion. For one such case: suppose that the aforementioned method of direct action against private power, state-independent labor activism, is as effective as its proponents claim. Strikes, boycotts, and other pressure campaigns can then be seen as the social enforcement of relational egalitarian justice. On such a picture, relational egalitarianism would not be eliminated by the success of natural rights libertarianism, it would just be repositioned.³ Similarly, the bare relational egalitarian requirement of non-domination would not

³ Something like this relational egalitarian libertarianism can be seen in Johnson, Charles W. 2008. "Liberty, Equality, Solidarity: Toward a Dialectical Anarchism," in Roderick T. Long and Tibor R. Machan (eds.), *Anarchism/Minarchism: Is Government Part of a Free Country?* Aldershot: Ashgate; Chartier *Anarchy*; Chartier, Gary. 2019. "Radical Liberalism and Social Liberation," in Roger E. Bissell, Christopher Matthew Sciabarra, & Edward W. Younkins (eds), *The Dialectics of Liberty: Exploring the Context of Human Freedom*. New York, NY: Lexington; Christmas, Billy. 2019b. "Social Equality and Liberty," in Roger E. Bissell, Christopher M. Sciabarra, & Edward W. Younkins (eds), *The Dialectics of Liberty: Exploring the Context of Human Freedom*. New York, NY: Lexington; Long *Libertarians*. It can perhaps also be seen many of the nineteenth-century individualist anar-

II. The Poverty of the Policy Framework

The policy framework is a mode of engagement with principles or theories of justice that treats them as little more than prescriptions for state action. If there is injustice, it is because there is something that the state ought to do but does not (or ought not to do, but does). Once there is justice, it will be because the state has implemented a successful policy (or repealed a policy) associated with this concern. Politics, therefore, is always an exercise in attempting to change states or influencing their actions. Doing so might involve engagement at any number of levels, from directly lobbying legislative officials to acts of civil disobedience, but within the policy framework the end goal is always changing the state's constitution or its laws.

An example of a philosophical argument reflecting the influence of the policy framework is the following:

1. Theory entails that every person is entitled to J.
2. J is constituted by x, y, and z.
3. Therefore, the state ought to provide each citizen with x, y, and z.
4. Therefore, the state ought to enact policy XYZ.

We might imagine J as some level of material wellbeing such as sufficiency or equality. Correspondingly x, y, and z could be

shares of resources with a particular market value or particular goods such as education and health. XYZ basically stands in for some modification of the existing welfare state apparatus with the stated objective of giving each person x, y, and z.¹ Arguments often take this form even when they intend to support non-welfare-based conceptions of justice. For example, J might be a status of relational, social equality; x, y, and z could be elements of a democratic workplace, sources of equal opportunity for political office, or features of some derivatively valued level of material wellbeing;² and XYZ could be some extension of existing governmental discretion required for the state to intervene with the stated objective of giving people x, y, and z.³

Much of the interesting philosophizing will take place between (1) and (2), but what is conspicuously left out is an argument for why it is the state that should be uniquely concerned or charged with fostering this aspect of justice, and why the proposed policy is the best way to realize this aspect of justice. The kind of argument required could be a conceptual argument that justice entails a state policy of this kind or an empirical argument that such a policy is the best method for achieving justice—but typically we are given neither.

In proposing the methodological anarchist alternative to the analytically and ideologically impoverished policy framework, we join a growing literature that is critical of political philosophy's

¹ For example, see Sher, George. 2014. *Equality for Inegalitarians*. Cambridge: Cambridge University Press. 115, 157.

² Many relational or social egalitarians believe that distributional equality or sufficiency are derivatively valuable from the perspective of justice. For example, see Schemmel, Christian. 2011. "Why Relational Egalitarians Should Care About Distributions," *Social Theory and Practice*, 37: 365–390.

³ As Emily McTernan, Martin O'Neill, Christian Schemmel, and Fabian Schuppert have argued, "[i]f you care about social equality, you want a big state." McTernan, Emily, Martin O'Neill, Christian Schemmel, & Fabian Schuppert. 2016. "If You Care about Social Equality, You Want a Big State: Home, Work, Care and Social Egalitarianism," *Progressive Review*, 23: 138–144.

IV. From Practice to Theory: What Direct Action Reveals

By opening up new paths to political goals, direct action offers escape from the stagnation and animosity of electoral politics. Something similar is true of how methodological anarchism reshapes conceptual territory. The lines between different theories fall differently when the questions our classifications consider go beyond state policy.

For example, consider the claim that as a matter of justice, people ought to stand in relationships of equality, with no person or group of persons dominating any others. This is recognizably a statement of relational egalitarianism, as advocated by philosophers like Elizabeth Anderson and Samuel Scheffler.¹ Consider also the claim that each person is endowed with a set of natural rights acting as side-constraints on others' actions, and that these include rights to appropriate, own, defend, and exchange property. This is recognizably a statement of Lockean libertarianism, as advocated by philosophers like Robert Nozick and Eric Mack.² These views are typically taken as obvious and unambiguous enemies. Relational egalitarians often defend redistributive taxation, robust state regulations of employer-employee relationships, and other policies clearly at odds with libertarian rights. If one group

¹ Anderson, Elizabeth. 1999. "What Is the Point of Equality?" *Ethics*, 109: 287–337; Scheffler, Samuel. 2010. *Equality and Tradition: Questions of Value in Moral and Political Theory*. Oxford: Oxford University Press.

² Nozick *Anarchy*; Mack, Eric. 2010. "The Natural Right of Property," *Social Philosophy and Policy*, 27: 53–78.

a program of direct action has a more intimate connection to and personal stake in the results of the direct action, and thus has an incentive to care more about getting things right. For instance, Creative Interventions participants found themselves continuously interrogating their politically formed assumptions about the dynamics of interpersonal violence, since those beliefs had more concrete and visible effects.⁴⁰

Direct action also heals many of the wounds left by reform's politics of enmity. Our options for political improvement by means of direct action are constrained only by what we can imagine and get away with. Programs of direct action are obviously non-monopolistic—those who believe they can do better are always free to develop their own alternatives. Perhaps most importantly, direct action (unlike reform and revolution) has no necessary connection to violence.⁴¹

From within the policy framework, we are faced with a troubling dilemma. Humans are indeed political animals, but when politics means policy, acting on our natural political impulses is typically immoral. Methodological anarchism offers a way out, one that enables us to avoid harming and hating our neighbors without retreating into political abstinence.

⁴⁰ Kim *Critique* 27–31.

⁴¹ Admittedly, while it *need not*, direct action can also take the form of violence. Among other problems, direct action in the form of violence typically does not have the benefit of helping us practice safe politics.

pre-occupation with, and simultaneous under-analysis of, the state. Tendencies relating to what we refer to as the policy framework have been identified by Jacob Levy, Jason Brennan,⁴ Christopher Freiman, and Peter Jaworski, referring to “folk ideal theory,” “the Fallacy of Direct Governmentalism,” “ideal theories of the state,” and “the ought/state gap” respectively.⁵ Levy notes that putatively “[p]ure normative theories concern themselves with *what the state should do*,” yet states are not mere “machines for dispensing justice, and we are poorly served when our theories imagine them to be.”⁶ Brennan observes that “[t]heorists and philosophers tend to assume their job is to provide normative grounding for the construction of an ideal nation-state ... to determine what counts as a good or bad Leviathan.”⁷ Freiman argues that injustices identified in the market and civil society are presumed to be soluble only by a state because of the unstated premise that the pathologies of economic and civil society do not affect political institutions.⁸ The state is posited as an institution that, by definition, does not suffer the same information and incentive problems that individuals and private associations do. The notion that the state has magical powers that enable it to overcome institutional barriers that cannot be surmounted through any other means is pervasive.

⁴ Elsewhere Brennan analyzes this into three biases: the diffidence bias (pessimism about the possibilities of voluntary cooperation), the statism bias (overestimation of how much the state is required to secure social cooperation), and the guarantee bias (overestimation of the need for legal guarantees). Brennan, Jason. 2018. “Private Governance and the Three Biases of Political Philosophy,” *Review of Austrian Economics*, 31: 235–243.

⁵ Levy, Jacob. T. 2015a. “Folk Ideal Theory in Action,” *Bleeding Heart Libertarianism* blog, April 28, <http://bleedingheartlibertarians.com/bleedingheartlibertarians.com/2015/04/folk-ideal-theory-in-action>, accessed 2/14/17; Brennan, J. 2016b. *Political Philosophy: An Introduction*. Washington DC: Cato Institute. Ch. 11]; Freiman, Chris. 2017. *Unequivocal Justice*. New York, NY: Routledge. 2–4; Jaworski, Peter. 2018. “Privatization and the Ought/ State Gap,” *Nomos*, 60.

⁶ Levy *Rationalism* 58. Original emphasis.

⁷ Brennan *Governance*.

⁸ Freiman *Justice*.

The policy framework is a particular kind of discourse: it is a way of engaging with the theories and arguments of normative political philosophy. It might be instantiated in the inferences drawn from particular theories (as illustrated above), or it might be instantiated in the rhetorical ploys that escort such inferences, designed to make particular theories appear more or less favorable in virtue of their purported implications for policy. It might even play a role in the formulation of a full-blown theory of justice, where particular policy implications are the outcome the theory is constructed to legitimize.

A basic Hobbesianism underlies the policy framework: an assumption that any social order requires an orderer external to the agents being ordered. The problem with such assumptions is that this is not always true, and moreover that the state does not stand outside society in a way that insulates it from the former's general social dynamics. Rather, it just provides a different theatre in which they play out. Thomas Hobbes asserted that each member of society lacks the incentives to comply with rules that reciprocally protect each member, and that only by empowering a monopoly state can each person's security be ensured.⁹ Where Hobbes took

⁹ Hobbes, Thomas. 1642 [1983]. *De Cive*, ed. Howard Warrender. Oxford: Clarendon Press; Hobbes, Thomas. 1651 [2012]. *Leviathan*, ed. Noel Malcolm. Oxford: Oxford University Press. This is an empirical commitment that no political philosopher has ever been particularly bothered to prove, as argued in Widerquist, Karl, & Grant McCall. 2015. "Myths about the State of Nature and the Reality of Stateless Societies," *Analyse & Kritik*, 37: 233–257; Widerquist, Karl, & Grant McCall. 2017. *Prehistoric Myths in Modern Political Philosophy*. Edinburgh: Edinburgh University Press. Some contemporary Kantians have, however, framed their arguments for the state as implied by justice a priori—the state as a posit for natural right. For example, see Ripstein, Arthur 2009. *Force and Freedom: Kant's Legal and Political Philosophy*. Cambridge, MA: Harvard University Press. Ch. 9; Stilz, Anna. 2011b. *Liberal Loyalty: Freedom, Obligation, and the State*. Princeton, NJ: Princeton University Press. Ch. 2; Varden, Helga. 2008. "Kant's Non-Voluntarist Conception of Political Obligations: Why Justice Is Impossible in the State of Nature." *Kantian Review*, 13: 1–45; Varden, Helga. 2010. "Kant's Non-Absolutist Conception of Political Legitimacy: How Public Right 'Concludes' Private Right in 'The Doctrine of

one's own part and on the part of those who can be expected to participate in and respond to one's efforts—is highly dangerous, so Huemer advises against it.³³

Jason Brennan outlines the ways in which democratic politics turns people into "civic enemies." In the United States, strong majorities of both Democrats and Republicans are less likely to hire opposing-party members independent of qualifications.³⁴ As with political ignorance, political enmity is a predictable product of incentives.³⁵ First, democratic politics presents us with constrained, suboptimal choices.³⁶ Second, victory is monopolistic—a victory for one means all others lose.³⁷ Third, that monopolistic political victory will be imposed using actual or threatened violence.³⁸ Thus, your political opponents in a democracy are people who wish to prevent the realization of your preferences by forcing you to accept the realization of their contrary preferences. This creates a zero-sum world, where disagreement is always a threat.³⁹

The kinds of problems Huemer and Brennan highlight occur when politics is framed in terms of what we have called "reform." Direct action eliminates these problems, and therefore allows us to participate in politics safely. The knowledge necessary for programs of direct action is easier to acquire than the knowledge needed successfully to implement programs of society-wide reform. For example, you don't need to know how to successfully provide stable living arrangements for everyone in poverty; you only need to know how to provide for those in your chapter of a mutual aid society. Furthermore, a political actor implementing

³³ Huemer *Passivity* 21–26.

³⁴ Brennan, Jason. 2016. *Against Democracy*. Princeton, NJ: Princeton University Press. 223.

³⁵ Brennan *Democracy* 235–237.

³⁶ Brennan *Democracy* 237–238.

³⁷ Brennan *Democracy* 238–240.

³⁸ Brennan *Democracy* 240–241.

³⁹ Brennan *Democracy* 236.

while also engaging in political action. This is because political actors essentially have no idea what they are doing, and are therefore much more likely to do harm than good. The first reason for this is widespread political ignorance—ignorance of the identities of political representatives, their policy positions and voting records, institutional facts about government, the details of particular policies under consideration, the social science and philosophy surrounding those policies, etc.²⁷ That ignorance is the predictable result of rational (whether or not altogether conscious) assessments of the costs and benefits associated with gaining the relevant information. The instrumental benefits of acquiring knowledge are exceedingly low, given that the average person has almost no chance in personally affecting public policy. The costs of obtaining that information are often very high, requiring extensive research into not only voting records and policy details, but also relevant social science and philosophy. Therefore, people remain ignorant.²⁸ Since obtaining information needed to determine what actions are just or will foster justice is costly, people pursue the easier goal of presenting themselves as pursuing justice.²⁹ This leads us to strong, yet ill-informed beliefs, which we treat as precious—since these beliefs are tied up with our self-perception, we resist threatening information.³⁰ Even experts are overconfident about political questions, with their predictive records only barely exceeding those that might be expected to occur by chance,³¹ in part due to inherent difficulties with the predictive capacities of social theory.³² Taking political action in the face of high levels of ignorance—on

²⁷ Huemer *Passivity* 13.

²⁸ Huemer *Passivity* 17–18; cf. Somin, Ilya. 2013. *Democracy and Political Ignorance: Why Smaller Government is Smarter*. Stanford, CA: Stanford Law Books; Caplan, Bryan. 2007. *The Myth of the Rational Voter: Why Democracies Choose Bad Policies*. Princeton, NJ: Princeton University Press.

²⁹ Huemer *Passivity* 19.

³⁰ Huemer *Passivity* 19.

³¹ Huemer *Passivity* 15.

³² Huemer *Passivity* 20–21.

the state to be the solution to the most basic public goods problem—that of individual security—the policy framework takes it as the solution to other justice-related public goods problems.

In similar respect to Hobbes, the policy framework regards the state as transcending the social problems that call for it. Often this perspective is one where individuals do not have sufficient incentives to voluntarily contribute to various public goods, but without those conversations extending to state action. Little discussion is had about the incentives for those engaging with the state or the incentives of state actors themselves.¹⁰ Unlike the messiness of human society, the state just does what we want it to, and the effects of what it does are what we want them to be. The problem with this view is that the state does not operate any more automatically than does any other social institution.¹¹ Insisting a priori

Right,” *Kant-Studien*, 3: 331–51; Hodgson, Louise-Philippe. 2010. “Kant on Property Rights and the State,” *Kantian Review*, 15: 57–87. For reasons that require much more argument than can be given here, such accounts in fact depend upon practical accounts of the state’s ability to be the best provider of assurance of security, determinacy of rights, representing the omnilateral will, none of which conceptually depend upon it being a coercive territorial monopoly—that is, being a state at all. Part of the Kantian republican argument relies on the necessity of laws and a constitutional structure, but the possibility of laws and a constitutional structure without monopoly is precisely the thing posited by many market anarchists. See Long, Roderick T. 2008. “Market Anarchism as Constitutionalism,” in Roderick T. Long & Tibor R. Machan (eds) *Anarchism/Minarchism: Is a Government Part of a Free Country?* Aldershot: Ashgate.

¹⁰ For example, see Hume, David. 1738 [1826]. *Treatise of Human Nature*, in his *The Philosophical Works of David Hume*, vol. 2. Edinburgh: Black & Tait. III.II.7; Mill, John Stuart. 1848 [1965]. “Principles of Political Economy,” in John M. Robson (ed.) *The Collected Works of John Stuart Mill*, 7th ed. Toronto: University of Toronto Press; Gauthier, David. 1986. *Morals by Agreement*. Oxford: Oxford University Press. 342; Kavka, Gregory. 1986. *Hobbesian Moral and Political Theory*. Princeton, NJ: Princeton University Press. 246; Murphy, L., & T. Nagel. 2004. *The Myth of Ownership*. New York, NY: Oxford University Press. 6. A trenchant critique of this assertion is Freiman *Unequivocal* chs 0–1.

¹¹ La Boétie, Étienne de. 1576. *The Politics of Obedience: The Discourse of Voluntary Servitude*, trans. H. Kurz. Montreal: Black Rose; Hume, D. 1758 [1826]. *Essays*

on state guarantees no more guarantees the desired outcome than insisting on guarantees in the market or civil society.¹² In his Nobel address, James Buchanan echoed the message of Knut Wicksell: “[e]conomists should cease proffering policy advice as if they were employed by a benevolent despot, and they should look to the structure within which political decisions are made.”¹³ Methodological anarchism involves, inter alia, extending Buchanan and Wicksell’s lesson from economics to political philosophy.

A glaringly simple example of the policy framework is, as the title suggests, Ronald Dworkin’s book *Sovereign Virtue*.¹⁴ There, he famously defends an abstract, egalitarian ideal, and immediately charges the sovereign with responsibility for implementing this ideal—not in light of any social scientific or normative considerations identifying public policy as the appropriate mechanism for ensuring each citizen receives her equal share of resources, but as if as much was plainly written into the principles themselves. The philosophical arguments for those principles are taken to be philosophical arguments for particular state policies. Similarly, David Miller asserts that normative political enquiry presumes

that there is some agency capable of changing the institutional structure more or less the way our favored theory demands. It is no use setting out principles for reforming the basic structure if in fact we have no means to implement these reforms. The main agency here is obviously the state: theories of social justice propose

Moral, Political, and Literary, in his *The Philosophical Works of David Hume*, vol. 3. Edinburgh: Black & Tait. I. IV.

¹² Schmidt, David. 1997. “Guarantees,” *Social Philosophy & Policy*, 14: 1–19.

¹³ Buchanan, James. M. 1987. “The Constitution of Economic Policy,” *American Economic Review*, 77: 243–250.

¹⁴ Dworkin, Ronald. 2000. *Sovereign Virtue: The Theory and Practice of Equality*. Cambridge, MA: Harvard University Press.

restraining the power of big business, this will usually function to benefit the corporate class as a whole.

Centralized power structures like the state will be used to entrench privilege—because people in society who are already privileged will almost necessarily have better access to the state due to that privilege. This means that when state actors face pressure from the oppressed, they will favor symbolic actions to quell that resistance over substantive changes that would challenge their power.²⁵ These problems with reform are avoided in direct action, where those with a clear interest in justice may pursue it directly, without having those pursuits frustrated or warped by opposing interests, nor having to convince a legislative coalition before action is taken.

H. Practicing Safe Politics

Another benefit of methodological anarchism is that, by turning our attention to direct action, it encourages us to practice safe politics. This point is best understood in light of recent arguments by philosophers Michael Huemer and Jason Brennan for political abstinence.

Huemer’s critique of political action is a suggestion that political actors join doctors in ensuring to “first, do no harm.”²⁶ Huemer finds it near-impossible to consistently follow this principle

Social Class and State Power: Exploring an Alternative Radical Tradition. New York, NY: Palgrave Macmillan; Hart *Capitalism*.

²⁵ These points are also relevant to other dimensions of social domination, not just economic power. For instance, similar reform-skeptical analysis is applied to LGBTQIA issues in Spade, Dean. 2015. *Normal Life: Administrative Violence, Critical Trans Politics, and the Limits of Law*, 2nd ed. Durham, NC: Duke University Press. Also see the essays compiled in Conrad, Ryan. 2014. *Against Equality: Queer Revolution, Not Mere Inclusion*. Edinburgh: AK Press.

²⁶ Huemer, Michael. 2012. “In Praise of Passivity,” *Studia Humana*, 1: 12–28. 26.

ing sources of predation and oppression because they will often be created or captured by the very interests they are intended to check.²¹ Indeed, there is no a priori reason to think that, given the ends public office can be used for, they will not be sought for those very ends.²² The regulatory state offers open-ended returns on any costs invested in capture. New Left Marxists²³ as well as radical libertarians²⁴ essentially agree that the state tends to act as the executive committee of the ruling class. Even when it looks like it is

²¹ Stigler, George. 1971. "The Theory of Economic Regulation," *Bell Journal of Economics and Management Science*, 2: 3–21; Winston, Clifford, Robert W. Crandall, William A. Niskanen, & Alvin Klevorick. 1994. "Explaining Regulatory Policy," *Brookings Papers on Economic Activity: Microeconomics*. 1994: 1–49; Lindsey, Brink, & Steven M. Teles. 2017. *The Captured Economy: How the Powerful Enrich Themselves, Slow Down Growth, and Increase Inequality*. Oxford: Oxford University Press.

²² Buchanan, James M., & Gordon Tullock. 1962. *The Calculus of Consent: Logical Foundations of Constitutional Democracy*. Ann Arbor, MI: U of Michigan Press.

²³ Kolko, Gabriel. 1963. *The Triumph of Conservatism: A Reinterpretation of American History, 1900–1916*. New York, NY: Free Press of Glencoe; Kolko, Gabriel. 1965. *Railroads and Regulation, 1877–1916*. Princeton, NJ: Princeton University Press; Weinstein, James. 1976. *The Corporate Ideal in the Liberal State, 1900–1918*. New York, NY: Farrar Straus & Giroux.

²⁴ Shaffer, Butler. 1997. *In Restraint of Trade: The Business Campaign Against Competition, 1918–1938*. Lewisburg, PA: Bucknell University Press; Childs, Roy A., Jr. 1971a. "Big Business and the Rise of American Statism, Part One: A Revisionist History," *Reason*, February, <https://reason.com/1971/02/01/big-business-and-the-rise-of-a-2/>, accessed 2/1/19; Childs, Roy A., Jr. 1971b. "Big Business and the Rise of American Statism, Part Two: A Revisionist History," *Reason*, March, <http://reason.com/1971/02/01/big-business-and-the-rise-of-a-2/>, accessed 2/1/19; Grinder, Walter E., & John Hagel III. 1977. "Toward a Theory of State Capitalism: Ultimate Decision-Making and Class Structure," *Journal of Libertarian Studies*, 1: 59–79; Radosh, Ralph, & Murray N. Rothbard (eds). 1972. *A New History of Leviathan*. New York, NY: Dutton; Stromberg, Joseph R. 1972. "The Political Economy of Liberal Corporatism," *Individualist*, May; Ruwart, Mary J. 2003. *Healing Our World in an Age of Aggression*. Kalamazoo, MI: SunStar Press; Johnson, Charles W. 2004. "Free the Unions (and All Political Prisoners)," *Rad Geek People's Daily* blog, https://radgeek.com/gt/2004/05/01/free_the, accessed 2/1/19; Hart, David M., Gary Chartier, Ross M. Kenyon, & Roderick T. Long (eds). 2018.

legislative and policy changes that a well-intentioned state is supposed to introduce.¹⁵

Beyond the general case, there are a number of more peculiar ways in which this approach to political philosophy can manifest itself. John Rawls, Robert Nozick, and G. A. Cohen have each, at times, operated within the policy framework. We will briefly examine them in turn to see how this pattern of discourse can play out in different ways.

Rawls suggested that the state ought to own (or effectively control) the means of production, and that an allocation branch of government ought to be added to the traditional three branches of executive, judicial, and legislative.¹⁶ Rawls's principles of justice demanded that inequalities should not result from arbitrary socioeconomic factors, and should thus only be permissible when they serve the worst off. He argues that this entails that laissez-faire capitalism and welfare state capitalism are both incompatible with these principles since the goal of these economic systems was not to redistribute socioeconomic advantage in the way demanded by justice.¹⁷ It is the goal, however, of a powerfully interventionist state—so-called property-owning democracy—to do so; therefore, the latter is a priori preferable to the former. Rawls privileged the state with being able to achieve the tasks of justice we give it the necessary power to achieve, but not other kinds of social institutions. He asserted that since it is not the *goal* of capitalism to satisfy the difference people, it cannot be relied upon to do so, and that it is

¹⁵ Miller, David. 2001. *Principles of Social Justice*. Cambridge, MA: Harvard University Press. 6.

¹⁶ Rawls, John. 2001. *Justice as Fairness: A Restatement*, ed. E. Kelley. Cambridge, MA: Belknap Press. 148–150; cf. O'Neill, Martin. 2012. "Free (and Fair) Markets without Capitalism: Political Values, Principles of Justice, and Property-Owning Democracy," in Martin O'Neill & Thad Williamson (eds) *Property-Owning Democracy: Rawls and Beyond*. New York, NY: Wiley-Blackwell. 83; Rawls, J. 1971 [1999]. *A Theory of Justice*, rev. ed. Cambridge, MA: Belknap Press. 242–251.

¹⁷ Rawls *Theory* 244–245.

the goal of a fiscally powerful democratic state to do so; therefore, it can be relied upon to do so. The actual functions of institutions are ignored, and their teleological justification privileged.¹⁸

Aside from moralizing the function of the state, the policy framework can also manifest itself in identifying the state as the voice of the people. We have already seen how Nozick makes this claim directly in “The Zig-Zag of Politics.” He moves immediately from the fact that we need something which expresses and constitutes our relational ties of concern to the need for particular sorts of state policies. It is worth noting that even before this shift, Nozick also accepted a form of expressive retributivism—the view that in order to socially convey the wrongness of a criminal offender’s act, we must punish the offender.¹⁹ Nozick himself does not say that this punishment must be imposed by the state, and his discussion of protective associations in *Anarchy, State, and Utopia* grants the conceptual possibility of punishment carried out by non-state actors.²⁰ However, we can still see the beginnings of Nozick’s embrace of the policy framework on expressive grounds. The identification of public expression with a particular kind of legal act is already evident, and it is not far from this position to his later view that a collective voice must speak through the language of state policies.

In contrast to Nozick and Rawls, G. A. Cohen might seem free of the policy framework. When critiquing Rawls, Cohen argues that “the justice of a society is not exclusively a function of its legislative structure, of its legally imperative rules, but also of the choices people make within those rules.”²¹ What matters for Cohen is not institutional structures per se, but the distribution of bene-

¹⁸ Freiman *Unequivocal* chs 0–1, 3.

¹⁹ Nozick, R. 1981. *Philosophical Explanations*. Cambridge, MA: Belknap Press. 363–398.

²⁰ Nozick, R. 1974. *Anarchy, State, and Utopia*. New York, NY: Basic Books.

²¹ Cohen, G. A. 1997. “Where the Action Is: On the Site of Distributive Justice,” *Philosophy & Public Affairs*, 26: 3–33. 9.

features like a rating system that ensured product quality. The Silk Road itself was shut down in October 2013, and Ross Ulbricht was sentenced to life in prison without possibility of parole for being its alleged mastermind. However, various imitators still exist today.

G. Beyond Reform and Revolution

Fully assessing the merits of direct action as an alternative to reform and revolution would take us too far from our present purposes. However, it is worth noting a few considerations that point in direct action’s favor.

Compared to revolution, direct action involves much less blood and general chaos. It is also worth remembering that a new government born out of military violence will prove authoritarian. Even in the case of non-violent revolution, there are powerful knowledge problems associated with trying to build a new constitution from scratch and imposing it anew on people who were accustomed to its predecessor. Direct action does not pose the same problems as full-scale revolution because direct action works on a piecemeal basis: we need not change everything to change anything.

Compared to reform, direct action avoids the hurdles inherent to dealing with governments. States are predictably resistant to positive change, and this can be seen from a variety of perspectives. Public choice economics predicts that state actors will tend toward exploitative policies with concentrated benefits and dispersed costs, determined by the differential access to the political process potential beneficiaries have.²⁰ It also predicts that regulatory agencies won’t be particularly helpful in systematically restrain-

²⁰ Olsen, Mancur. 1965. *The Logic of Collective Action: Public Goods and the Theory of Groups*. Cambridge, MA: Harvard University Press; Tullock, G. 1980. “Efficient Rent-Seeking,” in James Buchanan, Robert Tollison, & Gordon Tullock (eds), *Toward a Theory of the Rent-Seeking Society*. College Station, TX: Texas A&M Press; Holcombe, Randall G. 2018. *Political Capitalism: How Economic and Political Power is Made and Maintained*. Cambridge: Cambridge UP.

of Creative Interventions see the project in political terms, they make no assumptions about the politics of those they work with.¹⁷

F. Direct Action: Routing around Bad State Policies

When injustice is created by bad state policy, one way to fix the problem is to seek to change the relevant policy through reform or revolution. Another option is to route around the state or clean up its mess through direct action. Consider the United States' war on drugs—often considered a paradigmatically unjust policy by many philosophers.¹⁸ One case of direct action responding to the drug war and its consequences is the creation of the Silk Road, a now-defunct online marketplace for illegal drugs.

In an interview with *Forbes* magazine, the Silk Road's founder explicitly framed the project in political terms, emphasizing that it was “about standing up for our rights as human beings and refusing to submit when we've done no wrong.”¹⁹ Importantly, the idea was not just civil disobedience against the war on drugs, but protection from it. By providing a platform allowing people to trade illegal drugs more openly, the Silk Road carved out a space in which drug laws had less power to restrict freedom. That space helped mitigate prohibition's negative consequences, since it helped allow for

¹⁷ Kim *Critique* 22.

¹⁸ Husak, Douglas B. 1992. *Drugs and Rights*. Cambridge: Cambridge University Press; Huemer, Michael. 2004. “America's Unjust Drug War,” in Bill Masters (ed.) *The New Prohibition*. St Louis, MO: Accurate Press; Cohen, Andrew J., & William Glod. 2017. “Why Paternalists and Social Welfarists Should Oppose Criminal Drug Laws,” in Christopher W. Suprenant (ed.) *Rethinking Punishment in an Era of Mass Incarceration*. London: Routledge.

¹⁹ Roberts quoted in Greenberg, Andy. 2013. “An Interview with a Digital Drug Lord: The Silk Road's Dread Pirate Roberts,” *Forbes*, Aug 14. <http://www.forbes.com/sites/andygreenberg/2013/08/14/an-interview-with-a-digital-drug-lord-the-silk-roads-dread-pirate-roberts-qa/#5588e2c95732>, accessed 12/4/2017.

fits and burdens, however that distribution comes about.²² Taken at his word, Cohen here is expressing a version of methodological anarchism.²³ All the same, even Cohen slips into the policy framework in his discourse about justice by implicitly privileging the state. Notice that his expansion of justice beyond the state is *to the choices people make within the state's rules*. This framing maintains state primacy, with it as the assumed source of socially operative rules. Our choices *within* those state-given rules *also* matter, but with emphases on the “within” and the “also.” This is to say, theorizing about justice is still primarily theorizing about how the state should operate, and then secondarily about how we as individuals should behave.

One can most clearly see the policy framework haunt Cohen in the implicit, rather than explicit, premises of his work. For instance, he famously argues that equal shares of resources are demanded by justice, and that justice therefore demands redistributive taxation.²⁴ The principle of self-ownership, Cohen believes, is incompatible with the policy of redistributive taxation. He thus rejects self-ownership on those grounds. In this way, Cohen allows institutional prejudices about the necessity and probable success of particular policies shape his theorizing about the abstract content of justice. This same dynamic is present in *Why Not Socialism?*, where he locates justice in the non-state ideal of the camping trip. In asking if this ideal can be applied to society at large, he immediately shifts to statecraft, rather than assessing the feasibility of anarchist

²² Cohen *Action* 12.

²³ That being said, the methodological anarchist can still see institutions as having a special role beyond that of mere choices without privileging *the state in particular*.

²⁴ Cohen, G. A. 1995. *Self-Ownership, Freedom, and Equality*. Cambridge: Cambridge University Press. Per Cohen's luck egalitarianism, this is of course subject to qualification by the distributive effects of persons' morally culpable choices.

communism.²⁵ With Cohen's subliminal acceptance of the policy framework, legislators, bureaucrats, and police creep back into the picture without argument.²⁶

A. What the Policy Framework Is Not

The policy framework ought not be conflated with what some political philosophers call "nationalism": roughly, the idea that relations of justice only exist between compatriots—members of the same nation.²⁷ This idea, combined with a view that the respective jurisdictions of existing states are sufficiently accurate divisions of nations, might lead one to the view that the state is the only or ultimate vehicle for realizing justice. Indeed, Sen is right to say that

[t]here is something of a tyranny of ideas in seeing the political divisions of states (primarily, national states) as being, in some way, fundamental, and in seeing them not only as practical constraints to be addressed, but as divisions of basic significance in ethics and political philosophy.²⁸

Yet even if this notion were right, it is still not obvious that all justice must be realized in or through the machinery of the state. Relations of justice only between compatriots can still subsist through other institutions which those compatriots participate in and are subject to.

²⁵ Cohen, G. A. 2009. *Why Not Socialism?* Princeton, NJ: Princeton University Press.

²⁶ We thank Jesse Spafford and Chetan Cetty for pressing us on the applicability of the policy framework to Cohen.

²⁷ Miller, David. 1995. *On Nationality*. Oxford: Oxford University Press; Miller, David. 2000. *Citizenship and National Identity*. Oxford: Blackwell; Miller, D. 2013. *Justice for Earthlings: Essays in Political Philosophy*. Ch. 7.

²⁸ Sen, Amartya. 2009. *The Idea of Justice*. Cambridge, MA: Belknap Press. 143.

E. Direct Action: Remedies for Violence Done

Direct action has also been used in providing moral repair after violence has already occurred. In cases where violence occurs in communities skeptical of or averse to seeking aid from the state's legal system, assorted organizations have engaged in direct action to offer more constructive responses than state institutions. Creative Interventions is one such example, formed in 2004 by organizers with ties to both the anti-violence and prison abolition movements.¹⁴ Its approach emphasizes restorative justice, focusing on those most closely affected by instances of violence, but also putting them in a larger community context.¹⁵ Creative Interventions seeks to discover the full context of the harm done—its causes, impact, and potential for redress—and out of that context, develop goals toward repair.¹⁶ While the founders

dinary persons take to provide for their own security and assist in the security of others. For more on this, see Goodman, Nathan. 2017. "The Coproduction of Justice," in Christopher W. Suprenant (ed.) *Rethinking Punishment in an Era of Mass-Incarceration*. New York, NY: Routledge. Changes at the level of coproduction of security can be just as important as changes in the state's direct production of security in providing assurance that individuals' rights will be respected. For a political anarchist discussion of legal and protective services provided outside the state, see Hasnas, John. 2008. "The Obviousness of Anarchy," in Roderick T. Long and Tibor R. Machan (eds.), *Anarchism/Minarchism: Is Government Part of a Free Country?* Aldershot: Ashgate.

¹⁴ The "prison abolition" movement refers to a broad movement seeking to radically change the way we handle crime, often in ways that go beyond just abolishing prisons. The "anti-violence" movement refers to community organizations attempting to address domestic violence and interpersonal violence more generally.

¹⁵ Kim, Mimi E. 2011/2012. "Moving Beyond Critique: Creative Interventions and Reconstructions of Community Accountability," *Social Justice*, 37: 14–35. 20–21. For an outline of the community-centric rather than state-centric model of restorative justice animating groups like Creative Interventions, see Christie, Nils. 1977. "Conflicts as Property." *British Journal of Criminology*, 17.1: 1–15.

¹⁶ Kim *Critique* 21.

the capacity of unions to check the private power of employers without any recourse to the state.¹¹

D. Direct Action: Protection from Violence

Whatever their disagreements regarding other matters, most theorists of justice share a concern with seeing people protected from violence. Virtually everyone who is not an anarchist, then, assumes that this is a job for the state and its police force. Those functions are often seen as the state's most basic, as is implied by the phrasing in some libertarians' endorsement of the "minimal state." Here too, direct action has worked to supply justice beyond the state.

One such case is Threat Management Center, which has helped defend people in the Detroit area from crime for nearly twenty years. According to its founder, as of 2013 it had served 1,000 homes and 500 businesses, and it uses that money to fund free protection for people in poorer areas that cannot afford it.¹² It is committed to de-escalating violence, embracing a hard rule that its personnel will only shoot second—doubtless in part because, unlike the police, they are legally equal with ordinary people.¹³

¹¹ On related topics, see Carson, Kevin A. 2008. *Organization Theory: A Libertarian Perspective*. Charleston, SC: BookSurge. On the topic of worker self-management, also see Prychitko, David. 2019. "Context Matters: Finding a Home for Labor-Managed Enterprise," in Roger E. Bissell, Christopher Matthew Sciarra, & Edward W. Younkens (eds), *The Dialectics of Liberty: Exploring the Context of Human Freedom*. New York, NY: Lexington.

¹² Brown, Dale 2013. Interview: "Dale Brown of Detroit-based Threat Management Center is On-Point," video available at <http://www.youtube.com/watch?v=onWC8nNplCo>, accessed 1/5/17.

¹³ Threat Management Center is a case where we can point to a particular organization providing services typically associated with the state, but the point here is much more expansive. No legal system can ever succeed with only the work of those on the state's payroll. The success or failure of the state's provision of deterrence requires "coproduction," which is a series of activities that or-

Nor ought the policy framework be confused with "statism" in the particular sense used by some political philosophers²⁹ to refer to the view that being subject to coercion by one and the same state places such subjects into special justice-relevant relations which do not obtain between themselves and those subject to the coercion of other states.³⁰ On this view, though the coercive apparatus of the state may engender social relations that are subject to evaluation as to their justice, it need not entail that those relations can only be just via the enactment of particular policies by the state.

The policy framework might or might not be embraced by "nationalists" and "statists" of this kind, since it is a way of framing and articulating normative principles rather than something internal to normative theorizing. Even cosmopolitans—who believe duties of justice are owed to foreigner and compatriot alike—often analyze the nature of global justice and how to achieve it by thinking about what kind of policies ought to be implemented at the state or international level.³¹ At the international level as well as the domestic, however, we ought not to presume from the armchair that any particular institution is the one that ought to be charged with realizing justice.³² No particular set of institutional arrangements for

²⁹ It is often used by anarchists and libertarians to refer to the disposition of those who believe in the justice or necessity of the state very generally.

³⁰ For variations of this view see Waldron, Jeremy. 1993. "Special Ties and Natural Duties," *Philosophy & Public Affairs*, 22: 3–30; Waldron, Jeremy. 2011b. "The Principle of Proximity," *NYU School of Law, Public Law Research Paper*, No. 11–08. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1742413, accessed 1/31/19; Nagel, Thomas. 2005. "The Problem of Global Justice," *Philosophy & Public Affairs*, 33: 113–147; Ripstein *Force*; Stilz, Anna. 2011a. "Nations, States, and Territory," *Ethics*, 121: 572–601; Stilz, Anna. 2009. "Why Do States Have Territorial Rights?" *International Theory*, 1: 185–213; Stilz *Loyalty*; Risse, Mathias. 2012. *On Global Justice*. Princeton, NJ: Princeton University Press; Blake, Michael. 2013. *Justice and Foreign Policy*. Oxford: Oxford University Press.

³¹ For example, see Ypi, Lea L. 2008. "Statist Cosmopolitanism," *Journal of Political Philosophy*, 16: 48–71.

³² Pavel, Carmen E. 2015. *Divided Sovereignty: International Institutions and the Limits of State Authority*. Oxford: Oxford University Press. Ch. 5; cf. Pavel,

realizing domestic or global justice is entailed by the purely normative content of justice.³³ “Nationalism” and “statism” are normative commitments which do not immediately imply any particular set of institutions.

B. The Analytical Poverty of the Policy Framework

Any analysis of justice that renders it the unique concern of state action is thoroughly impoverished. Looking only, or even chiefly, at the state as a default disables one from analyzing the plethora of other loci of justice and injustice in real societies.

Consider, for a moment, two different societies. Call the first one Iustitia, and the second Iniustitiam. The respective states governing Iustitia and Iniustitiam have virtually identical constitutions and virtually identical laws.³⁴ Moreover, they are made up of highly similar people—neither absolute saints nor absolute sinners. Iustitia—as its name suggests—is an admirably just society, whereas Iniustitiam is—also as its name suggests—rife with injustice.

In Iniustitiam, large swaths of people starve in the streets, and race is a major factor in determining which members of the society find themselves in that number. Those able to find work are subject to the worst kinds of managerial pressures, with seemingly no reprieve. While women are legally allowed to do as they wish, almost all of them stay at home in rigidly patriarchal relationships. Crime rates are staggering, and the police are often complicit. All

C. 2010. “Alternative Agents for Humanitarian Intervention,” *Journal of Global Ethics*, 6: 323–338.

³³ See, respectively, Miller *Justice* ch. 1 and Ronzoni, Miriam. 2017. “Republicanism and Global Institutions: Three Desiderata in Tension,” *Social Philosophy & Policy*, 34: 186–208.

³⁴ The only differences involve variations that have no obvious bearing on justice, like national symbols, geography, the names of various places, etc.

workplaces may not have the same powers of repression available to modern states, but they can still be the most sharply felt sites of oppression for many people.

That we need institutional checks on private power does not entail the conclusion that state regulation is required. For there is a ready and obvious case of a private institution meant to combat employer power: that of the labor union. When successful, labor unions provide institutional checks on private power by raising costs for employers who do not accept their demands. There is no conceptual reason to treat this check as any less dependable or real than the checks provided by state regulation.

In fact, political anarchists frequently argue that such private checks are more dependable than state regulation, and act accordingly. The histories of anarchism and radical labor politics are deeply intertwined, as is made most clear by wildcat unions like the Industrial Workers of the World. For a recent example of labor unions engaged in direct action completely unaided by state policy, we can look to the Coalition of Immokalee Workers (CIW), a union not certified by the National Labor Relations Board (NLRB).¹⁰ That union, which represents immigrant farm workers without NLRB certification, has won better wages and work conditions without ever relying on state labor laws. Among the companies it has won victories over are Walmart, Taco Bell, Publix, and other large chains. CIW’s successes have not occurred *despite* its lack of NLRB certification, but *because* of it. Its primary tactics, focused on pressuring companies higher up the supply chain, almost entirely fall under the category “secondary action,” illegal for NLRB-certified unions. The CIW’s successes highlight

¹⁰ Johnson, Charles W. 2014. “Free Market Labor Wins Wage-Boost Victory.” *Reason* blog, Jan 28. <http://reason.com/archives/2014/01/28/free-market-labor-wins-wage-boost-victor>, accessed 12/29/17.

tions were not providers of charity, and they were not viewed as if they were. Their funds came from the pooled resources of members, provided with the expectation that they would receive the societies' benefits once they needed to do so.⁵ Among the benefits that these societies provided were access to orphanages and old-age homes, life insurance, and health and accident insurance.⁶ They were especially successful in insuring healthcare. At one point, members were able to secure a year's worth of benefits for the price of a day's wage.⁷ Thirty percent of Americans over 20 belonged to mutual aid societies in 1920, with even higher numbers among minority ethnic and religious groups.⁸

C. Direct Action: Checks on Private Power

Another concern of justice, especially for neo-republicans and relational egalitarians, is ensuring checks on private power. Elizabeth Anderson makes this especially salient by framing powerful employers as "Communist dictatorships in our midst."⁹ Modern

1990. "Mutual Aid for Social Welfare: The Case of American Fraternal Societies." *Critical Review* 4: 709–736; Beito, David. 1992. *From Mutual Aid to the Welfare State: Fraternal Societies and Social Services, 1890–1967*. Chapel Hill, NC: University of North Carolina Press; Green, David George. 1993. *Reinventing Civil Society: The Rediscovery of Welfare without Politics*. London: Civitas.

⁵ Beito *Aid* 723.

⁶ Beito *Aid* 712–717.

⁷ Long, Roderick T. 1993/1994. "How Government Solved the Healthcare Crisis: Medical Insurance That Worked—Until Government 'Fixed' It," *Formulations*, 1(2).

⁸ Beito *Aid* 711–719. Related to this non-state provision of social safety nets: direct action from civil society has also crucially assisted in the wake of disasters. For a variety of cases following Hurricane Katrina, see the stories highlighted in Storr, Nona M., Chamblee-Wright, Emily, & Storr, Virgil H. 2015. *How We Came Back: Voices from Post-Katrina New Orleans*. Arlington, VA: Mercatus Center at George Mason University; Crow, Scott. 2011. *Black Flags and Windmills: Hope, Anarchy, and the Common Ground Collective*. Oakland, CA: PM Press.

⁹ Anderson *Government* 37

the while, a small, select class of people enjoy almost all the wealth, doing their best to blissfully ignore the cries of the proles as they drift from fine dining establishment to fine dining establishment. On sufficientarian, relational egalitarian, luck egalitarian, and libertarian standards, Iniustitiam is Hell.

Iustitia is a bit different. Almost no one goes hungry, aside from those who are fasting on religious grounds. Most businesses are worker cooperatives, and those that are not might as well be, given the respectful nature of the employer–employee relationships. Men and women enter the workforce at almost identical rates and share equally in household labor. Violent crime occurs mostly on television, not in reality. And benefits are widely shared: Iustitians' limited differences in resources result only from robustly voluntary choices. On sufficientarian, relational egalitarian, luck egalitarian, and libertarian standards, Iustitia is Heaven.³⁵

As stated previously, the laws and constitutions of Iniustitiam and Iustitia are identical. Yet the differences between these two societies are not accidental. While Iustitia has a powerful labor movement to keep workplace authority in check, this does not exist in Iniustitiam. The Iustitian labor movement is also connected to a robust network of mutual aid societies, with nothing similar in Iniustitiam. While there are, formally-speaking, very serious anti-discrimination laws in both societies, cultural norms make them almost unnecessary in Iustitia, and unenforceable in Iniustitiam. Religious institutions in Iniustitiam spend most of their time reinforcing the low social status of women and racial minorities, whereas

³⁵ The identification of Iniustitiam as "Hell" and Iustitia as "Heaven" here need not imply that the former is perfectly unjust nor that the latter is perfectly just. The bare fact that Iniustitiam society continues to exist suggests it is not perfectly unjust. One could also find several defects in Iustitia in terms of various theories of justice—for instance, libertarians of a political anarchist stripe will find a grave injustice in the fact that Iustitians still live under a state. Anarchist communists might add to this the fact that Iustitia retains markets and private property. All Iustitia and Iniustitiam are meant to represent is extremes of justice and injustice relative to modern industrialized western nation-states.

religious institutions in Iustitia spend most of their time voluntarily redistributing their wealth downward and holding informal restorative justice seminars.

Iustitia is very obviously more just than Iniustitiam, even if their laws and constitutions are identical. To make the point here even clearer, imagine that they aren't identical. Instead, Iustitia has no state-provided social safety net at all, while Iniustitiam's is quite expensive. Iustitia has no formal anti-discrimination legislation, and Iniustitiam does. And so on and so forth. In that case, while some theorists might think this second version of Iustitia's laws intuitively sound more out of whack with justice than Iniustitiam's, Iustitia is still clearly more just.

That Iustitia can be basically just and Iniustitiam basically unjust counts against the policy framework, but there is still a way of talking about Iustitia and Iniustitiam's differences from within the policy framework. One could say that Iustitia and Iniustitiam are faced with very different circumstances, meaning that the same principles of justice apply themselves very differently in Iustitia and Iniustitiam. Distributive justice could mean that the state does what's necessary to secure that justice, and it may be that this does not require a welfare state for Iustitia, but does for Iniustitiam. Seeing justice as about the state does not mean its demands are not affected by factors beyond the state.

This response overlooks a much simpler solution, however. The circumstances that evoke wonder in Iustitia and horror in Iniustitiam are social circumstances. They are differences not in their public policies but in their social institutions more broadly. One way to bring Iniustitiam closer to Iustitia would be for the state to take over where other institutions have failed. Another option, though, is to simply reform those non-state institutions. An adherent of the policy framework might respond that this would just be a matter of adjusting the background circumstances in a way that makes justice much easier. Either way, the effect is the same—justice can be achieved through any number of ways that bypass public pol-

tion can often only be achieved through actively resisting attempts by states to force legibility onto a society.³ Scholars like Ostrom and Scott show that reform and revolution's fundamental assumption, that the state is necessarily the ultimate site of social change, is simply false. To make this general point clearer, we will now discuss its application to various specific domains. The following examples are meant only as a brief glance at what sorts of institutions beyond the state might enter conversations about justice between methodologically anarchist political philosophers.

B. Direct Action: Social Safety Nets

Several theories of distributive justice require the provision of a social safety net. It is often argued that the fact that this is a matter of distributive justice means that this social safety net should not be seen as a form of charity. Rather, it should be understood that those benefitting from this safety net are simply receiving benefits to which they are entitled. It is often further argued that that dependence on charity can place the poor in a position of subordination. If Person A's continued existence depends on Person B's benevolence, Person B is effectively in a position to interfere arbitrarily in Person A's life. We therefore need institutions that dependably provide a social safety net without making those who need it dependent on the good graces of their neighbors. Historically, this has been achieved successfully through direct action.

Before the rise of the welfare state, a robust social safety net existed in the form of mutual aid societies.⁴ These private associa-

³ Scott, James C. 1998. *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed*. New Haven, CT: Yale University Press; Scott, James C. 2014. *The Art of Not Being Governed: An Anarchist History of Upland Southeast Asia*. New Haven, CT: Yale University Press; Scott, James C. 2017. *Against the Grain: A Deep History of the Earliest States*. New Haven, CT: Yale University Press.

⁴ Cromwell, Lawrence, & David George Green. 1985. *Mutual Aid or Welfare State? Australia's Friendly Societies*. New York, NY: Harper Collins; Beito, David.

ing issues of justice without mediation through state channels.¹ A program of direct action can have as one of its many aims an eventual policy change, but it need not do so, and it is never *limited* to doing so. Within the policy framework, it can be difficult to see how direct action helps achieve justice. We might make do with direct action when putatively appropriate state policies look unlikely, but there is a sense that something is missing in terms of justice. Methodological anarchism makes possible more enthusiastic endorsements of direct action. It thus helps to build an important bridge between political philosophy and the real world, because many concerns of justice typically reified as policy programs have also been pursued through direct action. There is an entire world of human association that political philosophy has ignored in its reliance upon the policy framework.

This is not just the judgement of wild-eyed political anarchists; it is also the verdict of mainstream social science. For instance, the work of Nobel laureate Elinor Ostrom has shown how sophisticated forms of social organization can use social capital to sustainably manage common ecological resources without reliance on the state.² Similarly, anthropologist and political scientist James C. Scott shows how many forms of successful socioeconomic organization are illegible to states, and sustaining these forms of organiza-

¹ De Cleyre, Voltairine 1912. "Direct Action," *Mother Earth*.

² See Ostrom *Commons*; Ostrom, Elinor 2000. "Social Capital: A Fad or a Fundamental Concept?" in Partha Dasgupta & Ismail Serageldin (eds) *Social Capital: A Multifaceted Perspective*. Washington DC: World Bank Books; Ostrom, Elinor, James Walker, & Roy Gardner. 1992. "Covenants with and Without a Sword: Self-Governance is Possible," *American Political Science Review*, 86: 404–417; Axelrod, Robert. 1984. *The Evolution of Cooperation*. New York, NY: Basic Books; Ellickson, Robert. 1992. *Order without Law: How Neighbors Settle Disputes*. Cambridge, MA: Harvard University Press. Another relevant and important layer to Ostrom's work is that she finds no a priori reason to think that the source of successful cooperation ought to be any one particular level of institutions, but can rather be a function of many interlocking sources of rules and social capital. Cf Buchanan, James M. 1965. "An Economic Theory of Clubs," *Economica*, 32: 1–14.

ity. It is more straightforward to say that justice can concern social institutions without any mediation whatsoever through the state's express policies.

A defender of the policy framework might protest that this loses sight of justice as a site of enforceable obligations. There are at least two reasons this reply fails. First, the contrast between *Iustitia* and *Iniustitia* shows that even when claims of justice are equally "legally guaranteed" by those states at some formal level, they are only secure in *Iustitia*. Another way to put this is that only in *Iustitia* are they *enforced* in reality. Understanding why this is so requires going beyond the policy framework.

The second and closely related reason is that "enforcement" need not be limited to violent acts of state institutions. When social norms develop and maintain dependable ground-level sanctions, this too is enforcement.³⁶ Far from stretching our understanding of "justice," this better fits with ordinary language. For instance, consider how much of what is commonly called "social justice" activism is frequently directed at the reform of social norms, not just legal changes.³⁷

It is telling that strands of contemporary political philosophy that recognize the importance of social norms as sources of people's compliance with putatively just state demands concern themselves primarily with questions about the state's inculcation of social norms—they treat such norms simply as further targets of pub-

³⁶ Cf. Radzik, Linda. 2017. "Boycotts and the Social Enforcement of Justice," *Social Philosophy and Policy*, 34: 102–122; Ostrom, Elinor. 1990. *Governing the Commons: The Evolution of Institutions for Collective Action*. Cambridge: Cambridge University Press.

³⁷ Cf. Long, Roderick T. 2019. "Why Libertarians Should Be Social Justice Warriors," in Roger E. Bissell, Christopher Matthew Sciabarra, & Edward W. Younkins (eds), *The Dialectics of Liberty: Exploring the Context of Human Freedom*. New York, NY: Lexington; Wexler, Lesley, Robbenolt, Jennifer K., & Murphy, Colleen. 2019. "#MeToo, Time's Up, and Theories of Justice," *University of Illinois Law Review*, 2019: 45–111.

lic policy.³⁸ What is strange about such a framing is that state-made laws themselves are just social norms of a particular kind. The ability of states to inculcate compliance with a set of norms is presumed by the possibility of legislation.³⁹ Where states have trouble obtaining the compliance that is necessary to the success of its policies, the instrumental variable appears to be endogenous. We have just as much reason to see people acting justly as a feature of other norms and institutions besides state-made law. State-made law ought not be regarded “as a largely autonomous tool for securing justice and fair cooperation,” but one set of norms among many—with no monopoly on justice.⁴⁰

C. The Ideological Danger of the Policy Framework

There is a danger that in fetishizing state policy as the pinnacle of our concerns about justice, we entrench or legitimize the very real injustices perpetuated by the state. The policy framework invites us to imagine the very best functions the state could perform, and then turn the potential performance of these functions into a kind of justification for the existence of the actual state, and with it, the things it actually does. The direct inference from principles of justice to state policies uncritically presupposes the notion that without a state, there is no justice. Therefore, as a minimal condi-

³⁸ For example, see McTernan, Emily. 2014. “How to Make Citizens Behave: Social Psychology, Liberal Virtues, and Social Norms,” *Journal of Political Philosophy*, 22: 84–104.

³⁹ Cf. Hayek, F.A. 1978. *Law, Legislation and Liberty, Volume 1: Rules and Order*. Chicago, IL: University of Chicago Press; Hasnas, John. 2004. “Hayek, The Common Law, and Fluid Drive,” *NYU Journal of Law & Liberty*, 1: 79–110.

⁴⁰ Barrett, Jacob, & Gerald Gaus. Forthcoming. “Laws, Norms, and Public Justification: The Limits of Law as an Instrument of Reform,” in Silje A. Langvatn, Wojciech Sadurski, & Mattias Kumm (eds) *Public Reason and the Courts*. Cambridge: Cambridge University Press. 2.

III. From Theory to Practice: The Promise of Methodological Anarchism

Not only does methodological anarchism point to a new way of viewing justice, it opens up conceptual space for a different way of seeing political action. Within the policy framework, with concerns of justice tied to state’s regulations, laws, and constitutions, political action is naturally aimed at changing these regulations, laws, and constitutions. Political action can take the form of voting, running for office, lobbying for or against legislation, or campaigning for candidates or referenda. It may also come in the form of civil disobedience or educating the public, but the aim of that civil disobedience and education is still always to eventually effect a change in public policy. Political action as understood within the policy framework might even come in the form of revolution, where the aim is to entirely replace one constitution with another. What these forms of political action—which we will refer to broadly as “reform and revolution”—share is that the central, guiding aim is always to change the things states do.

A. Direct Action

It is in contrast to reform and revolution that we understand *direct action*. “Direct action” refers to attempts at directly address-

general sufficientarian principle, in accordance with which everyone is owed the ability to realize some minimal level of welfare. We cannot reason directly from this principle to the claim that the state must provide some sort of a social safety net. We can only reason to the claim that there ought to be a safety net. After comparative institutional analysis, we may conclude that this social safety net should take the form of a state-funded, state-delivered program. However, we might conclude instead that it demands a rebirth of something like pre-welfare state mutual aid societies. In either case, social institutions attempt to provide a safety net. The question is which method is successful, which one can be depended upon.

Importantly, this is not a consequentialist claim that perhaps the goals of justice could be better achieved beyond the state. It is a conceptual decoupling of justice and the state. The state is not a justice machine through which a society speaks and acts, as Nozick claims. It is just one among many institutions that might be thought capable of exhibiting or fostering justice. Its actions have particularly far-reaching effects—hence political anarchists’ focus on its abolition— but it is still just one institution among many. Methodological anarchism involves first acknowledging that it is analytically erroneous and morally dangerous to reify society as the state, and then refusing to do so.

tion of creating a just society, or even mitigating some injustices at the margins, we need a state. The state is the tool and the focus of justice.

The policy framework “overmoralizes” the state, in invoking what it *could* accomplish in accordance with justice, as an explanation for its existence or legitimacy.⁴¹ Its constant invocation of a thoroughly idealized version of a real, historically shaped social institution obscures the very real injustices perpetuated by the state, in large part because of its particular institutional structure, and privileges the potential good functions it could, in principle, perform.⁴² For example, by asserting that municipal police forces have the *purpose* of protecting people from crime, and that they *therefore* ought to be given generous leeway when they victimize innocent people in the process, actual police force’s actual injustices are entrenched.⁴³

If articulating principles or theories of justice in terms of state policies did not represent an implicit endorsement of the actual state, then there would be no reason for political philosophers to pick out this particular institution as their favored justice machine. One rarely if ever hears a political philosopher articulate some principle of justice and then say, “and therefore, the family ought to allocate everyone a sufficiently advantageous share of opportunities for welfare.” Or “and therefore, private associations must guarantee each agent her fair share of social and economic capital.” Firms, private associations, churches, cities, universities, or international nongovernmental organizations are never charged with being *the*

⁴¹ Levy, Jacob T. 2017. “Contra Politicism,” *European Journal of Political Theory*, online first. DOI: 10.1177/14748851177183712: 15. For arguments that this has always been intrinsic, in one way or another, to liberal rhetoric, see Losurdo, Domenico. 2011. *Liberalism: A Counter-History*, trans. Gregory Elliot. London: Verso Books; Mulholland, Marc. 2012. *Bourgeois Liberty and the Politics of Fear: From Absolutism to Neo-Conservatism*. Oxford: Oxford University Press.

⁴² Mills, Charles W. 2005. “‘Ideal Theory’ as Ideology,” *Hypatia*, 20: 165–184.

⁴³ Levy *Folk*.

institution that so obviously must be charged with guaranteeing everyone their just entitlements through policy.⁴⁴ When these institutions are invoked as vehicles for justice, it is usually government regulation of them that is the locus of the discussion.⁴⁵ Or else, it is expected that they provide some evidence that the selected institution is the most appropriately suited to the particular task at hand. The primary function of these institutions is, presumably, readily acknowledged by political philosophers to not be securing justice, yet the same is true of the state. States are not mere “machines for dispensing justice.”⁴⁶ An entity qualifies as a state if it asserts that it is entitled to serve as the final authority regarding the use of force within a geographical territory and if it exhibits the capacity effectively to maintain its dominance in that territory. It is not clear why we should assume that an institution with these features would necessarily seek to act justly or to foster justice. To expect it to as a matter of course results in the kind of moralization Levy rightly highlights.⁴⁷

⁴⁴ On the tendency to view the moral function of intermediary institutions as strictly subordinate to that of nation states, see Levy, Jacob T. 2015b. *Rationalism, Pluralism, and Freedom*. Oxford: Oxford University Press; Levy *Politanism*.

⁴⁵ For recent examples, on marriage, the workplace, and religion, see, respectively, Chambers, Clare. 2017. *Against Marriage: An Egalitarian Defense of the Marriage-Free State*. Oxford: Oxford University Press; Anderson, Elizabeth. 2017. *Private Government: How Employers Rule Our Lives (and Why We Don't Talk about It)*. Princeton, NJ: Princeton University Press; Laborde, Cécile. 2017. *Liberalism's Religion*. Cambridge, MA: Harvard University Press. We do not mean to claim that these arguments engage in the policy framework in the sense of inferring deductively invalid conclusions about state policy from premises merely regarding abstract principle. Rather, we claim that they do so in the sense of problematizing public policy *itself* and its impact on the family, the workplace, or religion with political philosophy, and elevating the analysis of policy as the most important implications of their sophisticated theories of justice regarding the workings of these institutions.

⁴⁶ Levy *Rationalism* 58; cf. Levy, Jacob T. 2016. “There is No Such Thing as Ideal Theory,” *Social & Political Philosophy*, 33: 312–333. 325.

⁴⁷ Levy *Politanism*.

therefore, we know that justice prohibits a disunited system.⁵⁶

Indeed, the policy framework privileges the state in much the same way social contract theory often does: there is a presumption in favor of the state actually doing what we want it to, at least well enough to justify our allegiance. Karl Widerquist and Grant S. McCall spell out this problem:

Contractarians devote pages and pages of normative argument to support the apparently strong criteria that the state is only justified if it makes everyone better off than they would be in its absence. Yet, with little or no argument, they usually conclude that the criterion is fulfilled, and they seldom even address the question of what to do when the criterion is unfulfilled.⁵⁷

The policy framework imputes moral purpose to the state even though its actual function tends to go against that purpose. Employing the policy framework thus means providing rhetorical cover for state injustice. To avoid doing this and to undermine the deleterious influence of the policy framework, we should consciously resist use of it. We propose that resistance take the form of adopting methodological anarchism. Methodological anarchism draws a bright line between abstract principles of justice and concrete proposals for specific state policies—or even specific *sorts* of policies. It embodies a thoroughgoing institutional agnosticism about how we ought to enact justice. For example, imagine that we agree on some

⁵⁶ Levy *Politanism* 16.

⁵⁷ Widerquist *Myths* 224; cf. Widerquist *State*; Pateman, C., & C. W. Mills. 2007. *Contract and Domination*. Cambridge: Polity Press. 54; Pateman, Carole. 1989. *The Disorder of Women: Democracy, Feminism, and Political Theory*. Palo Alto, CA: Stanford University Press. 71; Long, Roderick T. 1995. “Immanent Liberalism: The Politics of Mutual Consent,” *Social Philosophy & Policy*, 12: 1–31.

While, when many political philosophers say “the state” they have in mind some perfect state that has never existed and may never exist, “the state” in fact refers to a very real thing to most people. The fact that philosophers envision states with all sorts of properties real states do not in fact have does not alter the rhetorical effect. Consider the following analogy, borrowed from Michael Munger, between theorizing about states and how someone might similarly theorize about unicorns.⁵⁵ In Munger’s hypothetical, there are no unicorns in the real world, yet they are constantly invoked to solve the real world’s problems. Through their magic, unicorns can move heavy loads quickly and efficiently around the world, so the unicorn-theorist argues we should use them to solve all our transportation needs. Of course, if you invoke a unicorn as a solution to real social problems, no one would imagine you were offering a serious proposal. But while, as far as we know, “unicorn” has no referent in the real world, “the state” does. Saying that unicorns can solve all our transit problems does not encourage outrageous expectations of, say, real-world horses. But talking about the mythical state—the one that exists only in the minds of political philosophers—does lead people to embrace certain attitudes toward real states. As Jacob Levy describes this process,

Political philosophers are prone to the following fallacy: If we knew precisely what justice demanded and had access to a government that would implement it, we would have a unified system of rights and responsibilities and authority; therefore we know that a dis-integrated system is not part of what justice demands;

the World Worse by Saying How It Could Be Better”; cf. Wolff, J. 1998. “Fairness, Respect, and the Egalitarian Ethos,” *Philosophy & Public Affairs*, 27: 97–122.

⁵⁵ Munger, Michael. 2014. “Unicorn Governance,” *Foundation for Economic Education* blog, Aug. 11. <https://fee.org/articles/unicorn-governance>, accessed 2/16/17.

It might be argued that the juridical finality of the state makes it the focus of justice. On such an account, when individuals and other social institutions fail to comply with justice, the state can use its coercive power to resolve whatever problem might follow from noncompliance. Once the state settles a matter, there is no further legal remedy, given that any lower-level legal remedies take place within the juridical space of the state’s authorization. That is why political philosophers talk about state policy rather than what the family, the firm, etc., should do, because ultimately the state has the legal capability to correct matters when those intermediary institutions fail to comply with justice.

The compliance problem affects the state just as much as any other social institution, however. The monopoly on force being conditionally justified by its effective use of that force to ensure compliance with justice does not entail that that is how its monopoly is in fact used. We must ask: What happens when the entity with juridical finality does not comply with justice? How can that finality be justified when it is not itself operationalized to assure compliance with justice?

The fact is that there is no metaphysically ultimate juridical finality, there is only what society happens to acquiesce to.⁴⁸ While the state has the power to intervene in intermediary social institutions, the state’s authority itself depends upon an array of other social norms ensuring compliance with the rules that constitute it. “[S]overeignty—where it exists— depends on rules, is constituted by rules, and so cannot intelligibly be regarded as the source of all

⁴⁸ Long *Anarchism*.

the rules that make up the legal system.”⁴⁹ If noncompliance is a problem, then it is also a problem for state action.

The state has ultimate de facto authority over us; we therefore *want* it to use that authority justly. Unfortunately, this does not entail that it *will* do so, nor that we should justify the power on the basis that it might. The good intentions theorists have in supporting the state’s power for some particular end are not mechanically infused into the state’s actual operations. Institutions do not necessarily create the conditions for their own success;⁵⁰ they must be judged in accordance with how well they deal with difficult conditions within which they actually operate.⁵¹

⁴⁹ Waldron, Jeremy. 2008. “Hart and the Principles of Legality,” in Matthew H. Kramer, Claire Grant, Ben Colburn, & Antony Hatzistavrou (eds) *The Legacy of H. L. A. Hart: Legal, Political, and Moral Philosophy*. Oxford: Oxford University Press. 82; cf. Waldron, J. 2011a. “Are Sovereigns Entitled to the Benefit of International Rule of Law?” *European Journal of International Law*, 22: 315–343. 318–319; Hart, H. L. A. 1961 [1994]. *The Concept of Law*, 2nd ed. Oxford: Clarendon Press. 51–61. In so-called nonideal theory, the feasibility of compliance with a particular principle of justice is explicitly problematized. However, it is always the feasibility of the state compelling the citizenry to comply with justice, rather than the feasibility of the state itself faithfully using its powers only to compel compliance with justice. As Jacob Levy says, “States are ... social institutions with organizational dynamics and tendencies of their own ... when we introduce the question ‘what will states do, when tasked with enacting and enforcing it?’ This is a kind of compliance problem, the kind pointed out by the second half of Madison’s dictum: ‘If angels were to govern men, neither external nor internal controls on government would be necessary.’ It seems to me a strange feature of the ideal theory literature that is has focused so completely on the question of whether compliance among the citizenry is a valid modelling assumption, to the neglect of the tacit assumption of compliance by the state.” Levy *Thing* 325.

⁵⁰ Brennan, Jason. 2016a. “Do Markets Corrupt?” in Jennifer A. Baker & Mark D. White (eds) *Economics and the Virtues: Building A New Moral Foundation*. New York, NY: Oxford University Press. 243–247.

⁵¹ Pennington, Mark. 2011. *Robust Political Economy: Classical Liberalism and the Future of Public Policy*. Cheltenham: Edward Elgar.

“Concentrated power,” as Milton Friedman reminds us, “is not rendered harmless by the good intentions of those who create it.”⁵² The policy framework promotes support for the state, and hence its power, on the basis that this power could be used for justice. This risks lending legitimacy to the state’s many historical and ongoing injustices at the expense of underplaying or even tarnishing non-policy-based alleviations of injustice, particularly those that might simultaneously erode state power.

The rhetoric of justice can sometimes foster injustice. This is particularly true when we use terms with obvious referents in the messy, real world to denote ideal, or idealized, states of affairs. For example, since most people use “capitalism” to refer to the economic system that obtains in the present in many parts of the world, riddled with privileges that render markets anything but free, when some libertarians use “capitalism” to refer to a system featuring genuinely unfettered markets, this can provide ideological cover for those rigged markets.⁵³ Similarly, when luck egalitarians emphasize that those who are responsible for their disadvantages have no claims of justice on the resources of others, they may be unwittingly supporting invasions of the private lives of the worst off in order to verify that they are “deserving” welfare recipients and not “scroungers.”⁵⁴ A similar thing is true of the state as it is of capitalism and notions of desert.

⁵² Friedman, Milton. 1962 [2002]. *Capitalism and Freedom*, 40th Anniversary Ed. Chicago, IL: University of Chicago Press. 201.

⁵³ Cf. Long, Roderick T. 2006. “Rothbard’s ‘Left and Right’: Forty Years Later,” *Mises Daily*, [[<https://mises.org/library/rothbards-left-and-right-forty-years-later>]] [<https://mises.org/library/rothbards-left-and-right-forty-years-later>], accessed 1/31/19.

⁵⁴ Axelsen, David V. 2015. “Political Philosophy and Political Change,” *Justice Everywhere* blog, Sept 28. [[<http://justice-everywhere.org/education/political-theory-and-political-change/>]] [<http://justice-everywhere.org/education/political-theory-and-political-change/>], accessed 2/14/17; Axelsen, David V. 2016. “Aktivistisk Politisk Teori,” in R. S. Hansen & S. Midtgaard (eds) *Metoden i Politisk Teori*. Copenhagen: Samfundslitteratur; Axelsen, David V. Unpublished. “Making