

THE FALLACY OF A PRIORI STATISM

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I. INTRODUCTION

In this Article, we attempt to undermine the intellectual case for statism and defend anarchism. Part II addresses the fallacy of a priori statism, and Part III presents the justification for anarchism. The burden of Part IV is to deal with objections. We conclude in Part V.

II. A PRIORI STATISM

In the field of epistemology, the a priori, in Kant's view,¹ corresponds to that knowledge which is independent of experience² and, according to John Stuart Mill, *before* experience.³ Statism may be defined as the doctrine holding the government as a solution to virtually every problem.⁴ Statists place the government

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1. IMMANUEL KANT, *CRITIQUE OF PURE REASON* 127 (Paul Guyer & Allen W. Wood trans., Cambridge University Press 1998) (1781).

2. The a priori is knowledge that is absolutely "independent of all experience." *Id.* at 136, *quoted in* Bruce Russell, *A Priori Justification and Knowledge*, STAN. ENCYCLOPEDIA PHIL. (May 19, 2014), <https://plato.stanford.edu/archives/sum2017/entries/apriori/>.

3. John Stuart Mill explains:

We cannot acquire any genuine knowledge *a priori*, then. Mill holds that knowledge can be obtained only by empirical observation, and by reasoning which takes place on the ground of such observations. This principle stands at the heart of his radical empiricism. Sense perceptions are the "original data, or ultimate premises of our knowledge" (*System*, VII: 7)—knowledge of greater levels of complexity is arrived at solely by inferences from that original data.

Christopher Macleod, *John Stuart Mill*, STAN. ENCYCLOPEDIA PHIL. (Aug. 25, 2016), <https://plato.stanford.edu/archives/spr2017/entries/mill/>.

4. The definition is ours and refers to the essence of this viewpoint. Observe that we do not say that statism the solution to *social* problems, given that in some extreme views the state is also viewed as a super entity that transcends this world. Hegel is an example of this viewpoint:

above the welfare of the individual.⁵ The state is understood as an end in itself, while individuals are merely a means to that end.⁶

It is obvious that, for statist, the superiority of the government is to be taken a priori.⁷ For them, it is not relevant to analyze the *actual* performance of this institution, or which are its legitimate functions.⁸ For statist, the government is not only conceptualized independently of and/or before experience, but also *apart* from experience.⁹ The state's multiple failures (under either complete socialism or modern interventionism) are almost completely ignored.¹⁰

Statist take the so-called public sector as a viable and functional tool to organize society independent of any further consideration.¹¹ If the state fails, then the failure is not the fault of the state.¹² The superiority of this organization in solving any

Hegel is clear about the supereminent role of the state that stands above all else in giving expression to the Spirit (*Geist*) of a society in a sort of earthly kingdom of God, the realization of God in the world. True religion complements and supports this realization and thus cannot properly have supremacy over or be opposed to the state.

David A. Duquette, *Hegel: Social and Political Thought*, INTERNET ENCYCLOPEDIA PHIL., <https://www.iep.utm.edu/hegelsoc/> (last visited Aug. 4, 2019).

5. Harry Binswanger, *Statism: Whether Fascist or Communist, It's the Deadly Opposite of Capitalism*, FORBES (Nov. 13, 2013, 12:38 AM), <https://www.forbes.com/sites/harrybinswanger/2013/11/13/statism/#1ca6f4ba5f5c>.

6. *Id.*

7. See *Grutzmacher v. Howard Cty.*, 851 F.3d 332, 333 (4th Cir. 2017) (explaining statist belief in absolute power of government).

8. For limited government libertarians, or “minarchists”—as opposed to “statist,” who want a totalitarian organization—the only legitimate function of government is to protect from violence those in its geographical area. See generally AYN RAND, *ATLAS SHRUGGED 1075* (50th Anniversary ed., Signet 1996) (1957) (explaining objectivism through heroes in novel). To this end, the only proper institutions are *defensive* armies to quell attack from abroad, police to do so against domestic criminals, and courts to determine guilt or innocence. *Id.*; ROBERT NOZICK, *ANARCHY, STATE, AND UTOPIA* 23, 26 (1974).

9. This is the idea we will try to defend in the present essay.

10. But not totally ignored. Interventionist such as Joseph Stiglitz, Paul Samuelson, and Paul Krugman will readily concede that no government is perfect. See PAUL SAMUELSON, *ECONOMICS: AN INTRODUCTORY ANALYSIS* 12–17 (1948); Paul Krugman, *Why Economics Failed*, N.Y. TIMES (May 1, 2014), <https://www.nytimes.com/2014/05/02/opinion/krugman-why-economics-failed.html>; Joseph E. Stiglitz, *Government Failure vs. Market Failure: Principles of Regulation 2* (Columbia University, Working Paper, 2008), <https://doi.org/10.7916/D82F7V5C>. However, the very strong presumption of these writers is that on the rare occasions when the state does err, these errors almost always result from doing too little, not too much, and in the latter case, the solution is not to pull back, but to improve efficiency.

11. Interventionist such as Paul Samuelson consider that the state must intervene in instances where the market apparently fails. See SAMUELSON, *supra* note 10, at 150–54.

12. Monty G. Marshall & Benjamin R. Cole, *State Failure: The Problem of Complex Societal-Systems*, in STATES AND PEOPLES IN CONFLICT: TRANSFORMATIONS OF CONFLICT STUDIES 184, 184–85 (Michael Stohl, Mark I. Lichbach & Peter Nils Grabosky eds., 2017).

conceivable problem is to be taken as a non-falsifiable theory, which is immunized in different ways. The most relevant example of the latter approach is when socialists of different variants claim that the utter failure of socialism's application throughout the world was "not real socialism."¹³

Often, the state intervenes in the economy, destroys it, and later the market is blamed.¹⁴ Cause and effect are constantly ignored. The reason for this misapprehension is that the state is *the* solution.¹⁵ So if the solution did not appear, then it is not the theory that went wrong, but something else. The truth is that this view is not a theory at all. It is only faith and, to be more specific: faith in the state.¹⁶ As a new logical fallacy, to take the state always

13. Kristian Niemietz, "But That Wasn't REAL Socialism!" (Part 1: The USSR), INSTITUTE OF ECON. AFFAIRS (July 21, 2017), <https://iea.org.uk/but-that-wasnt-real-socialism-part-1/>. Further,

Noam Chomsky once described the idea "that the society created by Lenin and Trotsky and moulded [sic] further by Stalin . . . has some relation to socialism" as a "fantasy". Owen Jones recently wrote that "A socialist society . . . doesn't exist yet, but one day it must." Stephen Resnick, a professor of—oddly enough—economics, said: "We can't concede the end of communism. Communism hasn't been tried on a society-wide basis."

Id.

14. LUDWIG VON MISES, HUMAN ACTION—A TREATISE ON ECONOMICS 312 (The Ludwig von Mises Institute 1998) (1940) [hereinafter VON MISES, HUMAN ACTION]; LUDWIG VON MISES, SOCIALISM: AN ECONOMIC AND SOCIOLOGICAL ANALYSIS 527 (J. Kahane trans., Yale Univ. Press 1951) (1922) [hereinafter VON MISES, SOCIALISM]. For example,

Anti-capitalistic policies sabotage the operation of the capitalist system of the market economy. The failure of interventionism does not demonstrate the necessity of adopting socialism. It merely exposes the futility of interventionism. All those evils which the self-styled 'progressives' interpret as evidence of the failure of capitalism are the outcome of their allegedly beneficial interference with the market. Only the ignorant, wrongly identifying interventionism and capitalism, believe that the remedy for these evils is socialism.

VON MISES, SOCIALISM, *Id.* at 532.

15. Alex Kozinski, *The Dark Lessons of Utopia*, 58 U. CHI. L. REV. 575, 577 (1991).

16. Faith is defined as:

Faith, inner attitude, conviction, or trust relating human beings to a supreme God or ultimate salvation. In religious traditions stressing divine grace, it is the inner certainty or attitude of love granted by God himself. In Christian theology, faith is the divinely inspired human response to God's historical revelation through Jesus Christ and, consequently, is of crucial significance.

Faith, ENCYCLOPAEDIA BRITANNICA, <https://www.britannica.com/topic/faith> (last visited Aug. 4, 2019). In the sense that we use the term here, the faith placed to God in religion is directed by statists on the state.

and irrespective of the context as a solution to every problem, we can name it the fallacy of a priori statism.

For statist, the concepts of “solution” and “state” go with each other.¹⁷ Therefore, when problems are not solved *through* the state, then *more* government intervention is logically required. The syllogism goes like this:

The state is the solution to every problem (major premise).

There is a problem that needs to be solved (minor premise).

The state should intervene in order to solve it (conclusion).

However, if interventionism results in chaos, the major premise is never changed. Instead, the resulting chaos solidifies the unfalsifiable nature of statism because neither the government’s alleged success nor failure harms the theory. For statist, the state is always and necessarily the solution.

How do the views of those who advocate liberty stack up in contrast to the socialist statist? There are, essentially, two schools of thought on this matter, and we offer both.

First, there are those who do not hold libertarianism as the solution to every problem. Here, the main idea is that individuals *must* be free to solve their own problems. It does not assume that the *solution* to these difficulties is always, and ever, the free enterprise system (it is not oriented toward magic), but only that freedom is necessary in order to find a solution. In other words, libertarianism is based on the *condition* to find solutions: not the solution *itself*.¹⁸

Statist often resort to the “Nirvana Fallacy,”¹⁹ by comparing the market as it is (including interventions all throughout) with an

17. Since the state is conceptualized as an all-powerful agent, its action (defined or not) is understood as the solution to every problem.

18. See, e.g., Friedrich von Hayek, *Prize Lecture: The Pretence of Knowledge*, NOBEL PRIZE (Dec. 11, 1974), <https://www.nobelprize.org/prizes/economic-sciences/1974/hayek/lecture/>.

19. Defined as:

The view that now pervades much public policy economics implicitly presents the relevant choice as between an ideal norm and an existing “imperfect” institutional arrangement. This *nirvana* approach differs considerably from a *comparative institution* approach in which the relevant choice is between alternative real institutional arrangements. In practice, those who adopt the nirvana viewpoint seek

ideal state.²⁰ This fallacy derives from the statist's major premise that the state is the solution to everything. This stark contrast between libertarianism's conditions-based and statism's solutions-based approach demonstrates the difference between a sound political theory and utopia or magic (and this is to say a lot: statism often turns into a dystopia).²¹

Taken as a super-entity with anthropomorphic characteristics, the state is an acting agent.²² The "organic theory of the state,"²³ therefore, is the logical conclusion of this approach. Here, the state is the *real* entity; it is comprised of individuals who are to it what the organs of the body are to the person: necessary, but subservient.²⁴ Nevertheless, since the state is not a super-entity, but an institution run by individuals, some people must necessarily direct its functions. In this respect, these individuals are the ones that define themselves as the "voice" of society, or the "voice" of the party, and rule the state (and its citizens).²⁵

Given that interventionism fails, but the *idea* of interventionism persists, only the incumbents are blamed for

to discover discrepancies between the ideal and the real and if discrepancies are found, they deduce that the real is inefficient.

Harold Demsetz, *Information and Efficiency: Another Viewpoint*, 12 J.L. & ECON. 1, 1 (1969).

20. See also Maxwell L. Stearns, *The Misguided Renaissance of Social Choice*, 103 YALE L.J. 1219, 1229–30 (1994) (explaining how "through the 'nirvana fallacy,' scholars erroneously compare real-world institutions with some abstract or ideal institution, even if the institution has never existed or . . . has been proven impossible to devise").

21. See, e.g., Jacob G. Hornberger, *Why We Don't Compromise, Part 2*, FUTURE OF FREEDOM FOUNDATION, June 2015, at 2, 5, <https://www.fff.org/wp-content/uploads/2015/06/FUTURE-OF-FREEDOM-June-2015.pdf> ("One of the criticisms that statist level at libertarians is that we are fighting for a utopia.").

22. W. H. Manwaring, *Organic Theory of the State*, 47 SCI. MONTHLY 48, 48 (1938).

23. This theory

pictures the politico-economic state as a living organism, a large-scale manifestation of the same basic biological laws as those studied to-day by means of the microscope and test-tube. Thus pictured, political, economic and social institutions become literally organs of the body-politic or functions of the economic order, in much the same way that the heart is an organ performing a necessary function in the human body.

Id.

24. *Id.* See also H. J. McCloskey, *The State as an Organism, as a Person, and as an End in Itself*, 72 PHIL. REV. 306, 307 (1963) (explaining that critics of the organic theory "argue that if the state is an organism, it is therefore both ontologically higher and more valuable than its parts").

25. See *id.* at 311 (analogizing the state to an organism that can develop its ideas through select individuals with power).

statism's disastrous consequences.²⁶ Mao, Stalin, and Pol Pot are, for statist, heretics who do not represent the ideas they claim to stand for.²⁷ Thus, given that the state does not work by itself, but through specific individuals, and these are the ones blamed for its failures, statism is immunized from being refuted—politicians may be censured, but not the institution of which they are agents. In this respect, politicians are both necessary to apply the theory (guiding the state) and defend it (by being held responsible for the state's failures).

There is also a second perspective within the libertarian community. Under this perspective, all market transactions are at least beneficial *ex ante* and, usually, *ex post* also.²⁸ This is apodictic, logically undeniable. It is not falsifiable²⁹—a quality that (is/makes it) the be-all end-all for the followers of Karl Popper. But, in saying this, are we libertarians not admitting that we are partaking in something similar to the socialists' claims of infallibility? This fact cannot be denied. Not only are there strong parallels between the two stances—they are indistinguishable.

We just finished lambasting the views of our friends on the left for this stand of theirs; are we not now embracing the very same philosophical principle? Yes and no. The “yes” part consists of the fact that we, too, are making a claim “independent of experience” or “before experience.” It is thus also an a priori claim. Not, of course, that socialism necessarily leads to beneficial effects, but, rather, that only *laissez faire* capitalism achieves this end.³⁰

In support of the apriorism viewpoint of the left,³¹ there is nothing wrong with this modality, *per se*. What distinguishes Austrian economics from the mainstream is that the former does

26. See Anatol Lieven, *The Myth of Liberal Interventionism: Why it Always Fails*, PROSPECT MAGAZINE (Dec. 7, 2018), <https://www.prospectmagazine.co.uk/magazine/the-myth-of-liberal-interventionism-why-it-always-fails> (describing the idealistic norms of interventionism through various historical examples).

27. See Niemietz, *supra* note 13.

28. VON MISES, HUMAN ACTION, *supra* note 14, at 648.

29. It is sometimes claimed that Freudianism, too, is an a priori system. It is, to the extent that all critics are dismissed as having mental diseases. If so, then it would be impossible to logically refute this system of psychology; thus, it, too, would be held on an a priori basis. *Id.* at 35.

30. MURRAY N. ROTHBARD, *Praxeology, Value Judgments, and Public Policy*, in ECONOMIC CONTROVERSIES 81, 95–97 (2011).

31. Despite the fact that statist never present themselves in this way, they nevertheless implicitly resort to this methodology. MURRAY N. ROTHBARD, *In Defense of “Extreme Apriorism,”* in ECONOMIC CONTROVERSIES, *supra* note 30, at 103, 107.

indeed embrace this logical procedure.³² Why, then, do we reject it? Even more basic, how do we libertarian apriorists distinguish ourselves from our socialist counterparts? There are several reasons.

First, just because an argument is logical does not mean it is correct. Consider the following syllogism:

Major premise: 8 is larger than 9.

Minor premise: 7 is larger than 8.

Conclusion: 7 is larger than 9.

32. HANS-HERMANN HOPPE, *Austrian Rationalism in the Age of the Decline of Positivism*, in *THE ECONOMICS AND ETHICS OF PRIVATE PROPERTY* 347, 348 (2d ed. 2006); HANS-HERMANN HOPPE, *ECONOMIC SCIENCE AND THE AUSTRIAN METHOD* 8–9 (1995); LUDWIG VON MISES, *THEORY AND HISTORY: AN INTERPRETATION OF SOCIAL AND ECONOMIC EVOLUTION* 104 (Ludwig von Mises Institute 2007) (1957); VON MISES, *HUMAN ACTION*, *supra* note 14, at 32; ROTHBARD, *Lange, Mises and Praxeology: The Retreat from Marxism*, in *ECONOMIC CONTROVERSIES*, *supra* note 30, at 801, 806; ROTHBARD, *Praxeology: The Methodology of Austrian Economics*, in *ECONOMIC CONTROVERSIES*, *supra* note 30, at 59, 59; ROTHBARD, *Praxeology as the Method of the Social Sciences*, in *ECONOMIC CONTROVERSIES*, *supra* note 30, at 29, 33; ROTHBARD, *Praxeology, Value Judgments, and Public Policy*, *supra* note 30, at 92; ROTHBARD, *In Defense of “Extreme Apriorism,”* *supra* note 31, at 107; MURRAY N. ROTHBARD, *MAN, ECONOMY, AND STATE WITH POWER AND MARKET* 649 (2d ed. 2009); GEORGE A. SELGIN, *PRAXEOLOGY AND UNDERSTANDING: AN ANALYSIS OF THE CONTROVERSY IN AUSTRIAN ECONOMICS* 15 (Ludwig von Mises Institute 1990) (1988); Robert Batemarco, *Positive Economics and Praxeology: The Clash of Prediction and Explanation*, *ATLANTIC ECON. J.*, July 1985, at 31, 31; Walter E. Block, *Austrian Theorizing: Recalling the Foundations*, 2 *Q. J. AUSTRIAN ECON.* 21, 24 (1999); Glenn Fox, *The Pricing of Environmental Goods: A Praxeological Critique of Contingent Valuation*, 5 *CULTURAL DYNAMICS* 245, 250 (1992); Hans-Hermann Hoppe, *On Praxeology and the Praxeological Foundation of Epistemology and Ethics*, in *THE MEANING OF LUDWIG VON MISES* 134, 151 (Jeffrey M. Herbener ed., 1992); Jörg Guido Hülsmann, *Economic Science and Neoclassicism*, 2 *Q. J. OF AUSTRIAN ECON.* 3, 4 (1999); Mario J. Rizzo, *Praxeology and Econometrics: A Critique of Positivist Economics*, in *NEW DIRECTIONS IN AUSTRIAN ECONOMICS* 40, 49 (Louis M. Spadaro ed., Institute for Humane Studies 1978); Murray N. Rothbard, *Individualism and the Philosophy of the Social Sciences*, as reprinted in 18 *AUSTRIAN ECONOMICS: A READER* 55, 76–79 (Richard M. Ebeling ed., 1991); Jakub Bożydar Wiśniewski, *The Methodology of the Austrian School of Economics: The Present State of Knowledge*, 20 *EKONOMIA—WROCLAW ECON. REV.*, no. 1, 2014, at 39, 40; Walter E. Block, *A Comment on “The Extraordinary Claim of Praxeology” by Professor Gutiérrez*, 3 *THEORY & DECISION* 377, 378 (1973); Walter E. Block, *On Robert Nozick’s “On Austrian Methodology,”* 23 *INQUIRY* 397, 397 (1980); Hans-Hermann Hoppe, *In Defense of Extreme Rationalism: Thoughts on Donald McCloskey’s The Rhetoric of Economics*, 2 *REV. AUSTRIAN ECON.* 179, 186 (1989); Thorsten Polleit, *Mises’s Apriorism Against Relativism in Economics*, MISES INSTITUTE (Apr. 25, 2008), <https://mises.org/library/misess-apriorism-against-relativism-economics>; Thorsten Polleit, *True Knowledge from A Priori Theory*, MISES INSTITUTE (June 8, 2011), <https://mises.org/library/true-knowledge-priori-theory>.

This accords with the formal laws of logic, just like some a priori arguments do; and yet—each and every line of it is false. Similarly, the claims of the statist, who argue in an a priori manner and fulfill some of the requirements of logic, may still very properly be rejected.

Second, empirical evidence indicates a gradual phenomenon. Yes, there is no pure laissez faire capitalist society on the face of the earth, but some are closer than others.³³ And, the closer a society is to pure laissez faire capitalism, the closer they are to conquering poverty.³⁴ That is, the more economically free a country is, the greater is not only per capita income, but also growth in that level.³⁵ This empirical proof is something the statist surely cannot even come close to matching. To the degree that capitalism applied, growth and development followed, whereas to the degree that statism applied, destruction and poverty ensued.³⁶

Third, when markets seem to fail, libertarians are able to specify in great and exhaustive detail exactly *why*:³⁷ it is *always* due to *lack* of free enterprise and private property rights, not *because* of them.³⁸ The statist may offer the non-falsifiable claim that had Venezuela, Cuba, the U.S.S.R., the People's Republic of China, or the D.P.R.K. had better leaders, their economies would not have been the basket cases they turned out to be. But statist never offer, nor *can* they offer, a coherent reason that better leadership is more effective at fixing failing economies than free enterprise.³⁹ In very sharp contrast indeed, defenders of free enterprise can and do bear this burden. For example, break-up of the family? Due to government welfare programs.⁴⁰ Teenaged unemployment? The minimum wage law is responsible.⁴¹ The business cycle? The result of central banking and statist monetary

33. JAMES GWARTNEY ET AL., *ECONOMIC FREEDOM OF THE WORLD: 1975–1995* vii (1996).

34. *Id.* at 90.

35. *Id.* at 91.

36. *Id.* at 90.

37. Francis M. Bator, *The Anatomy of Market Failure* (1958), in *THE THEORY OF MARKET FAILURE: A CRITICAL EXAMINATION* 35, 48 (Tyler Cowen ed., 1988).

38. VON MISES, *SOCIALISM*, *supra* note 14, at 362.

39. *Id.* at 184. *See also* ROTHBARD, *MAN, ECONOMY, AND STATE WITH POWER AND MARKET*, *supra* note 32, at 1306–08 (explaining free market in terms of human morality).

40. CHARLES MURRAY, *LOSING GROUND: AMERICAN SOCIAL POLICY, 1950–1980*, at 124 (1984).

41. Daryl Marc Shapiro, *Will an Increased Minimum Wage Help the Homeless?*, 45 U. MIAMI L. REV. 651, 654, 683, 684 (1990) (“Most studies conclude that teenagers fare the worst from minimum wage increases.”).

policy.⁴² Highway fatalities? They emanate from road socialism.⁴³ Poor housing? Rent control,⁴⁴ zoning, and building codes.⁴⁵ Chief executive officer salaries out of control? Laws⁴⁶ against corporate raiding.⁴⁷ This list could go on and on. And on. And the statisticians have nothing, nothing at all, to match it.

However, a critic may object to this alternative libertarian position. He might do so on the ground that we are ultimately resorting to empirical claims (in favor of markets) in order to reject a priori statements (by statisticians). If so, we would thereby be refuting our foundation of the free market system exclusively on an a priori

42. MURRAY N. ROTHBARD, *THE MYSTERY OF BANKING* 186 (2d ed. 2008) (using the Bank of England as an example of “how the Central Bank . . . had generated and perpetuated . . . inflations and contractions, and how it had borne the primary responsibility for unsound money and for booms and busts”).

43. WALTER E. BLOCK, *THE PRIVATIZATION OF ROADS AND HIGHWAYS: HUMAN AND ECONOMIC FACTORS* 170 (2009) (arguing that “competition between private highway owners would reduce the motor vehicle death rate”).

44. CHARLES W. BAIRD, *RENT CONTROL: THE PERENNIAL FOLLY* 55–57 (1980); R. W. GRANT, *RENT CONTROL AND THE WAR AGAINST THE POOR: IDEOLOGY, THE POOR AND THE ROLE OF POLITICAL FORCE* 24–25 (1989); Walter E. Block et al., *Rent Control: An Economic Abomination*, 11 *INT’L J. VALUE-BASED MGMT.* 253, 253 (1998); Walter E. Block, *A Critique of the Legal and Philosophical Case for Rent Control*, 40 *J. BUS. ETHICS* 75, 75 (2002); Milton Friedman & George J. Stigler, *Roofs or Ceilings?: The Current Housing Problem* (1946), reprinted in *RENT CONTROL: MYTHS AND REALITIES* 87, 102 (Walter E. Block & Edgar Olsen eds., 1981); William D. Grampp, *Some Effects of Rent Control*, 16 *S. ECON. J.* 425, 425 (1950); Friedrich A. Hayek, *The Repercussions of Rent Restrictions* (1930), in *RENT CONTROL: MYTHS AND REALITIES*, supra, at 169, 175; Gary Galles, *Rent Control Makes for Good Politics and Bad Economics*, *MISES* (Apr. 10, 2017), <https://mises.org/blog/rent-control-makes-good-politics-and-bad-economics>.

45. MICHAEL GOLDBERG ET AL., *ZONING: ITS COSTS AND RELEVANCE FOR THE 1980S*, at 40–41 (Walter E. Block ed., 1980), <https://www.fraserinstitute.org/sites/default/files/zoning-costs-and-relevance-for-the-1980s.pdf>; BERNARD H. SIEGAN, *LAND USE WITHOUT ZONING* 95–96 (1972); Walter E. Block, *Private Urban Planning and Free Enterprise*, in *CITIES AND PRIVATE PLANNING: PROPERTY RIGHTS, ENTREPRENEURSHIP AND TRANSACTION COSTS* 93, 96–97 (David Emanuel Andersson & Stefano Moroni eds., 2014); Bernard H. Siegan, *Non-Zoning in Houston*, 13 *J. L. & ECON.* 71, 120 (1970).

46. MURRAY N. ROTHBARD, *Rethinking The ‘80s*, in *MAKING ECONOMIC SENSE* 103, 104 (2d ed. 2006); MURRAY N. ROTHBARD, *Michael R. Milken vs. The Power Elite*, in *MAKING ECONOMIC SENSE*, supra, at 181, 182; Llewellyn H. Rockwell, *Michael R. Milken: Political Prisoner?*, in *THE ECONOMICS OF LIBERTY* 70, 71 (Llewellyn H. Rockwell ed., 1990), https://mises-media.s3.amazonaws.com/The%20Economics%20of%20Liberty_2.pdf; Norman Barry, *The Logic and Morality of Takeovers: Do Corporate Takeovers Deserve Their Reviled Status?*, *Foundation for Economic Education* (July 1, 2000), <https://fee.org/articles/the-logic-and-morality-of-takeovers/>.

47. A corporate raider is defined as:

A person or business that attempts to take control of a corporation, against its wishes, by buying its stock and replacing its management, often for the purpose of selling off its assets.

Corporate Raider, *BLACK’S LAW DICTIONARY* (11th ed. 2019).

basis. This is so because we are not confronting our a priori proposition with that of statist, since if we do, and in the absence of any further considerations (such as empirical evidence that supports our contention), how are we to claim our position is better than the other? The answer is that statism is also wrong on the theoretical level.⁴⁸ The difficulty of economic calculation in a socialist system makes it *logically impossible* to claim that the state is the solution to every problem.⁴⁹

On the other hand, we rely upon the general praxeological axiom that every human action is an attempt to pass from a less to a more satisfactory state of affairs.⁵⁰ Therefore, our claim that market transactions are beneficial in the *ex ante* sense can be properly defined, derived, and defended. Thus, the solid theoretical foundation of the market system is what explains its success in empirical studies. Conversely, the utter empirical failure of statism always contradicts its fundamental claim, therefore requiring ways to immunize the theory without ever changing its original contention.

III. ANARCHISM

Once we accept the non-aggression principle (“NAP”),⁵¹ the anarcho-capitalist position readily, and logically, follows. This foundational building block of libertarianism maintains that it is illicit, and thus should be illegal, to threaten or initiate violence against innocent targets.⁵² This philosophical perspective does not

48. VON MISES, SOCIALISM, *supra* note 14, at 211; Ayn Rand, *War and Peace*, 1 OBJECTIVIST NEWSLETTER 44, 44 (1962).

49. VON MISES, SOCIALISM, *supra* note 14, at 135–36.

50. VON MISES, HUMAN ACTION, *supra* note 14, at 13. This axiom is one from which economic laws are ultimately derived in the Austrian tradition.

51. Specifically,

[t]he fundamental axiom of libertarian theory is that no one may threaten or commit violence (“aggress”) against another man’s person or property. Violence may be employed only against the man who commits such violence; that is, only defensively against the aggressive violence of another. In short, no violence may be employed against a non aggressor. Here is the fundamental rule from which can be deduced the entire corpus of libertarian theory.

Murray N. Rothbard, *War, Peace, and the State*, in THE MYTH OF NATIONAL DEFENSE: ESSAYS ON THE THEORY AND HISTORY OF SECURITY PRODUCTION 65, 66 (Hans-Hermann Hoppe ed., 2003). See also MURRAY N. ROTHBARD, THE ETHICS OF LIBERTY 51–52 (N.Y. Univ. Press 1998) (1982).

52. See Rothbard, *War, Peace, and the State*, *supra* note 51, at 66.

oppose violence per se. Pacifism is not a requirement; physically forceful self-defense is certainly a valid response to criminality.⁵³ Boxing and sadomasochism, too, are legitimate, since both parties have agreed to take part in these activities.⁵⁴ This is an inviolate aspect of libertarianism: those who violate the NAP are outlaws and should be subject to proper punishment.⁵⁵

How, and in what way, is the state necessarily a violator of this precept? This comes about in several ways. First, all governments levy taxes on the inhabitants of their territory. Were any private individual to levy taxes against someone else, it would be pellucidly clear that this would constitute theft. Yes, the golf or tennis club is justified in imposing club dues on its members; but

53. Rothbard, THE ETHICS OF LIBERTY, *supra* note 51, at 77.

54. Laurence M. Vance, *The Simplicity of Libertarianism*, FUTURE OF FREEDOM FOUNDATION, (June 1, 2015), <https://www.fff.org/explore-freedom/article/the-simplicity-of-libertarianism/>.

55. On libertarian punishment theory, see ROBERT NOZICK, PHILOSOPHICAL EXPLANATIONS 363–73 (1981); ROTHBARD, THE ETHICS OF LIBERTY, *supra* note 51, at 88; William Barnett II, Walter E. Block & Gene Callahan, *The Paradox of Coase as a Defender of Free Markets*, 1 N.Y.U. J.L. & LIBERTY 1075, 1090 (2005); Walter E. Block, *Austrian Law and Economics: The Contributions of Adolf Reinach and Murray Rothbard on Law, Economics, and Praxeology*, 7 Q. J. AUSTRIAN ECON. 69, 75 (2004); Walter E. Block, *Berman on Blackmail: Taking Motives Fervently*, 3 FLA. ST. U. BUS. REV. 57, 70 (2003); Walter E. Block, *Libertarian Punishment Theory: Working for, and Donating to, the State*, 1 LIBERTARIAN PAPERS, art. no. 17, at 1, (2009); Walter E. Block, *Libertarianism vs. Objectivism; A Response to Peter Schwartz*, 26 REASON PAPERS 39, 50–51 (2000); Walter E. Block, *Market-Inalienability Once Again: Reply to Radin*, 22 T. JEFFERSON L. REV. 37, 38 (1999); Walter E. Block, *Radical Libertarianism: Applying Libertarian Principles to Dealing with the Unjust Government, Part II*, 28 REASON PAPERS 85, 129 (2006); Walter E. Block, *Reply to Frank van Dun's "Natural Law and the Jurisprudence of Freedom,"* 18 J. LIBERTARIANSTUD. 65, 70 (2004); Walter E. Block, *Toward a Libertarian Theory of Guilt & Punishment for the Crime of Statism*, in PROPERTY, FREEDOM AND SOCIETY: ESSAYS IN HONOR OF HANS-HERMANN HOPPE 137, 141 (Jörg Guido Hülsmann & Stephan Kinsella eds., 2009); Anthony Gregory & Walter E. Block, *On Immigration: Reply to Hoppe*, 21 J. LIBERTARIAN STUD. 25, 37 (2007), https://mises-media.s3.amazonaws.com/21_3_2.pdf; N. Stephan Kinsella, *Punishment and Proportionality: The Estoppel Approach*, 12 J. LIBERTARIAN STUD. 51, 52 (1996), https://mises-media.s3.amazonaws.com/12_1_3_0.pdf; Herbert Morris, *Persons and Punishment*, 52 THE MONIST 475, 476–77 (1968); Charles B. Olson, *Law in Anarchy*, 12 LIBERTARIAN F., Nov.–Dec. 1979, at 1, 4, <http://rothbard.altervista.org/articles/libertarian-forum/lf-12-6.pdf>; Roy Whitehead & Walter E. Block, *Taking the Assets of the Criminal to Compensate Victims of Violence: A Legal and Philosophical Approach*, 5 J.L. & SOC'Y 229, 243 (2003); Walter E. Block, *The Non-Aggression Axiom of Libertarianism*, LEWROCKWELL (Feb. 17, 2003), <http://archive.lewrockwell.com/block/block26.html>; Marko Marjanovic, *Least, Sufficient Force: Libertarian Theory of Defense*, VOLUNTARYIST READER (Jan. 7, 2013), <https://voluntaryistreader.wordpress.com/2013/01/07/least-sufficient-force-libertarian-theory-of-defense/>.

this is because they have *agreed* to be so assessed. But the same does not at all apply to citizens of a country.⁵⁶

A second argument in behalf of statism is that government is needed to overcome “market failure.”⁵⁷ There are three main forms of this contention: externalities, public goods, and secession.

First, externalities.⁵⁸ It is alleged, in the case of spillover benefits, that the market will provide an insufficient amount.⁵⁹ For example, it is maintained that private parties will only educate themselves if they can benefit from such activities.⁶⁰ But education has social benefits, too, that are disregarded by market participants. For example, people who engage in schooling will be better voters, less likely to engage in criminal activity, or less likely to have need for public assistance.⁶¹ But this positive externalities argument is subject to a fatal flaw. The *reductio ad absurdum*⁶² is as follows: A smiles at B, or cleans himself so that he will not engage in any olfactory insult, or whistles a merry tune in the presence of others. He then bills B for these “benefits.” B retorts, indignantly, that he has not contracted for any such “services” and

56. For a rejection of this argument when applied to the United States, see Lysander Spooner, 6 NO TREASON: THE CONSTITUTION OF NO AUTHORITY 12–17 (1870), http://lf-oll.s3.amazonaws.com/titles/2194/Spooner_1485_Bk.pdf.

57. Bator, *The Anatomy of Market Failure*, *supra* note 37, at 48.

58. See generally Bryan Caplan, *Externalities*, LIBERTARIAN ECON. & LIBERTY, <http://www.econlib.org/library/Enc/Externalities.html> (last visited Aug. 4, 2019).

59. Walter E. Block, *National Defense and the Theory of Externalities, Public Goods, and Clubs*, in THE MYTH OF NATIONAL DEFENSE, *supra* note 51, at 301, 305.

60. Milton Friedman, *Capitalism and Freedom*, 1 NEW INDIVIDUALIST REV. 3, 10 (1961), http://lf-oll.s3.amazonaws.com/titles/2136/NewIndividualistReview_1360_Bk.pdf.

61. MURRAY N. ROTHBARD, *Airport Congestion: A Case of Market Failure?*, in MAKING ECONOMIC SENSE, *supra* note 46, at 192, 192–93; BRIAN P. SIMPSON, MARKETS DON’T FAIL! 85 (2005); Walter E. Block, *Was Milton Friedman a Socialist? Yes.*, 1 MEST J., Jan. 2013, at 11, 14, http://mest.meste.org/MEST_1_2013/_02.pdf; Jack High & Jerome Ellig, *The Private Supply of Education: Some Historical Evidence*, in THE THEORY OF MARKET FAILURE: A CRITICAL EXAMINATION, *supra* note 37, at 361, 361; Gil Guillory, *What Are You Calling Failure?*, MISES (May 5, 2005), <http://www.mises.org/story/1806>; D.W. MacKenzie, *The Market Failure Myth*, MISES (Aug. 26, 2002), <https://mises.org/library/market-failure-myth>; Christopher Westley, *The Myth of Market Failure*, MISES (June 14, 2002), <https://mises.org/library/myth-market-failure>.

62. Defined as:

a mode of argumentation that seeks to establish a contention by deriving an absurdity from its denial, thus arguing that a thesis must be accepted because its rejection would be untenable. It is a style of reasoning that has been employed throughout the history of mathematics and philosophy from classical antiquity onwards.

Nicholas Rescher, *Reductio ad Absurdum*, INTERNET ENCYCLOPEDIA OF PHIL., <http://www.iep.utm.edu/reductio/> (last visited Aug. 4, 2019).

thus refuses to pay A for “providing” them. But this is precisely to what the positive externalities argument amounts.⁶³

Then, too, there is the case of negative externalities, such as smoke pollution. Statists maintain that in the free society, people will be allowed to pollute the air and waterways, and that only government can protect these amenities.⁶⁴ But the historical record demonstrates that states have undermined, not supported, private property rights.⁶⁵ The point is that this sort of pollution constitutes an invasion of smoke particles, and governments have not treated this activity in that manner. Rather, governments have supported and allowed such rights violations.⁶⁶

Second, public goods. Here, it is maintained there are some goods and services, preeminently lighthouses⁶⁷ and national defense,⁶⁸ which either the market cannot provide at all or, at best, would be in grave short supply. This argument is predicated upon excludability and rivalrousness.⁶⁹

63. For a refutation of this statist defense, see Walter E. Block, *Public Goods and Externalities: The Case of Roads*, 7 J. LIBERTARIAN STUD. 1, 1 (1983), https://mises-media.s3.amazonaws.com/7_1_1_0.pdf.

64. ROTHBARD, MAN, ECONOMY, AND STATE WITH POWER AND MARKET, *supra* note 32, at 181–82.

65. *E.g.*, *Kelo v. City of New London*, 545 U.S. 469, 501 (2005) (O’Connor, J., dissenting) (“It holds that the sovereign may take private property currently put to ordinary private use, and give it over for new, ordinary private use, so long as the new use is predicted to generate some secondary benefit for the public—such as increased tax revenue, more jobs, maybe even esthetic pleasure.”).

66. ROTHBARD, THE ETHICS OF LIBERTY, *supra* note 51, at 56.

67. For a refutation of this argument as it concerns lighthouses, see William Barnett II & Walter E. Block, *Coase and Van Zandt on Lighthouses*, 35 PUB. FIN. REV. 710, 729 (2007); Walter E. Block & William Barnett II, *Coase and Bertrand on Lighthouses*, 140 PUB. CHOICE 1, 11–12 (2009); R. H. Coase, *The Lighthouse in Economics*, 17 J. L. & ECON. 357, 359 (1974).

68. For a refutation of this argument as it concerns national defense, see ANTHONY DE JASAY, SOCIAL CONTRACT, FREE RIDE: A STUDY OF THE PUBLIC GOODS PROBLEM 220 (1989), <https://oll.libertyfund.org/titles/jasay-social-contract-free-ride-a-study-of-the-public-goods-problem>; MURRAY N. ROTHBARD, *The Fallacy of the “Public Sector,”* in ECONOMIC CONTROVERSIES, *supra* note 30, at 419, 426; DAVID SCHMIDTZ, THE LIMITS OF GOVERNMENT: AN ESSAY ON THE PUBLIC GOODS ARGUMENT 48 (1991); Walter E. Block, *National Defense and the Theory of Externalities, Public Goods, and Clubs*, *supra* note 59, at 317; Hans-Hermann Hoppe, *Fallacies of the Public Goods Theory and the Production of Security*, 9 J. LIBERTARIAN STUD. 27, 28 (1989), http://www.mises.org/journals/jls/9_1/9_1_2.pdf; Jeffrey Rogers Hummel, *National Goods Versus Public Goods: Defense, Disarmament, and Free Riders*, 4 REV. AUSTRIAN ECON. 88, 93–94 (1990); E. C. Pasour, Jr., *The Free Rider as a Basis for Government Intervention*, 5 J. LIBERTARIAN STUD. 453, 463 (1981), http://www.mises.org/journals/jls/5_4/5_4_6.pdf; Larry J. Sechrest, *Privateering and National Defense: Naval Warfare for Private Profit*, in THE MYTH OF NATIONAL DEFENSE, *supra* note 51, at 239, 239–40; Larry J. Sechrest, *Privately Funded and Built U.S. Warships in the Quasi-War of 1797–1801*, 12 INDEP. REV. 101, 101 (2007); Larry J. Sechrest, *Public Goods and Private Solutions in Maritime History*, 7 Q. J. AUSTRIAN ECON. 3, 3 (2004).

69. In this context:

Another argument regarding public goods relates to inequality. Supporters of government attempt to justify such takings on the grounds that they will do “good” with the proceeds.⁷⁰ But would Mr. Jones be justified in seizing Mr. Smith’s car on the ground that he would then turn over this automobile to Mr. Green, who is poor? Hardly.⁷¹

Third, secession.⁷² Yet, it is clear that if people are not allowed to separate—or secede—from each other, then the law of free association is undermined.⁷³ But this law is also one of the basic building blocks of the libertarian philosophy.⁷⁴ Thus, the very concept of the state, for this reason as well, runs contrary to human freedom.⁷⁵ It cannot be denied that some governments do allow for

A and B often benefit, it is held, if they can force C into doing something. . . . [A]ny argument proclaiming the right and goodness of, say, three neighbors, who yearn to form a string quartet, forcing a fourth neighbor at bayonet point to learn and play the viola, is hardly deserving of sober comment.

See ROTHBARD, *The Fallacy of the “Public Sector,”* *supra* note 68, at 178.

70. See, e.g., *Hawaii Housing Authority v. Midkiff*, 467 U.S. 229, 241–42 (1984) (reasoning that the State’s attempt “to reduce the perceived social and economic evils of a land oligopoly” was “a classic exercise of a State’s police powers”).

71. See Murray N. Rothbard, *Freedom, Inequality, Primitivism, and the Division of Labor*, MODERN AGE, Summer 1971, at 226, 237 (explaining that the primitive community was unhappy because of the perception that personal success was the result of exploitation of others).

72. See LUDWIG VON MISES, NATION, STATE, AND ECONOMY: CONTRIBUTIONS TO THE POLITICS AND HISTORY OF OUR TIME 60 (Leland B. Yeager trans., N.Y. Univ. Press 1983) (1919) (noting that people will not be a part of “political associations that [they] do[] not want.”); E.g., Ian Bremmer, *Not Just Catalonia: 3 More Places with Dreams of Independence*, TIME (Oct. 2, 2017), <https://time.com/4963163/catalan-kurds-referendum-independence/> (reporting Biafra, Flanders, Donetsk, and Luhansk separatist movements); Clyde H. Farnsworth, *Quebec, by Razor-Thin Margin, Votes ‘No’ on Leaving Canada*, N.Y. TIMES, Oct. 31, 1995, at A1 (reporting Quebec’s referendum campaign to leave Canada); Parisa Hafezi & Tulay Karadeniz, *Khamenei Says Iran, Turkey Must Act Against Kurdish Secession: TV*, REUTERS (Oct. 4, 2017, 3:38 PM), <https://www.reuters.com/article/us-mideast-crisis-iran-turkey/khamenei-says-iran-turkey-must-act-against-kurdish-secession-tv-idUSKBN1C91YW> (reporting that Iran’s Supreme Leader said “Iran and Turkey should prevent Iraq’s Kurdistan region from declaring independence”); Raphael Minder, *A Year After Catalonia Secession Vote, New Unrest and Still No Resolution*, N.Y. TIMES (Oct. 1, 2018), <https://nyti.ms/2OqHn9P> (reporting Catalonia’s independence referendum).

73. The slave wishes not to associate with his master. The rape victim desires not to be coupled with the rapist. Slavery and rape are the preeminent examples of the violation of the right of free association. See Kenneth L. Karst, *The Freedom of Intimate Association*, 89 YALE L.J. 624, 638 (1980) (describing the theory of associational freedom).

74. Thomas Kleven, *Why International Law Favors Emigration over Immigration*, 33 U. MIAMI INTER-AM. L. REV. 69, 80 (2002) (“The starting point for a libertarian analysis is people’s freedom to choose with whom to associate.”).

75. See Rivka Weill, *Secession and the Prevalence of Both Militant Democracy and Eternity Clauses Worldwide*, 40 CARDOZO L. REV. 905, 941 (2018) (“For example, the

peaceful secession.⁷⁶ However, while this is necessary for liberty to be attained, it is not sufficient. For the law of free association mandates that not only may large entities within one country secede from each other, but that this right applies all the way down to the individual level.⁷⁷ Let us consider an example: if the people of Quebec vote to secede from Canada, should this be allowed? Of course. But suppose, then, that Montrealers wish to separate from that province; would it be unjust to prevent that decision?⁷⁸ Certainly it would, otherwise people would be compelled to associate with other Quebecers against their will. But this is only the beginning of the story, for the same principle applies to the Mont-Royal district in that city, to a single block in that neighborhood, right down to the *individual* level. The ideal situation from the point of view of the freedom philosophy is seven

Bulgarian Constitution of 1991 grants freedom of association, but organizations' activities 'shall not be contrary to the country's sovereignty and national integrity, or the unity of the nation.'" (quoting BULGARIA'S CONSTITUTION OF 1991 WITH AMENDMENTS THROUGH 2015, CONSTITUTE art. 44 § 2 (2018)).

76. For example, the Constitution of the Principality of Lichtenstein provides:

Individual communes have the right to secede from the State. A decision to initiate the secession procedure shall be taken by a majority of the citizens residing there who are entitled to vote. Secession shall be regulated by a law or, as the case may be, a treaty. In the latter event, a second ballot shall be held in the commune after the negotiations have been completed.

CONSTITUTION OF THE PRINCIPALITY OF LIECHTENSTEIN, Sept. 15, 2003, LR 101, art. 4, § 2, <http://hrlibrary.umn.edu/research/liechtenstein-constitution.pdf>.

77. Walter E. Block, *Secession*, DIALOGUE MAGAZINE, no. 4, 2007, at 1, 4, <http://ssrn.com/abstract=1881060> (Bulg.); Jörg Guido Hülsmann, *Secession and the Production of Defense*, in THE MYTH OF NATIONAL DEFENSE, *supra* note 51, at 369, 369–70; Donald W. Livingston, *The Secession Tradition in America*, in SECESSION, STATE & LIBERTY 1, 3 (David Gordon ed., 1998), https://mises.org/sites/default/files/secession_state_liberty.pdf; Andrei Kreptul, *The Constitutional Right of Secession in Political Theory and History*, 17 J. LIBERTARIAN STUD. 30, 39–41 (2003), http://www.mises.org/journals/jls/17_4/17_4_3.pdf; Robert W. McGee, *Secession as a Tool for Limiting the Growth of State and Municipal Government and Making It More Responsive: A Constitutional Proposal*, 21 W. ST. U. L. REV. 499, 505 (1994); Robert W. McGee, *Secession Reconsidered*, 11 J. LIBERTARIAN STUD. 11, 18 (1994), http://www.mises.org/journals/jls/11_1/11_1_2.pdf; Lew Rockwell, *The Libertarian Principle of Secession*, THE AUSTRIAN, Jan.–Feb. 2015, at 4, 4; Murray N. Rothbard, *America's Two Just Wars: 1775 and 1861*, in THE COSTS OF WAR: AMERICA'S PYRRHIC VICTORIES 119, 129 (John V. Denson ed., 1999); Walter E. Block, *A Libertarian Theory of Secession and Slavery*, LEWROCKWELL (June 10, 2002), <http://www.lewrockwell.com/block/block15.html>; Walter E. Block, *Secession*, LEWROCKWELL (July 9, 2002), <http://www.lewrockwell.com/block/block18.html>.

78. Whether to rejoin Canada, or to set up a small country of their own, a city-state as it were, it matters not which. *But see* Lea Brilmayer, *Secession and Self-Determination: A Territorial Interpretation*, 16 YALE J. INT'L L. 177, 181 (1991) ("Proponents of secession therefore face a very slippery slope in formulating a right to secede that does not open the door to complete anarchy.").

(plus) billion countries, one for each person. Then, we would all be sovereign.

The argument employed by the statist is that if we ever attained such a situation, Smith and Jones might get into an altercation, and we would need a government to quell all such disturbances.⁷⁹ But this argument is subject to a powerful *reductio ad absurdum*. For at present, Albania and Argentina, Brazil and Burundi, China and Chile are all in a state of anarchy with one another.⁸⁰ Indeed, *all* nations are now in this situation with every other one. If a national government is needed to keep Smith and Jones apart from each other, then it follows ineluctably that a world government is required to do so for groups of people—that is, countries.⁸¹ But there are few who would espouse such a state of affairs, given that when the leadership went into the wrong hands, there would be no earthly alternatives to it.⁸²

79. *Contra* Jarret B. Wollstein, *Arguments Against Anarchy*, MISES (Feb. 9, 2010), <https://mises.org/library/arguments-against-anarchy> (“The belief that government is necessary to ensure social order is a pure superstition.”).

80. Anarchism means that there is no political jurisdiction authoritatively placed above two lower powers. Albania and Argentina, Brazil and Burundi, China and Chile, and every other nation on the face of the earth, are in a state of anarchism with each other, given that there is no government placed above them in existence, such as a World Government. If there were the latter, then this statement in the text would be false. Oleg I. Tiunov, *The International Legal Personality of States: Problems and Solutions*, 37 ST. LOUIS U. L.J. 323, 330 (1993).

81. *Id.*

82. If the World Government were run on a democratic basis, then India and China, between them, if they could ever agree on anything, would pretty much run the entire planet. And these are far from Western type democracies or republican governments that the statist theorists (of the social democrat variety) often have in mind. See Leland M. Goodrich, *The Amount of World Organization Necessary and Possible*, 55 YALE L. J. 950, 961 (1946). Moreover, international bodies, such as the United Nations, should not be regarded as the World Government we have in mind here, since although its member countries commit to following certain standards, they often do not follow these standards. *Id.* at 952. For example, the members of the U.N. commit to respecting “human rights,” but who are the members of the U.N. Commission on Human Rights? Egregious violators of rights, such as Saudi Arabia and Cuba. See Kenneth Anderson, *Squaring the Circle? Reconciling Sovereignty and Global Governance Through Global Government Networks*, 118 HARV. L. REV. 1255, 1277 n.38 (2005) (reviewing ANNE-MARIE SLAUGHTER, *A NEW WORLD ORDER* (2004)) (explaining that human rights abusers have the greatest incentive to join the U.N. Commission on Human Rights). More importantly, no one is forcing Saudi Arabia to respect rights, so the U.N. is not a “government” that forces its members to act in a certain way. See Goodrich, *supra*, at 951–52 (explaining that the U.N. is “a voluntary association of sovereign states”).

IV. RESPONSE TO COMMON CRITICISMS

Critics of libertarianism often say that its system is as utopian as pure socialism.⁸³ In this sense, they pretend to be refuting the validity of libertarianism both as a viable philosophy and as a conceptual framework in order to judge reality as it is.⁸⁴

Here, we argue that statism is in fact the philosophy which omits both reality (because it constantly fails)⁸⁵ and theory (because it has long been refuted).⁸⁶ But how do we answer to the same criticism being said of libertarianism?

Let us explain with an example. Liberty is the essential condition of any human being.⁸⁷ As such, he must think, act, and pursue values through his actions in order to survive.⁸⁸ The fundamental condition for his existence is to be free of coercion.⁸⁹ As such, liberty is not a solution by itself to man's survival requirements, but it is the *necessary* condition for it.⁹⁰ Hence, we can draw a parallel between oxygen and liberty. If oxygen is progressively taken away from man, he will function and live as long as he can breathe. But the less oxygen, the less he will be able

83. See Duncan Whitmore, *Is Libertarianism Utopian?*, MISES (July 7, 2018), <https://mises.org/wire/libertarianism-utopian> (analyzing whether libertarianism is unachievable).

84. Paul Krugman, Opinion, *Phosphorus and Freedom*, N.Y. TIMES (Aug. 10, 2014), <https://nyti.ms/1oAAAn6>. Paul Krugman claims that

when it comes to substance, libertarians are living in a fantasy world. Often that's quite literally true: Paul Ryan thinks that we're living in an Ayn Rand novel. More to the point, however, the libertarian vision of the society we actually have bears little resemblance to reality.

In other words, libertarianism is a crusade against problems we don't have, or at least not to the extent the libertarians want to imagine.

Paul Krugman, Opinion, *Libertarian Fantasies*, N.Y. TIMES (Aug. 9, 2014, 9:09 AM), <https://krugman.blogs.nytimes.com/2014/08/09/libertarian-fantasies/>.

85. GWARTNEY ET AL., *supra* note 33, at vii. *E.g.*, Michael DeBow, *The Politics of Good Intentions*, 14 NW. J. INT'L L. & BUS. 471, 471–72 (1994) (reviewing DWIGHT R. LEE & RICHARD B. MCKENZIE, *FAILURE AND PROGRESS: THE BRIGHT SIDE OF THE DISMAL SCIENCE* (1993)) (providing the Soviet bloc as the most extreme form of statism that is “universally regarded as a complete failure”).

86. *E.g.*, John B. Judis, *Anti-Statism in America*, NEW REPUBLIC (Nov. 11, 2009), <https://newrepublic.com/article/71077/anti-statism-america> (explaining that Americans' skepticism about statism can be traced back to at least 1955).

87. JOHN STUART MILL, *ON LIBERTY* 53 (Batoche Books. Ltd. 2001) (1859).

88. *Id.*

89. *Id.*

90. *Id.*

to function properly. Liberty, and libertarianism as the philosophy that identifies liberty's role in a social context, works the same way. This is why the criticism that "libertarianism is not practiced anywhere" is wrong.⁹¹ *It is practiced everywhere and anywhere human beings are free to act and cooperate to the extent that coercion does not appear.*⁹² It exists whenever any peaceful voluntary cooperation among men takes place, which is all too rare.⁹³

This is why the mixed economy, and even socialist countries, can function for a limited time.⁹⁴ The parts that function are the ones where liberty still exists, i.e. the oxygen which allows individuals to function. But the lack of oxygen will create negative results eventually: this is statism. So, it is not that libertarianism does not work nor cannot exist; quite the opposite. Since civilization is a fact, and there would be no civilization without liberty, libertarianism existed and still exists. It had and it has to exist, as long as human beings want to survive. The fact that there are no perfect libertarian societies does not mean that the philosophy is not true because, as long as it applies, it enhances welfare for all. In contrast, if and as long as statism prevails, society degrades. Liberty is the oxygen that allows individuals, even in statist societies, to still live as such to the extent they are allowed. To equate statism with libertarianism because neither exists in full is to equate remedy and illness.

91. See, e.g., Michael Lind, *The Question Libertarians Just Can't Answer*, SALON (Jun. 4, 2013, 8:17 PM UTC), https://www.salon.com/2013/06/04/the_question_libertarians_just_cant_answer/ (questioning why "not a single country in the world in the early twenty-first century is organized along libertarian lines").

92. See, e.g., David Boaz, *A History of Libertarianism*, LIBERTARIANISM (Jan. 15, 1997), <https://www.libertarianism.org/publications/essays/history-libertarianism> (explaining "the history of the movement for liberty, from Chinese philosopher Lao Tzu through the 20th century").

93. Of course, there are millions, billions, maybe even trillions of voluntary transactions that take place throughout the world every day. This is still "rare" in our opinion, in that all too many others are prohibited from occurring. GWARTNEY ET AL., *supra* note 33, at 36–37. See NOZICK, ANARCHY, STATE, AND UTOPIA, *supra* note 8, at 262.

94. Paradoxically, corruption, e.g., black markets, allows statist economies to function far better than would otherwise be the case. See Chris Matthews, *When Corruption Is Good for the Economy*, FORTUNE (Aug. 7, 2014), <http://fortune.com/2014/08/07/corruption-economic-benefits/>; *Corruption and Development: Not What You Think?*, CHRIS BLATTMAN (Nov. 5, 2012), <https://chrisblattman.com/2012/11/05/corruption-and-development-not-what-you-think/>. Also, countries where relatively free market prices are a rarity internally, such as the former U.S.S.R., can still avail themselves of terms of trade and interest rates in the rest of the world. See VON MISES, SOCIALISM, *supra* note 14, at 586.

V. CONCLUSION

As we have tried to show throughout this Article, statism is based on a proposition that is presented a priori. For statist, the government is the solution to every problem, and neither experience *nor* theory are relevant in order to disprove this claim.

Despite the fact that statist do not recognize their fundamental approach as a priori, nevertheless we have shown that it is so. Given that it is mistaken, both in theory and practice, we named it the fallacy of a priori statism.

On the other hand, we have explained why the market can be defended on an a priori basis, thereby refuting the possible criticism that a priori defenders of the market economy resort to the same fallacy as statist.

A critic may claim that our treatment of “statism” is excessively broad and does not strictly correspond to any particular political philosopher or economist. In our defense, we offer this model only as a generalization—we think an accurate one—of the implicit premise behind statism: the state is, essentially, the only viable institution to guide society. Thus, we need not focus on any particular thinker. Rather we chose to analyze the statist approach as if it were an integrated and consistent view and take it to its logical conclusion. We thereby present its fundamental premise as an a priori proposition: “the state is the solution to every problem.” Again, we do not maintain that a mixed-economy advocate (who may sometimes favor markets) or a socialist (who could also be an anarchist, or a cooperativist) *necessarily* regards the state as such. But when it comes to choosing whether markets or states are more suitable, those who choose the latter accept the implicit premise described above—the state is always the solution.

Finally, although minarchism does not follow the same fallacy as full statism (given that it defends a state that only focuses on protecting individual rights through police, army, and courts of justice), we defended the claim that the market is a suitable replacement for these minimal state functions.