

To Tyrants, The Answer is “No”: Conceptualizing A Confident, Muscular, and Cosmopolitan Libertarianism

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INTRODUCTION

Is liberty for *us* and *ours* but not for *them* and *theirs*? While rarely explicitly asserted, this seems to be the implicit assumption with which increasing numbers of libertarians approach policy, particularly foreign policy, if they happen to find themselves in a Western society. Property rights and the theories that lead us to believe in self-ownership, many of these nationally inclined libertarians would claim, are quintessentially Western, and it would be improper, wrong even, for Western libertarians to insist upon those values for people, say, in the Middle East and Africa (Deist 2017a). To do otherwise would be imperialist, and libertarianism stands against imperialism. Our ideas, it is said, can only work in those societies that have a long and storied history of respect for individual freedom and private property, or simply, in practice, in what is thought of as the West.

This article is a critical response to this developing tendency among libertarians¹ who have come under the sway of national-conservatism. We do not argue against nationalism, as nationalism appears to be a natural human condition. Those sharing the same language, culture, sometimes ethnicity and race—a *nation*—will tend to be more understanding of one another and as a natural consequence be more inclined to associate with one another. We do not attack such a basic fact of human existence. Instead, we argue that the nation-*state*, and national-*statism*, is not necessarily best suited for advancing individual liberty, and that a more cosmopolitan political arrangement fits better with libertarian principles.

First, we submit that libertarianism—the philosophy of individual freedom and property rights—is by its nature cosmopolitan, in that it regards liberty as universally in-born, not assigned by particular nationalities, experiences, cultures, or traditions. Second, we caution against accepting national-conservative criticisms of libertarianism that have the effect of undermining the cosmopolitan and basically correct premises of this philosophy. Thirdly, we argue, alongside Christensen (2021), that the revival of Hayek’s interstate (international) federal libertarianism must be considered. Following from this, fourthly, we argue that labeling interstate federal libertarianism—by its nature interventionist—as “imperialist” is insufficient to render that position defeated. Instead, libertarians must be confident enough, through whatever labelling they might experience, to insist that “no” is the only engagement tyrants are entitled to.

THE COSMOPOLITAN ESSENCE OF LIBERTY

One of the contemporary rallying cries in favor of national sovereignty is the idea that the people of a particular country, or even a national group, must be able to rule themselves collectively—often expressed under the banner of “self-determination.” By implication, what is meant by this is that people occupying particular territorial spaces or sharing certain linguistic or cultural attributes must elect their own representatives, from among themselves, to make law for a specific geographic area. What is not meant, in other words, is that individuals should rule themselves—group majorities must rule over group minorities. This is the core idea behind the republican nation-state. Increasingly, libertarians, too, have come to believe that national-statism also serves liberty, as it is one step “closer” to the individual than would be a government closer to the global level (Deist 2017a). Friedrich von Hayek, however, in perhaps the most forceful libertarian argument against the contemporary notion of law (legislation), explains that this democratic approach to law is problematic. The law that binds the populace must, effectively, be common law, or what Hayek calls the “universal rules of just conduct”—not legislation. Legislation must be directed inward to government, and must only regulate government’s operations:

Most of what in earlier times was done by deliberate ‘legislation’ referred in fact to the organization and conduct of government rather than to the rules of just conduct. Law in the latter sense was long regarded as unalterably given and requiring only recurrent restoration to its pristine purity. Even early forms of representative assemblies were created principally for decisions on matters of government proper, especially taxation, rather than for the formulation of law in the sense of universal rules of just conduct (Hayek 1978, p. 98).

This corresponds roughly to the difference between *cosmos* and *taxis*. *Cosmos* is the result of abstract, universal rules of just conduct that apply “to an unknown number of future instances and equally to all persons in the objective circumstances described by the rule,” whereas *taxis* is the result of rules that are “applicable only to particular people or in the service of the ends of rulers” (Hayek 1978, p. 77).

The idea that the people of a nation-state may come together to collectively self-determine—through legislation—is therefore rejected, since the rules of law ought to be universal (*cosmos*), not specific (*taxis*), at least if a free society is the goal. Hayek did not conceive of law as being whatever some democratic majority decided it was. Jorg Spieker (2014) writes that “Hayek’s model constitution reflects his insistence on the priority of individual liberty over democracy: democratic decisions are binding if and only if they produce liberal outcomes” (p. 934). Spieker went as far as to argue that Hayek had in mind a kind of “authoritarian liberalism” for this skepticism of democracy. It would be incorrect, therefore, for example, to argue that libertarians should respect the desires of domestic majorities in sovereign states—for instance, if they wish to keep out a foreign culture—since the only relevant criterion would be whether those desires lead to more liberty. Hayek (1982) argued that “all men” had to be governed by the universal “rules of just conduct.” In the absence of this, one is dealing with an essentially tribal society, where there are “particular ends” for the whole of society, that justify coercion and lead to conflict (p. 144). The only rules that should be impossible by force are those that allow each person or group of persons to pursue their own particular ends—the particular ends themselves must never be impossible. Spieker (2014) argues that Hayek’s dedication to this principle requires, as an inherent consequence, “the wholesale transformation of non-liberal societies into liberal ones” (p. 935).

Hayek’s approach to jurisprudence can be contrasted with most others, which emphasize that each legal system is a product of the particular society it is based on. The German historical school of jurisprudence is most closely associated with this idea, essentially that the law is, in Hayekian terms, a spontaneous order that came about from a given society, for a given society (Rodes 2004, p. 165). Hayek would, no doubt, agree to this basic premise. But the framework within which these infinitely variable systems of rules of pri-

vate law fit must itself allow people to choose between the systems on offer. In the absence of this voluntary dimension, such legal systems would cease being *spontaneous* orders.

Indeed, it is an essential principle of libertarianism that the generic individual (not particular individuals in particularly societies or situations), regardless of their immutable characteristics, including their nationality, is by their nature entitled to self-determine (Palmer 2017), including determining by agreement which systems of private law to subject themselves to. In other words, they have inalienable individual and property rights. Contrary to Deist (2017b), we submit that whether they are Zulu, indigenous American, born into a devout Sunni community in Iraq, or a cosmopolitan Swede, each community of which has its own rules of private law, libertarians must submit that they are all nevertheless entitled to the same liberty (Somin 2020, p. 812). As Hayek (1960, p. 218) put it:

Law in its ideal form might be described as a ‘once-and-for-all’ command that is directed to unknown people and that is abstracted from all particular circumstances of time and place and refers only to such conditions as may occur anywhere and at any time.

Hayek’s cosmopolitan slant was therefore clearly implicit in his contributions to jurisprudence.

Libertarianism has always concerned itself with the individual as an abstract concept rather than any specific person or group of people, and with the State as an abstract institution as opposed to an institution linked with any particular country or national group. To be an effective advocate of liberty, it is perhaps unavoidable for advocates to identify with their own particular circumstances—i.e., their own country or national group. This we do not deny, but that is entirely irrelevant to the fact that the principles of libertarianism themselves have no national-statist dimension.

WITHERING THE NATIONAL-CONSERVATIVE ONSLAUGHT

This appeal by Hayek and other cosmopolitan libertarians to universal rules or values is, apparently, the biggest sticking point that national-statists, nowadays in the form of national-conservatives, have with libertarianism. Pabst (2019), for instance, problematizes libertarianism’s apparent “individual emancipation from family, religion and nationality” and its promotion of “cultural standards that glorify greed, sex and violence.” This “Western cult of private freedom” has started falling apart because it does not offer the civilizational values that non-Western communities do. Other civilizations and cultures do not buy into these so-called universal standards of freedom. Indeed, Salter and Young (2019, p. 9) associate Western civilization closely with libertarianism. They write:

Western Europe is exceptional in having yielded enduring traditions of economic and political liberty. Furthermore, these traditions have often proved exceedingly difficult for other regions to adopt. Pabst (2019) rhetorically asks:

Who among contemporary Western liberals or the illiberal elites elsewhere is thinking about how to balance individual rights with mutual obligations? Or how to foster freedom and fraternity outside the authoritarian state or the unfettered free market?

The answer, of course, is that libertarianism does exactly this. Unlike the uglier forms of contemporary progressivism that reject the role of the family and intermediary institutions entirely, libertarians have never done so. In fact, some, like Hayek (1960, p. 123), argue that the framework of individual rights and liberty can only be supported with strong community values and beliefs:

It is indeed a truth, which all the great apostles of freedom outside the rationalistic school have never tired of emphasizing, that freedom has never worked without deeply ingrained moral beliefs

and that coercion can be reduced to a minimum only where individuals can be expected as a rule to conform voluntarily to certain principles.

Schapiro (1958, p. 10) associates the phenomenon of intermediary institutions, today closely associated with national-conservatism, with libertarianism instead:

Closely linked to the freedom of the individual is that of association. Liberalism has advocated the right to form associations of all kinds—political, social, economic, religious, and cultural—that have as their objective the advancement of the legitimate interests of their members. Without freedom of association the individual would be helpless in opposing the restraints imposed by the established order. With it the power of numbers, arising from a cohesive group of like-minded individuals, can be asserted against injustice and tyranny.

Hayek's work on spontaneous order was more than a throat-clearing exercise: It was a recognition of the fundamental interconnected and social nature of humanity. But at no point is social nature incompatible with individual rights. In fact, no "balance"—as Pabst calls for—is necessary, as obligation is the corollary of every right. An "unfettered free market" is an arena of prosperity and growth for community, the church, and various other social formations with persuasive offers.

"The promise that traditional ways of life could be preserved in a liberal society was a fatal conceit," writes Macaes (2020), recounting the process of non-Western civilizations' dissatisfaction with (universal) libertarian values. But we submit it was not. Libertarian society promises that traditional ways of life *would* be preserved if those who subscribe to those ways want them to persist. If they do not, then those ways of life will disappear. Libertarianism has never promised to keep dead value systems alive. As Robert Nozick (1974, p. 325) writes, "any persons may attempt to unite kindred spirits, but whatever their hopes and longings, none have the right to impose their vision of unity upon the rest."

The national-conservative unease with libertarianism might relate to terminology. Both the words "liberalism" and "libertarianism" tend to imply a chaotic free-for-all, often forestalling deeper inquiry by nationalist critics. Perhaps if this bundle of values were called "consensualism," much of the intense criticism the philosophy of freedom receives—as an apparently quintessentially Western imposition that is being rejected around the world—would be more muted. Indeed, we do not deny the rich variety and diversity of cultures around the world, but we do regard it as a relatively uncontentious claim to make that there are, in fact, certain universal rules of just conduct. Restitution, for example, as a primary libertarian principle, is known to most notable legal traditions, including native Americans (Geloso and Rouanet 2019, pp. 5-6) and certainly throughout Africa (Johnson, Pete and Du Plessis 2001, p. 205). In Africa, furthermore, prior to colonialism, one of the most popular modes of governance was through *consensus* in council gatherings (Anoba 2017, pp. 39-40). Anoba (p. 43) additionally writes about the emphasis Africans placed on free markets. This, thus, represents an even more libertarian (that is, limited) approach to governance than even the most devout of limited-government libertarians today champion, given that few libertarian theorists insist on consensus-based governance. We submit, therefore, that one must not stare blindly into the word choice of "liberalism" or "libertarianism" and their implication of unrestricted chaos, but rather have regard to the values themselves, and their rough equivalents found historically in many places besides the West. This might drive home the point that Western libertarianism's contemporary claim to universality is not as unfounded or naïve as it might at first appear.

Pabst (2019) closes his article by writing that "[l]iberal universalism is fragmenting, and a new global 'culture war' is pitting conservative nationalists against liberal cosmopolitans."

Maceas (2020), in turn, writes that the West "may have been convinced that it was building a universal civilization [but] it was merely building its own." Other civilizations did not bite and will not bite.

On a cynical approach, this might be an accurate reflection of the *status quo*. Ignoring the fact that effectively the entire world, including the Islamic State, has adopted Western styles of government and used

the two major systems of Western law (English common law and European civil law) as the basis for their own legal systems, the *status quo* in many respects, even in the West, does not comport with libertarian principle. But that cannot dissuade libertarians from their advocacy. Western libertarianism has only been on the international stage since around the end of the Second World War. It is hardly a historical phenomenon that has now been defeated and is in “retreat.” It certainly represents a new default assumption in international relations, but setbacks are to be expected. As Ikenberry (2005, p. 141) explains, the international libertarian order, as a set of institutions, is a new phenomenon that authoritarian states are questioning, we submit quite predictably. That this order could have been seamlessly imposed without resistance is a naïve thought. But mere resistance, and setbacks, do not mean the order—more pertinently, an improved version thereof—is now beyond any acquisition.

The influence of libertarianism must also not be underestimated. The desire for freedom can never be eliminated in its totality, and it will, no doubt, emerge in some form or another for as long as humanity persists. We therefore do not share Pabst’s and Macaes’ cynicism. History is not one perfect, linear course of events, moving from less free to more free. There have always been hiccups—even significant ones—which after a time are once more replaced with the march toward freedom. Much depends on the dedication and effectiveness of libertarian advocates (Norberg 2003, pp. 214-217).

REVIVING HAYEK’S INTERSTATE FEDERALISM

Hayek’s free-market federation

Hayek held the ideal “of a liberal, free-market federation” that extends across the world (Spieker 2014, p. 938). He argued that an interstate federation would have as one of its “great advantages” the “creation of common rules of law.” It would also allow freedom of movement and free trade (Hayek 1948, p. 255). This political-constitutional proposal, we submit, aligns neatly with libertarianism’s cosmopolitan essence.

A political and economic union of states was important to Hayek, in large part because the sovereign seclusion of peoples creates “communities of interest on a regional basis and of a most intimate character.” This inevitably results in conflict. Hayek did not object to conflict between groups with constantly shifting compositions—a natural occurrence—but regarded the grouping together of people into sovereign states, where the composition of the group is artificially fixed, as a recipe for never-ending strife (p. 257). Hayek (p. 258) writes:

That there will always be communities of interest which will be similarly affected by a particular event or a particular measure is unavoidable. But it is clearly in the interest of unity of the larger whole that these groupings should not be permanent and, more particularly, that the various communities of interest should overlap territorially and never become lastingly identified with the inhabitants of a particular region.

An interstate federation, in other words, would arguably be more empowering to communities, particularly minority communities, as it would free them from their current inseparable bond with majority communities that impose their will on the former. Majority communities, in turn, will lose nothing but their ability to rent-seek against minorities—hardly a democratic right.

Hayek made clear that he sought limits upon the power of states to decide their own economic and monetary policies. One way to achieve this is through free trade and movement within an interstate federation. Only market-related costs, not political considerations, should affect prices of goods and labor (pp. 258-259). Additionally, even if states place burdensome regulations upon their local economies, that will put them at a disadvantage against other states. This would allow taxpayers to move elsewhere quite easily and take the money they would have paid in taxation, with them (p. 260).

We see this happening today in the United States, a federation, where productive citizens have fled the state of California largely due to its policy-imposed economic conditions, to other parts of the country (*The Economist* 2019). A world-spanning federation might thus operate as a “polycentric democracy,” wherein people could “signal their dissatisfaction by relocating themselves or their movable assets to jurisdictions that offer more attractive conditions,” often leading to deregulation (Andersson 2012, pp. 46-47). This opportunity is generally denied to most who do not live in liberal federations today. “Polycentric democracy works most effectively,” writes Andersson (2012, p. 48), “when exit-related transaction costs are low and when the number of viable options is large.”

But this does not simply mean economic policy shifts to the federal level in such a federation. Hayek also argued that the existence of an interstate federation will have the effect of diffusing the power of industrial lobbying for (federal) protection. In the nation-state as we understand it today, it is relatively easy to identify, for example, “the steel industry” in the country, and to protect it against “the steel industry” abroad. But if the line dividing these two industries disappeared, it would be difficult to make the case that any part of the interstate steel industry must be protected against any other. “It will be much harder,” argues Hayek (1948, pp. 262-263), “to retard progress in one part of the federation in order to maintain standards of life in another part.” A similar phenomenon would obtain with regard to other economic regulations. A federal government imposing a single minimum wage over its entire domain would be quite impractical as the states where such a wage could never be paid, for example, might stage “violent opposition.” The sheer diversity within an interstate federation would make any sort of federal economic policy exceedingly difficult.

Hayek acknowledged that much of what he was arguing against was already occurring in existing nation-states. One might, for example, argue that the United States (a federation) is considering a federal minimum wage. “But,” argues Hayek (pp. 263-264), this is possible because of “the comparative homogeneity, the common convictions and ideals, and the whole common tradition of the people of a national state.” Thus, whereas many libertarian-inclined national-conservatives today argue that homogeneity and shared ideals in fact serve liberty, Hayek argued that it is precisely that which undermines liberty, and that freedom might be better served where there is heterogeneity and wildly divergent worldviews, which are not found in the United States even though it is a federation. Hayek (p. 264) argued that “it would be much more difficult to place a burden on the inhabitants of one region in order to assist the inhabitants of a very distant region who might differ from the former not only in language but also in almost every other respect.” Central economic control, argues Hayek, is only possible in the presence of homogeneity and common values. In a nation-state, appeals are often made on the basis of nationalism to enforce the will of the majority upon a minority. But in an interstate federation, Hayek (*Ibid.*) argued that such a minority would “be reluctant to submit to any interference in their daily affairs when the majority which directs the government is composed of people of different nationalities and different traditions.” An interstate federal government, in other words, would have to be deferential to be effective.

Hayek (p. 265) thus reaches what to libertarians ought to be an attractive conclusion:

There seems to be little possible doubt that the scope for the regulation of economic life will be much narrower for the central government of a federation than for national states. And since, as we have seen, the power of the states which comprise the federation will be yet more limited, much of the interference with economic life to which we have become accustomed will be altogether impracticable under a federal organization.

In other words, it is not necessarily that the federal government would need to be deferential to the *states* that comprise it, but to the individual people, communities, and firms that function in its economy:

[...] in a federation, certain economic powers, which are now generally wielded by the national states, could be exercised neither by the federation nor by the individual states, implies that there would have to be less government all round if federation is to be practicable (Hayek 1948, p. 266).

The reason for this is simple: It will simply be too difficult, on the federal level, to reach agreement on both the substantive content and methodological implementation of economic policy, and too difficult, at the state level, to implement economic policy that will not “break up the economic unity of the federation” (Ibid.).

Hayek (p. 267) does concede that in the United States, certain states have succeeded in implementing restrictive economic policies. But he does not rest with a principle of federal non-interventionism. Instead, he argues that in an interstate federation, the federal government, to protect the economic unity of the federation, ought to have the power to prevent “individual states from interfering with economic activity in certain ways, although it may not have the positive power of acting in their stead.” In other words, the federal government itself “would have to be constitutionally restricted from planning or otherwise interfering with the free market, and that it would have to be given the powers necessary to prevent members from doing so” (Spieker 2014, p. 928). As Spieker (pp. 928-929) points out, Hayek sought significant restrictions on government power, even when that power has been mandated by a democratic majority.

As such, Hayek “proposed an international government tasked with the preservation of a free-market capitalist economy as the only viable basis for international order and peace.” He sought to isolate the market “from democratic politics” (Spieker 2014, pp. 919-920).

An anecdotal example from South Africa might serve to illustrate Hayek’s thinking. At present, the South African government is considering the adoption of policies that will allow for the confiscation of property without government being required to pay compensation. At worst, it will also allow government to nationalize all fixed property in the country, again without compensation. Applied to Hayek’s proposals, if the South African state within an interstate federation decided to adopt such policies, it is conceivable that any property owners in South Africa would quickly diversify their portfolios outside of the state, sell their properties to politically-connected (but invariably less productive) buyers, and perhaps themselves move out of the state. This will cripple that state’s tax revenues and turn it into a pariah within the federation. The inhabitants have been given a relatively cost-effective “out.” It is quite unlikely that a South African state would pursue such a policy in an international federation, knowing the costs it will have to bear, and under Hayek’s proposal, the federal government would stop it from pursuing such a policy in the first place. As a sovereign state presently, however, South Africa knows most property owners, with the exception of the very wealthy, are locked-in and cannot escape the policy. “Mobile people and capital serve democracy,” writes Andersson (2012, p. 51), “by making it more difficult for political agents to cater to special interests rather than the general interest.” Similarly, the international federal government itself would never adopt a confiscation or nationalization without compensation policy, because finding agreement on such a policy would be impossible. The divergence of political and proprietary interests across the world is too great for any consensus to be reached on a confiscation law. But because South Africa is now sovereign, the impression of consensus can easily be created by appealing to shared histories, cultures, or ideals, as they concern property rights. This makes the adoption of such a tyrannical policy quite easy. Andersson (2012, p. 58) writes:

Increases in the mobility of people, goods, and capital have the effect of tightening the system constraint, since substandard institutions are then more likely to lead to a reduced tax base. Interstate or international agreements that allow people, goods, or capital to flow freely thus have the predictable effect of making it more difficult to introduce value-destructive institutions, such as those initiated by rent-seeking distributional coalitions.

This is not to imply an international federation, or its members, will never adopt illiberal policies. They surely will. But their intensity and invasiveness, we submit, will very likely be far more diluted than what we see today in the policy programs of sovereign states.

Hayek (1948, p. 267) does not object to those areas of government activity that are, in fact, most effectively implemented at the level of today's nation-states, provided they do not threaten the economic unity of the federation. In fact, Hayek (p. 268) believes there will "be a great deal of devolution of powers from the states to smaller units" because many functions today entrusted to territorial states would be better implemented at the local level. This is consistent with Hayek's well-known argument that economic planning cannot take place at a large scale.² Planning becomes more practical the closer one moves to where the knowledge is found: the business or individual level (p. 268). Indeed, the libertarian interstate federation does not centralize power, but enables the compulsory decentralization thereof.

While world government is certainly planning of a sort (as is government at any level), libertarian government, regardless of where the locus of sovereignty lies, was "a plan for creating the conditions under which individual planning can be pursued." To Hayek, "[w]hat distinguished 'the liberal plan' from its socialist and collectivist alternatives was that it did not entail centralized direction and organization of economic activity" (Spieker 2014, p. 923). Christensen (2021, p. 442) argues that interstate federation "would logically entail decentralization." Hayek, as discussed, has already surveyed why it would be difficult for the federal government to plan effectively from the center, and made the case for further devolution to more local governing units. Nozick (1974, p. 329), responding specifically to criticisms that his "framework" argument amounts to a utopian plan, similarly submits that the framework is, indeed, only a framework that allows maximal dynamism and variation, which is to be distinguished from real central planning, which fixes "important social details" and only leaving "trivial details" undetermined.

Salter and Young (2019, pp. 10-14) explain the polycentric sovereignties of medieval Europe: There were monarchs and their vassals, who were sovereign in their own ways, there was the Catholic Church, too, sovereign in its own way, and there were local governments with their own sovereignty. Yet, hierarchically on a flowchart, the monarchs would be "above" the vassals, the vassals and localities would be more or less equal, and the Church would presumably be above them all. These locales of sovereignty nonetheless checked and balanced one another in interesting and perhaps self-reinforcing ways. Whereas the vassal owed allegiance to the monarch, the monarch was dependent upon the vassal for supplying the very troops and taxes they (the monarch) would need to enforce such allegiance. In turn, vassals were dependent on the monarch for larger domains and more land. Simultaneously, the Church and towns both had spiritual and material goods that both the monarch and the vassals desired, and could negotiate with both, thus exploiting the competition between them.

This reading of history might be a bit simplistic, as the overlapping of jurisdictions also led to double and triple taxation and conflict where the peasantry was caught in the middle. Nonetheless, we submit that an interstate federation would have no choice but to be based on a type of polycentric sovereignty model, a competitive federalism like that of the United States or Switzerland, rather than the German-Canadian-South African cooperative federalism model that is becoming increasingly popular. For libertarians in particular, the role that intermediary institutions such as cultural communities, enterprises, and religious entities could play in this elaborate system of polycentricity within a world state would be important.

Hayek's (1948, p. 269) pertinent argument was that an interstate federation can *only* work if it pursued (and enforced, to an extent) a free-market economic paradigm. He went further, arguing that it was the logical outcome of the "liberal program" for national sovereignty to be abrogated. Hayek (p. 270) argued that the historical libertarian alliances with nationalists, and later socialists, now threatened libertarianism, chiefly because nationalism and socialism have merged into one. "[R]eal liberalism," to Hayek (p. 271), was underpinned by both freedom and internationalism. "The idea of interstate federation" is "the consistent development of the liberal point of view."

Christensen's American proposal

The same reasons that, in part, motivated the federalization of the American colonies, would motivate an international federation: Local tyrannies, whether democratic or not, lead inevitably to international security threats and conflict (Christensen 2021, pp. 430-431). Christensen (p. 431), correctly in our view, still identifies the “excesses of democracy” as “the main threat to liberal and semi-liberal polities worldwide.” Christensen (p. 434) attributes the contemporary failure of interstate federalism to the Westphalian notion of sovereignty and regards the American federal model as the halfway sweet spot for interstate federalism located between the centralized Westphalian state and an ineffective association of states. Westphalian statism is defined (Boundless World History, undated) as a:

global system based on the principle of international law that each state has sovereignty over its territory and domestic affairs, to the exclusion of all external powers, on the principle of non-interference in another country's domestic affairs, and that each state (no matter how large or small) is equal in international law.

Even among libertarians, notes Christensen (2021, p. 435), national-state sovereignty is regarded as sacrosanct. By effectively embracing national-statism, Christensen (p. 446) argues that libertarians “are rejecting their intellectual heritage.” We find this to be a bizarre, perhaps uncharacteristic phenomenon. It does not fit well with libertarianism's insistence on individual freedom as the organizing principle of politics and governance, for indeed any appeal to state sovereignty must allow the state to abrogate individual freedom. Indeed, Christensen (p. 431) quotes Ludwig von Mises as having written:

[...] for the liberal, the world does not end at the borders of the state [...] The starting-point of his entire political philosophy is the conviction that the division of labor is international and not merely national [...]. The liberal therefore demands that the political organization of society be extended until it reaches its culmination in a world state that unites all nations on an equal basis. For this reason he sees the law of each nation as subordinate to international law.

Echoing Hayek, Christensen (pp. 436-437), argues within the context of the successes of the United States Constitution, that the federal structure, with its checks and balances, made it difficult for united factions to engage in widespread rent-seeking for their preferred constituencies. This, Christensen argues, still obtains today. We agree. While it might be difficult for Americans to appreciate, to two South Africans, the American model of government still appears largely resilient to the types of oppressive politics that are common elsewhere.

Christensen (p. 436) identifies two elements to the success of establishing an interstate federation: The member states must be assured of their own continued existence, and the inhabitants of the new federation must be assured of their freedom. In the United States Constitution, the Senate was thus an entrenched institution that would ensure the states retain separate identities at the federal level, and the Constitution itself would be supreme above both the state and federal governments, serving the liberty of the people.

While we are sympathetic to Christensen's (p. 439) argument that devices from the American constitutional model are the necessary ingredients to make workable an interstate federation, we would additionally submit that the failings of the American model must be accounted and compensated for, and that additional safeguards must be adopted. In this respect, the predecessor to the American Constitution, the Articles of Confederation, particularly its insistence on concurrence of a substantial majority of member states before a federal law could be enacted, could provide good lessons for how the scope and exercise of government power could more effectively be limited (Magness and Salter 2021). So would elements from the Swiss,³ Belgian,⁴ and Taiwanese⁵ constitutions.

Where Christensen's and our views might diverge is where he (2021, p. 443) concedes that interstate federation (for the time being, at least) would only be workable, effectively, between the First World states. This does not achieve the cosmopolitan standard at the heart of libertarianism: that all individuals, regardless of their nationality, are entitled to freedom, and that the State must ensure that freedom. We submit that a libertarian interstate federation must have as its goal the application of its principles of governance across the world. To the extent that the federalization process would be difficult due to the reasons Christensen sets out, the federalization can be imposed. It would be wrong, we submit, to consider this as a type of tyrannical imperialism. Rather, it is the libertarian answer to the responsibility to protect, a now-accepted standard in international law (see clause 139 of United Nations General Assembly Resolution A/RES/60/1, the 2005 World Summit Outcome). It is not up to state governments to decide whether or not to safeguard individual freedom, and to the extent that they do safeguard individual freedom, they have nothing to fear. Any *libertarian* state of the federation would retain the right to exit the federation (Christensen 2021, p. 444). We are however heartened that Christensen (p. 442) does leave the door open to other states joining an interstate federation, but regrettably this does not solve the issue of tyrannical states which will certainly not opt to join such an arrangement. Presuming the door is open and being actively worked towards—Christensen (p. 443) writes that the process must “go slowly (but not too slowly)” and must not be forced—we do not object to the gradual process of federalization.

SMALL STATES AND EFFECTIVELY LIMITING STATE POWER

Baron de Montesquieu famously argued that a republic can only function in a small territory. The reasons he gave was that the wealth generated by a larger state would incentivize abuse; shared interests become difficult to identify; and there is increased deleterious competition between citizens. In a small state, in contrast, “the public good is better felt, better known, lies nearer to the citizen.” Abuse of power is also more likely in a state with a large territory (Hammersley 2020).

Similarly, David Livingston (2019) writes of the republican tradition inherited from the Greeks: “the republic must be small [because] self-government and rule of law is not possible unless citizens know the character of their rulers directly or through those they trust.” The Greek civilization, Livingston continues, “was composed of 1,500 tiny independent republics [of mostly] under 10,000” in population. But there is a third model besides the “small classical republic and the indefinitely large modern state”—the “federated polity.”

Livingston would argue that most notable federations today, like the United States and Nigeria, are also too large. We are not sure, however, that if the federal principle is accepted, that there is necessarily a limit on size. In fact, as Hayek has forcefully argued, there might be reason to believe a larger, heterogenous federation might be more limited than a smaller, homogenous one. James Madison (1787) made similar arguments in *Federalist No. 10*. Nonetheless, as alluded to above, it is not uncommon, particularly for American libertarians, to regard the American federal experiment—and thus Madison's arguments—as having failed.

The case study of the United States has often preoccupied thinkers of limiting State power. It is certainly true that since about the 1860s, and certainly in recent decades since the beginning of the War on Terror, the power of the central government in the United States has grown significantly. We are not sure that this single example, however, can be used quite as liberally as detractors of territorially large states would like, nor does it exempt (often very) small states from having experienced similar expansions in State power, thus casting doubt on the relevance of territorial extent.

Taken on its face, the Constitution of the United States does not go that far at all in constraining government power. Indeed, the expansions of government power have all been justified on particular interpretations of the constitutional text, indicating that the Constitution is far from unequivocal. Since the adoption of this Constitution, the rest of the world has followed the American separation-of-powers model without much variation. One is hard-pressed today to find a state with a government that is not divided into three branches—executive, legislative, and judicial—and which does not further divide government power

territorially—central, regional, and local.⁶ There have been limited, but in our view not nearly sufficient, experiments in additional branches of government, and division of government power in ways other than territorial.

In other words, we are unconvinced that within the theory of constitutionalism and of limiting State power, enough intellectual creativity has been exercised. The conclusion of many libertarians has been that because the standard American model—*trias politica* and territorial division—has, in their view, failed, large states are inherently doomed to failure, or further still, government itself is doomed to be tyrannical. We do not deny the various failings of the American model (although, being non-Americans, we are somewhat less cynical about the effectiveness of the model overall), but we submit far more can and must be done before the conclusion is reached that the territorial extent of a state must, in our view arbitrarily, be limited. This is true not only for the idea of a globe-spanning state, but for the United States and any other extant federation.

IN DEFENCE OF “LIBERTARIAN IMPERIALISM”

The harm of empire

Spieker (2014, pp. 920-921) attributed the “problem of liberal imperialism” to Hayek’s thought, arguing that it allowed “a system in which the relations among liberal states are governed by the principle of equality, while the relations between liberal and non-liberal states are conceptualized in imperial terms.” This “problem” Spieker links in part to Hayek (1944, p. 242)’s following quote:

While for its task of enforcing the common law the super-national authority must be very powerful, its constitution must at the same time be so designed that it prevents the international as well as the national authorities from becoming tyrannical. We shall never prevent the abuse of power if we are not prepared to limit power in a way which occasionally may also prevent its use for desirable purposes. The great opportunity we shall have at the end of this war is that the *great victorious powers*, by themselves first submitting to a system of rules which they have the power to enforce, may at the same time *acquire the moral right to impose the same rules upon others.*⁷

Spieker (2014, p. 934) argues that Hayek “provided a rationalisation of, and justification for, imperialist policies between the liberal [interstate] federation and the non-liberal rest of the world.” Without too much elaboration, Spieker (p. 938) concludes his treatment of Hayek’s internationalism by arguing that it “is haunted by the spectre of liberal imperialism, it reflects a problematic [sic] that has long been at the very heart of liberal international theory.” Richard Poe (2021) similarly condemns this “imperialism.” Even Christensen (2021, p. 445), whose views are not radically dissimilar from our own, *ipso facto* attaches a negative connotation to the term “imperialism.”

We cannot simply agree without further ado that we have a “problem” on our hands in this context. To concede that, would be to attach too much meaning to the word “imperialism” alone, and we argue that in the absence of an agreed-upon conceptualization of imperialism, such a concession would be unhelpful.

In an ideal world, communities would be purely voluntary endeavors. Sovereign individuals collaborating in organic groups to work towards mutual prosperity. The form of this would probably come to reflect a form of city-state, with free trade and open borders between all of them. This is however not the human nature we are faced with. To paraphrase Hobbes, life can be rather brutish, violent, and short. The art of politics and the construction of policy, therefore, should not be a mindless attempt to achieve utopia, but a compromise between principle and reality.

So long as two of our idealistic city-states can join forces to gang up on a third, there will be empires, in fact if not in name. “Empire,” as dirty a word as it may be, appears to us to be inevitable. As the law of cumulative advantage dictates, power and wealth naturally concentrate, and those with power will exponen-

tially gain more. While we can break down this power occasionally, it is inevitable that something will rise to the top. And, perhaps, the only thing that can break an empire is another empire.

The unachievable goal, therefore, in our view ought not be to eliminate multi-state federations—“empires”—altogether. They shall always rise under a different guise. As such, our effort is better spent conceptually formulating an “empire” that respects and promotes liberty. We submit that history and a bit of creative thinking around the possibilities of politics reveals the conceivableness of this idea.

History is full of empires, whether they go by that name or not. In fact, the nation-state is the historical exception. The world has spent more time under the banners of empire than under the ostensible self-rule of nationalism. But since the end of the world wars, “imperialism” and its closely associated “colonialism” have become dirty words.⁸

As Gilley puts it, the primary criticisms of colonialism arise from the claim that it was “objectively harmful” and “that it offends the sensibilities of contemporary society” (Gilley 2018). The latter criticism is however circular, by trying to argue that something is bad because it is bad. Libertarianism is, in any case, no stranger to ideas that seem to offend contemporary sensibilities. We therefore evaluate the former criticism.

Historical empires have all taken different forms, moral stances, strategies, and approaches to governance. There is no single brush with which to paint imperialism, notwithstanding contemporary generalizations. The slavery and arrogance of the Roman Empire, for instance, and the brutality of the Belgians and Germans in the Congo, are taken as characteristics of imperialism *per se*, and thus (by implication) ascribed to the British and French, and even Americans.

These generalizations are, however, at worst inaccurate and at best unhelpful. All empires had different characteristics and results. And if empires are different, then criticisms against one do not necessarily fit for the other. Just as obviously destructive and murderous examples of the nation-state exist today, one can find similar examples of destructive and murderous empires. But neither is *inherently* destructive and murderous.

To return to the general critique of “objectively harmful” effects of imperialism posited by Gilley, we need to determine what we are evaluating and how we are evaluating it. And we must also add a caveat.

A doctor harms their patient by piercing their skin with a needle, but they are also helping them with the medicine the needle is injecting. This is to say that more than mere harm is required to determine whether something is notably harmful. Critics must show that, as a whole, the net harm of an empire outweighs the net gain. For libertarians in particular, the relevant question would be whether the individual liberty and property of colonized persons—their *actual* self-determination—on net, was served or damaged.

THE BRITISH EMPIRE

Of all the empires to have existed, the one that best personifies the benefits of imperialism is the (admittedly imperfect) British Empire.

The British Empire at its height contained almost a quarter of the planet. This is all the more impressive when one studies its origins, summarized in the pithy quote by Sir John Robert Seeley in his *The Expansion of England* (1883):

We seem, as it were, to have conquered and peopled half the world in a fit of absence of mind.

With a few exceptions, the British Empire was not a deliberately expansionist empire like that of the Mongols or Romans. Its possessions began as a means to conduct and to protect commerce, opening up foreign markets to enrich themselves and, by extension, the new lands that now had access to a greater market.

During Victoria’s reign, however, the Empire became more deliberate. Territories were acquired strategically and the British, often opposed to the imperialism of other European states, began to view themselves

as an empire. But the British Empire did have essential differences from the empires they decried. Most pertinently, in 1833, the Slavery Abolition Act was adopted.

It is easy to regard the abolition of slavery as something that was far overdue and thus unimpressive, but history requires context. And the context was that slavery, for the most part, was a global institution practiced since the inception of human civilization, without a care for individual liberty or welfare (Tupy 2003). The British, like many, profited from this trade, with many of their territories relying on slave labor to remain productive (BBC, undated).

Monetarily, therefore, the Empire had no incentive to abolish slavery. The only motivation was morality, as the political culture of Britain had grown to a point where they had realized the importance of individual freedom and the abhorrence of slavery (Ferguson 2004, pp. 116-119). That their insight into a universal truth, the evil of slavery, was achieved by way of a locally developed political culture, in our view, does not detract from the universal validity of the insight.

Where Britain arguably became a beacon of liberty in the world was when it empowered the Royal Navy to enforce the abolition of slavery across the Atlantic, freeing untold amounts of people and ending a millennia-old practice. Not for profit, but because it was, objectively, the right thing to do.

Any state could have abolished slavery on paper, but it required the imperial capacity and power of an empire that prioritized liberty to enforce it. In this act, we can see the benefits of an empire in not only enforcing the freedom of individuals across an entire ocean and swathes of territory, but also shifting the global conception of the practice, making it unacceptable for anyone in the world to enslave their fellow man.

In the Cape Colony, the British took over from the Dutch as the Napoleonic Wars concluded. What they found was a practice of Dutch settlers working with Khoi pastoralists to systematically commit genocide against the San hunter-gatherers. They immediately put a stop to the practice, enforcing the rule of law and respect of other peoples; not just for their own civilized subjects, but even for those apparent “savages” living on the periphery (Adhikari 2010, p. 37).

The British Empire did not enforce its cultural sensibilities on its subjects that often, with exceptions where particularly egregious cultural practices were suppressed. For a missionary empire, it was quite inefficient at converting its subjects, preferring to instead apply broader and more important institutions that are recognized as beneficial across the world to this day: the foundations of the rule of law, liberal democracy, equal rights for men and women, property rights, and commerce.

One of the greatest moments that symbolize the rare forcefulness of the British in imposing their sensibilities on native peoples was the banning of *sati*, a practice by some Hindu sects wherein a widow would be burned alive alongside her deceased husband. In 1829, the British commander, Charles James Napier, banned the practice. There were protests, as Hindu priests claimed that the custom must be respected. In response, Napier had this to say:

This burning of widows is your custom; prepare the funeral pile. But my nation has also a custom. When men burn women alive we hang them (Napier 1851, p. 35).

Many officials had a wit and panache, pointing out the logical flaws in defending abhorrent, illiberal practices in the name of tradition while disallowing the British their tradition of banning abhorrent practices. This wit, it seems, has often been painted as arrogance. And perhaps it was arrogant, in an unobjectionable way.

The British anger many modern sensibilities with their arrogance and wit. And no doubt, many British officials did perceive themselves in some ways as superior. This is no doubt a vice and one worth criticizing in some contexts. However, unlike the supremacy sentiment, for instance, of Nazi Germany, they did not regard their supposed superiority as a reason to dominate and exterminate. They saw it as a virtue that had to be shared with the world: That they had been chosen, by God or fortune, to make the world a better place.

And many of their subjects believed in this vision:

We are, above all, British citizens of the Great British Empire, fighting as the British are at present in a righteous cause for the good and glory of human dignity and civilisation (Ferguson 2004, pp. 305-306).

That quote is from Indian independence advocate, Mahatma Gandhi. At one time, he was a proponent of the British Empire. And his views did not shift that dramatically for him to support independence. His reasons for India's independence were based on spirituality, rather than practicality.

Even Nigerian anti-colonialist author Chinua Achebe had to admit in his memoirs that colonialism was not necessarily as bad as it was made out to be:

It is important to face the fact that British colonies were, more or less, expertly run (Gilley 2018).

Victorian Britain was committed to free trade, an institution alongside the abolition of slavery that it promoted throughout its empire (Pirie 2019). This was at a time when many of its European competitors were becoming increasingly insular and protectionist. This globalization by imperial decree allowed wealth to permeate throughout the world, and not just to the metropole as some detractors would like to think.

Textile makers in England itself protested the inclusion of Indian textiles in their markets and Indian textile makers protested the inclusion of English products in their markets, but self-interested businesses tend to decry competition. For the consumer, and for the free individual, the productive capacity of textiles had reached a point where almost anyone could clothe themselves in finery that a generation or two before would be reserved for the nobility.

The subject of the British Empire is vast, filling not books but entire libraries. And its size makes it nuanced.

Of all the empires, the British are the best candidates for taking the title of a "libertarian empire." They spread arguably libertarian ideals across the world, enforcing freedom and equality out of a sense of duty and a desire for commerce. Where they did not live up to these ideals, or where a local dedication to freedom outshined the imperial one, they were rightly ejected, for instance in the United States of America.

But what of other empires? Perhaps the British are an exception, and empires are a generally brutal, authoritarian artefact that should be rightfully replaced by the nation-state.

Firstly, this would be an irrelevant submission, as any modern empire that sought to be a libertarian could model itself to be one. The example of the British Empire simply illustrates how empires have been pro-freedom in the past. It is not necessarily the only model.

Even then, other, less virtuous empires have still proven better than the nation-states that spawned from them.

While guilty of many atrocities, the Ottoman Empire compared to the radical Islamic states that succeeded it was comparatively a far more libertarian empire. It protected religious liberties, enforced a degree of property rights, and encouraged secular ideas that were put in competition with the comparatively authoritarian ideas of fundamentalism (Brooks 2019).

Its biggest virtue in the Levant, however, was its ability as a non-ethnic political entity to provide stability and fair judgment over an area containing many different groups of people. Nation-states, by definition, are essentially ethnic constructs. They spawned in national-statist fervors as groups believed particular cultures and ethnicities should rule themselves and rule over any minorities that happen to exist among them. Empires, on the other hand, are necessarily multicultural and cosmopolitan.

To rule over such a diverse population, as uncovered in the words of Hayek, multi-state federations necessarily have to become tolerant and libertarian. Short-lived empires that did not embrace tact when dealing with its multi-national subjects soon perished, as we see with the Nazi persecution as well as the way in which the Western Roman Empire's collapse was fueled, at least in large part, by its treatment of

the Visigoths as subhuman when betraying promises made to grant the Visigoths land were not kept, and Alaric sacked Rome in 410 in retribution (Cavendish 2010).⁹

A sustainable empire, we submit, is by its nature a libertarian empire, as it recognizes the importance and *a priori* equality of all its subjects. It has to implement general policies akin to Hayek's universal rules of just conduct, rather than specific dictates that benefit only factions, lest it anger its populace, and most empires generally decentralize to the point where local autonomy is higher than any province of a nation-state today.

For a Syrian within the Ottoman Empire, life was not an ethnic and religious war, as the Empire had set the rules and provided a foundation for justice and governance that made living alongside different people manageable and, for the most part, unburdensome (NZ Ministry for Culture and Heritage, undated).

Can empire offer freedom?

For an increasingly cosmopolitan and globalized world, we do not require nation-states trying to govern over cultures that do not represent their constituency. We submit that what is required are multi-state federations (whether these are called "empires" or not) that compromise, decentralize, and recognize that among the dozens of ethnicities within their borders, only the individual really matters from a policy perspective. This allows cultural and national communities to govern over themselves—but *only* themselves—with a higher sovereign entity ensuring they do not impose their cultural or national commitments on dissenting minority groups or individuals. This allows the Amish to peacefully continue their chosen lifestyle, but guarantees the right to opt out; it frees the Afrikaner from the South African government's assimilation policies, but guarantees the right to opt out; and it allows fundamentalist Muslim communities in the Middle East to enforce Sharia law in all its brutality, but only on those people who have consciously opted into that system of private law.

But why, one might ask, is the libertarian multi-state federation so uncommon if it is the most sustainable form when it comes to ethnic relations?

A fundamental weakness of libertarianism lies in its core values. It is an ideology of tolerance and empathy, and of self-doubt and humility in the face of the unknown. Libertarians embrace freedom because, for the most part, they do not want to dictate how other people should live. This sentiment can be just as much of a problem as it is a virtue for an interventionist multi-state federation.

Between 1899 and 1902, over 27,000 Boer civilians died in concentration camps set up by the British occupiers of South Africa. Most of them were children (NZ Ministry for Culture and Heritage, undated). This was, admittedly, caused by incompetence and bad conditions in the camps rather than systematic and deliberate genocide, but the damage was done. A British woman named Emily Hobhouse visited South Africa and the camps and became one of the biggest critics of the war, shifting the public perception against the war and the Empire (Lally 2015, p. 41).

After the war, the British Empire had lost its spirit. It no longer felt it deserved its empire. Morris (1981) outlines the imperial spirit of the 1930s, and identifies that after the war, Britain became far more benevolent towards its subjects. But it lost its drive and aggression:

Aggression was necessary to its [the British Empire's] spirit, whether it be aggression for bad or good causes, and when an empire lost its aggressiveness then the excitement of imperialism itself, for better or worse, was lost (Morris, 1981, p. 381).

The post-Boer War Empire was defined by guilt, exhaustion, and a last-ditch effort to do the right thing. And in facing off against Nazi imperialism, the British could not be seen to be engaging in the same behavior as their enemies. Nonetheless, the entire imperial project by this point was hampered by fatigue.

Libertarianism grows tired. And while the British persisted so long with the support of its conscience, its actions during the Boer War destroyed its self-confidence.

In this way, the biggest weakness of an interventionist libertarian federation is also its virtue. Its insistence on doing the right thing, and its debilitating guilt when it fails.

In a way, this is why the heir of Britain's empire, the reluctant empire of the United States, has failed to tame the wastelands of authoritarianism into which it marches. It lacks the confidence and lacks the (measured) aggression. And most of all, it is reluctant to take up its rightful moniker as an "empire" (Ferguson, 2005).

The United States' Boer War was arguably the War in Vietnam.

The carnage of that war, on the Vietnamese themselves and the psyche of the American people is best described by Edward Blake, a character from a graphic novel *Watchmen* (2005), a story in which the United States won the conflict:

I mean, if we'd lost this war... I dunno. I think it might have driven us a little crazy, y'know? As a country (Moore and Gibbons 2005, p. 13).

It is understandable that a country that formed as a breakaway from an empire would be loath to embrace the title. But the United States' refusal to step up as a self-aware, libertarian empire has paved the way for human rights abuses and conflict across the world. Other empires are rising, and they are far less libertarian than what they properly must be.

A libertarian "empire," we submit, is conceivable. And it can learn from the mistakes of the past. It would need to embrace the crusade to free the proletariats of the world from their shackles, to open the gates of commerce, and utilize globalization as a force for productivity, growth, and goodness. For that, confidence and resilience are necessary. It must know that the libertarian cause is just and is worth fighting for.

Our argument, we believe, is harmonizable with Nozick (1974, p. 307)'s aforementioned "framework" argument. Nozick's framework would allow:

a wide and diverse range of communities which people can enter if they are admitted, leave if they wish to, shape according to their wishes; a society in which utopian experimentation can be tried, different styles of life can be lived, and alternative visions of the good can be individually or jointly pursued.

Our interlocutors might regard what we have posited here as the exact opposite of what Nozick had contemplated. After all, people:

differ in temperament, interests, intellectual ability, aspirations, natural bent, spiritual quests, and the kind of life they wish to lead. [...] There is no reason to think that there is *one* community which will serve as ideal for all people and much reason to think that there is not. (p. 309-310) (Nozick's emphasis)

Nozick (p. 311) described the idea that there is one perfect model for society in which *everyone* must live as "an incredible one." With what we have proposed—a single interstate federation to replace the more or less 200 sovereign states around the world—some might say we wish to impose a single ideal upon all seven billion people that inhabit the globe.

Although Nozick does not say so himself, we cannot help but come to the conclusion that his idea about the framework of "utopias" is only possible within an interstate federation. Voluntaryism is the single most important pillar holding up his model, which allows people to choose between which communities to join and which to leave. "Utopia is a framework for utopias, a place where people are at liberty to join to-

gether voluntarily to pursue and attempt to realize their own vision of the good life in the ideal community but where no one can *impose* his own utopian vision upon others” (p. 312).

The present nation-state is exactly the antithesis of this. Indeed, the more local the exclusive (rather than overlapping) sovereignty is, the more closely it corresponds to a single community, meaning dissidents will frequently if not always have the majority “community’s” will imposed upon them. The further away one moves from the local, the more the sovereignty corresponds to what Nozick (p. 320) calls a “nation” (rather *country*, we submit), which allows specific communities, particularly minority communities, more room to decide for themselves. Nozick’s framework allows “any particularly community” with its own vision to be attempted but does not guarantee their success. We submit that it is difficult to conceive of this framework fitting into the small, almost familial, republics that many national-conservatives wish to see proliferate. What is relevant is that with such proliferated states, the right of exit is made far more difficult than it would be in an interstate federation.

These communities, within a libertarian interstate federation, need not themselves adopt libertarian (moral, social, economic) values (Nozick 1974, p. 320). A communist community, a racial-supremacist community, and a libertine community, can all exist within a libertarian legal framework, provided, in our view, there are higher (and even lower) sovereignties that are clothed with the legal authority to enforce both the right of exit as well as defend competing communities against imposition. Indeed, Nozick (p. 329-330), who was not contemplating world government, writes that within his framework the central authority’s major role “would be to enforce the operation of the framework—for example, to prevent some communities from invading and seizing others, their persons or assets” and “enforcing an individual’s right to leave a community.” How best to ensure that a government of this nature does not itself become tyrannical Nozick leaves unaddressed, as he had “nothing special to add to the standard literature on federations, confederations, decentralization of power, checks and balances, and so on.”

Where the West went wrong

Macaes (2020) identifies tolerance and democracy as the West’s defining procedural characteristics, standing in for the substantive cultural values that characterize these other (non-Western) civilizations.

Herein might lie the seeds of the West’s own demise so gloomily presented by national-conservatives. Tolerance for illiberalism and allowing democracy to undermine the libertarian project—as Western values—it seems to us, might be the problem. Far from abandoning the values of libertarianism, it might be worth instead exploring the abandonment of tolerance for illiberalism and modifying democracy perhaps in the ways Hayek suggested—so that it does not interfere with freedom. We are therefore not necessarily writing here in defense of all the elements of the existing international order—“[s]trategic bargains, binding security ties, open markets, and diffuse reciprocity” (Ikenberry 2005, p. 137)—but proposing a new, avowedly libertarian one, at least conceptually. Whereas the United States-based order has sought to achieve “its liberal grand strategy” through free trade, democracy, and international institutions (p. 138), we might suggest free trade, decisiveness, and humanitarian militancy as replacements. Salter and Young (2019, p. 16) also point out that democratic governance on its own is insufficient for libertarian outcomes. Rather, constitutional arrangements and systems (what they term “political property rights”), that is, limitations and checks and balances on political power, are crucial. Applied to the international order, a big part of the existing order is premised on the allowance of access, to illiberal states, to participate in how the order itself is governed (Ikenberry 2005, p. 140). This we regard as fundamentally backward and problematic. In fact, far from the Bush doctrine of the 2000s, of America confidently “[arbitrating] right and wrong and [enforcing] the peace” (p. 142-143), the West’s lack of confidence in its own ideas has, in some respects, produced a messier world. Fiddling around the edges with non-committed interventions in Libya and elsewhere, creating more of a disaster than what was there initially, is simply reckless. As Christensen (2021, p. 432) argues, those most likely to support an interstate federation after the Second World War were motivated by prag-

matic considerations, not the protection of individual rights from government, and this to us seems to be at the core of the international order's crumbling infrastructure.

Ikenberry (2005, p. 150) is correct that “[t]he costs of military actions—in lives, treasure, and lost legitimacy—is greater than neo-conservatives realize.” As such, our arguments here ought not be construed as unabashedly militaristic. What we submit is that military action must be a resort, but certainly not a first resort. Even the national-conservative Hazony, notwithstanding his criticism of Hayek for his internationalist views, envisages more of a humanitarian role for the protection of lives than is currently the norm in international relations. Hazony would have intervened in the Rwandan genocide, for instance, where the world in fact stood by (Bloor 2019). Libertarianism places a high premium on the lives of innocents—thus precluding a cowboy-approach to war where populated places are bombed, something the United States has at times been guilty of—and as such every reasonable avenue for a peaceful resolution to a tyrannical situation must be exhausted. If no such solution is reasonably attainable, however, we submit that the libertarian position cannot be to leave tyranny in peace, and allow it to fester, and eventually develop into a far bigger problem than it once was, as the world is today acutely experiencing with China.

Scary words

National-conservatives, in response to the libertarian conception of government, have argued that it is hypocritical. The response goes something like this: *Libertarians claim that they want communities to be able to determine for themselves, yet when communities decide to not live by libertarian values, libertarians would have government force them to.*¹⁰ Nozick (1974, p. 331) addressed a similar criticism of his framework. “If we institute such a permanently voluntary general framework, are we not, to some extent, ruling out certain possible choices? Are we not saying in advance that people cannot choose to live in a certain way; are we setting a rigid range in which people can move and thus committing the usual fault of the static utopians?” He answers:

But some things individuals may choose for themselves, no one may choose for another. So long as it is realized at what *general* level the rigidity lies, and what diversity of particular lives and communities it allows, the answer is, ‘Yes, the framework should be fixed as voluntary’.

Insofar as imperialism carries the negative connotation of an imposition of will by a more powerful party onto a weaker party, we do not object, provided the weaker party is in fact depriving individuals or voluntary communities of their innate freedom or property.

We submit, in other words, that an act of tyranny can never qualify as an act of “self-determination.” Imposing the convictions of a majority, or a powerful minority, upon others within the nation-state is not “self” determination but in fact determination for those who do not consent. Stepping into such a situation and putting the injustice to an end can thus hardly qualify as a “imperialism” if imperialism is regarded as *ipso facto* unjust.

Insofar as imperialism itself deprives individuals of their freedom or property, however, we do object. This is to say that we submit imperialism ought not be objected to *per se*, but according to the circumstances one is faced with.

To be clear, in this section we are not extolling the virtues of imperialism. Instead, we are calling upon libertarians not to be intimidated by seemingly scary words without further ado. Slapping the term “imperialism” onto a particular idea—in this case, that a government has the responsibility to protect liberty, even outside its own borders (to the extent of perhaps extending those borders)—is insufficient to overcome the merits of that idea. More is required. And we are certainly aware of the costs, implications, and significant drawbacks of interventionism. Referring to it as “imperialism” is, however, in our view entirely irrelevant, and we would sooner embrace the term than be intimidated by it.

THE WAY FORWARD?

Theory vs reality

What has hitherto been argued is all well and good, critics might argue, but the theory is not reflective of the practical reality we find ourselves in. International organizations such as the United Nations (UN) and European Union (EU) have not been good for freedom, and therefore national sovereignties must be restored and respected. We agree with the first part of this statement but the second does not follow.

The United States, arguably a country with strong anti-“globalist” sentiments, ranks lower on the 2021 Heritage Foundation *Index of Economic Freedom* than do seven EU states, all countries apparently more accepting of globalism (Miller *et al.* 2021, p. 6). The 2020 *Human Freedom Index* of the Cato and Fraser Institutes place nine EU states higher than the United States as well (Vásquez and McMahon 2020, p. 5). This is to say that, on the raw data, freedom is sometimes better recognized even in more politically globalized societies than in more insular societies, or societies with stronger anti-globalist sentiments and sentiments in favor of more local sovereignty. The argument that more (politically) inward-looking societies necessarily better protect the freedom of their inhabitants does not necessarily follow.

This is by no means a defense of the UN or the EU, or any similar entity. There can be no doubt that they are not champions of freedom in its classical sense. In many ways, they are committed detractors of it, even if, perhaps by coincidence, the EU happens to remain freer than most other societies. What is being argued here, instead, is that the nationalization of individual rights is not necessarily the correct answer to address their violation. In fact, in many ways, as we have argued, locating the exclusive site of rights enforcement and recognition at the local level might be more dangerous for freedom. We are of the view that there must be a constant check and balance between different locales of authority, whether local, regional, continental, or global, where one does not necessarily trump the other by reason of its locus alone, but that the trump resides in the ability, willingness, and in fact the result, of safeguarding individual liberty.

For example, if a local authority outlaws homosexual relations (or expropriates the property of a cultural minority) in a region, the regional authority must, and must be at liberty to, overrule that statute. If, however, it turns out that the regional authority outlaws homosexual relations (or expropriates the property of a cultural minority) in its region, local authorities must, and must be at liberty to, overrule that statute within their jurisdictions. In other words, the standard is liberty, not locale. Naturally, what is done voluntarily on private property (whether disallowing homosexual relations or cultural minorities) should be of no concern to any locale of authority.

It might be argued that the power to overrule an illiberal law necessarily includes the power to overrule liberty itself. This is true. This is however the reality we presently find ourselves in, not because of international associations, but mostly because of national sovereignties. It might also be argued that it makes more sense to localize authority to ensure that any bad decisions made at a higher level may be resisted. This is precisely our recommendation. The doctrine of the lesser magistrate must apply, but not for any policy preference, only for the protection of liberty. Furthermore, as we have seen, the intensity of a global liberty-violating instrument is not as concentrated as a locally imposed one.

That the non-Western world is rebelling against the apparent imposition of libertarian values that ostensibly extinguish their cultures, we think, might be an overstatement. Jason Brennan’s observation that most people, essentially, simply go with the flow of whatever their political system might be, appears to us to be correct (Illing 2018). There might be discontent that leads to political change, but for the most part, “the majority” do not rock the boat. In fact, the reality is that it is usually (albeit this is certainly not an inviolable rule) a well-organized minority that drives change. In general, only about 3.5% of a population is necessary to unite behind a particular cause to drive non-violent change (Chenoweth 2020, p. 1). We ought not, in our own minds, construct an insurmountable barrier of a great sea of non-libertarians having decided to reject the universality of individual liberty. Firstly, it will not matter, as this same majority will likely fall

back into any reassertion of libertarian universalism without too much ado, and secondly, it is likely untrue. To ask any Chinese or Russian or Kenyan laborer about what they think about “Western values and individual freedom” will likely yield no satisfactory answer. The laborer, like most of his fellows, is not a philosopher. He might express a voting preference on occasion but for the most part, if the system he finds himself in does not stand in the way of what he seeks to achieve for himself, his family, and his community—the precise object of libertarianism—he will not rock the boat. In other words, there is an *intellectual* rebellion against libertarian universalism, not a *popular* one, and any intellectual rebellion can be resisted intellectually.¹¹ If national-conservatives or illiberal authoritarians in the East presently control a decisive 3.5% minority, the task is for libertarians to resist and advance with their own 3.5% minority,¹² rather than throwing their hands up in defeat and claiming the national-statists have secured an irrevocable victory. Of course, this does mean libertarians have to get, perhaps significantly, better at advocacy. Above all, confidence in libertarian ideas must be entrenched. “Libertarian values work for us, but might not work for those Africans over there,” must be abandoned as a sentiment among libertarians. Our ideas *work*, have always *worked* wherever they have been tried, and will always *work* where they are tried. Even China rides the waves of libertarian economics to its hegemonic position in international politics (Zitlmann 2019), even if it still rejects essential social and political liberties.

The locus of sovereignty

The course of human civilization has irresistibly tended towards greater states encompassing larger tracts of surface area. This is not to say the course of human civilization has been toward centralization. In this article much implicit emphasis is placed on the distinction between:

- *territorial extent* which leads to “large” and “small” states;
- the scope of *government power* which leads to “no government”, and “limited”, and “unlimited” government; and
- the authority of a specific *location* of government power which leads to “centralized” or “decentralized government.”

None of these three phenomena are the same thing, even though they are often used interchangeably. As Salter and Young (2019, p. 3) write, a strong and cohesive state can (and ought) nonetheless be a constrained state, to produce libertarian and beneficial outcomes. Christensen (2021, p. 445), in turn, notes that while an interstate federation entails more territory and more people, and perhaps more (decentralized) *governments*, it does not mean a less limited form of governance.

It is true that limited government and decentralized government—the second and third bullets—often go well together. But the territorial extent—the first bullet—of a government does not necessarily influence that. This is why we group the second and third together (albeit they do not always necessarily align) and keep the first apart. Libertarianism is, indeed, concerned with the second and third bullets, but takes no view of the first.

It goes without saying that we favor substantively limited and decentralized government. That being said, we argue that a large, even global (territorial) state, is not necessarily deleterious to substantively limited and decentralized government.

It must also be made clear that we are not necessarily *advocating global governance*, in that we wish for the UN to become a mega-state and start issuing directives to its various provinces. That is not our intention.

Instead, we are adopting a critical response to the contemporary nationalization of libertarianism, both in theory and in advocacy. We do not believe national sovereignty *necessarily* fits best with libertarianism. Libertarianism is universalist and cosmopolitan, meaning it must and does apply everywhere—again, bearing in mind that libertarianism includes the ability for voluntarily constituted communities to insist upon strict adherence to traditional cultural practices. Nation-states, because their existence presupposes a

different public legal system for each different group of people, are in an inherently tense relationship with libertarian universalism. While it is at least conceivable that sovereign nation-states could all respect liberty, we nonetheless submit that interstate federation fits liberty best, provided that it is understood that we are not making the delusional argument that it involves utopian, perfect freedom for everyone and forever. Global federation will have its own pitfalls. We concede, of course, that in specific circumstances, the establishment of a “more local” sovereignty might serve liberty better than a “more general” sovereignty. In such circumstances we would favor the avenue that serves liberty. What we are criticizing herein is the idea that more localism *necessarily* serves liberty. This is a dangerous idea and is dogmatic in the worst possible way.

CONCLUSION

Hayek conceded that interstate federation was unlikely to occur anytime soon. He even cautioned against an overhasty push for it. If the push for interstate government were not done in the right circumstances, it might even embolden national-statism (Spieker 2014, p. 933). But both Hayek and Mises nonetheless regarded it as a libertarian ideal (Christensen 2021, p. 431). Christensen (p. 433) also notes that interstate federalists must be tempered by “the geopolitical realities of our world.” He points to the unpopularity of American military alliances and the EU’s “[labyrinth] of fiat rule” as examples. Both these considerations certainly put interstate federalism *among libertarians* in particular on the backfoot.

Part of a confident libertarianism, however, is the tendency to shrug when our insistence on freedom for every individual is labeled as “imperialist.” Call it what you want, but to tyrants, the answer is “no”: They do not get to deprive anyone of their freedom.

In this article we have cursorily dealt only with broad principles in the spirit of the theme of interstate libertarianism. There are many details, and certainly concerns, that are left unsatisfactorily addressed or entirely unaddressed, as indeed this is also a relatively empty field of inquiry among libertarians and classical liberals. There are certainly acceptable alternatives to our approach herein that are not explored. One of these is an open borders policy that allows the victims of tyranny, freely, to flee their circumstances to freer states. This would have the same consequence for which we argue—that all people are entitled to liberty regardless of their place of birth, and that it is the (generic) State’s duty to secure this liberty—without necessarily implying a new constitutional arrangement. Such a position would, of course, also invite intense criticism from national-conservatives and nationally inclined libertarians. In this article, however, we have argued for the revival of a cosmopolitan libertarian interstate federalism that does not shy away from forceful insistence on respect for individual liberty all around the world. Whatever the case, our bottom line is that from a libertarian perspective, it is unacceptable that:

[...] citizenship status determines where [most people] are allowed to live and work, which in turn largely determines not only their economic fate, but often whether they will have protection for even very basic human rights (Somin 2020, pp. 813-814).

Libertarians in the West have lost confidence in the universal applicability of their own ideas. The national-libertarian Deist (2017b), for instance, asks:

[...] libertarians often [...] imagine themselves qualified to dictate political arrangements everywhere on earth. But what’s libertarian about telling other countries what to do? Shouldn’t our political goal be radical self-determination, not universal values?

This loss of confidence, we think, is the most likely culprit in the apparent decline of libertarianism and Western civilization. The answer is to be unapologetically and perhaps militantly libertarian, not to double down on the lack of confidence. As Pabst (2019) notes, authoritarian civilizations are more than happy to do

so, and we submit the libertarian West must be up to the challenge. Our answer to Deist's question would be that libertarians are *the most* qualified to dictate political arrangements anywhere on Earth, particularly to governments. Those (dictated, if necessary—as, to tyrants, the answer is “no”) political arrangements, *are*, in fact, radical self-determination, which is a universal value.

We agree with Christensen's (2021, p. 433) sentiment that the libertarian interstate federalist tradition must be revived. This is not an unfocused call for global government, but a libertarian advocacy for an interstate federation with a libertarian character and a libertarian purpose. We acknowledge that this is unlikely in the extreme to be achieved any time soon, but abolishing the welfare state, getting government out of environmental affairs, or even perfectly safeguarding cyberspace from surveillance or censorship, are equally if not more unlikely. While a good advocate always bears pragmatic considerations in mind, they do not allow themselves to be defined exclusively by the possible. Some measure of idealism is necessary if libertarians wish to push their ideas forward, however insignificantly, with every generation.

NOTES

- 1 In our research on this topic, the most dominant term used was “liberalism” in its classical sense. We retain these where quotes are used. However, in the interest of avoiding confusion, elsewhere the word “libertarian” is preferred.
- 2 As Spieker (2014, p. 927) puts it, “Hayek’s case against international planning rests on the same basis as his argument against planning on a national level, namely the problem of the impossibility of agreement on ends”.
- 3 With its rotating federal executive system, and canton system.
- 4 With its recognition of linguistic communities having certain governing powers.
- 5 With its division of government power not into only three branches, but six.
- 6 This is not to say the world has followed the American example of competitive federalism. The substance of the American model has largely been ignored in favor of its form.
- 7 The words Spieker (2014, p. 933) problematizes are italicized.
- 8 National-conservative libertarians such as Deist (2017a) similarly use “neo-colonial” disparagingly to refer to libertarian universalists.
- 9 It was the Roman refusal to grant land and recognition to the Visigoths that resulted in the first successful sack of Rome.
- 10 For example, see Van Zyl (2021).
- 11 We do not use “intellectuals” here to refer to university academics exclusively, but in this context include political leaders and influencers in particular. We use “intellectual” to distinguish from the layperson who does not care too much one way or the other about which theories and systems govern their lives, so long as they can satisfy their basic needs, including communal and spiritual needs.
- 12 Other considerations outside of numbers are also important, as Chenoweth (2020, p. 1) notes: “momentum, organization, strategic leadership, and sustainability.”

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