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larly potent” as algorithmic systems integrating storage and computation layers. They can store other information, including computer programs known as smart contracts that allow parties to “enter into a binding commercial relationship” using code and software “to manage contractual performance.” The authors envision a future where existing bureaucratic systems would be replaced by technocratic systems relying on “code-based rules that ultimately constrain human behavior and discretionary choice.”

Ethereum was the first blockchain to enable smart contracts, while eBay and Craigslist use them “to support and coordinate the sale of goods.” Blockchains increase the transparency of over-the-counter derivatives markets. Financial firms “memorialized the economic terms of credit default swaps using a blockchain-based system to provide parties with insight into trade details, counterparty risk metrics, and potential financial exposure.”

More ambitious projects could emerge in the future. A smart contract has controlled a drone’s trajectory “without the need for a centralized middleman to manage the device.” Robust blockchain property rights systems could manage and control devices on the “Internet of Things”—the internet connection of such devices as home appliances—supporting “autonomous and self-sufficient” objects. Blockchain may lead to “autonomous machines that do not rely on any central operator,” resulting in “emancipated, AI-driven machines, which could be used for either positive or dangerous ends.”

Blockchain and government / Smart contracts can also be used to create alegal systems. Yet regulation creates its own unique challenges. Regulating “too soon” would provide markets’ guidance but “stamp out potential benefits.” By contrast, waiting “too late” may allow “socially objectionable aspects ... to emerge.”

The authors attempt a risk–reward balance, arguing blockchains “exhibit dual, competing characteristics.” Risks include digital currencies that “have gained a foot-

hold with those seeking to evade existing laws and regulations” and reduced privacy if governments censor commercial or political activity. This issue is “exacerbated by the fact that, once data has been stored on a blockchain, it can no longer be unilaterally modified or deleted.” The internet “could become progressively more unruly” in a blockchain-dominated world. Commercial banks could suffer if digital currencies shrink balance sheets, “depriving them of needed revenue.”

Rewards include blockchain’s appeal to entrepreneurs in nations without stable currencies, businesses seeking efficiencies, and shareholders interested in facilitating consensus. They also appeal to government units, protecting against cybersecurity attacks, managing Illinois’s land registry and Estonia’s birth and marriage records system. Tax collection could be “streamlined.”

De Filippi and Wright acknowledge all “regulatory approaches discussed here are

incomplete solutions.” They cite Harvard law professor Lawrence Lessig’s “pathetic dot theory”: individual actions can be “controlled or affected” via laws, social norms, market forces, or architecture. Potential laws include “blockchain neutrality” and “extensive regulatory constraints on software development.” Governments could shape social norms within a blockchain community. The authors cite the end-to-end principle: networks should be as simple and general as possible, leaving intelligence at the network’s “edges.” Regulators could respect the principle or “adopt a more restrictive regulatory regime.”

De Filippi and Wright conclude that the best way to regulate a code-based system “is through code itself.” They worry that Blockchain liberation could cause us to live “under the yoke of the tyranny of code,” yet they leave unanswered the crucial question of whether regulators have the knowledge to write code, let alone balance the myriad issues raised in this book. R

A Bridge to Collectivism

◆ REVIEW BY PIERRE LEMIEUX

Yoram Hazony’s *The Virtue of Nationalism* is a well-written and challenging book. While today’s Trump supporters would likely agree with its main theses and conclusions, classical liberals, small-government conservatives (perhaps), and libertarians will be troubled or disagree.

The author is a philosopher and president of the Herzl Institute in Jerusalem. According to its website, the institute’s mission is “to contribute to a revitalization of the Jewish people, the State of Israel, and the family of nations through a renewed encounter with the foundational ideas of Judaism.” As we will see, this is congruent with the ideas expressed in *The Virtue of Nationalism*.

Hazony warns us at the outset that he will not “waste time trying to make nation-

alism prettier by calling it ‘patriotism’ because they are the same. Fair point. He defines the nation as an association of tribes “with a common language or religion, and a past history of acting as a body for the common defense and other large-scale enterprises.” As opposed to primitive tribes—the “tribes of Israel” that we meet in the Bible, for example—it is not always clear what today’s tribes are, although we can imagine many. Nationalism stands for “a principled standpoint that regards the world as governed best when nations are able to chart their own independent course, cultivating their own traditions

PIERRE LEMIEUX’s latest book is the just-published *What’s Wrong with Protectionism? Answering Common Objections to Free Trade* (Rowman & Littlefield, 2018).

and pursuing their own interests without interference.”

The book’s argument can be summarized as follows: The choice of an international political order is between national states on the one hand and imperial or world government on the other. This choice parallels the distinction between nationalism and liberalism: nationalism claims that each nation should be independent in order to pursue its own interests, aspirations, and purposes; liberalism “assumes that there is only one principle of legitimate political order: individual freedom,” and that this universal principle can be imposed on all nations. Contrary to rationalist liberalism, nationalism is consistent with man’s natural loyalty to his own kind, from the family, the clan, and the tribe, up to the nation. The nation can better ensure external security than tribal anarchy can, and better elicit the loyalty of its citizens than other sorts of states. Independent national states promote diversity and experimentation, contrary to empty universal principles and homogenizing empire. A national state is also the only formula capable of nurturing and protecting free institutions.

Each of these claims is doubtful at best.

Underestimating liberalism / The national state and world government do not exhaust the possibilities for the world order. On the axis of political power, there are many alternatives between ideal anarchy with zero political power and an ideal world-state with potentially total power. For example, there are non-world imperial states, and everything that is not a pure national state is not an empire. The European Union, we are told, “is a German imperial state in all but name,” but it’s a strange imperial state if a national state can legally secede with a two-year withdrawal notice!

Liberalism is much more cautious toward a world state than Hazony assumes. (He generally takes “liberalism” to mean classical liberalism.) Some liberals did favor a world state: one was Ludwig von Mises, as Hazony notes. Others were continental liberals and Enlightenment thinkers that Nobel economics prizewinner Friedrich Hayek blamed for their constructive rationalism and their false individualism. (See his “Individualism: True and False,” 1945.)

Hayek himself, whom Hazony calls “the most important theoretician of liberalism of the last century,” defended a theory of “the Great Society,” an abstract order guided only by the impersonal rule of general laws. On the basis of a 1939 article, Hazony blames Hayek for proposing a world government to establish this order. In his 1960 “Why I Am Not a Conservative,” a postscript

to *The Constitution of Liberty*, Hayek was prudent. He did argue that nationalism “provides the bridge from conservatism to collectivism.” But, he wrote rather wishfully, “until the protection of individual freedom is much more firmly secured than it is now, the creation of a world state probably would be a greater danger to the future of civilization than even war.” Most liberals in the Anglo-American wing of liberalism did not and do not favor a world state.

Hazony must be troubled by Hayek’s liberalism, which is based on the same Anglo-American tradition of empirical historicism that *The Virtue of Nationalism* claims to represent. Hayek proposed a liberalism that is both respectful of evolved traditions and against the morals of the tribe.

Tribe vs. Great Society / Hazony does not only provide a bridge to future collectivism, he also has deep roots in past collectivism, in the loyalty of tribe members.

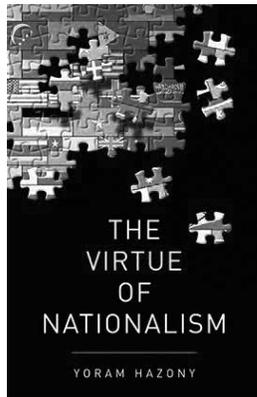
They recognize “the aims of the collective” as their own. The nation gains its cohesion from a similar loyalty.

The collectivism that Hayek blamed conservatives for sharing with the socialists is quite visible in *The Virtue of Nationalism*. Speaking about “clan, tribe, and nation,” Hazony states that “these collectives are of the same kind as the family, albeit on a greater scale.” The nation is presented as an organism with its “own interests,” its “aspirations,” and “its own unique purposes.” Nations can even “develop attachments to other nations.” He explains, a bit laboriously, that these are not only metaphors.

In reality, social organisms don’t exist. And collectives can only be understood with methodological individualism—that is, by starting from the individual to understand social phenomena. Methodological individualism is what separates Hayek’s historical empiricism from the Hazony variety.

Collective preferences don’t exist, unless everybody in the collective has similar preferences. Nobel laureate Kenneth Arrow demonstrated that if all individual preferences are admitted, there is no way to build consistent collective preferences on the basis of individual preferences. (See his *Social Choice and Individual Values*, 1951.) There will always be some individuals whose preferences are not taken into account. In other words, collective choices are authoritarian. *The Virtue of Nationalism* shows no trace of this line of research.

The tribal psychology underlying Hazony’s political theory is the exact opposite of Hayek’s Great Society, where abstract and mostly impersonal relations allow each individual to pursue his own goals. (See “Against Tribal Instincts,” Spring 2018.) Individual choices can incorporate the welfare of family or friends, but they are not coercively subordinated to the goals of other individuals. The abstract order of the market, in which we cooperate with unknown persons with different goals, is one dimension of the Great Society; so is the rule of law. Only such abstract order can allow the production of wealth typical of liberal societies since the 19th century.



The Virtue of Nationalism

By Yoram Hazony
304 pp.; Basic Books, 2018

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Hazony's psychology is incompatible with modern society. Individuals are as disobedient as they are social. Loyalty to the national state is largely a product of state propaganda. The flags, symbols, and pomp of the nation-state are designed to elicit tribal loyalty. I submit that there is not much virtue in that.

Rousseau in disguise? / With the Enlightenment, a new concept of individual liberty emerged, as opposed to collective liberty—or “collective self-determination,” as Hazony would say. He cleverly avoids the concept of sovereignty, but defends it with other words. The author of *The Virtue of Nationalism* remains a believer in ancient liberty. National states are the locus of collective liberty. On the contrary, we should not renounce the virtues of the Enlightenment, including individual liberty. (See “From the Republic of Letters to the Great Enrichment,” Spring 2018.)

One can imagine a world where collective liberty would work flawlessly. Imagine that the world is divided into sets of identical individuals (with the same preferences and values), each of these sets contained in a contiguous territory. Each set forms a national state. Any collective choice in a national state would, by construction, represent the unanimous choice of all its citizens. (I disregard the possibility that different circumstances could lead an individual to wish he could make a different choice: “I would love to participate in our war, but my wife just delivered our baby.”) Each individual would literally feel the pains and pleasures of the state as his own, like Hazony imagines.

Such a world is romantic and unrealistic. The national state is not a big family. However much Hazony blames Jean-Jacques Rousseau's rationalism, the tribal Rousseau makes a return in *The Virtue of Nationalism*. Hayek wrote about “the Rousseauesque nostalgia for a society guided, not by learned moral rules which can be justified only by a rational insight into the principles on which this order is based, but by the ‘natural’ emotions deeply grounded on millennia of life in the

small horde” (*Law, Legislation and Liberty*, Vol. 2, 1976).

Rousseau may hide elsewhere in *The Virtue of Nationalism*, where “the freedom of the individual is seen to depend ... on the freedom and self-determination of the collective to which he is loyal.” But what if an individual is persecuted by his free collective? This seems impossible in Hazony's theory. Would we say that an individual persecuted by his own tribe or nation is free or, as Rousseau wrote in *On the Social Contract* (1762), that he is “forced to be free”?

Politics with romance / The rest of Hazony's argument—on security, diversity, and free institutions—mostly rests on an idyllic view of the democratic state.

James Buchanan, another Nobel prizewinning economist, described the approach of politics by public choice theory as “politics without romance.” This school of economic and political analysis takes individuals as they are, as self-interested in the public sphere as they in the private sphere. By contrast, Hazony does politics with romance. He ignores how the state works in practice, with rationally ignorant voters, and interest groups and state bureaucracy grabbing a large share of state power. He underestimates the constant danger of Leviathan.

Consider the argument that the national state is the best protector of security. It ignores the possible exploitation of citizens by their own national states—especially, but not only, if they are a minority of a different nationality. The national state may reduce the risks of outside attacks; in many ways, though, it increases the security risk from inside because it combines the power of the state with nationalist emotions. Haven't we observed that often?

Another weakness in the security argument is that the national state is a natural way toward empire, as Nazi Germany illustrated. Hazony underestimates that risk, seeing in the national state only the “national.”

Bertrand de Jouvenel's argument in *On Power* (1947) is very relevant to national

states, which have made wars more devastating. Helped by the power of nationalist propaganda and emotions, the state has claimed jurisdiction on all the “national resources,” including conscripted men. Noncombatants have been brought into the ambit of war. The summit was reached with the bombing of civilian populations in World War II. Isn't an enemy state “the nation as a whole” (an expression used by Hazony many times)? Let's bomb the nation as a whole!

Diversity and liberty / Hazony argues that independent national states promote diversity and experimentation, as opposed to homogenizing empire. This is probably true globally, but not within each country. Most national states undermine diversity within their borders. Hazony's argument for diversity is incomplete: it does not consider the need for constraining state power.

Similarly, most national states crush free institutions instead of nurturing them. By “free institutions,” Hazony means the institutional structure that generates or protect the “rights and freedoms” of the individual, including generally free markets. Even without speaking of immigration (a more difficult topic), national states nearly always restrict free trade in goods and services, a power Hazony supports. He also seems to believe that the state should promote the country's traditional language and religion. Taken seriously, collective liberty can only clash with individual liberty.

Readers of *The Virtue of Nationalism* will sometimes get the impression that the author does not dislike individual liberty, but that he lacks some important analytical tools to understand it. For example, he presents “the World Trade Organization as an authoritative body regulating the economies of nations as a condition of their participation in international trade.” Doesn't he understand that unilateral free trade—that is, letting a country's residents import what they want at the best conditions they can get—would allow any nation or, to speak properly, individuals

in any country to participate in international trade? Does he understand how that works?

The main argument for independent states—not necessarily national states—is a public choice argument related to the danger of an international Leviathan, which would be much more difficult to escape than local tyrants are. This argument is based on the intrinsic danger of the state as a monopoly of force, and on the value of individual dignity and flourishing. Don't forget individuals! The idea that a system of independent states is a less dangerous system than a world empire—at least for those who do not live under the worst tyrants—must not prevent one from dissenting against his own Leviathan. It is not a license to glorify nationalism.

The Virtue of Nationalism is anchored in the Hebrew Bible, that is, the Old Testament, and in the political history of the Jews in biblical times. “I have been a Jewish nationalist, a Zionist, all my life,” the author writes in the book's introduction. We can understand and sympathize with the plight of Jews in history, from the early tribes of Israel and the kingdoms of Israel and Judah, to the diaspora, the constant discrimination against Jews, the Holocaust, and the contemporary refuge that the state of Israel represents for them. We can also admire the millennia-old Jewish traditions (when they are not too stifling), as well as the major contribution of Jewish culture to Western civilization. But that's not a reason to hold the Hebrew Bible as the ultimate book of political philosophy.

Lessons / I think that two qualified lessons can be drawn from *The Virtue of Nationalism*. First, it reminds us of the danger of a world state. A world state would likely have killed the experiments that led to the discovery of individual liberty and classical liberalism. Hazony would not weep for the latter, but perhaps he does not understand it well. Under a world tyrant, islands of liberty would be very difficult to establish and defend. But note how these islands of liberty have also been busy destroying

themselves under national states with growing power.

Second, nationalism does not always turn into national socialism or other monsters. Hazony shows that nationalism can sometimes be useful. We know many Western national states under which individual liberty has flourished in different degrees. Yet, these liberty-bearing societies were probably those whose elites had the most cosmopolitan outlook. Note also how open these countries were historically to trade or immigration. Immigration constantly changed the “tribes” of America.

A more general reflection is that we—who think that individual liberty is the main political value—must accept both that it is a universal value and that prudence requires not to trust a world state

to impose and protect it. This does not preclude international treaties between national governments. Another way to express the general idea is that we must marry cosmopolitan values with the preservation of separate states, of which some will hopefully become islands of liberty. Incidentally, unilateral free trade is one way to achieve that: it would leave individuals in the unilaterally free-trading country free to import, export, or invest abroad, even if foreign states don't recognize the same liberty for their own subjects. (See “How Is Your Trade War Going?” Summer 2018.)

If there is something that could persuade a cosmopolitan intellectual of the virtue of nationalism, this book would be it. It doesn't succeed, though, because of its collectivism and romantic politics. R

Is the Era of ‘Free to Choose’ Medicine Upon Us?

◆ REVIEW BY THOMAS A. HEMPHILL

Over a decade ago, Bart Madden unveiled the genesis of his “Free to Choose Medicine” concept in the pages of *Regulation* (see “Breaking the FDA Monopoly,” Summer 2004). He developed those ideas in the monograph *Free to Choose Medicine*, the third edition of which was released this April. Just a few weeks

later, President Trump signed “Right to Try” legislation giving terminally ill Americans greater access to investigational drug treatments that have undergone Food and Drug Administration Phase I safety and early efficacy testing but have not completed the full FDA testing regimen and are not yet available to the public.

Madden's arguments support policies like “Right to Try,” but there is much more to what he proposes than simply giving terminal patients access to experimental drugs. In this review, I sketch out his proposal and offer some practical suggestions

for increasing the possibility that it will one day become law.

Need for Free to Choose Medicine / On the first page of the first chapter, Madden states the purpose of his Free to Choose Medicine concept:

This book makes the case that we need to be free to make informed decisions about whether to use not-yet-approved therapeutic drugs—that is, new drugs that have successfully passed initial safety trials, generated preliminary efficacy data, and may offer us the opportunity to improve our health or even save our life.

He believes that the result of the 1962

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