

## A LIBERTARIAN CASE FOR FREE IMMIGRATION

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“None are too many.”—Reply of an anonymous senior official in the government of Canadian Prime Minister McKenzie King to the question, “How many Jews fleeing Nazi Germany should be allowed into this country?”<sup>1</sup>

All merchants shall have safe and secure exit from England and entry to England, with the right to tarry there and to move about as well by land as by water, for buying and selling by the ancient and right customs, quite from all evil tolls, except (in time of war) such merchants as are of the land at war with us. And if such are found in our land at the beginning of the war, they shall be detained, without injury to their bodies or goods, until information be received by us, or by our chief justiciar, how the merchants of our land found in the land at war with us are treated; and if our men are safe there, the others shall be safe in our land.<sup>2</sup>

**I**n this paper I will attempt to analyze laws limiting emigration, migration, and immigration from the libertarian perspective. I will defend the view that the totally free movement of goods, factors of production, money, and, most important of all, people, is part and parcel of this traditional libertarian

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<sup>1</sup>Irving Abella and Harold Troper, *None is Too Many: Canada and the Jews of Europe, 1933–1948* (Toronto: Lester and Orpen Dennys, 1982), p. ix. I owe this citation to Phil Bryden and Jenny Forbes.

<sup>2</sup>From chapter 41 of the Magna Carta, cited in Samuel E. Thorne, et al., *The Great Charter: Four Essays on Magna Carta and the History of Our Liberty* (New York: Pantheon, 1965), p. 133. I wish to thank Ralph Raico for bringing this quotation to my attention.

philosophy. Like tariffs and exchange controls, migration barriers of whatever type are egregious violations of laissez-faire capitalism.

I begin by briefly reviewing the libertarian philosophical perspective. Next, I appraise each of these elements of the movement of peoples from this vantage point. Then, I consider—and reject—a series of possible objections. I conclude with an overview.

### LIBERTARIANISM

Libertarianism is a political philosophy; as such, it is a theory of the just use of violence. Here, the legitimate utilization of force is only defensive: one may employ arms only to repel an invasion, i.e., to protect one's person and his property from external physical threat, and for no other reason. According to Murray N. Rothbard:

The libertarian creed rests upon one central axiom: that no man or group of men may aggress against the person or property of anyone else. This may be called the “non-aggression axiom.” “Aggression” is defined as the initiation of the use or threat of physical violence against the person or property of anyone else. Aggression is therefore synonymous with invasion.

If no man may aggress against another, if, in short, everyone has the absolute right to be “free” from aggression, then this at once implies that the libertarian stands foursquare for what are generally known as “civil liberties”: the freedom to speak, publish, assemble, and to engage in . . . “victimless crimes.”<sup>3</sup>

I shall contend that emigration, migration, and immigration all fall under the rubric of “victimless crime.” That is, not a one of these three *per se* violates the non-aggression axiom.<sup>4</sup> Therefore, at least for the libertarian, no restrictions or prohibitions whatsoever should be placed in the path of these essentially peaceful activities.

Before considering the specifics, let us clear the decks of one possible misconception: that the libertarian can be a “moderate”

<sup>3</sup>Murray N. Rothbard, *For a New Liberty* (New York: Macmillan, 1978), p. 23. For another definitive vision of libertarianism, see Hans-Hermann Hoppe, *The Economics and Ethics of Private Property: Studies in Political Economy and Philosophy* (Boston: Kluwer, 1993).

<sup>4</sup>For a listing of dozens of other archetypes, none of which necessarily violate the libertarian non-aggression axiom, and all of which are reviled by many, see Walter Block, *Defending the Undefendable* (New York: Fox and Wilkes, [1976] 1985).

on this question, advocating fully opening the borders at some times, completely closing them on other occasions, and leaving them slightly ajar if it seems warranted. Typically, such a policy is advocated based on considerations of assimilation, as in the following statement of “plain-spoken reasoning” by William F. Buckley:

At various points in history we have opened, and then gently closed, our borders, pending economic and social assimilation. If there is dogged unemployment, there is no manifest need for more labor. If pockets of immigrants are resisting the assimilation that over generations has been the solvent of American citizenship, then energies should go to accosting multiculturalism, rather than encouraging its increase.<sup>5</sup>

Such a position, whatever its merits on other grounds, is simply not available to the libertarian, who requires consistency with Rothbard’s non-aggression axiom. Pragmatic matters such as assimilation can form no part of the libertarian world view. The only issue is: do emigration, migration, and immigration constitute, *per se*, a physical trespass against person and property or a threat thereof? If so, then libertarians must oppose them totally; if not, they must oppose any and all limits to them. There does not appear to be any middle ground or compromise position consistent with libertarianism.<sup>6</sup> That is, if the transfer of peoples does indeed constitute a violation of the libertarian axiom, as does murder, rape, theft, etc., then it must be completely prohibited. There can be no countenance for *partially* restricted immigration,<sup>7</sup> any more than for *partially* restricted murder. Buckley-type pragmatism applied to murder would mean that in some decades there should be no law at all opposing this heinous act, in other epochs we should very strictly prohibit it, and that in still other time periods we should adopt a more moderate position, perhaps allowing only a certain number of murders. Perhaps our choice should be dictated by life expectancy, or numbers of elderly people in the population.<sup>8</sup> Say what you will about the

<sup>5</sup>William F. Buckley, “Immigration Advocates Resist Reasoning,” *Conservative Chronicle* (February 12, 1997): 20.

<sup>6</sup>For the view that at least on some issues the libertarian position occupies a middle ground, or compromise, see Walter Block, “Compromising the Uncompromisable: the Austrian Golden Mean,” *Cultural Dynamics* 9, no. 2 (July 1997): 211–38.

<sup>7</sup>We are here implicitly assuming that the migrant will find a private property owner who is willing to take him in. Below, we subject this assumption to intensive examination.

<sup>8</sup>This would constitute a “modest proposal” for solving the Ponzi scheme elements of social security bankruptcy. We could hold “open season” on retirees, while protecting the lives of those still in the labor force.

pragmatic benefits of this idea, it clearly falls outside the purview of libertarians.

Rothbard makes much the same point in another context:

“Economic power,” then, is simply the right under freedom to refuse to make an exchange. Every man has this power. Every man has the same right to refuse to make a preferred exchange.

Now, it should become evident that the “middle-of-the-road” statist, who concedes the evil of violence but adds that the violence of government is sometimes necessary to counteract the “private coercion of economic power,” is caught in an impossible contradiction. A refuses to make an exchange with B. What are we to say, or what is the government to do, if B brandishes a gun and orders A to make the exchange? This is the crucial question. There are only two positions we may take on the matter: *either* that B is committing violence and should be stopped at once, *or* that B is perfectly justified in taking this step because he is simply “counteracting the subtle coercion” of economic power wielded by A. Either the defense agency must rush to the defense of A, or it deliberately refuses to do so, perhaps aiding B (or doing B’s work for him). *There is no middle ground!*<sup>9</sup>

The identical situation exists with regard to migration. Here, A, the migrant, is peacefully coming to visit his friend or relative in another land.<sup>10</sup> Whereupon B pounces on him, and forces him at the point of a gun to return to his place of origin. What should the libertarian defense agency do? Again, *there is no middle ground!* It must either support A or B. It cannot possibly do both.

The legality of migration is an all-or-none matter: either migration is *per se* legitimate, in which case it would be improper to interfere with it in any way, or it is *per se* invasive, in which case it should be prohibited, totally and comprehensively, just as in the case of murder and rape.

## EMIGRATION

Ponder the barriers to emigration which long existed behind the Iron Curtain, and still do for countries such as North Korea and Cuba. Civilized people of all ideological dispositions regard

<sup>9</sup>Murray N. Rothbard, *Power and Market: Government and the Economy* (Menlo Park, Calif.: Institute for Humane Studies, 1977), p. 229, emphasis in original.

<sup>10</sup>For how long? Who knows? Whose business is it anyway?

these as barbarous relics from the past—harking back to a time of serfdom, or actual slavery. A country which will not allow its citizens to leave is nothing better than a vast jail, no matter how many Olympic medals the prisoners may have won, no matter how many Sputniks the inmates may have launched.

Such a stark statement can be made on the basis of the libertarian philosophy. For here, people own themselves absolutely. It is a moral outrage for them to be enslaved by the state. Restrictions are sometimes justified on the grounds that would-be emigrants have benefitted from public education, provided free of charge by the government. They are compelled to pay exit fees, or are prohibited from leaving outright, on the ground that they will take with them information given to them by the state, which continues to be “its” property. Since there is no way to leave without taking this education with them, the emigrants are prohibited from departing. We in the west, for the most part, see this merely as an excuse for a quasi-slave system—as an attempt to cover unlawful imprisonment with a thin veneer of legitimacy and property rights. But no state provides education to the populace “for free.” On the contrary, schooling is financed from funds taken from the people in the first place, though taxes.

Even if, somehow, the government gave education to the citizens for free, it would still not follow that governments are entitled to enslave them on this ground. No, the only slavery even arguably compatible with libertarianism would be that agreed to in advance by freely contracting parties—a sort of “indentured servitude” for life. But no such contracts have ever been signed. Thus, there is no warrant to assume that the hapless people suffering from Communism or Nazism were treated appropriately,<sup>11</sup> even under our heroic assumption of “free” education.

As a matter of fact, one may interpret the curious historical institution of slavery<sup>12</sup> along these lines. That is, chattel slavery is but a special instance of the lack of freedom to emigrate. What makes it slavery is that the slave cannot quit, or emigrate from the situation, any time he feels like picking up and leaving. If he could, it would not be slavery but merely a peculiar voluntary employment contract. In other words, the right of emigration is so important that its absence implies outright slavery.

<sup>11</sup>For another analysis of the view that state actions can be justified on the basis of a “contract” which was never signed, see Lysander Spooner, *No Treason: The Constitution of No Authority* (Larkspur, Colo.: Ralph Myles, [1870] 1966).

<sup>12</sup>See Jeffrey Rogers Hummel, *Emancipating Slaves, Enslaving Free Men: A History of the American Civil War* (Chicago: Open Court, 1996), for a thorough-going analysis of slavery.

There is a further connection between emigration and immigration. Suppose the world contained one totalitarian country, while the rest of them were “free.” If all other nations enact immigration prohibitions, this is tantamount to the imposition of emigration restrictions by the government of the one country from which people wish to flee. While it is a basic implication of the libertarian non-aggression axiom that people have a right to emigrate, at least one other nation must allow them to immigrate, or the exercise of this right will become impossible as a practical matter.

### MIGRATION

If there is to be a third category, migration, distinct from immigration and emigration, then it must be confined to that aspect of travel during which a person is neither under the control of the host country (emigration) nor the receiving one (immigration). It would apply to the ocean, after the migrant has vacated the country of origin, e.g., Cuba, or traveled to that small no-man’s land or demilitarized zone between such places as North and South Korea.

There is no real difficulty for the libertarian in such a case. Shooting down a fleeing family in cold blood, no matter which nation is doing the killing, is murder. Should this have to be said, that murder is contrary to the libertarian axiom of non-aggression? Within limits, it matters not one whit why the persons involved are escaping—whether for economic reasons, or to have a freer life, or because they are tired of totalitarianism.<sup>13</sup>

### IMMIGRATION

A moment’s reflection will convince any disinterested party that immigration is not necessarily invasive. Immigration consists of no more than moving to a foreign country. For the purist libertarian, national boundaries are only lines on a map, demarcating one “country” from another; there is no such thing as a legitimate nation-state. According to Rothbard:

[T]here can be no such thing as an “international trade” problem. For nations might then possibly continue as

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<sup>13</sup>Of course, if they are themselves murderers, and are escaping to another country in order to avoid paying the just penalties for their foul deeds, or are escaping with private property stolen from its rightful owners, this is an entirely different matter. No longer do we have here innocent people merely attempting to better their own lives. Now, the “migrants” are themselves the criminals.

cultural expressions, but not as economically meaningful units. Since there would be neither trade nor other barriers between nations nor currency differences, “international trade” would become a mere appendage to a general study of interspatial trade. It would not matter whether the trade was within or outside a nation.<sup>14</sup>

Therefore, immigration across national boundaries should be analyzed in an identical manner to that migration which takes place within a country. If it is non-invasive for Jones to change his locale from one place in Misesania to another in that country, then it cannot be invasive for him to move from Rothbardania to Misesania. Alternatively, if migration across international borders is somehow illegitimate, this should apply to the domestic variety as well.

As long as the immigrant moves to a piece of private property whose owner is willing to take him in (maybe for a fee), there can be nothing untoward about such a transaction. This, along with all other capitalist acts between consenting adults, must be considered valid in the libertarian world. Note that there is no freedom of movement of the person *per se*. This is always subject to the willingness of property owners in the host nation to accept the immigrant onto their land. Rothbard explains:

[T]he private ownership of all streets would resolve the problem of the “human right” to freedom of immigration. There is no question about the fact the current immigration barriers restrict, not so much a “human right” to immigrate, but the right of property owners to rent or sell property to immigrants. There can be no human right to immigrate, for on *whose* property does someone else have the right to trample? In short, if “Primus” wishes to migrate now from some other country to the United States, we cannot say that he has the absolute right to immigrate to this land area; for what of those property owners who don’t *want* him on their property? On the other hand, there may be, and undoubtedly are, other property owners who would jump at the chance to rent or sell property to Primus, and the current laws now invade their property rights by preventing them from doing so.<sup>15</sup>

It is almost a certainty that there will in fact always be “other property owners who would jump at the chance to rent or

<sup>14</sup>Murray N. Rothbard, *Man, Economy, and State: A Treatise on Economic Principles* (Auburn, Ala.: Ludwig von Mises Institute, [1962] 1993), p. 550. See also Rothbard, *For A New Liberty*; and Ludwig von Mises, *Nation, State, and Economy*, Leland Yeager, trans. (New York: New York University Press, 1983).

<sup>15</sup>Murray N. Rothbard, *The Ethics of Liberty* (Atlantic Highlands, N.J.: Humanities Press, 1982), p. 119.

sell property to” immigrants. If this is not obvious based on common sense experience, the economics of discrimination suggests no other possible conclusion.<sup>16</sup> If there are many owners who refuse to rent or sell to immigrants, the price the latter will have to pay will be high. But this will tend to induce those landowners on the margin to agree to accept immigrants. It must be the rare case indeed where in a country of millions of property owners there is not a single one willing to accept newcomers, even at the very highest prices they are willing to pay. In such a rare case, all those who adhere to libertarianism must indeed unite in opposing immigration,<sup>17</sup> for, with Rothbard, there is no one “on whose property . . . someone else ha[s] the right to trample.”

But this is a theoretical curiosity, not something relevant to reality, or to public policy analysis. In real world countries, certainly including the U.S., there can be found thousands, if not millions, of landowners willing to sell or rent space to people from all parts of the globe, no matter how obscure. For example, restaurateurs specializing in the foods common to foreign lands may wish to hire authentic foreign-born cooks. As a practical matter, it is inconceivable that some citizen property owners, whose families themselves immigrated in the past, would not be interested in taking in their countrymen, particularly at the very high remuneration available if most landlords do not wish to deal with the immigrants.

The case is equally clear for allowing immigrants to settle on unowned land. When there is virgin territory, there is no legitimate reason for immigrants (or domestic citizens) to be prevented from bringing it into fruitful production. States Rothbard: “*Everyone* should have the right to appropriate as his property previously unowned land or other resources.”<sup>18</sup> “Everyone,” presumably, includes immigrants as well as citizens or residents of the home country.

Mises, from a utilitarian rather than a natural-rights libertarian position, considered immigration an important element of freedom and progress:

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<sup>16</sup>On this topic, see Gary Becker, *The Economics of Discrimination* (Chicago: University of Chicago Press, 1957); Thomas Sowell, *Race and Economics* (New York: Longman, 1975); idem, *The Economics and Politics of Race: An International Perspective* (New York: Morrow, 1983).

<sup>17</sup>That is, opposing it totally, as private property rights violations. However, even in this case there would be no need for a law prohibiting immigration, only one banning trespass in general.

<sup>18</sup>Rothbard, *Ethics of Liberty*, p. 240, emphasis added. See also Hoppe, *Economics and Ethics of Private Property*.



The principles of freedom, which have gradually been gaining ground everywhere since the eighteenth century, gave people freedom of movement. The growing security of law facilitates capital movements, improvement of transportation facilities, and the location of production away from the points of consumption. That coincides—not by chance—with a great revolution in the entire technique of production and with drawing the entire earth's surface into world trade. The world is gradually approaching a condition of free movement of persons and capital goods.<sup>19</sup>

One last point under this topic. If immigration were *per se* invasive, then, perhaps with the exception of Indians,<sup>20</sup> as Americans are all either immigrants or descended from them, our occupancy of this country would be legally questionable. Since no advocate of immigration restrictions has ever expressed any such reservations, there is a problem of logical consistency here.

### OBJECTIONS

Let us now deal with several possible objections to the foregoing.

#### ***Allowing unrestricted immigration is equivalent to allowing the invasion of a foreign army***

States Mises:

Under present conditions, the adoption of a policy of outright laissez faire and laissez passer on the part of the civilized nations of the West would be equivalent to an unconditional surrender to the totalitarian nations. Take, for instance, the case of migration barriers. Unrestrictedly opening the doors of the Americas, of Australia, and of Western Europe to immigrants would today be equivalent to opening the doors to the vanguards of the armies of Germany, Italy, and Japan.<sup>21</sup>

It must be remembered that these words were first published in 1944, and written some time before that; hence, perhaps, the fear of military invasion. But this appears to be an idiosyncratic use of language. No advocate of laissez-faire capitalism ever conceived of this position as anything akin to total pacifism. Unrestricted immigration, in this perspective, does not at all include

<sup>19</sup>Mises, *Nation, State, and Economy*, p. 58.

<sup>20</sup>But the ancestors of native peoples, too, had to come from somewhere. If so, then they, too, are at least indirectly “guilty” of the crime of immigration.

<sup>21</sup>Ludwig von Mises, *Omnipotent Government: The Rise of the Total State and Total War* (New Rochelle, N.Y.: Arlington House, 1969), p. 10.

allowing invading armies *carte blanche* access to the home country.<sup>22</sup> On the contrary, it refers to peaceful settlement therein. It is perfectly consistent with the libertarian philosophy to oppose with the utmost determination an invading army, while throwing completely open the doors to peaceful settlers.

***Unrestricted immigration will create or exacerbate unemployment***

This objection illustrates nothing so much as economic illiteracy. It assumes that there is only so much work in a nation to be done, and that if immigrants do more of it, there will be just that much left for present occupants. If it were true, any and every technological advance would prove a dire threat to our economy.<sup>23</sup> For example, the pick and shovel, to say nothing of the truck, can do the work of thousands of people, compared to tea spoons, or, better yet, bare fingernails. Are we to rid ourselves of these technological advances in order to improve our economy, and combat unemployment? Hardly.

***Unrestricted immigration will reduce the real wages of the workers already in residence***

This contention, more perhaps than any other, explains the vicious opposition to immigration traditionally displayed by union leaders such as Cesar Chavez.<sup>24</sup> This charge, however, cannot be denied; it is true that under some circumstances, workers in the receiving country (and capital and land in the country or origin), will lose out.<sup>25</sup> Conversely, capitalists and land owners in the receiving country gain from the cooperation of a larger supply of labor, and workers remaining in the country of origin gain from the increased local scarcity of their services.

The owner of any resource, labor or any other, tends to be subject to a loss in wealth, at least relatively, when confronted by increasing supplies of a substitute factor of production. It is possible that these losses as a producer will be more than offset by gains as a consumer (due to the lower prices of final goods), but this need not at all be the case. It is also possible for an individual domestic worker's loss in wages to be more than offset by

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<sup>22</sup>This would apply, also, to carriers of communicable diseases. They are in effect, if not by intention, an "invading army" in that if they are allowed in the recipient country, they will spread their germs to innocent people.

<sup>23</sup>See Henry Hazlitt, *Economics in One Lesson* (New York: Arlington House, 1979); Mises, *Omnipotent Government*, p. 105; and Julian Simon, *The Economic Consequences of Immigration* (Oxford: Basil Blackwell, 1989).

<sup>24</sup>See Ira Mehlman, "Funding Fraud," *National Review* (March 24, 1997): 30.

<sup>25</sup>See Ludwig von Mises, *Human Action*, 3rd rev. ed. (Chicago: Regnery, 1966), pp. 377, 627.

gains in his invested wealth (e.g., he may have pension funds invested in stock ownership), but again, this need not be the case.

But as Hoppe has shown, people have the right only to the physical aspects of their property, not to its value.<sup>26</sup> For the latter is determined on the market by the human actions of thousands of people, exercising their demand for and providing supplies of commodities. To say that X has a right to the value of his property is thus to say that he has a right to make economic decisions for these thousands of other people whose choices determine the value of his property, a manifest absurdity.

***Unrestricted immigration will increase crime***

There is no doubt that were the U.S. to open its doors to all and sundry, some number of criminals would take advantage of this opportunity. There are good “pickings” to be had here, after all.

But this is really an indictment of our criminal justice system,<sup>27</sup> not of open immigration. Nowadays, liberals wax eloquent about the cost of crime. The bill for incarcerating a criminal exceeds that of tuition at our most prestigious universities. When one imagines hordes of immigrants coming to this country, committing crimes, and then putting additional strain on our very limited supply of jails, it is easy to contemplate the closing of the borders.

In actuality, a libertarian society serious about crime would not experience so much of it in the first place. For one thing, it would legalize drugs. It is the prohibition, not the use of drugs, that leads to criminal behavior. The very high prices of illegal drugs which are due to prohibition, and are not intrinsic to addictive substances themselves, serve as a magnet for the underworld. When alcohol was prohibited, it was associated with criminal gang activity; when it was legalized, this connection was cut asunder.<sup>28</sup>

<sup>26</sup>Hoppe, *Economics and Ethics of Private Property*.

<sup>27</sup>See Rothbard, *Power and Market*; also idem, *For A New Liberty*, pp. 215–41.

<sup>28</sup>For more on this point, see Walter Block, “Drug Prohibition: A Legal and Economic Analysis,” *Journal of Business Ethics* 12 (1993): 107–18; idem, “Drug Prohibition, Individual Virtue, and Positive Economics,” *Review of Political Economy* 8, no. 4 (October 1996): 433–36; David Boaz, ed., *The Crisis in Drug Prohibition* (Washington, D.C.: Cato Institute, 1990); Milton Friedman, “An Open Letter to Bill Bennett,” *Wall Street Journal* (September 7, 1989); Ronald Hamowy, ed., *Dealing With Drugs: Consequences of Government Control* (San Francisco: Pacific Institute, 1987); Thomas Szasz, *Ceremonial Chemistry: The Ritual Persecution of Drugs, Addicts, and Pushers*, rev. ed. (Holmes Beach Fl.: Learning Publications, 1985); and Mark Thornton, *The Economics of Prohibition* (Salt Lake City: University of Utah Press, 1991).

A libertarian society, moreover, would get tougher on genuine criminals. There would be no more cozy jails with color TVs, air conditioning, or recreation rooms. If indentured servitude for convicts were brought back, prisons could be run by private enterprise. Instead of draining taxpayers of vast amounts of money to house inmates, they could turn a profit.

Under such a system, apart from the undoubted harm they would perpetrate on their victims, immigrants who become criminals would not cost "society" a dime. On the contrary, through their sweat and tears they could be forced to make a positive contribution.

***Unrestricted immigration will promote welfarism***

The argument here is that immigrants come to our shores not to breathe the heady wine of economic freedom, but to avail themselves of our stupendously generous welfare system. This is not so much a quarrel with immigration as it is with welfare. Says Hoppe in this context:

It would also be wrongheaded to attack the case for free immigration by pointing out that because of the existence of a welfare state, immigration has become, to a significant extent, the immigration of welfare bums, who, even if the United States is below the optimal population point, do not increase but rather decrease average living standards. For this is not an argument against immigration but rather against the welfare state. To be sure, the welfare state should be destroyed, root and branch. However, the problems of immigration and welfare are analytically distinct, and they must be treated accordingly.<sup>29</sup>

Let it be said loudly and clearly: end welfare for all people, but at the very least for immigrants and their descendants, and by definition immigrants will no longer be attracted to our shores in order to receive such funds.

But there is another problem with this line of argument: it proves far too much. For if immigrants are to be prohibited from entry into this country on the ground that they *might in the future* go on the welfare rolls, and thus in effect steal from the long-suffering taxpayer, Pandora's box will be flung wide open. If we can physically invade people for what they *might* do in the future,<sup>30</sup> the sky is the limit. Surely we can engage in preventive

<sup>29</sup>Hans-Hermann Hoppe, "Free Immigration or Forced Integration," *Chronicles* 19, no. 7 (July 1995): 25.

<sup>30</sup>Make no mistake about it: an immigration barrier is a physical invasion of innocent people. Here comes Mr. X, say, from Turkey, peaceably going about his

detention of all teenaged males—the guilty along with the innocent—on the ground that this cohort commits more than its proportionate share of crimes. But surely this would be a great injustice.

And what about child bearing for the present occupants of this great country of ours? It cannot be denied that any children born today might, some years into the future, avail themselves of our welfare program. But if we can preclude the entry of immigrants on this ground, this goes as well for having babies. Becoming pregnant ought to be a crime, on these grounds. At least the Chinese Communists limited people to one child per couple. If opponents of totally open immigration on the ground that they might become welfare recipients are logically consistent, they would have to oppose any childbearing, whatever.<sup>31</sup>

***Legally unrestricted immigration is indeed the libertarian position, the only possible libertarian position, but it should not be implemented until the every other plank in this program is first put into effect***

This is a very powerful objection to the argument being presented here. For suppose unlimited immigration is made the order of the day while minimum wages, unions, welfare, and a law code soft on criminals are still in place in the host country. Then, it might well be maintained, the host nation would be subjected to increased crime, welfarism, and unemployment. An open-door policy would imply not economic freedom, but forced integration with all the dregs of the world with enough money to reach our shores.

However strong this objection may be, Rothbard, albeit arguing in another context, provides us with the definitive rebuttal.<sup>32</sup> Rothbard noted that Alan Greenspan, in his youth, was a strong advocate of a gold standard,<sup>33</sup> but as head of the Fed, never from

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business of settling on the land of his cousin in Arkansas, for example. Yet, before he can get there, the minions of the government interfere with his peaceful right of passage, and either jail him or forcibly return him to his country of origin.

<sup>31</sup>One might argue that the rich could escape this implication, by, say, posting a bond so that their children never need become welfare recipients. This might or might not work, depending upon such matters as future inflation, productivity, and precisely how these bonds are financed. In any case, however, it would also be possible to eliminate this argument by merely requiring that all *immigrants* sign an agreement never to go on welfare, and/or by posting a bond so that *their* children never need become welfare recipients.

<sup>32</sup>Murray N. Rothbard, "Alan Greenspan: A Minority Report on the New Fed Chairman," *The Free Market* (August 1987).

<sup>33</sup>Alan Greenspan, "Gold and Economic Freedom," in *Capitalism: The Unknown Ideal*, Ayn Rand, ed., (New York: Signet: 1967), pp. 96–101 (reprinted from *The Objectivist*, 1966).

him a word of this has been heard.<sup>34</sup> Has Greenspan changed his mind? Or is he a total hypocrite? In Rothbard's view, neither is true. On the contrary, Greenspan *does* favor laissez-faire capitalism and gold, but only on a high philosophical level where he doesn't have to *do* anything about it. In contrast, he does not champion it as a practical matter, for then he would be called upon to show some evidence of his beliefs. Says Rothbard:

There is one thing, however, that makes Greenspan unique, and that sets him off from (the) Establishment. . . . And that is that he is a follower of Ayn Rand, and therefore "philosophically" believes in laissez faire and even the gold standard. But as *The New York Times* and other important media hastened to assure us, Alan only believes in laissez faire "on the high philosophical level." In *practice* in the policies he advocates, he is a centrist like everyone else because he is a "pragmatist." . . .<sup>35</sup>

Thus, Greenspan is only in favor of the gold standard if all conditions are right: if the budget is balanced, trade is free, inflation is licked, everyone has the right philosophy, etc. In the same way, he might say he only favors free trade if all conditions are right: if the budget is balanced, unions are weak, we have a gold standard, the right philosophy, etc. In short, *never* are one's "high philosophical principles" applied to one's actions. It becomes almost piquant for the Establishment to have this man in its camp.

This, it must be acknowledged, is a devastating critique of the Greenspan position. And, if this be so, we cannot avoid the conclusion that the same argument constitutes a knock-out blow against the defense of immigration restrictions on the ground that every other aspect of full free enterprise must be reached.

There is a certain pattern underlying the position of these "postponement libertarians," the paleo-libertarians who favor full, free, open, and unrestricted immigration—but only after the entire libertarian vision has been attained. The underlying coherence of this perspective is that we should, whenever possible, attempt to achieve the same results now, under statism, as would ensue were we to be living in the fully free society.

Take the case of the bum in the library. What, if anything, should be done about him? If this is a private library, then the plumb-line or pure libertarian would agree fully with his paleo

<sup>34</sup>Although see William R. Bradford, "Greenspan: Deep-Cover Radical for Capitalism?" *Liberty* 11, no. 2, (November 1997), p. 40.

<sup>35</sup>Rothbard, "Alan Greenspan," p. 3.

cousin: throw the bum out! More specifically, the law should *allow* the owner of the library to forcibly evict such a person, if need be, at his own discretion. Cognizance would be taken of the fact that if the proprietor allowed this smelly person to occupy his premises, he would soon be forced into bankruptcy, as normal paying customers would avoid his establishment like the plague.

But what if it is a public library? Here, the paleos and their libertarian colleagues part company. The latter would argue that the public libraries are *per se* illegitimate. As such, they are akin to an unowned good. Any occupant has as much right to them as any other. If we are in a revolutionary state of war, then the first homesteader may seize control. But if not, as at present, then, given “just war” considerations, any reasonable interference with public property would be legitimate.<sup>36</sup>

The paleos or postponement libertarians take a sharply divergent view: one should treat these libraries in as close an approximation as possible to how they would be used in the fully free society. Since, on that happy day, the overwhelmingly likely scenario is that they will be owned by a profit maximizer who will have a “no bums” policy,<sup>37</sup> this is exactly how the public library should be treated right now. Namely, what we should do to the bum in the public library today is exactly what would be done to him by the private owner: kick him out.

There are difficulties with this stance. First, as we have already seen, it is extremely likely that in the fully free society, virtually all immigrants would be taken in by a landowner in the host country. Therefore, if the paleos are to remain consistent with their own position, they should eschew all legislated immigration barriers.

Secondly, and even apart from this consideration, the postponement libertarian perspective is vulnerable to rebuttal by *reductio ad absurdum*. If we should not allow unrestricted immigration until we have achieved the free society, but instead should curtail immigration in an effort to approximate what would take place under a fully libertarian society, let us apply this insight to other realms of controversy.

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<sup>36</sup>One could “stink up” the library with unwashed body odor, or leave litter around in it, or “liberate” some books, but one could not plant land mines on the premises to blow up innocent library users.

<sup>37</sup>Consider the Body Shop, or Ben and Jerry’s Ice Cream, or any other “ethically oriented” company. Even they operate in this manner. That is, they may donate a part of their profits to unsavory enterprises (from a libertarian point of view), but they presumably do not employ “bum” types of people in the manufacture of their products.

Public schooling is a disaster. Certainly, in the present journal, there is no need to document such a claim.<sup>38</sup> That being the case, the libertarian position is clear: get rid of public education, forthwith, even if we have not attained complete liberty in other sectors of society.

But those who would be true to the paleo-libertarian position on immigration cannot avail themselves of this conclusion. Instead, they would have to ask: what would education be like in the free society? They would then have to endeavor to treat public schools as much like that as possible.<sup>39</sup> But if there is one thing that is clear, it is that in the free society the educational industry, like all others, would allow competition. How, then, to apply this principle? Simple. Embrace educational vouchers. Get in harness with those such as Milton Friedman who have long advocated this form of competition for the public schools.<sup>40</sup>

Here is a second example. The U.S. welfare policy is a disaster. The libertarian position is once again crystal clear: abolish welfare forthwith, no matter what the status of the remainder of the economy.<sup>41</sup> But the paleo or postponement libertarians are once again precluded from embracing so clear, just, and simple a solution. If they are to remain true to their immigration position, they will have to reason as follows: the problem with welfare as presently constituted is that it has a built-in marginal tax rate of 100%. If the dole is now \$500 per week and the recipient earns a salary of \$100, this payment will be reduced to \$400, leaving the welfare "client" no better off financially. But thanks to Milton

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<sup>38</sup>But for a curious and very limited defense of public education, see Michael Levin, *Why Race Matters* (Westport, Conn.: Praeger, 1977).

<sup>39</sup>The postponement libertarians could not advocate privatizing all public schools since the remainder of the economy is not yet fully free. They are limited to treating public property in manner as similar as possible to how it would be used in the free society.

<sup>40</sup>Milton Friedman, *Capitalism and Freedom* (Chicago: University of Chicago Press, 1962).

<sup>41</sup>True, it is harsh on the poor to totally eliminate welfare while the minimum wage, anti-peddler laws, etc., are still in effect. But two wrongs do not make a right. Just because the state victimizes the poor by making it illegal, and thus difficult, to earn money, does not make it right for government to injure a second group of people, taxpayers, and demand money from them at the point of a gun so as to transfer some of their funds to the first set of victims. In any case, were welfare to be totally eliminated right now, this would set up irresistible forces to end such employment barriers. This is analogous to the case for eliminating immigration restrictions on behalf of breaking up welfare. If hordes of poor foreigners poured onto our shores in order to take advantage of generous welfare provisions, that would immeasurably hasten the day that they were eliminated.



Friedman's negative income tax plan,<sup>42</sup> this problem can be overcome.<sup>43</sup>

***Unrestricted immigration will assault the institutions which make a free society possible in the first place***

This, too, is a very powerful objection, for it cannot be denied that many of the people who might enter the U.S. under an open-door policy come from parts of the world where freedom is non-existent, unheard of, or denigrated.

Nevertheless, the case for free immigration is not without a response. First of all, the U.S. is no longer the freest country in the world, if it ever was; there are several others which beat us out for this honorific.<sup>44</sup> Thus, not all immigrants are likely to be less conducive to freedom than are we.<sup>45</sup> Second, there have been immigrants in our history who have improved our freedom immeasurably. The names Ludwig von Mises, Friedrich A. Hayek, Israel Kirzner, William Hutt, Ludwig Lachmann, Hans Hoppe, Yuri Maltsev, Kurt Leube, James Ahiakpor, George Ayittey, Nathaniel Branden, Barbara Branden, Sam Konkin, Harry Watson, David Henderson, and Ayn Rand leap immediately to mind in this context. A closed-door policy in the past might well have made it impossible for these people to contribute to our society. And this is to say nothing of all the children and grandchildren of immigrants who have made significant contributions. How could it be otherwise, given that virtually all of us are "the children and grandchildren of immigrants"?

Third, just how, precisely, is it contemplated that the new immigrants will bring in to disrepute the mores, habits, and institutions which undergird our liberties? The most likely method is through voting. That is, hordes of people from other continents will come to our shores, settle down, and then vote for Nazism,

<sup>42</sup>Friedman, *Capitalism and Freedom*.

<sup>43</sup>Let it be remembered that each of these examples is a *reductio* of the paleo position on immigration. I certainly do not favor school vouchers or the negative income tax. My claim is only that if the postponement libertarians remain true to their views on immigration, logic will force them to embrace these latter positions as well.

<sup>44</sup>See James Gwartney, Robert Lawson, and Walter Block, *Economic Freedom of the World, 1975–1995* (Vancouver, B.C.: Fraser Institute, 1996).

<sup>45</sup>The restrictionist might reply: let us limit immigration to those countries which are actually freer than our own. But people who come to the U.S. from totalitarian countries are likely to do so because they *dislike* such regimes. Many of the strongest supporters of freedom in the U.S. are first and second generation Polish-Americans, Lithuanian-Americans, Cuban-Americans, etc. In any case, this is a mere empirical issue, unworthy, perhaps, of even noting. Underlying it, at least for the libertarian, is that immigration is a victimless crime, and should no more be legally banned than should prostitution or drug use.

Communism, welfare statism, or some such. It cannot be rationally denied that this is a plausible scenario. The only problem with it is that it, again, assumes a real world situation (one with a welfare state, a pro-criminal penal system, etc.) instead of the ideal libertarian one. It is crucial that this not be done, however. For if it is, we conflate these other issues with that of immigration; we are seemingly arguing against an open-door policy, when actually, our real problem is with welfarism, criminal coddling, etc. If we are to generate a *libertarian* theory of immigration, we must argue in a *ceteris paribus* manner.<sup>46</sup>

It is the same in this case.<sup>47</sup> The real difficulty here concerns promiscuous voting, not immigrants who might vote “incorrectly.” The problem, even apart from new entrants to our country, is that those who are already citizens now have the “right” to vote on, not whether or not, but how much of other people’s property they can legally steal through the ballot box. *This* is the real threat to liberty. In a free society, all the wrong-thinking immigrants in the world would be powerless to overturn (what is left of) our free institutions, for there would be no possibility of voting to seize other people’s property.

But suppose these foreign hordes enter our pure libertarian society where no such decisions are even allowed to be politically contemplated, let alone enacted, and then proceed to do just that. After all, at one time in our history we were far more free than we are now. It was people—many of them, it must be conceded, immigrants—who undermined our free institutions.

One answer is that we never had a fully libertarian society. Had we, the courts would have ruled against any property-grabbing initiative or referendum. The police would have dealt firmly with any property-destroying or denigrating riots engaged in by Communist or Nazi or welfarist immigrants. On the assumption that these foreigners were civilians, not an actual invading army, there seems little reason to believe they would have succeeded in their nefarious “foreign” schemes.

But suppose they did, somehow, overturn us, in a fully peaceful manner (perhaps through the sheer eloquence of their oratory), so that no physical sanctions against them would be compatible with libertarianism. Then what? Then we have a division

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<sup>46</sup>Rothbard, in *For A New Liberty*, pp. 238–39, argues in this way when he refutes the objection of the Russian menace to a stateless U.S. society.

<sup>47</sup>This objection is but a variation of the first one considered, above. Only now instead of bearing rifles, the invading “army” will be issued votes, as soon as they have been naturalized.

between the libertarian axiom of non-aggression and what might be considered, from the pragmatic or utilitarian point of view, to be the good society.

But this should occasion no surprise or any embarrassment for the libertarian position. If you pack enough into your assumptions, you can overturn any principle, even an entirely appropriate and valid one such as the libertarian non-aggression axiom. For example, suppose that the all-powerful “Martians” threaten that unless we kill innocent person A, they will blow up the world. Surely, then, we would be presented with a stark choice indeed: violate the libertarian basic premise, or bring forth the end to all human life. One response might be “Justice though the heavens fall!” Another might be to say that the libertarian axiom is pro-life in all but such contrived situations. Or, to treat more realistic scenarios where utilitarianism and libertarianism might diverge, there is the fact that if we outlawed homosexuality, or engaged in preventive detention of male teenagers, we would undoubtedly reduce the incidence of AIDS and crime, respectively. Happily, we shrink back from such perversions of justice, because of elemental decency, e.g., adherence to the libertarian non-aggression axiom. Should we do any less in the case of immigration? Certainly not.

### CONCLUSION

If one is against immigration, there are ways to reduce it which are fully compatible with libertarianism. For one thing, unilaterally declare full free trade with all nations. Trade in goods, services, and capital is an economic substitute for immigration. That is, there are two ways to right any imbalance between capital and labor: bring labor to the areas where population is below its optimum size (immigration), and bring capital and goods to the areas where they are below their optimum sizes (free trade in capital and goods). As the latter are typically far cheaper than the former, a regime of full free trade would eliminate much of the economic incentive toward migration.

Are libertarians moderates or extremists on the issues of emigration, migration, and immigration? The libertarian position on migration does *not* constitute a compromise in that it is indubitably an all-or-none proposition: either migration is totally legitimate, in which case there should be no interferences with it whatsoever, or it is a violation of the non-aggression axiom, in which case it should be banned, fully. I have argued in this paper that the former position is the only correct one.

But libertarianism constitutes a compromise position on this issue in two other senses. First, immigration is allowed if and only if there are property owners willing to sponsor (presumably for a fee, but not necessarily so) the new entrants, and not otherwise. Second, there are people on both right and left who oppose borders totally open to peaceful settlement (Chavez, Buckley), and libertarians find themselves safely on the other side of this unholy alliance.

For example, states Buckley: “The idea of totally open borders—anybody who wants to can come on in—is the stuff of libertarian fancy, nice for tone poems by such as Ayn Rand, but not very good national policy.”<sup>48</sup>

It is not often that viewpoints are so starkly contrasted. We have, at least in this case, achieved real disagreement. It is clear that whatever the merits of this conservative perspective, it is not a libertarian one. Buckley is absolutely correct in labeling this Ayn Rand viewpoint as libertarian—and no one who dissents from it can to that extent call himself a libertarian.

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<sup>48</sup>Buckley, “Immigration Advocates Resist Reasoning,” p. 20.