

Libertarians and Open Borders: The Argument

The traditional libertarian position, the position I argued for in my [first book](#), is support for open borders. That was also the traditional American policy. For the first century of the country's history, anyone who could get here was welcome to come.¹ Limits on Chinese immigration to the West Coast were imposed in the late nineteenth century but broader restrictions only came in in the nineteen-twenties and at first did not apply to immigrants from other parts of the New World.

Murray Rothbard, as part of his adoption of a paleolibertarian strategy of alliance with the right, switched from opposing restrictions on immigration to supporting them, as did Hans Hoppe and others. In trying to understand their argument I have used two sources, an article by Hoppe² and a webbed [debate](#) between Dave Smith, a prominent figure in the Mises Caucus that currently controls the libertarian party, and Spike Cohen, the most recent LP vice presidential nominee. Cohen supported open borders, Smith opposed them, using arguments largely borrowed from Hoppe.

The argument follows three related lines. The first starts with the idea that in the ideal libertarian society all property would be private and an individual, firm, or voluntary community would be free to exclude or admit anyone. Since what we actually have is a society in which much property belongs to government, the nearest we can come to that is having the government control who can come. Since, Smith argues, a considerable majority of the population opposes open borders, the government should restrict immigration on their behalf.

The problem with that argument is that even with open borders individual employers are still free to employ or not employ immigrants, individual property owners to sell or not sell to them, landlords to rent or not to rent to them. In the society as it now exists, most transactions between current Americans and new immigrants are voluntary, just as they would be in a stateless society. Government restrictions on immigration do what private restrictions in a stateless society could not do — prevent people who want to interact with immigrants from doing so.

That brings us to the second line of argument, that in America as it now is, some of the interactions with immigrants will be involuntary. Immigrants will collect welfare payments and send their children to public schools paid for by the taxpayers. Anti-discrimination law might force employers to hire immigrants, landlords to rent to them, even if they didn't want to. Immigrant voters, if there were enough of them, could vote to tax other people and spend the money on themselves. While all of that is true, those are problems not with immigration but with welfare, non-discrimination law and democracy. Since all of those are things that can be done by people already here, those problems would exist even if there was no immigration.

Open borders do not imply instant citizenship. While there were no restrictions on immigration in the early history of the U.S., there were restrictions on naturalization. Such restrictions could be retained in an open borders system; libertarian theory does not imply that everyone who comes can vote. Carrying the argument a little further, welfare law could exclude non-citizens, although if it did it would be only just to also exclude them from having to pay that portion of taxes that funds welfare. So far as the public schools are concerned, libertarians, at least the same ones who argue for immigration restrictions, support decentralization. A legal regime with open borders could give every school district the option of serving or not serving non-citizen immigrants. Again,

¹ Some states, however, did have restrictions on who could live in them.

² Herman Hoppe, "[The Case for Free Trade and Restricted Immigration.](#)"

justice suggests that, if a school district rejects the children of non-citizens, any taxes that fund the schools, including the relevant fraction of property taxes on property they occupy, should not be owed by the parents or their landlords. That would come as close to mimicking what would happen in a stateless libertarian society where all schools were private as is practical in the existing system.

Hoppe's proposal along these lines was that any immigrant should be allowed in if a citizen was willing to sponsor him, where the sponsor would then be responsible for any costs the immigrant imposed on others, paying fines for any crimes he committed, damage payments for any torts. The immigrant would not have access to welfare or, presumably, public schools for his children. Arguably the sponsor, by letting the immigrant in, is an indirect cause of all such costs.

The notion of indirect liability that argument depends on has implications that I do not think either Hoppe or his supporters would accept in other contexts. If I sell you a gun, I am an indirect cause of any crimes you commit with it. Should I be permitted to do so only if I agree to be liable for the cost of such crimes? If I sell you a car In a free society, individuals are, with the narrow exception of *respondat superior*, responsible for their own offenses. What reason is there to use a different rule for immigrants? What reason, from the standpoint of libertarianism, is there to apply different rules to new residents of a country than to old? Unless Hoppe intends immigrants to function like slaves or indentured servants working for a single employer or those he lends them out to,³ they will be engaged in a multitude of voluntary transactions with lots of different people. It makes no sense for all of those transactions to hinge on the permission of a single sponsor who could withdraw that permission any time he chose or, if he could not, would be held responsible for activities he had no way to observe or control.

As Walter Block has pointed out,⁴ the arguments Hoppe offers for immigrants would apply to the children of present residents as well. They too arrive without the permission of current residents other than their parents. They too could impose costs in the ways Hoppe describes. The logical implication of his position would seem to be that they, like immigrants, are permitted to remain in the country only so long as some present residents, probably their parents, are willing to cover any costs they impose.

The third line of argument is that, as long as some property is owned by the government, the government is entitled to control its use. As Dave Smith points out, an adult man does not have the right to go into the girls' room of a public school; government property is not a commons. Hence, it is argued, the government may refuse to allow immigrants to use public property. Since public property includes almost the entire highway system, that makes it hard for an immigrant not approved by the government to do anything much beyond employment in farms on the border. Whether either Hoppe or Smith would permit even that is unclear.

Here again, the argument proves too much. The government's control of the public school is accepted because it is for the same purpose the school would have if private. Most people, almost certainly most libertarians, would be outraged if a public school announced that the girls' room was only available to girls whose parents promised not to own firearms, or not to publicly criticize the mayor, or not to do something else they were legally entitled to do. In that case the control over

³ In Hoppe 2002 he speaks favorably of company towns, so that may be the model he is imagining.

⁴ Block, Walter E. 2011A. "Hoppe, Kinsella and Rothbard II on Immigration: A Critique." *Journal of Libertarian Studies*; Vol. 22, No. 1, pp. 593-623; http://mises.org/journals/jls/22_1/22_1_29.pdf

public property would be being used not for the purpose of that property, the same purpose it would have if private, but as a way of coercing people.

Similarly here. If roads were private, their owners might require some form of driver's license in order to make their roads safer. If the roads are public, it is not unreasonable for them to refuse to allow an immigrant without a license to drive on them. But that is no reason to forbid a legal driver from transporting immigrants. What Smith's argument is proposing is for the government to use its control over public property to prevent voluntary transactions between its citizens and foreigners.

As before, the argument proves too much. A private owner is entitled to refuse to allow anyone not vaccinated onto his property, hence the government is entitled to impose a vaccine mandate enforced by forbidding anyone not vaccinated from using public property. It is entitled to effectively lock urban residents into their homes during a pandemic by forbidding them from using the public roads or sidewalks. It is entitled to ban drug use, prostitution, very nearly any of the things libertarians believe it is not entitled to ban, by denying the people who do those things access to any public property.⁵ The exception swallows the rule.

I conclude that libertarians ought to support open borders, although they may want to qualify that by including the condition that immigrants need not receive all the rights of citizens, merely the rights common to human beings.

⁵ Dave Smith responded to the argument about using control of government property against drug users, raised by Spike Cohen in their debate, by saying that it was legitimate to forbid addicts from shooting up on government property. He did not consider that the same argument would justify forbidding anyone who shot up anywhere, including his own property, from ever using government property.