

A LIBERTARIAN THEORY OF FREE IMMIGRATION

Jesús Huerta de Soto*

The problems posed by free emigration and immigration often lead to confusion among libertarian theorists and lovers of freedom. In the first place, libertarian doctrine traditionally declared itself, with no qualifications or reservations, in favor of the principle of complete freedom of emigration and immigration. This position is based on the recognition that the establishment of political frontiers is a flagrant act of interventionism and institutional coercion on the part of the state, tending to hinder or even prevent the free movement of human beings. Moreover, many border controls and immigration laws emerge as the result of the political action of privileged interest groups, like the trade unions, that aim to restrict the labor supply in order to raise wages artificially. To the extent that these interventionist rules on emigration or immigration hinder or prevent the voluntary agreements reached between the parties (natives and foreigners), there is no doubt that they violate the basic principles which should govern any libertarian society. Furthermore, these interventionist immigration policies particularly affect nationals of foreign countries, since the principle of free movement of people within each state has, in general, been accepted.

However, the coercive action of the state manifests itself not only in hindering the free movement of people, but, at the same time, in forcing the integration of certain groups of people against the wishes of the natives of a given state or region. This coercive action on the part of the state occurs both intranationally and internationally. Thus, within each nation, measures for the integration of certain minorities and groups are often imposed by force, such as anti-discrimination laws, affirmative action legislation, or busing laws. At the international level, many states, either legally or de facto, open up their frontiers to foreigners indiscriminately and allow them to use the public goods (roads, parks, beaches, government health care, educational, and wel-

*Jesús Huerta de Soto, considered one of the chief exponents of the Austrian School of Economics in the Spanish-speaking world, was awarded the King Juan Carlos International Prize for Economics in 1983. Since 1985, he has taught political economy at the Complutense University of Madrid. In addition to numerous articles in English and Spanish, he has published a number of books, including *Planes de Pensiones Privados* (1984), *Lecturas de Economía Política* (3 volumes, 1986–87), *Socialismo, cálculo económico y función empresarial* (1992), *Estudios de Economía Política* (1994), and *Dinero, crédito, bancario y ciclos económicos* (1998).

fare services) as free riders. In this way, the state generates significant external costs for the natives, who are obliged to accept the forced integration of the foreigners against their wishes or under conditions that they do not desire.¹

In light of their apparently contradictory nature, the foregoing problems show the importance of isolating their real origin, and piecing together a libertarian theory of immigration that clarifies the principles that should govern the processes of immigration and emigration in a free society.

THE PURE THEORY OF MOVEMENTS OF PERSONS IN A LIBERTARIAN ENVIRONMENT

Like Murray N. Rothbard, we shall begin our analysis assuming the pure anarcho-capitalist model, i.e. the model in which “no land areas, no square footage in the world, shall remain ‘public’; every square foot of land area, be they streets, squares, or neighbourhoods, is privatized.”² It is obvious that none of the problems relating to immigration diagnosed in the preceding paragraph can arise here. The conditions, volume, and duration of personal visits will be those accepted or decided by the parties involved. Thus, even mass movements of labor are conceivable, if the employers in question are willing to give work to the immigrants, make it possible for them to find accommodations, arrange and even pay for their journey, etc. In short, the possible contracts between the parties involved will vary greatly, and will admit all the richness that the special characteristics of each case allow.

Under these conditions, migratory flows, far from being harmful to economic and social development, become a driving force for civilization. The argument that an abundance of new labor is necessarily harmful to the working classes of the recipient country is untenable. Human beings are not a uniform production factor, and do not behave in exclusively biological terms in relation to scarce resources, as is the case with rats and other animals, whose population increases always tend to diminish the volume of resources available for each individual. On the contra-

¹Murray N. Rothbard himself became aware of the problem posed by forced immigration at international level as follows: “I began to rethink my views on immigration when, as the Soviet Union collapsed, it became clear that ethnic Russians had been encouraged to flood into Estonia and Latvia in order to destroy the cultures and languages of these people.” See Murray N. Rothbard, “Nations by Consent: Decomposing the Nation-State,” *Journal of Libertarian Studies* 11, no. 1 (Fall 1994): 7.

²Rothbard “Nations by Consent,” p. 6.

ry, human beings are endowed with—and in appropriate institutional settings make use of—an innate creative entrepreneurial capacity. In a dynamic environment, an increase in population allows the continual discovery and exploitation of new opportunities, and thus a growth without limit in the standard of living.

The human mind has a limited capacity to assimilate information (or knowledge), while the social process, driven by entrepreneurship, produces an ever-increasing volume of information. Thus, the advance of civilization requires a continual extension and deepening of the division of labor or, if one prefers, of knowledge. This simply means that the development process implies, from a vertical standpoint, an increasingly deep, specialized, and detailed knowledge, which, in order to extend horizontally, requires an increasing number of human beings, i.e., a constant population growth. Worldwide, this population growth takes place in the long term when births are in excess of deaths. But in the short and medium terms, the only rapid and effective response to the continual adjustments required by economic and social changes is through emigration and immigration flows. These flows permit a quick deepening in the division of labor, thus overcoming the limited capacity of assimilation of each individual human mind by rapidly increasing the number of people involved in social processes.³ As Hayek rightly says, “we have become civilized by the increase of our numbers, just as civilisation made that increase possible: we can be few and savage, or many and civilized.”⁴

The development of cities as centers of wealth and civilization is a clear illustration of this process of the expansion of knowledge made possible by immigration. The continuous depopulation of the countryside and the mass movement of workers toward urban centers, far from impoverishing the cities, promotes their development in a cumulative process that has been one of the most characteristic manifestations of human progress since the Industrial Revolution. Furthermore, emigration and immigration flows, in the libertarian environment we are considering at this point, tend to multiply the variety and diversity of possible solutions to the different problems that emerge. All this favors cultural selection and economic and social advance, since all movements take place as a result of voluntary agreements, and,

³This process is explained in detail in Jesús Huerta de Soto, *Socialismo, cálculo económico y función empresarial* (Madrid: Unión Editorial, 1992), pp. 80–83.

⁴F.A. Hayek, *The Fatal Conceit: The Errors of Socialism* (Chicago: University of Chicago Press, 1988), p. 133.

whenever circumstances change, those concerned have the chance to emigrate or move to other enterprises in different geographical locations.⁵

Lastly, we should note the fact that, in a libertarian environment in which all resources and goods which are today considered “public” have been privatized, neither of the negative effects identified above in relation to the cases of forced integration takes place. Anti-discrimination laws, affirmative action laws, or simply the flood of immigrants in the streets or elsewhere would be reduced to a minimum. Movements would always be made using private means of transport, meeting the contractual conditions fixed by their owners, and paying the corresponding market price. Different agencies would specialize in organizing the itineraries and guaranteeing beforehand the necessary access to each means of transport. Likewise, in their own interests, the respective owners would take care to ensure that the travelers passed through the successive means of transport without becoming unwanted guests. This process would continue, with a wealth of social arrangements and juridical and economic institutions that we cannot even imagine today, since the market and entrepreneurial creativity are not allowed to act upon the goods today considered public.⁶

We may, therefore, conclude that emigration and immigration *per se*, subject to the general principles of law in an environment where all resources are private, not only do not pose any problems of forced integration or external costs but, on the contrary, are important leading forces of economic and social development and of the wealth and variety of culture and civiliza-

⁵It should be recognized, however, that the technological revolution in the computer communications field (Internet, etc.) means that geographical movements are becoming increasingly unnecessary in order to achieve the ends pursued by human action. A good summary of other advantages of emigration and immigration, which acknowledges the importance of the entrepreneurial capacity of emigrants but which, in my opinion, is too much rooted in neoclassical economic analysis, may be found in Julian L. Simon, *Population Matters: People, Resources, Environment, and Immigration* (New Brunswick, N.J.: Transaction Publishers, 1996), pp. 263–303.

⁶We can, however, imagine many of the entrepreneurial solutions that would emerge spontaneously by simply observing, as a point of comparison, how the great problems that were initially posed by the huge flows of tourists that are today so common all over the world were solved. The development of means of transport, the hotel, tourist, and leisure industries, the proliferation of travel agencies, and all kinds of intermediaries that organize and guarantee the trips from start to finish are all institutions which, in a much broader field, would emerge in an anarcho-capitalist state. We should remember that the volume of movements for tourist or business reasons is enormous. Thus, for example, my own country, Spain, receives more than 40 million tourists each year—more than the number of inhabitants of the country!

tion.

PROBLEMS POSED BY COERCIVE STATE INTERVENTION

Our analysis allows us to isolate and identify the real origin of the problems regarding emigration and immigration we have noted. All of them originate from coercive state intervention at different levels. First of all, such intervention raises barriers which hinder or prevent movements which have been voluntarily agreed to. Second, states at the same time insist on imposing various measures of forced integration, either directly (through so-called anti-discrimination and affirmative action laws, etc.), or indirectly, by declaring important territorial areas (streets, squares, parks, etc.) to be public and, therefore, freely accessible to all. As it does not adequately define the relevant property rights of “foreigners” and “natives,” state intervention is the cause of all the problems and conflicts that arise today in this whole area.

The coercive action of the state appears at two levels. First, within the borders of each nation-state, the typical problems of forced integration and negative externalities, which inevitably arise whenever privatization of “public” resources is prevented, emerge in their most virulent form. In the second place, state interventionism also operates internationally, by regulating the migratory flows across borders. Here, interventionism has a dual and contradictory aspect. On the one hand, difficulties are put in the way of movements voluntarily agreed to by the parties (natives of a country and foreigners). On the other hand, mass international movements are artificially promoted by the subsidies and advantages offered by the welfare state.

Thus, today, there is often the paradox that those who wish to abide scrupulously by the law find that their movements are not permitted, even if desired by all the parties involved. At the same time, the existence of public goods and the free availability of welfare-state benefits attract, like a magnet, a continuous tide of immigration, mostly illegal, which generates significant conflicts and external costs. All of this encourages xenophobia and promotes subsequent interventionist measures, which further aggravate the problems. Meanwhile, the citizens are unable to identify the true origin of the difficulty; in this climate of confusion, they easily become the victims of demagoguery, and end up supporting measures which, in addition to being contradictory, are both inefficient and harmful.

Finally, we should not forget that, at least with regard to the immigration question, present problems are usually more serious at the international than at the intranational level. Within each nation-state, a greater economic, social, and cultural homogenization usually takes place in the course of its historical evolution, which tends to decrease incentives for mass movements. In contrast, internationally, disparities in income are much greater, and the enormous development of communications and means of transport makes it much easier and cheaper to travel between different countries: today, in only a few hours, one can fly from New Delhi to New York, or from Latin America to Spain; in the case of emigration from North Africa to Europe, or from Mexico to the United States, the costs involved are even lower.

SOLUTION OF THE PROBLEMS POSED TODAY BY EMIGRATION AND IMMIGRATION FLOWS

The ideal solution to all these problems would come from the total privatization of the resources which are today considered public, and the disappearance of state intervention at all levels in the area of emigration and immigration. In other words, since the problems we have just identified originate from the harmful effects of coercive state intervention, rather than from emigration or immigration *per se*, the pure anarcho-capitalist system would eliminate the greater part of them.

However, as long as nation-states continue to exist, we must find “procedural” solutions that allow the problems to be solved under present conditions. In this respect, several libertarian theorists have recently been developing a model of secession and decentralization which, since it tends to break down today’s heavily centralized nation-states into increasingly smaller political units, favors a decline in state interventionism. This would result from competition among the various states to attract citizens and investments (or avoid their fleeing abroad). The dynamic inherent in this situation would oblige the states to adopt increasingly libertarian policies. In the competition among such ever-smaller and more decentralized states, emigration and immigration flows would play an essential role. Such movements constitute “voting with one’s feet.” They would oblige the states to dismantle larger and larger parts of the tax-and-intervention apparatus of the current governments. As Hans-Hermann Hoppe writes:

A world consisting of tens of thousands of distinct countries, regions, and cantons, and of hundreds of thousands of independent free cities such as the present-day

“oddities” of Monaco, Andorra, San Marino, Liechtenstein, Hong Kong, and Singapore, with the resulting greatly increased opportunities for economically motivated migration, would be one of small liberal governments economically integrated through free trade and an international commodity money such as gold. It would be a world of unprecedented economic growth and unheard of prosperity.⁷

However, the identification of both ideal and procedural solutions to these problems does not relieve us of the obligation to study the principles which should govern migratory flows under our present circumstances, where heavily interventionist nation-states exist. These principles should be compatible with libertarian ideals. At the same time, they should take into account the *real, existing* difficulties and contradictions caused by the existence of nation-states. The following section analyzes what these principles should be.

PRINCIPLES ON WHICH PRESENT IMMIGRATION POLICIES SHOULD BE BASED

For several reasons, it is indispensable to establish a set of principles compatible with libertarian ideas that should act as guidelines today. Even if the process of state dismemberment proposed by Rothbard, Hoppe, and many others were to get underway, that would not guarantee that the measures adopted in this area by each decentralized government were correct from a libertarian point of view. As Hoppe himself acknowledges,

secession solves this problem by letting smaller territories each have their own admission standards and determine independently with whom they will associate on their own territory and with whom they prefer to cooperate from a distance.⁸

However, it is quite possible that these standards or regulations will also prove to be interventionist, preventing movements that were agreed upon voluntarily between natives and foreigners.

Furthermore, as long as states (however small they may be) continue to exist and, within them, “public” streets, roads, and land where property rights are not well defined or protected,

⁷Hans-Hermann Hoppe “Small is Beautiful and Efficient: The Case for Secession,” *Telos* 107 (Spring 1996): 101. On the same issue, see Rothbard, “Nations by Consent”; also, Jesús Huerta de Soto, “A Theory of Liberal Nationalism,” *Il Politico* 60, no. 4: 583–98.

⁸Hoppe, “Small is Beautiful and Efficient,” p. 101.

there may continue to be forced integration or else mass-occupation phenomena like the *fabelas* in Brazil, which generate significant external costs and seriously violate the property rights of the natives. Finally, the proposed solutions must not only lead in the right direction and be compatible with libertarian principles, they must also be “operative,” by providing a response to the most pressing problems posed today (for example, emigration across the border between Mexico and the United States, or between North Africa and Europe). In short, a series of rules should be designed to prevent immigration from being used for coercive and interventionist ends in conflict with free interaction between nations and individuals.

The first of these principles is that people who immigrate must do so at their own risk. This means that immigration must in no way be subsidized by the welfare state, i.e., by benefits provided by the government and financed through taxes. These benefits are not only the traditional ones (education, health care, social security, etc.), but the benefits of the free use of publicly owned goods. Such benefits—in the final analysis, compulsory transfers of income from one social group to another—will become a magnet, artificially attracting many immigrants. For the negative effects to materialize, it is sufficient that some (not necessarily all) groups of emigrants, in making their decisions, take into account the welfare benefits they expect to receive. Our argument is, therefore, perfectly compatible with the thesis put forward by some authors, that immigrants contribute to the system a much larger amount than the total value of the welfare benefits they receive (above all in the first few years of their stay in the new country). It is sufficient that certain groups—even if they are in a minority—to consider themselves to be subsidized for a perverse effect of artificial encouragement of immigration to occur, to the detriment of the citizens of the recipient country.

Thus, the first rule is that immigrants have no right to any of the largesse of the welfare state. This will prevent some groups from obtaining subsidies for their movements. In cases where it is considered that the contributions made by the immigrants are higher than the benefits they receive, in order to avoid subjecting them to exploitation by the system, they should at most be obliged to maintain a certain level of coverage, although this should always be contracted, under their own responsibility, through private institutions. In this way, two libertarian objectives would be attained: avoiding the artificial promotion of immigration through state redistribution policies, and a quicker dismantling of state social security programs based on the “pay

as you go” principle. This would also encourage the development of private systems based on saving and the capitalization which immigrants would acquire as new clients.⁹

The second principle that should inspire current policy is that all immigrants must be able to demonstrate that they have independent means of support, and thus will not be a burden on the taxpayers. In other words, immigrants must be able to show that they are joining the new social group in order to contribute their labor, technical or entrepreneurial talents, or capital. There are ways to put this principle into practice, although none is perfect. Perhaps the most appropriate is for each immigrant to have, at all times, a native person or private institution that guarantees his financial competence, by giving him an employment contract, acting as the depository of a certain amount of money or investments, or assuming the legal responsibility for caring for him. Logically, market flexibility requires that, within a reasonable period of time, foreign workers who are dismissed or leave their employment voluntarily, should have the chance to seek a new job before they are repatriated. Although this would require the employers to notify the state control body of the rescision of the relevant contracts, from an administrative point of view, it would be no more cumbersome or costly than the immigration procedures which currently exist in almost all countries, including my own.

The third essential principle is that under no circumstance should the political vote be granted to immigrants quickly, since this would create the danger of political exploitation by various groups of immigrants. Those who move to a new country and cultural environment will, presumably, improve their living conditions. But they have no right to use the mechanism of political coercion—the democratic ballot—to promote policies of income redistribution or to intervene in the spontaneous processes of the national markets which they enter. It is true that, as dismemberment into increasingly smaller states progresses, the right to vote and political elections will lose importance and will, in practice, be replaced by “voting with one’s feet.” But it is no less true that, until this process of decentralization is complete, the automatic

⁹It is paradoxical to note how Julian Simon, in his enthusiasm to justify free emigration and highlight its positive effects, is willing for significant economic damage to be inflicted on immigrants, not only in cases where the value of their contributions to the public social security system is much higher than the benefits they receive, but also when he defends an auction system for immigration rights which, in his own words, “will transfer a considerable part of the ‘profit’ from the pocket of the immigrants to the pockets of the natives.” Simon, *Population Matters*, p. 293.

granting of political rights to immigrants may be a time bomb that under certain circumstances can be used by a voting majority to destroy the market, culture, and language of the recipient country. Only after a long period of time, when the immigrants may be assumed to have fully absorbed the cultural principles of their new society, should the granting of full citizenship, including voting rights, be considered. Apropos of this, the principle established in the European Union, whereby citizens of other EU countries may vote in the elections of the municipality where they reside, is highly questionable. Such a rule could completely distort the atmosphere and culture of many localities where there happens to be a majority of foreign residents, for example, in parts of Spain, where elderly persons come to live from the United Kingdom, Germany, etc. Only when such residents have been living in the new area for a minimum number of years and have acquired property rights there (homes or other real estate) would it be justified to grant them the right to vote.

Finally, the most important principle is that all immigrants must at all times observe the law, particularly the criminal law, of the social group that receives them. Specifically, they must scrupulously respect all property rights established in the society. Any violation of these rights should be punished not only by the penalties fixed in the criminal code but also by the expulsion (definitive in most cases) of the immigrant in question. Thus, the phenomena of mass occupation (as is the case already mentioned of the *fabelas* in Brazil, which have generally been built on land belonging to other people) would be avoided.

We have already seen how the most visible problems posed by immigration arise from the fact that there is no clear definition or strict defense of the property rights of the natives, meaning that the immigrants often generate significant overall external costs for the native citizens. This leads to serious outbreaks of xenophobia and violence that themselves have a high social cost, and in turn produce juridical and political results the additional costs of which are often paid by the innocent. These conflicts would be minimized precisely to the extent that private property rights became effective and were extended to include resources at present considered to be publicly owned. Until total privatization can take place, the use of public goods must be regulated in order to avoid the mass occupation problems we have mentioned.¹⁰

¹⁰The above principles should be applied today to both intranational and international emigration. Although it is true that, within the borders of the present-day

CONCLUSION

The measures outlined here will not eliminate all the problems posed by migratory flows at present. They will, however, tend to reduce them and lead in the direction that all freedom lovers should desire. In any event, the definitive solution of these problems will not come until the present-day states are dissolved into tiny political units and all their publicly owned goods fully privatized.

nation-states, the greater cultural and economic uniformity means that, in general, the problems are not so serious, many external cost problems (for example, problems of beggars and tramps) would be solved by consistently applying the mentioned principles. It is, however, in relation to international emigration that the need to apply these principles is most urgent. In any event, other measures that have sometimes been proposed—even by supposedly libertarian theorists—such as immigration quotas or auction systems for the right to be an immigrant, should be ruled out, since they conflict with libertarian ideals.