

REJOINDER TO SLENZOK ON COVID

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ABSTRACT: Slenzok (2021) claims there is no circumstance under which it would be justified, on libertarian grounds, to compel people to become vaccinated against dread diseases. He bases his critique of Block (2020) on the ground of public property. The present essay maintains that Slenzok was in error in this regard, but that his analysis of public property is important in refuting Hoppe's (2007) analysis of the ethics of immigration.

I am delighted that Professor Slenzok (2021) has contributed to the libertarian dialogue on COVID.

Here is what I take to be the essence of his contribution:

Let us note that although Huemer and Block eventually part company when it comes to proposing practical solutions (Huemer overtly embraces UAPR,¹ while Block [207] remains an agnostic with a commonsensical inclination to oppose them, they proffer the exact same normative reasoning. Namely, both thinkers maintain that 1) for aggression to occur, the harm need not be certain; it suffices that the probability and scale of danger be high enough; 2) hence, the legitimacy of UAPR is a matter of degree. Should a virus be infectious and virulent enough, the state is in the right in instituting universal restrictions to prevent everyone from posing an illicit threat to everyone else. The only difference between Huemer and Block is, then, not of a principled but rather an empirical or prudential nature: whereas Huemer believes COVID-19 is dangerous enough to justify UAPR, Block surmises (though as a private person rather than *qua* libertarian theorist) it is not.

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¹ Universal Anti-Pandemic Restrictions.



As will be demonstrated below, both philosophers are wrong. Moreover, in order to understand why, one need not attack the first premise of their reasoning. It may well be the case that aggression is sometimes a risk-continuum question. Also, at least for the discussion's sake, one can concede, as will be done in some points below, that individual vectors' freedom could be constrained pursuant to individualized rulings without thereby justifying UAPR. In point of fact, the grave fallacy of... Block's arguments boils down to insufficient analysis of the structure of property rights that underlies the very concept of aggression. (Slenzok 2021, 83)

I certainly agree with Slenzok that private property rights are a crucially important aspect of the libertarian philosophy, and that for most challenges, "public property," the means through which people move to and from their homes, shops, factories, schools, are the keys to solving them. That is, privatizing public property is virtually always the solution.

However, not in this case, Slenzok to the contrary notwithstanding.

He mistakenly attributes the following view to me: "that 1) for [justified]² aggression to occur, the harm need not be certain; it suffices that the probability and scale of danger be high enough; 2) hence, the legitimacy of UAPR is a matter of degree." (Slenzok 2021, 83)

I do not see matter in quite that way. In my view, in sharp contrast, the issue here is, is it *ever* justified for the "authorities," whoever they are, government or private defense agencies, to implement UAPR even under the most heroic assumptions? And the answer is, of course we can concoct a situation where this is true. I tried to invent a scenario in Block (2021)³ depicting such a case, but evidently this did not convince Slenzok. So, let me try again. Here is the situation. A dread disease, call it XYZ, will kill anyone not inoculated against it. It works through exhaling. All human breathers who are not vaccinated, will kill all others, inoculated or not. That is to say, we no longer need herd immunity of 80–90 percent or so. We need 100 percent. No exceptions at all. Anyone who refuses a jab of it, which works perfectly and has no negative side implications, is in effect a mass murderer. Are the forces of law and order justified in imposing UAPR on every last person on the planet? Absolutely.

² I inserted this one word into the quote from him.

³ See also Block (2013).

The core of Slenzok's case against my position is the following: "the grave fallacy of ... Block's arguments boils down to insufficient analysis of the structure of property rights that underlies the very concept of aggression." (Slenzok 2021, 83)

Notice what we have not discussed in the foregoing scenario: public property or property rights. We never once mentioned these. Yet, we have given a coherent account of the libertarian justification of UAPR. Thus, Slenzok's emphasis on property rights and public property is beside the point; it is irrelevant to the case for UAPR on libertarian grounds. Those infected with XYZ can take on the role of murderer while sitting comfortably at home. There is absolutely no need for them to venture forth into any public property in order to perpetrate their evil deed of infecting others with this horrid disease. They may lack *mens rea*, but, if, *arguendo*, they can spread deadly sickness merely by exhaling, they are open to violent sanctions based on self-defense or libertarian grounds without once ever having violated property rights, apart from infecting others with this fatal malady.

But Slenzok is having none of this. He states:

One can hardly argue that people do not have a right to protection from germs. The point, however, is that this right is anything but unconditional. Its validity depends on the context, the normative framework of which is determined by the distribution of property rights. (Slenzok 2021, 87)

He then launches into a discussion of voluntary battery, in which boxers have voluntarily entered into the ring, and give permission to each other for punches above the belt. I do not see how this undermines my scenario. Of course context is important; nay, all-important. But the context of my example is crystal clear and has nothing to do with property rights, public property, or any agreement to accept contagion or anything else for that matter.

Continues Slenzok: "...the aggression occurs as soon as the self-aware vector nears others enough to make transmission possible.... The problem lies in property rights. The harm that is supposedly done by merely going outside or attending crowded places...." (Slenzok 2021, 88)

No, no, no. There is no "nearing of others" in my scenario. There is no "going outside." There is no "attending crowded places." There is merely, and only, exhaling. This can be done from the

confines of one's home. Yes, this author could indeed "lay a glove"⁴ on my example if it required anyone going somewhere; stepping outside of one's domicile; treading on a public or even a private street (Block 2009). But it most certainly does not. To repeat: exhaling, exhaling, exhaling.

Does this mean that Slenzok's insistence on the importance of public property, getting rid of it through privatization, that is, is not valuable? No, it does not. I am very grateful to this author for writing this essay, and to the editors of the *Journal of Libertarian Studies* for publishing it. It may be irrelevant for the libertarian UAPR case for COVID, but his splendid analysis of public property makes an important contribution to undermining Hoppe's analysis of immigration.

It is as if one of Slenzok's boxers attempted to illicitly punch the referee in a fit of pique, and, instead, landed a good blow to the head of his opponent, where it belonged. Slenzok aimed at me (and Heumer, 2020), missed, but connected with Hoppe, undermining his theory of public property.⁵

Slenzok's masterful refutation of Hoppe's (2007) claim that the government should act as a trustee for the citizenry for public and unowned land is alone worth the entire price of admission. Slenzok accurately assesses that "Under his theory, the state is supposed to imitate the actions of private owners. What, then, is it actually supposed to do? To this question there can be no rational answer whatsoever, simply because one cannot know what private proprietors would do were they to recapture the state-claimed land." (Slenzok 2021, 91) Gregory and Block (2007), moreover, point out that it is shocking that an anarcho-capitalist of Hoppe's well-deserved fame should justify the state apparatus for this or indeed on any other ground.

One last point on COVID. I insist upon specialization and the division of labor. Libertarians are experts in that part of ethics having to do with just law, and the use of violence in society. *Qua* libertarians, none of us are experts in anything else under the sun. Not in boxing. Not in chess. Not in astronomy. And certainly not

⁴ I am a big fan of his boxing example.

⁵ Another analogy that comes to mind is Dr. Alexander Fleming's accidental discovery of penicillin.

in epidemiology. Therefore, it ill behooves us, and risks undermining our precious philosophy, to make confident statements about disease, contagion, COVID, the XYZ malady, or any such other matter. We should stick to our knitting.

REFERENCES

- Block, Walter E. 2009. *The Privatization of Roads and Highways: Human and Economic Factors*. Auburn, Ala.: Mises Institute.
- . 2013. “Forced Vaccinations.” LewRockwell.com, February 4. Available at: <http://archive.lewrockwell.com/block/block217.html>; <https://www.lewrockwell.com/2013/02/walter-e-block/forced-vaccinations/>
- . 2020. “A Libertarian Analysis of the COVID-19 Pandemic.” *Journal of Libertarian Studies* 24, no. 1: 206–37.
- Gregory, Anthony and Walter E. Block. 2007. “On Immigration: Reply to Hoppe.” *Journal of Libertarian Studies* 21, no. 3: 25–42.
- Huemer, Michael. 2020. “Libertarian Pandemic Policy.” Fake Noûs (blog), March 14. <https://fakenous.net/?p=1439>.
- Hoppe, Hans-Hermann. 2007. *Democracy: The God That Failed: The Economics and Politics of Monarchy, Democracy, and Natural Order*. New Brunswick, N.J.: Transaction Publishers
- Slenzok, Norbert. 2021. “Libertarianism, Property Rights, and the COVID-19 Pandemic Policies.” *Journal of Libertarian Studies* 25, no. 1, pp. 79-106.