Open Labor Market Operations

Robert Hockett*

I offer both a moral and a macroeconomic case for institutionalizing continuous public operations in labor markets analogous to continuous Fed operations in money markets. The macroeconomic case stems from prevailing wage and salary rates' status as what I call 'systemically important prices' on a par with prevailing money rental – i.e., 'interest' – rates. The pervasive importance of these rates requires ongoing public action to confine fluctuation within a reasonably narrow band. The moral case sounds in the need to counteract the commodification of citizens in human rental markets, which is what 'labor markets' in the absence of collective citizen action amount to. A permanent 'public option' in the realm of labor-hiring will effectively constitute a 'fallback' collective self-employment option, the 'self-pay' and workplace standard conditions of which will become benchmarks economy-wide and render all labor effectively 'free labor' in the 19th century 'labor republican' sense of the phrase.

Introduction

Early each weekday morning, traders at a Wall Street trading desk receive carefully drafted sets of detailed instructions. These prescribe purchases and sales of specified quantities of specified securities, as well as specified sale and repurchase ('repo') agreements with specified counterparties. The decisions on which the traders transact have been reached earlier the same morning by a select group of executives. These executives have digested reams of financial and market data concerning recent past and anticipated future market transactions.

Shortly after the sun rises over the East River, the étraders will begin executing their trades. They will be buying and selling, lending and borrowing all morning. And they will be doing so in the name of the citizens of the United States. For these traders are government agents.

No, I am not referring to a CIA 'black op' or DARPA adventure. The public agents in question work at the Federal Reserve Bank of New York in lower Manhattan. There they conduct familiar Fed open market operations – what I shall also call 'OMO.'

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The New York Fed traders are ‘public agents’ because we, as a public, long ago decided that a particular market price – in this case, the money rental, or ‘interest’ rate – is what I elsewhere call a ‘systemically important price or index,’ a ‘SIPI.’ It is a price that determines other prices. It is also a price that profoundly affects transaction volumes and, with them, macroeconomic growth and employment rates. These are of course matters of grave public concern.

The money rental rate is not the only systemically important price. Far from it. At least as important is the labor rental rate – the hourly or monthly price of renting one another in a ‘decentralized exchange economy’ such as our own. Indeed, as the likely jarring ring of that phrase – ‘renting one another’ – might suggest, prevailing wage and salary rates are yet more sensitive, now *ethically* as well as macroeconomically speaking, than interest rates.

I shall accordingly argue here for publicly conducted ‘open labor market operations’ – what I shall also call ‘OLMO’ – on a par with open money market operations. A sort of ‘Fed for Labor’ – perhaps the *Department* of Labor – should stand ready to hire citizens to work at thoughtfully determined benchmark salary rates much the Fed stands ready to buy or sell Treasury securities at thoughtfully determined benchmark rates. All the reasons that recommend the first, and *then* some, recommend the second.

First I will make out the macroeconomic case for this proposal. Then I will make out the moral case. Finally I’ll offer suggestions on how a fully instituted public OLMO function should be designed and conducted.

The Macroeconomic Case: Systemically Important Prices

The crash of 2008 drove something home that many had overlooked. This was that financial regulation is no more about the ‘safety and soundness’ of individual financial institutions alone than is monetary policy. At least as important as individual financial institutions and their counterparties were the natures and structures of the relations among them – and the influence those relations could exercise over the welfare of ‘innocent third parties’ who did not directly transact with them.¹

¹ See Robert Hockett, *The Macroprudential Turn: From Institutional ‘Safety and Soundness’ to ‘Systemic Financial Stability’ in Financial Supervision*, 9 VIRGINIA LAW & BUSINESS REVIEW 201 (2014). Also Robert Hockett, *Leaning, Cleaning, and Macroprudence*, 27 March

The financial system, in other words, was ‘more than the sum of its parts.’ Transactions between any two or more of those parts could generate ‘externalities’ affecting both other financial institutions and indeed millions of people and firms that had little direct contact with the financial system.

Post-2008 recognition of the systemic and hence public importance of many nominally ‘private’ financial transactions found expression in two new regulatory ideas, denoted by two new finance-regulatory terms of art. The first was the idea of ‘macroprudential’ financial regulation. This is the idea that regulators must regulate financial institutions not only with a view to their individual ‘safety and soundness’ and hence the interests of their counterparties in ‘private’ transactions, but also with a view to the ‘financial stability’ of the nation’s economy as a whole – that is, its macroeconomy.²

In general this came to mean, in the scholarly and practical work of both this author and his colleagues at central banks and monetary authorities worldwide, the repurposing of certain familiar microprudential finance-regulatory tools – notably capital and liquidity maintenance tools – to macroprudential aims.³ The principal such aim was what this author called ‘money-modulation’ – the regulation of credit-money aggregates economy-wide, in order to avoid both over- and under-pricing of financial assets in manners that destabilize or disrupt steady macroeconomic growth and employment.⁴

The second new regulatory idea to emerge from reflection on the 2008 calamity was that of the ‘systemically important financial institution,’ or ‘SIFI.’ This idea was closely related to, but operationally distinct from, that of macroprudence. The thought was that some financial institutions are either (a) so large, (b) so

2013 HARVARD FORUM ON CORPORATE GOVERNANCE & FINANCIAL REGULATION, available at <https://corpgov.law.harvard.edu/2013/03/27/leaning-cleaning-and-macroprudence/>.

² *Idem.*

³ *Idem.* Also Robert Hockett, *Implementing Macroprudential Finance-Oversight: Legal Considerations* (International Monetary Fund, 2013), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2340316; Robert Hockett, *Practical Guidance on Macroprudential Finance-Regulatory Reform*, 22 November 2013 HARVARD FORUM ON CORPORATE GOVERNANCE & FINANCIAL REGULATION, available at <https://corpgov.law.harvard.edu/2013/11/22/practical-guidance-on-macroprudential-finance-regulatory-reform/>.

⁴ See sources cited *supra*, notes 1 and 3. On regulation as modulation, see Robert Hockett, *A Fixer-Upper for Finance*, 87 WASHINGTON UNIVERSITY LAW REVIEW 1213 (2010).

extensively interconnected, or (c) both, as to warrant special regulatory treatment in the name of systemic stability.⁵

The post-crash Dodd-Frank legislation signed into law in the summer of 2010, which institutionalized both the category of the SIFI and the public authority that would designate SIFIs – viz. the Financial Stability Oversight Council, or ‘FSOC’ – mandated that these large externality-imposing institutions be subject to what it labeled ‘enhanced prudential standards.’ In effect, then, via the SIFI idea Dodd-Frank took cognizance of the need not just of prudence, but of macroprudence as well where finance is concerned.⁶

The foregoing is more or less widely known and appreciated now. What has gone less well appreciated is that the move to recognize both macroprudence and the systemic importance of some institutions, all in the name of ‘financial stability,’ was implicitly a move toward recognizing something about *prices*. It was a move toward recognizing that some of *them* are systemically important.

The ‘financial stability’ ubiquitously referenced in Dodd-Frank, after all, is effectively *price* stability. For the financial ‘volatility’ routinely understood to be the contrary of ‘stability’ is defined as nothing other than ‘price volatility’ – that is, widely fluctuating prices. Those are, in this author’s words, *unmodulated* prices.⁷

In effect, then, the move to SIFI designation and macroprudence codified in Dodd-Frank represents a move toward recognition that more prices than money rental prices are systemically important. Also systemically important, we now in effect publicly acknowledge, are financial asset prices, with which the new FSOC in effect concerns itself much as the Fed has for far longer concerned itself with money rental prices – that is, again, ‘interest rates.’

But the idea that some prices can be more broadly influential than others can be generalized far more broadly, and far more forthrightly and explicitly, than does

⁵ See, e.g., Robert Hockett, *Oversight of the Financial Stability Oversight Council: Due Process and Transparency in Non-Bank SIFI Designations*, Testimony of Robert Hockett Before the Subcommittee on Oversight and Investigations, Committee on Financial Services, United States House of Representatives (November 19, 2015), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2796331. Also Robert Hockett, *On the Constitutionality of Systemic Risk Regulation*, 22 June 2016 UNIVERSITY OF OXFORD LAW FACULTY BUSINESS LAW BLOG, available at <https://www.law.ox.ac.uk/business-law-blog/blog/2016/06/constitutionality-systemic-risk-regulation>.

⁶ *Idem*.

⁷ See again Hockett, *A Fixer-Upper for Finance*, *supra* note 4.

Dodd-Frank implicitly. All of the policy reasons that recommend publicly ‘targeting’ interest rates and ‘financial stability’ carry straight over to what I call ‘systemically important prices and indices.’⁸ The real significance of Dodd-Frank’s ‘SIFIs,’ in other words, is that they implicate what I call ‘SIPIs.’

What I call a systemically important price or index, or ‘SIPI,’ is a price or index that figures importantly in the determination of multiple other prices. This can occur either because the priced item in question figures ubiquitously as an input into the production or provision of other items (be these goods or services), or because the price in question is widely used as a benchmark in other pricing decisions.⁹

In some cases – for example, that of the money rental, or ‘interest’ rate – a price might be systemically important *both* because it prices a critical input *and* because, partly for that very reason, it commonly functions as a benchmark. In other cases – for example, that of real estate costs or rental prices – a price might be systemically important both because it prices a critical input and because it prices a form of wealth whose value determines, via familiar ‘wealth effects,’ owners’ purchasing and selling activity in other markets.¹⁰

The prices of many commodities qualify as SIPIs because the commodities in question figure ubiquitously as productive inputs. Petroleum, copper, grain, and many other agricultural stuffs are classic cases in point. Precisely in virtue of these prices’ systemic importance, moreover, public authorities often maintain ‘buffer stocks’ of the priced commodities in question, into which they buy or out of which they sell with a view specifically to influencing what amount to these commodities’ systemically important prices. In the alternative, as I’ve proposed elsewhere, authorities could go long or short in the commodities in question via the derivatives markets.¹¹ In effect, such efforts either do or would aim to dampen ‘volatility’ in *commodity* pricing just as macroprudential finance-regulators act to to dampen volatility in financial *asset* pricing.¹²

⁸ See Robert Hockett & Saule Omarova, *Systemically Significant Prices*, 2 JOURNAL OF FINANCIAL REGULATION 1 (2016). Also Robert Hockett & Roy Kreitner, *Just Prices*, 27 CORNELL JOURNAL OF LAW AND PUBLIC POLICY 101 (2018).

⁹ *Idem.*

¹⁰ *Idem.*

¹¹ See Robert Hockett, ‘How to Make QE More Helpful: By Fed Shorting of Commodities,’ *Benzinga*, October 14, 2011, available at <https://www.benzinga.com/news/11/10/1988109/how-to-make-qe-more-helpful-by-fed-shorting-of-commodities>.

¹² See again Hockett & Omarova, *Systemically Significant Prices*, *supra* note 8.

Some *indices* receive public attention as systemically important because they figure as productive ‘inputs’ in a slightly different way than do commodities. They serve as ‘benchmarks’ that enter into decisions about other prices.¹³

The London Interbank Offered Rate, or ‘LIBOR,’ for example, is commonly used as a reference point in the pricing of loan transactions and traded securities. The rate that the U.S. Treasury pays on its issued securities functions similarly. Many derivative securities and other transactions, in turn, take stock indices such as the Dow Jones Industrial Average or Standard & Poor’s 500 as reference points in the determination of payouts and prices. And of course indices of this sort often are referenced in regulatory provisions pertaining to legally noticed transactions and pricing decisions.

It is not difficult to see that ‘prevailing wage’ and ‘-salary’ rates amount to systemically important prices in precisely the way not only money rental rates and commodity prices amount to systemically important prices, but also in the way real estate prices amount to systemically important prices. For one thing, of course, labor is an ‘input’ to virtually every good or service that’s bought or sold. Indeed it is more pervasive as an input of this sort even than the borrowed funds priced in interest rate terms themselves, since not all production and provision are debt-financed.

So ubiquitously important is labor as an input, as it happens, that for over a century the discipline of political economy – the predecessor to that regrettably narrower discipline now known as ‘economics’ – either attributed or tracked all value itself either to or by reference to labor.

But at least as important as all of this is the way labor prices figure like real estate prices as determinants of market activity more broadly. What people are paid of course determines what they can and do buy, which in turn drives transaction volume, firm profitability, macroeconomic growth, and of course employment volume and related capacity utilization themselves. Scarce wonder, then, that the Fed’s statutory mandate is couched in terms not only of ‘stable prices,’ but also of ‘maximum employment.’¹⁴

¹³ *Idem.*

¹⁴ See Federal Reserve Act, 12 U.S.C. Sec. 225a.

Here, then, is one critical reason to ‘target’ prevailing wage and salary rates as objects of public ‘intervention’ into publicly constituted markets. These rates are systemically important prices, which *both* pervasively determine other prices *and* determine macroeconomically significant activity more generally. They are arguably the most important price variable of them all. Their being ‘too low’ can induce self-worsening slump and their being ‘too high’ can induce self-worsening ‘cost-push’ inflation economy-wide, all in keeping with the familiar ‘downward-’ and ‘upward-spiraling’ patterns of booms and recessions, respectively.

Such self-augmenting price movements bear the structure of what I elsewhere dub ‘recursive collective action problems,’ necessitating exercises of collective agency for their solution.¹⁵ That is because they are driven by decentralized rational decision-making on the part of individuals, in manners that aggregate into collectively irrational outcomes. There are no natural ‘equilibrium prices’ in such situations. Things go from bad to worse until the affected public acts collectively to defuse the dynamic.¹⁶

In the case of money rental rates, that exercise takes the form of the Fed open-market operations in Treasury securities noted earlier, which work countercyclically to keep price fluctuations within a stipulated optimal narrow band. The Fed buys to put money into the economy and thereby drive interest rates downward. Or it sells to draw money out of the economy and thereby drive interest rates upward.¹⁷

In the case of commodity prices, the countercyclical collective action takes the form of other public agencies’ open market operations in respect of the commodities in question. These agencies use ‘buffer stocks’ of the pertinent commodities effectively as ‘margin accounts’ into and out of which to make price-moving purchases and sales in the name of price stability.¹⁸

In the case of labor, the buffer or margin account in question would be a labor pool, into or out of which we through a public authority would hire or release labor with reference to a benchmark wage or salary rate. When prevailing market rates fell short of the benchmark, the pool would absorb labor until out-of-pool rates rose to meet the benchmark. When prevailing out-of-pool rates exceeded the

¹⁵ See Robert Hockett, *Recursive Collective Action Problems*, 3 JOURNAL OF FINANCIAL PERSPECTIVES 1 (2015).

¹⁶ *Idem.*

¹⁷ *Idem.*

¹⁸ *Idem.*

benchmark, labor would exit the pool until out-of-pool supply sufficed to drive rates back down to the benchmark.¹⁹

This would be the way publicly to fine-tune that SIPI which is the prevailing wage or salary rate. It would be to engage in ‘open labor market operations’ - again, what I call ‘OLMO’ – functionally on all fours with open commodity market operations. The labor pool would in such case function as a kind of margin account or commodity buffer stock. We would be ‘buffering’ wage and salary rates against exogenous and endogenous ‘shocks’ that might otherwise destabilize them. This would be wage or salary modulation.

The starkness of this analogy – labor pools and commodity buffers – implicates another, more compelling reason for us to engage publically in OLMO, however. This is a reason that speaks to the ethically problematic ‘commodification’ of persons to which talk of ‘labor pools’ and ‘buffer stocks’ calls attention. And it takes me to the *moral* case for OLMO, which is yet more compelling even than the macroeconomic case.

The Moral Case: Renting Ourselves to Ourselves

The remarks with which I closed the previous section might raise a worry. They suggest that a public open labor market operations – again, ‘OLMO’ – regime might objectionably ‘commodify’ human beings by pooling labor and treating the labor pool as a kind of commodity buffer stock. As it happens, I’ve quite deliberately invited that thought. I’ve done so in order to set the stage, as it were, to make a much more important point. That point is that *existing* arrangements are what commodify labor, while an *OLMO* regime would go far in undoing that very deed.

We speak all the time about ‘labor markets,’ ‘the labor force,’ labor as a ‘factor of’ or ‘input into’ production that draws a ‘price,’ etc. This talk reflects what our working arrangements now make of our workers – that is, of ourselves. They make us commodities.²⁰

¹⁹ See, e.g., Hyman Minsky, *ENDING POVERTY: JOBS, NOT WELFARE* (2013); L. Randall Wray, *UNDERSTANDING MODERN MONEY* (1998). Both Minsky and his student, Wray, explicitly draw the buffer stock analogy.

²⁰ See generally Robert Hockett, *A REPUBLIC OF OWNERS* (Yale University Press 2019). Also Robert Hockett, *Materializing Citizenship: Finance in a Producers’ Republic*, 63 *EMORY LAW JOURNAL* 55 (2014).

For most of us, each is priced, not by an 'us' that includes him- or herself, but by a him, her or it that excludes and holds contrary desires. Strangers with antithetical interests, or an impersonal 'market' that takes antecedent maldistributions of power and entitlement as it finds them, determine both what we do and the value of our doing it. Morally arbitrary determinants, in other words, determine our value or worth. That means that we are commodities. Objects, not subjects. Patients, not agents. Not so much persons as things.²¹

This is, of course, a scandal once you think about it. It is an outrage, one we tend not to notice or cry out about principally because we're accustomed to it and have subconsciously developed, in our individual capacities and expectations, in ways that accommodate ourselves to it. We are, in effect, all of us Tiny Tim or 'the tamed housewife' who figure into the justice literature focused on endogenous preferences.²²

But one day we'll look back on this period and its practices much as we now regard chattel slavery. We'll be as astonished in future that human beings can presently be rented as we are now that they once could be bought. And we'll be just as astonished that people once had to rely on the accident of someone's happening to be willing and able to 'give them work' in order simply to be able to live. This rather than a world in which to be *willing* to 'make a living' is to be *able* to 'make a living.'

My guess, as I've written elsewhere, is that we one day will rectify this strange situation by developing means of spreading the ownership of land and productive capital much more widely than we manage today. We shall make of ourselves a sort of producers' republic of free and equal, materially independent citizens – citizens who enter freely and voluntarily into cooperative productive relations with one another.²³ But before we get there, I suspect, an important first step will be collectively instituting an OLMO regime of the kind that I mentioned above.

²¹ See generally Robert Hockett, *Putting Distribution First*, 18 THEORETICAL INQUIRIES IN LAW 157 (2017). Also Robert Hockett, *Why Paretians Can't Prescribe: Preferences, Principles, and Imperatives in Law and Policy*, 18 CORNELL JOURNAL OF LAW & PUBLIC POLICY 391 (2009). Also Hockett & Kreitner, *supra* note 8; and Robert Hockett, *What Ever Happened to 'Just Prices'?*, LAW & POLITICAL ECONOMY, available at <https://lpeblog.org/2018/01/10/whatever-happened-to-just-prices/>.

²² See again Hockett, *Putting Distribution First*, *idem*. The Tiny Tim and 'tamed housewife' similes come thanks to G.A. Cohen and Amartya Sen, respectively.

²³ See again Hockett, *A REPUBLIC OF OWNERS*, *supra* note 20; and Hockett, *Materializing Citizenship*, *supra* note 20.

Here is a connection in which another, more familiar name for what I am calling OLMO – the ‘Job Guarantee,’ or ‘JG’ – gains particular salience.²⁴

The idea of a job guarantee is in part that of a labor ‘buffer stock,’ as I called it above. Early advocates, including both Minsky and Wray, used precisely such language.²⁵ But the JG is also about more than that. It is about the ‘scandal’ to which I referred several paragraphs up. It is a refusal to accept as somehow ‘inevitable’ a set of productive arrangements under which whether someone is able to secure means of sustenance when willing to work for such sustenance is just left to chance. And it is a refusal also to leave simply to chance whether a society’s productive capacity is in fact fully utilized in production.²⁶

Why leave this to misconceived ‘nature’ or ‘fate,’ JG advocates in effect query, when we can collectively act to *determine* it? Why not afford, at the very least, an ‘employer of last resort’ – ‘ELR’ – function, as Minsky and others also have called it?

In effect, then, orthodox advocates of the JG or ELR argue on bases that resonate partly with the macroeconomic considerations I elaborated in the previous section, and partly with the moral considerations I referenced just now. And hence much as consideration of systemically important prices of the sort I elaborated above can help further clarify the *macroeconomic* case for a JG, so now can consideration of *commodification* help further clarify the *moral* case for a JG. Let’s turn then to that.

A critical component of commodification, I take it, is the commodified item’s being used by and priced by someone other than the producer or provider – someone whose pecuniary interests are typically in conflict with those of the producer or provider. If I have need of or use for a mallet and then make and use that mallet, the mallet is not at that point a commodity. It is simply a tool or an implement that I’ve fashioned and used. Similarly, if I have expended my labor in fashioning and using the mallet, I have not thereby commodified my labor. I have simply labored.

²⁴ The literature on the Job Guarantee, much of it produced by my prolific colleagues Scott Fullwiler, Derrick Hamilton, Fadhel Kaboub, Stephanie Kelton, Mark Paul, Pavlina Tcherneva, and Randy Wray, is vast. See, e.g., the library of downloadable papers on point at the Levy Institute website, available at <http://www.levyinstitute.org/topics/job-guarantee>.

²⁵ See again Minsky, *supra* note 19; and Wray, *supra* note 19.

²⁶ See, e.g., JG sources cited *supra*, note 24.

The mallet does not become a commodity until, at the very least, I undertake to sell it to another, and in fact might not be *fully* commodified until I *make* it to sell to another. Once that happens, what political economists once called the ‘use value’ of the mallet will be joined by an ‘exchange value’ of the mallet. And the latter will be determined not by the maker alone but by the seller and buyer alike operating ‘at arm’s length’ as strangers to one another – strangers whose ‘interests’ conflict.

Similarly, my labor or ‘labor power’ will not be commodified until it is directly or indirectly sold to strangers with interests that conflict with my own. Indirectly if I’m deploying my labor to produce commodities that I sell to strangers. Directly if I am selling my labor itself to strangers who purchase it so’s to employ it in producing commodities or providing services for pay to yet other strangers.

If this is a fair characterization of what makes for commodification, then the JG, ELR or OLMO can be viewed as a step in the direction of decommodifying labor and, thereby, ending human rental and exploitation. The reason is straightforward: Under an OLMO regime in a democratic polity, it is effectively ‘*we*’ who are ‘hiring’ *ourselves*. And this we are doing, not to produce things for sale or rental ‘at top dollar’ to others with interests antithetical to our own, but rather to provision ourselves in manners that ensure all can live decently while also, subject to that constraint, efficiently allocating resources to that productive provisioning activity.²⁷

It means we are more like the mallet I made for my own use than like the mallet I made to get money out of you. It means we’re in a certain sense ‘self-employed,’ ‘self-sufficient,’ and materially independent on that account. It means we are fit to be citizens of a producers’ republic.²⁸ This is true not only of those who hold JG jobs, but also of those who hold non-JG jobs. For the whole point of the OLMO, ELR, JG regime is not only to assure remunerative work for all who might seek it, but also to use this ‘*public* option’ in the realm of work to change ‘*private*’ options in the realm of work.

This is what ‘public options’ *always* are for. They are about not only offering fallbacks, but also, in view of the freedom of choice – the ‘optionality’ – that they

²⁷ For more on this vision and adjacent territory, see Robert Hockett, *Rousseauvian Money*, working paper, available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3278408.

²⁸ *Idem*. Also Hockett, A REPUBLIC OF OWNERS, *supra* note 20; and Hockett, *Materializing Citizenship*, *supra* note 20.

afford, transforming that *from which* one can ‘fall back.’²⁹ The invention of both the standard 30-year fixed-rate mortgage loan and safe secondary market-making in mortgage loans, both effected by new federal home-finance instrumentalities in the 1930s, is a classic example.³⁰

As suggested a moment ago, we can analogize the public option in employment in a way to *self*-employment. For that in a sense is just what it is. A woman or man who is able to employ her or himself only accepts employment from others if that employment presents a cognizably better option – an option that doesn’t compromise her or his sense of self-worth and autonomy. For she or he always can fall back on her or his own means.

A public employment option in a democratic polity simply supplements the first person singular with the first person plural in this self-employment space.³¹ Rather than *my* employing *myself* and *your* employing *yourself* as fallback employment options, *we* employ *ourselves*. This plural case is if anything all the more potent as self-employment option than is the singular case. For there is much more that *we* can do than any of us *alone* can do. A JG, ELR, or OLMO regime, then, would go far in dissolving the commodity nature of hired labor well beyond its own public purview. Its knock-on effects would radiate out system-wide.

An OLMO regime will work in this way, however, only if it bears certain critical features and safeguards. To some of those I now turn.

The Necessary Conditions: Public Work, Public Works, and a Public That Works

There is one danger to which an OLMO regime would be vulnerable that, left to operate unchecked, could undermine both the ethical propriety and, ultimately thereby, the long-term macroeconomic effectiveness of the plan. That is the possibility that it comes to be seen and regarded as mere ‘safety net’ for ‘loser’ citizens who simply ‘can’t cut it’ in the higher prestige ‘private sector’ and are accordingly to be ‘rescued’ out of a sense of public charity. Some of the rhetoric we

²⁹ See generally Robert Hockett & Saule Omarova, *Public Actors in Private Markets: Toward a Developmental Finance State*, 93 WASHINGTON UNIVERSITY LAW REVIEW 103 (2015).

³⁰ This public option in home finance, which functioned almost ‘miraculously’ well before privatization 50 years later, has now been effectively restored via federal receivership at the depth of the crisis of 2008. See Robert Hockett, *Republican Home-Ownings*, Federal Reserve Bank of St. Louis (2018); and Robert Hockett, *A Jeffersonian Republic by Hamiltonian Means*, 79 SOUTHERN CALIFORNIA LAW REVIEW 45 (2006).

³¹ See again Hockett, *Rousseauvian Money*, *supra* note 27. Also Hockett, *Why Paretians Can’t Prescribe*, *supra* note 21.

encounter around the ELR or JG, including the terms ‘last resort’ and ‘guarantee’ themselves, I sometimes fear could have that effect unless we work hard to counteract it.

Charity is of course a fine thing, and must look all the finer in times, such as our own, when bad faith, self-serving, and general malevolence seem rampant in some presently commandeered offices of government. But it is critical that we and all public agents remain clear going forward that OLMO is not about supererogatory ‘giving’ or ‘rescue.’ It is about the rights we all hold and the reciprocal obligations we all owe one another as citizens of one shared republic, and about straightforward macroeconomic stability. That is to say it’s about both political justice and economic efficiency.

The JG will be the way we both (a) abide by our shared obligation to enable each other to contribute to the common weal and to flourish, and (b) determine benchmark working conditions and systemically important remuneration rates economy-wide. This means that OLMO jobs will be particularly important focal points in our political and economic relations going forward. They’ll figure as regularly and prominently in public policy discussion as do stock market indices, housing prices, inflation and Fed-determined interest rates, GDP figures, the White House and Congress, the Departments of Defense, Energy, and Health & Human Services, and all manner of additional salient statistic or public instrumentality do now.

Against this backdrop, a shared public perception of OLMO jobs as forms of charitable giving would endanger the integrity and long-term sustainability of an OLMO regime. It would also encourage both patronizing attitudes on the part of administrators and resentment among patronized beneficiaries and ‘private sector’ agents who mistakenly think that ‘their taxes’ are ‘subsidizing losers and deadbeats.’³² That is not what the JG is for, nor must the view that it is be permitted to gain purchase.

³² For more on why taxes would not be ‘paying for’ an OLMO regime, see, e.g., Stephanie Kelton, Andrés Bernal, and Greg Carlock, ‘We Can Pay for a Green New Deal,’ *Huffington Post*, November 30, 2018, available at https://www.huffingtonpost.com/entry/opinion-green-new-deal-cost_us_5c0042b2e4b027f1097bda5b. Also Hockett, *Rousseauvian Money*, *supra* note 27; and Robert Hockett, *Modern Money: A Legal, Functional, and Historical Primer*, March/April 2018 DOLLARS & SENSE 7 (2018).

The way to avoid this is (a) to devote real effort to determining what projects will be undertaken under the OLMO regime, and (b) to fund the agency that administers the regime fully and ensure the highest quality working conditions and pay.³³ Only this way will the regime be plausibly characterized as one pursuant to which we are all veritably ‘renting ourselves’ rather than commodifying or patronizing some pitied minority of our fellow citizens.

What does this mean, more specifically, where program design is concerned? And what public entity would serve as the program administrator?

There are of course multiple possibilities, and many more able than I have weighed in on what kinds of projects should be pursued.³⁴ Some possibilities that look both feasible and attractive to the present author, however, are these:

First, a natural administrator would be the Department of Labor (‘DOL’), whose mandate would simply be broadened to include the JG regime. This would enable the JG administrator to administer the regime in a manner that harmonizes with its traditional mandate of working with labor organizations to optimize pay and working conditions nation- and even world-wide.³⁵ The DOL also would work in coordination with the Fed, in light both of the latter’s ‘maximum employment’ mandate and of the close practical links between prevailing wage and salary rates on the one hand and price stability on the other hand.

It would have to be made and kept very clear, however, that full employment at a true living wage is lexicographically prior to ‘price stability’ where mandate-conflict is concerned, particularly given the Fed’s contrary track record of prioritizing the other way. In effect, we would act to ensure that the Fed and Treasury alike first address any emergent inflationary pressure not by engineering a higher unemployment rate, which has been the orthodox approach now for decades, but by instead raising speculative borrowing costs and/or capital gains and financial

³³ See again sources by Bernal, Fullwiler, Hamilton, Kaboub, Kelton, Paul, Tcherneva, Wray, and others cited *supra*, notes 24 and 32.

³⁴ See again sources by Bernal, Fullwiler, Hamilton, Kaboub, Kelton, Paul, Tcherneva, Wray, and others cited *supra*, notes 24 and 32.

³⁵ For more on globally moving from human rental to citizen capital-owning, see Robert Hockett, *Toward a Global Shareholder Society*, 30 UNIVERSITY OF PENNSYLVANIA JOURNAL OF INTERNATIONAL LAW 101 (2008).

transaction taxes at the top strata of the national wealth and income distributions.³⁶ These would be not about revenue-raising, but about inflation-preventing.³⁷ Hence they'd be trotted out only when inflation actually loomed.³⁸

The new OLMO-administering DOL also would coordinate with other departments of our federal government in connection with project selection and execution. The Department of Transportation, for example, would be a critical partner in the selection of transportation infrastructure projects. The Department of Education would be likewise important in the selection of educational infrastructure projects. The Department of Energy for its part would be a critical partner in designing and furnishing the prerequisites to carrying out an adequately scaled and multi-sectoral 'Green New Deal,' while the Army Core of Engineers would be helpful in teaching the skills necessary to carrying out large projects.

The jobs that would come of these efforts would have every reason to come to be seen as high prestige, not 'make-work' vocations. Rates of pay should reflect and ensure this, as should opportunities for advancement through administrative hierarchies where such forms of task-stratification are called-for. There is no reason to think this particularly hard to manage. We do precisely this in the case of our military, for which there seems never to be lack of funding, benefits, advancement opportunity or prestige. And the task to which a permanent JG, ELR, or OLMO regime is devoted is, surely, what 'Free Laborite' Abraham Lincoln would have labeled 'the moral equivalent of war.'

In short, then, an OLMO regime must be made a permanent new 'public option' for productive employment economy-wide. It must be treated as a necessity – just as the Fed is a necessity – not as a 'Great Society' luxury or form of charitable but conditional 'workfare.' It should be permanently used not only to correct familiar 'market failures' and thereby provide chronically under-provided 'public goods,' but affirmatively to transform the employment relation itself nationwide, converting it from a form of commodification and site of exploitation into the core building block of truly collaborative productive activity by free and materially independent citizens. All features of the regime must be conceived and constructed with this vision in view.

³⁶ See again Hockett, *A Fixer-Upper for Finance*, *supra* note 4; Hockett, *The Macroprudential Turn*, *supra* note 1; and Hockett, *Recursive Collective Action Problems*, *supra* note 15.

³⁷ *Idem.* Also JG sources cited *supra*, notes 24 and 32.

³⁸ *Idem.*

Think of how far-reaching and life-bettering this will be. No more jiggering of interest rates or leverage regulation in hopes of ‘goosing’ economic activity enough to keep private firms employing enough of our citizens to avoid social breakdown. No more craven flattering of *rentiers* by falsely labeling them ‘job-creators’ or bribing them to move to our towns with ‘tax abatements’ and cheap public lending. Instead, a republic of free and equal, self-employing citizens who accept employment from others only on terms that compare favorably to those pursuant to which they can employ themselves. And a republic whose citizens’ productive opportunities and rewards do not ‘cycle’ with anarchic ‘boom/bust’ dynamics that no one controls, but whose destinies and flourishing are fully and all the time in their own hands.³⁹

This is what’s promised by true democratically fashioned JG or OLMO regime. It’s what we’ll have if we conceive and design the thing right.

Conclusion

The ‘price of money,’ anyone at the Fed will tell you, is not merely the well-contained upshot of multiple lending transactions between ‘consenting adults.’ It affects literally scores of millions of third parties who needn’t be lending or borrowing at all. And that means that this ‘market price’ is far too important to be ‘left to the market’ alone. We, the public who *make* markets by both legally and behaviorally constituting them, have determined collectively to ‘intervene’ *in* them, through daily exercises of collective agency, to determine one very important emanation of them – the money rental rate.

Money is not the only thing whose rental rate is systemically important. The human rental rate is at least as critical – indeed, considerably more so. For in this case the price that emerges from rental transactions determines not only many other prices and, through them, our macroeconomic growth and employment rates, but also the degree to which human rental uncomfortably approximates to human owning – that is, to slavery or lesser forms of human exploitation.

The price at which people are rented will be ethically on all fours with the price at which people were purchased under conditions of chattel slavery, unless the people themselves determine the rental rates and working conditions. Only then will our citizens be ‘price makers’ rather than ‘price takers’ in respect of their labors.

³⁹ See again Hockett, *A REPUBLIC OF OWNERS*, *supra* note 20.

Only then will the 'market for rented labor' be something more tolerable than the 'market for owned laborers.'

I have been in effect suggesting that we as a public both jointly and severally owe both ourselves and each other what we can think of as the ultimate form of 'collective bargaining' – namely, a guarantee of employment at a 'living wage' indexed to 'the cost of living' itself, under conditions that all can recognize as self-chosen. I have argued that there are compelling macroeconomic reasons, sounding in the systemic importance of certain prices for us to make ourselves this guarantee – to include it, as it were, as a term of our social contract. And I have argued that there are yet more compelling ethical reasons, sounding in the avoidance of commodification, for doing so.

I have also tried to make some suggestions as to what an OLMO regime of the kind I have advocated would look like. But others, as I say, already have done much more on that score than there is space to do here. Suffice it, then, to say that I hope the foregoing makes clear just how much can be gained. We truly stand at the threshold of transformative opportunity. An end to the worst kind of price volatility, an end to the worst kinds of exploitation, and a beginning of free and productive life for all.