

OPEN LABOUR MARKET REGULATIONS FROM A MORAL SCOPE. THE POSSIBLE HARM OF NOT LOOKING BEYOND THE DOMESTIC THRESHOLD OF JUSTICE*

*LA REGULACIÓN DEL MERCADO LABORAL ABIERTO
DESDE EL ÁMBITO MORAL. EL POSIBLE DAÑO DE NO VER
MÁS ALLÁ DEL UMBRAL DOMÉSTICO DE LA JUSTICIA*

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Resumen:

En este artículo discuto las limitaciones de llevar a cabo un análisis de la moralidad de políticas públicas únicamente bajo el alcance de consideraciones domésticas. Para mostrar esto, centro mi atención en una política pública muy prometedora propuesta recientemente por Robert Hockett. Su propuesta se llama “Operaciones Abiertas del Mercado de Trabajo”, y tiene como objetivo reconocer el trabajo y los salarios como partes fundamentales del sistema económico y, por lo tanto, dignos de un tipo especial de regulación. Esta regulación, argumenta, está justificada en términos económicos y morales. Me preocupa el segundo tipo de justificación. Sostengo que en la medida en que la implementación de dicha política en un país como Estados Unidos podría resultar perjudicial para otras partes del mundo —como México— debido a las condiciones actuales del mercado global, se hace neces-

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sario cambiar nuestra forma de evaluar la moralidad de una política de una perspectiva doméstica a una global.

Palabras Clave:

OLMO, justicia global, mercado global, regulación laboral, NAFTA, USMC.

Abstract:

This article discusses the limitations of conducting an analysis of the morality of public policies solely under the lens of domestic considerations. To make this point, I focus my attention on a very promising public policy recently proposed by Robert Hockett called the Open Labor Market Operations. The proposal seeks to recognize labor and wages as core parts of the economic system and, therefore, worthy of a special type of regulation. This regulation, he argues, is justified in economic and moral terms. The second type of justification concerns me. I contend that it is necessary to change the way of evaluating morality of a policy from a domestic to a global perspective, since implementing such a policy in a country like the United States could be detrimental to other parts of the world -like Mexico- due to current global market conditions.

Keywords:

OLMO, Global Justice, Global Market, Labour Regulation, NAFTA, USMCA.

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SUMMARY: I. *Introduction*. II. *Regulation the Labour Market in the USA: OLMO as a Tool for Justice*. III. *Threshold of Domestic Justice: Assessing the Institutional Fit of OLMO*. IV. *Theoretically Limiting the Scope of Justice: the Closeness Assumption*. V. *The Threat of Injustice: the Reality of a Global Market*. VI. *Towards a Threshold of Global Justice for Domestic Policies*. VII. *Implementing OLMO Under the Current Global Market Conditions: The Possibility of Causing Harm*. VIII. *Conclusions: Acknowledging the Global Market as a Framework for the Assessment of Domestic Policies*. IX. *References*.

I. INTRODUCTION

In this paper, I raise awareness about the limitations of conducting a moral analysis of policies solely under the scope of domestic considerations. To accomplish that, I focus my attention on a very promising policy recently proposed by Robert Hockett. His proposal is called Open Labour Market Operations (OLMO). It aims to recognize labour and wages as fundamental parts of the economic system and, thus, worthy of a special kind of regulation. This regulation, he argues, is justified in economic and moral terms. I take concern with the second kind of justification. I argue that, insofar as the implementation of such policy in a country like the USA could prove detrimental to other parts of the world due to the current conditions of the Global Market, it becomes necessary to switch our way of assessing the morality of a policy from a domestic to a global perspective. This is in order to avoid the possibility of the creation of harm on individuals who might be affected by those policies beyond the borders of any given country. In this paper I focus on the possibility of creating harm in Mexico by adopting a policy like OLMO under the current Global Market conditions.

The paper has an introduction, six sections, and conclusions. The first section deals with Hockett's policy proposal. There, I explain the main elements of his Open Labour Market Operations project and the justifications he has for the proposal. In section 2 I move onto the field of normative assessment of the policy. I address the is-

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sue of the morality or fairness of the policy under the consideration of what I call a “domestic threshold of justice”. I conclude that, given the limitation of a domestic approach, the policy would be deemed fair and thus morally acceptable. However, I point out that this is only possible by relying on what I call the “Closedness Assumption” (CA). In section 3 I elaborate on this assumption and show how it is at the very core of our domestic and global divisions, and how to this date is supported by an important segment of political theorists. I show how at the core of this assumption resides a problematic misunderstanding of the workings of the Global Market. This, I argue, limits the proper scope of moral assessment of policies like OLMO. In section 4 I provide further explanations about the nature of the misunderstanding by briefly explaining that the Global Market is not only a reality, but that its operation is dependent on market agents such as the Federal Reserve of the United States of America (FED). I show the reader that the redistribution of scarce resources such as labour and wages, precisely the ones that OLMO aims at regulating, are goods traded in Global Markets at any given point and, as such, the idea that a domestic policy can be morally assessed without considering the impact it might have beyond the borders of a state is problematic.

In section 5 I explain the counterfactual scenario that the CA prevented us from properly assessing. A scenario where policies implemented in society A could have an impact on the distribution of scarce resources in society B. Given the evidence previously presented, I conclude that section arguing for a threshold of global justice over one of domestic justice as a way to analyze policies such as OLMO. Section 6 is an exercise on practical analysis grounded on the counterfactual scenario that the CA would prevent us from engaging with. That is, I proceed to analyze the economic connections between the USA and Mexico and show how a policy like OLMO if implemented -under the reality of NAFTA (now U.S.-Mexico-Canada Agreement)- could drain jobs and wages from the Mexican economy thus creating morally problematic consequences for the policy. I conclude the paper with the main conclusions of the paper. The first one is that, although OLMO is a good policy from a domestic point of view, its implementation given the current conditions of the Global

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Market, could create pernicious effects for people in a country like Mexico. The second one is that once we recognized the interconnect-edness of the world, it becomes more and more difficult to support something like the CA assumption and thus, the domestic and global divide. Therefore forcing us to consider the moral assessment of policies on global or beyond-the-state terms.

II. REGULATION THE LABOUR MARKET IN THE USA: OLMO AS A TOOL FOR JUSTICE

The argument that Hockett puts forward is that it is possible, and even desirable, on macro economical and ethical grounds, for “we”, understood as citizens of the United States of America (USA), to “both jointly and severally owe both ourselves and each other” in such a way that we could guarantee “employment at a living wage indexed to the cost of living itself, under conditions that all can recognize as self-chosen” (2019, p. 125). His proposal is called Open Labor Market Operations (OLMO). The idea behind this is that money rental price, which is regulated by interest rate, is no more important for the economy than human rental (jobs) price, which is regulated by wages (2019, p. 125). This model would adopt the form of a policy that would have an institution like the Department of Labor (DOL) of the USA (2019, p. 123), acting like a guarantor of jobs for citizens in the country. I will explain the macro economic reasons first, and then move on to the ethical reasons used to justify this project. Concluding with the presentation of the overall features of the policy.

Hockett’s argument starts at the onset of the 2008 global financial crisis. Such event led many economists to the realization that there could be severe economic effects for third parties, even if those parties were not involved in the transactions of individual financial institutions. That is, that we had to recognize the existence of a complex financial system that at any given time “could generate externalities affecting both other financial institutions and indeed millions of people and firms that had little direct contact with the financial system” (2019, p. 115). This led to the identification of Systematically Important Financial Institutions, or SIFI. These insti-

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tutions were either (a) so large, (b) so extensively interconnected, or (c) both, as to warrant special regulatory treatment in the name of systemic stability (2019, p. 115). Their important nature led to impose enhanced prudential standards over them (2019, p. 115). This means that some prices, such as the price of money, commonly expressed as the interest rate, are systematically important for the whole financial system and thus require special regulation.

In that sense, if the main consideration for something to be treated as a SIFI is their capacity to have an impact on the system then, once we recognize that labour, as the source of wages, has an input to virtually every good or service within the financial system (2019, p. 117). It follows that prevailing wage and salary rates ought to be treated as SIFI. In other words, wages end up driving “transaction volume, firm profitability, macroeconomic growth, and, of course, employment volume and related capacity utilization themselves” (2019, p. 117). Thus, making an excellent macro economical case for the special regulation of labour.

Although the economic justification for the regulation of labour is fundamental, it is important to highlight that the focus of this paper is the moral justification Hockett offers for this policy proposal. In that sense, I argue that his moral justification for immediate implementation of the policy within the boundaries of the US is dependent on assuming non-existing current Global Market conditions or adopting a false domestic/global dichotomy that if endorsed could create harm abroad while still remaining a “just policy” domestically.

Hockett’s case for special labour regulation grounds itself on the premise that labour would, in a democratic political society, allow citizens to hire themselves. Further guaranteeing that citizens do not produce items that could result in clashes of interests among themselves. Instead, the production would be done “to provision ourselves in manners that ensure *all can live decently*¹ while also, subject to that constraint, efficiently allocating resources to that

¹ I italics in this section to highlight the moral reasoning behind the implementation of the policy. Which, in a sense, could be said to aim at enhancing the well-being of “all”. Yet, the “all” is subordinated to the domestic/global dichotomy that I will address in 3.1.

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productive provisioning activity” (2019, p. 121). Expressed in a different manner, a special kind of regulation for labour could guarantee that citizens work for themselves, avoiding the possibility of becoming commodified goods. Thus, preventing citizens from becoming objects, instead always remaining subjects.

Further details of Hockett’s policy proposal would help us clarify how this policy can make a lot of economic sense and yet pose important moral questions for political theorists working within the framework of domestic or global policy. First, in the same manner as the Federal Reserve of the USA buys and sells securities from an existing pool of goods in the Open Market Operations (OMO) with the goal of regulating interest rates, a labour pool would be created and citizens would go in and out of the pool, that is they would be hired or released with reference to a benchmark wage or salary rate, through the direction of a public authority (2019, p. 118). Thus, constituting an Open Labor Market Operations system. A natural administrator, Hockett claims, would be the DOL. However, in order to properly accommodate for its new functions as an agent of OLMO, a modification of its mandate would be required. One that would allow such entity to include the job guarantee regime among its functions.

OLMO is without a doubt an important contribution to the debates about justice within the domestic sphere of countries such as the United States of America. Yet, my paper aims at testing the limits of fairness that the implementation of this kind of policies at the current time could have beyond the boundaries of the USA. That is, if a policy like this, or even something like the Green New Deal,² were to be implemented in the USA while also considering its impacts at a global scale under the current Global Market conditions the question would be whether such policy would this policy pass a test of fairness? In the next section I will develop what could be considered a threshold of domestic justice (TDJ) informed by the Rawlsian tradition.³ This, in order to show that by only considering the domestic

² Set of policies aimed at tackling climate change and economic inequality within the USA

³ I call this the large political theory tradition in western analytical philosophy informed by the work and assumptions of John Rawls.

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impact of this kind of policies one might end up with different conclusions than by performing a global⁴ analysis.

III. THRESHOLD OF DOMESTIC JUSTICE: ASSESSING THE INSTITUTIONAL FIT OF OLMO

To address the question of “how can a policy be deemed fair or just?” is to ask a question about whether a policy meets certain standards. A theory of justice can be properly understood as the kind of standard of evaluation that can help us address that analysis. In that sense, a theory of justice can be understood as a tool that can help us assess whether what we are designing or assessing, meets the goals or purposes we have in mind. In the case of the Rawlsian project, it is the basic structure of society that ought to be tested. By this Rawls means “the way in which the major social institutions fit together into one [closed]⁵ system, and how they assign fundamental rights and duties and shape the division of advantages that arise through social cooperation” (2005, p. 258). Yet, the question of what this test would include or how it would look still remains. In this section I will briefly shape a TDJ to help us determine what kind of institutional design would be acceptable under a Rawlsian framework of justice, and which policies would be a proper fit with such design. That is, under a framework that considers institutions as the basic element for assessment when discussing issues of redistributive justice. After that has been established, I will proceed to assess OLMO and show how it properly meets such requirements when considering only the domestic sphere.

First of all, it is useful to remember that not all forms of justice are discussed or argued for in the Rawlsian project. As Freeman points out, the goal of the Rawlsian project is to address issues of distributive justice. Which means that the project wants to address the dis-

⁴ I will call global impact to any impact that goes beyond the scope of domestic considerations.

⁵ The notion of a closed society is something that will help address the problematic domestic/global dichotomy and will be the focus of section 3

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tribution of income, wealth, economic powers, positions of responsibility, opportunities to occupy public offices, and the prerogatives of such offices (2018, p. 204). Second, that insofar as “institutions are basic in that they are necessary for economic production and division of labor, trade and exchange, and distribution and consumption of economic product” (2018, p. 203), it follows that we should focus on them, and their design, in order to properly guarantee redistributive justice.

Based on that, Rawls developed his two principles of justice, which ought to help us assess the basic structure of a closed political society. The first principle is that each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all. The second is that social and economic inequalities are to be arranged so that they are both: (a) to the greatest benefit of the least advantaged, consistent with the just savings principle, and (b) attached to offices and positions open to all under conditions of fair equality of opportunity (1999, p. 266). Although in many ways straightforward, it is important to remember that these principles, even though aimed at institutions, should be used as ways “to specify or assess the many legal and other social rules (of property, contract, etc.) that individuals are required to observe pursuant to the natural duty of justice” (Freeman, 2018, p. 230). This, of course, includes labour and wages, thus the connection with OLMO.

With those ideas in place one could say, roughly speaking, that if a policy is consistent with both principles and it allows individuals to pursue their natural duty of justice, then such policy could be understood as working in line with the institutional design developed to satisfy a TDJ. In the case under consideration, insofar as OLMO aims at guaranteeing the basic conditions for living and to provide opportunities to access a wage and the means to properly participate as a citizen in the political life of the society, it seems fair to claim that this policy is within the boundaries of such TDJ. Furthermore, it could be claimed that the policy is one of the best ways to properly guarantee the well-being of the citizens of the country. That is, to provide citizens with the opportunities to avoid commodification by owning themselves and regulating their own relation-

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ships of production based on the principles of equality and liberty. For the sake of argument, let us assume that OLMO is completely consistent with the Rawlsian TDJ and that such a policy is consistent with the principles of redistributive justice under consideration.

As important as it is to conduct the previous kind of analysis, it is also important to recognize that, at the core of a TDJ, there is an important assumption that is at the core of the domestic/global dichotomy in political philosophy. This is what I call the Closedness assumption and in the next section I will focus on clarifying what I mean by the it and how it helps create the domestic/global dichotomy before going back to the TDJ in section 3.1 to further clarify how this standard might be too limited to address moral concerns about a policy with possible global implications like OLMO.

IV. THEORETICALLY LIMITING THE SCOPE OF JUSTICE: THE CLOSENESS ASSUMPTION

In this section I will address a theoretical issue which at its core, grounds the problematic limitation of policy analysis to only the domestic sphere. As mentioned in section 2, the TDJ I am proposing was built under the framework of redistributive justice endorsed by Rawlsians. That is, a paradigm of justice that aims or focuses on redistributing scarce resources among members of a closed society. It is important to notice two fundamental assumptions about this kind of project. First, that when Rawls talks about a closed society he means a society that is self-sufficient and that we do not enter or leave such place except by birth or death (1999, p. 4) (2005, pp. 40 and 41). Second, that among those resources that need to be redistributed we have things like wealth, access to public offices and of course, labour and income. Let us assume that a redistributive approach to justice is the best way of approaching normative projects about institutional design⁶ and that scarcity of resources is the key

⁶ Whether restorative, environmental, transitional, or other kinds of justice can be subordinated or neglected in favor of focusing on the predominant paradigm of redistributive justice as most western political philosophers do is a question that I do not address in this paper.

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concern of justice. In this section I will identify an important limit that this way of theorization tends to assume and that has important implications for the moral analysis of policies like OLMO. I am talking about the Closeness Assumption (CA) and I will begin its identification by proposing a small thought experiment to clarify the work that the CA is performing.

First, I will ask the reader to think about the cities of Niagara Falls, Canada and Niagara Falls, USA. The individuals from each of these border cities clearly coexist together at the same time in the roughly same geographical territory. They are, by most accounts, roughly similar in physical and mental powers. They also are, on each side of the border, vulnerable to be attacked or having their plans blocked by the united force of others. And finally, they all face the reality of moderate scarcity of resources. Regarding the last one, it is easy to point out how people on each side of the border try to organize their economies to attract more tourism than the other. Or how each promote their side and view of the Niagara Falls as the best one to visit to obtain the best possible picture. In that sense, considering scarcity of resources as an important thing that makes individuals compete seems to be a reality in the case at hand. Yet, the theorization that authors like Rawls and Freeman have in mind does not aim at regulating the lives of the individuals in the situation of both the Niagara Falls cities. A situation that we might call the *Niagara Falls transboundary political society* (NFTPS). Even if we could identify some form of the same basic commitments to freedom and democracy among its members, NFTPS is not the kind of society that they —Rawls and Freeman— have in mind.

For Rawls, for the sake of theorization, it is useful to consider political societies as isolated from other societies. Following that, whatever principles of justice —which main purpose is to who help us assess the institutional design— we developed, ought to be applied to the basic structure of such society while not focusing on issues between states (1999, p. 7). In turn, in his latest book Freeman, while arguing in favor of Rawls, seems to endorse these elements as part of his overall argument (2018, pp. 114, 137). All these claims together are at the core of what I call the CA. This assumption can properly be connected with the concept of the state. That is, with

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the 16th century-born form of social organization that is currently central in many theorizations about law and politics (Raz, 2014). If that is the case, then for Rawls and Freeman, the basic structure of the *Niagara Falls transboundary political society* would not be the subject of the analysis of justice. But rather the respective societies of Canada and the USA. In other words, the identification of the best principles of justice ought to be done considering only those that best help us shape the basic structure of a political society, which for practical terms we deem as the state, in isolation from other states.

Rawls is clear about this when in *Justice as Fairness* (2001) he states that his conception of political justice is not a general conception of justice. Meaning that it only applies to issues of “local justice” and that questions of global justice require separate consideration on their merits (2001, p. 11). Furthering the idea that the CA ought to regulate the extent and limits of our approach to justice. Now, this does not mean that issues beyond the state do not matter for Rawls. Rather, he thinks that we ought to differentiate between local justice —what I call domestic justice— and global justice. And based on that, global justice requires a different yet connected treatment than local or state-based justice. In other words, whatever principles of justice one finds for the closed-society in isolation, have methodological and regulative primacy over other principles of justice such as global ones (Rawls, 2005, p. 262) (Freeman, 2018, p. 230).

After clarifying this small yet fundamental assumption, I can focus on showing how the domestic/global dichotomy is shaped by it. By doing so, I can then show how this is a problematic distinction that can hardly be sustained given the reality of the Global Market and how, by getting rid of it, our analysis of the morality of a policy like OLMO might look different.

Untangling the Problematic Domestic/Global Dichotomy

Now that the CA has been established, I can further clarify the terms of the TDJ as they were introduced in section 2. The TDJ is

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asking us to phrase preliminary questions of justice that are necessary for the later assessment of policies like OLMO under the following terms “what are the best principles of justice for society A if scarcity of resources obtains and we assume society as a closed and self-sufficient system?” This formulation, grounded on the CA, allows authors such as Rawls and Freeman to create or endorse the domestic/global dichotomy. That is, to separate closed societies as local realities from a global setting, which would be something like a place for interactions among societies. Thus, making the assessment of OLMO within the TDJ a completely different or separated one from questions of global justice.

At the core of the CA is the idea that it is only at the state level that we clearly identify the necessary institutions required for considerations of redistributive justice. Which is the kind of justice that authors like Rawls and Freeman are talking about. While, they claim, when considering issues of global justice we are mostly talking about a different kind of relationship. A kind of relationship that leads us to discuss issues of “poverty and compensation for disabilities and other misfortunes” and those issues would require “different principles that apply to the correction of unfavorable conditions and circumstances” (Freeman, 2018, p. 204). Thus, this way of theorizing about justice further allows us to dwell in the problematic domestic/global dichotomy. Giving us the impression that the problems of the local level are different, and separated, from those from the global level.

For the sake of argument, I have so far considered that both scarcity of resources and the CA, are valid elements that should inform our assessment of policies like OLMO. This view is informed by the idea that policies only have an impact at the domestic level. As in, that their actions will only affect those living in such societies where the policy is implemented. Thus allowing for an assessment of the morality of those policies to be reduced to the domestic sphere. This idea, I will show in section 4, is the product of a misconception about how institutions engaged in issues of redistribution operate in the world under the reality of a Global Market and the interconnectedness of the financial world system.

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V. THE THREAT OF INJUSTICE: THE REALITY OF A GLOBAL MARKET

In section 3 I showed that the CA is connected with the domestic/global dichotomy and this dichotomy allows thinkers like Rawls and Freeman to claim that redistributive justice is a matter of domestic consideration. However, the view that redistributive justice is a matter of domestic consideration without an impact outside the realm of the state, is grounded on a clear misconception of how the Global Market operates. A misconception that allows political thinkers imbued by Rawlsian assumptions to ignore the implications of a policy like OLMO outside the borders of a country like the USA. At the center of their reflection, is the premise that the discussion of those implications is not about how to redistribute rights and obligations but about “poverty and compensation for disabilities and other misfortunes” and those issues would require “different principles that apply to the correction of unfavorable conditions and circumstances” (Freeman, 2018, p. 204).

This problematic way of reasoning prevents them to assess the morality of policies like OLMO on the grounds of their global impact. In this section I will show how, by properly understanding the workings of financial institutions. The only option we have, if we are to accept the reality of the laws of the world and its tendencies, is to reject the CA as an element of the TDJ, thus forcing us to embrace a threshold of global justice for the assessment of the morality of a policy like OLMO.

Following Ronzoni, it is useful to remember that an analysis of cosmopolitanism might have moral, political, and institutional approaches, keeping in mind that those features interact with each other (Ronzoni, 2018). In this paper I am taking an institutional approach, grounded on the reality of redistribution of goods on the planet, to challenge the assessment of the morality of policies like OLMO only based on meeting the TDJ. By highlighting that the CA is conceptually and practically unsustainable, in section 5 I will be able to further make the case that we need to move towards a threshold of global justice (TGJ) for policies like OLMO. To do so, I will first discuss the idea of the Global Market as a reality of the world (Wenar,

2016) and then will take a look at the effects of the 2008 global financial crisis on Mexico. After that has been established, I will show how even domestically conceived institutions such as the Federal Reserve of USA acknowledge and articulate their operations within the boundaries of such reality.

1. The Global Market as a Law and Tendency of the World

In section 1 I mentioned how, for Hockett, the 2008 global financial crisis taught many economists two important lessons. First, that they had to accept the reality of a complex financial system that was more interconnected than many had suspected. Second, that many people, who might not even be part of the interactions of the entities of the system, could suffer from externalities created by the actions of the agents within the system. Although those two lessons were important at the domestic sphere, for many economists outside the USA the lessons were somehow different. That is, for some economists the main lesson was that even though the crisis could be tracked to the USA, its effect spread all over the world causing “turmoil in foreign exchange markets and international trade flows” (Choi, Kim, & Sung, 2010). In Latin America, one of the most affected countries was Mexico. The reason for that, according to the International Monetary Fund (IMF), was the interconnection of the economies of Mexico and the USA (2009, p. 88).

In other words, for many theorists, inside and outside the USA, the lesson left by the 2008 crisis was that the world was already too deep in what the Organization for Economic Co-operation and Development (OECD) has called economic globalization. A process that is characterized by a strong growth of international trade, declining transportation costs, and international investment as a complement to international trade. Furthermore, another characteristic of the process is the liberalization of capital movement, allowing for the reduction or elimination of foreign direct investment, and multinational enterprises, in different countries across the planet (OECD, 2013). In other words, we are in the midst of a Global Market where states, state-based public institutions, corporations, and even sin-

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gle individuals, are *agents* that interact with each other at any given time and in many different forms.

For the sake of my argument, I consider it fundamental to highlight the impacts of the 2008 crisis in Mexico. Not only did the crisis see Mexico plunge into one of the most severe unemployment situations in its history (Cooney, Justo, & Santarcángelo, 2016, p. 238), but the health implications in its population have been analyzed and some have argued that mortality rates after the 2008 crisis increased to the high and problematic levels of 2001 (Arceo-Gómez, 2010). Which means that the financial crisis that started in the USA, affected Mexico the most in Latin America. The effects were not only the damage or destruction of a great deal of the labour market, but possibly the increase of mortality in its population. One of the possible reasons for this, is the existence at the time of the North American Free Trade agreement (NAFTA). This agreement allowed for, among other things, the rapid flow of capital between the two countries. Thus, further linking their economies and exposing one to the externalities caused by agents located in the other. But as important as a market—even a Global Market—is, it could not operate without the existence of agents who partake in the exchange goods. Those agents, then, become actors in a set of global transactions that deal with redistribution of wealth, income, and even jobs. This is where things get more complicated for the moral analysis of a policy like OLMO, which aims at dealing with labour and wages within a globalized economy.

2. *The Federal Reserve of the USA as a Global Market Agent*

Hockett claims that OLMO would work as OMO does. That is, one institution would regulate the market by means of buying/renting or selling/letting go those who are part of the labour pool. This is in parallel to what the FED does with securities. There is, however, the important element for consideration that the FED is not only a local economy agent, but a Global Market Agent. In other words, the FED does not interact with other actors in the global financial system by means of the central government of the USA or other institution.

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The FED interacts with other actors directly by means of buying or selling securities. As stated in section 14 of the Federal Reserve Act, when conducting OMO, any Federal reserve bank may purchase and sell in the open market, *at home or abroad*⁷, either from or to domestic or foreign banks, firms, corporations, or individuals, cable transfers, bankers' acceptances, and bills of exchange of the kinds and maturities.

This means that the kind of interactions that the FED conducts on a regular basis makes it an agent of the Global Market. It could be said that, also as established by section 14 of the act, it does so under rules and regulations prescribed by the Board of Governors of the Federal Reserve System. Yet, the point remains. To conceive the FED solely as a domestic institution would be to overlook the nature of the Global Market and how its agents operate. The Global Market that has allowed the USA to owe China over one trillion US dollars to this date, is the same one where the DOL —following OLMO— would have to act to satisfy its mandate of minimizing unemployment and stabilize inflation at the local level.

Let me recap this section by stating that the 2008 USA housing market crash left us with some important lessons. Perhaps one of the most important ones was that the world's economy is interconnected in meaningful ways. The global recession that followed the market crash in the USA, had a domino effect that brought down the economies of many parts of Asia, Africa, Europe, and Latin America. At the very least, in economic terms, it is hard to argue against the existence of a coherent set of rules that guide the Global Market in its interactions. In other words, there is a set of institutions, not just the World Trade Organization or other organizations of such kind, that work in such a way that allows for the harmonization of property rules at the global level. It is precisely this set of rules that we can call the foundation of the Global Market, which not only "sustain the human population at its seven-billion size" (Wenar, 2016, p. 116) but also allow the FED to engage in OMO and that would allow the DOL to engage in OLMO.

⁷ The highlighting is mine to address the nature of the FED as an agent of the Global Market.

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In section 5 I will go back to the domestic/global dichotomy and, given the weight of the reality of the Global Market, I will propose that a TGJ is a better way to assess the morality of a policy like OLMO.

VI. TOWARDS A THRESHOLD OF GLOBAL JUSTICE FOR DOMESTIC POLICIES

In section 3.1 I stated that the TDJ demanded us to ask to phrase the questions of justice that are necessary for the later assessment of policies like OLMO under the following terms, “what are the best principles of justice for society A if scarcity of resources obtains and we assume society as a close and self-sufficient?” Yet, the reality of the Global Market and the way in which its agents operate puts too much pressure on the claim that one society’s policies and institutions bear no effect on another. In this section I present the counterfactual analysis that the CA prevents us from properly engage with. I will then formulate the terms of the TGJ that ought to be used when assessing the morality of a policy like OLMO.

First, let us imagine society A. Such society is a closed political system that is assumed as self-sufficient and where its members do not enter or leave except by birth or death. Also, we are accepting the fact of the world of scarcity of resources as a reality that forces us to consider the question of justice in the first place. Let us assume that we have properly identified the best two possible principles of justice to shape the basic structure of society A. That is, we have properly set up the basic structure of society in such a way that it meets all the conditions required by the framework developed by Rawls and endorsed by authors like Freeman. Is it possible that the way in which society A is organized could have prejudicial consequences for a theoretical neighboring society B? Based on the CA, this would not be case. In other words, the answer would be that, insofar as society A is self-sufficient, then it would be hard to conceptualize such a scenario.

This shows how much of the heavy lifting the CA is doing here. Assuming that the institutions of society A only have domestic or local impacts, while assuming that scarce resources ought to be taken

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and redistributed from within such society has an important impact, it prevents the counter-factual analysis of such possible impact outside of the realm of society A. Thus, allowing somebody assessing the morality of a policy like OLMO to only consider that even though labour and wages are scarce resources they will not be drained from other parts of the world. This gives rise to the concern of ‘how realistically practicable is it to assume that societies are self-sufficient in such a way?’ or “how realistically possible is to assume that OLMO will not drain labour and wages from other parts of the world?”

As I showed in section 4, this kind of analysis is not only grounded on an economic reality that does not exist but is also problematic to sustain given the fact that institutions such as the FED are clearly agents in a Global Market where goods, including labour and wages, are redistributed. Rawls himself claimed that his theory of justice was “realistically Utopian”, which means “how far in our world (given its laws and tendencies) a democratic regime can attain complete realization of its appropriate political values-democratic perfection, if you like” (2001, p. 13). In other words, although some ideal elements were present in his theory, the normative project under construction was not fact neutral or detached from all material conditions. It could be said, then, that Rawls thought of his project as working towards a middle ground between the abstract and the practical where, as Stemplowska and Swift have stated, “the broad socioeconomic conditions do not preclude the possibility of a just (well-ordered) society” (2012, p. 373). Yet, there is a strong difference between assuming that the socioeconomic conditions do not preclude the possibility of a just society and ignoring fundamental socioeconomic conditions —such as the Global Market and its agents— that are properly part of our world, given its laws and tendencies.

In this sense, as Abizadeh accurately points out that even if we find two societies that meet the “fantastic Rawlsian assumption of being closed”, it is quite possible to conceive a scenario where one society has pernicious impacts on another (2007, p. 339). Thus, it becomes useful to conceptualize the relationships between societies in such a way that their impact on each other could be a reality. So we are at a point where we have good conceptual and practical rea-

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sons, to assess the morality of a policy like OLMO not on the terms of the TDJ but on the terms of the TGJ. Following that, the phrasing of the questions of justice that are necessary for the later assessment of policies like OLMO would follow the terms, “what are the best principles of justice for society A if scarcity of resources obtains and we assume such society as a partially open and non-self-sufficient system?” this question could allow us to later ask “how realistically possible is to implement OLMO in the USA —given the current reality of the Global Market— without draining labour and wages from other parts of the world such as Mexico?”

VII. IMPLEMENTING OLMO UNDER THE CURRENT GLOBAL MARKET CONDITIONS: THE POSSIBILITY OF CAUSING HARM

In section 4 I provided reasons to consider that the Global Market is a reality and the economies of many parts of the world, such as the ones of USA and Mexico, are so interconnected that decisions made in one country could have, and have had, dire consequences for the other. Thus, giving us grounds to consider that the CA and a TDJ for the analysis of the morality of policies like OLMO are problematic conceptually and practically. In other words, we have a scenario where, to assume that the decisions of institutions from one society do not have an impact in other society, is not an option or it is a problematic one in moral terms. Therefore, forcing us to assess the possible impact of policies under the light of the TGJ.

As I stated in section 2, it seems possible to assume that OLMO satisfies the TDJ. Therefore, allowing for its theoretical implementation in a country like the USA while considering that is a morally acceptable policy. Let us assume that the USA moves forward and allows an institution like the DOL or a similar agency to create a pool of workers and, in case of a rise in unemployment, began to act to guarantee jobs to many individuals. In this theoretical scenario, this could very well serve to regulate the job market of the USA and thus, create the conditions to stabilize wages and guarantee access to primary goods, and every sort of thing needed for a market to work in order to improve the health of the economy of the country. Now, let

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me move on to analyze this case without the restraints that CA puts in our analysis of the morality of a domestic policy, thus opening the doors for some possibly problematic moral outcomes.

If OLMO works as OMO does, then it is possible that the DOL would have to act like the FED does. That is, by accessing securities from the market. But these securities, in a globalized economy and as stated in its own regulation, are acquired from domestic and international sources. So, if the DOL accesses the pool of labour and wages, and even shapes it in order to guarantee jobs and wages for people in the USA, this could mean that, insofar as the interconnections with the Mexican economy are important due to treaties like NAFTA (now U.S.-Mexico-Canada Agreement) and the reality of the Global Market, the DOL could —and very realistically would— pull some of the labour and wages out of the Mexican market and transfer them to the USA pool.

Now, even if one were to argue that the claim that the number of jobs that migrated from the USA to Mexico due to NAFTA were not so significant, this does not deny the possibility of causing harm to the living conditions of many people living in Mexico. Against this, the claim that NAFTA or its equivalent should be withdrawn to reduce the interconnections between the two economies could be raised. However, even if some free trade agreements can be considered or evaluated as a problematic trading tools, there is important empirical evidence to support the claim that NAFTA has benefited Mexican citizens by means of trade harmonization, quality control of products and strict environmental regulation (Woldu, Alborz, & Myneni, 2018, p. 15). Thus, opening the possibility of causing harm to the citizens of Mexico on the grounds that their living conditions would be impoverished by the retraction of such a trade tool. In other words, acting against the moral support of the policy which is grounded on the aim that *all can live decently* (Hockett, 2019, p. 121)

An important point to be raised here is that, unlike authors such as Samuel Freeman, who would accept Hockett's proposal to be implemented in the USA disregarding the impact of such policy abroad, Hockett himself has claimed in the past that labour and economic policies ought to be reshaped globally for moral reasons (2008). A claimed grounded on the reality of the interconnectedness of the

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Global Markets. In other words, to implement OLMO without properly considering its implications in different parts of the world, under the current conditions, would be problematic. Even if at first sight, it seems to be coherent with a model of domestic justice. This raises the question about the best way to assess a policy on moral grounds. I have put forward the notion that a TGJ is a better place to start. But in the end, what is at stake is clearly a problematic domestic/global dichotomy that relies on a misguided notion of how the Global Market and its agents operate.

VIII. CONCLUSIONS: ACKNOWLEDGING THE GLOBAL MARKET AS A FRAMEWORK FOR THE ASSESSMENT OF DOMESTIC POLICIES

The point of this paper has not been to argue against OLMO but rather to argue against a common way to assess the morality of certain policies. The TDJ can only be justified by holding on to problematic notions about the way in which goods are redistributed in a Global Market. For that reason, the possibility of perverse economic outcomes of one state's policies beyond its borders must be an important part of our arsenal of moral assessments. Denying the reality of the Global Market and its implications does not seem to be the best way to properly address the morality of a policy in the 21st century. Once the current conditions of the world are considered, the CA is hard to accept at both the theoretical and practical level. If that is the case, then our approach to the fact of scarcity of resources as an empirical fact of the world should also consider the very real possibility of, by means of policies, taking some of the already scarce resources from one state and moving them into another.

Going back to the theoretical aspect, if we accept that resources are scarce and we reject the CA, then our considerations about society as a closed system could face the need for revision. If it is possible that once we have developed and implemented a theory of justice for society A, resources could be moved from society B, causing harm to such society in the process, could such theory be properly called just? In that scenario we would have a local theory of justice

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that has as an outcome the creation of the very unfavorable conditions and circumstances that Freeman and Rawls assume belong to the area of global justice but that were created at the local level.

Freeman claims that institutions such as the World Trade Organization are not the kind of basic institutions that he has in mind when talking about redistributive justice (2018, p. 220). Nor are the ones that I have engaged with here to make my case. Since my focus in this paper has been on Hockett's policy proposal of OLMO, I have talked about the FED and the DOL as institutions whose actions, once we reject the CA, could very well have morally problematic outcomes for other societies. Freeman dismisses cosmopolitan concerns about "unjustified moral discontinuity" (Liberalism and Distributive Justice, 2018, p. 251) of the Rawlsian principles of justice under the premise that the spheres of actions of the institutions that come out of the basic structure of society have a narrow margin of action. As I have shown in this paper, that is a misconception about institutions acting as agents under the umbrella of a Global Market. We can and should accept that scarcity of resources is an important reality of the world, however, we should accept it predicated in a Global Market and not the CA.

Now, let me be clear, I do not endorse current labour standards created in the Global Market due to the globalization of the economy. In fact, I think that those conditions should be improved. Particularly in countries of the "Global South", where low wages, informal labour, and poor working conditions are real and pressing problems. However, if our best theorizations about justice—which are supposed to guide us when assessing the morality of policies like OLMO—are still dependent on theories that could very well end up creating the conditions of world poverty because they are solely focused on the domestic level. Then we might be doomed to be in a cycle of trying to solve problems at the global level, that were first created at the domestic level by means of policies thought to be fair in the first place. In other words, the price of not globalizing our assessment of economic, labour, and even environmental policies may very well be that we become complicit in the creation of the conditions of poverty and scarcity that have become prevalent in the current world.

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In a society, like the USA, where policies like OLMO and the Green New Deal will become more and more relevant in the political debates it is imperative that we start considering the impact that such policies, given the current conditions of the world, would have abroad.

IX. REFERENCES

- ABIZADEH, A. (2007), "Cooperation, Pervasive Impact, and Coercion: On the Scope (not Site) of Distributive Justice", *Philosophy & Public Affairs*.
- ARCEO-GÓMEZ, E. O. (2010), "Impact of Economic Crises on Mortality: The Case of Mexico", *Estudios Económicos*, 25(1).
- BUCHANAN, A. (2013), *The Heart of Human Rights*, New York, Oxford University Press.
- CHOI, Y. J., KIM, D. & SUNG, T. (2010), "Global Crisis, Exchange Rate Response, and Economic Performance: A Story of Two Countries in East Asia", *Global Economic Review: Perspectives on East Asian Economies and Industries*, 39(1).
- COONEY, P., JUSTO, O. & SANTARCÁNGELO, J. E. (2016), "The Aftermath of the Global Crisis in Latin America: General Remarks and Future Perspectives", in J. E. SANTARCÁNGELO, O. JUSTO, & P. COONEY (eds.), *Latin America after the Financial Crisis: Economic Ramifications from Heterodox Perspectives*, London, Palgrave MacMillan.
- FREEMAN, S. (2018), *Liberalism and Distributive Justice*, Oxford, Oxford University Press.
- HOCKETT, R. (2008), "Toward a Global Shareholder Society", *University of Pennsylvania Journal of International Law*, 30.
- HOCKETT, R. (2019), "Open Labor Market Operations", *Challenge*, 62(2), 113-127. doi:10.1080/05775132.2019.1583418
- IMF (2009), *World economic outlook April 2009: Crisis and Recovery*, Washington, D. C., International Monetary Fund.

OPEN LABOUR MARKET REGULATIONS FROM A MORAL SCOPE...

- KELSEN, H. (1967), *Pure Theory of Law*, M. Knight, Trans., Los Angeles, University of California Press.
- MILLS, C. (1997), *The Racial Contract*, Ithaca, Cornell University Press.
- MILLS, C. (2017), *Black Rights/White Wrongs: The Critique of Racial Liberalism*, Oxford, Oxford University Press.
- MURPHY, C. (2017), *The Conceptual Foundations of Transitional Justice*, Cambridge, Cambridge University Press.
- NEW YORK TIMES (1996, 09 28), *School of the Dictators*, Retrieved 05 29, 2019, from NEW YORK TIMES, disponible en: <https://www.nytimes.com/1996/09/28/opinion/school-of-the-dictators.html>.
- NUSSBAUM, M. (2006), *Frontiers of Justice*, Cambridge, Harvard University Press.
- NUSSBAUM, M. (2011), *Creating Capabilities: The Human Development Approach*, Cambridge, Harvard University Press.
- OECD. (2013), *Interconnected Economies: Benefiting from Global Value Chains*, Paris, OECD Publishing.
- RAWLS, J. (1999), *A Theory of Justice*, Revised Edition, Cambridge, Harvard University Press.
- RAWLS, J. (2000), *The Law of Peoples*, Cambridge, Harvard University Press.
- RAWLS, J. (2001), *Justice as Fairness: A Restatement*, Cambridge, Harvard University Press.
- RAWLS, J. (2005), *Political Liberalism: Expanded Edition*, New York, Columbia University Press.
- RAZ, J. (2014), "Why The State", *King's College London Dickson Poon School of Law: Legal Studies Research Paper Series, paper no. 2014-38*, London, King's College London.
- RONZONI, M. (2018), "Justice, Injustice, and Critical Potential Beyond Borders: A Multi-Dimensional Affair", *Journal of Applied Philosophy*, vol. 35, No. 1, February 2018.
- ROUSSEAU, J. J. (1913), *Social Contract and Essays*, London, Everymans Library.

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- STEMPLOWSKA, Z. & SWIFT, A. (2012), "Ideal and Nonideal Theory", in D. ESTLUND, *The Oxford Handbook of Political Philosophy*, Oxford, Oxford University Press.
- WENAR, L. (2016), *Blood Oil: Tyrants, Violence, and the Rules That Run the World*, Oxford, Oxford University Press.
- WOLDU, H. G., ALBORZ, S. & MYNENI, N. (2018), "An Empirical Analysis of the Impact of Nafta on Economic Growth of its Member Countries", *International Journal of Business and Economics Perspectives*, 13(1).
- YOUNG, I. M. (2006), "Responsability and Global Justice: A Social Connection Model", *Social Philosophy & Policy Foundation*.