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Impediments to Rethinking Today's Economic System: The Story of the Happy Consciousness

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Abstract: Every stable society cultivates a "Happy Consciousness": the conviction that its basic institutions are sound and that only their implementation needs reform. This paper argues that the Happy Consciousness of contemporary market societies conceals a structural flaw analogous to slavery in the antebellum South. That flaw is the employment relation, understood as the voluntary renting of human beings. Orthodox economists such as Samuelson and Knight openly describe wages as rentals for persons. Yet the legitimacy of renting people is almost never debated, and the paper examines how this blind spot is maintained. Economics replaces the actual asymmetry of property rights in the firm, in which one party (the employer) owns the whole product (input liabilities and output assets), with a symmetrical picture of distributive shares. It also redefines the juridical notion of responsibility (which only applies to persons) as causal efficacy (shared with things), and it uses the public/private distinction to confine inalienable rights of self-determination to political life. Drawing on jurisprudence, the paper shows that only persons, not things, can be de facto responsible. The hired-criminal example shows that responsible human agency cannot in fact be transferred from employee to employer. When a crime is committed, the law sets aside the employment contract and treats employer and employee as partners. But employees are equally de facto responsible in normal non-criminous work. The employment contract therefore rests on a legal fiction. The paper concludes that the responsibility principle and democratic theory both point to the democratic, worker-owned firm as the alternative to human rentals.

Keywords: employment contract, inalienable rights, labor theory of property, responsibility, economic democracy, worker ownership

INTRODUCTION TO THE HAPPY CONSCIOUSNESS

The Glass-corridor of Orthodox Thoughts

All stable societies are basically happy with themselves. Any stable, self-reproducing society must educate its people to the consciousness that "all is essentially well" with the society. There are no *structural* flaws (like slavery), only the problems of implementing the sound principles at the foundation of the society. This self-reproducing and self-congratulatory state of mind might be called the "Happy Consciousness."

Any attempt to develop a critique of the basic structures and principles of a society involves of necessity transgressing and trespassing against the Happy Consciousness. There are not only glass ceilings but glass walls that define the *glass-corridor of orthodox thought*.

Young, aggressive professors in economics and the other social sciences are usually equipped with uncanny radar so they can roar down the glass-corridors of orthodox thought without ever getting close to breaking through the walls—all the while seeing themselves as brash free thinkers exploring the vast unknown. This radar-like instinct, inbred by the

ambient society as a part of the Happy Consciousness, constantly and almost unconsciously warns them away from the glass walls—away from irresponsible speculations (except perhaps in the pink of youth) and down the avenues of sound and serious social science research.

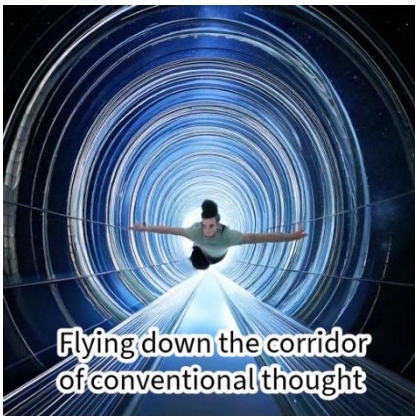


Figure 1: The glass corridor of conventional thought

And even when they do decide to dissent, there are now well-established alternative sandboxes for them to play in, e.g., Marxism, socialism, that will give them the desired "Badge of Red Courage" (apologies to Stephen Crane [2009]) without mounting any serious challenge to the status quo.

Breaking through the invisible walls of orthodoxy and trespassing against the Happy Consciousness has little to do with intellectual insight. It took no great brain power to "see" that slaves were persons and not things, but where were the abolitionists among the intellectual elites of ancient Greece or the antebellum South? Trespassing against orthodoxy requires a willingness to follow lines of thought wherever they might lead, a willingness to ignore the warning signals sent by one's inbred monitor of orthodoxy:

- "Is it serious, responsible work?",
- "Is it publishable?",
- "Is it scientific?",
- "Will it adversely affect my job prospects?",
- "Do I really want to become a pariah in my own profession?",
- "Am I committing professional suicide?", and so forth.

Those who choose to develop unorthodox theories must develop their own strategies for bearing the adverse consequences. For instance, Charles Darwin trespassed against the religious orthodoxy of his day, so he tried to postpone the publication of his theory but was forced to publish by the challenge of Alfred Wallace's work.

When one breaks through the glass walls of orthodoxy, then one may enter a topsy-turvy world where the customary guideposts of normality are missing. What was previously "normal" now appears as surreal and absurd. How can this be communicated to those who are still in the embrace of the Happy Consciousness?

Questioning the Human Rental Relation

This paper is an introduction to the intellectual trespassing involved in certain fundamental normative and positive questions of political economy. The result boils down to an attack on one and only one institution of our society, the institution of hiring or renting people (i.e., the employer-employee contract). The employment relation lies at the foundation of our present form of a market economy, just as the master-slave relationship lay at the foundation of the society of the antebellum South.

The alternative is a market economy without the employment relation, an economy where all people are working for themselves or working in the firms known variously as worker-owned firms, labor-managed firms, industrial partnerships, or democratic firms. In concrete terms, worker cooperatives or democratic Employee Stock Ownership Plans (ESOPs) are everyday examples. Self-employment is the economic version of political self-government, so the alternative system is sometimes called "economic democracy" [Ellerman 1992; 2021].

A number of expository devices and intuition pumps [Dennett 2014] will be used to try to break through the walls of conventional thought. For instance, we have already used one. We have called the employment relationship the "renting" of people. This is an intentionally jarring use of words. One rents, hires, or leases a car or an apartment, but one only "hires" a person. Yet the relationship is basically the same. In each case, one buys a certain type of services provided by the entity (measured in car-days, apartment-months, or person-hours) for a specified time period. While the characterization of the employment relationship as the "renting" of people may sound at first like a contentious accusation, it is actually not a bone of contention. Orthodox economists fully accept the characterization although they would prefer to use other language.

> One can even say that wages are the rentals paid for the use of a man's personal services for a day or a week or a year. This may seem a strange use of terms, but on second thought, one recognizes that every agreement to hire labor is really for some limited period of time. By outright purchase, you might avoid ever renting any kind of land. But in our society, labor is one of the few productive factors that cannot legally be bought outright. Labor can only be rented, and the wage rate is really a rental. [Samuelson 1976, 569]

The "renting people" characterization of the employer-employee relationship is perhaps the simplest example of the invisible boundaries of orthodox language and thought. That characterization is a "surprise" to most people. How is it that people can live their whole lives in a society based on the renting of people and yet when it is pointed out to them, they confess that they "never thought of it that way." If a person lived their whole life in the antebellum South and then said he or she "never thought of it" as being based on owning people, then we would conclude that he or she was firmly in the grip of false consciousness. Yet today most people who never considered employment as the renting of people would not see themselves as being in the grip of social thought control or false consciousness. They just "never considered it in that way." And that is just the simple matter of changing one word to a synonym. It is much more difficult to trespass over the other boundaries that demarcate the Happy Consciousness.

SURREALITY AND THE HAPPY CONSCIOUSNESS

Political-economic research can be an alienating experience. From being "at home" and "seeing the obvious" like everyone else, one can end up feeling like a visitor from Mars wondering why everyone else cannot or will not see the obvious.

Suppose that a person of modern moral sensitivities could be taken back by a time machine and dropped in the middle of a slave society such as the American antebellum South at the beginning of the 1800's. One might think that surely the distinguished professors, the celebrated thinkers, and the religious leaders of the society would be leading a struggle against slavery. But one would be quite disappointed. For centuries slavery had hardly been a topic of debate. Slavery was a "given" part of the social universe. Morally sensitive educated thinkers would go through their entire careers with hardly a word about slavery except for a few thoughtful criticisms of the various abuses of the system by unscrupulous and brutish individuals.

Our time traveler might well feel a stranger, a visitor from another planet. He or she might ask: "Why don't the intellectual and moral leaders raise their voice in protest? Why do the people of this slave society seem to have this strange 'moral blind spot'? Aren't they aware that the slaves are human beings like you and me? Don't they believe in basic inalienable human rights?" And so forth.

The truth of the matter is quite simple; it does not call for some complicated and convoluted theory. The slave society might seem surreal to our modern time traveler, but it was quite normal to its inhabitants. Societies do not promote to positions of status and influence those individuals who are likely to attack the foundations of the society. And any individuals who aspire to positions of status and influence are unlikely to harbor "unsound" opinions. There is no need for any "conspiracy." It is based on simple, self-regarding common sense.

The moral and intellectual leaders of a slavery society did not secretly develop what we would take as a modern critique of slavery and keep it hidden in the back of their minds. Instead they "grew up" with a "moral sense," the Happy Consciousness, endowed by their ambient society as to what opinions were sound and unsound. Any line of inquiry that looked like it would lead in the wrong direction was quickly abandoned as "unfruitful." There is no need for a conspiracy to hide or repress such thoughts. Substantive men and women have neither the time nor inclination to pursue "irresponsible" speculations.

Let us now change the example. Instead of being deposited in a society based on owning other human beings, let us suppose that our time traveler has landed in a society based on the renting of other human beings. Instead of buying a lifetime of services (as when buying a car), one could buy services for specified limited time period (as when one rents or leases a car).

That journey needs no time machine because that society is our society. The renting of people is the employment relationship. We prefer to use the word "hired" or "employed" or various other expressions when a person is rented.

> Since slavery was abolished, human earning power is forbidden by law to be capitalized. A man is not even free to sell himself; he must *rent* himself at a wage. [Samuelson, 1976, 52 (emphasis in the original)]

But wait a minute! We rent cars but hire people. Isn't that different? However, that linguistic habit in American English does not survive a trip across the Atlantic to the UK where rental cars are called "hire cars." Hiring, renting, and leasing are all expressions for buying the services of some entity as opposed to buying the whole entity. As Frank H. Knight, the founder of the (first) Chicago School of Economics put it:

> [I]n a free society the larger part of the productive capacity employed (as matters stand today in a typical Western nation) consists of the services of human beings themselves, who are not bought and sold but only, as it were, leased. (Knight 1936, 438)

Again, one might think that surely the distinguished professors, the celebrated moral philosophers, and the religious leaders of our present society would at least *discuss* the appropriateness of a whole society based on the voluntary renting of human beings. It is not even a new usage. When the owners of slaves sometimes sold the services of their slaves to others, then it was called "renting" as when the Army rented slaves for construction projects (Hulse 2010). But human rentals is not even a topic of debate. It is a "given" part of the social universe.

One standard argument is that the employment relation cannot be considered merely a limited version of slavery because slavery was involuntary. But that is not the comparison being made. I am considering the voluntary rental relationship as the time-limited version of the *voluntary* sale of oneself (i.e., as part-time *voluntary* servitude). When slavery was abolished, *voluntary* contractual slavery was abolished along with involuntary servitude (Soifer 2012). As Samuelson noted, "A man is not even free to sell himself." It does seem a bit surreal that voluntarily selling all of one's labor should be seen as fundamentally against our jurisprudence (inalienable rights!) while selling only part of one's labor is so taken for granted that social and moral thinkers do not even bother to discuss it. One might wonder about the borderline between perfectly normal rentals and fundamental violation of inalienable rights. Does it occur after 5 year contracts? After contracts of 8.5 years, 15 years, 25 years, ...?

Even the most fundamental theorem in standard normative economics, i.e., that a competitive equilibrium is allocatively efficient, needs to assume the legality of markets in any future labor services—but try to find a single orthodox economics book that points this out. However, it has been pointed out in no less a forum than Congressional testimony.

> Now it is time to state the conditions under which private property and free contract will lead to an optimal allocation of resources. . . The institution of private property and free contract as we know it is modified to permit individuals to sell or mortgage their persons in return for present and/or future benefits. (Christ 1975, 337–378)

And on the very rare occasions when the intellectual leaders in the Economics profession do discuss the inalienable rights that prohibit voluntarily selling sufficiently large chunks of one's future labor, it is to lament such an obstruction to the freedom of contract.

> The peculiar weakness of the position of one who owns earning power only in the form of personal capacities is, somewhat paradoxically, a consequence of the guarantee of personal freedom, general in modern nations, but logically not a part of the property system; in fact, it is a limitation on the

> ownership of one's own person. Because of such "inalienable rights" a man cannot "capitalize" his earning power because a contract to deliver labour in the future will not be enforced. (Knight 1947, 26, fn. 3)
>
> But the sanctity of personal freedom in Western legal systems, the doctrine of inalienable rights, makes it impossible for a person effectively to pledge his future earning power in exchange for present resources. [Ibid. 152]

There is no conspiracy to avoid or hide these questions. There is no need. Conventional intellectuals see no promise or payoff in thinking along such lines so there are no secret thoughts to be hidden behind a cloak of conspiracy. Instead of estrangement, there is the Happy Consciousness that all is fundamentally well in our institutions, the consciousness that one is "at home" in this society.

But don't get them wrong; reforms are needed! There are the difficult and seemingly intractable problems of implementing the sound principles embodied in our institutions, e.g., the wealth and income inequality resulting from the human rental system. But on the question of there being something *structurally* wrong with a socioeconomic system based on voluntary renting people, no shadow of doubt darkens the brow of our intellectual and moral leaders—although there is much hand-wringing and anguished distress concerning those in the bottom layers of society who have to rent themselves out for such a low wage or who cannot find anyone to rent them at all.

"SYMMETRY" IN THE RIGHTS OF THE FACTORS OF PRODUCTION: THE DISTRIBUTIVE SHARES PICTURE

Science wants to be "deep," not superficial. In the social sciences where the Happy Consciousness is the customary guide, the facts often "get in the way." But unwelcome facts can often be avoided through metaphorical reinterpretation. This is viewed as an advance in the social sciences. The serious and responsible researcher must delve beneath the superficial facts to probe the deep metaphors that will finally bring "science" in line with the pre-analytical vision of the Happy Consciousness. This process of "scientific" explanation and reconciliation is nowhere more evident than in the treatment of the firm, particularly in the structure of property rights within the firm. Let us consider an ultra-simple description of a production opportunity. The managerial and non-managerial labor symbolized by L uses the services of capital and the other inputs symbolized by K to produce the outputs Q during a certain time period. No conceptual clarity would be added to our discussion by using a more complicated and realistic description. The basic question is about the distribution of the proceeds, but who is to be the firm in the first place? Who will be the "firm" that undertakes this production process:

- the suppliers of the capital services K as in the capitalist firm (Capital hires labor),
- the people who carry out the labor services L as in the democratic firm (Labor hires capital), or
- the state as in the socialist firm (the state hires or owns both)?

In each case, what are the property rights enjoyed by the firm? The facts can be easily stated. In each case, the legal party that is the firm owns all (100 percent) of the produced outputs Q and holds all (100 percent) of the liabilities for the used-up services of

the inputs or factors of production. If the liabilities for the used-up capital and labor services were indicated by negative signs, then we could say that the firm has the bundle of property rights and obligations

$$(Q,-K,-L)$$

that can be called the "whole product" to distinguish it from the simple product Q. The other parties hold *none o*f these assets and liabilities.

For instance, in the capitalist firm, Labor (the suppliers of the labor services L) owns none (0 percent) of the outputs Q to be sold, and owes none (0 percent) of the liabilities to be paid off for the used-up capital and labor services. Similarly, in the democratic firm, Capital (the suppliers of the capital services K) owns none (0 percent) of the outputs Q and has none (0 percent) of the input liabilities charged against it. Of course, the same individuals might both supply capital and labor, but we are considering the functional roles separately.

The facts are that the property rights held by the various parties are totally asymmetrical (100 percent versus 0 percent). The Happy Consciousness is unhappy with these facts. "Alternative facts" are needed. The capitalist firm needs to be presented as a picture of symmetry, harmony, and partnership so the facts need to be reinterpreted. Since the property flows (assets and liabilities per time period) are completely asymmetrical, the first step is to change the topic to income flows. Let p, r, and w respectively stand for the unit prices of the outputs, capital services, and labor services. In view of the above-mentioned property flows, it follows that the legal party who operates as the firm gets all (100 percent) of the revenues pQ and is liable to pay all (100 percent) of the capital and labor expenses rK and wL. The other parties do not own the revenues and are not liable for the expenses. But these facts are again "superficial" because they are still completely asymmetrical. Science, under the guidance of the Happy Consciousness, must probe for deeper symmetries.

The move from property flows to income flows does represent some progress since the income flows are stated in the commensurate monetary units. The firm is liable to the factor supplier for the expense of that factor. One can "jump over" the firm and "picture" this right of the factor supplier "as if" it were a direct right on that share of the revenue. Of course, as long as the firm exists (i.e., is not bankrupt), the factor supplier does not actually own that share of the revenue (since the firm owns all the revenue). The input liabilities still need to be paid off even when the product bombs or the crops fail. But the Happy Consciousness is not satisfied with such superficial legalistic facts; it prefers the "alternative facts" of the deep metaphor of picturing the factor suppliers as getting their "distributive share of the product." Since the size of the distributive share is determined by the price and equilibrium demand of the factor, the touchy question of "what each factor gets" is now reduced to price theory. The original questions about property rights and "who is to be the firm" have been eliminated. The Happy Consciousness is happier.

This distributive shares metaphor has completely conquered Economics or as John Maynard Keynes put it: "Ricardo conquered England as completely as the Holy Inquisition conquered Spain. [Keynes 1953, 32] Hence one has to turn to an outsider, an economic sociologist in this case, to give a description of the actual facts about property rights.

> Under the factory system, the factory, raw materials, and finished product belong to the capitalist. The laborer at no time owns any part of what is passing through his hands or under his eye. Never can he say, "This product, when finished, will be mine, and my rewards will depend on how successfully I can dispose of it." There is much theoretic discussion to the "right of labor to the whole product" and much querying as to how much of the product belongs to the laborer. These questions never bother the manufacturer or his employee. They both know that, in actual fact, all of the product belongs to the capitalist, and none to the laborer. The latter has sold his labor, and has a right to the stipulated payment therefor. His claims stop there. He has no more ground for assuming a part ownership in the product than has the man who sold the raw materials, or the land on which the factory stands. [Fairchild 1916, 65-66].

Since the factor suppliers are pictured as "sharing" the (income stream of the) product, the firm is left out of the picture unless there is some "residual" left over after each factor takes its distributive share. The firm (which has 100 percent of the whole product from the "superficial" factual viewpoint) is thus reduced to the cameo role of the "residual claimant" in the new metaphorical narrative, and even that role is squeezed out in the long-run competitive equilibrium with zero residual profits.

The symmetrical "distributive shares" picture of production has passed into popular consciousness. In the context of broader social discussions, it serves to derail any discussion of property rights to the whole product and to shunt the discussion over to the topic of "income distribution." Even the most progressive economists can only talk about income (and wealth) distribution, not about who is to be the firm in the first place. Trying to find a Nobel economist who questions who is to be the firm in the first place is like trying to find an abolitionist among the elite intellectuals in the antebellum American South [Ellerman 2021].

One key to the distributive shares picture is that the firm is excluded from the main picture as holder of asset and liability flows. The factor suppliers are pictured as having direct claims on the revenue. In one recent variant on this set of metaphors, the factor suppliers are pictured as "contracting" for a share of the revenue and the "firm" itself is pictured as just this "nexus of contracts." The "residual claimant" is just another party that contracts for the "residual share" of the income.

> This is the set of contracts theory of the firm. The firm is viewed as nothing more than a set of contracts. One of the contract claims is a residual claim (equity) on the firm's assets and cash flows. [Ross and Westerfield 1988, 14]

Thus, even the residual claim—ordinarily pictured as getting what is left after contractual liabilities are satisfied—is depicted as "one of the contract claims." Thus the newfangled "nexus of contracts" metaphor improves on the old-fashioned distributive shares metaphor by treating the residual claim or equity as another contractual relationship. All trace of the complete asymmetry in the actual property rights and liabilities is eliminated in this picture. The army of metaphors marches on. The Happy Consciousness is even happier. The high priests of neoclassical economics often challenge those who have alternative views to express them in a precise mathematical form. How can the actual structure of property rights and income flows in a firm be put into a mathematical form and be brought to the attention of sophisticated economists? Perhaps this could be "revealed"

in a new application of game theory, control theory, or catastrophe theory, and thus get published in some serious scientific journal. But, alas, a mathematical theory already exists that describes the actual stocks and flows of property and income in a firm. This theory is not chaos theory or nonlinear analysis, not to mention any rocket science. This theory is called "accounting." Ordinary accounting deals with the stocks and flows of value. Accounting can be mathematically formulated and generalized also to deal directly with the multidimensional stocks and flows of property assets and liabilities in a firm [see Ellerman 2014]. It would be difficult to imagine any subject matter more boring and uninteresting to the refined mathematical sensibilities of modern economists than accounting. Thus, there seems to be little immediate hope of weaning sophisticated economists away from their deep metaphors and exposing them to the superficial facts—even when the superficial facts are expressed in precise mathematical form.

"SYMMETRY" IN THE ACTIVITIES OF THE FACTORS

The Asymmetrical Fact that Economics cannot Recognize

We saw in our last section the alleged "symmetry" between the rights attached to the services of things and the actions of persons in production where each supplier is represented like partners as getting a certain distributive share in the pie of the product of production. Why is this just a misleading metaphor?

Because jurisprudence does *not* recognize "symmetry" between the actions of persons and the services of things. The services rendered by things have a causal effect, but things cannot be "responsible" for their services. Only persons can be responsible. This is the fact that Economics cannot recognize: that the services of things and the actions of persons (labor) are fundamentally different in a relevant way. Thus, jurisprudence recognizes a deep and fundamental asymmetry between L and K, between the actions of human beings and the services of capital. Long ago, a juridically-trained economist admits this complete asymmetry between persons and things—but never again recognized in Economics.

> The judge ... who, in his narrowly-defined task, is only concerned with the legal imputation, confines himself to the discovery of the legally responsible factor,--that person, in fact, who is threatened with the legal punishment. On him will rightly be laid the whole burden of the consequences, although he could never by himself alone--without instruments and all the other conditions--have committed the crime. The imputation takes for granted physical causality. [Wieser 1930, 76].
>
> If it is the moral imputation that is in question, then certainly no one but the labourer could be named. Land and capital have no merit that they bring forth fruit; they are dead tools in the hand of man; and the man is responsible for the use he makes of them. [Ibid., 79]
>
> As soon as the judge has established the causal nexus and the presumption of sanity, he is bound to attribute the entire result to the accused. This is true even though he may know very well that the accused could never have accomplished it alone without instruments and without the peculiar contributing circumstances. …

> A decree of this sort is not in the least illogical. It does not purport to be a proposition concerning the causal nexus. It does not say that the perpetrator alone did commit, or could have committed, the deed without the aid of tools or the other persons of whom he made use. It says that among the many contributing factors the perpetrator is the only responsible agent. He is the only one whom the judge can punish in order to carry out the intention of the law and to satisfy the end of punishment. [Wieser 1927. 115]

The basic juridical principle of imputation is to assign legal or *de jure* responsibility in accordance with factual or *de facto* responsibility. A miscarriage of justice occurs when the *de jure* and *de facto* responsibility do not match up, i.e., when an innocent person is found legally guilty or a guilty person is found legally innocent.

Since only persons can be de facto responsible for anything, the imputation of legal responsibility goes back through any tools or other things used by people to the people themselves as the responsible agents. In the production firm, the managerial and nonmanagerial people by performing the labor services L use up the capital services K and produce the outputs Q. Thus, the juridical principle of imputation implies that those people should have those legal responsibilities (i.e., should be legally liable for the capital services K and have the legal ownership of the outputs Q). Since we are following the practice of conceptualizing this productive activity as also producing and using up the "labor" L, it also follows that those people should be liable (to themselves) for the labor services. Thus, elementary jurisprudence implies that Labor ought to legally appropriate the whole product; the firm should be a democratic firm. Thus, democratic theory and elementary jurisprudence arrive at the same result—so both obvious conclusions must be avoided in orthodox economics and political science.

Two Ways to Avoid the Asymmetry between Persons and Things

The simple jurisprudential fact that "only labor can be responsible" is obviously rather inconvenient for the Happy Consciousness in general and for orthodox economic theory in particular. It "requires" metaphorical reinterpretation. There are two ways metaphorically to restore the much-wanted symmetry between the actions of persons and the services of things;

(1) promote things to the level of responsible agents, or

(2) demote persons down to the level of non-responsible things.

The first metaphor of the pathetic fallacy will be called the "active poetic view" of production while the second metaphor will be called the "passive technological view" of production. The older economic literature favored the active poetic view. The non-human factors are personified with responsible agency so that they can rise up and cooperate with labor to jointly produce the product. For example, "Together, the man and shovel can dig my cellar" or "land and labor together produce the corn harvest" [Samuelson, 1976, 536-37]. While this view has great poetic charm, economists generally think that it is more "scientific" (in the sense of "physics envy" [Mirowski 1989]) to demote persons down to the level of things. Production becomes a "technological process," described by a "production function," not a human activity. Given the inputs K and L, the outputs Q are produced (but not produced "by anybody").

Bohm-Bawerk provided an example of reducing the actions of persons to the causally efficacious services of things.

> We must conceive of the *act of utilization of goods* as follows. Regardless of their form, all corporeal goods undergo utilization by virtue of the activation for the delivery of useful renditions of service of the forces of nature residing in them. This is no less true if the corporeal goods are persons or living creatures than it is if they are things. It applies with equal truth to the ditch-digger, the porter, the operator of a machine, to beasts of burden and other animals, such as a draft horse or a watchdog. In their case, just as in that of inanimate corporeal goods, it is the concrete activations of "harnessable" or "tractable" inherent forces of nature or renditions of power which yield to man the usefulness which he derives from these corporeal goods. [Böhm-Bawerk 1962, pp. 67-8]

With either the active or passive metaphors, the crucial symmetry between labor and the other factors is restored. The unique and fundamental jurisprudence role of the actions of persons (as opposed to the services of things) is hidden from the penetrating scrutiny of orthodox economists and other social scientists.

Even though the slaves were considered legally as things, they always burst into responsible personhood when they committed crimes. Thus, the *de facto* personhood of the legal slaves was never a secret to the judicial system of the time. As they put it,

> the slaves are rational beings, they are capable of committing crimes; and in reference to acts which are crimes, are regarded as persons. Because they are slaves, they are ... incapable of performing civil acts, and, in reference to all such, they are things, not persons. [Catterall 1926, 247]

And this doesn't change when the workers are only voluntarily rented instead of being involuntarily owned by their workplace masters. The legal system is fully aware of the employee's responsible personhood when they commit crimes in the context of an employment relation.

> All who participate in a crime with a guilty intent are liable to punishment. A master and servant who so participate in a crime are liable criminally, not because they are master and servant, but because they jointly carried out a criminal venture and are both criminous. [Batt 1967, 612]

Or in a rare observation by a social scientist:

> [B]oth the principal and the agent, [i.e., employer and employee] the person who hires the hit man and the hit man who carries out the murder, are held liable. ...The general thesis in the hit-man case is straightforward: agents are not held responsible for actions that, if taken under one's own authority, are not criminal, but they are held personally responsible for actions that are criminal acts as defined by the law of the land. [Coleman 1982, 99]

But when master and servant or principal and agent, or employer and employee (in our newspeak), jointly carry out a non-criminous venture, then the employees have zero legal ownership of the products they produce and zero legal liability for the inputs they use up—even though their de facto responsibility is surely the same as when they committed

crimes. Of course, a legal contract to commit a crime would be considered invalid and the legal contract for non-criminous employment or human rental contract is presently perfectly valid. But the *de facto* responsible personhood of employees remains the same in either case. Hence it is an inherent miscarriage of justice when self-same non-criminous *de facto* responsible employees have zero legal responsibility for the positive and negative fruits of their labor. [Ellerman 2021] This is the simple fact, obvious to all willing to look, that orthodox economists, political scientists, and legal theorists will not recognize and cannot recognize without jeopardizing their professional status in an economic system based on the renting of human beings.

"SYMMETRY" AND THE R-WORD

What Word cannot be Spoken in Economics (Except Metaphorically)

"Responsibility" is the R-word that economics cannot utter (except metaphorically). The reader is invited to find a single economics text that mentions that only human actions, not the services of things, can be *de facto* responsible. Apparently, economics exists in simply a different world than jurisprudence.

The basic juridical principle of imputation ("Impute *de jure* responsibility according to *de facto* responsibility") can also be restated in the language of property theory ("Assign to people the positive and negative fruits of their labor") and then it is usually called the "labor theory of property." The labor theory of property (which has nothing to do with prices) is often confused, usually deliberately, with the various fallacious "labor theories of value."

The studied incapacity of orthodox economics to recognize the unique *de facto* responsibility of labor is nowhere more evident than in the conventional discussion of the "labor theory." Orthodox economics depicts adherents of the so-called "labor theory" as not understanding that land (and capital) is "productive" in the sense of being causally efficacious. These labor-theory ignoramuses

> seemed to deny that scarce land and time-intensive processes can also contribute to competitive costs and to true social costs…" [Samuelson 1976, 545].

Happily, neoclassical economists have taken a tip from farmers and have discovered that land is useful in producing the harvest—so economics can finally moved beyond the "labor theory." Land and capital goods are also "productive," not just labor. In the Happy Consciousness of neoclassical theory, there is no inkling that some other unmentionable R-word might be involved in addition to causal efficacy.

In their defense, neoclassical economists might reply that it not *their* job to provide a "non-silly" interpretation to "the labor theory." That should be the job of the economists officially designated as the heretics, namely the Marxists. Why have the Marxists also been completely unable to utter the R-word and thus unable to provide a non-silly interpretation to "the labor theory"? One needs to understand the different social roles of Marxist economists in the West and in the East. In the West, Marxist economists are maintained in the universities essentially as non-threatening but occasionally annoying gadflies to prove the liberalism and open-mindedness of the economics profession. In the East, Marxist

economists were priests who had to adhere to their own orthodoxy. Marx could not find the R-word, and after Marx, the genetic code of Marxism was fixed. Mutations in the direction of interpreting "the labor theory" in terms of "bourgeois jurisprudence" had no survival value in the Marxist environment of the East or West.

One seemingly has to go back to the roots of marginal productivity theory to find any recognition in the economics of the usual juridical principle of imputation. Friedrich von Wieser, the economist who introduced the word "imputation" (*Zurechnung*) into the economics vocabulary, understood that ordinary jurisprudence operates on the assumption that only people, not things, can be responsible for anything.

> The judge ... who, in his narrowly-defined task, is only concerned with the *legal imputation*, confines himself to the discovery of the legally responsible factor,—that person, in fact, who is threatened with the legal punishment. On him will rightly be laid the whole burden of the consequences, although he could never by himself alone—without instruments and all the other conditions—have committed the crime. The imputation takes for granted physical causality.... If it is the moral imputation that is in question, then certainly no one but the labourer could be named. Land and capital have no merit that they bring forth fruit; they are dead tools in the hand of man; and the man is responsible for the use he makes of them. [Wieser 1930, 76-79]

Wieser was clearly aware that "only labor can be responsible" even though all the factors are causally efficacious. At least he could not claim that he "just never thought about" ordinary jurisprudence. But Wieser was not in the business of determining whether production based on renting people was consistent with jurisprudence. As any serious and substantive economist could see, normal production based on human rentals was obviously correct, and it is their social role, like priests in a church, to explain that. If some principle was not in accord with ordinary production, then clearly the principle begged to be reinterpreted. Therefore, there must be some metaphorical reinterpretation to render ordinary jurisprudence "inapplicable" to the world of economics. Jurisprudence deals with legalistic matters such as property rights and ownership. Economics must probe for deeper realities. Thus, the notion of responsibility used in ordinary jurisprudence would have to be replaced by an appropriate notion of "economic responsibility."

> In the division of the return from production, we have to deal similarly ... with an imputation—save that it is from the economic, not the judicial point of view. [Wieser 1930, p. 76]

Thus, deep metaphors make ordinary jurisprudence inapplicable to the world that economists live in. By defining "economic responsibility" in terms of marginal productivity, Wieser could finally draw the desired conclusion that capitalist production "economically" imputes the product in accordance with "economic responsibility."

The Attempt of Economics to Reinterpret the Responsibility Principle

Economics tries to appropriate the moral force of the labor theory of property (i.e., the responsibility principle applied to the creation and using up of property), by simply redefining "responsibility" as causal efficacy.

> Under “perfect competition” it is theoretically true that the income share paid to the individual who furnishes any unit of productive service is equal in market value to the share of the social product causally imputable to that unit of productive service as its contribution to the total. [Knight 1947, 6-7]

> The analysis [of market competition] shows how, under the conditions necessary for its existence, this organization achieves efficiency in the utilization of resources and justice in the distribution of the total product, efficiency being defined by the ends chosen by individuals and justice by the principle of equality in relations of reciprocity, giving each the product contributed to the total by its own performance (“what a man soweth that shall he also reap”). [Knight 1956, 292]

> The ethical principle that would directly justify the distribution of income in a free market society is, ‘To each according to what he and the instruments he owns produces.’ [Friedman 1962, 161-162].

In addition to metaphorically reinterpreting “responsibility,” Wieser and later neoclassical economists also misunderstood the logical structure of the imputation question. The usual notions of responsibility and imputation are not relevant to the question about the division of shares of the product since the ownership of the product is not “shared” in the first place—except metaphorically. But if we set aside the deep metaphors and consider for a moment the superficial facts, then we will see that one legal party gets the *de jure* responsibility for the whole product (i.e., gets the legal ownership for 100 percent of the produced outputs and is legally liable for 100 percent of the used-up inputs). The question of imputation is whether or not that imputation of legal or *de jure* responsibility is in accordance with factual or *de facto* responsibility.

The facts about *de facto* responsibility are that all the people working in the enterprise, management and labor, are *de facto* responsible for jointly producing the outputs by using up the inputs—so by the ordinary principle of imputation, they should receive the imputation of that legal responsibility for the whole product. That is the ordinary jurisprudential argument for the type of firm known as a worker-owned firm, labor-managed firm, or a democratic firm.

The tactics of Wieser, Knight, Friedman, and innumerable other economists illustrate one of the basic methodological principles of the economic sciences. Economics must not be left vulnerable to being invaded or “blind-sided” from some other field. Important questions about economics cannot be left to the domain of non-economists. One defensive tactic is to try to immunize any invading concept by developing an “economic” version of the concept. If the ordinary notion of responsibility is threatening (e.g., since it only applies to persons, not things), then invent a new notion of “economic responsibility” that will be the sole domain of economics. If legal notions of ownership seem inconvenient in economics (e.g., one legal party’s 100 percent ownership of the whole product of a firm), then economists can retaliate by developing notions of distributive shares and economic responsibility are defined to deal with the deeper questions facing economics, economists do not have to worry about their theories being inconsistent with jurisprudence, which, after all, deals “only” with the legal version of those notions.

THE SCHIZOPHRENIC NATURE OF MODERN DEMOCRACY

How the Happy Consciousness Normalizes Public Self-determination and Private Subjection

Suppose that our modern time traveler was transported back to a "predemocratic" time such as the Middle Ages. Religious and secular autocrats vied for political sovereignty; democracy was not one of the options. The people were hardly aware of any such notions as democratic self-government; they sought a wise, strong, and good master.

Our traveler from modern society might find this situation rather perplexing. Democracy was known at least from ancient Greece. Why weren't courageous intellectuals and spiritual leaders of the Middle Ages raising the issue? If there was too much oppression, then the moral leaders might at least write about democratic rights in secret for posthumous publication. But there is little evidence that such thoughts were harbored by the elites. They were formed by a society and its institutions that inculcated views as to what was sound and unsound. Responsible thinkers who shaped the opinions that carried weight saw no reason to veer off into iconoclastic speculations about inalienable democratic rights.

Someone from the distant or perhaps not so distant *future* who traveled back to our time might be similarly perplexed. Today, on the 250th anniversary of the American Declaration of Independence, we are steeped in the language of inalienable rights such as the inalienable right of self-government or self-determination (even though Wikipedia still doesn't have an entry on "*Inalienable rights*" which redirects to *Natural and Legal Rights* which are alienable). The right to self-determination is not seen as an ownership right like the property right to a car that we may have today and sell tomorrow. It is inalienable in the sense that we may not give up the right even with consent. A *pactum subjectionis (pact of subjection)*, a social contract to give up and transfer the right of self-government to some sovereign person or body, is considered inherently invalid. This is part of the conventional wisdom reinforced in serious political speeches about our basic rights and reiterated in the philosophical tomes that record the fundamental inalienable rights that undergird our morally advanced civilization.

Or so it seems at first. But then our time traveler from the future asks about "what people do all day long," namely about their work. The time traveler finds that almost all people work as employees under the legal contract known as the employment contract. In that contract, the employee gives up and transfers to the employer the right of self-determination within the scope of the contract (i.e., concerning the work). It is not a contract of representation or delegation as is contemplated in democratic theory. The employer is not the representative, delegate, or agent of the employees. The employment contract transfers and alienates the right to control the employee's actions within the scope of the contract to the employer who then exercises that right in his or her own name, not in the name of the employees. It is the *pactum subjectionis* of the workplace.

This may seem strange indeed to our time traveler who might come from a world where people are recognized as having an inalienable right of self-determination in *all* spheres of life—political, economic, and private family life. Even our top-notch political philosophers, such as Harvard's John Rawls, allowed that some rights of self-determination may be alienated—as in the employment or human rental contract.

> This explanation of why the basic liberties are inalienable does not exclude the possibility that even in a well-ordered society some citizens may want to circumscribe or alienate one or more of their basic liberties. ...
>
> Unless these possibilities affect the agreement of the parties in the original position (and I hold that they do not), they are irrelevant to the inalienability of the basic liberties. (Rawls 1996, 366–367 and fn. 82)

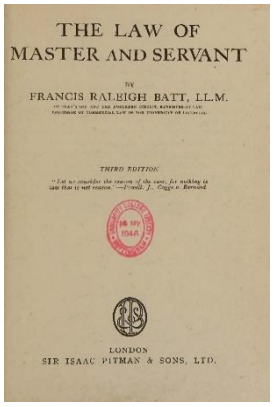
The Economics Nobel Laureate and political theorist, James Buchanan, correctly stated the norms of a liberal society.

> The justificatory foundation for a liberal social order lies, in my understanding, in the normative premise that individuals are the ultimate *sovereigns* in matters of social organization, that individuals are the beings who are entitled to choose the organizational-institutional structures under which they will live. In accordance with this premise, the legitimacy of social-organizational structures is to be judged against the voluntary agreement of those who are to live or are living under the arrangements that are judged. The central premise of *individuals as sovereigns* does allow for delegation of decision-making authority to agents, so long as it remains understood that individuals remain as *principals*. The premise denies legitimacy to all social-organizational arrangements that negate the role of individuals as either sovereigns or as principals. [Buchanan 1999, p. 288]

Yet the Happy Consciousness of the Economics Nobel laureate does not seem to understand that the employees in the "organizational-institutional structures" called "firms"—where most adults spend their days— do not "remain as principals" in the employer-employee relation—newspeak for what used to be called the "Master-Servant" relation. As another Economics Nobel laureate put it; the employment relation is the:

> legal relationship normally called that of 'master and servant' or 'employer and employee' [Coase 1937., p. 403].

Batt [1967] is a 20th century lawbook on employment law that still uses the oldspeak.


THE LAW OF
MASTER AND SERVANT

BY

FRANCIS RALEIGH BATT, LL.M.

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This minor detail about the economic system in which Buchanan spent his life studying has not seeped into his Happy Consciousness. Hence he could go on to say without shame or irony—not to mention accusation:

> The premise denies legitimacy to all social-organizational arrangements that negate the role of individuals as either sovereigns or as principals. (Ibid. p. 288)

In fact, no Economics Nobel laureate has questioned the economic relationship of renting human beings *per se*, but happily most at least lament the obscene inequality of income and wealth between the masters and the servants. The depth of their moral insight and the profile of their moral courage is shown by the refrain: "Perhaps there should be more taxes on the super-rich."

The Bogus Use of the Public/Private Distinction

How is it that human beings are seen to be neatly partitioned so that in a person's life as a citizen the right to self-determination is sacred, inviolate, and inalienable, but in a person's life as a worker the right to self-determination is routinely bought and sold as a matter of ordinary commerce? Are people perhaps seen as moral minotaurs, half-human and half-beast, so that the human half enjoys inalienable rights while the beastly half can be rented out in the employment contract?

> This makes it seem as if the workplace is a continuation of arm's-length market transactions, as if the labor contract were no different from a purchase from Smith's butcher, baker, or brewer. ...But the butcher, baker, and brewer remain independent from their customers after selling their goods. In the employment contract, by contrast, the workers cannot separate themselves from the labor they have sold; in purchasing command over labor, employers purchase command over people. (Anderson 2017, 57)

> The result is a kind of political hemiagnosia: like those patients who cannot perceive one-half of their bodies, a large class of libertarian-leaning thinkers and politicians, with considerable public following, cannot perceive half of the economy: they cannot perceive the half that takes place *beyond* the market, *after* the employment contract is accepted. (Ibid. 57-8)

Or perhaps people are amphibious creatures alternating between a "public world" that enjoys inalienable rights and a "private world" where such rights fall into eclipse?

Our time traveler from the future might have some difficulty understanding today's mindset of the Happy Consciousness that our institutions are fundamentally sound. We now find it strange that people in the past could have been denied fundamental rights to self-determination simply due to the color of their skin or their sex. Yet even stranger is today's view that the self-same person can have an inalienable natural right to self-determination in one sphere of life (the "public sphere" or life as a citizen) but have no trace of this inalienability survive in another sphere (the "private sphere" or life as a worker).

Our time traveler might search the political, economic, and philosophical texts and treatises of today to find some recognition, discussion, and explanation of this curious split personality of modern man. But the traveler would be largely disappointed. In the orthodox texts that express the conventional wisdom, one will find no discussion of the matter. The legal alienation of the right of self-determination in "what people do all day long" is not deemed a worthy topic of debate by responsible intellectual and moral leaders. Since the

(political) democratic revolutions of the eighteenth and nineteenth centuries, the rather contrived public/private distinction has functioned to "explain" the failure to recognize democratic rights in the economic sphere.

The Feminist Movement has long ago argued that "It is private" is no justification for the denial of inalienable rights in the family—but few extend the insight to the workplace—Elizabeth Anderson (2017) and Carole Pateman (1988) being important exceptions. The public/private distinction serves as an intellectual prophylactic to guard the economic sphere against being "infected" with the democratic germ. The Happy Consciousness is trained to be placated with "It is private" as a sufficient explanation for the alleged inapplicability of democratic principles to what people do all day long.

UNDERSTANDING THE INALIENABILITY OF LABOR

The Intuition Pump of the Hired Criminal Example

One can *buy* a long-lived asset or *rent* the asset (i.e., buy a car or rent a car). When one rents an asset, one buys the services provided by the asset within the scope of the rental contract. But what counts as fulfilling the rental contract on the part of the asset owner? To fulfill the rental contract, the services provided by the asset are transferred from the owner to the leasee by turning over the use and control of the asset to the leasee. For instance, the use and possession of a rented apartment or a rented car is turned over by the owner to the leasee or renter for the duration of the rental contract.

The employment contract is the contract for the renting or hiring of human beings—for buying the services of human beings (labor services). For human beings, one does not today have the buy-or-rent option since the voluntary sale of labor by the lifetime was forbidden along with involuntary slavery. Self-ownership is legally mandatory. We have commented previously on the oddity of the usual view that the long-term renting of humans is a fundamental violation of human rights while short-term rentals are the foundation of our economic system. We now seek to make a different point concerning what counts as fulfilling a rental contract for human beings (i.e., as fulfilling a contract for the purchase of labor services). What in fact fulfills the contract?

If the owner of a car or an apartment rented out the asset but then refused to deliver it even though the rent was paid (e.g., refused to give the keys to the leasee), then the owner would have violated the contract. The owner would not have fulfilled his or her half of the contract. Notice that it is a factual question whether or not the owner turned over the possession and use of the rented asset to the leasee. When the use of the asset is factually transferred to the leasee in fulfillment of the contract, then the leasee can use the asset on his or her own and be responsible for the results.

This whole legal framework of the rental, leasing, or hiring contract is carried over and applied to persons in the employment contract. But the problem is that the factual question of fulfilling the contract by turning over the possession and use of the rented asset from the owner to the renter (employer) is entirely different *when the rented entity is a person*. Responsible agency, a.k.a., labor, is not in fact interpersonally transferable. A person can at most agree to co-operate with another person (e.g., by following the latter's instructions) but then they are in fact jointly *de facto* responsible for the results of their

joint activity. This is not a new observation. The Swedish labor leader and pioneer in social democracy, Ernst Wigforss, put it this way.

> But, above all, from a labor perspective the invalidity of the particular contract structure lies in its blindness to the fact that the labor power that the worker sells cannot like other commodities be separated from the living worker. This means that control over labor power must include control over the worker himself or herself. Here we perhaps meet the core of the whole modern labor question, and the way the problem is treated, and the perspectives from which it is judged, are what decide the character of the solutions. [Wigforss 1923, p. 28]

But orthodox economists are professionally bound to "normalize" the institution of renting human beings so they have to treat labor as "separated from the living worker." At best, economists might notice a certain "peculiarity" of labor:

> Second peculiarity. The seller of labour must deliver it himself. [Marshall 1961, p. 566]

The nontransferability of labor is easy to "see" using the intuition pump of the hired criminal example. An entrepreneur hires a person to work in his business and he also hires a van. In addition to normal business activities, the entrepreneur "employs" his employee and the van to rob a bank. When caught, the employer and the employee are both charged with the crime. But the van owner, who was not involved other than as owner of the rented asset, was not charged in the crime. The employee might argue in court that he is as innocent as the van owner. He too rented an asset to the entrepreneur and he turned over the employment of the rented entity to the employer in fulfillment of the contract. What the entrepreneur did with his hired entities was his business and solely his responsibility.

But this defense would not be accepted in court. The judge would point out that the van owner could indeed turn over the use and possession of the van to the entrepreneur and not be personally involved in the use of the van. But a person cannot as a matter of fact do the same with his own self. He is inextricably involved in the "employment" of his labor and thus he is inherently jointly responsible for the results of the joint activity.

This is a point of *fact*, not a point of law. Of course, the legal doctrine is that when the employer and employee turned to illicit activities then the employment relation ceased and they became *de facto* partners. But that is only a question of legal doctrine. The point is the facts, and the facts are not changed by the legal doctrine. If the worker is *de facto* co-responsible when he or she obeys the employer in the commission of a crime, then the worker is also *de facto* co-responsible in the commission of ordinary work. The worker does not suddenly become a machine or automaton in fact when the work is legally permitted and when the employment contract is legally accepted. Alternatively, if the employee was really an instrument devoid of responsible capacity, then it is hard to see how he or she could suddenly burst into responsible agency when the labor stepped over the boundaries of the law. When the law is broken, then the law rejects the contractual superstructure, the law looks at the facts, and the law sees responsible co-operation. The servant in work suddenly becomes the partner in crime.

> All who participate in a crime with a guilty intent are liable to punishment. A master and servant who so participate in a crime are liable criminally, not

> because they are master and servant, but because they jointly carried out a criminal venture and are both criminous. [Batt 1967, p. 612]

When the "venture" being "jointly carried out" is non-criminal, then the servant or employee is just as *de facto* co-responsible for the results of the venture. It is the reaction of the law that changes. When no illegality is involved the same *de facto* responsible cooperation of the employee is then "accepted" by the law as "fulfilling" the contract for the transfer and alienation of the labor services from the employee to the employer—as if the employee had been "employed" as an instrument.1

The Law has Always Known about *de facto* Responsibility

None of this is new. The law, of course, exhibited the same inconsistency when the workers were owned instead of merely being rented. The slaves, who normally had the legal role of beasts of burden, suddenly burst into responsible persons when they committed crimes.

> The slave, who is but "a chattel" on all other occasions, with not one solitary attribute of personality accorded to him, becomes "a person" whenever he is to be punished! [Goodell 1853, p. 309]

The "talking instrument" in work becomes the responsible person in crime. Did the law of the antebellum South ever recognize this inconsistency? One antebellum court in Alabama held that slaves

> are rational beings, they are capable of committing crimes; and in reference to acts which are crimes, are regarded as persons. Because they are slaves, they are … incapable of performing civil acts, and, in reference to all such, they are things, not persons. [Catterall 1926, 247]

It is an interesting question whether or not the legal authorities of today have achieved this level of consciousness about the similar problem involved in the renting of human beings—the problem that was illustrated by the example of criminous employee.

From the precedent of slavery we can draw lessons about today's peculiar institution of renting human beings. Since the antebellum law recognized that the slaves were in fact persons, the whole legal superstructure that treated them as things (when they did not break the law) was really a "fiction." In less kind terms, it was a massive fraud on an institutional scale. And that is the lesson that can be applied, *mutatus mutandis*, to the renting of people.

We have seen that the law is perfectly aware that the employee co-operates with the employer in a venture they jointly carry out and they are *de facto* co-responsible for the results of the venture—at least when the venture is criminous. And we have seen no inkling of an argument that the facts change when the venture is non-criminous. But the law changes; it then "pretends" that the responsible co-operation of the employee constitutes the alienation and transfer of the labor services from the employee to the employer in "fulfillment" of the labor contract. With the labor contract legally accepted as

1 The hired criminal intuition pump was first used by the author over a half-century ago in Ellerman 1973. The excellent George H. Smith independently developed the same argument (1997, p. 54) except using an owned worker (a slave Murphy) instead of a rented worker.

both valid and fulfilled, the employer has borne the costs of all the inputs including labor, so the employer has the legally defensible claim on the outputs. It is not a question of wages. The point is that the employees have 0 percent legal ownership of the jointly produced outputs and 0 percent legal liability for the jointly used-up inputs in spite of their *de facto* co-responsibility for using up the inputs and for producing the outputs. And thus it is that by pretending the employees' responsible cooperation "fulfilled" the labor contract (when no crime is committed), the law sets up and allows the violation of the basic juridical principle of assigning legal responsibility in accordance with de facto responsibility.

When the law pretends that responsible human actions ("labor") can be transferred from one person to another (when no crime is committed), that is a legal fiction. It is a fiction that is set aside in favor of the uncontested facts when the law is broken. Since the employment contract is based on the fictional transferability of responsible human action, it is what would commonly be called a "fraud"—a fraud executed on an institutional scale. And, as usual, a fraud allows a theft or injustice (the misimputation of legal responsibility) to take place behind the guise of a voluntary contract.

It might well be asked: "If the responsible co-operation of the employees does not fulfill the employment contract, then what does?" Nothing does. Labor is *de facto* inalienable and nontransferable (as was seen in the case of the criminous employee). To change that would be to change human nature. What a boon it would be for hired criminals if their responsible agency could be somehow factually transferred to their employer.

We can, in the spirit of science fiction, consider how human nature might be changed to allow the resulting "persons" to fulfill the employment contract. Suppose that some sort of computer chip could be implanted in a person's brain so that the person would become a part-time robot. When the control chip was turned on, the "person" would temporarily lose the capacity for responsible action and self-control and would be controlled as a robot through a computer. The "actions" or rather behaviors of such an individual would indeed be transferred from the original owner of the entity to the employer. Then the worker would be on a par with the owner of the rented van. "Labor" would then be *de facto* transferable, and the employment contract would no longer be based on a fiction or fraud.

This example can also be viewed the other way around. The contract for renting people treats people *as if* they already were such part-time robots—*as if* they were part-time things. Thus we again have the unsurprising result that renting people is treating people as things (on a part-time basis within the scope of the employment). But the reasoning and analysis that leads to these unsurprising results are unavailable to the profession of economists, not to mention the Happy Consciousness. There is no point, no profit, and no payoff in asking such questions, pursuing such lines of thought, and indulging such speculations. It is "obvious" that the cooperation of the employee with the employer "fulfills" the employment contract.

CONCLUSION ON THE HAPPY CONSCIOUSNESS

Someday, the Happy Consciousness of today may not seem so "normal." Someday it will seem strange that there could be a whole society based on the renting of human beings—a society with an "advanced" social consciousness—in which that was not even considered a topic worthy of discussion by the moral and intellectual leaders of the day.

It might seem strange that a "democratic society" could be so schizophrenic and bifurcated in its vision of democratic rights that a person could be seen as having an inalienable right to self-determination as a citizen but could at the same time be routinely alienating the right to self-determination in the workplace.

We have a whole system of jurisprudence based on the fundamental distinction between persons and things—where only persons can be responsible and where responsibility can only be imputed through things back to the responsible person (regardless of the causal efficacy of the tools or things). Thus it might seem odd that we also have a "science" of economics where this distinction is unheard of, where the R-word cannot be spoken (except metaphorically), and where textbook upon textbook, for decades upon decades, present "the labor theory" as a patently implausible theory denying the causal efficacy of things without ever broaching the thought that the distinction between labor and the services of things might have something to do with the R-word.

Today, we perhaps understand the irony that the law of slavery only treated the slaves with the respect and dignity that was their due as persons when the law punished the slaves for crimes. Someday the analogous irony of today's legal system might be understood. The law only recognizes the inherent de facto responsibility of the employees for the fruits of their labor when the employees break the law. Then the law—with unintended irony—correctly recognizes that the employment contract was fictional, correctly recognizes that all who carried out the venture are jointly de facto responsible for the results, and correctly reconstructs the venture as a partnership of all who worked in the venture. Thus just as the antebellum law ironically recognized the case for the abolition of slavery in favor of self-ownership, so today's law, when it sets aside the fictions in favor of the facts, inadvertently trespasses against the Happy Consciousness and sets forth the case for the abolition of the employment contract in favor of people being universally working in the types of firms called industrial partnerships, democratic employee-owned firms, labor-managed firms, and democratic firms [see Ellerman 1992, 2021, and 2026].

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