ANNOUNCEMENT

Harvard LPE Association Call for Submissions – Law and Political Economy Writing Prize

The Harvard Law School Political Economy Association is delighted to announce a Law and Political Economy Writing Prize for law students and graduate researchers, with submissions due by April 30, 2021. The aims of the prize are twofold. First, in a time of ecological, financial, political and social upheaval, it provides material recognition of work by law students and graduate researchers seeking to address the role of law in contemporary capitalism. Second, it aims to encourage original research and writing in this field by providing entrants with an opportunity to receive feedback from senior scholars.

The prize will be awarded by a panel of distinguished scholars, practitioners, and state or federal judges working with law and political economy approaches, including Professor K-Sue Park (Georgetown) and Dr Ntina Tzouvala (Australian National University). The winning entry will receive a prize of $2,000 and priority consideration for publication in the Journal of Law and Political Economy. Second place will receive a prize of $1,000 and third place a prize of $500. The three winning entries, as well as selected finalists, will be invited to present their papers and receive feedback from senior scholars and practitioners at a workshop to be held in late May/early June 2021.

Possible topics for entries include, but are not limited to:

- Law, ecological crisis, and extractive frameworks
- The legal construction of labor, class, social reproduction, and the gig economy
- Law, financialisation, and market institutions
- Law, racial capitalism, and settler colonialism

- Algorithmic capitalism and technological futures
- Post-growth projects and alternative horizons
- Law, democracy, resistance, and social movements
- Legal pedagogy and the contemporary legal academy

Entries should be sent to HarvardLPE@gmail.com by April 30, 2021. Please forward all entries in both Word and PDF format, without your name or affiliation, along with a separate biographical note of no more than 200 words. Entrants should be currently enrolled in (or have completed in the 2020-21 academic year) a first law degree or masters degree in law, or be a current PhD or SJD candidate in any discipline. We encourage entry from those based inside or outside the United States, although due to the language constraints of our judging panel all entries should be submitted in English.

Entries will be judged on their originality, depth of analysis, and engagement with the intellectual, social and political questions underpinning the law and political economy movement. Entries should be between 8,000 and 12,000 words including footnotes and may be formatted in any standard citation style. The work should not (in whole or in substantial part) have been previously published in a journal or other publication.

Inquiries about the writing prize can be addressed to HarvardLPE@gmail.com.

Full post can be found here.

Race and Money

Race and Money

Prompt for Discussion

Contributors: Mehrsa Baradaran, Michael O'Malley, Michael Ralph, David M. P. Freund, Destin Jenkins, Peter Hudson, K-Sue Park

In several historic moments of banking or monetary reform, issues of race were inextricably tied to issues of money. The legacy of institutional segregation continues today. More crucially, the history of money, credit, and banking is implicated in ongoing exclusion and exploitation of vulnerable communities.

Scholars in several fields have explored how the institution of enslavement has shaped American capitalism, monetary debates, credit markets, and banking. Enslavement and its long shadow caused stark and ongoing wealth distortion. The Constitution marked slaves as "articles of commerce" and financial ledgers tracked "property in man" as assets, credit, debt, and monetary value. Between 1820 and the Civil War, banks across the south issued notes with images of slaves printed on the money. The Union won the bloody ground battle thanks to war generals Grant and Sherman, but it also, and perhaps more importantly won the currency war thanks to President Lincoln, Treasury Secretary Salmon P. Chase, and the Supreme Court of the United States. Lincoln's "greenbacks," backed by the full faith and credit of the US Treasury (but not backed by gold) enabled the Union victory. In turn, the success of the Union army fortified the new currency. The success of the new fiat currency and the Union soldiers were inextricably linked.

The war over slavery was also a war over the future of the economy, the nature of property rights, and the essentiality of value. By issuing fiat currency, Lincoln opened up a debate about how elastic the money supply might be. Fiat money transparently based money's worth on the federal government's determination to take it for value. As Keynes said of legal tender—"the state claimed the right not only to enforce the dictionary but to write it!" Scholars in this roundtable will discuss how those crucial debates affected modern theories about money and value.

The scholars in this roundtable will also discuss the ongoing effects of slavery, Jim Crow, housing segregation, and employment discrimination on the modern economy. In America, each rung on the ladder toward prosperity consisted of bank credit—even more so in the 20th century when homeownership became synonymous with both mortgage credit and prosperity. For Blacks and others, the path toward wealth was closed. It was closed by segregation, government policies, and by realities of finance. In this roundtable, we have invited pre-eminent scholars whose work illuminates core issues at the intersection of money and race. We have asked them to respond to a few questions: How did slavery shape the US monetary, credit, and banking system? How did the economic system and monetary forms shape racial dynamics? What aspects of the modern economic system are influenced by America's racial history? How has America's racial history affected theories of capital, money, or debt? What do you think current debates about the history of capitalism reveal about the future of the field?

Contributions

September 25, 2020
How Did Redlining Make Money?
K-Sue Park, Georgetown Law

July 28, 2020
Currency, Colonialism, and Monetary History from Below

Peter James Hudson, University of California, Los Angeles

July 17, 2020
Finance and Violence
Michael Ralph, New York University

June 15, 2020
Debt and the Underdevelopment of Black America
Destin Jenkins, University of Chicago

June 8, 2020
Money is productive, and racist institutions create money
David M. P. Freund, University of Maryland

May 28, 2020
Money and the Limits to Self Making
Michael O'Malley, George Mason University

May 19, 2020
How the Right Used Free Market Capitalism against the Civil Rights Movement
Mehrsa Baradaran, University of California Irvine

K-Sue Park, How Did Redlining Make Money?

September 25, 2020

K-Sue Park, Georgetown Law**[1]**

One of the principal insights and analytical charges presented by scholars of racial capitalism is that racism makes money. That is, beyond the question of distribution or the way differently racialized groups receive uneven access to or shares of pre-existent common social resources, this tradition of thought underscores how the capitalist economy has grown by "produc[ing] and exploit[ing] group-differentiated vulnerability to premature death."[2] This follows Cedric Robinson's demonstration that this mode of profit-seeking has for centuries been a central organizing principle through which capitalism developed;[3] it is still in the process of exploring how many strategies of modern markets were innovated and honed through institutions to further conquest and expand the slave trade in North America. This analytical frame poses a crucial challenge to us: we must try to understand the myriad ways *how* the reproduction of racism creates new financial value because these dynamics remain key to market processes and the social violence they feed upon today.

In this post, I look briefly at the infamous case of redlining to ask, how did it *make* money? It is a common habit to characterize the problem with redlining as a matter of inequitable *distribution*: after all, during a national housing crisis, the Federal Housing Administration (FHA) used redlined maps to decide where it would insure mortgages; and, as a result, ensured that banks would extend affordable mortgages only to white families, and not to Black or other non-white and immigrant groups. Analyzing redlining in terms of distribution, however, is misleading; it does not capture the crucial role of the practice in engineering the mass-production of a new form of property whose value derived precisely from the segregated landscape it produced – the suburban single-family home. Redlining indeed institutionalized segregation's monetary value, transforming the landscapes of housing and racial relations in America. Below, to explore this question, I situate redlining within a longer history of leveraging racial value to produce financial value in land; then, I draw on monetary theory to spell out how the FHA's redlining program created new monetary value.

Translating Racial Value into Financial Value

During the era of Jim Crow, the FHA responded to the housing crisis of the Great Depression with a plan to spur the private sector to mass produce housing. This housing would then divide America into white suburbs and disinvested, mostly non-white urban centers. Before the FHA, the Home-Owners' Loan Corporation (HOLC) had also tried to address the national housing crisis with mortgage loans, and it created the redlined maps, which coded neighborhoods based on the presence of racial minorities, in order to assess risk in a uniform way across the country. But where the HOLC had directly issued new mortgages itself — to replace mortgages facing imminent foreclosure — the FHA instead insured private banks that made mortgage loans; further, the FHA redeployed the maps to place conditions on that insurance. The HOLC had extended mortgages to both whites and non-whites, or across different levels of "risk" it perceived; however, the FHA used the maps to deny insurance to banks for mortgages where non-whites were present, thereby ensuring that mortgages would go only to neighborhoods characterized by white racial homogeneity.[4]

The FHA did not only oversee the development of commodities whose desirability issued from the promise of living in new all-white spaces. It also confined non-whites to urban centers, where it discouraged lenders from providing financial support for rehabilitating or renovating the older and multi-family structures.[5] It therefore starved non-whites in urban centers of resources, forcing them to live in deteriorating and frequently unsafe housing and incentivizing the flight not only of white families but also the businesses that catered to them from cities. As Beryl Satter has shown, the rabid predation that descended upon Black urban neighborhoods to offer "services" in their stead ensured their decline. While whites acquired new access to property as a means of building intergenerational wealth in the suburbs, the FHA's redlining program fostered white wealth accumulation in cities as well, and innovative ways of seeking out “the *riches* that could be drawn from the seemingly poor vein of aged and decrepit housing and hard-pressed but hardworking and ambitious African Americans.”[6]

This combination of innovative predation and property-making introduced a new formal turn in a centuries-long approach to property in America. That is, the FHA drew upon very old, widespread hunger for property and practices of translating investment in racial exclusion into financial or monetary value. In colonial America, land did not become a commodity – nor part of Anglo jurisdictions – except through the removal of the Native peoples who lived on it.[7] The monetary value of *all* property in America therefore derives historically from the value of white presence and the absence of non-whites, as well as from innovative predatory practices. To outline this long history in the broadest of strokes, Anglo-Americans grew the slave trade to support their conquest of Native Nations’ lands and rapid territorial expansion; by the dawn of the founding, this land and enslaved Black people constituted over 75% of wealth held by white colonists. After abolition, longstanding white resistance to Black landownership, in particular, intensified in scale, energy and organization. This resistance became a major factor shaping land policy and the regulation of land ownership in the late 19th and early 20th centuries.[8]

The FHA’s redlining program followed upon decades of white citizens’ organizing for racial exclusion through racially restrictive covenants and zoning laws and must be understood within this long history. While the interest in segregation had frequently translated into monetary terms before, the FHA took advantage of the HOLC’s racist equation of non-white presence to coolly up the ante and make “risk” the basis of a national, standardized appraisal system.[9] It used its famous Underwriting Manual to capitalize upon the white interest in segregation and uniformly assign monetary value to it. The FHA therefore transformed HOLC's model by establishing a set way of assessing the financial value of racially segregated housing to create a massive market for it. As David Freund observes, its program fundamentally transformed whites' ideas about race and the relationship between race and property, to naturalize this commitment to segregation as a common-sense investment of "homeowners" in maintaining property values that still pervades the real estate market today.[10]

Making Credit Makes Money

We can be quite precise about how redlining *made money,* or constituted a program of public-private money *creation,* thanks to legal theorists, heterodox economists and more recently, Modern Monetary Theory, who have helped us see, practically, historically, and theoretically, that money is made through the extension of credit, both to the government and to private individuals. On one level, as Christine Desan has shown, governments create national stocks of money that stand for the governments' liabilities – the public debt or other government investment assets – that are purchased by the central bank.[11] Commercial banks, as Robert Hockett and Saule Omarova have explained, also play a critical role in adding to the money in circulation through the credit they extend to individuals and businesses. Banks extend such credit not based on assessments of deposits they already hold in individual accounts, but rather, on assessments about profitable investment opportunities made by these institutions, which are authorized by the government to credit and open borrower accounts with contents spendable as money.[12] These private institutions therefore expand the money in circulation as franchisees of the government, not as intermediaries that merely move preexisting money around.[13]

Money is credit, whether it is created by governments or by banks. The FHA used its resources to incentivize banks to lend, and therefore intervened as a public agency to spur private money creation. By guaranteeing banks' loans, it subsidized them to catalyze their production; at the same time, it ensured the profitability of construction enterprises that followed what amounted to its mandate to build segregated housing. The FHA therefore neither unevenly distributed *existing* resources or *new* resources—some putatively neutral "access to credit." Rather, it created new property and new money out of the raw material of the high value that racial exclusion held for white citizens. It created mortgages *for* segregated housing, producing a new landscape of segregation by *commodifying* it and monetizing its value to people.

Redlining made money, increasing the nation's financial wealth during a time of economic crisis. The FHA's program illustrates how profoundly the production of money is shaped by values of the social order – the specific locus of wealth within it, the history of patterns and modes of wealth accumulation that explain it – as well as how it produces values within it.[14] Just as those people with the standing and resources to invest in the government are those who have historically accumulated wealth,[15] redlining shows how banks decide to extend credit to people. In America, whether banks or the government think the borrowers are "worthy" or likely to use the loans "productively" has long been code for a commitment to segregation. Through the FHA, the government coordinated with banks (its private franchisees) to construct all-white communities in a program that we should recognize as an act of making money – and one that was "allocatively partial."[16] This act also produced *value* in a qualitative sense, both monetary and social, in relationships between people and to land.

The impact of the FHA's use of redlining to create a large-scale residential purchase-money mortgage market in America – where none had existed before – on the landscape of housing and the American economy cannot be overstated. At a time when we are again in the midst of rapidly ripening national crises of intensifying racial violence and homelessness, redlining offers crucial lessons for us about how the government remade the economy to usher in an era of profoundly racist and violent prosperity. We should attend closely to its plans now with the understanding that there are many ways of making money and many ways that racism makes money in America – and that the power of racism to generate financial value perpetually incentivizes the production of novel forms of racism as well.

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[1] Many thanks to Raúl Carillo, David Freund, and David Stein for their thoughtful comments on a draft version of this piece.

[2] Ruth Wilson Gilmore, *Golden Gulag: Prisons, Surplus, Crisis, and Opposition in Globalizing California* (2007), 28.

[3] *See generally* Cedric Robinson, *Black Marxism: The Making of the Black Radical Tradition* (1983).

[4] Kenneth Jackson, *Crabgrass Frontier: The Suburbanization of the United States* (1985).

[5] *Id.* at 206.

[6] Beryl Satter, *Family Properties: Race, Real Estate and the Exploitation of Black Urban America* (2009), 6.

[7] *See* K-Sue Park, "Conquest and Slavery as the Foundation of the Property Law Course" (working draft 2020).

[8] *Id.* at 2, 20-22.

[9] Neither the FHA nor the HOLC, of course, invented correlations between non-white presence, risk, and the price of real estate; this essay is concerned with the ways they

formalized, institutionalized, and nationalized this common-sense grammar of the market. *See* Jackson, Crabgrass Frontier, 198; *see also* Margaret Garb, *City of American Dreams: A History of Home Ownership and Housing Reform in Chicago, 1871-1919* (2005); David Freund, *Colored Property: State Policy and White Racial Policy in Suburban America* (2007).

[10] Freund, *Colored Property*, 6.

[11] Christine Desan, “The Key to Value: The Debate Over Commensurability in Neoclassical and Credit Approaches to Money,” 83 Law and Contemporary Problems 1, 13, 18 (2020). See also Christine Desan, *Making Money: Coin, Currency, and the Coming of Capitalism* (2014).

[12] *See generally* Robert C. Hockett and Saule T. Omarova, The Finance Franchise, 102 Cornell Law Review 1143, 1154-55 (2017); *see also* David Freund’s contribution to this series.

[13] Hockett and Omarova, “The Finance Franchise,” 1154-55. See also their contribution to Justmoney.org’s Roundtable on Banking & Money Creation.

[14] *See generally* Desan, “The Key to Value.”

[15] *Id.*, 19-20.

[16] *Id.*, 15.