

Law, Inequality, and Power: The Legal Construction of 21st Century Capitalism

Thursdays, 5-7pm, WCC Room 3009
Harvard Law School | Fall 2017

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SYLLABUS

VERSION 1.2 (Last revised: December 21, 2017)

How does law construct inequities of economic opportunity and power? How have changing ideas of political economy shaped law and public policy-and in turn, 20th and 21st century capitalism- over time? What are the normative and historical foundations for today's movements for structural racial and economic justice? What are the prospects for these efforts in a rapidly changing political context of 2017?

The seminar will address these questions through a variety of readings that include (i) historical theories of law and political economy; (ii) new scholarship on law, inequality, capitalism, and social movements; and (iii) cutting-edge legal and policy debates to explore the construction of inequality today, and to imagine what a more equitable, inclusive, and democratic 21st century social contract might look like.

Specific topics of discussion may include: the changing nature of work in an increasingly automated, fissured and on-demand economy; the eroding safety net; new forms of worker organizing; structural racism and new movements for racial equity; economic segregation and the city; competition policy and 21st century corporate power; finance and financialization.

Contact information

Feel free to stop by my office anytime, or you can email me to set up a specific time. You can also contact my Faculty Assistant, Anna Kim Reilly (anreilly@law.harvard.edu; Griswold 2 South, tel. 617-495-3117).

Class commitments

- Attendance. Students should plan to attend class regularly. If there is an emergency or a personal situation that might affect your attendance and your ability to keep up with the material, please get in touch and if need be, we can meet separately to make backup arrangements.
- Reading. The syllabus below outlines reading assignments for each class. Most readings will be posted on the course website. Assignments may be updated or revised over the course of the semester (with advance notice of course!).
- Participation and engagement. As a seminar, this class depends on everyone's willingness to engage with one another and participate. I strongly encourage each of you to come to class with questions, comments, and reactions, and to engage with one another's points throughout our discussions.
- Mutual respect and consideration. We will be engaging some contentious questions over the course of the semester. I ask all of us to engage in these discussions in a spirit of shared respect and consideration for the different life experiences and viewpoints represented in the room.

Reading assignments

Assigned readings are listed in the syllabus below. I recommend that you read them in the order listed.

Almost all the readings will be in PDF or web link form on the course website. Readings marked with (^) are from books that you should purchase online, or borrow from the library—these are books where we are reading longer selections beyond what is permitted to post online.

Occasionally, "SUPPLEMENTAL" readings will be listed – these are truly optional: they are listed for your information, in case any of you want to dig deeper into a particular area of interest.

Assessment

- Response papers: Each student will be required to submit FOUR response papers of approximately 2-4 pages each. You can pick which weeks you would like to submit a response paper. Response papers will be due via email by 11:59pm Wednesday night, the night before class.
- Class participation will also contribute towards the final grade.
- Optional alternative - longer paper: If any of you would like to do a longer research paper project (e.g. ~20 pages or more), you may do so in lieu of the response papers. If you pursue this option, please get in touch with me to discuss possible topics by Oct 6. We will discuss topics, and a reasonable timeline for your paper.

Course timeline

1. Thursday, September 7
2. Thursday, September 14
3. Thursday, September 21
4. Thursday, September 28
5. Thursday, October 5 [Paper writers – meet to discuss paper topics]
6. Thursday, October 12
7. Thursday, October 19
8. Thursday, October 26
9. Thursday, November 2
10. Thursday, November 9
11. Thursday, November 16

- November 22-24, 2017 [Thanksgiving Break]

12. Thursday, November 30

- December 11-19, 2017 [Upper-level Fall Term Exam Period]
[Paper writers submit final papers]

Social, economic, and racial justice as a property of structure

- Friedrich von Hayek, “Social’ or Distributive Justice” [1976], in Nishiyama and Leube, eds., *Essence of Hayek*, Hoover Press, 1984, pp. 62-65, 68-73, 80-88
- Iris Young, *Responsibility for Justice*, Oxford University Press, 2011, pp. 43-64
- Walter Johnson, “To Remake the World: Slavery, Racial Capitalism, and Justice,” *Boston Review Forum 1: Race, Capitalism, Justice* (2016). Available online at: <http://bostonreview.net/race/walter-johnson-slavery-human-rights-racial-capitalism>

What does structural equality require?

- Elizabeth Anderson, “What is the Point of Equality?” *Ethics* 109 (January 1999), pp. 287-9, 308-9; 312-4; 315; 316-21, 336-7
- Darrick Hamilton and William Darity, Jr., *The Political Economy of Education, Financial Literacy, and the Wealth Gap*, 99 Federal Reserve Bank of St. Louis Rev. 59 (2017)

Inequality, opportunity, and constitutional political economy

- Joseph Fishkin and Willy Forbath, “Wealth, Commonwealth, and the Constitution of Opportunity,” in NOMOS LVII, *Wealth*, Jack Knight and Melissa Schwartzberg, eds. (NYU Press 2016), pp. 45-63, 79-111
 - OPTIONAL: Skim pp. 63-79 (on inequality and oligarchy in the Jacksonian era)

Supplemental readings

- Joseph Fishkin, *Bottlenecks: A New Theory of Equal Opportunity* (Oxford University Press), pp. 1-23
- K. Sabeel Rahman, *Democracy Against Domination* (Oxford University Press, 2017), pp. 78-88 (on dyadic and structural domination)

Documenting inequality: Wealth and capitalism in the 21st century

- David Grewal, [The Laws of Capitalism](#), 128 *Harv. L. Rev.* 626 (2014), pp. 629-44 (summarizing Thomas Piketty's recent findings), + pp 658-661

Inequality accelerated? Automation and technology

- Erik Brynjolfsson, Andrew McAfee, and Michael Spence, "Labor, Capital, and Ideas in the Power Law Economy," *Foreign Affairs* (2014).
- Brynjolfsson and McAfee, "Will Humans Go the Way of Horses?" *Foreign Affairs* (2015)

Legal drivers: The changing nature of work

- David Weil, *The Fissured Workplace*, pp. 1-3, 10-26, 30-42, 44-75
- Roberta Romano, After the Revolution in Corporate Law, 55 *J. Legal Educ.* 342 (2005), especially pp. 342-51

Debt, finance, and political economy

- Wolfgang Streeck, The Crises of Democratic Capitalism, 71 *New Left Review* 5 (2011), especially pp. 10-22.

Political drivers:

- Jacob Hacker and Paul Pierson, "Winner-Take-All Politics: Public Policy, Political Organization, and the Precipitous Rise of Top Incomes in the United States," *Politics & Society* 38:2 (2010), pp. 152-9, 168-97

Supplemental

- John Maynard Keynes, "Economic Possibilities for our Grandchildren" (1930)
- [Planet Money podcast # 641](#), "Why we work so much" (on Keynes)
- [Planet Money podcast # 715](#), "The Sewing Robot" (on automation)
- Martin Ford, *Rise of the Robots: Technology and the Threat of a Jobless Future* (Basic Books, 2015)
- Jed Purdy, "Wealth and Democracy," in NOMOS LVII, *Wealth*, Jack Knight and Melissa Schwartzberg, eds. (NYU Press 2016), pp. 235-60
- David Grewal and Jedediah Purdy, Law and Neoliberalism, 77 *Law & Contemp. Probs.* 1 (2014)
- Nelson Lichtenstein, "Three Cheers for Vertical Integration", in Novak and Lamoreux, eds., *History of the Corporation and American Democracy* (Harvard University Press, 2017), pp. 329-58
- Kent Greenfield, Reclaiming Corporate Law in a New Gilded Age, 2 *Harv. L. & Pol'y. Rev.* 1 (2008), pp. 1-20.
- Rana Foroohar, *Makers and Takers*, especially Ch. 4 (on the rise of activist investors), and Ch. 8 (on finance and the erosion of the safety net and pensions)
- Martin Gilens, "Under the Influence," *Boston Review*, July 2012
- Nicholas Carnes, *White-Collar Government: The Hidden Role of Class in Economic Policy-Making* (2013), pp. 1-22, 146-51

(3) Social contract gone wrong: exclusion and extraction Thursday, Sept 21

The exclusionary New Deal

- Caroline Fredrickson, *Under the Bus: How Working Women Are Being Run Over* (New Press, 2015), pp. 19-42.
- William Forbath, "Constitutional Welfare Rights: A History, Critique, and Reconstruction," *Fordham L. Rev.* (2001), pp. 1822-4; 1831-38

Inequality and the safety net: welfare, housing, social services

- Kathryn Edin and H. Luke Shaefer, *\$2 A Day: Living on Almost Nothing in America*, 1-33, 42-8
- Matthew Desmond and Monica Bell, "Housing, Poverty, and the Law," *Annual Review of Law and Social Science* (2015)
- Matthew Desmond, How Homeownership Became an Engine of Inequality, *New York Times Magazine*, May 9, 2017 (available online here: <https://www.nytimes.com/2017/05/09/magazine/how-homeownership-became-the-engine-of-american-inequality.html>)
- Mike Konczal, The Violence of Eviction, *Dissent* (Spring 2016), available online here: <https://www.dissentmagazine.org/article/the-violence-of-eviction-housing-market-foreclosure-gentrification-finance-capital>
- David Hatcher, *The Poverty Industry* (NYU Press, 2016), pp. 1-7, 17-27, 28-31, 44-47, 183-91
- Mehrsa Baradaran, *How the Other Half Banks* (Harvard University Press, 2014), pp. 1-10, 110-36, 140-43

Inequality and basic goods

- K. Sabeel Rahman, Losing and Gaining Public Goods, *Boston Review Forum III* (2017)

Supplemental

- Matthew Desmond, *Evicted* (Crown, 2015)
- Michael Katz, *The Undeserving Poor* (Oxford University Press, 2013), 1-34, 269-77
- Heather Boushey, "Home Economics," *Democracy: A Journal of Ideas* (2016).
- Shayna Strom and Mark Schmitt, "Protecting Workers in a Patchwork Economy", [The Century Foundation](#) (April 2016)

Universal basic income, or portable benefits?

- Andrew Flowers, “What would happen if we just gave people money?” *FiveThirtyEight* (2016)
- Brishen Rogers, Basic Income in a Just Society, *Boston Review Forum II* (2016)
 - Dorian Warren, Reparations and Basic Income, *Boston Review Forum II* (2016)
 - Tommie Shelby, A Blow to Ghettoization, *Boston Review Forum II* (2016)
- David Rolf and Nick Hanauer, “Shared Security, Shared Growth,” *Democracy: A Journal of Ideas* (2015)
- William Forbath, “Constitutional Welfare Rights: A History, Critique, and Reconstruction,” *Fordham L. Rev.* (2001), pp. 1822-4; 1827-8; 1838-55; 1887-91

Radical reform in administration

- David Weil, “Enforcing Labour Standards in Fissured Workplaces: The US Experience,” *Econ. and Labour Relations Rev.* 22:2 (2008), pp. 44-50
- Gillian Metzger, “Private Delegations, Due Process, and the Duty to Supervise,” in Minow and Freeman, eds., *Government by Contract: Outsourcing and American Democracy* (Harvard University Press, 2009).

Case studies: READ AT LEAST ONE

- Karen Tani, Welfare Rights Before the Movement, 122 *Yale L. J.* 314 (2012), pp. 314-22, 325-31, 337-45, 356-68.
- David Barton Smith, *The Power to Heal: Civil Rights, Medicare, and the Struggle to Transform America’s Health Care System* (Vanderbilt University Press, 2016), pp. 1-3, 18-29, 63-99, 110-131

Power, citizenship, and the welfare rights movement

- *Premilla Nadasen, *Welfare Warriors* (Routledge), pp. 15-43, 45-77
- Tara Melish, “Maximum Feasible Participation of the Poor: New Governance, New Accountability, and the 21st Century War on the Sources of Poverty,” 13 *Yale Hum. Rts. & Dev. L. J.* 1 (2010), pp. 78-83, 86-94

The collapse and potential rebirth of organized labor

- *Eric Schickler, *Racial Realignment: The Transformation of American Liberalism, 1932-1965* (Princeton University Press 2016), Chapter 3
- *Kate Andrias, The New Labor Law, 126 *Yale L. J.* 2 (2016), pp. 13-36, 57-69, 81-89, 93-99
- Michelle Miller, “The Union of the Future”, Roosevelt Institute (2015)

Supplemental

- Michael Katz, *The Undeserving Poor*, pp. 103-113, 119-135
- Kate Andrias, Separations of Wealth: Inequality and the Erosion of Checks and Balances, 18 *J. Const. L.* 419 (2015)
- Ganesh Sitaraman, The Puzzling Absence of Economic Power in Constitutional Theory, 101 *Cornell L. Rev.* 1445 (2016)
- Daryl Levinson, Looking for Power in Public Law, 130 *Harv. L. Rev.* 33 (2016)

- Patrick Sharkey, *Stuck in Place: Urban Neighborhoods and the End of Progress toward Racial Equality* (University of Chicago Press, 2013), Chapter 4
- Raj Chetty, et al, “Where is the land of opportunity? Intergenerational mobility in the US”, *VoxEU*, February 4, 2014
- Sarah Schindler, Architectural Exclusion, 124 *Yale L. J.* 1934 (2014), 1937-73, 2014-23
- Richard Rothstein, The Making of Ferguson: Public Policies at the Root of its Troubles, Economic Policy Institute, October 2014 (available online here: <http://www.epi.org/publication/making-ferguson/>)
- Andrew Rice, “The Red-Hot Rubble of East New York: How Brooklyn’s Gentrification Profiteers Are Expanding Their Boundaries,” *New York Magazine*, January 28, 2015

Supplemental

- David Leonhardt et al, “An Atlas of Upward Mobility Shows Paths Out of Poverty,” *The Upshot*, *New York Times*, May 4, 2015
 - Look up your current and past neighborhoods in the atlas:
<http://www.nytimes.com/interactive/2015/05/03/upshot/the-best-and-worst-places-to-grow-up-how-your-area-compares.html>
- Richard Rothstein, *The Color of Law: A Forgotten History of How Our Government Segregated America* (Liverlight, 2017)

Austerity, under-investment, and urban inequality

- Walter Johnson, Ferguson's Fortune 500 Company, *The Atlantic*, April 26, 2015 (available online here: <https://www.theatlantic.com/politics/archive/2015/04/fergusons-fortune-500-company/390492/>)
- Michelle Anderson, The New Minimal Cities, 123 *Yale L. J.* 1118 (2014), pp. 1120-1123, 1160-1180

The financial and corporate takeover of the city

- Rana Foroohar, *Makers and Takers: The Rise of Finance and the Fall of American Business* (Crown, 2016), pp. 210-236
- Danielle Ivory, Ben Protess, and Kitty Bennett, "[When you dial 911 and Wall Street answers](#)," *New York Times*, June 25, 2016.

Policy and legal responses?

- Anderson, The New Minimal Cities, pp. 1195-1205
- *Bank of America et al. v. City of Miami and Wells Fargo et al. v. City of Miami*, 15-1111 and 15-1112, Brief of Housing Scholars as Amici Curiae in Support of Respondent, City of Miami, Florida, in the Supreme Court of the United States
 - Background on the case available at SCOTUSBlog here: <http://www.scotusblog.com/case-files/cases/bank-of-america-corp-v-city-of-miami/>

Supplemental

- Saqib Bhatti, Dirty Deals: How Wall Street's Predatory Deals Hurt Taxpayers and What We Can Do About It, Refund America Project (2014) (available online here: <https://www.scribd.com/document/246900424/Dirty-Deals-How-Wall-Street-s-Predatory-Deals-Hurt-Taxpayers-and-What-We-Can-Do-About-It>)
- Nikhil Anand, The Banality of Infrastructure, *Items*, Social Science Research Council (available online here: <http://items.ssrc.org/the-banality-of-infrastructure/>)

Social movements and urban equity

- Richard Schragger, The Political Economy of City Power, 44 *Fordham Urb. L. J.* 1 (2017)
- David J. Barron, The Community Economic Development Movement: A Metropolitan Perspective, 56 *Stanford Law Review* 701 (2003), pp. 712-737
- Rhonda Williams, “To Challenge the Status Quo by Any Means: Community Action and Representational Politics in 1960s Baltimore”, in Oreck and Hazirjian, eds., *The War On Poverty: A Grassroots History*, pp. 63-85

Policy Responses to the crisis of urban inequality

- David Madden and Peter Marcuse, *In Defense of Housing: The Politics of Crisis*, Chapter 5 (on a more radical right to housing)
- Olati Johnson, “Beyond the Private Attorney General: Equality Directives in American Law,” 87 *NYU L. Rev.* 1339 (2012), 1362-70, 1378-92
- Virginia Parks and Dorian Warren, The Politics and Practice of Economic Justice: Community Benefits Agreements as Tactic of the New Accountable Development Movement, 17 *Journal of Community Practice* (2009).
 - Rise Together Detroit, “[Proposed Community Benefits Ordinance](#)”.

Supplemental

- David Harvey, *Rebel Cities: From the Right to the City to the Urban Revolution* (Verso, 2013), pp. 3-25
- William Simon, *The Community Economic Development Movement* (2001), pp. 7-40
- Patrick Sharkey, *Stuck in Place*, Chapter 7, esp. pp. 169-199
- Partnership for Working Families, “Common Challenges in Negotiating Community Benefits Agreements” (January 2016)

(9) Reclaiming antitrust: Market structure and private power Thursday, Nov 2

A) Antitrust and corporate concentration as a deep driver of inequality

- Joseph Stiglitz, America Has a Monopoly Problem—and It’s Huge, *The Nation*, October 23, 2017
- Lina Khan and Sandeep Vaheesan, “Market Power and Inequality: the Antitrust Counterrevolution and its Discontents,” 11 *Harv. L. & Pol’y Rev.* (2017), pp. 235-260
- *The Economist*, “Too Much of a Good Thing?” March 26, 2016
- Council of Economic Advisors, “Benefits of Competition and Indicators of Market Power” Issue Brief (April 2016)

B) Is our concentration problem a failure of antitrust law?

- Daniel Crane, “All I Really Need to Know About Antitrust I Learned in 1912,” 100 *Iowa L. Rev.* 2025 (2014)
- Robert Pitofsky, The Political Content of Antitrust, 127 *U. Penn. L. Rev.* 1051 (1979), pp. 1051-1075
- Robert Bork, “Goals of Antitrust Policy,” *American Economic Review* 57:2 (1967), pp. 242-246
- Barak Orbach, “How Antitrust Lost its Goal,” 81 *Fordham L. Rev.* 2253 (2013)

C) Case study: antitrust revived today?

- Barack Obama, Executive Order, “Steps to Increase Competition” (April 2016)
- Contemporary draft antitrust reform legislation – Sen. Klobuchar (2017)
- Sherman Act and Clayton Act – excerpts

Supplemental

- Douglas Ginsburg, “Bork’s ‘Legislative Intent’ and the Courts,” 79 *Antitrust L. J.* 941
- Jason Furman, “[Productivity, Inequality, and Economic Rents](#),” *ProMarket* blog, June 27, 2016
- Elizabeth Warren, “Reigniting Competition Policy” (June 2016)
- Spencer Weber Waller, Matthew Sag, “Promoting Innovation,” 100 *Iowa L. Rev.* 2223 (2014), pp. 2223-9, 2237-47

Technology, private power, and the new platforms

- Lina Khan, Amazon's Antitrust Paradox, 126 *Yale L. J.* 710 (2017), pp. 746-756, 768-783
- Jonathan Taplin, Is It Time to Break up Google? *New York Times*, April 22, 2017, available online here: <https://www.nytimes.com/2017/04/22/opinion/sunday/is-it-time-to-break-up-google.html?mcubz=3&r=0>

Big Data, AI, and structural discrimination and inequality

- Frank Pasquale, *Black Box Society: The Secret Algorithms That Control Money and Information* (Harvard University Press, 2015), Chapter 2
- Mary Madden, Michele Gilman, Karen Levy, and Alice Marwick, Privacy, Poverty, and Big Data: A Matrix of Vulnerabilities for Poor Americans, 95 *Wash. U. L. Rev.* 53 (2017), pp. 55-67

Combining platform power and AI: the case of information platforms

- Zeynep Tufekci, We're building an artificial intelligence-powered dystopia, one click at a time, TED Talk, September 2017. Online here: https://www.ted.com/talks/zeynep_tufekci_we_re_building_a_dystopia_just_to_make_people_click_on_ads/transcript

Policy responses

- Khan, Amazon's Antitrust Paradox, pp. 790-802
- Madden et al, Privacy, Poverty, and Big Data, pp. 113-122
- Rahman, "Monopoly Men," *Boston Review*, October 2017
 - Online here: <https://bostonreview.net/science-nature/k-sabeel-rahman-monopoly-men>

Supplemental

A) Diagnosing tech platforms

- Susan Crawford, *Captive Audience: The Telecom Industry and Monopoly Power in the New Gilded Age* (Yale University Press, 2013), pp. 3-34.
- Kate Klonick, The New Governors, 131 *Harvard Law Review*, forthcoming
- Robert Epstein, "[How Google could rig the 2016 election](#)," *Politico*, August 2015

B) Big data and AI

- Rosenblatt, Kneese, and boyd, "Workplace Surveillance," *Data & Society* (2014)
- Cathy O'Neil, *Weapons of Math Destruction* (Crown, 2016)
 - https://www.youtube.com/watch?v=gdCJYsKlX_Y
- Barocas and Selbst, Big Data's Disparate Impact, 104 *Cal. L. Rev.* 671 (2016)

C) Policy responses and challenges

- Paul Ohm and Blake Reid, Regulating Software When Everything Has Software, 84 *Geo. Wash. L. Rev.* 1672 (2016)
- Pasquale, *Black Box Society*, pp. 140-79, 208-18
- Barocas et al, Accountable Algorithms, 165 *U. Penn. L. Rev.* 633 (2017), at 678-95
- Van Loo, Rise of the Digital Regulator, 66 *Duke L. J.* 1267 (2017)
- Frank Pasquale, "Internet Nondiscrimination Principles: Commercial Ethics for Carriers and Search Engines," *University of Chicago Legal Forum* (2008), Part III
- Rahman, Private Power, Public Values: Regulating Social Infrastructure in a Changing Economy, *Cardozo L. Rev.*, forthcoming, available online here: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2986387

The problem: financial crisis, finance sector, financialization

- Davis and Kim, Financialization of the Economy, 41 *Ann. Rev. Soc.* 203 (2015)
- Rana Foroohar, American Capitalism's Great Crisis, *Time Magazine*, May 12, 2016
- Emma Coleman Jordan, The Hidden Structures of Inequality: The Federal Reserve and a Cascade of Failures, 2 *J. L. & Pub. Affairs* 117 (2017), 127-40
- Simon Johnson and James Kwak, "Is financial innovation good for the economy?" NBER Working Paper (2012).

Putting finance back in its place

- Adam Levitin, The Politics of Financial Regulation and the Regulation of Financial Politics: A Review Essay, 127 *Harv. L. Rev.* 1991 (2014) at 2037-68
- Macey and Holdcroft, Failure Is an Option: An Ersatz-Antitrust Approach to Financial Regulation, 120 *Yale L. J.* 1368 (2011), pp. 1385-96
- Mehrsa Baradaran, It's Time for Postal Banking, 127 *Harv. L. Rev. F.* 165 (2014)
- Emma Coleman Jordan, The Hidden Structures of Inequality: The Federal Reserve and a Cascade of Failures, 2 *J. L. & Pub. Affairs* 117 (2017), 117-22, 164-6, 170-4

Supplemental

- New York Times, "Bottom Line Nation" – series of investigative reporting on private equity in today's economy: <http://www.nytimes.com/series/private-equity-bottom-line-nation>
- ^Foroohar, *Makers and Takers*, especially: pp. 29-61, 62-89 (on changing culture of business); 99-120, 152-70 (on business education).
- Michael Barr, The Financial Crisis and the Path of Reform, 29 *Yale J. Reg.* 91 (2012)
- Eileen Appelbaum, *Private Equity At Work*, especially Chs. 1, 3.
- Benjamin Friedman, "Is our financial system serving us well?" *Daedalus* (2010)
- <https://www.nytimes.com/2014/11/11/business/economy/as-federal-reserve-selects-new-top-officials-coalition-calls-for-public-input.html>
- <https://newrepublic.com/article/133476/diversity-matters-federal-reserve>
- Roosevelt Institute, Untamed, Part 2 (on financialization) and Part 3 (on regulatory reform)

Race, class, and the challenges of inclusive populism:

- Jim Pope, “Why is there no socialism in the United States? Law and the racial divide in the American working class, 1676-1964,” 94 *Tex. L. Rev.* 1555 (2016), pp. 1555-60, 1568-90
- Nancy MacLean, “Southern Dominance in Borrowed Language: The Regional Origins of American Neo-Liberalism,” in *New Landscapes of Inequality*, ed. Micaela di Leonardo and Jane Collins (Santa Fe: School of American Research, 2007).
- Mark Graber, “The Second Freedman’s Bureau”, 94 *Tex. L. Rev.* 1361 (2016), pp. 1366-70, 1374-77, 1390-94, 1396-1402
- Keeanga Yamahtta-Taylor, *From #BlackLivesMatter to Black Liberation* (Haymarket Books), Chapter 7, pp. 191-219

Economic opportunity and social inclusion in the 21st century?

- Fishkin and Forbath, “Wealth, Commonwealth, and the Constitution of Opportunity” (REVIEW FROM WEEK 1), especially pp. 45-63, and 79-111
 - Note: pp. 63-79 cover the Jacksonian and early republic era, read if interested, but for our discussions that part can be skipped.
- Movement for Black Lives platform, online at: <https://policy.m4bl.org/platform/>

Supplemental

- David Grewal and Jedediah Purdy, Law and Neoliberalism, 77 *Law & Contemp. Probs.* 1 (2014)
- John Judis, All the Rage, *The New Republic*, September 19, 2016
- K. Sabeel Rahman, Domination, Democracy, and Constitutional Political Economy in the New Gilded Age: Towards a Fourth Wave of Legal Realism?” 94 *Texas L. Rev.* 1329 (2016)