

# The Morningside Muckraker

COLUMNS, OPINION

## The Cost Of Justice

FEBRUARY 24, 2014 by RAUL CARRILLO AND ROHAN GREY

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**Law Students Need Macroeconomics**

**...and macroeconomics needs us**

*“Until last September, when the banking industry came crashing down and depression loomed for the first time in my lifetime, I had never thought to read *The General Theory of Employment, Interest, and Money*,...It was a work of macroeconomics—the study of economy-wide phenomena...Law, and hence the economics of law...did not figure largely in the regulation of those phenomena. Having [now read *The General Theory*], I have concluded that...it is the best guide we have to the crisis.”*

– Richard Posner, Judge, U.S. Court of Appeals for the Seventh Circuit; Senior Lecturer of the University of Chicago Law School, [September 23, 2009](#).

If the most cited legal scholar of the 20<sup>th</sup> century, a poster boy of the so-called [Law & Economics](#) movement, can preside and preach for over thirty years without reading Keynes’ magnum opus, something has gone terribly, terribly awry. Economy-wide phenomena are, in fact, legal phenomena. “Interdisciplinary” law school curricula that ignore them are woefully impoverished.

As [Professor Robert Jackson](#) opined in [The Modern Money Network's recent seminar](#), "The way we talk about money systems in law school has been blocked in a way, because we're not really honest with each other about the fact that our money system is a legal choice... We may have covered, in legal academia, microeconomics in reasonable depth, but we need to do much more work in macroeconomics."

When we "do economics" in law school, we customarily confine it to the scale of individual entities, say, firm transactions in Contracts and Corporations. Broader discussion of political economy rarely creeps into the curriculum. When it does, it is usually of a descriptive character. Few courses question normative assumptions; [Professor Katharina Pistor's](#) *Theories of Law and Finance* and [Kathryn Judge's](#) *Architecture of Financial Regulation*, are notable exceptions at Columbia. [Christine Desan's](#) *The Constitutional Law of Money* at Harvard is another.

This fissure in our education is not accidental: it was hewn by ideological dispute. As [Mark Kelman](#), Vice Dean of Stanford Law School and cofounder of the [Critical Legal Studies](#) movement, [once noted](#), "If one wanted to apply 'macro' to law, one must wonder 'which macro?' This is a political question, riddled with controversy. Yet it is strange the legal community would shy away from teaching a subject merely because it covers something...adversarial."

Now is the time to illuminate the nexus between law and economic policy. Our professional and personal lives are shaped by titanic, disruptive phenomena: the global financial crisis; the U.S. government shutdown; the accumulation of private debt crushing students, households, and businesses alike. As [Professor Bruno Meyerhof Salama](#) writes, "...because of the acute distributional consequences of macroeconomic policies, legal scholars will most likely be increasingly drawn into considering their constitutionality, legality, and legitimacy."

We deeply hope his prediction comes true. Whether you eventually practice or make policy, negotiate deals or craft legislation, every student can benefit from further integration of political economy into the curricula. This is why [The Modern Money Network](#), a newly recognized student organization, exists. It is a transdisciplinary hub for learning about the interactions between money, finance, law, and the broader economy.

MMN members analyze economic institutions and ideas as legal realists, explicitly recognizing the role politics plays in forming

premises. Starting from the bottom, we keep two critical questions in mind: 1) “What is money?” which is everywhere and always a question of legal design and interpretation, and 2) “How does money work?” In the sense of how does it pool, ebb and flow between and through institutions from an operational perspective.

These questions have engendered profound, vigorous conversations. In 2012-2013, through our eight-part [“Modern Money and Public Purpose” series](#), we discussed the legal history of debt, the analogy between government and household budgets, and the causes of unemployment. Last semester, through our [“Law-Money Nexus” series](#), we examined the essential hierarchy of finance, the administrative law of central banking, and the constitutionality of the debt ceiling, just to name a few subjects. Each of our events brings CLS professors into conversation with attorneys at the Federal Reserve, the Treasury, and various regulatory agencies and major banks. We have created an interface for beginners and experts to discuss the nuts and bolts of public and private finance.

This upcoming semester, we are hosting more seminars, forming reading groups, and writing op-eds. And we’ve started branching out to other law schools, both in the U.S. and abroad.

Through this column and our events, we want more students to join the conversation. Although most MMN collaborators advocate progressive reforms, our chief interest is discussion consistent with operational realities. Even the most conservative student can benefit from engaging with private sector experts in shadow banking regulation and money markets. As for those who consider themselves left of center, perhaps Professor [Olatunde Johnson put it most succinctly](#), when moderating a recent MMN panel on the disparate impact of unemployment by race, age, and gender:

“I really always encourage people, especially people who are very ‘rightsy’ like myself, to think about the market side of it, because lawyers play a huge role in structuring these regimes.”

Whatever your social justice goals are, they fit within a broader economic scheme, itself constituted and governed by law.

Economic policy affects each and every one of us, professionally and personally. As such, we strongly believe that law students need macroeconomics, and macroeconomics needs law students.

So, we’re bringing them together. We invite you to join us.