

The Baldy Center for Law and Social Policy
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Host-producer: Azalia Muchransyah
Speaker: Athena Mutua
Contact information: baldycenter@buffalo.edu

Podcast transcript begins

[Azalia]: Hi everyone. Welcome to the season two of The Baldy Center for Law and Social Policy podcast, produced at the University at Buffalo. I'm your host and producer Azalia Muchransyah.

This episode, I have professor Athena Mutua on the phone with me. She is a Floyd H. and Hilda L. Hurst faculty scholar at UB School of Law. Today, we are going to talk about ClassCrits. Professor Mutua, can you tell us about ClassCrits and how it came into fruition?

[Athena]: Martha McCluskey and I initially had the idea to form ClassCrits. The name comes out of the 2006 article that I wrote on the rise, development of future directions of critical race theory, which is in the news of yet. And there, I kind of summarized what I thought critical race theory was by telling of it, how it developed, and in terms of its future directions, I thought it needed to expand and elaborate on the claim around the intersection of class and race. And that meant talking a little bit about what class is.

Martha, of course, was looking at the economy from a different perspective. She was really offering critiques of the law and economics movement and scholarship, which was fairly hegemonic at the time that we came together and may still be, even though I think a number of its assumptions have been not only criticized, but debunked and some of its leading advocates, like Posner, have stepped away from. But at that moment, in 2006, 2007, it was under assault, but still quite hegemonic and is still used predominantly, I think, in law today when we're talking about economic matters. And so, she had a critique of law and economics and neoclassical economics more generally. And so, we came together to form this organization and what were some of our basic ideals.

The primary focus, at least initially, and I think that this remains, was to look at the relationship between law and economic inequality. So, although you had this long economics movement and we were in, already very much so, have been for the last 40 years, we would call it a neoliberal moment. There weren't a lot of people who were looking at inequality and it was rising all over the world, not just in the United States, but all over the world. And so, this was something that was gaining attention, but had not moved front and center. And so we wanted to explore the ways in which was law helps structure, influence, shape economic inequality. So that was kind of the guiding idea of coming together and pulling together a group of scholars to kind of look at these issues.

[Azalia]: How does ClassCrits see the relationships between law and other disciplines?

[Athena]: So when we started this investigation, there were a number of shared assumptions. We agreed that law and politics helped shape the economy. It helps to shape the market, right? The market doesn't exist in the absence of rules and regulations and that sort of stuff. We also shared the assumption that the line between politics and law is thin, if it exists at all. And we share this idea that class or economic material existence was interrelated with race and gender. Those structures, those

status, some people call them, those status structures were reinforced and also shaped by our economy and our economic practices. So we share that. So we were kind of the first group that was taking this kind of heterodox, or political economy approach in law. Now, of course, sociologists have been doing it for a while and a lot of economists have been doing it for a while, but in law there was no one else really kind of looking at those questions.

Now what we find is we have an entire ecosystem that is emerging. ClassCrits has been a part of that emergence. It has pushed some of that. So now what we see is that you have ClassCrits as an organization. You also have an organization called APPEAL. Anyway, the organization is meant to promote the study of law and political economy. So that's kind of their goal. You have what was the Yale blog and now they have some sort of movement and organization that kind of grew out of the Yale blog that looked at law and political economy. Those things developed sometime around 2013, 2014. And last, and there are others, there's a whole student movement out there, which I won't touch upon, but a whole host of student organizations have grown up looking at some of these issues, looking at money, looking at law and political economy.

But then ClassCrits has also promoted the development now of an online journal, The Journal of Law and Political Economy, which is online, and so it makes some of the scholarship that is being generated around these issues easily accessible. And so its inaugural issue has just been published. The first issue has just been published and it is off and running. So now, where you had kind of one lonely little group, in law anyway, looking at these issues and people kind of looking at us a little strange, we now have **[inaudible 00:06:17]**-based or these associations that are looking at these issues and you have a host of student organizations that are looking at these issues. So the inquiry into law and inequality, or law and political economy, has grown tremendously since we started. So that's where ClassCrits is situated now.

[Azalia]: What are the challenges of positioning ClassCrits within the intersection of law and political economy?

[Athena]: So on the one hand, we know that law helps the structure of a market. We know that law defines what property is. We know that law regulates contracts, and if you don't enforce them, they don't exist. So there are all of these legal concepts around property and contracts and that sort of stuff that are foundational to the economy. And so law enters in that sort of way. But lawyers, a lot of times, are doing something radically different from what political economists are doing. So what they're doing is they're kind of looking at a law or a set of laws or a set of decisions, and they're parsing through patterns that they see, or they're arguing about the particular rationale in a case and whether or not that rationale makes sense or doesn't. They're analyzing statutes. They're really just doing something different in a really set field of core decisions, legislation and politics. That's kind of what lawyers are doing.

Political economists are really doing something quite different. They are looking at the economy. From a neoclassical perspective, they're talking about supply and demand and what the influences are. Political economy is broader, depending on your approach, but even if you talk about, as I do in this paper, class analysis, then you get discussions about production and how production is structured. You get conversations about how people get sorted into different kinds of jobs, conversations about how jobs and opportunities are structured. So the two groups are doing really kind of different sort of things. And so trying to mesh those two is a little bit of a challenge, because they're doing different sorts of things. And so what I propose in that paper is a way, perhaps, to bring those two sets of analyses together. Not sure how successful I am, but I think there's a lot of work now that is doing just that.

[Azalia]: Do you think scholarly works, such as what you do at ClassCrits contribute to society?

[Athena]: So I think that that is a goal of ClassCrits. And generally you see this as a goal of a lot of critical scholars. That is, the idea that we want to make a contribution, we want to contribute to change. And there is a theory out there that scholarships should be objective and shouldn't have a particular goal in mind. It should be exploratory. And I think our work is exploratory, but it's clear that we are concerned about economic justice, racial justice, we're motivated in part by the idea that we should be making a contribution to change, to make the society more fair, both socially and economically. So, that is clearly a goal.

And that, I think, is important in this time, right? So for instance, when you think about this moment, and I think it's really an interesting moment, right, the whole fight about healthcare and whether or not we, as a country, can provide universal healthcare is an issue. And the arguments that get marshaled for and against it, have a lot to do with cost and how those costs get analyzed, how you might view the issue, a lot of times turns on what kind of law and economic perspective you're using. So some might argue that private industry is more efficient in providing a host of different services in [unclear] healthcare.

So one question that we might ask is, is that true empirically? That's one question, is that when we look at our system, are we sure that the provision of healthcare services by our fragmented kind of healthcare system is more efficient than, say, a system that has a public option or a system that's universal and it has a single payer framework. And so a lot of those debates really turn on what sorts of theories you are using to approach those. And I think the political economy approach says, well let's not just look at those issues. We're going to look at the economic issues, but probably from a class perspective or from a Keynesian perspective or from a feminist economics perspective or from an institutionalist economic perspective. So we're going to use a different sort of framework and frameworks that take into account the politics of it all, the politics about who shapes these conversations? Who has the power to influence the conversations and the outcomes here?

And here, we're talking about economic power and perhaps political power. But in this moment, those things seem to be really tightly linked, which is problematic. So we saw, in the Obama era, when the Affordable Care Act was proposed, we saw the health industry jump into action and really try to influence that debate and influence it, not just in terms of rhetoric, but in terms of money and who they supported. And the question becomes, in the era of COVID, have we seen some things? Is this an opportunity to have a broader conversation?

Because it's clear, I think ... I haven't heard from the health insurance industry much during COVID and haven't heard that much from the pharmaceutical industries, except to say, you know, we are going to work on a vaccine and then fights about whether or not the vaccine will be made broadly available or will it be expensive and who benefits from that? Because that's always a question that we're going to ask is, who's benefiting, really ultimately? So we're concerned about those kinds of questions and that's important in this moment, I think.

[Azalia]: How does ClassCrits bridge the gap between the ivory tower of intellectual discourse to the real world?

[Athena]: I mean, I think we do that in a bunch of different ways and ClassCrits tries to do that in a bunch of different ways. So one, we simply publish our materials and hope that people read it. The other thing that we try to do is to start publishing this stuff in a more popular format, where people might have better access to it. And I think the Yale Law and Political Economy blog did some of that. And what it did was put out online these relatively short essays about these issues, so that folks might have greater access to it. And there, you have to use more popular language. And so we have done some of that, I think, and we've talked about some of that.

Another way that we try to influence the conversation is that we both try to make sure our theories are informed by what's going on on the ground and also trying to make our thinking available to folks who are on the ground and doing the kind of activist work around these issues. And so ClassCrits has always kind of invited activists in to both educate us and then to share, so that some of these kinds of ideas get out there. So I think those are kind of primarily the ways that we do it, but let me shift a little bit and give another example on one in which I'm involved with, kind of on the ground.

So I am a part of an organization that engages in organizing communities around policing. And one of the things we see about policing, and it took a long time, that when you saw people go to the streets and protest the killing of George Floyd and on the first week or so, a lot of the rhetoric was justice for George Floyd. But in a relatively short period of time, you got this rhetoric around defunding the police. And the question is where did that come from? Well, it came from generally from a lot of people on the ground, looking at these issues. And a lot of organizations kind of grew up after the acquittal of George Zimmerman, who killed Trayvon Martin. A lot of political organizing activism on the ground in different parts of the country and they started working on these issues.

And so when the protests moved into the streets, even here in Buffalo, Black Love Resists in the Rust, that organization, people called upon them because they knew they had been working on policing for years and they came forward with language around, what do police reforms look like? Let's think about defunding police. Let's talk about police abolition. But if we go back even further, we find that a lot of this work is even older than the killing of Trayvon Martin. It is situated in Angela Davis' work around prisons and a whole host of theorists who've been working on this issue for 20, 30 years. That's where some of these ideals really kind of first get some gravity, for lack of a better word.

Now it may be that, when we think about it, you know, Angela Davis' work was built off of what was going on in prisons, but also what was on the ground. But she really then started talking about the prison industrial complex, and in that conversation, these ideals around policing kind of emerged. These ideals about redefining safety. If we really want to be safe, is it the police who would make us safe, or the other way? So I use that as an example to say, it does appear that our work is kind of ivory tower. But to the extent that we continue to work on these issues, that we take something like healthcare and some of these other topical and prominent issues and work through them from this other perspective, and then disseminate that and work with others, people who are on the ground to disseminate that information, or work with people like politicians now who are talking about it, AOC, Bernie Sanders, Elizabeth Warren were talking about these issues and saying, this is how we're analyzing it.

It has a chance. Not saying that it is definitive, but it has a chance of kind of influencing, kind of what's going on in the real world, even if it appears to start in the ivory towers. I'm stumbling on my words here.

[Azalia]: That was professor Athena Mutua, and this has been The Baldy Center for Law and Social Policy podcast produced at the University at Buffalo. Please visit our website buffalo.edu/baldycenter for more episodes, and follow our twitter @baldycenter. This is Azalia Muchransyah and this episode concludes my time as your host and producer. Thank you for everything and stay tuned for our new season next fall.