
DEMANDS FOR A DEMOCRATIC POLITICAL ECONOMY[†]

Amna A. Akbar*

Those who profess to favor freedom and yet deprecate agitation, are men who want crops without plowing up the ground, they want rain without thunder and lightning. They want the ocean without the awful roar of its many waters. . . . Power concedes nothing without a demand. It never did and it never will.

— Frederick Douglass, 1857¹

INTRODUCTION

We are living in a time of grassroots demands to transform our built environment and our relationships with one another and the earth.² To abolish prisons and police, rent, debt, borders, and billionaires.³ To

[†] Responding to Michael J. Klarman, *The Supreme Court, 2019 Term — Foreword: The Degradation of American Democracy — And the Court*, 134 HARV. L. REV. 1 (2020).

* Associate Professor of Law, The Ohio State University, Moritz College of Law. For generous engagement with the ideas presented here, I am grateful to Amy Cohen, Amy Kapczynski, Andy Hsiao, Anthony Arno, Aziz Rana, Bernard Harcourt, Bertrall Ross, Jocelyn Simonson, Kate Andrias, Marbre Stahly-Butts, Rachel Foran, Russell Robinson, Ruth Colker, K. Sabeel Rahman, Sa’dia Rehman, Sam Moyn, Sameer Ashar, and Zohra Ahmed. Breeana Minton, Sara Dagher, Thomas Pope, Jason Ketchum, and Eleni Christofides provided superb research assistance. Natasha Landon, Kaylie Vermillion, Stephanie Ziegler, Matt Cooper, and Corazon Britton provided indispensable library support.

¹ FREDERICK DOUGLASS, *West India Emancipation, Speech Delivered at Canandaigua, New York, August 3, 1857*, in FREDERICK DOUGLASS: SELECTED SPEECHES AND WRITINGS 358, 367 (Philip S. Foner & Yuval Taylor eds., Lawrence Hill Books 1999) (1950–1975).

² See, e.g., Amna A. Akbar, Opinion, *The Left Is Remaking the World*, N.Y. TIMES (July 11, 2020), <https://nyti.ms/2CnlliP> [<https://perma.cc/M2L8-UNZW>]; see also BEYOND SURVIVAL: STRATEGIES AND STORIES FROM THE TRANSFORMATIVE JUSTICE MOVEMENT (Ejeris Dixon & Leah Lakshmi Piepzna-Samarasinha eds., 2020); BLACK YOUTH PROJECT 100, LAW FOR BLACK LIVES & THE CTR. FOR POPULAR DEMOCRACY, REIMAGINING SAFETY & SECURITY: BUDGET TOOLKIT & RESOURCE GUIDE, <https://static1.squarespace.com/static/5500a55ae4b05a69b3350e23/t/597650396b8f5b857dc48fa8/1500926014325/L4BL+-+Freedom+to+Thrive+Update.pdf> [<https://perma.cc/2T5N-F7UB>].

³ See, e.g., DEBT COLLECTIVE, CAN’T PAY WON’T PAY: THE CASE FOR ECONOMIC DISOBEDIENCE AND DEBT ABOLITION (2020); Amna A. Akbar, *How Defund and Disband Became the Demands*, N.Y. REV. BOOKS (June 15, 2020), <https://www.nybooks.com/daily/2020/06/15/how-defund-and-disband-became-the-demands> [<https://perma.cc/PU4E-728V>]; Keeanga-Yamahtta Taylor, *Cancel the Rent*, NEW YORKER (May 12, 2020), <https://www.newyorker.com/news/our-columnists/cancel-the-rent> [<https://perma.cc/CU2E-WCT4>]; MOVEMENT FOR BLACK LIVES, REPARATIONS NOW TOOLKIT (2019), <https://m4bl.org/wp-content/uploads/2020/05/Reparations-Now-Toolkit-FINAL.pdf> [<https://perma.cc/KB5U-A6N7>]. These demands are motivating law-and-organizing strategies, too. See Jeffrey Selbin, *Juvenile Fee Abolition in California: Early Lessons and Challenges for the Debt-Free Justice Movement*, 98 N.C. L. REV. 401, 413–16 (2020).

decommodify housing and healthcare and to decolonize land.⁴ To exercise more collective ownership over our collectively generated wealth.⁵ Some of us are reimagining the state. Others are dreaming of moving beyond it.⁶ But these are more than dreams. These are demands for a democratic political economy.

These demands increased in volume this year as the violence of policing continued, the fires burned in California and Oregon, and the coronavirus raged across the country. The police killings of George Floyd and Breonna Taylor set off unprecedented summerlong protests.⁷ Almost nine million acres of land have burned.⁸ Twelve tropical storms and hurricanes have made landfall, causing widespread flooding, property damage, and power outages in the Gulf Coast and beyond.⁹ Over 250,000 people have died from the coronavirus,¹⁰ and estimates suggest nearly as many will die this year from suicides, alcohol-related deaths, and drug overdoses.¹¹ Millions of people — the vast majority without a college degree, and many Black, brown, immigrant, disabled — are doing essential devalued labor at great peril to themselves and their families.¹² Tens of millions are hungry, without work or healthcare,

⁴ See, e.g., SHIRI PASTERNAK & HAYDEN KING, *LAND BACK: A YELLOWHEAD INSTITUTE RED PAPER* 56–61 (2019), <https://redpaper.yellowheadinstitute.org/wp-content/uploads/2019/10/red-paper-report-final.pdf> [<https://perma.cc/Y5BA-7TAA>]; *Cancel Rent, Cancel Mortgages, Guarantee Homes for All*, BEYOND RECOVERY (2020), <https://cancelrent.us> [<https://perma.cc/W3PF-6J78>].

⁵ See, e.g., THE PEOPLE'S BUDGET LA COAL., *THE PEOPLE'S BUDGET: LOS ANGELES 2020–2021* (2d ed. 2020), https://peoplesbudgetla.files.wordpress.com/2020/06/peoplesbudgetreport_june15.pdf [<https://perma.cc/M8HN-BUWH>].

⁶ See generally Manu Karuka, *Black and Native Visions of Self-Determination*, 3 *CRITICAL ETHNIC STUD.* 77 (2017) (examining Black and Indigenous movements for self-determination and their challenge to state power).

⁷ Larry Buchanan, Quoc Trung Bui & Jugal K. Patel, *Black Lives Matter May Be the Largest Movement in U.S. History*, *N.Y. TIMES* (July 3, 2020), <https://nyti.ms/2ZqRyOU> [<https://perma.cc/3735-579X>].

⁸ NAT'L INTERAGENCY FIRE CTR., <https://www.nifc.gov/fireInfo/nfn.htm> [<https://perma.cc/BW3V-673P>] (providing year-to-date statistics on the total acres of land burned in the United States).

⁹ See, e.g., Jason Samenow, Andrew Freedman & Matthew Cappucci, *2020 Atlantic Hurricane Season Breaks All-Time Record While Leaving Gulf Coast Battered*, *WASH. POST* (Nov. 10, 2020, 5:00 PM), <https://www.washingtonpost.com/weather/2020/11/10/record-hurricane-season-atlantic/> [<https://perma.cc/M9F3-L4ZQ>].

¹⁰ *Covid in the U.S.: Latest Map and Case Count*, *N.Y. TIMES* (Nov. 21, 2020, 12:17 AM), <https://nyti.ms/39jvJEY> [<https://perma.cc/L8P7-H828>].

¹¹ Helen Epstein, *Left Behind*, *N.Y. REV. BOOKS* (Mar. 26, 2020), <https://www.nybooks.com/articles/2020/03/26/left-behind-life-expectancy-crisis> [<https://perma.cc/F9CK-VJ3R>] (reporting that suicides, alcohol-related deaths, and drug overdoses account for approximately 190,000 deaths in the United States each year).

¹² See, e.g., Audrey Kearney & Cailey Muñana, *Taking Stock of Essential Workers*, KAISER FAM. FOUND. (May 1, 2020), <https://www.kff.org/policy-watch/taking-stock-of-essential-workers> [<https://perma.cc/6AMH-ALR7>]; Hye Jin Rho, Hayley Brown & Shawn Fremstad, *A Basic Demographic Profile of Workers in Frontline Industries*, CTR. FOR ECON. & POL'Y RSCH. (Apr.

debt-ridden, and unable to make rent.¹³ Millions are confined to carceral institutions despite squalid conditions and the heightened risk of coronavirus transmission in jails, prisons, detention centers, and psychiatric institutions.¹⁴ While most of us are becoming increasingly insecure, the wealthiest among us are amassing even more wealth.¹⁵ And there is no real relief in sight.

In his remarkable Foreword, Professor Michael Klarman implicitly makes the case for this decade of protests, riots, and strikes, and the demands that spring therefrom.¹⁶ The United States “is not a democracy.”¹⁷ Our political system is “dominate[d]” by “the wealthiest Americans”¹⁸ and “well-funded interest groups,”¹⁹ whereas “working-class and middle-class Americans exercise almost no influence on political outcomes across a wide array of issues.”²⁰

We are living through a material and ideological crisis: people’s basic needs are not being met — not by the state, and not by the market. But it is not simply that material conditions are increasingly unsurvivable. Ordinary people have no way to determine the conditions

7, 2020), <https://cepr.net/a-basic-demographic-profile-of-workers-in-frontline-industries> [<https://perma.cc/D2U7-AHUY>]; Keeanga-Yamahatta Taylor, *The Black Plague*, NEW YORKER (Apr. 16, 2020), <https://www.newyorker.com/news/our-columnists/the-black-plague> [<https://perma.cc/SM6G-FJXJ>].

¹³ Chris McGreal, *The Inequality Virus: How the Pandemic Hit America's Poorest*, THE GUARDIAN (Apr. 9, 2020, 2:09 PM), <https://www.theguardian.com/world/2020/apr/09/america-inequality-laid-bare-coronavirus> [<https://perma.cc/ZL8W-9PJP>]; Grace Segers, “Staggering” Need: COVID-19 Has Led to Rising Levels in Food Insecurity Across the U.S., CBS NEWS (Oct. 14, 2020, 10:36 AM), <https://www.cbsnews.com/amp/news/staggering-need-covid-19-has-led-to-rising-levels-in-food-insecurity-across-the-u-s> [<https://perma.cc/8JFZ-BNCZ>].

¹⁴ EMILY WIDRA & DYLAN HAYRE, PRISON POL’Y INITIATIVE, FAILING GRADES: STATES’ RESPONSES TO COVID-19 IN JAILS & PRISONS (2020), https://www.prisonpolicy.org/reports/failing_grades.html [<https://perma.cc/JB6L-9JD7>].

¹⁵ See Jack Kelly, *The Rich Are Getting Richer During the Pandemic*, FORBES (July 22, 2020, 10:59 AM), <https://www.forbes.com/sites/jackkelly/2020/07/22/the-rich-are-getting-richer-during-the-pandemic/#3c98134e5c7e> [<https://perma.cc/4TTP-NLJW>].

¹⁶ Michael J. Klarman, *The Supreme Court, 2019 Term — Foreword: The Degradation of American Democracy — And the Court*, 134 HARV. L. REV. 1 (2020). For powerful arguments about mass protests and social movements providing outlet and input for those locked out of access to formal politics, see FRANCES FOX PIVEN & RICHARD A. CLOWARD, POOR PEOPLE’S MOVEMENTS: WHY THEY SUCCEED, HOW THEY FAIL 3 (1977); and DEVA R. WOODLY, THE POLITICS OF COMMON SENSE: HOW SOCIAL MOVEMENTS USE PUBLIC DISCOURSE TO CHANGE POLITICS AND WIN ACCEPTANCE 5–6 (2015).

¹⁷ Klarman, *supra* note 16, at 209 (arguing that wealthy Americans and interest groups have disproportionate political influence and that such a political system “is not a democracy”).

¹⁸ *Id.* at 205.

¹⁹ *Id.* at 209.

²⁰ *Id.* at 207.

of their lives.²¹ People are taking to the streets because it is their “only recourse.”²²

More than hardball, Klarman argues that conservatives and super-elites have written, interpreted, influenced, and enforced the laws to build a world where their power and profit reign supreme. Despite large majorities who support “paid sick leave and parental leave for workers, a higher minimum wage, and higher taxes on millionaires . . . such policies do not get enacted.”²³ In an unusually clear identification of political opponents in a piece of legal scholarship, Klarman’s charge is against Republicans, Donald Trump, the Roberts Court, libertarian businessmen, the religious right, and the right-wing media. But Klarman does not rest there: he identifies a fundamental contradiction between property rights and representative democracy in our constitutional structure from the founding until today.²⁴ While he omits land theft and Indigenous genocide, he repeatedly refers to the histories and afterlives of enslavement.²⁵

As he charts the neofascist turn in Republican politics, Klarman provides a sweeping argument about how neoliberalism has come to define our law and politics — with Republicans at the helm and Democrats in tow.²⁶ The “libertarian businessmen’s political agenda” is at the center of the story: “reducing taxes, cutting social welfare programs, privatizing

²¹ See Kate Andrias, *Separations of Wealth*, 18 U. PA. J. CONST. L. 419, 421 (2015) (“Organized wealth . . . [is] the key driving force in American politics.”); Martin Gilens & Benjamin I. Page, *Testing Theories of American Politics: Elites, Interest Groups, and Average Citizens*, 12 PERSPS. ON POL. 564, 577 (2014) (“[M]ajorities of the American public actually have little influence over the policies our government adopts.”); K. Sabeel Rahman, *Democracy Against Domination: Contesting Economic Power in Progressive and Neorepublican Political Theory*, 16 CONTEMP. POL. THEORY 41, 54 (2017) (“[T]he modern state is generally more responsive to the economic elite, particularly on matters of economic policy.”); Bertrall Ross, *A Constitutional Path to Fair Representation for the Poor*, 66 U. KAN. L. REV. 921, 923–24 (2018) (identifying a lack of political representation for the poor); Deva Woodly, *Theorizing Social Movements as Democratic Institutions, in Critical Exchange: Political and Ethical Action in the Age of Trump*, 17 CONTEMP. POL. THEORY 331, 344 (2018) (“[O]ur regular electoral process routinely leaves some — usually white, upper-class men — on top, and others arrayed in an intersectional hierarchy that cascades below.”).

²² PIVEN & CLOWARD, *supra* note 16, at 3. Dr. Martin Luther King, Jr., put it this way: “A riot is the language of the unheard.” *50 Years Ago: Martin Luther King, Jr., Speaks at Stanford University*, THE MARTIN LUTHER KING, JR. RSCH. & EDUC. INST., at 24:36 (Apr. 14, 2017), <https://kinginstitute.stanford.edu/news/50-years-ago-martin-luther-king-jr-speaks-stanford-university> [<https://perma.cc/2WT4-FXXG>].

²³ Klarman, *supra* note 16, at 208.

²⁴ See *id.* at 135–36, 145–46.

²⁵ See, e.g., *id.* at 135–36, 179–80. For scholarship on how colonialism defines the shape of the United States past and present, see, for example, AZIZ RANA, *THE TWO FACES OF AMERICAN FREEDOM* (2010); Maggie Blackhawk, *Federal Indian Law as Paradigm Within Public Law*, 132 HARV. L. REV. 1787 (2019); and K-Sue Park, *Self-Deportation Nation*, 132 HARV. L. REV. 1878 (2019).

²⁶ See Klarman, *supra* note 16, at 140–46.

education and other traditional government functions, undermining labor unions, [and] eviscerating environmental regulations.”²⁷ But Klarman overlooks the exponential rise of incarceration and policing since the civil rights movement.²⁸ This is a curious omission given Klarman’s past work on criminal procedure and the Foreword’s focus on eroded democracy, expanding inequality, and racial resentment among whites.²⁹ Mass criminalization is an engine of political, economic, and social disenfranchisement that has devastated Black, brown, poor, and working-class communities.³⁰ It provides bipartisan scaffolding for the widening wealth and income gaps that animate how race, class, and gender are lived.³¹

Klarman refuses many of the myths of liberalism and neoliberalism.³² He considers law as a terrain and tool of politics: the product of

²⁷ *Id.* at 140.

²⁸ *See id.* For important work on the rise of incarceration and policing after the civil rights movement, see, for example, MICHELLE ALEXANDER, *THE NEW JIM CROW: MASS INCARCERATION IN THE AGE OF COLORBLINDNESS* (2010); JORDAN T. CAMP, *INCARCERATING THE CRISIS: FREEDOM STRUGGLES AND THE RISE OF THE NEOLIBERAL STATE* (2016); MARIE GOTTSCHALK, *CAUGHT: THE PRISON STATE AND THE LOCKDOWN OF AMERICAN POLITICS* (2014); and BERNARD E. HARCOURT, *THE ILLUSION OF FREE MARKETS: PUNISHMENT AND THE MYTH OF NATURAL ORDER* (2011).

²⁹ For the Foreword’s focus on these issues, see, for example, Klarman, *supra* note 16, at 107, 116–18, 148–50, 152. For an example of Klarman’s past work dealing with race and criminal procedure, see Michael J. Klarman, *The Racial Origins of Modern Criminal Procedure*, 99 MICH. L. REV. 48 (2000). Klarman’s argument echoes W.E.B. Du Bois’s argument on the wages of whiteness. *See* W.E.B. DU BOIS, *BLACK RECONSTRUCTION IN AMERICA, 1860–1880*, at 700–01 (The Free Press 1998) (1935); *see also* DAVID R. ROEDIGER, *THE WAGES OF WHITENESS: RACE AND THE MAKING OF THE AMERICAN WORKING CLASS* (rev. ed. 2007).

³⁰ *See* TRACI BURCH, *TRADING DEMOCRACY FOR JUSTICE: CRIMINAL CONVICTIONS AND THE DECLINE OF NEIGHBORHOOD POLITICAL PARTICIPATION* 1–2 (2013); AMY E. LERMAN & VESLA M. WEAVER, *ARRESTING CITIZENSHIP: THE DEMOCRATIC CONSEQUENCES OF AMERICAN CRIME CONTROL* 8–10 (2014); Joe Soss & Vesla Weaver, *Police Are Our Government: Politics, Political Science, and the Policing of Race–Class Subjugated Communities*, 20 ANN. REV. POL. SCI. 565, 580–81 (2017); *see also* Monica C. Bell, *Response, Hidden Laws of the Time of Ferguson*, 132 HARV. L. REV. F. 1, 16–20 (2018); Juliet Hooker, *Black Lives Matter and the Paradoxes of U.S. Black Politics: From Democratic Sacrifice to Democratic Repair*, 44 POL. THEORY 448, 462–65 (2016).

³¹ *See generally, e.g.*, ELIZABETH HINTON, *FROM THE WAR ON POVERTY TO THE WAR ON CRIME: THE MAKING OF MASS INCARCERATION IN AMERICA* (2016) (tracing mass incarceration to mid-twentieth-century urban policies advocated by Republicans and Democrats); NAOMI MURAKAWA, *THE FIRST CIVIL RIGHT: HOW LIBERALS BUILT PRISON AMERICA* (2014) (examining how liberal ideologies contributed to the growth of the American prison system).

³² The primary role of the neoliberal state is to “set up those military, defence, police, and legal structures” required for the stability of private property rights, free trade, and markets. DAVID HARVEY, *A BRIEF HISTORY OF NEOLIBERALISM* 2 (2005); *see also* Corinne Blalock, *Neoliberalism and the Crisis of Legal Theory*, 77 LAW & CONTEMP. PROBS. 71, 83–84 (2014) (identifying deregulation, privatization, and “the dismantling of the welfare state,” *id.* at 83, as central to neoliberal regimes); David Singh Grewal & Jedediah Purdy, *Introduction: Law and Neoliberalism*, 77 LAW & CONTEMP. PROBS. 1, 6–8 (2014) (stating that under neoliberal ideology, “strong property rights and private contracting rights are the best means to increase overall welfare,” *id.* at 6).

dynamic social forces contending for power. From social movements to the Civil War to the evisceration of labor unions, he describes the bloody struggles — far outside the courtroom or Congress — over labor, land, race, class, and gender as central to the shape and meaning of our laws. He identifies the material incentives and ideological infrastructure that have created the Republican Party we know today and its sizeable support among whites.³³ He repudiates any fantasy that we are on a linear march toward betterment for all. He powerfully reminds us, for example, that “only for a relatively brief period during Reconstruction and since the 1965 Voting Rights Act have [B]lack been permitted to participate in any significant way in American democracy.”³⁴ There is no machinery toiling on automatic toward justice. He understands the state not merely as *the government*, but as something more akin to the ruling elite.³⁵

After refusing the divisions among democracy, the state, and the economy, Klarman falters when it comes to reforms. He explicitly places the horizon for reform as democracy — which he briefly defines as a political system where “a majority of voters enjoys at least a majority of the political power”³⁶ — and narrows his focus to the formal structures of participation in electoral politics. Klarman calls on the Democratic Party to advance reforms that “bolster”³⁷ and “entrench”³⁸ democracy: implementing automatic voter registration at eighteen, ending felon disenfranchisement, publicly financing elections, resizing the Supreme Court, abolishing the Electoral College, and addressing the malapportionment of the Senate.³⁹ He recognizes that “[w]e are trapped in a downward spiral in which growing economic inequality erodes democracy, leading to the enactment of more policies that further exacerbate economic inequality, which then further erodes democracy.”⁴⁰ But then he concludes that “democratic reform logically must come first.”⁴¹

³³ See, e.g., Klarman, *supra* note 16, at 117–22, 140–43, 168–71.

³⁴ *Id.* at 107.

³⁵ See, e.g., *id.* at 144–47, 207–11. In running a comparison of the United States with other countries, he even refuses to render the United States as singular among a sea of European nations. See *id.* at 8, 15–20.

³⁶ *Id.* at 47.

³⁷ *Id.* at 243.

³⁸ *Id.* at 231.

³⁹ *Id.* at 232–42, 246–53. For a powerful overview of reforms that would delimit the Court’s jurisdiction and judicial review, see Ryan D. Doerfler & Samuel Moyn, *Democratizing the Supreme Court*, 109 CALIF. L. REV. (forthcoming 2021) (manuscript at 22–25) (on file with the Harvard Law School Library); and for a discussion of reforms that would incentivize campaigns to mobilize the poor to vote, see Bertrall L. Ross II, *Addressing Inequality in the Age of Citizens United*, 93 N.Y.U. L. REV. 1120, 1127, 1181–87 (2018).

⁴⁰ Klarman, *supra* note 16, at 254.

⁴¹ *Id.*

As an empirical and normative matter, I am not so sure. Electoral reform is unlikely to mobilize a public where only twenty to sixty-five percent of eligible voters cast their ballots in various elections and only twenty percent trust the federal government.⁴² Nor do we have the luxury to wait and see. The rhythms and impacts of minority rule are more frequent and brutal than the election cycle. That most people have virtually “no influence on political outcomes across a wide array of issues”⁴³ has very material consequences. It means widespread hunger and houselessness, declining wages and a third part-time job, no time for rest or leisure or loved ones, and high rates of alcoholism, depression, overdoses, and suicide. It means ballooning budgets for punitive control financed by the poor and defunding of schools, transportation, and infrastructure. It means living in a debt-based economy where most everyone cannot afford their daily existence. It means dirty air, undrinkable water, and rising sea levels. It means widespread premature death and insufficient medical care.⁴⁴ It means stoking anti-poor, anti-Black, anti-immigrant, anti-Muslim, and anti-Mexican sentiment to try to ease the pain between myth and reality. It means doubling down on the nuclear family, patriarchal violence, and gender binaries. It means increased feelings of powerlessness and despondency.

The reforms Klarman advances would provide important avenues to reconstitute Democratic Party power and to weaken nativist right-wing forces. But they would not go far enough to counter the devastation minority rule has wrought through never-ending privatization and the monstrosity of the carceral state. Nor are Democrats likely to lead a meaningful agenda of redistribution and reconstruction. Consider that from Minneapolis to Los Angeles to Louisville, virtually all of the cities engulfed in protest this summer have Democratic city councils and mayors. At the federal level, the party leadership has ferociously fought pressure from the emboldened left of the party, even as “the Squad” organizes around large-scale changes that are mobilizing young people and a broader ideological base.⁴⁵ Democrats have consistently failed to

⁴² See, e.g., *id.* at 232; *Americans' Views of Government: Low Trust, but Some Positive Performance Ratings*, PEW RSCH. CTR. (Sept. 14, 2020), <https://pewrsr.ch/3mkh3Mt> [https://perma.cc/2E3V-VMPV].

⁴³ Klarman, *supra* note 16, at 207.

⁴⁴ See, e.g., Gabriel Winant, *Coronavirus and Chronopolitics*, N+1 (Spring 2020), <https://nplusonemag.com/issue-37/politics/coronavirus-and-chronopolitics-2> [https://perma.cc/C6CP-B2C2] (discussing hospital shortages and deficiencies in the United States healthcare system).

⁴⁵ The Squad started with Alexandria Ocasio-Cortez, Ilhan Omar, Ayanna Pressley, and Rashida Tlaib. For reporting on the Squad and other progressive Democrats' positions relative to establishment party members, see John Bowden, *Progressives Hammer DCCC over Blacklist Targeting Primary Challenges*, THE HILL (Mar. 30, 2019, 7:15 PM), <https://thehill.com/home-news/house/436592-progressives-hammer-dccc-over-blacklist-targeting-primary-challenges> [https://perma.cc/LLS4-BSX9]; Keeanga-Yamahtta Taylor, *Why Nancy Pelosi Hates the Squad*, JACOBIN (July 31, 2019), <https://jacobinmag.com/2019/07/nancy-pelosi-alexandria-ocasio-cortez-ilhan-omar>

mount a serious challenge to Republican power with any kind of real vision for an alternative or for large structural changes.⁴⁶ They have been willing partners in the neoliberal project.⁴⁷

Democracy must be a bottom-up project. It cannot be entrusted to either party. Whether you think of Occupy or Ferguson or Standing Rock or the teachers' strikes, the flourishing protests of the last decade are grassroots insurgencies against intersecting material crises produced by elite rule. It is here that we must pay attention.⁴⁸ Social movements are essential to contesting the strangled domain of democratic politics under neoliberal capitalism and its unrelenting expansion of the market economy. To create the conditions where popular majorities can engage in self-rule requires a vision of democracy that does not separate politics from the economy and that is committed to grassroots power and a more ambitious program of reform.

In this Response, I lay out a more capacious vision of democracy emerging from today's grassroots movements on the left: where the pursuit of "non-reformist reforms" is one strategy to move us toward a democratic political economy where people possess the agency and power to self-determine the conditions of their lives. Organizers are increasingly using the heuristic of non-reformist reforms to conjure the possibility of advancing reforms that facilitate transformational change. Articulated in protests, strikes, campaigns, and policy platforms by organizations like Mijente, Black Visions Collective, Sunrise Movement, the Right To

squad-aoc [<https://perma.cc/4YHC-C3TF>]; and *Will "the Squad" vs. Pelosi Be a Big Problem for Democrats in 2020?*, FIVETHIRTYEIGHT (July 17, 2019, 6:00 AM), <https://fivethirtyeight.com/features/will-the-squad-v-pelosi-be-a-big-problem-for-democrats-in-2020> [<https://perma.cc/N6WE-5WZV>].

⁴⁶ See Dahlia Lithwick & David S. Cohen, Opinion, *Buck Up, Democrats, and Fight like Republicans*, N.Y. TIMES (Dec. 14, 2016), <https://nyti.ms/2hDhrTs> [<https://perma.cc/NZ3V-C3T3>] (characterizing Democrats' behavior after the 2016 election of Donald Trump as "do-nothingness").

⁴⁷ Klarman himself recognizes that Democrats function under the shadow of the libertarian ideas and "oligarchic money" that rule politics. Klarman, *supra* note 16, at 143.

⁴⁸ For an argument about the importance of scholarship in conversation with social movements, see Amna A. Akbar, Sameer Ashar & Jocelyn Simonson, *Movement Law*, 73 STAN. L. REV. (forthcoming 2021) (on file with the Harvard Law School Library). Professor Lani Guinier and Professor Gerald Torres's argument of "demosprudence" rings similar notes. See Lani Guinier & Gerald Torres, *Changing the Wind: Notes Toward a Demosprudence of Law and Social Movements*, 123 YALE L.J. 2740, 2750 (2014) ("[D]emosprudence focuses on the ways that ongoing collective action by ordinary people can permanently . . . chang[e] the people who make the law and the landscape in which that law is made."); see also *id.* at 2757–58. For the shrunken domain of politics as a mode of constricting popular power, see MARTIN HÄGGLUND, THIS LIFE: SECULAR FAITH AND SPIRITUAL FREEDOM 268 (2019), which argues that "capitalism is incompatible with actual democracy" since it prioritizes the "private interests of capitalists" and "under capitalism there can be no production of social wealth without the profits of privately owned enterprises"; and ERNESTO LACLAU & CHANTAL MOUFFE, HEGEMONY AND SOCIALIST STRATEGY: TOWARDS A RADICAL DEMOCRATIC POLITICS 173 (2001), which argues that "neoconservatives" have "redefine[d] the notion of democracy itself in such a way as to restrict its field of application and limit political participation to an ever narrower area."

The City Alliance, and the International Longshore and Warehouse Union,⁴⁹ non-reformist reforms provide a framework for thinking about reforms that aim to build grassroots power as they redress the crises of our times. They embody a combined concern with democracy and the economy, the ends and processes of grassroots power: to fight criminalization and privatization as we organize for collective self-determination.

The Response proceeds as follows. In Part I, I lay out the conceptual framework of non-reformist reforms, its origins, and its current articulation in abolitionist, antiracist, and anticapitalist organizing.⁵⁰ In Part II, I turn to defund the police as one example of a non-reformist reform. In Part III, I explain that movements are making demands for the public to have greater say in the commons: our collectively generated wealth, the land, and our shared built environment. These demands for redistribution reflect the deepening of anticapitalist and antiracist critique in many of today's movements and a shift in thinking about the nature of reform that creates greater self-determination for poor, working-class, Black, and brown people — and a more just and sustainable future for us all.

I. NON-REFORMIST REFORMS

As a matter of rhetoric, the left often fashions itself as against reform and outside of formal politics — characterizations that liberals and

⁴⁹ E.g., MIJENTE, FREE OUR FUTURE: AN IMMIGRATION POLICY PLATFORM FOR BEYOND THE TRUMP ERA (2018), https://mijente.net/wp-content/uploads/2018/06/Mijente-Immigration-Policy-Platform_0628.pdf [<https://perma.cc/R38A-8472>]; *About Sunrise Movement*, SUNRISE MOVEMENT (2020), <https://www.sunrisemovement.org/about/?ms=AboutSunriseMovement> [<https://perma.cc/LCZ4-AU82>]; *Our Work*, RIGHT TO THE CITY ALL., <https://righttothecity.org/about/our-work> [<https://perma.cc/ERL4-WG84>]; see also Mary Retta, *MPD 150, Reclaim the Block, and the Black Visions Collective Have Been Fighting to Abolish Minneapolis Police for Years*, TEEN VOGUE (June 12, 2020), <https://www.teenvogue.com/story/mpd150-reclaim-the-block-black-visions-collective-abolish-minneapolis-police-organizing> [<https://perma.cc/5HRM-LZPA>]; Gerald Smith, *Defunding the Police Means Transforming Our Society: A Speech from ILWU's Juneteenth Strike*, SPECTRE J. (June 19, 2020), <https://spectrejournal.com/defunding-the-police-means-transforming-our-society> [<https://perma.cc/73D3-RQSQ>]. On the importance of including labor and unions in our understanding of social movements, see JANE F. MCALEVEY, NO SHORTCUTS: ORGANIZING FOR POWER IN THE NEW GILDED AGE 60–61 (2016); and Catherine L. Fisk & Diana S. Reddy, *Protection by Law, Repression by Law: Bringing Labor Back into the Study of Law and Social Movements*, 70 EMORY L.J. 63, 137–40 (2020). As I explain below, the debate around “non-reformist reforms” is back.

⁵⁰ While I focus on demands and reforms here, I share Professor Tomiko Brown-Nagin's concern that law scholars tend to overstate the importance of law to social movements. See Tomiko Brown-Nagin, *Elites, Social Movements, and the Law: The Case of Affirmative Action*, 105 COLUM. L. REV. 1436, 1501–08 (2005). For work on other strategies, see Dean Spade, *Solidarity Not Charity: Mutual Aid for Mobilization and Survival*, SOC. TEXT, Mar. 2020, at 131, 131, 134–39; and Asad Haider, *What Is Political Power?*, VIEWPOINT MAG. (Mar. 16, 2020), <https://www.viewpointmag.com/2020/03/16/what-is-political-power> [<https://perma.cc/NL7U-TYKQ>].

scholars echo.⁵¹ But today's left social movements are turning to demands, reforms, and policy platforms.⁵² This is not a rejection of electoral and legislative politics: it is a cautious embrace, marking a shift for the emergent left. The demands are amplified by an increasingly organized strategy to elect left and socialist candidates to office, to challenge the Democratic Party's ties to corporate money and the billionaire class, and to redefine the realm of the possible.⁵³ Congressional Representatives Alexandria Ocasio-Cortez, Ilhan Omar, and the growing Squad are supported by a developing constellation of organizations focused on electoral strategy — and these elected officials have become important amplifiers for radical demands.⁵⁴ The turn to reform undoubtedly reflects the defeat of the revolutionary politics of the New Left and Black Power era — itself an index of frustration with what the civil rights movement achieved⁵⁵ — as well as a recognition of the immensity of U.S. military and police power that rose up to crush movements here and around the world.⁵⁶ But it also reflects a sober assessment of the limited scale of left, working-class, and poor people power amid decades of state repression and the rise of the neoliberal agenda

⁵¹ Woodyly, *supra* note 21, at 343 (arguing that social movements are “essential components of democracy” and not “interventions from outside routinized democracy” in the way that democratic theorists tend to assume).

⁵² The beginning of this turn could arguably be marked by the Dream Defenders's introduction of Trayvon's Law in the Florida state legislature after a jury found George Zimmerman not guilty for his killing of Trayvon Martin. *See, e.g.*, Press Release, NAACP Legal Def. & Educ. Fund, NAACP Releases “Trayvon's Law” Principles for State Legislative Advocacy (July 30, 2013), <https://www.naacp.org/latest/naacp-releases-trayvons-law-principles-for-state-legislative-advocacy-2> [<https://perma.cc/S8YN-URA3>]; Press Release, NAACP Legal Def. & Educ. Fund, Dream Defenders Stand Their Ground for Trayvon's Law in Florida (Aug. 1, 2013), <https://www.naacpldf.org/press/dream-defenders-stand-their-ground-for-trayvons-law-in-florida> [<https://perma.cc/6BPS-5PDE>]. The Vision for Black Lives, a policy agenda issued by the Movement for Black Lives in 2016, is another important moment. *Vision for Black Lives*, MOVEMENT FOR BLACK LIVES (2020), <https://m4bl.org/policy-platforms> [<https://perma.cc/B9S5-Z422>].

⁵³ *See generally, e.g.*, SOCIALIST STRATEGY AND ELECTORAL POLITICS: A REPORT (2019) (collecting reflections on the political strategies of American socialists).

⁵⁴ Organizations at the center of this strategy are the Democratic Socialists of America, the Rising Majority, the Working Families Party, Justice Democrats, Brand New Congress, Black Futures Lab, and the Bernie Sanders organization. *See, e.g.*, Astra Taylor, *A New Group of Leftist Primary Challengers Campaign Through Protests and the Coronavirus*, NEW YORKER (June 17, 2020), <https://www.newyorker.com/news/the-political-scene/a-new-group-of-leftist-primary-challengers-campaign-through-protests-and-the-coronavirus> [<https://perma.cc/7N69-RGFX>]; *About*, BLACK FUTURES LAB (2020), <https://blackfutureslab.org/about> [<https://perma.cc/TSL6-J7QE>]; *About Us*, RISING MAJORITY, <https://therisingmajority.com/about-us> [<https://perma.cc/B5LU-8D4E>].

⁵⁵ ROBIN D.G. KELLEY, FREEDOM DREAMS: THE BLACK RADICAL IMAGINATION 61–63, 85–87 (2002).

⁵⁶ *See generally, e.g.*, CAMP, *supra* note 28 (discussing the rise of the carceral state and the government's attempts to suppress radical social movements).

Klarman documents.⁵⁷ It is a bid for power that recognizes that mass disenfranchisement is central to the elite's hold on the state and the economy. A growing number of organizers now understand the need to organize poor, working-class, Black, brown, and immigrant people to effectuate transformational change.⁵⁸

Reform has long been a central question in debates about left and socialist strategy,⁵⁹ with a range of terms to capture the aspiration for a reform program aimed at a larger project of transformation.⁶⁰ Organizers are increasingly invoking non-reformist reforms, the term

⁵⁷ See Klarman, *supra* note 16, at 140–44, 207–08. Lack of organization among the “inadequately employed” is itself in part “the result of the sedimentation of a neoliberal commonsense.” Deva Woodly, *Seeing Collectivity: Structural Relation Through the Lens of Youngian Seriality*, 14 CONTEMP. POL. THEORY 213, 229 (2015).

⁵⁸ Importantly, many contemporary campaigns emerge in defensive posture: against the violence and disregard of legal process toward the poor — whether that be criminal prosecution, deportation, or eviction. *E.g.*, #DefundHate, DET. WATCH NETWORK, <https://www.detentionwatchnetwork.org/defundhate> [<https://perma.cc/W7AC-LT6L>].

⁵⁹ *E.g.*, ROSA LUXEMBURG, THE ESSENTIAL ROSA LUXEMBURG: REFORM OR REVOLUTION & THE MASS STRIKE 41 (Helen Scott ed., 2008) (“Between social reforms and revolution there exists for the social democracy an indissoluble tie. The struggle for reforms is its means; the social revolution, its aim.”); RALPH MILIBAND, MARXISM AND POLITICS 157 (1977) (situating reformism as “one of the two main strategies of the Marxist tradition”); Robert Brenner, *The Problem of Reformism*, LEFT VOICE (Aug. 20, 2018), <https://www.leftvoice.org/the-problem-of-reformism> [<https://perma.cc/32E5-GMPL>] (republished version of a 1992 article based on a talk (“Both revolutionaries and reformists try to win reforms.”)).

⁶⁰ See generally LEON TROTSKY, THE TRANSITIONAL PROGRAMME: THE DEATH AGONY OF CAPITALISM AND THE TASKS OF THE FOURTH INTERNATIONAL (Workers Revolutionary Party 1988) (1938) (transitional demands); Ralph Miliband & Marcel Liebman, *Beyond Social Democracy*, 22 SOCIALIST REG. 476 (1985) (revolutionary reformism); Ed Rooksby, “*Structural Reform*” and the Problem of Socialist Strategy Today, 46 CRITIQUE 27 (2018) (transitional non-reformist reforms and structural reforms); CRITICAL RESISTANCE, REFORMIST REFORMS VS. ABOLITIONIST STEPS IN POLICING, https://static1.squarespace.com/static/59ead8f0692ebee25b72f17f/t/5b65cd58758d46d34254f22c/1533398363539/CR_NoCops_reform_vs_abolition_CRside.pdf [<https://perma.cc/G2ZH-T57C>] (abolitionist steps); *Vision for Black Lives*, *supra* note 52 (transformative reforms); see also NICOS POULANTZAS, STATE, POWER, SOCIALISM 251–65 (1978). There has been some limited exploration of such ideas in legal scholarship. See, e.g., MARK TUSHNET, RED, WHITE, AND BLUE: A CRITICAL ANALYSIS OF CONSTITUTIONAL LAW 312 (1988) (discussing non-reformist reforms as aiming to “set in train a larger transformation” or to “mobilize people to seek additional reforms”); Kate Andrias, Response, *Confronting Power in Public Law*, 130 HARV. L. REV. F. 1, 6 (2016) (calling for “a range of structural, power-shifting reforms to our law, our economy, and our democracy”); Cynthia Grant Bowman, *Recovering Socialism for Feminist Legal Theory in the 21st Century*, 49 CONN. L. REV. 117, 154, 166–69 (2016) (advocating non-reformist reforms toward gender justice); Allegra M. McLeod, *Envisioning Abolition Democracy, in Developments in the Law — Prison Abolition*, 132 HARV. L. REV. 1613, 1616 (2019) (contrasting “reformist efforts” with “abolitionist measures” aimed at transformation); Dorothy E. Roberts, *The Supreme Court, 2018 Term — Foreword: Abolition Constitutionalism*, 133 HARV. L. REV. 1, 114–18 (2019) (discussing “nonreformist abolitionist reforms,” *id.* at 114); Jocelyn Simonson, *Democratizing Criminal Justice Through Contestation and Resistance*, 111 NW. U. L. REV. 1609, 1623 (2017) (characterizing non-reformist reforms as “changes that, at the end of the day, unravel rather than widen the net of social control through criminalization” (quoting RUTH WILSON GILMORE, GOLDEN GULAG: PRISONS, SURPLUS, CRISIS, AND OPPOSITION IN GLOBALIZING CALIFORNIA 242 (2007))).

coined in the 1960s by French economist-philosopher and socialist André Gorz.⁶¹ In *Strategy for Labor*, Gorz defined a non-reformist reform as one that does not comport with “capitalist needs, criteria, and rationales.”⁶² Instead it advances a logic of “what should be” and requires “implementation of fundamental political and economic changes.”⁶³ Whether the change is “sudden” or “gradual” is immaterial: non-reformist reforms require a “modification of the relations of power,” in particular “the creation of new centers of democratic power.”⁶⁴

The non-reformist reform framework is prevalent in abolitionist organizing against the prison industrial complex⁶⁵ and deployed by those who embrace racial justice, anticapitalism, and socialism more broadly.⁶⁶ In *Golden Gulag*, Professor Ruth Wilson Gilmore calls for non-reformist reforms, which she defines as “changes that, at the end of the day, unravel rather than widen the net of social control through criminalization.”⁶⁷ Through decades of campaigns against carceral infrastructure, abolitionist campaigns have produced rubrics demarcating an approach to reform focused on reducing the scale, power, tools, and legitimacy of the carceral state.⁶⁸ The focus on the ideological scaffolding of carceral control — the equation of policing with safety, for example — signals a keen understanding of the interlocking ideological and material infrastructure of our lives.⁶⁹ In turn, it suggests, like Gorz

⁶¹ ANDRÉ GORZ, STRATEGY FOR LABOR: A RADICAL PROPOSAL 7 (Martin A. Nicolaus & Victoria Ortiz trans., 1967). He also uses the terms “structural reforms,” *id.* at 8, “revolutionary reforms,” *id.* at 6, and “anti-capitalist reforms,” *id.* at 7.

⁶² *Id.* at 7.

⁶³ *Id.* at 8.

⁶⁴ *Id.* at 8 & n.3.

⁶⁵ See Ruth Wilson Gilmore & Craig Gilmore, *Restating the Obvious*, in INDEFENSIBLE SPACE: THE ARCHITECTURE OF THE NATIONAL INSECURITY STATE 141, 145 (Michael Sorkin ed., 2008) (stating that non-reformist reforms are “systemic changes that do not extend the life or breadth of deadly forces such as prisons” (citing André Gorz and Professor Thomas Mathieson)); see also THOMAS MATHIESON, THE POLITICS OF ABOLITION REVISITED 231 (2015) (“[T]he short-term reforms which you work for . . . as a road to the long-term goal of abolition . . . must also consistently be of an abolishing kind.”).

⁶⁶ See, e.g., Patrisse Cullors, *Abolition and Reparations: Histories of Resistance, Transformative Justice, and Accountability*, in *Developments in the Law — Prison Abolition*, 132 HARV. L. REV. 1684, 1687 (2019) (including the “embrace [of] non-reformist reforms” as central to abolitionist principles).

⁶⁷ GILMORE, *supra* note 60, at 242.

⁶⁸ E.g., CRITICAL RESISTANCE, *supra* note 60. For scholarly engagement, see generally Beth A. Colgan, *Beyond Graduation: Economic Sanctions and Structural Reform*, 69 DUKE L.J. 1529 (2020), which examines reforms of economic sanctions within the criminal legal system through an abolitionist lens; and Marbre Stahly-Butts & Amna A. Akbar, *Transformative Reforms, Abolitionist Demands*, STAN. J.C.R. & C.L. (forthcoming 2020) (on file with the Harvard Law School Library), which advances a framework for considering transformative reforms committed to an abolitionist future.

⁶⁹ A focus on ideology is common in Marxist thinking. E.g., Karl Marx, *The German Ideology: Part I*, in THE MARX-ENGELS READER 146, 172–74 (Robert C. Tucker ed., 2d ed. 1978).

did, that a revolutionary program of reform must continually deepen consciousness around the violence and exploitation of the status quo as it advances the possibility of alternatives.

While Gorz is remembered as a champion for non-reformist reforms, his work is decidedly ambivalent: a “very clear dividing line” will not always exist between “reformist” and “non-reformist reforms.”⁷⁰ Assessing a demand for “the construction of 500,000 new housing units a year,” for example, would require an assessment of whether the proposal involved “the expropriation of those who own the required land, and whether the construction would be a socialized public service, thus destroying an important center of the accumulation of private capital; or if, on the contrary, this would mean subsidizing private enterprise with taxpayers’ money to guarantee its profits.”⁷¹ The non-reformist reform does not aim to create policy solutions to discrete problems; rather it aims to unleash people power against the prevailing political, economic, and social arrangements and toward new possibilities.

But whether something is non-reformist or reformist is about more than the nature of the demand and its particulars: it is also a question of how the campaign is waged. Consider another example: abolition of the death penalty. The conventional liberal approach emphasizes that death is too great a power for the state, and reassures the public that life sentences will continue to ensure safety of local communities. In this guise, the campaign aims to shrink the state’s carceral power in one particular way but does not question mass human caging. As the campaign attempts to undermine the death penalty, its logic shores up the legitimacy, righteousness, and necessity of life sentences.⁷² A non-reformist approach would frame the problem of the death penalty as stemming from the larger violence of prisons and policing and its historical continuities with lynching and enslavement. Life without parole then is not the solution, it is illegitimate carceral violence:

⁷⁰ GORZ, *supra* note 61, at 7; *see also* BRETT STORY, PRISON LAND: MAPPING CARCERAL POWER ACROSS NEOLIBERAL AMERICA 164–66 (2019).

⁷¹ GORZ, *supra* note 61, at 7 n.2. Political educator and organizer Harmony Goldberg helpfully identifies “‘decommodification,’ or taking aspects of life out of the control of the market and putting them in public hands” as central to left demands. Harmony Goldberg, *Stepping into the Moment: The Corona-Crisis*, ORG. UPGRADE (Apr. 8, 2020), <https://organizingupgrade.com/stepping-into-the-moment-the-corona-crisis> [<https://perma.cc/CVN5-DF69>].

⁷² *See, e.g.*, Opinion, *Prop. 34 and Death Penalty Dishonesty*, L.A. TIMES (Sept. 25, 2012, 12:00 AM), <https://www.latimes.com/opinion/endorsements/la-ed-end-prop34-20120925-story.html> [<https://perma.cc/4DJV-3KYL>]; Bob Egelko, *Death Row Inmates Oppose Prop. 34*, SFGATE (Apr. 30, 2014, 4:43 PM), <https://www.sfgate.com/news/article/Death-Row-inmates-oppose-Prop-34-3891122.php> [<https://perma.cc/NNK4-CFEN>]; George Skelton, Opinion, *It’s Time to Dump California’s Death Penalty by Passing Prop. 34*, L.A. TIMES (Sept. 12, 2012, 12:00 AM), <https://www.latimes.com/local/la-xpm-2012-sep-12-la-me-cap-death-penalty-20120913-story.html> [<https://perma.cc/GW7G-KWQG>].

what abolitionist organizers in Pennsylvania have dubbed “death by incarceration.”⁷³

If the same demand can be framed or implemented in reformist or non-reformist ways, the line is undoubtedly murky in practice. But this does not make the attempt to distinguish futile. Instead it clarifies that reform projects are contradictory gambits if the aim is transformation: they always have the possibility of reifying the status quo. Nonetheless, there are essential distinctions for developing transformative programs of reform that aim to undermine the prevailing order in service of building a new one.

The hallmarks of non-reformist reforms are three. First, non-reformist reforms advance a radical critique and radical imagination.⁷⁴ Reform is not the end goal; transformation is.⁷⁵ Non-reformist reforms are “conceived not in terms of what is possible within the framework of a given system and administration, but in view of what should be made possible in terms of human needs and demands.”⁷⁶ In advancing an agenda to meet human need, non-reformist reforms advance a critique about how capitalism and the carceral state structure society for the benefit of the few, rather than the many. They also posit a radical imagination for a state or society oriented toward meeting those needs.

By contrast, reformist reforms draw on and advance critiques of our system — whether that be capitalism or the carceral state — that do not question underlying premises or advance alternative futures. In fact, reformist reforms “reject[] those objectives and demands — however deep the need for them — which are incompatible with the preservation of the system.”⁷⁷ Here, one can think of the quick rejections by so many of defund the police or the Green New Deal — despite the mounting evidence that liberal reforms have done little to limit police violence or to slow the speed at which we are hurtling toward increasingly frequent

⁷³ *A Way Out: Abolishing Death by Incarceration in Pennsylvania*, ABOLITIONIST L. CTR. (2018), <https://abolitionistlawcenter.org/our-work/a-way-out-abolishing-death-by-incarceration-in-pennsylvania> [<https://perma.cc/L4QT-QJWT>]; see also Richard Gross, *Death by Incarceration: Cruel and Unusual*, PEN AM. (Sept. 9, 2019), <https://pen.org/death-by-incarceration-cruel-and-unusual> [<https://perma.cc/43W9-QU3U>]; Joshua Vaughn, *What Does Death by Incarceration Look Like in Pennsylvania? These Elderly, Disabled Men Housed in a State Prison.*, THE APPEAL (Nov. 20, 2019), <https://theappeal.org/death-by-incarceration-pennsylvania-photo-essay> [<https://perma.cc/QPS2-SAFA>].

⁷⁴ See Amna A. Akbar, *Toward a Radical Imagination of Law*, 93 N.Y.U. L. REV. 405, 408 (2018).

⁷⁵ MILIBAND, *supra* note 59, at 158 (considering reforms that “are at best steps and partial means towards a much larger purpose, which is declared to be the ‘overthrow’ of capitalism and the achievement of an altogether different, that is socialist, society”).

⁷⁶ GORZ, *supra* note 61, at 7.

⁷⁷ *Id.*

environmental disasters.⁷⁸ Liberal reformism effectively shields the status quo from deep critique.⁷⁹ The end goal of liberal reformism is just that: reform.

The non-reformist reform then provides a framework for demands that will undermine the prevailing political, economic, social system from reproducing itself and make more possible a radically different political, economic, social system. For abolitionists, the underlying system to undermine is the prison industrial complex and the horizon to build toward is abolition democracy. For socialists, the underlying system is capitalism and the horizon socialism. In theory and practice, these are intertwined, variegated, and debated political projects.⁸⁰

I am suggesting neither a false neatness within nor artificial distinctions between rich left traditions. But I mention it to make a point so obscured in legal discourse: that approaches to reform reflect ideological commitments, critiques of or acquiescence to underlying systems, aspirations for the future, and theories of change. Reforms communicate analyses of our conditions, tell stories about possibilities, and contribute to dynamic relations of power. So the target and object of the non-reformist framework will depend on one's political project and analysis, as will whether one accepts a reformist or non-reformist orientation.

Whereas reformist reforms aim to improve, ameliorate, legitimate, and even advance the underlying system,⁸¹ non-reformist reforms aim for political, economic, social transformation: for example, socialism or abolition democracy. They seek to delegitimize the underlying system in service of building new forms of social organization. Rather than relegitimize, they seek to sustain ideological crisis as a way to provoke action and develop public consciousness about the possibilities of alternatives and our collective capacity to build them together.

Second, non-reformist reforms must draw from and create pathways for building ever-growing organized popular power.⁸² They aim to shift

⁷⁸ See generally, e.g., DAVID WALLACE-WELLS, *THE UNINHABITABLE EARTH: LIFE AFTER WARMING* (2019) (discussing the impact and recent acceleration of global warming); Soss & Weaver, *supra* note 30 (discussing the deepened police involvement in the lives of members of "race-class subjugated communities," *id.* at 567).

⁷⁹ See Sameer M. Ashar, Essay, *Deep Critique and Democratic Lawyering in Clinical Practice*, 104 CALIF. L. REV. 201, 203–06, 217–19 (2016) (defining "deep critique" as "thinking beneath and beyond liberal legalist approaches to social problems . . . through collaborative work with people, communities, and thinkers at the margins of our social structure," *id.* at 218).

⁸⁰ See, e.g., JACKIE WANG, *CARCERAL CAPITALISM* (2018) (examining the political economy of the carceral state).

⁸¹ See, e.g., MICHAEL HARDT & ANTONIO NEGRI, *ASSEMBLY* 251 (2017) ("In neoliberal hands, reform has come to mean, primarily, a shift of control from states to financial markets . . .").

⁸² GORZ, *supra* note 61, at 8 (arguing that non-reformist reforms must modify "the relations of power"); see also Kali Akuno, *Build and Fight: The Program and Strategy of Cooperation Jackson*, in *JACKSON RISING: THE STRUGGLE FOR ECONOMIC DEMOCRACY AND BLACK*

power away from elites and toward the masses of people. This is a matter of substance and process, from where the demand comes, the vision it advances, and the space it creates. Whether through demands on the state or the workplace, non-reformist reform “*always* requires the creation of new centers of democratic power[,] . . . a *restriction on the powers of State or Capital*, an *extension of popular power*, that is to say, a victory of democracy over the dictatorship of profit.”⁸³ In their focus on power, non-reformist reforms challenge liberal legal frameworks that tend to obscure power relations.⁸⁴ Non-reformist reforms are about building the power of people to wage a long-term struggle of transformation.

In contrast to reforms formulated by expert elites, non-reformist reforms come from social movements, labor, and organized collectives of poor, working-class, and directly impacted people making demands for power over the conditions of their lives and the shape of their institutions.⁸⁵ People living under perilous conditions must generate analysis of those conditions, and advance solutions, in collective formations.⁸⁶

SELF-DETERMINATION IN JACKSON, MISSISSIPPI 17 (Kali Akuno & Ajamu Nangwaya, Cooperation Jackson eds., 2017) (stating that non-reformist reforms “seek to create new logics, new relations, and new imperatives that create a new equilibrium and balance of forces to weaken capitalism and enable the development of an anti-capitalist alternative”). For legal scholarship focused on how law can support power-building of organized collectives, in particular of Black, brown, immigrant, poor, and working-class people, see K. Sabeel Rahman & Jocelyn Simonson, *The Institutional Design of Community Control*, 108 CALIF. L. REV. 679, 696–98 (2020); and Kate Andrias & Benjamin I. Sachs, *Constructing Countervailing Power: Law and Organizing in an Era of Political Inequality*, 130 YALE L. J. (forthcoming 2020) (manuscript at 25–33) (on file with the Harvard Law School Library).

⁸³ GORZ, *supra* note 61, at 8 n.3 (“[Non-reformist] reform is by definition a reform implemented or controlled by those who demand it.”); see also Vivek Chibber, *Our Road to Power*, JACOBIN (Dec. 5, 2017), <https://www.jacobinmag.com/2017/12/our-road-to-power> [<https://perma.cc/A2WD-W7GR>] (advocating reforms that “have the dual effect of making future organizing easier, and also constraining the power of capital to undermine them down the road”).

⁸⁴ Some recent scholarship attends more closely to questions of power. See generally, e.g., Daryl J. Levinson, *The Supreme Court, 2015 Term — Foreword: Looking for Power in Public Law*, 130 HARV. L. REV. 31 (2016) (discussing the location of power across government institutions and democratic-level interests); K. Sabeel Rahman, *Policymaking as Power-Building*, 27 S. CAL. INTERDISC. L.J. 315 (2018) (discussing power-balancing policy and institutional design); Bertrall L. Ross II & Su Li, *Measuring Political Power: Suspect Class Determinations and the Poor*, 104 CALIF. L. REV. 323 (2016) (discussing the best way to measure political power); Jocelyn Simonson, *Police Reform Through a Power Lens*, 130 YALE L.J. (forthcoming 2021) (on file with the Harvard Law School Library) (discussing power-shifting in the governance of the police); Ganesh Sitaraman, *The Puzzling Absence of Economic Power in Constitutional Theory*, 101 CORNELL L. REV. 1445 (2016) (discussing the need to examine within constitutional theory the influence of economic power on U.S. political process).

⁸⁵ For a discussion on how anticarceral organizers reconstruct popular expertise, see Simonson, *supra* note 84 (manuscript at 58–66).

⁸⁶ This echoes the Gramscian concept of organic intellectual. See ANTONIO GRAMSCI, *The Intellectuals*, in SELECTIONS FROM THE PRISON NOTEBOOKS OF ANTONIO GRAMSCI 5, 5–7 (Quintin Hoare & Geoffrey Nowell Smith eds. & trans., 1971).

Collective processes — whether in organizations, unions, or assemblies — become schools of democratic governance in action: processes of enfranchisement and exercises in self-determination that build power and motivate further action.⁸⁷

Third, non-reformist reforms are about the dialectic between radical ideation and power building. Non-reformist reforms come from contestatory exercises of popular power.⁸⁸ They attempt to expand organized collective power to build pathways for transformation. As such, they are not in themselves about finding an answer to a policy problem: They are centrally about an exercise of power by people over the conditions of their own lives. They aim to create “a vast extension of democratic participation in all areas of civic life — amounting to a very considerable transformation of the character of the state and of existing bourgeois democratic forms.”⁸⁹

Because the end goal is building power rather than identifying a policy fix, non-reformist reforms can only be effective when pursued in relation to a broader array of strategies and tactics for political, economic, social transformation. That includes protests and strikes as well as political education, mutual aid, organizing, and the building of alternative institutions.

Along with other strategies and tactics, reforms are in dialectical relationship with transformation: deepening consciousness, building independent power and membership, and expanding demands.⁹⁰ As Gorz put it, reforms have to be imagined as part of a longer-term “strategy of *progressive* conquest of power by the workers.”⁹¹

II. DEFUND THE POLICE

Consider the appeals to defund and dismantle the police, the loudest demands voiced by organizers in Minneapolis in response to the police

⁸⁷ Charlie Post, *What Strategy for the US Left?*, JACOBIN (Feb. 23, 2018), <https://www.jacobinmag.com/2018/02/socialist-organization-strategy-electoral-politics> [https://perma.cc/N5YX-N6GR] (“[D]isruptive social movements — in particular those rooted in the workplace — require . . . taking risks in confronting capital and the state to win the movement’s demands. This requires active participation in a democratic process of crafting demands and deciding tactics.”). In her mandate for Black people, Mary Hooks with Southerners on New Ground, for example, talks about being “willing to be transformed in the service of the work.” *The Mandate: A Call and Response from Black Lives Matter Atlanta*, SOUTHERNERS ON NEW GROUND (July 14, 2016), <https://southernersonnewground.org/themandate> [https://perma.cc/T7EH-E8DN].

⁸⁸ See GORZ, *supra* note 61, at 111, 124–25 (arguing that if the labor movement “begins vigorously to work out an anti-capitalist alternative[,] . . . then it will destroy the ideology which justifies technocracy,” *id.* at 124).

⁸⁹ MILIBAND, *supra* note 59, at 188.

⁹⁰ See ROSA LUXEMBURG, *THE MASS STRIKE, THE POLITICAL PARTY AND THE TRADE UNIONS* (1906), *reprinted in* THE MASS STRIKE: THE POLITICAL PARTY AND THE TRADE UNIONS AND THE JUNIUS PAMPHLET 9, 67 (Robert Bland ed., 1971).

⁹¹ GORZ, *supra* note 61, at 10.

killing of George Floyd and then fueled by unprecedented numbers of people taking to the streets all summer across the country.⁹² The scale and longevity of these protests speak to the mass constituency for defund the police. The almost century-long history of mass protest sparked by police violence⁹³ combined with this year's protests suggests the power of police violence to mobilize people in ways that electoral reform projects are unlikely to do today.

The demand to defund and dismantle the police stems from decades of abolitionist organizing against the carceral state — organizing that has proliferated since the Ferguson and Baltimore rebellions and the rise of the Movement for Black Lives. As more and more young people took to organizing for justice and accountability in the wake of the police killings of Mike Brown, Freddie Gray, and Sandra Bland,⁹⁴ their analysis of police shifted. More and more organizers studied local budgets and noticed how disproportionate sums of money feed carceral infrastructure.⁹⁵ A fundamental critique of prisons, police, and capitalism took hold alongside deepening antiracist agendas. Now, from the Black Visions Collective to the Sunrise Movement to Mijente, a broad range of left social movement organizations have endorsed defund the police as an abolitionist strategy.⁹⁶

In its bare form, defund the police is oppositional rather than conciliatory. The demand stands in stark contrast to conventional approaches to police reform that typically focus on relegitimizing police in response to crisis and reinvesting in police through trainings, technologies, and policies.⁹⁷ Defund the police challenges reforms that redress police violence as if it is a product of bad behavior or poor decisionmaking by an individual officer or insufficient institutional oversight, incentives, and training. Wide-ranging research shows the limited or negligible efficacy

⁹² See Adrian Florido, *These Are the Minneapolis Activists Leading the Push to Abolish the Police*, NPR (June 26, 2020, 11:57 AM), <https://www.npr.org/2020/06/26/882001628/these-are-the-minneapolis-activists-leading-the-push-to-abolish-the-police> [https://perma.cc/RLA8-8CKY]; Akbar, *supra* note 2; Mariame Kaba, Opinion, *Yes, We Mean Literally Abolish the Police*, N.Y. TIMES (June 12, 2020), <https://nyti.ms/2YBa4UG> [https://perma.cc/Q4KJ-PLGW]; Buchanan et al., *supra* note 7.

⁹³ See Adam Serwer, *Eighty Years of Fergusons*, BUZZFEED NEWS (Aug. 25, 2014, 5:32 PM), <https://www.buzzfeednews.com/article/adamserwer/eighty-years-of-fergusons> [https://perma.cc/4XX3-KCAV].

⁹⁴ See P.R. Lockhart, *Black People Are Still Suffering from Police Violence. Is America Still Listening?*, VOX (May 24, 2019, 2:40 PM), <https://www.vox.com/identities/2019/5/24/18636305/police-violence-eric-garner-sandra-bland-black-lives-matter> [https://perma.cc/6RQF-BZT4].

⁹⁵ For examples of organizing around local budgets, see BLACK YOUTH PROJECT 100 ET AL., *supra* note 2.

⁹⁶ See Akbar, *supra* note 2.

⁹⁷ Amna A. Akbar, *An Abolitionist Horizon for (Police) Reform*, 108 CALIF. L. REV. (forthcoming 2020) (manuscript at 21) (on file with the Harvard Law School Library). For a powerful critique of the legitimacy framework, see generally Monica C. Bell, Essay, *Police Reform and the Dismantling of Legal Estrangement*, 126 YALE L.J. 2054 (2017).

of mainstream reforms to mitigate police violence.⁹⁸ Not only are their results of such efforts mixed, but also they are central to the substantial growth of police budgets over the last several decades.⁹⁹

Defund suggests the problem with police is not isolated, nor is it a result of a few bad apples. It brings attention to the central tool of police: violence and exploitation, be it ticketing and fining, sexual assault and humiliation, tasing, arrest, or killing.¹⁰⁰ In turn, defund the police calls into question the fundamental premise of policing shared by liberal reformers: that it produces safety.¹⁰¹ By pointing to violence as central and routine, rather than occasional and aberrant, organizers argue that training, policy, and technology will not remediate police violence. Once that violence is understood as central, Mariame Kaba explains, it becomes clear that the “only way to diminish police violence is to reduce contact between the public and the police.”¹⁰²

But defund does not simply challenge the ideology of liberal reform: by targeting police funding, defund challenges its materiality. State and local governments are estimated to spend \$115 billion on police.¹⁰³ Whereas liberal reform invests in police — easily on the scale of hundreds of millions of dollars¹⁰⁴ — defund calls for divestment from police. It challenges the orientation toward financing policing at the cost of the public: how conventional reform sustains a social contract that provides

⁹⁸ See, e.g., ALEX S. VITALE, *THE END OF POLICING* 1–30 (2017); Paul Butler, *The System Is Working the Way It Is Supposed to: The Limits of Criminal Justice Reform*, 104 GEO. L.J. 1419, 1457–62 (2016).

⁹⁹ See Richard C. Auxier, *What Police Spending Data Can (and Cannot) Explain amid Calls to Defund the Police*, URB. INST. (June 9, 2020), <https://www.urban.org/urban-wire/what-police-spending-data-can-and-cannot-explain-amid-calls-defund-police> [<https://perma.cc/A2KQ-G672>]; Kimbriell Kelly, Sarah Childress & Steven Rich, *Forced Reforms, Mixed Results*, WASH. POST (Nov. 13, 2015), <https://www.washingtonpost.com/sf/investigative/2015/11/13/forced-reforms-mixed-results> [<https://perma.cc/QPW4-DLK7>].

¹⁰⁰ MICOL SEIGEL, *VIOLENCE WORK: STATE POWER AND THE LIMITS OF POLICE* 9 (2018) (theorizing policing as “[v]iolence work”).

¹⁰¹ See BLACK VISIONS COLLECTIVE & RECLAIM THE BLOCK, *DISMANTLING THE MINNEAPOLIS POLICE DEPARTMENT AND CREATING A NEW TRANSFORMATIVE MODEL FOR SAFETY*, <https://static1.squarespace.com/static/5d8faf6f8ba16e7343478cdb/t/5edfb4912cdf0d320a51c28d/1591719059704/MPLS+One+Pager+FINAL.pdf> [<https://perma.cc/ZJL8-UAR4>].

¹⁰² Kaba, *supra* note 92.

¹⁰³ Brian O’Keefe & Nicolas Rapp, *What U.S. Police Spending Looks Like in 3 Charts*, FORTUNE (June 9, 2020, 2:45 PM), <https://fortune.com/2020/06/09/defund-the-police-budget-spending-state-local-dismantle-protests-george-floyd-how-much-spent> [<https://perma.cc/Y8ZX-6M39>] (reporting estimate by the Urban Institute of spending in 2017); see also Barry Friedman, *We Spend \$100 Billion on Policing. We Have No Idea What Works.*, WASH. POST (Mar. 10, 2017, 2:49 PM), <https://www.washingtonpost.com/posteverything/wp/2017/03/10/we-spend-100-billion-on-policing-we-have-no-idea-what-works> [<https://perma.cc/X7MQ-MHCA>].

¹⁰⁴ Between 2013 and 2018, Axon (formerly Taser), the largest producer of body cameras, sold almost \$200 million in body cameras and related products. Mitch Smith, *Policing: What Changed (and Didn’t) Since Michael Brown Died*, N.Y. TIMES (Aug. 7, 2019), <https://nyti.ms/2yI3G10> [<https://perma.cc/URE6-BYC7>].

increasingly little to the public apart from prisons, police, and jails — and the courts that sustain them.¹⁰⁵

Defund is properly understood alongside campaigns to oppose policing and jail infrastructure projects that have proliferated across the country.¹⁰⁶ Chicago and Durham organizers have campaigned against the building of police training facilities and headquarters.¹⁰⁷ There are campaigns against the building of new jails and for the closing of old jails, including detention centers for children and immigrants, with

¹⁰⁵ See Ruth Wilson Gilmore, *In the Shadow of the Shadow State*, in THE REVOLUTION WILL NOT BE FUNDED: BEYOND THE NON-PROFIT INDUSTRIAL COMPLEX (INCITE! ed., 2009), as reprinted in S&F ONLINE, Spring 2016, <https://sfonline.barnard.edu/navigating-neoliberalism-in-the-academy-nonprofits-and-beyond/ruth-wilson-gilmore-in-the-shadow-of-the-shadow-state> [<https://perma.cc/MA79-48DG>].

¹⁰⁶ For a recounting of an earlier campaign, see Rose Braz & Craig Gilmore, *Joining Forces: Prisons and Environmental Justice in Recent California Organizing*, RADICAL HIST. REV., Fall 2006, at 95, 100–02; and CALIFORNIANS UNITED FOR A RESPONSIBLE BUDGET, PRISON CLOSURE PROPOSAL (2004), <http://curbprisonspending.org/wp-content/uploads/2010/05/curbprisonclosureproposal.pdf> [<https://perma.cc/RWC9-53NG>]. While California ultimately built the prison, a process that should have lasted eighteen months lasted almost six years. *Making Abolition Geography in California's Central Valley with Ruth Wilson Gilmore*, THE FUNAMBULIST (Jan.–Feb. 2019), <https://thefunambulist.net/making-abolition-geography-in-californias-central-valley-with-ruth-wilson-gilmore> [<https://perma.cc/2KZ9-BK4E>] (transcript of interview with Professor Ruth Wilson Gilmore conducted on November 30, 2018) (quoting Gilmore characterizing the organizing as building “an abolition geography”); see Ruth Wilson Gilmore, *Abolition Geography and the Problem of Innocence*, in FUTURES OF BLACK RADICALISM 225, 227–28 (Gaye Theresa Johnson & Alex Lubin eds., 2017) (“[R]adical consciousness in action resolves into liberated life-ways, however provisional, present and past.”).

¹⁰⁷ See NO COP ACAD., THE REPORT 4–6, 26 (2018), <https://nocopacademy.com/wp-content/uploads/2020/06/NCAReportFinal2018.pdf> [<https://perma.cc/3V54-L4F4>]; DURHAM BEYOND POLICING COAL., PROPOSAL FOR A COMMUNITY-LED SAFETY AND WELLNESS TASK FORCE 5 (2019), <https://durhambeyondpolicing.org/wp-content/uploads/2019/07/Durham-Beyond-Policing-Budget-Proposal-2019-2020.pdf> [<https://perma.cc/P8KP-RB26>].

recent victories in Los Angeles,¹⁰⁸ St. Louis,¹⁰⁹ Atlanta,¹¹⁰ and Seattle.¹¹¹ The calls to divest from the carceral state are often accompanied by demands to build infrastructures of care:¹¹² in Los Angeles, a youth development department;¹¹³ in Florida, “universal healthcare,” “guaranteed jobs,” “universal basic income,” and “social workers, nurses, and counselors”;¹¹⁴ and in Seattle, money for Black, Indigenous, and people

¹⁰⁸ The JusticeLA Coalition helped stop Los Angeles County’s plan to spend billions of dollars on a mental health treatment facility with beds for pretrial detainees. See Francisco Aviles Pino, *Los Angeles County Votes to Stop Construction of New Jail-Like Facility, Adding Momentum to National Abolition Movement*, THE INTERCEPT (Aug. 22, 2019, 6:00 AM), <https://theintercept.com/2019/08/22/los-angeles-county-mental-health-facility-abolition> [https://perma.cc/5NLF-WT2D]; see also City News Service, *L.A. County Scraps Women’s Jail in Lancaster*, ANTELOPE VALLEY TIMES (Feb. 12, 2019), <http://theavtimes.com/2019/02/12/l-a-county-scraps-womens-jail-in-lancaster> [https://perma.cc/DG47-QW6D]; Bianca Barragan, *County Votes to Cancel \$1.7B Contract to Replace Men’s Central Jail*, CURBED L.A. (Aug. 13, 2019, 7:08 PM), <https://la.curbed.com/2019/8/13/20803756/mens-central-jail-los-angeles-contract-vote> [https://perma.cc/T3EX-4L5Y].

¹⁰⁹ The Close the Workhouse campaign led the St. Louis Board of Aldermen to enact a bill to close one of the city’s jails by the end of 2020. CLOSE THE WORKHOUSE, BOARD BILL 92 PASSES UNANIMOUSLY (2020), <https://static1.squarespace.com/static/5ada6072372b96dbb234ee99/t/5f21f59b818afco2a1b37402/1596061087679/BB92+Victory+Statement+%281%29.png> [https://perma.cc/Ry2D-DED6]; Doyle Murphy, *St. Louis Aldermen Pass Plan to Close the Workhouse*, RIVERFRONT TIMES (July 17, 2020, 5:39 PM), <https://www.riverfronttimes.com/newsblog/2020/07/17/st-louis-aldermen-pass-plan-to-close-the-workhouse> [https://perma.cc/C323-FSAW].

¹¹⁰ The Communities Over Cages: Close the Jail ATL Campaign in Atlanta organized for the closure of a jail functioning as an immigrant detention center. *About Us*, CLOSE THE JAIL ATL, https://www.close-the-jail-atl.org/about_us [https://perma.cc/F3MB-8MCV]; Collin Kelley, *Task Force Submits Final Report on Closure and Reimagining of City Jail*, ATL. INTOWN (June 12, 2020), <https://atlantaintownpaper.com/2020/06/task-force-submits-final-report-on-closure-and-reimagining-of-city-jail> [https://perma.cc/DGM8-3DRL]; see also ALEXANDRA (SACHI) COLE, *ACLU FOUND. OF GA., PRISONERS OF PROFIT: IMMIGRANTS AND DETENTION IN GEORGIA* 28–30, 95 (Azadeh Shahshahani ed., 2012), https://www.acluga.org/sites/default/files/field_documents/prisoners_of_profit.pdf [https://perma.cc/LVE6-R3N4].

¹¹¹ The No New Youth Jail Coalition in Seattle organized for the city to close the youth jail that had recently opened. *VICTORY: Less Than a Year After Opening, County Announces Plans to CLOSE the Jail!!!*, NO NEW YOUTH JAIL (July 21, 2020), <https://nonewyouthjail.com/2020/07/21/victory-less-than-a-year-after-opening-county-announces-plans-to-close-the-jail> [https://perma.cc/R67V-RTSV]; Elise Takahama, *King County Executive Dow Constantine Commits to Depopulate Youth Jail by 2025*, SEATTLE TIMES (July 22, 2020, 5:35 PM), <https://www.seattletimes.com/seattle-news/king-county-executive-dow-constantine-commits-to-depopulate-youth-jail-by-2025> [https://perma.cc/KJ3C-UKEN].

¹¹² See *Invest-Divest*, MOVEMENT FOR BLACK LIVES, <https://m4bl.org/policy-platforms/invest-divest> [https://perma.cc/ZNZ9-P5ER]; INTERRUPTING CRIMINALIZATION & MOVEMENT FOR BLACK LIVES, #DEFUNDPOLICE #FUNDTHEPEOPLE #DEFENDBLACKLIVES: CONCRETE STEPS TOWARD DIVESTMENT FROM POLICING & INVESTMENT IN COMMUNITY SAFETY (2020), <https://view.publitas.com/interrupting-criminalization-byeky37zyrk/defundpolice-toolkit/page/1> [https://perma.cc/FVR5-6VBM].

¹¹³ See L.A. FOR YOUTH (2017), <http://www.laforyouth.org> [https://perma.cc/5HPB-NDUP].

¹¹⁴ E.g., DREAM DEFENDERS, *DEFUND POLICE REBUILD OUR COMMUNITIES 5* (2020), <https://drive.google.com/file/d/1OV9Zx6NT9IVdHHdF3EtOJPegRYMZUMxA/view?usp=sharing> [https://perma.cc/KE2V-6URN].

of color-led organizations through participatory budgeting¹¹⁵ — which, alongside People’s Budgets, are on the rise in the United States.¹¹⁶

Defund, then, intervenes in the violence of neoliberal capitalism. When demands to divest are paired with demands to invest elsewhere, campaigns point to neoliberal statecraft as made up of political choices about how our collectively generated tax dollars are spent. They posit an alternative to cutting taxes, gutting social welfare programs, piling on carceral fines and fees, criminalizing the poor, and financing billions of dollars of infrastructure for an unparalleled carceral state. To raise taxes on the wealthy rather than to impose fines and fees on the poor. To house rather than jail the houseless. Demands to divest gesture at a future where local budgets and infrastructure are under popular control and tend to human need rather than the elite power.

As articulated by abolitionist organizers, defund advances a radical critique of police and neoliberal capitalism and a radical imagination around building a society that tends to people’s needs. It comes from abolitionist organizing. Voiced amid a surge of protest, defund contributed to an explosion of abolitionist organizing and engagement with local politics all over the country.¹¹⁷ Defund, then, is arguably a

¹¹⁵ See, e.g., DECRIMINALIZE SEATTLE & KING CNTY. EQUITY NOW, 2020 BLUEPRINT FOR POLICE DIVESTMENT/COMMUNITY REINVESTMENT (2020), <https://decriminalizeseattle.com/wp-content/uploads/2020/07/2020-BLUEPRINT-FOR-POLICE-DIVESTMENT.pdf> [<https://perma.cc/EN2Y-GMFC>]; Paul Faruq Kiefer, *What Is Participatory Budgeting, and How Could It Shape the City’s Approach to Public Safety?*, S. SEATTLE EMERALD (Aug. 24, 2020), <https://southseattleemerald.com/2020/08/24/what-is-participatory-budgeting-and-how-could-it-shape-the-citys-approach-to-public-safety> [<https://perma.cc/ZW8A-PW6T>]; Casey Martin, *Seattle City Council Overrides Mayor’s Veto on Police Budget Cuts*, KUOW (Sept. 23, 2020, 7:39 AM), <https://www.kuow.org/stories/seattle-city-council-overrides-mayor-s-veto-on-police-budget-cuts> [<https://perma.cc/ZJ7R-HP6Y>]; *Participatory Budgeting Process for City of Seattle 2021 Budget*, DECRIMINALIZE SEATTLE (June 24, 2020), <https://decriminalizeseattle.com/2020/06/24/participatory-budgeting-process-for-city-of-seattle-2021-budget> [<https://perma.cc/QS7K-FFU3>].

¹¹⁶ See, e.g., K. SABEEL RAHMAN & HOLLIE RUSSON GILMAN, CIVIC POWER: REBUILDING AMERICAN DEMOCRACY IN AN ERA OF CRISIS 175–83 (2019) (stating that participatory budgeting efforts in New York and Chicago “have been generally successful in mobilizing a wide cross section of residents to engage as participants,” *id.* at 178); McLeod, *supra* note 60, at 1634–35 (discussing a Chicago-based campaign for participatory budgeting to defund the police and reinvest resources in healthcare, social services, education, and economic development); Laura Bliss, *The Movement Behind LA’s Decision to Cut Its Police Budget*, BLOOMBERG CITYLAB (June 4, 2020, 2:07 PM), <https://www.bloomberg.com/news/articles/2020-06-04/-people-s-budgets-movement-takes-on-police-reform> [<https://perma.cc/8F5K-HD2G>].

¹¹⁷ See Email from Rachel Foran, Organizer, Survived & Punished NY, to author (Oct. 9, 2020, 3:54 PM) (on file with the author) (“[T]his summer, the abolitionist movement grew immensely.”); see also McLeod, *supra* note 60, at 1635–37 (discussing how organizers have worked to “tie abolitionist organizing around the criminal process to economic justice and democratic political economy reform,” *id.* at 1635).

non-reformist reform.¹¹⁸ But as with most any demand, defund can be mobilized in reformist ways: to end rather than to sustain grassroots power and protest; to relegitimate and recalibrate rather than to contribute to an effort to delegitimize and dismantle policing. Until relatively recently, liberal reformers were not advocating budget cuts: now, some have accepted defunding to varying degrees, even as they continue to push conventional reforms.¹¹⁹ Whereas abolitionist organizers advocate defund as a strategy to undercut and delegitimize police, liberal reformers advance limited defunding to recalibrate and relegitimate police function. This interest convergence provides opportunities and challenges for transformative organizing, and it points to the necessity of ongoing organizing.¹²⁰

III. DEMANDS FOR REDISTRIBUTION

Today's social movement organizations are advancing a range of what could be understood as non-reformist reforms: defund and dismantle the police, cancel rent, give land back, abolish ICE, free them all, and make reparations.¹²¹ Reflecting a growing intersectional consciousness that integrates an analysis of how capitalism, white supremacy, and heteropatriarchy sustain one another, they plow through the mythic divides between the state and the market; law, politics, and the economy; and race, gender, and class.¹²² They aim to build grassroots power as

¹¹⁸ Of course, the particulars will matter. Whether defund the police passes as a non-reformist reform from a more squarely anticapitalist perspective might require distinct analysis from what I have presented above, focused on an abolitionist frame.

¹¹⁹ *E.g.*, *Divest from the Police. Invest in Black and Brown Communities.*, ACLU (2020) <https://action.aclu.org/petition/divest-police-invest-black-and-brown-communities> [<https://perma.cc/TJJ5-LXR6>] (petitioning for reinvestment of police budgets as well as “common-sense, iron-clad legal constraints” on police); Christy E. Lopez, Opinion, *Defund the Police? Here's What that Really Means.*, WASH. POST (June 7, 2020, 6:37 PM), <https://www.washingtonpost.com/opinions/2020/06/07/defund-police-heres-what-that-really-means> [<https://perma.cc/PRT2-PWPT>].

¹²⁰ *See* Derrick A. Bell, Jr., Comment, *Brown v. Board of Education and the Interest-Convergence Dilemma*, 93 HARV. L. REV. 518, 523–28 (1980) (describing interest convergence between white and Black Americans as critical to the Court's school desegregation decision in *Brown v. Board of Education*); *see also* Dana Rubinstein & Jeffery C. Mays, *Nearly \$1 Billion Is Shifted from Police in Budget that Pleases No One*, N.Y. TIMES (Aug. 10, 2020), <https://nyti.ms/3jieoT5> [<https://perma.cc/5VDU-HWFK>].

¹²¹ *E.g.*, THE RED NATION, COMMUNISM IS THE HORIZON, QUEER INDIGENOUS FEMINISM IS THE WAY 24 (2020), <http://therednation.org/wp-content/uploads/2020/09/TRN-pamphlet-final.pdf> [<https://perma.cc/YN7V-34K2>] (“Land back happens through socialism and is not a form of exclusionary nationalism, but resurgence of Indigenous governance in solidarity with colonized and working class peoples.”); sources cited *supra* notes 2–4.

¹²² As Charlene Carruthers, a founder of BYP100 (Black Youth Project 100), put it: “We are participating in various projects of abolition — abolition of prison, abolition of capitalism, and abolition of patriarchal violence.” CHARLENE A. CARRUTHERS, UNAPOLOGETIC: A BLACK, QUEER, AND FEMINIST MANDATE FOR RADICAL MOVEMENTS 18 (2018); *see also* LACLAU & MOUFFE, *supra* note 48, at 185 (stating that “the terrain of . . . anti-capitalist struggle” is “the extension of democratic rights from the classic ‘political’ domain to that of the economy”); IAN

they respond to the fundamental crises we face. These demands attempt to advance radical critique and radical imagination and to transform the political, economic, and social system. They will not all succeed, and there will undoubtedly be debates and differences on which reforms are truly non-reformist. But the aspiration for non-reformist reforms marks a fundamental shift for the left — and provides a broader way for thinking about the democratic project we should pursue.

Notably, the demands take a particular shape: They are not about rights or discrimination, diversity or recognition, criminalization or training. They are demands for redistribution: a say in how we spend our collective wealth, how we relate to the land, and how we reimagine the infrastructure in which we live.¹²³ This is what is meant by a democratic political economy where people have a bigger choice than between two candidates for the highest office, where they have real say over all aspects of their lives, where they are not subject to unchecked private or state power.¹²⁴ As two U.K. activists put it, today's left demands are “about putting power and resources in the hands of everyday people, through new forms of democratic public and community ownership at national, regional, and local levels.”¹²⁵ This is a direct challenge to a view of politics that is constrained by the ballot box and does not touch “an economy in which elites extract and monopolise wealth and power through their ownership of resources that should serve the common good, be they land, energy, or the money supply itself.”¹²⁶ It

HANEY LÓPEZ, MERGE LEFT: FUSING RACE AND CLASS, WINNING ELECTIONS, AND SAVING AMERICA 194 (2019); Sumi Cho, Kimberlé Williams Crenshaw & Leslie McCall, *Toward a Field of Intersectionality Studies: Theory, Applications, and Praxis*, 38 SIGNS 785, 797 (2013); Dean Spade, *Intersectional Resistance and Law Reform*, 38 SIGNS 1031, 1046–51 (2013).

¹²³ This shift could properly be characterized as away from questions of recognition and toward questions of distribution. See NANCY FRASER, THE OLD IS DYING AND THE NEW CANNOT BE BORN 10–11 (2019).

¹²⁴ See ERIK OLIN WRIGHT, ENVISIONING REAL UTOPIAS 19 (2010) (arguing that “[r]adical democracy” requires “an expansive understanding of democracy,” including “strong institutional mechanisms for blocking the translation of private economic power into political power,” where “the scope of democratic decision making is enlarged to all domains with important public consequences”); Jedediah Britton-Purdy, David Singh Grewal, Amy Kapczynski & K. Sabeel Rahman, *Building a Law-and-Political-Economy Framework: Beyond the Twentieth-Century Synthesis*, 129 YALE L.J. 1784, 1831 (2020) (stating that in a democratic political economy, “the political community must be able to assert its collective will over the economic order” and “the substance of economic life must support democratic self-rule”).

¹²⁵ CHRISTINE BERRY & JOE GUINAN, PEOPLE GET READY! PREPARING FOR A CORBYN GOVERNMENT 18 (2019) (describing Corbynism). Elite rule results, in part, from “our tendency to accept a highly proscribed notion of democracy, one that limits popular power to the field of electoral politics, ignoring the other institutions and structures (workplaces, prisons, schools, hospitals, the environment, and the economy itself) that shape people’s lives.” ASTRA TAYLOR, DEMOCRACY MAY NOT EXIST, BUT WE’LL MISS IT WHEN IT’S GONE 9 (2019).

¹²⁶ BERRY & GUINAN, *supra* note 125, at 18.

provides instead an imagination and a strategy for fighting for multiracial grassroots solidarity and a society organized to meet human need rather than to serve profit.

Defund and dismantle the police are central among demands for more democratic power over the commons and contesting the shape of our cities, their infrastructures, and budgets. There are other examples. Consider the Sunrise Movement's Green New Deal, which has transformed climate politics with its focus on infrastructure, labor, and social provision.¹²⁷ The Green New Deal requires that we restructure our economy so we can move to clean, renewable energy sources and net-zero greenhouse gas emissions.¹²⁸ It calls for enormous investments in public transit, universal healthcare, housing, and higher education.¹²⁹ Central to its vision is moving toward well-paid care work and green jobs for massive public infrastructure projects, with an emphasis on communities of color, which have long borne the brunt of ecological decline, neoliberal divestment, and substandard pay for essential work.¹³⁰

Making a distinctly urgent claim to land, Indigenous organizers are asserting environmental justice as Indigenous sovereignty.¹³¹ The NDN Collective's just-launched "landback" campaign calls for land back to Indigenous communities as central to restoring "a relationship with Mother Earth that is symbiotic and just."¹³² The Red Nation's Red

¹²⁷ See KATE ARONOFF, ALYSSA BATTISTONI, DANIEL ALDANA COHEN & THEA RIOFRANCOS, *A PLANET TO WIN: WHY WE NEED A GREEN NEW DEAL* 5 (2019); NAOMI KLEIN, *ON FIRE: THE (BURNING) CASE FOR A GREEN NEW DEAL* 25–28 (2019); ANN PETTIFOR, *THE CASE FOR THE GREEN NEW DEAL*, at xv (2019) ("[W]e can — and to survive, we must — transform and even end within the next ten years the failed system of capitalism that now threatens to collapse earth's life support systems and with them, human civilisation."); Lisa Friedman, *What Is the Green New Deal? A Climate Proposal, Explained*, N.Y. TIMES (Feb. 21, 2019), <https://nyti.ms/2GckHjg> [<https://perma.cc/EPV4-CZ6Q>].

¹²⁸ See Green New Deal, H.R. 109, 116th Cong. (2019).

¹²⁹ See *id.*; Rhiana Gunn-Wright & Robert Hockett, *The Green New Deal: Mobilizing for a Just, Prosperous, and Sustainable Economy* 7–10 (Cornell L. Sch., Legal Studies Research Paper No. 19-09, 2019), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3342494 [<https://perma.cc/C6SW-3L6X>]; Alyssa Battistoni & Daniel Aldana Cohen, *The Return of the Green New Deal: Ecosocialism in the USA*, GREEN EUR. J. (Mar. 11, 2020), <https://www.greeneuropeanjournal.eu/the-return-of-the-green-new-deal-ecosocialism-in-the-usa> [<https://perma.cc/AX85-BTZU>]; Alyssa Battistoni, *Living, not Just Surviving*, JACOBIN (Aug. 15, 2017), <https://jacobinmag.com/2017/08/living-not-just-surviving> [<https://perma.cc/A3HW-69AJ>].

¹³⁰ See Maurice Mitchell & Varshini Prakash, *One-Two Punch: How the Green New Deal Fights Ecofascism and Racialized Capitalism*, THE FORGE (June 17, 2020), <https://forgeorganizing.org/article/one-two-punch-how-green-new-deal-fights-ecofascism-and-racialized-capitalism> [<https://perma.cc/S4GJ-SDYH>]; Gunn-Wright & Hockett, *supra* note 129, at 6–7.

¹³¹ Jaskiran Dhillon, *What Standing Rock Teaches Us About Environmental Justice*, in *STANDING WITH STANDING ROCK: VOICES FROM THE #NODAPL MOVEMENT* 235, 235 (Nick Estes & Jaskiran Dhillon eds., 2019) ("[A] fight for environmental justice must be framed, first and foremost, as a struggle for Indigenous sovereignty.")

¹³² *Manifesto*, LANDBACK (2020), <https://landback.org/manifesto> [<https://perma.cc/VS6P-GXDY>].

Deal demands divestment from police, “La Migra,” and child protective services;¹³³ reinvestment in free housing, education, healthcare, transportation, and food;¹³⁴ a “moratorium on oil, gas, and coal extraction”;¹³⁵ “land, water, air, and animal restoration”;¹³⁶ “protection and restoration of sacred sites”;¹³⁷ and “enforcement of treaty rights and other agreements.”¹³⁸

The Red Nation elaborates on its framework like this:

Our philosophy of reform is to reallocate social wealth back to those who actually produce it: workers, the poor, Indigenous peoples, the Global South, women, migrants, caretakers of the land, and the land itself. . . . By fighting for non-reformist reforms in and with our most vulnerable communities, we will drain power and resources from state surveillance and harm and reinvest these resources in the wellbeing of all.¹³⁹

The Red Nation gives voice to a particular orientation of non-reformist reforms today. In their focus on budgets, land, and material infrastructure, movements are making demands on and for the commons. Centrally, these demands are assertions that wealth belongs to the people and the land that generated it. These demands assert a right for the public to have a say as movements build capacity to exercise it. They create a mold for thinking about reform projects that is fundamentally distinct from conventional legal frameworks.

Expanding our vision for democracy and the demands we must prioritize is essential if we wish to live in a more just world and a more sustainable future. Just as Klarman documents privatization and union-busting as central to concentrating power,¹⁴⁰ an emancipatory agenda must include contestation of private and corporate power, including in the workplace. Organizing against private power will be central for building popular power against the exploitation of the market

¹³³ THE RED NATION, THE RED DEAL: INDIGENOUS ACTION TO SAVE OUR EARTH, PART ONE: END THE OCCUPATION 19–21 (2020), http://therednation.org/wp-content/uploads/2020/04/Red-Deal_Part-I_End-The-Occupation-1.pdf [<https://perma.cc/NA84-36G2>].

¹³⁴ THE RED NATION, THE RED DEAL: INDIGENOUS ACTION TO SAVE OUR EARTH, PART TWO: HEAL OUR BODIES 23–34 (2020), <https://therednationdotorg.files.wordpress.com/2020/01/red-deal-part-two-heal-our-bodies.pdf> [<https://perma.cc/7S4Q-ELSJ>].

¹³⁵ THE RED NATION, THE RED DEAL: INDIGENOUS ACTION TO SAVE OUR EARTH, PART THREE: HEAL OUR PLANET 16 (2020), http://therednation.org/wp-content/uploads/2020/04/Red-Deal_Part-III_Heal-Our-Planet.pdf [<https://perma.cc/46RS-RVRJ>]; *see also id.* at 24–26.

¹³⁶ *Id.* at 32; *see also id.* at 32–35.

¹³⁷ *Id.* at 36; *see also id.* at 36–37.

¹³⁸ *Id.* at 38; *see also id.* at 38–40.

¹³⁹ *Id.* at 16–17.

¹⁴⁰ *See, e.g.,* Klarman, *supra* note 16, at 16, 140–46 (arguing that the privatization of certain public services and the undermining of labor unions resulted in part from the theory that “democratic politics was insufficiently protective of property rights,” *id.* at 146).

economy.¹⁴¹ From tenant organizing to strikes by teachers, nurses, hotel workers, communication and auto workers, Uber and Lyft drivers, graduate students, and professional athletes, we are living in a time of labor and housing organizing.¹⁴²

By striking, organizing, and making demands against private power, workers and communities exercise and build their power — and hopefully win concessions. But the most powerful organizing does more: it provides nodes for solidarity and continued organizing and builds analysis and capacity to respond to intersecting crises. Recent teachers' strikes became larger struggles about the privatization of education and defunding of public schools.¹⁴³ The #NoDAPL Standing Rock encampment and the No Keystone XL campaign contested how the state, corporations, and police work together to exploit the earth in violation of Indigenous sovereignty and treaty rights — and has catalyzed waves of native organizing.¹⁴⁴ Tenant organizing against landlords points to how cities work with developers and police to create increasingly unaffordable housing, including through the machinery of evictions and gentrification.¹⁴⁵ When tenants collectively buy the buildings in which they rent as a way to remove property from the market, they decommodify

¹⁴¹ See ELIZABETH ANDERSON, PRIVATE GOVERNMENT: HOW EMPLOYERS RULE OUR LIVES (AND WHY WE DON'T TALK ABOUT IT) 37–41 (2017).

¹⁴² E.g., Alexia Fernández Campbell, *Marriott Workers Just Ended the Largest Hotel Strike in US History*, VOX (Dec. 4, 2018, 2:10 PM), <https://www.vox.com/policy-and-politics/2018/12/4/18125505/marriott-workers-end-strike-wage-raise> [<https://perma.cc/EQJ5-7MPQ>]; E. Tammy Kim, Opinion, *The G.M. Strike Was the Best and the Worst of the Labor Movement*, N.Y. TIMES (Oct. 17, 2019), <https://nyti.ms/2ptI875> [<https://perma.cc/LUT9-EG4R>]; Daniel A. Medina, *The Grassroots Coalition that Took on Amazon . . . and Won*, THE GUARDIAN (Mar. 24, 2019, 2:00 PM), <https://www.theguardian.com/technology/2019/mar/23/the-grassroots-coalition-that-took-on-amazon-and-won> [<https://perma.cc/59WS-CC2L>]; Alejo Stark, Jasmine Ehrhardt & Amir Fleischmann, *University of Michigan Graduate Workers Are on Strike*, JACOBIN (Sept. 11, 2020), <https://jacobinmag.com/2020/09/university-michigan-graduate-workers-strike> [<https://perma.cc/5XNW-EAB7>].

¹⁴³ See ERIC BLANC, RED STATE REVOLT: THE TEACHERS' STRIKE WAVE AND WORKING-CLASS POLITICS 8–10 (2019); E. Tammy Kim, *The Striking Demands of LA Teachers*, N.Y. REV. BOOKS (Jan. 23, 2019), <https://www.nybooks.com/daily/2019/01/23/the-striking-demands-of-la-teachers> [<https://perma.cc/TVF7-2MNE>]; E. Tammy Kim, *Structure Tests: How Should Unions Organize in Today's World?*, THE NATION (May 5, 2020), <https://www.thenation.com/article/culture/jane-mcalevey-collective-bargain-book-review> [<https://perma.cc/6BH9-9X34>].

¹⁴⁴ See NICK ESTES, OUR HISTORY IS THE FUTURE: STANDING ROCK VERSUS THE DAKOTA ACCESS PIPELINE, AND THE LONG TRADITION OF INDIGENOUS RESISTANCE 1–23 (2019); David Archambault II, Opinion, *Taking a Stand at Standing Rock*, N.Y. TIMES (Aug. 24, 2016), <https://nyti.ms/2bBcU1X> [<https://perma.cc/5V6M-QVWB>].

¹⁴⁵ See generally John Whitlow, *Gentrification and Countermovement: The Right to Counsel and New York City's Affordable Housing Crisis*, 46 FORDHAM URB. L.J. 1081 (2019) (discussing the potential for a “tenant-based countermovement that targets the structural underpinnings of state-facilitated, market-based gentrification and displacement,” *id.* at 1087).

housing.¹⁴⁶ Such organizing raises expectations, deepens consciousness, sharpens analysis, and builds power and capacity for the next fight.¹⁴⁷

Social movement organizations create space for democratic participation, contestation, and action. Central to the conception of these radical reforms are that they mobilize and enfranchise the grassroots. These demands speak to the crises of our times by the people demobilized within democratic politics. They aim to build democratic power and a democratic political economy in a mutually constitutive way. These demands posit an alternative to the neoliberal carceral state: a society not about profit and punishment and the individual; one where we work together to tend to people's needs and to care for human and nonhuman life, including the land.

As today's left social movement ecosystem develops its analysis in relation to campaigns and experiments — engaging in dynamic praxis — this turn toward our built environment, the land, and our collective wealth creates space for interconnected analysis and large multi-racial movements.¹⁴⁸ So many more of us would benefit from a state and society where we have a real say over the shape of our lives and our communities, on the streets, at home, and at work. It is from here that we must build democracy.

CONCLUSION

Klarman's Foreword recognizes that the crises of our time are urgent and deep. While I agree with much of his assessment and many of his proposed reforms, democracy is about more than the ballot box, and the Democratic Party cannot legislate it into being. Democracy is a practice. It is about contestation and self-determination.¹⁴⁹ Its terrain includes labor, housing, and healthcare. Its shape is constituted by prisons and police, fines and fees, local budgets, tax dollars, and infrastructure projects. It is about the environment and our relationship to all forms of life. It is about the ideas and structures we must deconstruct, and those we build. It is about today's social movements, their

¹⁴⁶ Matthew Desmond, *The Tenants Who Evicted Their Landlord*, N.Y. TIMES (Oct. 14, 2020), <https://nyti.ms/3lKEbTd> [<https://perma.cc/3E2V-K3UB>]; see also Shane Woolley, *The Sword, the Shield, the March: CL/VU & the Fight for the Jim Brooks Act*, MEDIUM (Aug. 30, 2018), <https://medium.com/@shwoolley/the-sword-the-shield-the-march-cl-vu-the-fight-for-the-jim-brooks-act-8ee5bf18af78> [<https://perma.cc/W3EG-EPEC>].

¹⁴⁷ Organizing is centrally about raising people's expectations "about what people should expect from their jobs; the quality of life they should aspire to[; and] . . . what they have a right to expect from their employer, their government, their community, and their union." JANE MCALEVEY WITH BOB OSTERTAG, RAISING EXPECTATIONS (AND RAISING HELL): MY DECADE FIGHTING FOR THE LABOR MOVEMENT 12 (2012).

¹⁴⁸ On the need for critical theory to return to its roots in praxis, see BERNARD E. HARCOURT, CRITIQUE & PRACTICE: A CRITICAL PHILOSOPHY OF ILLUSIONS, VALUES, AND ACTION (2020).

¹⁴⁹ Simonson, *supra* note 84 (manuscript at 54) (stating that "[c]ontestation is necessary for democracy" in order to have "political opposition to hegemonic ideas that uphold dominant and oppressive political structures" (citing Professor Chantal Mouffe's work on agonism)).

turn to non-reformist reforms, and their demands for a democratic political economy.