

SOCIAL ECOLOGY AND LAWYERING IN THE ANTHROPOCENE

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*What do you do, after you stop pretending?*¹

INTRODUCTION

Recognizing the short supply of serious political thinking about our planetary boundaries, this Article attempts to provide an advocacy framework for lawyers concerned with social justice and our collective future.² Moving beyond theory and into praxis, it draws on the experience in Dayton, Ohio to open a full-service grocery store in a community faced with food apartheid.³

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¹ Dougald Hine, *After We Stop Pretending*, THE DARK MOUNTAIN PROJECT (Apr. 22, 2019), <https://dark-mountain.net/after-we-stop-pretending>.

² See generally Alyssa Battistoni, *States of Emergency*, THE NATION (June 21, 2018), <https://www.thenation.com/article/archive/political-theory-for-an-age-of-climate-change>.

³ The term “food apartheid” is used by food justice advocates to move beyond the term “food desert” for describing the issue as one of limited access to fresh food; it forces one to look at the “whole food

Further, this Article suggests a Social Ecology framework for social justice as we navigate the Anthropocene and provides an example of how lawyers can support such a framework in a time of tremendous inequality, social unrest, and future uncertainty.

Lawyers who advocate for social justice—social change, equity, and the rights of individuals, families, communities, and populations who have been excluded from the systems of opportunity—can accurately see their advocacy efforts at a crossroads. Specifically, how can a social justice lawyer be effective in today’s political climate and in the current state of our natural environment, not merely obtaining positive results in court but supporting a movement for a new society that maintains “life in balance, life that doesn’t depend on the unspoken, unseen suffering of others for profit?”⁴ Courts have become more hostile to civil rights litigation; law reform litigation has become more difficult; and even old victories have not been producing the anticipated results.⁵ At the same time, cities remain segregated more than fifty years since the passage of the Fair Housing Act; the wealth gap is at a historic level; zip codes continue to determine one’s life expectancy and other life outcomes; and opportunity for life success remains elusive for racial minorities and low-income individuals.⁶ On top of these realities, our home

system, along with race, geography, faith, and economics” and requires an analysis that gets to the “root cause of some of the problems around the food system.” Anna Brones, *Food Apartheid: The Root of the Problem with America’s Groceries*, THE GUARDIAN (May 15, 2018), <https://www.theguardian.com/society/2018/may/15/food-apartheid-food-deserts-racism-inequality-america-karen-washington-interview>.

⁴ Tara Houska, *A Voice from the Forest in the Corporate Boardroom*, ALJAZEERA (Jan 1, 2020), <https://www.aljazeera.com/indepth/opinion/voice-forest-corporate-boardroom-191215110302810.html>.

⁵ See Kristen Galles, *Introduction: The Supreme Court’s Assault on Civil Rights and Access to Justice*, AM. BAR ASS’N (Dec. 31, 2015), https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/2015--vol--41-/vol-41-no-1-lurking-in-the-shadows-the-supreme-court/introduction--the-supreme-court-s-assault-on-civil-rights-and-ac/. Galles discusses “the Supreme Court’s steady assault on civil rights and access to justice,” including the “rights-creating language” limitations to Section 1983 and *Alexander v. Sandoval*, 532 U.S. 275, 291 (2001). *Id.* See also *Washington v. Davis*, 426 U.S. 229, 245–46 (1976) (establishing the need for a plaintiff to show discriminatory intent in equal protection cases); *Grayson v. Toledo Metro. Hous. Auth.*, No. 3:74 CV 68, 2012 U.S. Dist. LEXIS 126483, at *1 (N.D. Ohio Sep. 6, 2012). In *Grayson*, the court denied class action plaintiffs’ motion to modify a 1985 affirmative action plan in a public housing desegregation lawsuit, where the ratios in the plan to remedy past racial discrimination were not being met found some progress towards those goals even if the ratios may never be met. *Grayson*, 2012 U.S. Dist. LEXIS 126483, at *16.

⁶ See, e.g., Josh Sweigart, *Lasting Scars, Part 2: Fifty Years Later, Dayton Remains Segregated*, DAYTON DAILY NEWS (Aug. 30, 2016), <https://www.daytondailynews.com/news/lasting-scars-part-fifty-years-later-dayton-remains-segregated/n43hseF7clMWsXtdVODYMM/>; UNIV. OF WASHINGTON IN SAINT LOUIS, FOR THE SAKE OF ALL: A REPORT ON THE HEALTH AND WELL-BEING OF AFRICAN AMERICANS IN ST. LOUIS AND WHY IT MATTERS FOR EVERYONE 18 (2015), https://cpb-us-w2.wpmucdn.com/sites.wustl.edu/dist/3/1454/files/2018/06/FSOA_report_2-17zd1xm.pdf. See Pedro Nicolaci da Costa, *America’s Humongous Wealth Gap Is Widening Further*, FORBES (May 29, 2019), <https://www.forbes.com/sites/pedrodacosta/2019/05/29/americas-humongous-wealth-gap-is-widening-further/> (“In 2018, the richest 10% held 70% of total household wealth, up from 60% in 1989. . . . [This] came at the expense of households in the 50th to 90th percentiles of the wealth distribution.”) (citing MICHAEL BATTY ET AL., INTRODUCING THE DISTRIBUTIONAL FINANCIAL ACCOUNTS OF THE UNITED STATES 26 (2019), <https://www.federalreserve.gov/econres/feds/files/2019017pap.pdf>); see also Gregor Aisch et al., *The Best and Worst Places to Grow Up: How Your Area Compares*, N.Y. TIMES (May 4, 2015), <https://www.nytimes.com/interactive/2015/05/03/upshot/the-best-and-worst-places-to-grow-up-how-your-area-compares.html>; *New Research on Mobility: Studies by Profs. Chetty, Hendren, and Katz*, HARV.

is on fire—namely from climate change, the extinction crisis, everyday exposure to chemicals, and pollution.⁷

While the government passed legislation to control pollution in response to the environmental crisis in the 1970s, it was not until the late 1980s and early 1990s that the environmental crisis led to calls for social change and equity in an environmental justice movement demanding an end to environmental racism.⁸ This movement recognized that “[f]or far too long, many minority, low-income, tribal, and indigenous people in the United States have experienced higher levels of environmental pollution and other social and economic burdens . . . [resulting in] poorer health outcomes”⁹ The movement also acknowledged traditional environmental litigation is limited when seeking remedies to such disparities and may actually perpetuate a racial imbalance.¹⁰ Indeed, there have been calls from at least the early 1990s to combine the efforts of the environmental and social justice movements, as they have similar goals but cannot win on their own.¹¹ More than thirty years later, social justice lawyers again must question whether the current legal tools and existing political systems are capable of providing systemic and equitable remedies.

Part I of this Article provides a brief overview of the Anthropocene, the impact human activity is having on our planet, and our ability to maintain an environment suitable for human habitation.¹² This reality will impact everyone, regardless of race and income, but those currently left behind, the most vulnerable people, will be impacted the most. Part II explores the limitations of the current legal framework to provide equity for past discrimination, and also how the lawyer-centric approach to providing legal services is failing to combat inequality for minority, low-income, and other disenfranchised communities for a planet on fire. Part III provides an overview of community lawyering, which ties a lawyer’s work to a larger

UNIV. (May 4, 2015), <https://economics.harvard.edu/news/new-research-mobility-studies-profs-chetty-hendren-and-katz>; THE STATE OF BLACK OHIO, OHIO STATE UNIV. 3 (2010).

⁷ ROBERT D. BULLARD, DUMPING IN DIXIE: RACE, CLASS, AND ENVIRONMENTAL QUALITY 8 (2000); NAOMI KLEIN, ON FIRE 21 (2019); BILL MCKIBBEN, FALTER: HAS THE HUMAN GAME BEGUN TO PLAY ITSELF OUT? 1 (2019); EDWARD O. WILSON, DIVERSITY OF LIFE xvi (1992).

⁸ See, e.g., Clean Air Act, 42 U.S.C. § 7401 (2012); Clean Water Act, 33 U.S.C. § 1251 (2012); Toxic Substances Control Act of 1976, 15 U.S.C. § 2601 (2012). See Errol Schweizer, *Environmental Justice: An Interview with Robert Bullard*, EARTH FIRST! J. (July 1999), <https://www.ejnet.org/ej/bullard.html> (“[The environmental justice movement] basically says that the environment is everything: where we live, work, play, go to school, as well as the physical and natural world. And so we can’t separate the physical environment from the cultural environment. We have to talk about making sure that justice is integrated throughout all of the stuff that we do.”).

⁹ U.S. ENVTL. PROTECTION AGENCY, PLAN EJ 2014 1 (Sept. 2011), <https://nepis.epa.gov/Exe/ZyPDF/F.cgi/P100DFCQ.PDF?Dockkey=P100DFCQ.PDF>.

¹⁰ Luke Cole, *Empowerment as the Key to Environmental Protection: The Need for Environmental Poverty Law*, 19 ECOLOGY L.Q. 619, 658 (1992); see Marianne Lavelle & Marcia Coyle, *Unequal Protection, the Racial Divide in Environmental Law, a Special Investigation*, 15 THE NAT’L L.J. (1992), <https://www.ejnet.org/ej/nlj.pdf>.

¹¹ See Cole, *supra* note 10, at 634.

¹² See generally ANTHROPOCENE, <http://www.anthropocene.info> (last visited July 13, 2020).

movement for social change. Part IV describes a firsthand account of applying community lawyering in Dayton around the development of the Gem City Market and Co-op Dayton. This movement can be seen as one that is not only responsive to community needs, but also one that is providing an alternative structure that values basic human needs, openness and inclusion of all, and a renewed focus on local community and economy.

Part V discusses Social Ecology, Murray Bookchin's critique of current social, political, and anti-ecological trends.¹³ Parts of the environmental movement share Social Ecology's underlying basis that "nearly all of our present ecological problems originate in deep-seated social problems."¹⁴ It is precisely the human-over-human domination that allows for the domination of nature by humans.¹⁵ Without addressing such hierarchical domination and the resulting social problems, ecological problems will not be adequately addressed. Importantly, "those taking on the failures of capitalism and those fighting for climate action" cannot remain siloed.¹⁶ In Part VI, this Article suggests how the Co-op Dayton cooperative model could expand to incorporate Social Ecology into its critique of the current built urban environment and to directly challenge capitalism. Finally, this Article offers concluding thoughts in Part VII.

I. THE ANTHROPOCENE

Our planet is at a tipping point, with environmental degradation and social inequality increasing. We are living in the Anthropocene, a period in which scientists argue that "[h]uman activities have become so pervasive and profound that they rival the great forces of Nature and are pushing the Earth into planetary *terra incognita* . . . [which is resulting in] [t]he Earth . . . rapidly moving into a less biologically diverse, less forested, much warmer, and probably wetter and stormier state."¹⁷ In the fall of 2018, the UN Intergovernmental Panel on Climate Change ("IPCC") put out a report stating we have twelve years to cut human-caused emissions of carbon dioxide emissions by 45% in order to keep the global warming to a maximum of 1.5C, beyond which even half a degree will result in "substantial" consequences, such as "stronger storms, more erratic weather, dangerous heat waves, rising seas, and largescale disruption to infrastructure and migration pattern."¹⁸

¹³ See generally *Mission/About Us*, INST. FOR SOC. ECOLOGY, <http://social.ecology.org/wp/about/about-the-ise> (last visited July 13, 2020).

¹⁴ MURRAY BOOKCHIN, *SOCIAL ECOLOGY AND COMMUNALISM* 19 (2007).

¹⁵ See *id.* at 21.

¹⁶ KLEIN, *supra* note 7, at 99 (noting the current solitude of those "battling systemic economic and racial exclusions, not to mention multiple wars" and the "big green groups" addressing climate change).

¹⁷ See Will Steffen et al., *The Anthropocene: Are Humans Now Overwhelming the Great Forces of Nature?*, 36 *AMBIO* 614, 614 (2007), https://www.pik-potsdam.de/news/public-events/archiv/alter-net/former-ss/2007/05-09.2007/steffen/literature/ambi-36-08-06_614_621.pdf.

¹⁸ Stephen Leahy, *Climate Change Impacts Worse than Expected, Global Report Warns*, NAT'L GEOGRAPHIC (Oct. 7, 2018), <https://www.nationalgeographic.com/environment/2018/10/ipcc-report-climate-change-impacts-forests-emissions/> (citing IPCC, *GLOBAL WARMING OF 1.5°C* (2018), <https://www.ipcc.org/report/15c-report/>).

Simultaneously, wealth and economic inequality grow, giving rise to numerous social crises.¹⁹ These crises are also linked to our built urban environment, the product of more than a century of policy decisions that have discriminated, both intentionally and in effect, against African Americans, Native Americans, immigrants, the working class, low-income individuals, and other “undesirables.”²⁰ The stark reality of IPCC’s report and growing inequality is a call to action for everyone, especially social justice attorneys, to support a new path forward where the most vulnerable populations will not continue to be the most at risk of harm.

II. FAILURE OF EXISTING LEGAL FRAMEWORKS TO ADDRESS CURRENT ISSUES

While more than fifty years have passed since the passage of civil rights legislation in the United States to redress such discrimination, individuals in today’s cities are living out the consequences of our discriminatory legacy.²¹ But the impact of *de jure* discrimination is not impacting all people the same; rather, people of color and low-income individuals suffer disproportionately due to where they live as compared with whites who live in areas of higher opportunity.²²

Further, people of color, indigenous people, and low-income individuals are often on the frontlines of the environmental and climate crises.²³ For example, in the United States there is a long history of placing polluting industries in and next to minority communities, including the siting of federally assisted housing for low income, and minority families, next to “dangerously contaminated land where they face an urgent and ongoing

ipcc.ch/sr15/ (an IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty). Among the pathways limiting global warming to 1.5°C with no or limited overshoot is the rapid and far-reaching transitions in energy, land, urban and infrastructure, and industrial systems that are unprecedented in terms of scale. *Id.* ch. 2. These solutions are not complete as they fail to address our current economic model. Mari Pansar & Janez Potocnik, *The Climate Solution IPCC Missed*, SITRA (Oct. 24, 2018), <https://www.sitra.fi/en/blogs/climate-solution-ipcc-missed/> (suggesting a circular economy is essential to tackling the climate crisis). See also Press Release, IPCC, Summary for Policymakers of IPCC Special Report on Global Warming of 1.5°C Approved by Governments (Oct. 8, 2018), https://www.ipcc.ch/pdf/session48/pr_181008_P48_spm_en.pdf.

¹⁹ See Ariana R. Levinson et al., *Alleviating Food Insecurity Via Cooperative Bylaws*, 26 GEO. J. POVERTY L. & POL’Y 227, 231–33 (2019).

²⁰ See generally RICHARD ROTHSTEIN, *THE COLOR OF LAW: A FORGOTTEN HISTORY OF HOW OUR GOVERNMENT SEGREGATED AMERICA* (2018).

²¹ See generally Pub. L. 88-352, 78 Stat. 241 (1964); PUB. HEALTH DAYTON & MONTGOMERY CTY., OPPORTUNITY MAPPING: THE GEOGRAPHY OF OPPORTUNITY DAYTON OHIO (2015), http://www.mvfairhousing.com/ai2015/2015-02Opportunity_Mapping.PDF; PUB. HEALTH DAYTON & MONTGOMERY CTY., OPPORTUNITY MAPPING: THE GEOGRAPHY OF OPPORTUNITY MONTGOMERY COUNTY OHIO (2015), https://www.mcoho.org/departments/human_services_planning_and_development/MC_Opportunity_Map.pdf.

²² See generally OPPORTUNITY MAPPING: GEOGRAPHY OF OPPORTUNITY DAYTON OHIO, *supra* note 21, at 5; OPPORTUNITY MAPPING: GEOGRAPHY OF OPPORTUNITY MONTGOMERY COUNTY, *supra* note 21, at 5; ROTHSTEIN, *supra* note 20.

²³ U.S. ENVTL. PROTECTION AGENCY, *supra* note 9, at 1; see, e.g., Lavelle & Coyle, *supra* note 10.

environmental and health crisis.”²⁴ More recently, the impacts of climate change have been felt most strongly by people of color and other frontline communities, who are experiencing the consequences of “extreme capitalism that extracts labor and resources from the masses for the few.”²⁵

The existing legal framework and laws are not equipped to adequately address these inequalities. For example, the oil and gas industry has been the target of lawsuits demanding accountability for their role in the consequences of climate change.²⁶ One of these climate change lawsuits, brought by a group of young people, alleged that “the government has deprived them of a substantive constitutional right to a ‘climate system capable of sustaining human life,’ and they seek remedial declaratory and injunctive relief.”²⁷ Despite “[a] substantial evidentiary record document[ing] that the federal government has long promoted fossil fuel use despite knowing that it can cause catastrophic climate change, and that failure to change existing policy may hasten an environmental apocalypse,” the court found that the plaintiffs lacked standing to sue, as they were unable to show their damages were redressable by an Article III court.²⁸

Similarly, the law provides inadequate remedies for communities seeking to maintain health services. In Dayton, Ohio, Premier Health announced the closing of Good Samaritan Hospital, located in a predominately African American zip code.²⁹ The filing of a civil rights complaint, while still an open matter for investigation with the U.S. Department of Health and Human Services, was unable to prevent the closing of the hospital and demolition of the building.³⁰

The inability of our current legal framework to impact systemic inequality supports calls for a new social and economic approach. Indeed, young climate activists demand a just transition to a carbon-free society; seasoned social justice advocates promote “a managed transition to another

²⁴ See, e.g., U.S. ENVTL. PROTECTION AGENCY, *supra* note 9; Lavelle & Coyle, *supra* note 10. See also Emily Coffey et al., *Poisonous Homes: The Fight for Environmental Justice in Federally Assisted Housing*, SHRIVER CTR. 2 (June 2020), https://www.povertylaw.org/wp-content/uploads/2020/06/environmental_justice_report_final-rev2.pdf.

²⁵ Tara Houska, *What Listening Means in a Time of Climate Crisis*, LITERARY HUB (Sept. 18, 2019), <https://lithub.com/what-listening-means-in-a-time-of-climate-crisis/>. See, e.g., Jeffrey W. Bethel et al., *Disparity in Disaster Preparedness Between Racial/Ethnic Groups*, 1 DISASTER HEALTH 110 (2013), <https://www.tandfonline.com/doi/pdf/10.4161/dish.27085?needAccess=true>.

²⁶ David Hasemyer, *Fossil Fuels on Trial: Where the Major Climate Change Lawsuits Stand Today*, INSIDE CLIMATE NEWS (Jan. 17, 2020), <https://insideclimatenews.org/news/04042018/climate-change-fossil-fuel-company-lawsuits-timeline-exxon-children-california-cities-attorney-general>.

²⁷ *Juliana v. United States*, 947 F.3d 1159, 1169 (9th Cir. 2020).

²⁸ *Id.* at 1164, 1175.

²⁹ Kaitlin Schroeder, *Civil Rights Complaint Filed Over Planned Good Sam Closure*, DAYTON DAILY NEWS (May 4, 2018), <https://www.daytondailynews.com/business/civil-rights-complaint-filed-over-planned-good-sam-closure/WXK4Y3Hu5CeGJhO6fBAF4M/>.

³⁰ Max Filby, *Good Samaritan Hospital Officially Closes*, DAYTON DAILY NEWS (July 23, 2018), <https://www.daytondailynews.com/news/good-samaritan-hospital-officially-closes-down-for-good-early-monday/VF0RkPjCigUBpg7VzM7E9L/>.

economic paradigm”; and Black Lives Matter activists remind us “[t]he status quo is not okay, it’s intolerable . . . [and w]e need transformation.”³¹ But “nearly all of our present ecological problems originate in deep-seated social problems,” and therefore cannot be understood or resolved “without a careful understanding of our existing society and the irrationalities that dominate it.”³² Social Ecology and its political strategy of libertarian or confederal municipalism provides a structural framework for “direct democracy [that] can foster the expression of a general social interest towards social and ecological renewal” which can replace “the capitalist system [that is] a fundamental threat to the integrity of living ecosystems.”³³

Drawing on the experience of developing the Gem City Market, a worker and community-owned cooperative grocery store in a Dayton neighborhood faced with food apartheid, lawyers, through a community lawyering service delivery model, can co-create sustainable solutions to these environmental and social crises.³⁴ The work of Co-op Dayton and the Gem City Market replaces “competition with cooperation, and profit seeking with relationships based on sharing and mutual concern.”³⁵ By using the law to support community-led efforts, lawyers can foster a just society that is built on equity and challenge the “grow or die” economic paradigm, in favor of one that is rooted in and responsive to the community.³⁶

III. REVISITING AN OLD APPROACH TO CHANGE: COMMUNITY LAWYERING NUTS AND BOLTS

If the traditional lawyer-centric approach has failed to adequately impact systemic equality, social justice attorneys must reimagine our approach.³⁷ But what is this reimagination and how can social justice lawyers

³¹ KLEIN, *supra* note 7, at 87; Univ. of Dayton Human Rights (@udhumanrights), TWITTER (Oct. 1, 2019, 7:56 PM), <https://twitter.com/udhumanrights/status/1179183287975079936>. See also ABOUT, SUNRISE MOVEMENT, <https://www.sunrisemovement.org/about> (last visited Feb. 20, 2020).

³² BOOKCHIN, *supra* note 14, at 19.

³³ See Brian Tokar, *Social Ecology: Communalism Against Climate Chaos*, ROAR, <https://roarmag.org/magazine/communalism-climate-chaos/> (last visited July 13, 2020) (“Social ecologists believe that whereas institutions of capitalism and the state heighten social stratification and exploit divisions among people, alternative structures rooted in direct democracy can foster the expression of a general social interest towards social and ecological renewal.”).

³⁴ See GEM CITY MARKET, www.gemcitymarket.com (last visited on July 13, 2020); see generally Cole, *supra* note 10; Charles Elsesser, *Community Lawyering – The Role of Lawyers in the Social Justice Movement*, 14 LOY. J. PUB. INT. L. 375 (2013); William P. Quigley, *Reflections of Community Organizers: Lawyering for Empowerment of Community Organizations*, 21 OHIO N.U. L. REV. 455 (1994).

³⁵ Murray Bookchin, *The Ecological Crisis, Socialism, and a New Society*, NEW COMPASS (Mar. 15, 2013), <http://new-compass.net/articles/ecological-crisis-socialism-and-new-society>.

³⁶ See, e.g., CO-OP DAYTON, www.coopdayton.org (last visited July 13, 2020); see generally Elsesser, *supra* note 34.

³⁷ See, e.g., Alexi Nunn Freeman & Jim Freeman, *It’s About Power, Not Policy: Movement Lawyering for Large-Scale Social Change*, 23 CLINICAL L. REV. 147, 149–50, 155 (2016) (using mass incarceration as an example to explain how the “progressive legal community must improve its collective strategic capacity and understanding of what it takes to prevail against the high-powered beneficiaries of systemic injustice”). See also Purvi Shah, *Rebuilding the Ethical Compass of Law*, 47 HOFSTRA L. REV. 11, 13–14 (2018) (noting law students and lawyers are “taught ‘The Law’ in the United States is the benevolent

support such efforts? Moving outside of litigation and developing a transactional practice allows attorneys to work within existing systems and structures while building a new vision called the “solidarity economy,” which “seeks to transform the dominant capitalist system, as well as other authoritarian, state-dominated systems, into one that puts people and the planet at its core.”³⁸ “The solidarity economy represents an emerging vision for a just, sustainable, and democratic future.”³⁹ This work involves building cooperative and community-rooted enterprises, reclaiming the commons, and democratizing and reorienting finance while “finding new ways to share skills and goods, measure success, and meet growing human needs on a finite planet.”⁴⁰ It is further guided by five principles: (1) solidarity, (2) equity in all dimensions (race, gender, ability, etc.), (3) pluralism, (4) participatory democracy, and (5) sustainability.⁴¹

How can the practice of a social justice lawyer support the transformation of our relationship with each other and therefore with nature? After all, the legal system is organized in many respects to maintain the status quo.⁴² Just as individuals concerned with our future are rethinking society, lawyers must also find a different approach on how we provide our legal services to achieve such ends.

For more than a decade, the Shriver Center on Poverty Law (“Shriver Center”) has provided community lawyering trainings to attorneys, refining its curriculum along the way.⁴³ From understanding the history of a community and relationship building; to community organizing and leadership development; and to strategic community communication and strategic development, the Shriver Center curriculum provides a framework for attorneys seeking to implement community lawyering principles into their practice.⁴⁴

At the center of community lawyering is a recognition that we must continue to learn from community lawyers who understand that social change can only occur “when people without power, particularly poor people or

guarantor of a fair and justice society,” while “history has shown us that law is neither objective or neutral and that ‘The Law’ has always trailed behind what was just”).

³⁸ Emily Kawano, *Solidarity Economy: Building an Economy for People & Planet*, NEXT SYSTEM PROJECT (May 1, 2018), <https://thenextsystem.org/learn/stories/solidarity-economy-building-economy-people-planet>.

³⁹ Renee Hatcher, *Solidarity Economy Lawyering*, 8 TENN. J. RACE, GENDER, & SOCIAL JUST. 23 (2019). See also *What is the New Economy?*, NEW ECON. COAL., <https://neweconomy.net/about/what-is-the-new-economy> (last visited July 13, 2020). While an alternative to capitalism can be called the Solidarity Economy or New Economy, the name is less important than the objectives as “[t]he movement is not ideologically rigid or one-size-fits-all.” *Id.*

⁴⁰ *Id.*

⁴¹ Hatcher, *supra* note 39.

⁴² See, e.g., MICHAEL TIGAR & MADELEINE LEVY, *LAW AND THE RISE OF CAPITALISM* (2d ed. 2000).

⁴³ See generally SHRIVER CTR. ON POVERTY LAW, <https://www.poverty.org/clearinghouse/training> (last visited July 13, 2020) (the author served as faculty for the October 2017 training.).

⁴⁴ See generally Faculty Manual for Shriver Center Community Lawyering (Oct. 2017) (unpublished manual) (on file with author) [hereinafter Shriver Manual].

oppressed people, organize and recognize common grievances. . . . [The change is] only. . . lasting when it is led and directed by the people most affected.”⁴⁵ The commitment to an approach that places the people most affected at the center of a lawyer’s work is critical for long-term social change.⁴⁶ This is accomplished by supporting organizations “who win benefits and shift power through collective action and strategic campaigns.”⁴⁷

Strategy development may be the most important piece of the community lawyering framework for attorneys to understand and bring to their practice. Using a Goal, Strategy, and Tactics development model not only helps the client and attorney to develop a plan, but it provides the attorney with an understanding of where her legal skills can be best used to improve peoples’ lives and alter the power relationship.⁴⁸

Shriver Center defines “Goal” as “the ends which resolve or remedy the issue and towards which efforts are addressed.”⁴⁹ Next, “Strategy” is defined as “the overall plan of action which . . . will achieve the goal.”⁵⁰ Finally, “Tactics” are “the specific actions and approaches we use in order to implement the strategy.”⁵¹ Many different tactics, or a combination thereof, can be part of a strategy.⁵² Tactics include things such as lobbying, direct action, strikes, and popular education events; as well as the work of the attorney: lawsuits, administrative complaints, administrative comments, and transactional legal services.⁵³ A strategic analysis, keeping a focus on the identified goal, can be used to make decisions on which tactics might be appropriate at any given moment.⁵⁴ Following this community lawyering model can transform the relationship between the lawyer and the impacted community, redefine how legal services are delivered, and support building a movement for change.

IV. COMMUNITY LAWYERING AND THE GEM CITY MARKET

In Dayton, Ohio, attorneys at Advocates for Basic Legal Equality (“ABLE”) have practiced variations of community lawyering for decades.⁵⁵ More recently, ABLE has made a commitment to use the community lawyering service delivery model as a way to ensure its legal work is

⁴⁵ Shah, *supra* note 37, at 14 (“Premised on the idea that lawyers and the law are but one piece of social change, this style of lawyering has many names—community lawyering, political lawyering, empowerment lawyering, movement lawyering.”); Elssesser, *supra* note 34, at 384.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ Shriver Manual, *supra* note 44, at 258.

⁴⁹ *Id.* (italics omitted).

⁵⁰ *Id.* (italics omitted).

⁵¹ *Id.* (italics omitted).

⁵² *Id.* at 261.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ See generally ADVOCATES FOR BASIC LEGAL EQUALITY, INC., <https://www.ablelaw.org/media-room/news-and-press-releases/3455-rfp-feasibility-study> (last visited July 13, 2020).

community identified and led based, in part, on the success of how community lawyering has played a role in addressing the food access crisis in Dayton through the Gem City Market.⁵⁶

Co-op Dayton, also known as the Greater Dayton Union Cooperative Initiative, is an incubator for the development of cooperative and primarily worker-owned businesses that meet community needs, with its first and flagship project being the Gem City Market.⁵⁷ The history of Co-op Dayton is unique when compared to other models of incubating worker cooperatives. This is because Co-op Dayton was created with the initial purpose of incubating the Gem City Market, which is a hybrid between a nonprofit and union co-op model, with Co-op Dayton serving as the non-profit incubator but with a strong union co-op influence.⁵⁸

In response to the February 2015 release of an Opportunity Map report by Public Health on Dayton & Montgomery County, the Miami Valley Organizing Collaborative (“MVOC”) held a community conversation at the Omega Baptist Church to discuss the findings of the report and learn how the community felt in response.⁵⁹ Out of these MVOC efforts, the community identified the lack of access to fresh and healthy food—a food desert—as an issue it wanted to positively impact.⁶⁰

The MVOC invited individuals for additional conversations around food access and eventually convened a Steering Committee of a broad range of individuals to develop the community response.⁶¹ After looking at community responses to food access in other part of the country, the Steering Committee identified a full-service grocery store as the community response to the food desert. In doing so, the Steering Committee also identified the need for an organization to lead the process and obtain the funding to carry

⁵⁶ See, e.g., Matt Currie, SCHED, https://2019nlada.sched.com/matthew_currie.1vwsxlme (last visited July 13, 2020).

⁵⁷ CO-OP DAYTON, *supra* note 36.

⁵⁸ See *Id.* (The community Steering Committee that became Co-op Dayton had a strong influence from unions on the committee but also by looking to the Cincinnati Union Co-op Initiative when looking at business models for the Gem City Market, focusing on the Mondragon principles.); see also Priya Baskaran, *Worker Cooperatives: An Introduction to Worker Cooperatives and Their Role in the Changing Economy*, 24 J. AFFORDABLE HOUS. & CMTY. DEV. L. 355, 368 (2016) (discussing worker cooperatives and the three common models incubating the modern worker cooperative: nonprofit incubator model, union co-op model, and anchor institution).

⁵⁹ See OPPORTUNITY MAPPING: GEOGRAPHY OF OPPORTUNITY DAYTON OHIO, *supra* note 21. Public Health Dayton & Montgomery County initially released the Opportunity Map report in February of 2015. *Id.* at 1. This report looked at opportunity within the City of Dayton. *Id.* at 4. In response to criticism that the report looked only at the city and not Montgomery County, Public Health Dayton & Montgomery County released a revised report in May 2015 that looked at opportunity in Montgomery County, beyond the City of Dayton. See generally OPPORTUNITY MAPPING: GEOGRAPHY OF OPPORTUNITY MONTGOMERY CTY., *supra* note 21. The May 2015 report did not look at food deserts. See *id.*

⁶⁰ OPPORTUNITY MAPPING: GEOGRAPHY OF OPPORTUNITY MONTGOMERY CTY., *supra* note 21, at 2.

⁶¹ The Steering Committee was made up of community leaders, food justice advocates, anti-hunger advocates, municipal employees, union employees, academics, and legal aid (including the author of this Article).

out the work needed to open a full-service grocery store.

Initially organized as an informal organization through a Steering Committee, and later incorporated as a legal entity in April 2015, Co-op Dayton was formed to incubate the Gem City Market.⁶² Cooperatives, while not new in the United States, have seen a revival that focuses on worker ownership as well as a union component.⁶³ The Co-op Dayton model of incubating a worker cooperative—where the cooperative business is first identified before the incubator is created—flips the more traditional model where the incubator is typically created before the business concept is identified.⁶⁴

Gem City Market will be a multi-stakeholder full-service grocery store cooperative located in a trade area where there is a \$28,052 median household income; 2.3 persons per household; 37.5 years median age; and 77.2% African American population.⁶⁵ This trade area “has a (1) lower median household income; (2) smaller household size; (3) younger median age; and (4) significantly larger minority population” compared to the state of Ohio averages.⁶⁶ Gem City Market’s primary trade area “is considered a ‘food desert.’”⁶⁷

An important factor for the Steering Committee and Co-op Dayton was an awareness that a larger commercial grocer was not going to open a store to meet the community’s need.⁶⁸ Indeed, Kroger closed a full-service

⁶² *About, CO-OP DAYTON*, *supra* note 35; *Working from the Ground Up to Get Rid of ‘Food Deserts,’* DAYTON DAILY NEWS, <https://www.daytondailynews.com/news/opinion/working-from-the-ground-get-rid-food-deserts/jyvg9CgXOzGQzeQ6WqOqvO/> (last updated Sept. 23, 2017); *see also Gem City Market Offers Residents “More than a Grocery Store,”* THE DAYTON FOUNDATION (Spring 2018), <https://www.daytonfoundation.org/GoodNews/spr-2018/gn-spr18-art1.html>; Bailey Gallion, *Mayor Whaley Accepts National Grant for Gem City Market*, DAYTON DAILY NEWS (June 11, 2018), <https://www.daytondailynews.com/news/mayor-whaley-accepts-national-grant-for-gem-city-market/mZMqqg9Amp38kWY1211qUI/>.

⁶³ *See generally* JESSICA GORDON NEMBARD, *COLLECTIVE COURAGE: A HISTORY OF AFRICAN AMERICAN COOPERATIVE ECONOMIC THOUGHT AND PRACTICE* (2014); Ariana R. Levinson, *Union Co-ops and the Revival of Labor Law*, 19 *Cardozo J. Conflict Resol.* 453 (2018) (discussing generally worker-owned cooperatives, and, more specifically, union co-ops, as well as a history of the Mondragon movement in the United States).

⁶⁴ *Compare Gem City Market*, CO-OP DAYTON, *supra* note 36 (indicating that the idea to establish a grocery store in West Dayton was identified prior to the formation of an incubator to set up the project) *with History*, CO-OP CINCY, www.coopcincy.org/history (last visited July 13, 2020) (describing a union co-op incubator, founded in 2009, which was created to explore the idea of developing union co-ops in Cincinnati and launched its first union co-op, Our Harvest Food Hub, in 2012).

⁶⁵ ASSOCIATED WHOLESALE GROCERS, INC., *CASH SAVER SALEM AVENUE & HOLT STREET*, DAYTON, OHIO (Oct. 2015) (on file with author); *About, GEM CITY MARKET*, *supra* note 34.

⁶⁶ ASSOCIATED WHOLESALE GROCERS, INC., *supra* note 65.

⁶⁷ RICHARD STOCK, GREATER DAYTON UNION CO-OP INITIATIVE BOARD, AND LAKESHORE FOOD ADVISORS, *GEM CITY MARKET BUSINESS PLAN 3* (Jan. 2017). The term “food desert” is “based upon the U.S. Department of Agriculture Economic Research Service’s definition (an area where more than 40% of the population has an income less than or equal to 200% of the Federal Poverty Threshold and lives more than a mile from a supermarket or large grocery store.)” *Id.*

⁶⁸ *See* Kara Driscoll, *As Grocers Build in Suburbs, Food Deserts Grow in Dayton*, DAYTON DAILY NEWS (Apr. 24, 2018), <https://www.daytondailynews.com/business/grocers-build-suburbs-food-deserts-grow-dayton/XXkuprR7ry2eJkcP4lv5xL/>; Cornelius Frolik, *Grocery Targets Dayton Food Desert: ‘We’ve*

store on Gettysburg Avenue in 2008; Aldi closed a store in the Westtown Plaza on West Third Street, around the corner from the former Kroger Gettysburg location, in 2018; and Kroger closed a second store nearby in 2019.⁶⁹ In response, the Steering Committee recognized the need for a new, innovative approach to businesses in Dayton and, when looking at possible business models for the Gem City Market, turned its focus to the Mondragon and United Steelworkers (“USW”) model being promoted by Co-op Cincy.⁷⁰ Further, the Steering Committee followed UpLift Solutions’ suggestions to create a successful and viable grocery store in a food desert which include: (1) being deeply rooted in the community; (2) being responsive to community needs; (3) providing extra training for workers for positive atmosphere; (4) keeping the debt load as low as possible; (5) having energy efficient building; and (6) co-locating services such as pharmacies, banks, or clinics.⁷¹ The combination of community support through meaningful community engagement, long-term workforce development and worker ownership, according to the Gem City Market Business Plan, will make the grocery store successful in an area where others have closed their doors.⁷²

Opening the Gem City Market is truly a community effort, requiring community support, grocery expertise, fundraising, development expertise, and legal support among other things.⁷³ Legal support has been critical to the effort to open the Gem City Market, but legal work to support a community effort is not readily available in Dayton. Indeed, ABLE and Legal Aid of Western Ohio are the only poverty law firms in the Miami Valley, and few area law schools maintain a clinic that provides community development or transactional legal services.⁷⁴ At the time, these legal aid organizations did

got to do Something About it, DAYTON DAILY NEWS (MAY 16, 2018), <https://www.daytondailynews.com/news/local/grocery-targets-dayton-food-desert-got-something-about/L2cO3R5Bx9pDNouKnUs4kL/>.

⁶⁹ Kara Driscoll, *ALDI Closing to Create Even Larger Food Desert in Dayton*, DAYTON DAILY NEWS (Dec. 1, 2017), <https://www.daytondailynews.com/news/local/sugarcreek-buys-plans-renovate-dayton-kroger-property/eSjrLNjs4TOLDsn7zUqrTM/>; Cornelius Frolik, *SugarCreek Buys, Plans to Renovate Dayton Kroger Property*, DAYTON DAILY NEWS (Sept. 30, 2019), <https://www.daytondailynews.com/news/local/sugarcreek-buys-plans-renovate-dayton-kroger-property/eSjrLNjs4TOLDsn7zUqrTM/>; Cornelius Frolik, *West Dayton ALDI's to Close Sunday*, DAYTON DAILY NEWS (Apr. 12, 2018), <https://www.daytondailynews.com/news/breaking-news/west-dayton-aldi-close-sunday/NNzPKyVa1xnj1gJ17OJDwM/>; *Needmore Kroger Closing Comes at 'Vulnerable Time' Following Tornadoes*, DAYTON DAILY NEWS, <https://www.daytondailynews.com/business/needmore-kroger-closing-comes-vulnerable-time-following-tornadoes/FrIR4579mqULZfNBQOLMMN/> (last updated Oct. 12, 2019).

⁷⁰ *History*, CO-OP CINCY, *supra* note 64; STOCK, *supra* note 67, at 4.

⁷¹ STOCK, *supra* note 67, at 4. UpLift Solutions is a non-profit specializing in grocery stores in food deserts. R.J. Bernocco et al., *Jeff Brown, UpLift Solutions, and Leadership*, SOC. INNOVATIONS J. (June 9, 2011), <https://socialinnovationsjournal.org/social-issues/100-human-services/1761-jeff-brown-uplift-solutions-and-leadership>.

⁷² STOCK, *supra* note 67, at 4.

⁷³ The Gem City Market anticipates opening its doors in the late fall of 2020 or in early 2021. See Bonnie Meibers, *Gem City Market Breaks Ground: 'This is going to help my neighbors'*, DAYTON DAILY NEWS (Sept. 18, 2019), <https://www.daytondailynews.com/news/local/gem-city-market-breaks-ground-this-going-help-neighbors/2BXf18Id0XpRDJjsKrV4AJ/>.

⁷⁴ See generally ADVOCATES FOR BASIC LEGAL EQUALITY, INC., *supra* note 55; *Entrepreneurship & Intellectual Property Law Clinic*, UNIV. OF DAYTON, https://udayton.edu/law/resources/documents/registrar/special_courses/Clinic_course_description_IP.pdf (last visited July 13, 2020); LEGAL AID OF

not provide transactional legal services except for the occasional nonprofit incorporation.⁷⁵ So, how did ABLE become involved in the Gem City Market initiative?

With an occasional community lawyering service delivery model, ABLE was known in the community as an organization with lawyers who address large, complex, and systemic issues that impact the community. But reputation alone is not enough to gain community trust through a community lawyering model. Rather, its lawyers needed to be aware of the issues in the impacted community, which means using their legal expertise on matters that are not traditional legal aid subject matters.⁷⁶ In Dayton, it meant supporting the community when they sought to protest the 2014 police killing of John Crawford, a black man, in a majority white suburban Walmart.⁷⁷ ABLE lawyers were integral in providing protestors education on First Amendment activities on private property, serving as legal observers, and organizing criminal defense lawyers. These activities, while not a case priority, met a community-identified need and helped to forge trust with the community.⁷⁸

Similarly, when invited by the community to the Steering Committee to address the community-identified issue of the lack of availability of fresh and healthy food, ABLE attorneys needed to understand their role of supporting, not leading, what was the beginning of the Gem City Market effort. The community lawyering principles that “social change comes about when people without power, particularly poor people or oppressed people, organize and recognize common grievances [but such change] can only be lasting when it is led and directed by the people most affected” guided ABLE attorneys’ approach to their role on the Steering Committee.⁷⁹ While the initial Steering Committee makeup included individuals who may not have been poor, oppressed, or the most affected by food apartheid, it did include individuals from the impacted community. As the effort grew, the Committee made intentional decisions to expand the voice of people without power and those directly impacted by the lack of access to fresh and healthy food.

Looking at the Gem City Market incubation through the Goal, Strategy, and Tactics framework helped define the lawyer’s role. If the goal is to bring fresh food to people living in a food desert, and the strategy is

WESTERN OHIO, INC., https://www.lawolaw.org/index.php?option=com_content&view=article&id=1742&Itemid=953 (last visited July 13, 2020).

⁷⁵ See ADVOCATES FOR BASIC LEGAL EQUALITY, INC., *supra* note 55; LEGAL AID OF WESTERN OHIO, INC., *supra* note 74.

⁷⁶ See Shriver Center on Poverty Law Legal Impact Network Convening Community-Driven Advocacy & Movement Building (agenda on file with author).

⁷⁷ Reilly C. Dixon, *Die-In Protest for John Crawford III Shuts Down Beavercreek Walmart*, COLUMBUS FREE PRESS (Dec. 21, 2014), <https://columbusfreepress.com/article/die-protest-john-crawford-iii-shuts-down-beavercreek-walmart>.

⁷⁸ See, e.g., Alicia Alvarez et al., *Teaching and Practicing Community Development Poverty Law: Lawyers and Clients as Trusted Neighborhood Problem Solvers*, 23 CLINICAL L. REV. 577 (2017).

⁷⁹ Elsesser, *supra* note 34, at 54.

opening the Gem City Market, the tactics fall into place. For example, an initial tactic for the lawyer, in response to the Steering Committee's desire for the commitment of individuals to the process, was to develop an agreement for members to sign where they committed to similar fiduciary duties as service on the non-profit board, such as disclosing conflicts of interest and keeping information confidential.⁸⁰

Another tactic for the lawyer included incorporating Gem City Market as a legal entity under state law. To do so, the lawyer must understand the community's vision for economic development, here based on the Mondragon/USW template and incorporating UpLift Solutions's best practices, and ensure these principles are embedded in the legal documents. Ohio's cooperative statute provides flexibility in establishing the legal entities, mandating certain obligations of the cooperative but allowing for individualized flexibility in the legal documents.⁸¹ The lawyer works with its client to complete and file the Initial Articles of Incorporation for a Cooperative Association.⁸²

One of the most important legal tasks is drafting bylaws for the cooperative.⁸³ Well thought-out and drafted bylaws are critical to meeting the cooperative's objectives, even to address food insecurity.⁸⁴ The Gem City Market's bylaws contain numerous features to ensure its success in not just providing fresh and healthy food to families, but in developing a new economic model that will sustain areas of Dayton that have seen decades of disinvestment.⁸⁵ The bylaws explicitly incorporate the ten basic Mondragon cooperative principles.⁸⁶ These principles, embedded into the Gem City Market, are a commitment to competitive and equitable employment, which the members of the Gem City Market, community and worker, agree to support.⁸⁷ These and other important features in the bylaws were put in place based on conversations with the Steering Committee Board of Directors, which the lawyer needed to act on. The bylaws are also responsive to the concerns of people in the impacted community of local ownership of Gem City Market. An ongoing relationship between the attorney and client is critical. For example, when the Gem City Market Board of Directors and

⁸⁰ See OHIO REV. CODE ANN. § 1702.30(B) (LexisNexis 2012); Greater Dayton Union Cooperative Initiative Steering Committee Member Agreement (on file with the author).

⁸¹ See OHIO REV. CODE ANN. § 1729.

⁸² *Id.* § 1729.07.

⁸³ *Id.* § 1729.16.

⁸⁴ See Ariana R. Levinson et al., *Alleviating Food Insecurity Via Cooperative Bylaws*, 26 GEO. J. POVERTY L. & POL'Y 227 (2019).

⁸⁵ The community goal could be to develop a new economic model in Dayton that is community driven and owned, creating family sustaining jobs that are rooted in the community. The Gem City Market could be one strategy to move Co-op Dayton one step closer to that goal. But there would need to be additional strategies to achieve such an ambitious goal.

⁸⁶ GEM CITY MARKET COOPERATIVE, BY LAWS art. III (2018), <https://gemcitymarket.com/wp-content/uploads/2018/04/GCM-By-Laws.pdf>.

⁸⁷ *Id.*

community expressed concern over community-owners from outside of the trade area exerting control over the direction of the grocery store on its Board, the by-laws were modified to require two of the three community owner seats be filled by members who reside in the trade area.⁸⁸ The Board and the lawyer developed this response together, which required trust and openness in a difficult conversation. Similarly, during the process of obtaining New Market Tax Credits as part of the financing structure, the Gem City Market Board of Directors relied on the trust with the attorney to move forward with terms that were not only complex, but required the Board to put faith in a process that included a legal fiction.

V. SOCIAL ECOLOGY AND MUNICIPALISM: A NEW COMMUNITY ECONOMIC DEVELOPMENT MODEL

The vision of a solidarity economy that underlies the Co-op Dayton mission is dependent on the remaking of society. Social Ecology, and specifically its political strategy of libertarian municipalism, provides a framework for creating an ecologically oriented and equitable economy through the rethinking of domination both in natural law and social law.⁸⁹ Any new approach to how humans organize themselves must include moving beyond mere tweaks to the current economic system; it must be the complete reconstitution of society and the compulsively expanding capitalist system.⁹⁰ What does such a complete reconstitution look like, and how will it change the existing societal relationship on domination, both of human over human and human over nature?

Murray Bookchin was an “influential theorist on ecology” who has been called “the foremost Green philosopher of the age.”⁹¹ Bookchin developed a theory he called Social Ecology, which holds that “nearly all of our present ecological problems originate in deep-seated social problems.”⁹² Social ecologists believe ecological problems cannot be understood or resolved “without a careful understanding of our existing society and the

⁸⁸ *See id.* at art. VI, § 4.

⁸⁹ MURRAY BOOKCHIN, *REMAKING SOCIETY* 32–33 (1989).

⁹⁰ *See* MURRAY BOOKCHIN, *THE NEXT REVOLUTION* 57–58 (noting an economy that “dictates that an enterprise must grow or die” will not be prevented from expanding endlessly over the planet.); *see also* KLEIN, *supra* note 7, at 87 (“The bottom line is that an ecological crisis that has its roots in the overconsumption of natural resources must be addressed not just by improving the efficiency of our economies, but also reducing the amount of material stuff that the wealthiest 20 percent of people on the planet consume.”).

⁹¹ Douglas Martinaug, *Murray Bookchin, 85, Writer, Activist and Ecology Theorist, Dies*, N.Y. TIMES (Aug. 7, 2006), <https://www.nytimes.com/2006/08/07/us/07bookchin.html> (internal quotation marks omitted).

⁹² BOOKCHIN, *supra* note 14, at 19. While Bookchin had no claim on the label “social ecology,” he did give it meaning, built a school around the label, and put it on the map; others use “social ecology” to describe their work but those views may be contradictory to Bookchin’s use of the label. *See also* JANET BIEHL, *ECOLOGY OR CATASTROPHE* 291–92 (2015).

irrationalities that dominate it.”⁹³

Social Ecology and its political strategy of libertarian or confederal municipalism, or more simply, communalism, provides a structural framework for which “direct democracy can foster the expression of a general social interest towards social and ecological renewal” and can replace “the capitalist system [that is] a fundamental threat to the integrity of living ecosystems.”⁹⁴

How Social Ecology and municipalism look in practice differs depending on where they are practiced. In Jackson, Mississippi, the *Jackson Rising: New Economies Conference* in 2014 created a solid foundation for the transformation of Jackson, Mississippi into a noted center and example of economic democracy, and served as a space to launch Cooperation Jackson.⁹⁵ Cooperation Jackson has a mission to “develop a cooperative network based in Jackson, Mississippi that will consist of four interconnected and interdependent institutions: a federation of local worker cooperatives, a cooperative incubator, a cooperative education and training center . . . and a cooperative bank or financial institution.”⁹⁶

Another example of this complete reconstitution was carried out in the three majority-Kurdish regions of Northern Syria that, in July 2012, “declared themselves cantons and embarked on the task of establishing a Democratic Autonomous Administration” known as Rojava.⁹⁷ More recently in the United States, a new network emerged in 2019 “to grow and coordinate a movement that can bring about a just, ecological, and free society.”⁹⁸ “Symbiosis is a confederation of community organizations across North America, building a democratic and ecological society from the ground up.”⁹⁹ What these, and other movements of confederacies, local autonomy, and neighborhood democracy have in common is the strategy of “dual power,” which will be defined and discussed in Part VI.¹⁰⁰

⁹³ BOOKCHIN, *supra* note 14, at 19.

⁹⁴ Tokar, *supra* note 33 (“Social ecologists believe that whereas institutions of capitalism and the state heighten social stratification and exploit divisions among people, alternative structures rooted in direct democracy can foster the expression of a general social interest towards social and ecological renewal.”).

⁹⁵ *How are we Going to Make Jackson Rise? Cooperative Enterprise!*, JACKSON RISING, <https://jacksonrising.wordpress.com/> (last visited June 15, 2020).

⁹⁶ *Who We Are*, COOPERATION JACKSON, <https://cooperationjackson.org/intro> (last visited June 15, 2020).

⁹⁷ MICHAEL KNAPP ET AL., *REVOLUTION IN ROJAVA 2* (2016).

⁹⁸ *A New North American Network Emerges from the Grassroots, Announcing a Congress of Municipal Movements*, UNEVEN EARTH (Jan. 7, 2019), <http://unevenearth.org/2019/01/a-new-north-american-network-emerges-from-the-grassroots/>.

⁹⁹ *Vision and Strategy*, SYMBIOSIS, <https://www.symbiosis-revolution.org/vision-and-strategy/> (last visited July 13, 2020).

¹⁰⁰ ROAR Collective, *Dual Power Then and Now: From the Iroquois to Cooperation Jackson*, ROAR, <https://roarmag.org/magazine/dual-power-then-and-now-from-the-iroquois-to-cooperation-jackson/> (last visited June 15, 2020).

VI. LAWYERING, CO-OP DAYTON, AND THE POTENTIAL FOR SOCIAL ECOLOGY IN PRACTICE

The Gem City Market is more than an effort to bring fresh food to families living in a food desert; it recognizes the food system in Dayton as a food apartheid. Through the efforts of Co-op Dayton, a small yet committed group of community of leaders is working to develop cooperative businesses that meet community needs. Their goal is to create a local economy that will transform the Dayton region by rooting jobs and businesses in Dayton, developing a network of local cooperative businesses, and creating wealth from the ground up.¹⁰¹ Co-op Dayton's commitment to direct engagement with the impacted community is providing not just hope for improving the neighborhood, but it is providing those who have lived through decades of disinvestment a glimpse into self-determination, showing the potential that occurs when people without power organize and recognize common grievances.¹⁰²

The cooperative movement is an example of “a holistic approach to an ecologically oriented economy.”¹⁰³ But new models of business ownership, without principles of equity and an understanding of the ecological crisis we are living in can perpetuate the current “grow or die” economic model. An explicit purpose of cooperatives organized into networks can lay the foundation for face-to-face citizen assemblies where policies and other decisions are made, but there is real concern that “workers’-controlled cooperatives [can] turn into oligarchic corporations.”¹⁰⁴ Therefore, the impacts of capitalism must be considered and directly confronted.

Lawyers, practicing through a community lawyering approach, have the ability to support efforts to remake the economy and society in line with disenfranchised communities’ hopes and desires. A goal to remake society can involve numerous strategies that require the skills of an attorney. This can occur by attorneys supporting efforts to create a situation of dual power. “Dual power proposes the strategy of creating a struggle for popular legitimacy . . . between capital and the state and . . . the confederation of democratic and self-governing grassroots counter-institutions building popular power.”¹⁰⁵ Such an approach will “create a situation where ‘municipal confederations and the nation-state—cannot coexist, and one must

¹⁰¹ *About, CO-OP DAYTON, supra* note 36.

¹⁰² *See* Elsesser, *supra* note 34, at 54.

¹⁰³ BOOKCHIN, *supra* note 90, at 194.

¹⁰⁴ *Id.*

¹⁰⁵ Debbie Bookchin & Sixtine van Outryve, *The Confederation of the Commune of Communes*, ROAR, <https://roarmag.org/magazine/confederation-commune-of-communes/> (last visited June 15, 2020).

sooner or later displace the other.”¹⁰⁶

Co-op Dayton is carrying out work that can accurately be seen as establishing dual power. In addition to the Gem City Market, which involves building a democratic structure for community ownership, Co-op Dayton is “repurpos[ing] power by making decisions and finding resources to address our critical needs such as housing, . . . access to land, . . . and culture.”¹⁰⁷ Through its Unified Power project, Co-op Dayton is reimagining the ownership and development of land in the City of Dayton in a way that will meet critical needs through shared community ownership and control.¹⁰⁸

VII. CONCLUSION: “IF WE DO NOT DO THE IMPOSSIBLE, WE SHALL BE FACED WITH THE UNTHINKABLE”¹⁰⁹

Social justice attorneys who are working to redress systemic issues of discrimination and inequality must rethink our work as we navigate the Anthropocene. Social Ecology and its dual power strategy of libertarian municipalism, with a network of collaborative local deliberative democracy, offers a strategy that can transform the human over human domination and the domination of nature by humans into a society that maintains “life in balance, life that doesn’t depend on the unspoken, unseen suffering of others for profit.”¹¹⁰ As social justice attorneys develop our priorities, we need to keep up with the movement. This means we need to push ourselves outside of our comfort zones: from the client we decide to represent, to the projects we work on, to how we deliver legal services, to the goals we try to achieve with our work.

If we limit our work to the traditional lawyer-centric approach to social justice advocacy and legal work driven by the lawyer, we risk facing the unthinkable. Instead, social justice lawyers must do the impossible; that is to support community driven efforts to create “alternative structures rooted in direct democracy [that] can foster the expression of a general social interest towards social and ecological renewal.”¹¹¹

¹⁰⁶ *Id.* (quoting Murray Bookchin, *Thoughts on Libertarian Municipalism*, INSTITUTE FOR SOCIAL ECOLOGY (Jan. 2000), <http://social-ecology.org/wp/1999/08/thoughts-on-libertarian-municipalism/>).

¹⁰⁷ Cora Roelofs, *Let’s Talk About Democracy. Real Democracy.*, ROAR, <https://roarmag.org/magazine/lets-talk-about-democracy-roelofs/> (last visited June 15, 2020).

¹⁰⁸ Unified Power, FACEBOOK, <https://www.facebook.com/pg/THEONESOFDAYTON/about/> (last visited Aug. 15, 2020).

¹⁰⁹ MURRAY BOOKCHIN, *THE ECOLOGY OF FREEDOM: THE EMERGENCE AND DISSOLUTION OF HIERARCHY* 107 (2005).

¹¹⁰ John Michael Colón et al., *Community, Democracy, and Mutual Aid*, THE NEXT SYSTEM PROJECT 34–35 (2017), https://thenextsystem.org/sites/default/files/2017-07/Symbiosis_AtLargeFirst-corrected-2.pdf; Houska, *supra* note 4.

¹¹¹ Tokar, *supra* note 33.