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The Mandate for Critical Race Theory in This Time

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ABSTRACT

A necessary conclusion from Critical Race Theory (CRT) is that Black people cannot look to the law for justice because racism is baked into the law. As a result, the movement for Black liberation cannot rely on the law for just outcomes. This result does not, however, mean that we have to abandon legal interventions altogether. Instead, for those of us who are lawyers working explicitly for Black liberation, we can interact with the law for what it is—a mechanism for moving resources. We can also strategize about how to use the law tactically in service of the goals of Black liberation, and, as best we can, mold our legal interventions according to the values underlying the Black radical tradition. This, to me, is the future of CRT: identifying, analyzing, and promoting legal interventions that further the movement for Black liberation by shifting the material circumstances of the people and communities that the movement is in service of.

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anneke dunbar-gronke is a Skadden Fellow at the Lawyers' Committee for Civil Rights Under Law as part of the organization's Fair Housing and Community Development project. They are extremely fortunate to have a long list of people in their life—teachers, mentors, peers, colleagues, inspirations, collaborators, co-conspirators, co-organizers and friends—to whom they are deeply grateful for thinking through the ideas presented in this piece both recently and over the years: Amna Akbar; Paulina Arnold; Whitney Bennis; Saba Bireda; Niko Bowie; Karin Drucker; Iman Freeman; Denise Ghartey; Jes Godinez; Alana Greer; Christina Hulbe; Meena Jagganath; Che Johnson-Long; k.jones; Julius Mitchell; Mandisa Moore-O'Neal; Oren Nimni; Erica Perry; Veryl Pow; Emanuel Powell; Bill Quigley; and Marbre Stahly-Butts. Most importantly, they owe their development as a movement worker, radical lawyer and thinker to Black liberation organizers and leaders, and particularly those in the American South, throughout history. One of those leaders, Mary Hooks, the former co-director of Southerners on New Ground, is the source for *The Mandate for Black People in This Time*, a rallying call to “get in formation to bring the generational leadership we need to transform the leaders, institutions, and policies that cage, kill, and terrorize Black communities,” to which the title of this Essay is a reference.¹

1. Mary Hooks, *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/9W8D-D5JJ>].



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INTRODUCTION

I went to law school because I wanted to contribute to Black liberation organizing with legal tools. Before law school, I had spent a number of years in radical organizing spaces for and with other Black people. I worked alongside antigentrification organizers in New York; with a membership organization of unemployed and underemployed Black workers based out of the New Orleans Workers Center for Racial Justice (NOWCRJ) called Stand with Dignity;² and with the New Orleans chapter of Black Youth Project 100.³ In those spaces, legal expertise was a tool that organizers sometimes wanted to use, but it was often largely inaccessible. In the rare instances legal expertise was accessible to organizers, obtaining it tended to require relying on lawyers with diverging experiences or values. As a result, I chose to go to law school to fill the need I saw in my organizing work but had no intention of becoming a lawyer for its own sake. Instead, I imagined emerging from law school and continuing to organize, but with legal tools in my back pocket for our collective use when necessary.

Given my intentions behind going to law school, I was drawn to both Critical Race Theory (CRT) and movement lawyering scholarship as a student. Lessons from the CRT canon have been instrumental to my development as a legal thinker, provided key perspectives on the fundamental flaws in the law, and served as a necessary respite from the daily gaslighting of first year law classes wherein most (but fortunately not all) of my professors would present deeply racist and classist caselaw as objective legal truths appropriate for direct application. Movement lawyering literature, additionally, helped foster my thinking about developing my skills as a lawyer by identifying “social movements at the center of legal and political transformation.”⁴ The literature dictated that legal interventions should be used as a tool to “build capacity to engage in collective action”⁵ and generally countered the narrative I was receiving in the rest of my law school education that legal practitioners are (1) solely litigators, (2) to be heroes of any legal story, and (3) that the attorney-client relationship is to be sterile, serious, “objective,” and individualized.

2. *Our Work*, NEW ORLEANS WORKERS' CENTER FOR RACIAL JUSTICE, <https://www.nowcrj.org/our-work> [<https://perma.cc/5QT6-4V28>].

3. *New Orleans*, BYP100, <https://www.byp100.org/copy-of-jackson> [<https://perma.cc/28LQ-PMG7>].

4. Scott L. Cummings, *Movement Lawyering*, 2017 U. ILL. L. REV. 1645, 1647 (2017).

5. *Id.* at 1658.

As I began my career, I wanted my work to be in alignment with the collective vision for Black liberation that the organizing formations I am accountable to are working towards. I have found little, however, in either CRT canon or movement lawyering literature to help guide my legal work specifically in service of that political vision. On the one hand, while CRT reflects many of the values that underlie Black liberation organizing, I have struggled to find much guidance for legal practice in that literature.⁶ Movement lawyering, on the other hand, provides ample and critical instruction for navigating legal practice in movement spaces,⁷ but does not provide a roadmap for implementing legal interventions specifically in support of organizing aligned with the foundational values underlying Black, and necessarily collective, liberation.⁸

Accordingly, I believe the future of CRT must involve a profound expansion of the scope of the literature. As it stands, CRT “provid[es] an analytical toolset for interrogating the relationship between law and racial inequality”⁹ while “eschewing” the reduction of “racism to matters of individual prejudice or a by-product of class.”¹⁰ It is my hope, however, that CRT can evolve to both identify a theory of lawyering and a set of values that serve movements for Black and

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6. See, e.g., Sheila R. Foster, *Critical Race Lawyering: Foreword*, 73 *FORDHAM L. REV.* 2027, 2036 (2005) (“The challenge for me has been to translate the insights of critical race theorists into practical strategies that simultaneously circumvent problematic legal doctrines and frameworks while fully taking advantage of the analytical tools at my disposal.”).
 7. See, e.g., Cummings, *supra* note 4, at 1652; Betty Hung, *Movement Lawyering as Rebellious Lawyering: Advocating with Humility, Love and Courage*, 23 *CLINICAL L. REV.* 663 (2017); William P. Quigley, *Revolutionary Lawyering: Addressing the Root Causes of Poverty and Wealth*, 20 *WASH. UNIV. J.L. & POL’Y* 101, 103, 147–65 (describing key qualities necessary to becoming a “revolutionary lawyer,” an approach to lawyering that overlaps significantly with movement lawyering insofar as it drives actors to “join in the destruction of unjust structures and systems and to tear them up by their roots”). *But see* Tifanei Ressler-Moyer, Pilar Gonzalez Morales & Jaqueline Aranda Osorno, *Movement Lawyering During a Crisis: How the Legal System Exploits the Labor of Activists and Undermines Movement*, 24 *CUNY L. REV.* 91, 95 (2021) (articulating how “inequities embedded within the legal system serve to undermine social movements,” and specifically “exploit the work of Black, Indigenous and other activists of colors in the process”).
 8. In “seek[ing] to re-ignite how CRT contributes to the power-building efforts of social movements led by communities and lawyers working to dismantle systems of subordination at the intersection of race and other marginalized identities,” the 2019 conference *Movement Lawyering: Lessons From and For Critical Race Theory* at Harvard Law School recently generated scholarship and conversation addressing this same need. The Organizing Committee for the First Annual Critical Race Theory Conference at HLS, *First Annual HLS Critical Race Theory Conference: Reclaiming Our History of Scholar-Activism*, *HARV. L. REC.* (Apr. 12, 2019), <http://hlrecord.org/first-annual-hls-critical-race-theory-conference-reclaiming-our-history-of-scholar-activism> [<https://perma.cc/V9E2-VNNR>].
 9. KHIARA M. BRIDGES, *CRITICAL RACE THEORY: A PRIMER* 7 (2019).
 10. Kimberlé Williams Crenshaw, *Twenty Years of Critical Race Theory: Looking Back to Move Forward Commentary*, 117 *CONN. L. REV.* 1253, 1260 (2011).

collective liberation more broadly by “provid[ing] an inventory of . . . critical tools” that are contextualized within, subordinate to, and of use to overarching, present day liberation movement strategies.¹¹

The suggestion that CRT scholarship should include practical guideposts for applying theory to practice is not new.¹² Articulating Black and collective liberation as the appropriate project for which to craft those guideposts, however, is less explored and precisely the guidance that I have been seeking as a practitioner.¹³ Accordingly, in this Essay, I intend to provide newer lawyers, law students, and legal workers with some lessons from my early career efforts to develop as a legal practitioner explicitly dedicated to Black liberation organizing.

I. BLACK LIBERATION, CRT, AND MOVEMENT LAWYERING IN CONVERSATION

A foundational framework is necessary for ensuring that legal work meant to aid in Black liberation actually contributes to that movement. This framework, which I identify as “Black liberation lawyering,” incorporates the parts of CRT that are rooted in the Black Radical Tradition and the parts of movement lawyering that incorporate the theory of change that organizing and movement are the engine for liberatory social change, but also clarifies the gestalt value in articulating a framework for lawyering that explicitly centers Black liberation.

11. *Id.* at 1262.

12. *See, e.g., id.* (“The opportunity presented now [given the re-embodiment of colorblindness in post-racialist discourse] is for scholars across the disciplines not only to reveal how disciplinary conventions themselves constitute racial power, but also to provide an inventory of the critical tools developed over time to weaken and potentially dismantle them.”); Eric K. Yamamoto, *Critical Race Praxis: Race Theory and Political Lawyering Practice in Post-Civil Rights America*, 95 MICH. L. REV. 821, 829 (1997) (describing the “disjuncture between progressive race theory and political lawyering practice” and advocating for “[c]ritical race praxis,” which “combines critical, pragmatic, socio-legal analysis with political lawyering and community organizing to practice justice by and for radicalized communities”).

13. *But see, e.g.,* Amanda Alexander, *Nurturing Freedom Dreams: An Approach to Movement Lawyering in the Black Lives Matter Era*, 5 HOW. HUM. & C.R. L. REV. 101, 138–39 (2020) (naming the well-being of Black people five generations from now as guiding vision for Detroit Justice Center’s legal work); Francisco Valdes, *Legal Reform and Social Justice: An Introduction to LatCrit Theory, Praxis and Community*, 14 GRIFFITH L. REV. 148, 161–62 (2005) (“[T]he sustainability of our Latcritical work depends on our ability to hang together in a long-term quest for multidimensional social justice: the sustainability of social action based on critical theory depends on the sustainability of anti-subordination solidarity.”); Veryl Pow, *Grassroots Movement Lawyering: Insights from the George Floyd Rebellion*, UCLA L. REV. (forthcoming 2022) (arguing that movement lawyers should listen to and learn from the language spoken by the grassroots activities of the rebellions occasioned by the killing of George Floyd and recognizing that these rebellions fueled by hope for Black liberation from police violence).

A. Black Liberation Lawyering

Black liberation is the animating vision for the Movement for Black Lives, Black Lives Matter, and numerous other smaller organizing formations.¹⁴ While the concept of Black liberation is not strictly defined and is also expansive, Keeanga-Yamahtta Taylor identifies its contours as “impl[ying] a world where Black people can live in peace, without the constant threat of social, economic, and political woes of a society that places almost no value on the vast majority of Black lives.”¹⁵ This goal is central to so much contemporary radical organizing because it is considered by many, including myself, to be both the antidote to racial subordination and a necessary ingredient for collective liberation.¹⁶ The path to Black liberation requires a vested interest in the radical transformation of society, and involves both destruction and creation—abolition and reparations.¹⁷ At the same time, Black liberation is embodied by the process taken to achieve it as much as it is identified by an optimal destination. Indeed, “[n]o people are free until they become the instruments of their own liberation.”¹⁸ Accordingly, “[w]e must [also] learn . . . why we have loved our chains and not wanted to throw them off.”¹⁹

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14. See *Vision for Black Lives*, MOVEMENT FOR BLACK LIVES, <https://m4bl.org/policy-platforms> [<https://perma.cc/RNH7-B2FD>] (“The Movement for Black Lives (M4BL) launched the Vision for Black Lives, a comprehensive and visionary policy agenda for the post-Ferguson Black liberation movement, in August of 2016.”); *About*, BLACK LIVES MATTER, <https://blacklivesmatter.com/about> (last visited on Feb. 12, 2022) (“The call for Black lives to matter is a rallying cry for ALL Black lives striving for liberation.”); RESOURCE GENERATION, *A Partial Map of Black-Led Black Liberation Organizing*, <https://mendozao.github.io/Resource-Generation-Map/app/index.html> [<https://perma.cc/8M3P-D4K5>] (click “View all in Spreadsheet” for complete list) (listing 170 organizations across the country working in service of Black liberation according to internally developed guidelines).
 15. KEEANGA-YAMAHTTA TAYLOR, FROM #BLACKLIVESMATTER TO BLACK LIBERATION 194 (2014).
 16. See, e.g., CHARLENE A. CARRUTHERS, UNAPOLOGETIC: A BLACK, QUEER, AND FEMINIST MANDATE FOR RADICAL MOVEMENTS 10 (2018) (“[The Black Queer Feminist Lens] is an aspiration and liberatory politic that Black folks must take up for the sake of our collective liberation and acts on the basic notion that none of us will be free unless all of us are free.”); ZOÉ SAMUDZI & WILLIAM C. ANDERSON, AS BLACK AS RESISTANCE 92 (2018) (“Our liberation will feature the most disenfranchised among us overcoming the burdens of oppression.”); ROBIN D.G. KELLEY, FREEDOM DREAMS: THE BLACK RADICAL IMAGINATION 53 (2002) (describing Paul Robeson’s belief that “black cultural values [could be] the foundation for a new vision of a new society, one that could emancipate not only [B]lack people but the entire West”).
 17. See KELLEY, *supra* note 16, at 132; see also *Reparations*, MOVEMENT FOR BLACK LIVES, <https://m4bl.org/policy-platforms/reparations> [<https://perma.cc/5D7Z-P6SZ>]; *Invest-Divest*, MOVEMENT FOR BLACK LIVES, <https://m4bl.org/policy-platforms/invest-divest> [<https://perma.cc/44NP-TYTD>].
 18. ROD BUSH, WE ARE NOT WHAT WE SEEM: BLACK NATIONALISM AND CLASS STRUGGLE IN THE AMERICAN CENTURY 185 (1999).
 19. KELLEY, *supra* note 16, at 147 (quoting Pat Robinson, Patricia Haden, and Donna Middleton as three known authors of *Lessons From the Damned*, in *LESSONS FROM THE DAMNED: CLASS STRUGGLE IN THE BLACK COMMUNITY* 256 (1970)).

The unique nature of this vision means that the Black liberation movement has distinct goals and needs and, consequently, that generic movement lawyering, alone, is insufficient to serve those goals. Indeed, not all movements have the same goals and different movements have different needs.²⁰ Some movements are antithetical to Black liberation, and thus collective liberation.²¹ Some should hypothetically contribute to collective liberation but, in practice, often leave Black people behind.²² In a highly connected world where almost anything can be called

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20. See, e.g., *id.* at 49 (articulating that “[B]lack Communists [have] confirmed . . . [that] African Americans had their own unique revolutionary tradition and their interests were not identical to those of white workers”). A similar conclusion is drawn from Gerald Lopez’s foundational tome, *Rebellious Lawyering*, which is illuminated by the specific “cultural and social crosscurrents that shaped his powerful critique” of lawyering, rejects “regnant” lawyering—a style of lawyering piloted by the traditional assumptions of legal and popular culture, assumptions that “long had kept Latinos, among others, at the margins and on the bottom’ of society”—and instead embraces a “truth [that] is contingent on local context.” Anthony Alfieri, *Rebellious Pedagogy and Practice*, 23 CLINICAL L. REV. 5, 8, 10, 14 (2016) (citing GERALD P. LOPEZ, *REBELLIOUS LAWYERING* (1992)).
 21. The Alternative Right (alt-right), who believe that “‘white identity’ is under attack” and that “‘social justice’ [is being used] to undermine white people and ‘their’ civilization and Western Chauvinists like the Proud Boys, for example, are organizing movements that serve interests are impossible to reconcile with Black liberation. See *Alt-Right*, SOUTHERN POVERTY LAW CENTER, (last visited on Feb. 18, 2022), <https://www.splcenter.org/fighting-hate/extremist-files/ideology/alt-right> [<https://perma.cc/6VKG-HCGD>]; *Proud Boys*, SOUTHERN POVERTY LAW CENTER, (last visited on Feb. 18, 2022), <https://www.splcenter.org/fighting-hate/extremist-files/group/proud-boys> [<https://perma.cc/APJ4-8MFG>]; cf. Amna A. Akbar, Sameer M. Ashar & Jocelyn Simonson, *Movement Law*, 73 STAN. L. REV. 821, 874 n.223 (2021) (noting that “[t]he methodology of movement law could potentially be taken up by someone in solidarity with a right-leaning social movement”).
 22. Such movements have included, but are not limited to, the immigrant rights movement, see, e.g., Scott Simon, *In the Story of U.S. Immigration, Black Immigrants Are Often Left Out*, NPR (February 27, 2021, 7:54 AM) <https://www.npr.org/2021/02/27/972056955/in-the-story-of-u-s-immigration-black-immigrants-are-often-left-out> [<https://perma.cc/D4CW-QC9M>] (interviewing Executive Director of the Black Alliance for Just Immigration, Nana Gyamfi, who explained that “Black migrants face a lot of challenges that other migrant groups do not face or don’t face to the same degree, much of that rooted in the racial inequality, the anti-Blackness that is inherently part of this country”); Breaune J. Palmer, *The Crossroads: Being Black, Immigrant, and Undocumented in the Era of #BlackLivesMatter*, 9 GEO. J.L. & MODERN CRITICAL RACE PERSPECTIVES 99, 100, 106 (2017) (pointing out that “Black immigrants have reduced visibility in ongoing debates about immigration reform, undocumented activism, and anti-racism,” evidenced in part that Black Alliance for Just Immigration, as of 2016, was “the only national immigrant rights organization for people of African descent.”); the women’s rights movement, see, e.g., Paula Rogo, *Why Are Some Black Women Skipping This Year’s Women’s March?*, ESSENCE (Oct. 24, 2020), <https://www.essence.com/culture/black-women-boycott-womens-march> [<https://perma.cc/KA9D-EJV6>] (explaining that many women of color, including many Black women, “complained about the lack of inclusion, and the general disregard of the issues that affect them,” finding that the march “focused too much on the needs of cis white women”); and the labor movement, see, e.g., BUSH, *supra* note 18, at 112–13, 122–37 (describing, *inter alia*, the failures of the

a movement, it is important to develop lawyers specifically committed to Black liberation movement organizing (Black liberation lawyers) if we hope to use legal interventions in service of that radical vision and to make meaningful progress toward collective liberation. Moreover, Black liberation lawyers need to identify the legal needs specific to Black liberation movement organizing and develop particular skills that are in political alignment with the movement's goal.

B. Lessons From CRT and Movement Lawyering That Inform Black Liberation Lawyering

Both CRT and movement lawyering scholarship can be helpful in developing Black liberation lawyers. A number of the values that underlie Black liberation organizing are scattered within the body of CRT scholarship. This is likely the case because these values and the organizing that distilled them are inextricably linked to the development of a collective consciousness about systemic racism that laid the foundation for CRT.²³ CRT has not only helped me to develop a specific critical analysis of the law, but it has also imparted two important lessons that have been pivotal to how I conceptualize the utility of the law for movement organizing. First, scholars as early as Derrick Bell have articulated that racism is built directly into the law.²⁴ As a result, legal successes that favor rights and equality for Black

Communist Party and organized labor in the United States to meaningfully incorporate the unique demands of Black workers in the 1920s and 1930s).

23. Reiland Rabaka, *W.E.B. DuBois's "The Comet" and Contributions to Critical Race Theory: An Essay on Black Radical Politics and Anti-Racist Social Ethics*, 29 *ETHNIC STUD. REV.* 22, 23–24 (2006). Indeed, CRT scholarship reflects many of the values articulated within the Black Radical Tradition, whether the Tradition is identified as the source of those values or not, including centering the most marginalized and eliminating state control over minoritized people. See Kimberlé Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, 43 *STAN. L. REV.* 1241, 1242–43 (1991); Mari J. Matsuda, *Looking to the Bottom: Critical Legal Studies and Reparations*, 22 *HARV. C.R.-C.L. L. REV.* 323, 324–25 (1987) (arguing that “those who have experienced discrimination speak with a special voice to which we should listen” and identifying the lived experience of “[B]lack poverty” as particularly salient); see, e.g., Devon Carbado, *From Stopping Black People to Killing Black People: The Fourth Amendment Pathways to Police Violence*, 105 *CALIF. L. REV.* 125, 128 (2017) (arguing that legal restrictions on police officers’ authority to investigate Black people would “both increase the social value of our lives and diminish officers’ opportunities to kill us”).
24. See DERRICK BELL, *FACES AT THE BOTTOM OF THE WELL: THE PERMANENCE OF RACISM* 117 (2018) (“[L]aw has always been a powerful expression of ruling interests.”); Cheryl I. Harris, *Whiteness as Property*, 106 *HARV. L. REV.* 1707, 1714 (1993) (explaining that out of “the parallel systems of domination of Black and Native American peoples . . . were created racially contingent forms of property and property rights”). See generally K-Sue Park, *Race and Property Law*, in *THE OXFORD HANDBOOK OF RACE AND LAW IN THE UNITED STATES* (eds. Devon Carbado, Emily Houh & Khiara M. Bridges) (forthcoming 2022).

people are dependent upon white acceptance²⁵—a powerful argument for prioritizing self-determination over civil rights.²⁶ The second lesson, which follows directly from the first, comes from CRT as well as my experiences organizing and living as a Black person in the United States: Black people cannot reliably obtain justice using the law.²⁷ This secondary conclusion is plainly supported by both history as well as the myriad contemporary examples of justice denied, deferred, or inequitably distributed—from George Zimmerman’s not guilty verdict for the murder of Trayvon Martin,²⁸ to the \$2.3 billion settlements in favor of Black farmers in *Pigford v. Glickman* that ended up excluding nearly a third of those who applied for relief and doled out a largely insufficient \$50,000 and partial debt relief to about 15,000 Black farmers facing generations of racialized debt,²⁹ to outsize punishments for formerly incarcerated Black people who attempt to vote based on mistaken information as compared to lenient prosecutions against white voters who intentionally attempt to vote multiple times.³⁰

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25. See Derrick A. Bell, Jr., *Brown v. Board of Education and the Interest-Convergence Dilemma*, 93 HARV. L. REV. 518, 523 (1980) (explaining that “[t]he interest of [B]lacks in achieving racial equality will be accommodated only when it converges with the interests of whites”).
 26. See BUSH, *supra* note 18, at 8 (noting the contrast between militant bids for Black self-determination in the 1960s to the retreat from this approach in the 1970s “when the forces seeking equality and justice felt they were in a position to actually challenge those who held state power in the United States”).
 27. See Derrick Bell, *Racial Realism*, 24 CONN. L. REV. 363, 364 (1992) (“By viewing the law—and by extension, the courts—as instruments for preserving the status quo and only periodically and unpredictably serving as a refuge of oppressed people, [B]lacks can refine the work of the Realists.”).
 28. Lizette Alvarez & Cara Buckley, *Zimmerman is Acquitted in Trayvon Martin Killing*, N.Y. TIMES (Jul. 13, 2013), <https://www.nytimes.com/2013/07/14/us/george-zimmerman-verdict-trayvon-martin.html> [<https://perma.cc/8XM2-SNEN>].
 29. *Pigford v. Glickman*, 185 F.R.D. 82, 95 (D.D.C. 1999); see Monitor’s Final Report at 5, *Pigford v. Glickman*, No. 97-cv-1978 (D.D.C. Apr. 1, 2012), ECF No. 1812; see TADLOCK COWAN & JODY FEDER, CONG. RSCH. SERV., RS 20430, THE PIGFORD CASES: USDA SETTLEMENT OF DISCRIMINATION SUITS BY BLACK FARMERS 6 (2013) (reporting that 31 percent of one class of adjudications were denied, that 15,645 Black farmers received \$50,000 cash awards and \$43,715,385 in debt relief); Roxana Hegeman, *Why Are Black Farmers Like John Boyd Jr. Awaiting Billions of Dollars in Promised Debt Relief?*, CHI. SUN TIMES (Sept. 3, 2021, 5:00 AM), <https://chicago.suntimes.com/2021/9/3/22655035/usda-black-farmers-debt-relief-farming-john-boyd-agriculture-department> [<https://perma.cc/VY9V-2JMY>].
 30. Compare Amrit Cheng, *Crystal Mason Thought She Had the Right to Vote. Texas Sentenced Her to Five Years in Prison for Trying*, ACLU, <https://www.aclu.org/issues/voting-rights/fighting-voter-suppression/crystal-mason-thought-she-had-right-vote-texas> [<https://perma.cc/5PES-7VCT>], and Timothy Bella, *She Was Told She Could Vote Again After Felony Convictions. Now She’s in Prison For Trying*, WASH. POST (Feb. 4, 2022, 4:00 PM), <https://www.washingtonpost.com/nation/2022/02/04/tennessee-pamela-moses-voting-fraud-prison> [<https://perma.cc/4KDC-ZQTC>], and Amy Gardner, *A Texas Man Was Arrested on Charges That He Voted in the 2020 Democratic Primary While on Parole. He Could Face as Much as 20 Years in Prison*, TEX. TRIB. (July 11, 2021, 1:00 AM), <https://www.texastribune.org/2021/07/11/texas-voter-arrested-parole> [<https://perma.cc>

As applied, these lessons help to explain how the law operates with respect to Black life, land, and liberty. They are essential to situating the law within the broader political forces that inform whether or not pursuing a legal strategy will be a good use of organizing energy.

Movement lawyering scholarship plays a different but complementary role in developing Black liberation lawyers, or at least it has been important to my own development by identifying discrete guidance for operating as a legal practitioner in movement organizing contexts. By “aim[ing] to create space within public-interest practice to work with movements to build grassroots power,”³¹ movement lawyering literature generally provides a suite of practical actions and considerations for lawyers to adopt in order to be accountable to movement constituencies while serving as effective legal tacticians.³² This literature has also helped me interrogate the shift in the power that I hold as a result of having a law degree and how to best avoid replicating problematic social hierarchies often inherent in that shift.

II. GUIDANCE FOR LAWYERING IN SOLIDARITY WITH BLACK LIBERATION LAWYERING

Without diminishing the value of each body of literature for developing radical lawyers, the dearth of literature in CRT and movement lawyering that addresses how to functionally incorporate the political values of the Black liberation movement into legal practice has left me, and other Black lawyers committed to Black freedom, seeking guidance in this arena.³³ As a result, I have

[W4H2-Z6VP], with John Bat, *Iowa Woman Charged With Voting Twice for Trump Pleads Guilty to Election Misconduct*, CBS NEWS (July 8, 2017, 8:17 AM), <https://www.cbsnews.com/news/voter-fraud-case-tied-to-iowan-woman-voting-for-trump-twice> [<https://perma.cc/QB7V-LP4U>] (describing Rote’s sentence of two years of probation for intentionally attempting to vote twice in 2016), and Jaclyn Peiser, *Pennsylvania Man Admits He Voted for Trump With His Dead Mom’s Name: “I Listened to Too Much Propaganda,”* WASH. POST (May 4, 2021, 6:06 AM), <https://www.washingtonpost.com/nation/2021/05/04/pennsylvania-bruce-bartman-voter-fraud> [<https://perma.cc/7NVY-UGDZ>] (describing Bartman’s sentence to five years’ probation).

31. Akbar, Ashar & Simonson, *supra* note 21, at 826.

32. See Cummings, *supra* note 4, at 1652 (asserting that the “new phase of progressive legal development” is marked by, among other things, “sophisticated coordination of legal and political strategies,” “collaborative relationships with ambitious social movement organizations,” and “[developing] a broad understanding of the critical legal skills integral to advancing movement goals, which include litigations but also forms of strategic legal counseling, regulatory analysis, transactional planning, and policy negotiation.”).

33. Some notable and laudable exceptions, however, include: Alexander, *supra* note 13; Alexi Nunn Freeman & Jim Freeman, *It’s About Power, Not Policy: Movement Lawyering for Large-*

endeavored to align my own lawyering with Black liberation organizing, and the following practices have helped me to do so.

1. Developing a lawyering approach according to the wisdom of the Black radical tradition

To develop my own Black liberation lawyering, I have sought guidance in the Black radical tradition (which necessarily includes grounded contemporary critiques and expansions of that tradition)³⁴ to identify values and principles that can guide the evolution of both my legal skills and myself as a person so that I can effectively respond to Black liberation organizing needs in ways that reflect the values of the underlying movement. These values include, but are not limited to: (1) prioritizing self-determination,³⁵ (2) operating in deep and principled community,³⁶ (3) building collective power rather than acquiring state power,³⁷ (4) committing to cooperative and collective social and economic systems,³⁸ (5) centering the most marginalized while leaving no one behind,³⁹

Scale Social Change, 23 CLINICAL L. REV. 147 (2016); Matthew P. Main, *Making Change Together: The Multi-Pronged, Systems Theory Approach to Law and Organizing That Fueled a Housing Justice Movement for Three-Quarter House Tenants in New York City*, 27 GEO. J. POVERTY L. & POL'Y 31 (2019); Ressler-Moyer *et al.*, *supra* note 7, at 95. Additionally, Amna Akbar, in her article *Movement Law*, although distinctly addressing movement law scholarship rather than movement lawyering, argues for the adoption of a set of politically left values that could, and should, be incorporated into the movement lawyering body of scholarship. Akbar, *supra* note 21, at 826.

34. See CARRUTHERS, *supra* note 16, at 46 (“It is counterrevolutionary to tell stories about the Black radical tradition that fail to offer critiques, lessons, and insights about how white supremacy breeds systems of gender and sexual oppression.”). See *generally id.* at 43–61.
35. BUSH, *supra* note 18, at 199 (describing the Black Panther Party’s interpretation of self-determination as “not simply a slogan, but a goal that it took concrete steps to achieve” and that involved “hope and resources” were necessary to achieve self-determination in the long-run).
36. See CARRUTHERS, *supra* note 16, at 96–99.
37. TAYLOR, *supra* note 15, at 89–94 (describing how Black formal political leadership failed to result in changed material circumstances in Black communities and, in particular, Black congresspeople “stay[ing] in step with the narrow and conservative agenda of the Democratic Party” and the “degeneration of Black liberals” in the 1980s and 1990s); KELLEY, *supra* note 16, at 12.
38. See KELLEY, *supra* note 16, at 133 (“Without at least a rudimentary critique of the capitalist culture that consumes us, even reparations can have disastrous consequences”); JESSICA GORDON NEMBARD, *COLLECTIVE COURAGE: A HISTORY OF AFRICAN AMERICAN COOPERATIVE ECONOMIC THOUGHT AND PRACTICE* 25 (2014) (“The cooperative solution is one that has addressed [conditions of high unemployment, deep poverty, and homelessness for African Americans] throughout history . . . [and] helps address the challenges of capitalism, marginalization in labor, capital, and product markets, and the lack of adequate, affordable, quality services.”).
39. See CARRUTHERS, *supra* note 16, at 10; KELLEY, *supra* note 16, at 137, 141–56.

(6) prioritizing low- and no-income leadership,⁴⁰ (7) embracing global and anti-imperialist perspectives,⁴¹ (8) eliminating state control over minoritized people,⁴² and (9) using hope as a discipline in order to be transformed in service of the work.⁴³

Additionally, I have learned, contrary to what is encouraged in some movement lawyering scholarship, that it is essential to incorporate these values into how I work and recognize that this organizing is for the sake of my own liberation as well, instead of approaching the work as an objective outsider just because I have become a lawyer.⁴⁴ In law school, I considered going to a firm and subjecting myself to uninspiring work and long hours in order to make money to contribute to the movement as I saw already wealthy classmates going to large firms to make salaries most people I know could never dream of. Black feminist organizer and lawyer Mandisa Moore O’Neal quickly talked me out of it, stopping me mid-sentence as I described my plan, saying: “The thing about liberation is that you’re a part of it—if you aren’t free, then we aren’t free.” Since then, I have been consistently reminded by the organizers I work with that, as a lawyer, and more importantly as a person, participation in liberation organizing requires that we recognize our own liberation is bound up in the effort of collective liberation. Failing to do this, moreover, sets us up to “los[e] touch with the moral force at the heart of the movement itself.”⁴⁵

40. See BUSH, *supra* note 18, at 23; KELLEY, *supra* note 16, at 12 (critiquing how “Africa’s most vocal Negro redeemers tended to be formally educated elites who drew their ideological arsenal from Western notions of national destiny, race, progress, and civilization.”).

41. See Kevin E. Davis, *Legal Responses to Black Subordination, Global Perspectives*, 134 HARV. L. REV. 359, 360 (2021).

42. See *Black Liberation and the Abolition of the Prison Industrial Complex: An Interview with Rachel Herzog*, 1 PROPTER NOS 62, 64 (2016) (identifying the abolition of the prison industrial complex as “one of the foremost ways to see [the liberation of Black people] fulfilled,” and asserting that “[w]ithout the abolitionist movement and without a commitment to ending mass criminalization, containment, and death of Black people,” it is likely that “Black liberation is [not] possible in the United States—or elsewhere”).

43. See Hooks, *supra* note 1; Jeremy Scahill, *Hope is a Discipline: Mariame Kaba on Dismantling the Carceral State*, INTERCEPT (Mar. 17, 2021, 6:01 AM) <https://theintercept.com/2021/03/17/intercepted-mariame-kaba-abolitionist-organizing> [<https://perma.cc/WHR3-B6MJ>] (“It’s work to be hopeful . . . you have to actually put in energy, time, and you have to be clear-eyed, and you have to hold fast to having a vision. It’s a hard thing to maintain. But it matters to have it, to believe that it’s possible, to change the world.”); see also Quigley, *supra* note 7 at 152 (“Hope is likewise essential [to revolutionary lawyering]”).

44. See ADRIENNE MAREE BROWN, *EMERGENT STRATEGY: SHAPING CHANGE, CHANGING WORLDS* 53 (2017) (identifying a theory of change for organizing that asserts “what we practice at the small scale sets the patterns for the whole system”).

45. LANI GUINIER, *LIFT EVERY VOICE: TURNING A CIVIL RIGHTS SETBACK INTO A NEW VISION OF SOCIAL JUSTICE* 222 (1998).

For practical purposes, incorporating values rooted in the Black radical tradition into my legal practice has looked a variety of different ways that are continually evolving. For example, I use these values to guide how I accept clients, which organizational partners I work with, and whether I engage in organizational capacity building.⁴⁶ This has enabled me to ensure that the movement lawyering that I do will not contribute to leaving low-income Black people behind. As another example, I do my best to follow the lead of Black organizers who are committed to these values, while also recognizing that offering contributions and critiques in movement space—when they are grounded, principled, constructive, and introduced after reflection on the lawyer’s positionality—is essential to dynamic co-creation with organizing movements.⁴⁷

2. Situating legal interventions within the constellation of organizing tactics

Audre Lorde’s prophetic words, that “the master’s tools will never dismantle the master’s house,” at first suggest that a mechanism like the law has no place in the struggle for true liberation at all.⁴⁸ The rest of the passage, however, reads “[t]hey may allow us temporarily to beat him at his own game, but they will never enable us to bring about genuine change. And this fact is only threatening to those women who still define the master’s house as their only source of support.”⁴⁹

The full passage describes a nuance that I have found necessary to assessing the utility of the law in service of radical movements: The law itself will never bring about genuine change and should never be considered the only source of support for liberation, but it can be useful for certain strategic and temporary wins. This assessment distills the important distinction between using legal interventions as one point within a constellation of tactics moving the needle toward Black liberation versus working for legal wins for their own sake.

When determining whether to pursue a legal intervention in movement, however, it can be difficult to identify whether it would overpower existing organizing. To minimize this risk, I have developed an intentional practice of thinking about and talking about movement-based legal interventions as capable of achieving only three things: (1) moving

46. See Cummings, *supra* note 4 at 1653; Akbar, Ashar & Simonson, *supra* note 21, at 874. Organizational capacity building can include anything from meeting facilitation to strategic planning to grant writing to know-your-rights or public information request trainings to trainings of trainers.

47. *Cf. id.* at 870–81.

48. Audre Lorde, *The Master’s Tools Will Never Dismantle the Master’s House*, in *SISTER OUTSIDER: ESSAYS AND SPEECHES* 110–13 (2007).

49. *Id.*

resources from one person or group to another person or group;⁵⁰ (2) moving human beings out of cages;⁵¹ and (3) preventing the forced removal of undocumented people. While stark, I have found that this rubric helps me to clearly identify the material benefits that the law can exact for Black liberation organizing. It also minimizes the risk of encouraging reliance on the false promise of legal justice, which is largely unattainable for most Black people—especially poor Black people. Indeed, this framing describes the utility of the law in a way that is “right-sized,”⁵² while ensuring ample space for the constellation of organizing tactics that can often better serve Black resistance and liberation.⁵³

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50. Resources, for the purpose of this Essay, are all things designated as commodities under capitalism, including (but not limited to): money, time, property, labor, and attention. Attention, while somewhat newer than the other resources, has been commodified and is an important consideration for community lawyering in service of Black liberation where public attention and the action that comes with such attention is necessary for a given campaign. See Robert van Krieken, *Georg Franck's 'The Economy of Attention': Mental Capitalism and the Struggle for Attention*, 55 J. OF SOCIOLOGY 3, 5 (clarifying that Georg Franck's theory of the attention economy emphasizes that “attention and money are more like each other than one would normally assume” and that “[a]ttention . . . becomes a currency when it becomes, like money, abstract, comparable, a system of equivalence, quantifiable and measurable in the form of circulation figures, audience ratings, sales figures, hits, likes, views, downloads, followers and so on”).
 51. There is a good argument that the motivation for human caging is profit and captive labor, and that moving human beings out of cages is a way of moving “resources” under capitalism. See SAMUDZI & ANDERSON, *supra* note 16, at 81 (“Our labor and our beings are seen as ‘nature,’ ‘objects to be appropriated, exploited and destroyed.’ This view of blackness positions Black people as being a supposedly endless resource, the same way capitalism treats com modifiable natural resources”); *id.* at 82 (“Violence against the most vulnerable in our communities and poverty (lack of resources) are problems that stem from the dominant white belief that Black people *are* a resource and not people with human rights.”). At the same time, I am resistant to furthering the dehumanization of incarcerated people by accepting their categorization as a “resource” to the beneficiaries of the prison industrial complex, and so “moving human beings out of cages” is a separate category here.
 52. Irresistible, *Intention & Impact: Showing Up Right-Sized—Teo Drake* IRRESISTIBLE MOVEMENTS, at 50:26 (June 12, 2018), <https://irresistible.org/podcast/31> [<https://perma.cc/N72U-MSCK>] (“I think right-sized is always understanding myself in terms of who I am as an individual and to whom do I belong collectively. When I don’t lose sight of either of those, that’s when I think there’s a much more seamless motion between size and call and answer and role that I don’t think that we leave a lot of time for, in our movements, in our rush to fix instead of our rush to heal.”).
 53. See SAMUDZI & ANDERSON, *supra* note 16, at 49 (“A notion of effective Black resistance must revolve at least partly around strategies such as resource pooling and community defense, given the state’s refusal to provide adequate resources to Black people.”).

3. Identifying North Star legal practitioners that are working for Black liberation

As a final note, I have found the best and most inspiring guidance for my practice to come from lawyers, legal workers, and law students from all over who are deeply committed to Black liberation organizing. A few (but certainly not all) of my personal North Stars include: Mandisa Moore-O’Neal, who provides ongoing representation of Black people abused by police since the murder of Alton Sterling in 2016 and whose Black feminist organizing in New Orleans has shifted material circumstances for Black women there; Savi Horne, who has led the North Carolina Land Loss Prevention Project for over 20 years to ensure Black, Indigenous, people of color, and limited resource famers and landowners in North Carolina can preserve their farms, homes and land;⁵⁴ Andrea Ritchie, who has been “documenting, organizing, advocating, litigating and agitating around policing and criminalization of Black women, girls, trans, and gender-nonconforming people for the past three decades;”⁵⁵ Dorcas Gilmore, a co-founder of the Baltimore Action Legal Team (BALT) and Baltimore Activating Solidarity Economies (BASE), principal of Gilmore Khandhar, LLC, a solidarity economy law firm, and educator; and Emanuel Powell, who organizes with and litigates on behalf of surviving families of fatal police violence in St. Louis with Arch City Defenders.⁵⁶ Following the work of each of these attorneys has provided me with many important gut checks on whether the way I am moving as a lawyer is in service of Black liberation or merely legitimizing the law for its own sake.

It is important to note that North Star practitioners are easy to find if you are showing up to participate work that serves Black people. I have identified mine when I have seen them at conferences, met them at organizing convenings, interacted with them at community meetings, and learned of their work at teach-ins. By identifying the part of Black liberation work that inspires you the most, and finding ways to plug into that organizing work, those North Stars will be there leading the fight alongside veteran organizers already.

54. *Services*, LAND LOSS PREVENTION PROJECT, <https://www.landloss.org/services/index.html> [https://perma.cc/5LVE-69ND].

55. *About*, ANDREA J. RITCHIE, <https://www.andreajritchie.com/about> [https://perma.cc/5U94-3A49].

56. *See* Fatal State Violence Project, ARCH CITY DEFENDERS, <https://www.archcitydefenders.org/fatalstateviolence> [https://perma.cc/9PU3-SEJT].

CONCLUSION

These lessons, which I am building on every day, have been critical to my development of a lawyering approach that is supportive of the Black liberation organizing I am accountable to. I implore any attorney or legal worker reading this to take away from this Essay, if nothing else, that it is necessary to articulate radical values of movement, show up to the fight, and also ensure that the movement's values inform your legal practice—all at the same time—if we hope to win with our values and our communities intact.