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Popular Constitutionalism, Powers of Structure, and Strategies of Movement

in the Pursuit of Democracy

A dissertation submitted in partial satisfaction of the

requirements for the degree Doctor of Philosophy

in Sociology

by

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September 2020

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September 2020

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SELECTED PUBLICATIONS

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Manski, Ben, Hillary Lazar, and Suren Moodliar. "The Millennial Turns and the New Period." *Socialism and Democracy*, Volume 33, No.3. 2020.

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Manski, Ben. "The Massacre in Miami." *Socialism and Democracy*, Volume 18, Issue 1, March 2004.

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ABSTRACT

Popular Constitutionalism, Powers of Structure, and Strategies of Movement

in the Pursuit of Democracy

by

Ben Manski

With this work I bring constitutional studies and social movement studies into engagement,

empirically analyze the relationship between constitutional change and democratization in the

countries of the 20th century, examine the history of constitutional movements in the United

States, and assess where democratic forces are currently taking their constitutional projects.

Thus, with Chapter I, I pose three questions – what can be done, what can democrats do, and

what should democrats do to democratize constitutions and constitutionalize democracy? – in

two debates occurring in both constitutional studies and social movements studies about the

relative importance of elites and ordinary people. In Chapter II, I present my findings from a

crossnational analysis of constitutional amendments, new constitutions, suspensions, and other

constitutional events in 243 countries from 1946-2012. Chapter III draws lessons from U.S.

history about how human rights and democratization can be secured through movements for

constitutional reform. And Chapter IV examines the current trajectories of democrats in the

United States, looking back to the Seattle Uprising of 1999 and three contemporaneous

"movement turns" – anarchist, democratic, and global – as well as more recent developments

relevant to evaluating possibilities for constitutional democratization in the U.S.A.. These

chapters are each parts of an ongoing project explaining constitutional revolutions and the

practice of revolutionary constitutionalism.

TABLE OF CONTENTS

I.   Constitutional Revolutions

> "Democracy is not a state. It is an act, and each generation must do its part to help build what we called the Beloved Community, a nation and world society at peace with itself."
> – John Lewis, SNCC chair (1963-1966), in his July 30, 2020 farewell essay

Revolutionary constitutionalism is abroad in the world. This year in Chile and Lebanon, anti-austerity protests gathered into mass uprisings demanding systemic change and new constitutions. In Catalonia and Scotland, mass consultative constitution-visioning processes have helped build independence movements into majority parties. In Ireland as well as in the United Kingdom, the effects of Brexit are forcing debate over what a written constitution for a united Ireland might look like and whether Great Britain can survive without one. The constitutional revolutions of the Arab Spring still reverberate throughout North Africa and Western Asia. And in the United States a mixture of constitutional crises and rising demands for constitutional amendments suggests a reckoning is near.

Yet even as democracy movements put existing orders to the test, authoritarian countermovements are committed to their own constitutional projects. China, Hungary, Russia, and Turkey have each in the past few years undergone authoritarianizing constitutional reforms initiated from above. And many other countries – from Bolivia, Brazil, and Honduras to Israel, Japan and the United States – have been subjected to efforts to sideline or void their constitutional regimes.

Where are these constitutional struggles headed, and what can democrats do to succeed? With this work I bring constitutional studies and social movement studies into engagement, empirically analyze the relationship between constitutional change and democratization in the countries of the 20th century, examine the history of constitutional movements in the United

States, and assess where democratic forces are currently taking their constitutional projects. Thus, with Chapter I, I pose three questions: What can be done, what can democrats do, and what should democrats do to democratize constitutions and constitutionalize democracy? I address these questions in the context of parallel debates occurring in constitutional studies and social movement studies about the relative importance of elites and ordinary people. In Chapter II, I present my findings from a crossnational analysis of constitutional amendments, new constitutions, suspensions, and other constitutional events in 243 countries from 1946-2012. Chapter III draws lessons from U.S. history about how human rights and democratization can be secured through movements for constitutional reform. And Chapter IV examines the current trajectories of democrats in the United States, looking back to the Seattle Uprising of 1999 and three contemporaneous "movement turns" – anarchist, democratic, and global – as well as more recent developments relevant to evaluating possibilities for constitutional democratization in the U.S.A.. These chapters are each parts of an ongoing project explaining constitutional revolutions and the practice of revolutionary constitutionalism.

My normative bias is for democracy and democratization, and as an American I understand that bias to be essential to the tasks of both social movement and legal research. Just as scholars in a variety of fields sometimes collaborate with central banks, government agencies, and corporations, the job of the social movement scholar includes providing knowledge useful to democracy activists. That job begins here by turning to definitions.

What is a constitutional revolution? The Constitutional Revolution of Iran of 1905 was the first process to go by that name, but constitutional revolutions predated 1905 and have long been features of social struggle. In the past year, scholars of law and politics authored several books

with or like the title "The Constitutional Revolution," and I am under contract to produce a book with that title as well.

Gary Jeffrey Jacobsohn has described constitutional revolutions as occurring, "in the form of a governing set of rules and principles establishing a constitutional order on the basis of a political revolution that had overturned a previous regime or as a major change in the constitutional order emerging within the parameters of an extant constitutional setting and without any, or at least without significant, violence or illegality" (2014, p4). His 2020 book with Yaniv Roznai appears an impressive work, one I look forward to reading in depth in the coming week (it arrived just as I was completing this thesis). But a quick read, together with an electronic text search, reveals that social movements do not appear once in their analysis. Similarly, the great Bruce Ackerman in his 2019 *Revolutionary Constitutions* mentions popular movements, but they are never theorized. This is not atypical of legal historians and other constitutional scholars who may valorize movements but do not explain what they are or why they matter. There is work remaining on the table, particularly if we wish to explain how democrats can and should engage with constitutionalism. I offer the following definitions, drafted to include the role of social movements in constitutional change.

1. By "constitutional revolution" I mean a sweeping and explicit transformation of the constitutional order achieved with mass popular participation.
2. By "revolutionary constitutionalism" I mean the practices of a deliberative and participatory popular movement explicit in its project of constituting a new social order.

These definitional questions, and the theoretical and empirical work that make use of them would be academic were it not for the dangers facing the people of the United States and the world at this moment. There is an immediacy to this study. We are confronted with constitutional

breakdown at multiple levels of society. We also are challenged by the climate crisis to find new, more effective ways to govern our global society. If democracy is a norm shared by most social scientists and legal scholars today (and I believe it is) then it is our job to evaluate strategies for democratization.

Yet I am not interested here only in the ordeals of the present. This study involves one of the central concerns of sociology since the early years of the field: The relationship between agency and structure. Democracy movements are collective action projects that seek to universalize and equalize power. Constitutions are explicit articulations of a social order. The confrontation of democracy movements and constitutions allows us to witness the engagement of collective agency with social structure. In that confrontation, constitution becomes a verb again, and reacquires its qualities as a form of social movement. In the same confrontation, democracy becomes a noun, an articulation of a more inclusive and egalitarian set of institutions for a reordered society.

In the next section I examine two parallel debates taking among scholars of constitutions and among social movement scholars relevant to the study of constitutional change and democracy

A. Three Questions in Two Debates About Democratization and Constitutional Change

Evaluating the relationships between constitutions and democracy, constitutionalization, and democratization presents democrats with several challenges. One challenge involves assessing what is possible. This requires identifying the opportunities afforded and constraints posed by the relatively stable relations of force that social scientists call "social structure." This challenge could be posed as a question: "What can be done?" What are the external limits and possibilities that, regardless of what democrats choose to do, condition the range of possible outcomes?

4

A converse challenge is to assess the action of democracy movements, and to answer the question, "What can democrats do?" What have these movements actually done – and what can they do – to confront, agitate, reconfigure, and construct structures?

Finally, there is a third question that rises from the intersection of the first two, which is that of, "What should democrats do?" If we understand the interplay of movements and structures as historical processes producing different type of outcomes, what should democrats do if they wish to constitute a more democratic society?

I have framed these three questions in general terms that could be applied to social movements and structures generally. But these questions are particularly suited to the comparison of constitutional studies and social movement studies, two interdisciplinary areas that seldom converse. There are reasons for the discursive distance between the study of movements and the study of constitutions; these reasons I discuss further below. Yet where there has been interdisciplinary engagement, the results have been rewarding. For instance, recent studies have found that constitutionalization processes that involved greater participation by popular movements resulted in more democratic constitutions (Eisenstadt et alia 2017, Maboudi 2019) and less political violence (Widner 2005). Other research shows how social movements expand the boundaries of constitutional politics (Angel-Cabo and Lovera Parmo 2014, Iyall Smith et alia 2017) as well as how transnational social movements are constructing a new global constitutionalism from below (Anderson 2013, Wilkens 2015). And earlier studies of social movement campaigns for constitutional reform – particularly the Equal Rights Amendment (ERA) effort in the United States – demonstrated how such campaigns shifted norms, overcame political marginalization, engaged in internal strategic debates, allowed movements to continue

across generations, and altered the structural terrain encountered by future movements (Mansbridge 1986, Rupp and Taylor 1987, Taylor 1989, Buechler 1990).

These studies suggest that there is something to be gained from combining the study of constitutions and movements. To secure those gains requires a more disciplined effort at theoretical integration. I make that integrative effort here. It turns out that while constitutional studies and social movement studies involve different research objects, they share a common debate over the relative importance of democratic mobilizations from below as opposed to structural power imposed from above.

TABLE 1: A comparison of approaches and research objects in the study of structure and movement in Constitutional Studies and Social Movement Studies

Relevant Question	Objects of Constitutional Studies	Objects of Social Movement Studies	Research Approaches
What can be done to democratize constitutions?	Constitutional design, negotiation, function, endurance	Social context, structure, and resources in their relation to social movements	Top>down, outside>in approach that focuses on social structures as systems of constraint, affordance
What can democrats do to democratize constitutions?	Popular constitutionalism, democratic critiques of constitutions, and forms of constitutionalism beyond the state	Collective identity, biography, action frames, as well as continuity, structures, communities, and networks	Bottom>up, inside>out approach that centers the ways in which movements agitate, reconfigure, and construct structures
What should democrats do to democratize constitutions?	Constitutional change and projects of social transformation	Social movement strategy, ideology, and praxis	Multilevel, open system approach that explains history as a dialectic of movement and structure

With Table 1, above, I summarize how this debate manifests in each area of study and show that the terms of the debate correspond to the three practical questions of what can be done, what democrats can do, and what democrats should do to democratize constitutions. Let us review some of what is already known about each of these questions.

1. What Can Be Done

What can be done to democratize constitutions? Likewise, what can be done to constitutionalize democracy? These questions have spurred intellectual debate for at least three

hundred years, going back to modernity's first revolutionary wave (Ackerman 1991, Habermas 1996, Arendt 2006, Tilly 2007). Those early republican revolutions produced constitutions that, while formally recognizing and claiming authority from popular sovereignty, were drafted by and for members of the rising commercial classes (Beard 1926). The institutions of the new social order were designed for the expansion of commerce, protection of property rights, regulation of national borders, abolition of inherited titles, and the protection of some groups against government action. They generally provided for the election of legislative representatives, the appointment of executive and judicial officers; occasionally they enshrined existing forms of popular participation in governance such as juries, assemblies, and citizen militias. There were often intense and sometimes violent struggles between popular movements and elite coalitions over constitutional design, meaning, and reform (Vile 2014, Foner 2019). Yet as the first revolutionary wave subsided elite understandings of constitutionalism moved from invocations of popular sovereignty on behalf of constitutional change towards adherence to the institutions of the new constitutional order.

(a) Constitutional Studies: What can be done?

This adherence is reflected in the way in which academics have long understood constitutions. Until only a few years ago, constitutional studies prioritized study of constitutional design and interpretation, the functioning of formal constitutional structures, and the relationship between constitutional design, interpretation, and function. Given such emphases, constitutional scholars were most interested in the actions of the immediate denizens of constitutional structures – of judges, legislators, executive officers, as well as other political elites – as opposed to extra-institutional actors. It follows that the directionality of this scholarship was more often

top-down rather than bottom-up, emphasizing elite constitution-from-above as opposed to popular constitutionalism-from-below (Lovera Parmo 2016).

The implications of a scholarship that center elite actors are many. For such studies, it is constitutions that constitute peoples and persons, and popular sovereignty resides within, not beyond, legal procedure (Forbath 1998, Habermas 2001). If constitutions are aspirational mission statements, their missions are generally those articulated by elites (King 2013). While modern constitutions regularly invoke republican values, they usually do so to define, and thus limit, popular power (Galligan 2013). And as, toward the turn of the millennium, elites invested in constructing new terrains of regional, global, and technological governance, their constitution-making defined new publics and new forms of personhood (Kumm et alia 2014, Gill and Cutler 2014, Manski and Manski 2018).

None of these approaches deny that elite constitutionalism faces pressure from below. The negotiation of constitutional change usually requires the formation of pacts, or "pacting," both among elites and between elites and subaltern groups (Hagopian 1990, Souza 1996). And constitutionalization processes intended by elites to incorporate subaltern groups can instead produce greater distrust of constitutional government combined with a population of critical "distrusting democrats" (Moehler 2008). As a result, the force of constitutions is always contingent, subject to the decisions of contending forces to resist or acquiesce to constitutional limits (Hirschl 2013).

However, such decisions about resistance and accommodation are made in the context of effective constitutional design. Here, the relationships between constitutional content and substantive effect, endurance and collapse, vary: Design choices that offer greater inclusivity, specificity, and flexibility tend to produce more effective and enduring constitutions (Elkins and

Soltan 1993, Elkins et alia 2009, Arato 2016). In turn, popular perceptions of government fairness and competence produce a greater sense of political legitimacy and acceptance of official authority (Levi et alia 2009).

Thus, the people are a vital part of the constitutional picture, yet the picture they are part of in one viewed from above. This is because constitutional studies fashioned around questions of 'what can be done' have as their primary research objects the constitutional text, the debates around the text, and the institutions organized through the text. Here, the constitution is presented as superstructural as opposed to infrastructural. There are limitations to such an approach – I will turn to alternatives shortly – but one benefit is that it allows us to more clearly identify the opportunities afforded and constraints imposed on constitutional democratization.

(b) Social Movement Studies: What can be done?

By comparison, social movement scholars have not given much attention to constitutions and constitutionalism as primary objects of study. This may in part be because social movement studies, like constitutional studies, have tended to operate with an ontology in which "constitution" is understood as a relatively stable structure, not as a set of practices in motion – a movement. Searches of the two leading academic social movement journals – *Mobilization* and *Social Movement Studies* – using the search terms "constitutionalism" and "constitutional reform" and "constitutional amendment" reveal not one article that deals centrally with the question of how social movements engage in constitutionalism.

Yet despite the gap between the two areas of study, an important tradition in social movement research – that of political contention – parallels the mainstream of constitutional studies. The tradition most associated with Charles Tilly, Sidney Tarrow, and Douglas McAdam emphasizes the powers of structure in shaping movement outcomes (McAdam et al 2001). This

tradition has gone through various iterations since the 1970s, yet despite changes over the past 40 years, its central claim about what social movements are has not changed: They are a form of contentious politics that challenges or otherwise transgresses authority (Snow 2004, Tilly and Wood 2013). For this reason, I call this the "contention tradition" is social movement studies; this is a more concise and inclusive category for what one will find variously described as political process theory, political opportunity theory, resource mobilization theory, dynamics of contention theory, etc. Central to this approach is the idea that movements generally arise and achieve greater success in times in which conditions are favorable. Favorable conditions may include the presence of elite allies situated in positions of established power (Tarrow 2011), or may come in the form of threats that spur large numbers of people to mobilize (McKane and McCammon 2018) and to rethink their strategies (Pullum 2016), and often emerge from an interplay of opportunity and threat (Karapin 2011).

The contention tradition has significantly influenced the study of social movements and legal change, particularly in the areas of legislation, litigation, repression, jurisprudence, and administrative law. Scholars have explored the ways in which legal opportunity structures shape the legal mobilization strategies, legal discourse, collective identities, and tactics of movement organizations and activists (McCann 1998, Dudas et alia 2014). For example, direct action campaigners are likely to engage in public acts of disobedience and monkeywrenching in countries that have more permissive legal regimes, and to choose covert action when faced with more repressive laws (Doherty and Hayes 2014).

The interplay between legal movements and structures can be sequential. Today's opportunity structures are often the results of earlier mobilizations. For example, as social movements organizations secure legal recognition for civil rights, they not only alter the legal

terrain but also draw resources and recognition that, in turn, lead to an increase in organizational density as new activists enter the terrain (Minkoff 1997). The interplay between movement and structure can also be synchronous. One movement's legal opportunity structure may simultaneously prove an opportunity or a threat to a countermovement raising contrary legal claims, as has long been the case with the pro-choice and pro-life movements (Meyer and Staggenborg 1996). Additionally, because movements regularly interact with law, legality, and legal institutions, they internalize legal practices that include reliance on movement lawyers and paying attention to emerging legal opportunities and threats (Andrews and Jowers 2018).

It should be becoming obvious why the contention tradition in social movement studies pays most attention to elites. Elites matter because they shape opportunities, impose constraints, and pose threats. In the realm of legality, elite power is quite salient. Lawyers, judges, administrators, regulatory officials, politicians, lobbyists, and those who can afford to assume these roles or to pay others to perform them are primary players. Since the early days of the field, social movement scholars have emphasized that the capacity to mobilize movement resources – including legal resources – is critical to movement emergence and success (McCarthy and Zald 1977). Furthermore, control of positions of state and corporate power allows elites to define the opportunity structures faced by movement activists (Wright 1985). It also makes them targets of mobilization (Van Dyke et al 2004, Armstrong and Bernstein 2008). Furthermore, the centrality of elites to accounts of movements and legal change has been a feature not only of contention within national and subnational institutions, but also at the level of the globalization, where the rise of "anti-systemic movements" has been explained as reactions to a new global neoliberal regime (Arrighi et alia 1989, Amin et alia 1990).

Thus, in both social movement studies and in constitutional studies we find a parallel set of approaches in which the question of "what can be done" frames collective agency as a function of structural affordance and constraint shaped, maintained, and governed by elites. While such an elite-centered, structural approach can be useful, it also has limitations. It can, as discussed earlier and in greater detail in the next section, blind constitutional scholars to popular forms of constitutionalism. It can also lead social movement scholars to ignore constitutionalism altogether.

In some respects, this is surprising, as the contention tradition should be a logical location for the study of constitutionalism from below. After all, what is constitution-making, if not politics? But there are formal politics and there are informal politics, elite politics and popular politics, and approaches that are state-centered have a tendency to miss a great deal that occurs beyond the formal reaches of the state (Rupp and Taylor 2003, Staggenborg and Taylor 2005). Consider how many significant amendments to the U.S. Constitution began in the halls of Congress, and how many began and were built up over decades in what political operatives call "the field," and you can see why a state-centered approach to studying constitutionalism from below might be problematic. By the time such a movement becomes visible to those studying political contention, its original logics have long since formed, only to be recast and often obscured by elite players engaged in formal politics. Such overfocus on institutions, as opposed to systems, can lead to institutionalist myopia.

Indeed, despite self-criticism and good intentions, the contention tradition remain plagued by an implicit political pluralism, a set of assumptions about multiple interests engaged in shifting constellations of power that Gamson called a "half-truth" (1990) and others have called simply untrue (Costain and McFarland 1998). Constitutional movements tend to challenge not just

12

certain sets of interests but the entire social equilibrium. Contention theories, with their tendency to distinguish between revolutionary "rupture" and social movement "reforms" have not found a place in their universe for deliberative mass movements that seek a reconstitution of social relations.

In their influential essay, "Caught in a Winding, Snarling Vine: The Structural Bias of Political Process Theory," later the introduction to a book, Jeff Goodwin and James Jasper argue that contention theories, in assuming that if a capacity for action is present that action will manifest, have collapsed agency into structure, causing agency to disappear altogether (1999, 2004). They point out that meaning-making and strategic action are building blocks of social structure. And they castigate theorists of contention for falling prey to a positivist tendency toward attempting grand theories complete with covering laws and invariant models of the particularly complex and often chaotic forms of social interaction we call "movements."

While I agree with many of these criticisms, in some respects I see theories of contention as not grand enough. Instead, contention theorists have assembled a set of concepts – opportunity structures, social movement industries, tactics, resources, etc. – that are, on further examination, of the midrange. These concepts are generally mixed and matched as seems most relevant to a particular case, the word "interaction" is added to the mix, and voila, we have findings (della Porta and Diani 1999). Usually missing from such accounts are activist biographies, grounded knowledge, cognition, emotion, strategic choice, and collective deliberation; in a word, agency (Flacks 2005, Bevington and Dixon 2005, Ryan and Gamson 2006, Jasper 2012). This is why I suggest that perhaps for some research questions, theories of contention are not "grand" enough, as they have struggled not only to adequately explain the most significant uprisings of the past 50

years (Goodwin 2012a, Manski 2016b, Charrad and Reith 2019), but more to the point, to account for the actuality of mass participation in the reconstitution of society.

2. What Democrats Can Do

What can democrats do to democratize constitutions? This question begins on the inside and works outwards. It attends less to external structures than to internal actions, focusing on what democrats have actually done to bring popular governance into the constitution of society. Constitutional studies relevant to "what democrats can do" delve into the histories and practice of popular constitutionalism, popular critiques of constitutions, and forms of economic, cultural, ecological, and societal constitutionalism that operate beyond formal politics and the state. In social movement studies, the identification tradition – with its analysis of collective identity, collective action frames, goals, movement continuity, communities, affective ties, and social networks – offers useful tools applicable to the study of what democrats have done and can do to democratize constitutions.

(a) Constitutional Studies: What can democrats do?

Popular constitutionalism refers to the participation of the people in the practice of constitutionalism – the construction, interpretation, implementation, contestation, or reconstruction of constitutional law (Beaumont 2014). In constitutional studies, Larry Kramer's 2004 book, "The People Themselves: Popular Constitutionalism and Judicial Review," has become a definitive work on popular constitutionalism. Kramer provides a legal historical analysis of the practice of constitutional review in the United States. He shows that judicial supremacy – the idea that the federal courts are the final interpreters of constitutional meaning – was long rejected. Instead, in this first century of U.S. history, judicial review stood below and in

14

service to forms of popular and congressional review. Kramer's thesis, while focused on the U.S., has significantly impacted the field of constitutional studies as a whole.

Many of those influenced by Kramer conflate his analysis of the practice of popular review – a type of popular constitutionalism involving the participation of the people in the interpretation and signification of constitutional law – with the entire category of popular constitutionalism (Gargarella 2020). Kramer's critics are most guilty of this reductive conflation. For instance, conservative legal scholars Helen Knowles and Julianne Toia, in describing what they call the "Kramer v. Kramer problem," assign Kramer the narrower definition and from this argue that his conceptualization of popular constitutionalism lacks coherence (2014). What these critics missed and what Kramer himself demonstrably articulated is that he did not invent the concept. Instead, his contributions included arguing for a revival of the practice of popular review and in the process bringing back an awareness of that form of popular constitutionalism to the academy.

The Kramer should have found such a task necessary is telling. The origins of popular constitutionalism and of constitutionalism are one and the same. The rise of constitutionalism was joined with the rise of popular sovereignty, which in turn was produced by the rise of popular movements (Tilly and Wood 2012). In the era of first great wave of republican revolutions, it was generally understood that the opposite of constitutionalism was despotism (Preuss 1995). Absolute rulers had little need for and much to fear from constitutionalism (Holmes 1995). This is because constitutional politics rely on claims of popular sovereignty (Morgan 1989, Dunn 2005, Frank 2010). The exercise of popular will imbues written constitutions with what Bruce Ackerman describes as a "revolutionary charisma" that checks autocratic power (2019).

The charismatic and affective qualities of constitutionalism, it must be understood, are fundamental elements to the rise and continued influence of the constitutional tradition. Evangelical religious movements from below tend not only to contest the sovereignty of terrestrial rulers, they also articulate and practice new orderings for individual and communal behavior. Five centuries ago, the emergence of such movements in Europe via the Reformation produced what Phil Gorski describes as a "disciplinary revolution" that both enabled and necessitated the constitution of the first modern states (2005). They led to a form of politics in which it is generally accepted that "Vox Populi, Vox Dei" – the Voice of the People is the Voice of God. This is the source of the sacral qualities of constitutional documents, invoked by the Levellers during the English Revolution of 1648 (Winstanley 2014), radical abolitionists of the 19th century (Goodell 1849), and by not only the signers of the U.S. Declaration of Independence in 1776 but also in myriad declarations of class, gender, and ethnonational independence that followed (Foner 1976). As Catherine Frost argues in her studies of the prophetic power of declarations and constitutions, "However ephemeral in origins . . . any prophecy or prognostication that can convince believers of its credibility, becomes the source of real-life effects." (2017a at p1, see also Frost 2017b). In the United States and other countries, one such effect is the popular notion that Constitution is a sacred document (Corwin 1981). Thus, to speak of constitutionalism as a tradition apart from that of popular rule should be – as a matter of history and logic – to utter nonsense. It must be said that today this nonsense is pervasive. C.D. Lummis, in his influential treatise on democracy, "Radical Democracy," tells us that the addition of the adjective "radical" to "democracy" is necessary but shouldn't be. Democracy, Lummis reminds us, is subversive everywhere (1997). Likewise, the addition of the adjective "popular" to

"constitutionalism" should be unnecessary; absent popular participation a constitution is a legal phantom.

Yet to say it is phantasmal is not to suggest that the fiction of the autonomous constitution is powerless. Patricia Ewick and Susan Silbey, in their compelling empirical analysis of "The Common Place of Law," show how legality operates in the lives of ordinary people – sometimes reified as an autonomous institution, at other respects gamed as contested terrain, and in still others resisted as an oppressive regime (1998). The fiction of a constitution that operates outside and beyond popular power serves entrenched interests by obscuring the origins and limits of formal constitutions from critical view (Lobel 1988). Academic critics argue that this fiction is maintained by conservative scholars who counterpose constituent power to constitutional power, treating the former as formative but fleeting and the latter as constraining and durable; instead, constituent power is an enduring source of constitutional power, absent which constitutional orders degrade (Colón-Ríos 2012, Sultany 2018).

Indeed, popular constitutional critiques have long centered on the contradictions of constituent and constitutional power. Such critiques ask what is anti-democratic about an existing constitutional order, what can be done to democratize the constitution, or whether popular movements should ditch constitutionalism altogether. The first two of these questions have been particularly present in the constitutional discourse of the United States, going back at least to Thomas Paine's criticisms of the unwritten constitution of England (Paine 2015a). After the Revolution of 1776, abolitionists following in the Painian tradition critiqued and often castigated "the Constitution of 1787" as an undemocratic plot against the people. In the early 20th century, Charles and Mary Beard continued this critical tradition by describing the 1787

Constitutional Convention as a reactionary strike against the Revolution, a seizure of power that later come to be described as a "Framers' Coup" (Beard 1925, Klarman 2016).

Such representations have hardly gone uncontested. Not only have democrats and conservatives routinely clashed over the origins and function of the U.S. Constitution – as, for instance, in "The Great Bicentennial Debate of 1976" – but debates over constitutional legitimacy have been persistent within the U.S. left. Yes, perhaps the Constitution of 1787 was a plot against unruly Americans, but it was a constitution they contested, took on, reshaped, and wielded, nonetheless (Holton 2007). Maybe in retrospect the Constitution looks reactionary, but compared to the Articles of Confederation, it and the Bill of Rights represented advances (Wright 1956). Instead, some argue, we should recognize that the debate over how to regard the Constitution is a product of the document's own contradictions (Lobel 1988).

Some of these contradictions were baked in at the beginning, as Abraham Lincoln warned in stating that he believed, "this government cannot endure permanently half slave and half free" (Foner 2011). The fugitive from service, 3/5th clause, and other pro-slavery elements of the Constitution required amendment, but the Constitution's own Article V provisions for amendment made reform too difficult; resolution of this contradiction involved a civil war. And other unresolved contradictions remain; by comparison, the constitutions of the states have generally been much more innovative and effective because they are easier to change (Levinson 2006 and 2012).

Making matters worse, many critics assert, much of what was good and republican if not democratic about the original Constitution has been discarded or so distorted by powerful interests as to have been rendered useless. As argued by Kramer and others, these constitutional distortions wrought from above began with the assertion of judicial supremacy over

constitutional review. Given the conservative if not reactionary ideologies espoused by the great

majority of Supreme Court justice (Irons 2006), this has meant two centuries of largely anti-

democratic constitutional jurisprudence on questions of corporate power, election law, war

powers, federalism, executive power, labor rights, and more often than most Americans are

aware, women's rights and civil rights (Raskin 2005, Irons 2005, Cobb 2007, Morris 2008). For

instance, what was once settled and would textually clear about constitutional war powers – an

organized militia system in place of a large professional military, the vesting of war initiating

powers in Congress and not the Executive, and a recognition that the office of Commander in

Chief only operated in times of declare war – has been transmogrified into nearly unchecked

presidential power for unending war (Manski 2006b, 2007). Indeed, with the aid of the federal

courts, the executive branch has usurped much of the Article I domestic legislative and foreign

policy power granted Congress, weakened congressional oversight, made impeachment an

ineffective remedy, and otherwise produced the very kind of august presidency feared by many

of the Founders (Berger 1974, Ackerman 2010).

In addition to these largely structural critiques of the ways in which anti-democratic

interpretations of the U.S. Constitution have rendered dead the more democratic provisions of

that document, in the 20th century many began to call for an updating of American and global

constitutionalism. Modern constitutions, they argue, must meet contemporary expectations for

the positive protection of human rights, including the right to food, shelter, education, water,

security, body, and much else (Ollman and Birnbaum 1990, Simon 1995, Blau and Moncada

2006, Wiener et alia 2012). Furthermore, not only should these positive rights gain constitutional

force, but the deployment of constitution rights to insulate corporations –the entities most

responsible for human rights and ecological harms– from accountability must end (Grossman

and Adams 1993, Ritz 2001, Cray and Drutman 2005, Monbiot 2010). Finally, in societies such as those of Great Britain, Australia, and Israel, where informal constitutionalism is the order of the day, the democratic critique of that constitutional order is more often than not that a written constitution is needed.

Of course, there are those who think it foolish to expect constitutionalism to produce anything genuinely democratic under capitalism. On this question, Charles Tilly and leading 20th century communists were in relative agreement. In *Democracy*, Tilly concluded that democratization is to be found where "public trust networks" are most dense, public politics are insulated from categorical inequality, and power is centralized for accountability (Tilly 2007). Constitutional changes, he concludes, are more cosmetic, not meaningful, in predicting democratization. For somewhat different reasons, many Communists have long regarded concern with constitutionalism as a bourgeois fetish. Constitutions express the alignment of social forces that underlie them. For this reason, as the Italian Communist Amadeo Bordiga put it, "no constitutional schema has the value of a principle." (Bordiga 1922) Thus, how a society is actually constituted, and on what basis, matters significantly more than words on paper.

A related critical look comes out of the milieu of libertarians, anarchists, anti-authoritarians, and neo-Marxists. Here, constitutions and constitutionalism are regarded as the opposite of too mutable; instead they are too static. Not only do constitutions maintain the reign of the dead over the living, they exclude the living from the realm of the sovereign. Here the problem is first, that written constitutions by their very character must define who is in and who is out, who is a citizen and who is a stranger, who (or what) is a person and who is an animal, and thereby turn every being into a contractual relation (D'Souza 2018). And second, as Étienne Balibar has argued, the problem is also that, "even in the most democratic of states, the status of citizen

returns to the condition of a 'subject,' where political participation gives way to the rule of police." (Balibar 2004).

Whether the democratic problem of constitutionalism is that a particular constitution is facially undemocratic, or that its democratic elements have been supraverted, or that its provisions are outdated, or that it is merely a cover for existing social relations, or that constitutional law is intrinsically a process of defining and binding, or that there is no written constitution at all, the point of democratic critique is to reveal possibilities for democratization. Taken together, these critiques suggest that part of the problem with republican conceptions of constitutionalism is that they tend to be limited to the realm of formal politics and the state. Societal constitutionalism, a relatively new tradition in constitutional studies and the sociology of constitutions initiated by David Sciulli and carried forward by Gunther Teubner, posits a theory of constitutionalism that understands political constitutions as emerging out of middle range constitutional substructures – in institutions such as corporations and universities, as well as in affinity networks and through social movements (Sciulli 1992, Teubner 2017). Attention to constitutional substructures and movements is necessary if we are to effectively explain the governance of daily life (Sciulli 2001) and keep up with emerging constitutional orders, particularly at the level of the global (Teubner 2012b).

The societal constitutionalism literature is sometimes self-referential and thus somewhat inaccessible. Yet the insights it shares are reflective of strategies for economic, cultural, ecological, and societal democratization long practiced by popular movements (Carnoy and Shearer 1980). The cooperative movement, for instance, has long engaged in a strategy of federative constitutionalism toward the end of building a global cooperative commonwealth (Whyte and Whyte 1991, Ness 2011, S. Manski 2017). The degree to which this kind of

federative economic constitutionalism has been articulated has varied from simple expressions of the need to build cooperative forms of production and to link them together, to the construction of complex systems of exchange, mutual aid, and federative democracy seen in the 19th century populist and socialist movements in the U.S. (Baker 1898, Willard 1898), the Cooperative Commonwealth Federation (Horn 1980), and the Histradut of pre-Israel Jewish Palestine (Kurland 1947). Other recent examples can be found in the networked economic and cultural organizations of the 1970s feminist movement (Hogan 2016), in the organization of transnational Indigenous federations (Smith 2020), and in the ecology movements' work to implement food shed, watershed, and other ecological governance systems along bioregional lines (Aberley 1993). Over the same period, scholar activists have articulated holistic, expansive models for the constitution of participatory democracy (Lynd and Alperovitz 1973, Asimakapolous 2014).

Today, popular constitutionalism is back in vogue as a subject of study in various disciplines. Academic interest tends to follow real world events. The waves of democracy of the 1970s-1990s, the popular uprisings of 2006-2014, and 1990s-2010s transnational contention over global trade and climate governance each have provoked new round of interest in popular constitutionalism and particularly in the role of contemporary social movements in constitutional change (Santos and Rodríguez-Garavito 2005, Müller 2012, Teubner 2012a, Anderson 2013, Smith 2008, Gill and Cutler 2015, Blokker 2017a, Lovera-Parmo and Angel-Cabo 2014, Lovera-Parmo 2016). Similarly, in the United States as in other countries, following each major constitutional ruling seen to be antagonistic to democracy, calls for constitutional change first raised by activists and their movement soon enter the discourse of constitutional studies (Ripken 2011, Thimsen 2015).

<u>(b) Social Movement Studies: What can democrats do?</u>

So what then, in explaining what democrats can do, does the field of social movement studies have to offer? Here the identification tradition – with its concepts of collective identity, collective action frames, and movement continuity – provides useful tools applicable to the study of what democrats have done and can do to democratize constitutions.

What I am calling the identification tradition has multiple origins. The roots of collective identity theory are commonly located with the study of the so-called "new social movements" of the 1960s-1980s, and with the theorists most associated with that study, Alberto Melucci and Alain Touraine. The feminist, civil rights, third world liberation, student, gay and lesbian/LGBT, peace, environmental, indigenous, and related movements required a scholarship attentive to their particular origins and logics as well as to a common element among them, which was the importance of personal and collective identity. But it seems clear in retrospect that collective identity theory had its origins not only in the work of attentive European social theorists, but more so in the very movements that drew their attention. For social movement studies the feminist movement was particularly influential, as many feminist activists became academics and some academics became leading feminists (Taylor 2003). A third ingredient was the already-present influence of social psychology in social movement scholarship and Erving Goffman's introduction of frame analysis in 1974. The resulting outcome of this mix has been an approach to studying movements that focuses on how individuals and groups identify themselves, others, and their situations as they seek social change.

For the identification tradition, therefore, the kinds of movements people choose to build is not primarily a function of opportunity, but instead, of what activists identify as goals and grievances (Simmons 2016). The making of grievances, in turn, is closely tied to the construction

23

of collective identity, the personal and political sense of who "we" are that allows for the formation of working solidarities that will last through time (Rupp and Taylor 1987, Melucci 1996, Taylor and Whittier 1992, Hunt and Benford 2007) and for the framing of the long-term strategic orientations of movement participants (Touraine 1988, Buechler 1990 and 2000, Polletta and Jasper 2001, Fominaya 2010). Such shared long-term strategic orientations are called prognostic frames in the social movement studies literature. Collective action frames may also be diagnostic (identifying "what is the problem") or motivational (identifying "why it matters") (Taylor and Whittier 1995, Klandermans 1997, McAdam 1999, Buechler 2000, Rohlinger and Quadagno 2009, Snow et alia 2013).

Activists are often keenly aware of the importance of "framing" activities, and devote significant resources to debating, refining, deploying, and contesting the ways in which ideas are framed. For instance, some scholars have recognized a so-called "radical flank effect" in which movement currents that engage in more militant actions and assert more radical demands seek to strengthen the bargaining position of more moderate currents by reframing the terms of debate (Gupta 2005, Banaszak and Ondercin 2016). Framing activities are also quite important in the process of building coalitions. Coalitional work can be thought of as a practice of frame alignment, in which different groups come together to create a "master frame" inclusive of their various understandings and goals for social change (Snow and Benford 1992, Obach 2009).

Constitutional projects are characteristically efforts to create and work together through a common master frame; constitutions can be meaningful for many sectors of society. Furthermore, one aspect of constitutional reforms is that it is an effort to reframe a whole set of questions about "who we are" and "what we are for" and "why it matters." All three of these questions operate at the levels of society, of institutions, and of the individual. Recent

scholarship by James Jasper and others emphasizes the importance of emotions in collective action (2018). At the level of the individual, feelings about a constitutional question can involve be profound and lead to personal commitments to "defend" or "repeal" or "amend" a constitution.

Such high levels of commitment can sustain a constitutional reform campaign for many years. In their studies of the mid-20th century women's movement, Verta Taylor and Leila Rupp found that elite activists committed to the long-term project of winning an Equal Rights Amendment to the U.S. Constitution played critical roles in building and maintaining structures of abeyance – institutions, organizations, networks, and communities – through which they passed on ideological and other cultural resources to later generations (Taylor 1989, Rupp and Taylor 1987). An entire literature on abeyance and continuity structures emerged from their work. That the campaign that helped the women's movement survive in its doldrums was an amendment campaign suggests a sustaining logic particular to constitutional reform efforts. In addition to the emotional attachments that may motivate long-term commitments, it is also the case that activists go into amendment campaigns reasonably aware that they are, as the expression goes, "in it for the long haul."

Where does this all leave us in terms of what the identification tradition has to offer? Alberto Melucci has defined a social movement as, "the form of collective action that (i) invokes solidarity, (ii) makes manifest a conflict, and (iii) entails a breach of the limits of the compatibility of the system within which the action takes place" (p.28). Thus, collective identities are, "ever more conspicuously the product of conscious action and the outcome of self-reflection" (p.76). If the contention tradition defines social movements in their contests and interactions with other "makers of claims" and the state, the identification tradition regards social

movements as the process of constructing collective understandings of those claims, or as Cristina Flesher Fominaya has put it, social movements are those "arenas in which activists can foster reciprocal ties of solidarity and commitment, and clarify their understandings of who they are, what they stand for and who the opposition is" (2010). Put simply, contention theories primarily locate the social movement object in its external interactions, while identity theories primarily locate the social movement object internally. The former address "what can be done" and the latter address "what we can do."

The identification tradition should have great utility for the study of movements and constitutional change. As I have argued, constitutionalism is a form of identification – a project that identifies who we are, what the situation is, where we must go, and why it matters. Popular constitutionalism is something that democrats can do and have done, and to the extent that social movements scholars have attended to these kinds of efforts, it is notable that they have been scholars in the identification tradition.

Yet that extent is quite limited. In general, social movement scholars of all types have focused more on elections, lobbying, and other institutional activities than they have on more participatory or systemic forms of democratization such as constitutional reform (Rossi and della Porta 2015). Why has this been the case? In the early 1990s, Steven Buechler suggested that, despite significant differences, both resource mobilization theory (an element in the contention tradition) and social construction theories (aka identification) have possessed a positivist tendency to focus on producing "generalizable theoretical concepts removed from the historically specific contexts in which social movements arise" (2000, p.45). Generalizable concepts can be very useful, but an overreliance on generalizable concepts in the absence of more general theory may lead into what Roy Bhaskar called "epistemic fallacy," wherein a

researcher reduces questions of ontology to epistemology, making particular empirical observations into stand-ins for much more complex systems that operate at multiple levels over time. If one becomes dependent on midrange concepts and fails to account for the reality that constitution-making is a multilevel process –structural, institutional, networked, and personal– popular constitutionalism becomes less obvious.

3. What Democrats Should Do

What should democrats do to democratize constitutions? If addressing "what can be done" concentrates on powers of structure, and "what democrats can do" attends to the practices of activists, "what should democrats do" requires attention to the dialectical engagement of movement with structure. It assumes that activists are conscious of structural constraints and affordances and that they bring that consciousness into their strategic movement building work.

In so far organizing this discussion around alternative approaches to observing constitutional change and social movements as "from above" or "from below," or "outside-in" versus "inside-out," I have represented the debates as they have been in both constitutional and social movements studies for many years. While those debates have only occasionally become explicit, they have been present nonetheless in the choices of research object and design. More recently, something changed. Over the past ten years, both areas of study have experienced the emergence of multilevel, historical, open system approaches.

(a) Social Movement Studies: What should democrats do?

In social movement studies, these approaches can well be described as grounded in an ontology of praxis – the synchronous putting of theory in practice and the construction of theory from that practice. This praxis tradition recognizes that the agency and knowledge of activists is

critical to social movement scholarship because movements are not simply expressive. Instead, movements are a cognitive praxis capable of structuring their own future development (Flacks 1988, Eyerman and Jamison 1991, Taylor 2000, Maney et alia 2009, Flesher Fominaya 2010, Cox and Gunvald Nilsen 2014).

This idea is of course an old one, but the credit for inducting it into social movement studies is often given to the French sociologist Alain Touraine. His influence in this regard, Laurence Cox and Cristina Flesher Fominaya argue, is to be found in his locating social movements as historical processes in "which people deliberately and actively make decisions on the central factors that define their lives" (2013). My own readings of Touraine convince me that they are right to credit him with helping to provoke such a definition, though I fail to find that he himself, in his own words, put it quite that way or so clearly. Instead, Touraine's theorization of historicity deals centrally with the ways in which society acts upon and reproduces itself (Touraine 1988). He defines various movement forms – historical, cultural, social, and societal – each of which involve distinct historical processes of the reproduction of society and the Subject (Touraine 1988, 2000). Thus, Steven Buechler summarizes Touraine's concept of historicity as, "the object of ongoing conflict between classes in the form of social movements that struggle over the self-production of society and the direction of social change." (2000, p.6). Despite his valorization of the Subject, Touraine's historicity operates primarily at the level of society, secondarily at the social, and only finally with the Subject. For these reasons, I think Touraine's work should be thought of as inspirational, if not actually instructive, of those social movement theories first arising in the late 1980s and early1990s that understand movements as forms of collective praxis.

We see Touraine's influence in Richard Flacks' statement that, "The term 'social movements' is a summary expression for a variety of collective efforts by the relatively powerless to exercise historical power" (Flacks 1988, p.70). For Flacks, therefore, social movements are always struggles from below (to use the contemporary lingo) involving human beings seeking alternatives to elite domination. Social movements are thus expressions of the political tradition of the left, which for Flacks, is the tradition of democracy. Here it is important for us to see that in Flacks' formulation there is not only the influence of Touraine and other European theorists, but also, more centrally, the continued development of a theory of participatory democracy rooted in the praxis of the Students for a Democratic Society and U.S. New Left, in which he was an original and primary participant, and which, together with common antecedents of C. Wright Mills, the Frankfurt School, and before, influenced Touraine, Melucci, and others. In other words, the more recent theoretical trajectory that understands social movements historically, as social struggle, and as praxis, has its origins in the same transhemispheric discourse that has accompanied the global history of the political left.

In addition to Flacks, what I am recognizing under the label of "the praxis tradition" has found a series of prominent exponents in the United States, despite the supposed hegemony of theories of contention over here. Aldon Morris' theorization of the role of what he calls an "indigenous movement" (indigenous in this case meaning rooted in a place) in the origins the 1960s civil rights movement defines social movements as the, "deliberate, conscious efforts of men [sic] to change their societies" (1984, p.277). Carl Boggs describes from the so-called new social movements of the 1970s and 1980s a tendency toward "democratization from below," de-alienation through rebellion, and a convergence of politics that moved away from particular interests and toward universal goals (1986). And in a second 1988 book published under the title

29

Making History (Flacks' was the first), Alex Callinicos echoes both E.P. Thompson and Touraine in describing history as, "the process through which human beings constantly make and remake their lives" (p.10) and argues for theory that centers, "collective agents capable of pursuing the conscious goal of social change" (p.11).

One book in particular has become a kind of Gideons Bible for this tradition. In *Social Movements: A Cognitive Approach*, Ron Eyerman and Andrew Jamison, present a highly developed theorization of what they call "cognitive praxis," writing that "social movements are actually constituted by the cognitive praxis that is entailed in the articulation of their historical projects" (1991, p.43) and further that, "a social movement *is* its cognitive praxis, that is, what distinguishes one movement from another, but also, more importantly, what gives a social movement its significance for broader social processes" (p.54). Thus, social movements are "not just social drama" (p.48), they are the producers of "new thoughts and ideas" (p.55) and thus, the makers of society as well as history.

Steven Buechler agrees, going perhaps further in arguing that, "the period of modernity has witnessed not just the emergence but the increasing centrality of social movements to the constitution of society" (2000, p.10). Indeed, social movements, for Buechler, have been what Roy Bhaskar would have called the "under-laborers" of sociology, exposing, articulating, and thereby making possible, through attempts to change society, the study of society. He writes that, "It is a truism of sociology that heightened reflexivity is a hallmark of modernity, but it is rarely recognized that social movements are crucial sites of this reflexivity" (p.7).

Let's recognize that all this talk of cognition, reflexivity, construction, constitution, conscious effort, agency, historicity, etc, operates outside of the all too familiar culture/structure dichotomy that disturbs and still confuses North American sociology to this day. For instance,

Buechler is quite explicit that his approach is both structural and cultural, and more. Similarly, Michael Schwartz, in his analysis of *The Southern Farmers' Alliance and Cotton Tenancy*, considers the ways in which "structures create power relationships" which contain within themselves, "the possibility of a power strong enough to alter [them]" (1992, p.172-173) and which can be overcome by activists and organizations that develop a good enough, "prevailing analysis of the situation" and strategy of action (p.177). John Foran and others have similarly emphasized the importance of ideology and cultural idioms in mediating between subjective experiences and the objective structural conditions (Foran 2014, Reed and Foran 2002, Taylor 2002, Morris and Braine 2001). Anyone genuinely familiar with Marxist theory will recognize this kind of approach to theorizing agency, structure, and culture.

When *Marxism and Social Movements* was first published in 2013, its publisher described it as, "the first sustained engagement between social movement theory and Marxist approaches to collective action," and while such a claim may seem extraordinary, one would be hard pressed to find evidence to the contradictory. The book, edited by Colin Barker, Laurence Cox, John Krinsky, and Alf Nilsen, is a very important contribution both for its novelty and quality. Yet because the majority of the scholars I've cited so far have been influenced by Marx and Marxism, cited Marx, Lenin, Mao, Gramsci, Luxemburg, and many other Marxists, and in some cases, identified themselves as Marxists, it would be a mistake to call Barker, Cox, Krinsky, Nilsen, Flesher Fominaya, and others in their circles "the New Marxists," as simple as that might be. Instead, because I understand that these mostly "younger" scholars met primarily through conferences and intellectuals based in and around Manchester, England, I've come to call them the "Manchester Circle," and to include their work as the among most recent, most developed,

and most empirically useful development of an emergent praxis tradition in social movement theory.

How do theorists of the Manchester Circle define social movements? In their 2014, *We Make Our History*, Cox and Nilsen describe movements as, "a process in which a specific social group develops a collective project of skilled activities centered on a rationality – a particular way of making sense of and relating to the social world – that tries to change or maintain a dominant structure of entrenched needs and capacities, in part or in whole" (p.57). This is, of course, another, more specific way of describing the making of history. What is different about it is not only its specificity in articulating the relationship between subjective action and objective structure, but also that their approach introduces to social movement studies the idea that movements from below are in struggle with movements from above (Barker et alia 2014, Nilsen and Cox 2014, Cox and Nilsen 2014). Thus, another way to understand social movements is as, "the way in which human practices are socially articulated through conflictual encounters between dominant and subaltern groups" (Cox and Nilsen 2014, p.57). Movements articulate social struggle, operating "on the boundaries between forms of opposition that remain contained within the limits of the system, and those that potentially transgress them" (Barker et alia 2014, p.13). The importance of social movements, therefore, is that they produce the basis for new social relations: "This leads to the analysis of social structures and social formations as the sediment of movement struggle – or as a kind of truce line which is continually probed for weaknesses by both sides and repudiated as soon as this seems worthwhile" (Cox and Nilsen, p.57).

The use of the word "sediment" to describe the lasting achievements of movements is a nod to Rosa Luxemburg, and her description of the ways in which one wave of struggle leaves

behind precious intellectual human material the next (Luxemburg 1917). As Barker points out, the idea of movement reflexivity – aka praxis – has always been a major theme of Marxist social theory, going by Marx's recognition that, "The movement itself was the great self-educator, and its tempos and inner developments were the ultimately decisive factor in historical development" (p.23). Nilsen and Cox greatly elaborate this idea in their joint work, presenting an analytical schema involving a series of stages in which the praxis of activists and movement entities, if unchecked, leads them from parochial *local rationalities*, to coordinated *militant particularisms*, to generalized and longer term *campaigns*, and finally, to revolutionary *social movement projects* (Nilsen 2004, Nilsen and Cox 2014, Cox and Nilsen 2014).

Whether or not one is enthusiastic about the terms they have adopted for each conceptual stage, the overall schema may be valuable for that fact that it understands early stage activism as operating within the same universe and as part of the same general set of logics as revolutionary movements, returning the study of social movements and of revolutions to their common origins (Cox 2014b, Barker 2014). Cox performs a similar service in challenging the reader to think of social movements as what Marx meant by "class in the active sense," being a class "for itself," as opposed to simply "in itself" (Marx 1847, Cox 2014). Cox offers several thought experiments in which he takes famous passages from the great historian E.P. Thompson and substitutes the phrase "social movement" for "class" or "English working class," producing gems such as this:

"[This book] is a study in an active process, which owes as much to agency as to conditioning. The social movement did not rise like the sun at an appointed time. It was present at its own making" (Cox 2014a, p.137).

Thus, in bringing Marx and Marxist historicity "back in," to use the hackneyed phrase, we find a way of understanding social movement as neither determined by structural forces, nor as

33

autonomously self-constructed, but as the personal and collective process of being determined, recognizing that determination, and engaging in the determining of society. Put another way, the ultimate labor of social movements is the reconstitution of society. This suggests problems for studies of formal constitutionalism that only understand constitutional change as originating and transacting within the limited confines of institutional politics.

Another useful aspect of the overt move of bringing Marxism forward in the praxis tradition is that it may provide a much-needed bridge between social movement studies and political economic analyses ranging from world systems theory to theories of global capitalism. Social movement scholars sometimes note that political economists often reference and valorize social movements yet fail to adequately theorize them. My reading of the world systems and global capitalism literatures confirms this criticism: While I see a positive tendency to historicize movements, the histories presented are nearly always presented from the top down, with little to no attempt to connect micro-processes and structures to macro-processes and structures, much less reference to contemporary social movement scholarship aside from Touraine (Amin et alia 1990, Arrighi 1989, Robinson 2008, Robinson 2014).

The best description of social movements that I could find in this literature demonstrates the theoretic anemia of the field: "Social movements display much variety and changeability, but have in common individual mobilization through a sense of morality and (in)justice, and social power through social mobilization against deprivation and for survival and identity" (Fuentes and Frank 1989, p.179). At the same time, as I have already argued, social movement studies have experienced an inverse problem: A nesting in the theoretical midrange, with some dipping into theories of micro processes, and an abandonment of so-called "grand theory" such that the world historic processes studied by political economists and historians are treated as

34

"background" or at best "context" for studies of assignedly discrete social movement phenomena.

Before moving on, I think I should draw out a number of observations gained from my consideration of the ways in which the contention, identity, and praxis traditions have defined and understood social movements. Because I return to a discussion of these traditions and what they offer a study of constitutionalism in my conclusion, the observations here are not intended as a summary of everything discussed so far, but instead, as a means of identifying particular additional insights that arise out of comparison and which have not been identified so far.

First, despite numerous attempts by North American social movement scholars to bring together and synthesize a common social movement paradigm, we are still left with no universally workable definition of what a social movement is (Van Stekelenburg and Roggeband 2013). For example, in various attempts at synthesis, we find social movements described alternately as, "collectivities acting with some degree of organization and continuity outside of institutional or organizational channels for the purpose of challenging or defending extant authority, whether it is institutionally or culturally based, in the group, organization, society, culture or world order of which they are a part" (Soule et al 2007); or as, "conscious, concerted, and sustained efforts by ordinary people to change some aspect of their society using extra-institutional means" (Goodwin and Jasper 2015); or much more broadly as, "an open, collective, sustained challenge to prevailing ways of doing things" (Markoff 1996).

In attempting to bring together theories of contention and identification, the authors of the first definition produce something not only unwieldy but also, contrary to their intention, exclusive (a common problem in legal drafting: the more one defines, the more they leave out). In the second attempt, we see the identification tradition present and a few elements of the praxis

35

tradition, but an absence of contributions from the contention tradition. And as for the third

definition because, while inclusive, it is so overbroad as to fall prey to Tilly's admonitions about

the need for conceptual specificity (2004).

Furthermore, while there have been some valiant recent attempts to move North American

social movement theorists beyond synthesis and toward a recentering around new questions that

might lead the field around its current impasse, my reading is that these attempts have so far been

unsuccessful. For instance, a 2009 effort to develop a common discourse around social

movement strategy as a means for getting at the nexus of agency and structure produced a

volume in which some contributors discuss "strategy" without discussing activists or activist

cognition at all, a fact understandably lamented by the editors in their introduction (Maney et alia

2009). I do think a recentering is needed, and as is likely evident from my discussion so far, I

think the praxis tradition in its coherent theoretical unity of structure, culture, agency and history,

offers the possibility of such a recentering – one that does not attempt to link together the

identity and contention approaches so much as to learn from them.

As Laurence Cox writes, echoing the concerns of Flacks, Bevington, Dixon, Ryan, Gamson,

Maney, and others, "So much, one might say, for positivists attempts to 'explain' or 'predict'

movements: explanation lies in people's own attempts to make sense of and transform their own

situation - *and in how other people have constructed that situation.*" (2014, p.137, emphasis

added). Cox continues:

> "But movements consist of conscious, reflective people, who are inevitably thinking
> *beyond* taken-for-granted routines, both in the direction of the unorganized and in the
> direction of the future. This is what enables us to call them movements: they are not simple
> the reproduction of unreflected activity, but creative processes which - in order to mobilize
> the unmobilized and change the world - have to keep reaching beyond themselves." (2014,
> p.145).

Similarly, John Krinsky points out that the, "Activists in Egypt and Wisconsin recognized, in 2011, that their struggles were, at least in some ways, linked by their resistance to neoliberal capitalism . . . . Perhaps analysts of social movements should entertain their insight as serious enough to bear critical inquiry and action" (2014). Here, members of the Manchester Circle are not simply celebrating activists and they are not falling prey to the movement-centered monomania against which Doug McAdam and other contention theorists have rightfully cautioned. Instead, they are pointing the way to a metatheory that is both grounded in a way that middle range theories are often not . . .

> "In spite of the apparent 'grand theory' of Marxism, praxis has a way of disciplining and making theory more reflexive and modest even than the apparently less ambitious 'middle-range' theories popular among academic theorists" (Krinsky 2014, p.117)

. . . as well as grand in a way that might benefit those pragmatists and others whose, "wish for democratic self-discovery fails to recognize that the institutions in which they hope this might take place are themselves subject to more general contradictory tendencies, not least of which is capitalist exploitation."

My second observation is that across the board, there is agreement that social movements are not all the same, and that they come in different forms. What those types of forms are, of course, varies from theorist to theorist and tradition to tradition. Contentious politics recognizes social movements as one movement form along others, including nationalisms, political movements, and revolutions (McAdam et alia 2001, Tilly and Wood 2013). Touraine distinguishes between cultural, historical, social, and societal movements (2000) and Melucci identifies antagonist, political, claimant, conflictual networking movement forms defined by the fields within which they operate (1996). Boggs' categories are nominal, being the "new" urban, ecology, women and gay liberation, peace, and youth cultural movements (1986). World systems theorists write of

world labor, nationalist, Social Democratic, communist, new, antibureaucratic, and anti-Westernizing movements (Amin et alia 1990) as well as anti-systemic movements more broadly (Arrighi et alia 1989). Buechler theorizes a structure of social movement action that operates at multiple levels – global, national, "regional" (class, race, gender), and local (personal) (2000). Morris introduces the concept of the indigenous form of a social movement (1984). Gamson analyzes the relative success of alternative, oppositional, and transformational movement strategies (1990). Flacks explains the making of history in part by comparing resistance movements with liberation movements and by theorizing democratic consciousness as a kind of proto-democracy movement (1988). In some of my previous work I have built on this, describing democracy movements as social movement forms that seek to universalize and equalize power (Manski 2015, 2017). And Nilsen and Cox have presented a framework in which a social movement manifests to a greater or lesser extent as activists develop a greater orientation towards systemic change (Nilsen 2004, Cox and Nilsen 2014, Nilsen and Cox 2014).

All of this begs the question of what it means to speak of a "social movement form," since the various categories listed represent everything from merely nominal to deeply theoretical typologies. It also raises the question of how a social movement scholar should theorize those social movements that are engaged in the process of constitutional change. Are movements engaged in constitutional projects essentially different from other movement forms, and if so, how? Or should constitutionalism be understood as merely another arena of contention?

(b) Constitutional Studies: What should democrats do?

A growing current in constitutional studies is showing us that there are logics particular to social movements engaged in projects of constitutional transformation. These studies make questions of popular initiative, deliberation, and ratification in constitution-making subject to

empirical analysis. They find that proponents of democracy and the democratic rule of law should seek broad popular participation in constitutional reform (Eisenstadt et al 2017, Eisenstadt and Maboudi 2019, Maboudi 2020).

In *Constituents before Assembly: Participation, Deliberation, and Representation in the Crafting of New Constitutions*, authors Todd Eisenstadt, Carl LeVan, and Tofigh Maboudi find that "participatory constitution-making . . . has a lasting and systematic effect on subsequent democratization." The authors present a thorough statistical and comparative analysis of constitutional change in 190 countries in the years 1974-2014; 119 of these countries adopted new constitutions. The authors constructed the Constitutionalism and Democracy Dataset (CDD) and made it generally available (http://doi.org/10.17606/M63W25). Altogether, they provide a substantial empirical and theoretical framework particularly useful to scholars of legal mobilization and social movements, popular law, and constitutionalism and democracy.

The central finding of the book is that the process of constitutional change, not the textual content of the resulting constitution, that truly matters in producing democratization. Perhaps we already suspected as much. But what we lacked, and Eisenstadt, LeVan and Maboudi provide, are clearly articulated models of participation in constitutionalization. Beginning with Chapter 2, they present a series of regression, path, and comparative case analyses that show the power of process and that undermine the kinds of traditional content-centered explanations that the authors describe as symptomatic of "legalistic constitutionalism" (41). In this, these political scientists bring us toward a political sociological dimension of constitutionalism filled with questions about the origins of legal power and the identities of lawmakers. Not only does process matter, they show us, but popular participation matters most when it occurs earlier in the process. Recognizing that formal constitutionalization nearly always moves in three stages – from

convening, to debating, and then ratification – this study rejects approaches that have,

"emphasized - even romanticized - referendums, which often take place only in the final stages

of ratification" (51). Instead, it is popular participation in constitutional convening that

significantly predicts democratization. Social movements matter.

Of course, when movements matter they do so under circumstances not entirely of their own

choosing. Context also matters. Chapter 3 of Constituents before Assembly identifies the

alternative paths by which constitutions are made. The book presents the question of whether

each of the "convening," "debating," and "ratification" stages are "popular," "imposed" from

above, or "mixed" in the context of the type of regime in place prior to constitutionalization,

whether democratic, personalist, single party, military, monarchic, or mixed non-democratic.

This added complexity results in the identification of multiple pathways of constitutionalization.

It also reveals that popular participation occurs and is effective under diverse regime types. This

revelation the authors explain through a statistical analysis in which they treat "process" as the

dependent variable and regime type, political openness, executive power, and various economic

and ethno-heterogeneity indicators as predictors. What contributes most to a more participatory

process, they show, is the exercise of popular muscle through strike action and votes for the

opposition party in the leadup to constitutional convening.

At this point it would be reasonable to have gotten the mistaken impression that *Constituents

before Assembly* is uncritical in its celebrations of popular constitutionalism. Not so. Beginning

with Chapter 4, Eisenstadt, LeVan and Maboudi argue that while the democratizing effects of

participatory constitution-making take hold across a "broad range of regimes and regions," (87)

the process of constitutionalization is always contested. Established players – whether leaders in

personalist regimes, monarchs, or elites in military juntas, one party states, or democratic

republics – usually attempt to use the constitutional change as a legitimation process. This works better in some contexts than others, and it works more often (though not always) where authorities are able to impose and channel the convening, debating, and ratification of constitutions. But even in cases where popular movements succeed in instigating and driving the debate, it remains a debate in which repeat players have certain structural advantages.

What this all means, the authors argue in their final chapters through discussions of a wide range of cases, is that to truly succeed, popular movements cannot at any point withdraw from the field. Instead, they must seek, "structured participation directed into specific proposals at constituent assemblies" (115). Further, such structured participation requires mediation. This requires that, "constitution-drafting from below is not simply about social movements; it is about prompting social movements to ally (and trust) intermediaries," such as interest groups, political parties, and legal organizations (115). As simple "expressions of popular sentiment," (141) social movements on their own lack the capacity to bring their sentiments into constitutional articulation.

For me, these last points raise two criticisms. The lesser criticism is that Eisenstadt, LeVan, and Maboudi fail to engage effectively with social movement theory. They admit as much in explaining that their attempts to use social movement theories in their research proved unfruitful. Their frustration is understandable given that theories of contention (e.g. political process, resource mobilization) – the theoretical tradition whose major works they cite – have limited utility for explaining the decisions and practices of millions of individuals who decide to seek systemic changes that alter the very rules under which contention takes place.

This leads me to return to the mirror concern I have already raised in this thesis – that the field of social movement studies has yet to effectively articulate what it has to offer scholars of

structural change. By bringing forward the contributions of research conducted in the traditions of identification and praxis and making them as visible as the canon of contention theory, we put all our tools on the table. Using those tools, we can begin to describe empirically how activists in movements structure their own future interventions in convening, debating, and ratifying constitutions, as was classically the case in South Africa over the course of 40 years with the African National Congress, the Freedom Charter, and the Constitution of 1996.

When *Constituents Before Assembly* was published I experienced conflicting emotions. I was disturbed and elated. Their work meant that someone else had already completed the research I had only just proposed for my dissertation thesis. They beat me to print. Yet on reflection, I realized that this also meant that that my work might be regarded as more legitimate, and that I could build off their work. I wrote a review of their book for the *Law & Society Review* (from which much of the preceding text is drawn (Manski 2018)) and on my next visit to Chicago, I met with Tofigh Maboudi. Maboudi is not only a co-author of the book, he also has contributed further studies that highlight the importance of inclusivity in constitutionalization (Eisenstadt and Maboudi 2019, Maboudi 2020).

Notably, Maboudi is one among a growing number of generally younger professors leading parallel efforts in different fields to rigorously analyze the relationship of democracy movements and constitutionalization. Like many of them, his work is an outgrowth of the 2006-2011 wave of democratic revolutions and uprisings. And like him, others of this generation have found that approaches to constitutionalization that empower elites and limit or exclude the popular classes tend to produce self-dealing, undemocratic institutions, and all told, constitutional inefficacy (Sultany 2018, Corrales 2020).

The work of this new generation also takes lessons from the many case studies of democratic constitutionalism published in the wake of the global constitutional wave of the 1980s-90s. What are some of those relevant lessons? The Polish example showed that an more active constitutional culture delivers social progress, writes Ulrich Preuss, arguing that "Society is constituted when it must constantly confront itself in suitable institutional forms and in normatively directed processes of adjustment, resistance and self-correction" (1995, p109). A study of Canadian social movements found that they engaged in the Charter process because they recognized this to be true, seeing material gains flowing from the legal-cultural struggles of constitutional deliberation (James 2006). And indeed, in the South African case, the Constitutional Assembly process produced not just a new constitutional document but a new South Africa altogether (Klug 2017).

Other scholars of social movements, social history, and deliberative democracy have reached similar conclusions, it should be said. For instance, echoing studies that found that the "failure of the ERA" to win ratification by 1982 was mitigated by the many state-level statutory and constitutional changes, institutional reforms, and cultural shifts that occurred through the ERA campaign, a recent study of the 1920s global movement to outlaw war through a "Peace Pact" (the ill-fated 1928 Kellogg-Briand Pact) contributed a great deal to the advancement of a global constitutionalism of human rights and collective security as well as the eventual adoption of the UN Declaration of Human Rights (Hathaway and Shapiro 2017). It was the process of putting forward a new normative framework and articulating a clear vision for a new order that mattered. Similarly, an analysis of the women's movements in the U.S. and Switzerland found advantages from the comparably greater use of the initiative process in the United States (Banaszak 1998). By taking suffrage to the ballot, women and their male allies were able to challenge prevailing

43

norms, build larger coalitions, and gain their sought political outcomes much sooner. Finally, in a series of intriguing recent studies, Ali Kadivar and Adaner Usmani have argued that their findings show that the most powerful predictors of long-term democratization are the temporal duration of pro-democracy mobilizations in the years prior to a transition (Kadivar 2018, Kadivar et al 2019) and the overall disruptive capacity of the working class (Usmani 2018).

Two messages that ring clearly through each of these studies. First, more popular participation in constitutionalization produces more democratic outcomes. Second, limiting participation not only results in less democratic outcomes, it also produces ineffective constitutions and unstable regimes. Those seeking democratization should take note.

Sociologists should also take note. And finally, they are. There is now a small international field that its founders describe as "Sociological Constitutionalism" or in the alternative, a "Sociology of Constitutions" (Galligan and Versteeg 2013, Blokker and Thornhill 2017a). This is a field so new that when I began my graduate studied in 2013, it did not yet have a name. The construction of a sociology of constitutions matters to this thesis because it provides a multi-level, historical, open system approach to studying constitutionalism. Such a take on constitutional studies stems from the conviction that, "constitutionalism without social science is an arid enterprise" (Hardin 2013). Textual, legalistic, and narrowly political approaches miss far too much of what constitutions actually are: They miss constitutionalism in action. And merely descriptive and/or theoretical accounts of popular forms of constitutionalism can only be, at best, suggestive.

How should a sociologist approach constitutionalism? And more to the point, what can we gain from such an approach? In introducing the *Social and Political Foundations of Constitutions*, Denis Galligan and Mila Versteeg identify four conceptualizations of what

44

constitutions are. They may be understood as expressions of values; as representations of underlying power relations; as coordinating devices that bring institutions into alignment with popular needs; or as contracts (2013).

Each of these theoretical perspectives are inclusive of relationships that operate across all levels of social life. For instance, constitutions as expressions of normativity can be understood as articulations of personal, collective, institutional, and societal values (King 2013). Similarly, constitutions may serve not only an expressive function but also a legitimation function, providing a master frame that at once explains, channels, and motivates collective behavior. In both cases we might say that constitutions and constitutional projects perform identification tasks.

Coordination theory follows from Hobbes (of all people) in accepting the notion that there are two constitutional conventions operating at all times – a convention of the government and a convention of the people (Hirschl 2013). Most of the time these conventions do not appear in previously noticed physical gatherings. They are not mass meetings on French tennis courts, in Philadelphian union halls, outside Polish dock facilities, at South African sport stadiums, or in occupied public squares and plazas. Instead they are informal and highly dynamic collective sensibilities about how society should be organized and governed. When the convention of the people is in relative coordination with the convention of the government, the government is permitted to do all kinds of "ancillary things" by virtue of popular "acquiescence" (Hirschl 2013 at 59). When that coordination falls by the wayside, rupture tends to follow – uprisings, coups, constitutional conventions, revolutions, civil wars, etc.. And when social rupture doesn't follow, the alternative is usually lawlessness and social degradation (Smilov 2013).

Another benefit to coordination theory is that it can help not only to explain rupture, but also where effective constitutionalism comes from. Where there is more regular and widespread participation of the popular classes in constitutional review and renewal, we will find constitutions whose provisions are more in keeping with the needs of the time, and thus, greater coordination between the people and the government (Galligan and Versteeg 2013).

Contractarian theory is of course the theory commonly associated with the republican revolutions of the first constitutional wave. Here, constitutions are social contracts not only between rulers and ruled, but also between different classes and groups, as well as between individuals and society. Tom Ginsburg agrees that while contractarianism has limited explanatory power it does have particular utility in accounting for the content of written constitutions, and therefore, for constitutional endurance (2013). Put another way, in the three-step process → content → coordination model introduced by Galligan and Versteeg, the middle step of "content" can be effectively explained by analyzing negotiations over constitutional drafting and meaning.

It must be said that the great democracy movements of history have always evidenced a quite sociological understanding of constitutions. This is so because, in Touraine's words, "Democracy is the political expression of a general tendency to recompose the world, and it affects every domain of social life" (1997, p.140). The radical democrats who organized the Committees of Correspondence in the North American British Colonies were engaged strategy of revolutionary constitutionalism (Jameson 1925). The Chartists of the 19th century United Kingdom likewise practiced a unity of movement and constitution. The long praxis of democrats and the very recent political sociological work of constitutional scholars lead in the same direction.

B. A Theory of Constitutional Movements and Movement Constitutionalism

Whereas with all social movements there is normative directionality – a mix of general impulses oriented around common values and toward more or less explicit common goals – what is particular to movement constitutionalism is the degree to which these collective normativities are made explicit. The movement comes together around the articulation of a constitutional project – a universal framework for the reordering of society – and movement activists apply their energies accordingly.

In the process, constitution becomes a verb. Whether once perceives a set of social relations as a structure or a movement is subjective, a question of whether those relations appear as relatively stable or in motion. A city can be a thing, or it can appear to come alive, depending on how one experiences it. Similarly, constitutions are usually experienced as relatively stable. As such, they are described as structures. But when people actively engage in redefining them, constitution becomes a movement for those people. And because constitutionalism is a qualitatively universalist project, constitutional movements have a tendency toward inclusion and growth. When they grow the subjective experience of constitutional movement becomes more generalized in the population.

This leads in turn to an increase and broadening in the application of force to the project of reconstituting society. A social movement can be defined as a collective application of human energies through the medium of society for the purpose of agitating and reconfiguring social relations toward common goals. Thus, a social movement is a wave. There is significant variation among different movement forms in their scope and intensity. When constitutional movements arise, they assemble broad coalitions out of diverse sectors of society. As a result, if successful, their effects extend far beyond formal law.

What this means practically, in terms a social movement scholar would readily understand, is that a constitutional movement is first and foremost a project of creating a master frame. Demands for amendment articulate goals of interest to many different sectors of society. Revolutionary constitutionalism explicitly articulates – through a document such as the South African Freedom Charter, the Regina Manifesto, or the Declaration of Seneca Falls – a vision for a new constitutional order. These demands and documents are prophetic articulations – prognostic frames that define future action and motivational frames that imbue that action with significance. The mobilization of energies through such a constitutional frame inevitably invites contention because constitutional enactment involves a realignment of the diagnostic frames through which broad sectors of society understand themselves.

A constitutional movement similarly is a project of constructing new collective identities. Amendments alter the whole, and change "who we are as a country," to borrow a phrase from a contemporary presidential campaign. Some amendments directly reconfigure who or what is a person entitled to rights and participation in governance. And revolutionary constitutionalism is always a project of redefining the societal whole – as instanced in the construction of "Charter Canadians" and the movement beyond "White Australia," both of which involved asserting new post-colonial national identities rooted in republican ideals.

The identification tasks performed through movement constitutionalism enable activists to marshal material resources from diverse sectors – organization, labor, capital, ideas – to exert power at all levels of society. These resources are what allow "the people" to exert what political scientists understand as "constituent power." Constitutional frames also allow popular movements to move beyond expressions of collective beliefs and institutional contention and develop into projects of systemic transformation. They do this not only through the wide

coalitions they enable, but also by providing a temporal structure of duration through which all kinds of daily activity takes place at all levels of society. Thus, constitutional movements might be thought of as powerful agents for the construction of a counterhegemonic block.

The necessary durability of constitutional movements is both a strength and a weakness. It is a weakness because to embark on building such a movement poses a daunting challenge to any rational person. In what used to be considered "normal times" in the United States – a period that turns out to have been exceptional and not the norm – most activists rejected constitutional amendment campaigns as too difficult and risky. But in times in which many decide that constitutional change is a matter of strategic necessity the logics change. Once begun, a constitutional project takes on a life of its own, and this long life provides a structure for the continuity of the movement through enactment, institutionalization, and beyond. The combination of movement continuity and institutionalization (the implementation of constitutional provisions), together with systemic cultural and structural changes wrought in the process of constitutionalization, produces a transformed constitutional order both functional and enduring.

Social movements operate at different levels of constitutional strategy at different times. They are not always revolutionary. They do not always seek amendments. And sometimes they are not even able to participate in institutional contention over constitution meaning and enforcement. But all movements are in some way constitutional – at the very least, they are expressive. The practice of movement constitutionalism involves a strategic ladder. In the People's Republic of China of the late 1970s, the most the mass uprising known as the Democracy Wall Movement could do was to publicly post articulations of democratic values. For much of the history of Great Britain, with no constitutional document to amend and demands

for a written constitution in abeyance, movement constitutionalism took the form of parliamentary and jurisprudential debate. And at other times and places mass movements arise that demand amendments, wholesale reforms, or new constitutions. As movements escalate their constitutional strategies, they access new capacities to bring society into alignment with their values and thereby democratize the constitution.

II. The Power of Constitutional Change

We should pay attention when tens of millions of Americans go to the polls and vote in favor of amending the U.S. Constitution. In the ten years since the Supreme Court ruling in *Citizens United v. FEC*, least 673 communities and seven states have adopted resolutions in support of the provisions of the We the People Amendment, which states that, "The rights protected by the Constitution of the United States are the rights of natural persons only," and that "The judiciary shall not construe the spending of money to influence elections to be speech under the First Amendment." Over 320 of these resolutions, including those in major cities like Los Angeles, San Francisco, Chicago, and Milwaukee as well at the state level in Colorado, Montana, and Washington, won adoption by a popular vote (Move to Amend 2020). Altogether, these resolutions cover a majority of the population of the United States.

The movement to overturn *Citizens United* is significant but it is not the only large scale constitutional reform effort in the United States today. The proposed Balanced Budget Amendment has won majority support in both houses of Congress in recent years. On January 27 2020 Virginia became the 38th state to ratify the Equal Rights Amendment, setting up the possibility that the ERA may soon become the 28th amendment (Alice Paul Institute 2020). In the years since the Supreme Court ruling in *Bush v. Gore*, voting rights and election reform advocates have united behind the proposed Right to Vote Amendment (Williamson and Wright

2020). And both at the state level and nationally a series of constitutional struggles have emerged over marriage, immigration, war powers, treaty rights, federalism, the rights of future generations, and much else (Manski 2015).

Popular constitutionalism has returned to the politics of the United States. In response to a widespread perception that some of our society's problems are the result of structural dysfunction, many Americans are looking for constitutional solutions. That some of these constitutional reformers espouse clashing political views only strengthens the impression of a generalized popularization of constitutionalism. And the energies and resources already invested toward achieving these new social movement goals suggest a belief that constitutional change is not only possible, but also, fruitful.

Are they right? Is that belief justified? This chapter contributes to a larger empirical study of constitutional change and democracy movements that asks when, where and how such movements are successful in achieving their goals, and about the long-term consequences of constitutional change for democracy. It is with this last question that this study begins. The question of *if* constitutional changes tend to be associated with democratization will condition the question of *how* those changes come about, and address skepticism as to *whether* popular movements should seek constitutional reforms in the first place.

This particular study relies the work of two separate projects, the Comparative Constitutions Project (CCP) and the Unified Democracy Scores (UDS), whose combined data make possible a crossnational longitudinal analysis of constitutional change and democratization over 66 years (1946 through 2012). From Zachary Elkins, Tom Ginsburg, and James Melton of the Comparative Constitutions Project we have data about constitutional events ranging from new constitutions and amendments to the suspension of constitutions. (Elkins et al 2009). And from

James Melton, Stephen Meserve, and Daniel Pemstein we have the Unified Democracy Scores, a probabilistic estimate of ten measures of democracy assembled using a Bayesian statistical measurement model (Melton et al 2014). In crossing the two measures we are left with 9824 complete observations from 243 countries.

A crossnational longitudinal analysis such as this one may be helpful in the absence of meaningful data about the recent effects of constitutional reform within the United States. Whereas state constitutions have undergone significant revisions over the past 40 years, the federal constitution has not been amended in a significant way since 1971. The experience of other nations may prove instructive.

What do we find? Across countries and across time, in the world economic core and in the wider periphery, constitutional amendments are strongly associated with democratization. The jury on new constitutions, on the other hand, is out. As a category, new constitutions appear to be negatively associated with democratization, yet our data does not distinguish between constitutions handed down from above and those created deliberately from below. Constitutional suspensions had a positive relationship with democratization; nearly all such suspensions occurred in countries that had little to no prior experience with democracy at the societal level. Finally, the presence of democracy was positively related to further democratization.

A. Concepts

> "Every age and generation must be free to act for itself, in all cases, as the ages and generations which preceded it. The vanity and presumption of governing beyond the grave is the most ridiculous and insolent of all tyrannies."
>
> ~ Thomas Paine (1791)

The spirit of radical democracy has long insisted that constitutions, laws, and institutions are instruments that should belong to the people of the present day, not to those of the past. Thomas Paine's rebuke of Edmund Burke in *The Rights of Man* made this case so effectively that it has

since become a talmudic text of democracy movements for the ages. Paine was hardly alone in his day. Thomas Jefferson, who called for a constitutional convention every 30 years and, "a little revolution from time to time," chastised the architect of the U.S. Constitution of 1787, James Madison that, "The earth belongs to the living, not to the dead." (Jefferson 1789)

Of course, on this question the views of Paine and Jefferson are not universally shared. Constitutional liquidity has long been feared and objected to by conservatives and liberals both. Conservatives cite the virtues of constitutional stability and slow refinement. Liberals often prefer gradual rather than rapid reforms in order to protect the rights of minorities against runaway populism. And as discussed earlier in Chapter 1, even some radical democrats question the advisability of investing resources in constitutional struggles.

For my purposes here I examine each of these critiques of active constitutionalism to draw from them concepts useful to understanding the relationship of constitutional change to democratic vitality. Additionally, I identify two distinct though related sets of arguments for active constitutionalism – processual democratization and substantive democratization. In delving briefly into an intellectual history of debates over constitutional change, I am looking for concepts that can be empirically operationalized and statistically evaluated.

Let us begin with the concept of constitutional stability, which holds that as the products of accumulated knowledge, constitutions are to be respected, not to be set aside or replaced. This concept is to be found both in conservative and in liberal legal-political traditions. For conservatives, following in the footsteps of Edmund Burke, reliance on tradition is a safeguard against opportunism and mobocracy – a way in which the wisdom of the past can protect the future against the vagaries of the present (Young 1993). On questions of constitutional change, therefore, new constitutions are to be avoided at all costs, constitutional amendments are to be

avoided wherever possible, and judicial review is to be preferred over popular review. For the embodiment of these principles, we need look no further than the U.S. Constitution of 1787, whose father, James Madison, replied to Jefferson that "permanent laws" were needed to guard against "anarchy" (Madison 1790).

For many liberals, gradual legal reform is also preferred over formal constitutional changes. For them, the risk of losing rights previously gained outweighs the potential for future gains involved in constitutional reform. Throughout U.S. history, any time a general debate arises over constitutional reform, inevitably an internal debate occurs among progressives as to whether the potential for gain in an Equal Rights Amendment, a Right to Vote Amendment, or going back in time – an amendment guaranteeing equal protection – is worth the potential resource costs and risks posed by reopening settled constitutional questions. For instance, in the weeks immediately following *Citizens United v. FEC*, Senator Russ Feingold argued that the movement to amend the Constitution to make clear that corporations do not have constitutional rights risked opening the Constitution up to mischief caused by anti-democratic forces. He suggested that progressives should instead pursue a court-packing strategy and legislative reform. It should be noted Feingold has since altered his position, and for eight years has supported a constitutional amendment. Yet the logic of his objections at the time remains present even if his read of likely outcomes has changed.

This brings us to our next perspective – one that is critical of majoritarian rule, watchful for the rights of minorities, and therefore, concerned with the question of constitutional justice (Allan 2003). Laws that are crafted and ratified by majorities and supermajorities may still deny rights to minorities. Should "the people rule" in circumstances where a particular form of popular rule denies rights and weakens democracy?

Daniel Martinez HoSang asked this question in this analysis of the historic use of ballot measures in California to deny services to undocumented immigrants, strike down affirmative action laws, and ban bilingual education (2010) While not primarily an examination of constitutional reforms, HoSang's analysis is applicable here. He argued that the direct democracy discourse that surrounds state ballot initiatives relies on populist notions of togetherness that fade into color blindness and "political whiteness." There come times when the idea of "the people" becomes antagonistic to acknowledging differences and inequality among people.

Importantly, political whiteness is only one, more modern side of this problem. Overt white supremacy is the older, other side. When citizens codified Jim Crow in their state constitutions, statutes, and local ordinances, they did so with voting majorities. Similarly, in a parallel arena, campaigns in the late 1990s by anti-gay groups to use ballot measures to amend state constitutions to ban state recognition of same sex marriages involved the invocation of majority rule to deny basic human rights to particular minorities.

While conservatives and liberals often see constitutional reform as unwise and potentially dangerous to democracy, others may see constitutionalism as relatively unimportant and beside the point. This brings us to our third type of consideration of constitutionalism – that which primarily understands constitutions as expressive literature, aspirational or otherwise.

How important are constitutions, really? Certainly, some constitutional changes are imposed from above. When Kim Jong-il of North Korea decided it was time for a new constitution, (and to name the constitution for his deceased father, Kim Il-sung), that signified the beginning of a new leader; the new constitution did not effect meaningful changes in North Korean society (Yoon 2003).

Yet what of constitutions that are constructed with the active participation of large sections of a society – do they change people's lives in meaningful ways, or should they instead be understood to serve primarily as signifiers of the existing order of things? For instance, the current Colombian and South African constitutions both are casebook examples of documents that were the deliberative work of many voices. Yet some have contended that after these constitutions were enacted, the Colombian death squads still held the guns and the South African white elite still owned the country (Morris 2010).

There is much to challenge the idea that constitutional change tends *a priori* toward democracy. Proponents of constitutional stability, concerns over constitutional justice, critiques that see constitutionalism as merely expressive literature, or worse, as dehumanizing statism – these all deserve further exploration. Yet for my purposes here they have given me concepts for for empirically evaluating constitutional change against the promise of democratization.

Before I turn to my statistical analyses, I have two more concepts to identify. These I have synthesized from the canon of radical democracy. While they argue in favor of popular constitutionalism, they are no less useful – and indeed may prove more useful – to the project before us.

Democratic constitutionalization refers to the process of constitution-making, and specifically, to those constitution-making processes that are more participatory, inclusive, and therefore, democratic (Crum 2012, Maboudi 2020). I think that this concept, while useful, is too broad for my purposes here, for I am interested not only in identifying the characteristics of the constitutional process as it happens, but more so, in its results. A single process may produce different types of democratic outcomes; some may flow from the constitution-making process itself, and other may be products of the constitution and its attendant institutions that emerge

56

from the process. The former type I call processual democratization; the latter I refer to as substantive democratization.

In investigating the degree of processual democratization I examine the extent to which a particular constitutional process produces social and political dynamics that in and of themselves enliven democracy. The process may do this in part by building a societal "community of trust," that characteristic Charles Tilly tells us is critical to democratization. The process may also build a sense of legal consensus, such that the people own the law, honor the law, and in so doing, ensure greater social stability – that characteristic that Edmund Burke and conservative theorists find important to improving the human condition. The process may prove effective in that it brings the law into concord with current needs such that the people consider the constitutional framework to be well-fitted for the times and therefore legitimate and worthy of their participation (Williams 1991). Finally, the process may offer a check on elite power, restraining sitting authorities, whoever they may be, by keeping them on notice that their power is subject to popular review (Morris 2008).

In considering the degree of substantive democratization, I am interested in the degree to which a substantive change to a constitution is in and of itself a step toward greater democracy, asking how much that change brings the law into confluence with the will of the people, which is itself the very essence of democracy (Williams 1991), creates the most "advanced" distribution of rights such that people materially experience the most democracy possible (Evenson 1994), and strengthens democratic culture by establishing norms for equitable social interaction (Morris 2010).

Although some of these ideas may seem quite similar (e.g. popular needs versus popular will), and others may be questionable (e.g. the idea of social progress inherent in the idea of the

advancement of rights), the basic distinction between processual and substantive democratization is important. Most people when they think about constitutional change tend to focus on the substantive aspects: the institutions, the jurisprudence, the statutes, and other changes that follow from constitutional reform. But it is the processual aspect of constitution-making that I suspect may prove most essential to explaining the relationship of constitutionalization to democracy. Even if all the critics of constitutional change are right – that such change is too risky, or not substantively meaningful, or not capable of fully ameliorating the dehumanizing characteristics of any constitutional framework – it may still be the case that the process of popular engagement in constitutional change produces gains that outweigh all other costs.

B. Data

My composite dataset provides 9824 complete observations of constitutional changes and democracy in 243 countries over 66 years, from 1946-2012. My unit of analysis is the country-year and my predictor variable is the type of constitutional event that defined that country at year end. The data I adopted for this predictor variable, courtesy of the Comparative Constitutions Project (CCP), provides six alternate and exclusive values for constitutional event: New Constitution, Amendment, Interim constitution, Reinstatement of the constitution, Suspension of the constitution, and finally, no formal constitutional change at all. The CCP constitutional change data extends back to the 18th century (Elkins, et al 2009). My analysis involves a subset beginning with 1946 and reveals that while the absence of constitutional change predominated over the latter 20th and early 21st centuries, constitutional amendments (N=1872) and new constitutions (N=414) were not uncommon (See Table 2, below).

TABLE 2: Overview of Constitutional and Democratic Change in 243 Countries, 1946-2012

		N	%
Unit of Analysis: *Country Year*	*Country Years* 9824 Countries: 243 Years: 1946-2012		100
Directional Change in Democratic Vitality (UDS)	*Positive change over 1 year* 5006 (of 9647) [a]		51.9%
	Negative change over 1 year 4641 (of 9647)		48.1%
	Positive change over 5 years 4941 (of 8858) [a]		55.8%
	Negative change over 5 years 3917 (of 8858)		44.2%
	Positive change over 10 years 4733 (of 7881) [a]		60.1%
	Negative change over 10 years 3148 (of 7881)		39.9%
	Positive change over 20 years 3963 (of 5958) [a]		66.6%
	Negative change over 20 years 1991 (of 5958)		33.4%
Constitutional Events Worldwide (1946-2012)	*New Constitution* 414 (of 9824) [a]		4.2%
	Amendment 1872 (of 9824)		19.1%
	Interim Constitution 68 (of 9824)		0.7%
	Reinstated Constitution 28 (of 9824)		0.3%
	Suspension of Constitution 61 (of 9824)		0.6%
Position in World System	*Core/Semiperiphery* 2093 (of 9871) [a]		21.2%
	Periphery 7778 (of 9871)		78.8%
Periodization	*Post World War I (1946-1954)* 712 (of 9871) [a]		7.2%
	Post Cold War (1988-2012) 4467 (of 9871)		45.3%

a. *Missing data accounts for variation in N values for different variables.*

If deliberative constitutional reform processes tend to produce more democratization rather than less, we should see evidence of improvements in the democratic vitality of a society in the aftermath of constitutional amendments and some new constitutions. Therefore, our dependent variable is a country's democratic vitality in the years following a particular constitutional event. Democratic vitality is indicated here by the Unified Democracy Scores (UDS), an indicator constructed by James Melton, Stephen Meserve, and Daniel Pemstein out of ten measures of democracy, most based on Dahl's conceptualization of democracy, each with its

own strengths and weaknesses (Pemstein et al 2010). Table 2 gives a sense of the overall strengthening of democracy in the years studied, showing the general directional change in UDS over 1 years, 5 years, 10 years, and 20 year periods.

Additionally, I consider whether a country's position near the so called "core" or "periphery" of the global political economy makes a significant difference in terms of constitutional effects. I have used one often cited world systems model to group our countries as Core/Semiperiphery versus Periphery (Chase-Dunn et alia 2000). This distinction is intended to account for some differences in political and economic stability. In my dataset, core and semiperiphery countries account for 2093 country years, while countries of the periphery account for the large majority of cases, with 7778 country years.

As conditioning variables, I employ the UDS for year zero of the triggering constitutional event as well as the constitutional event year and year squared. I also include variables for constitutional events that took place in the years immediately following World War II (1946-1954) and in the years following the end of the Cold War (1988-2012), believing that those two periods in world history may have involved types of internal constitutional processes, external pressures, and general democratic ferment somewhat dissimilar to those of the intervening years of the so-called height of the Cold War from 1955-1987. The post-Cold War period involves a much larger set of observations (N=4467) as compared to the post WWII period (N=712).

C. Findings and Analysis

Where constitutional amendments go, democratization follows. A long-term positive association between a constitutional amendment and democratization appears consistent. Employing four separate regression models, as shown in Table 3, we find that one year after a constitutional amendment, we see an associated UDS increase of .0109, over five years, the

increase has become .0306, and by year 20 the increase is .0472. Considering that UDS scores generally range between -2.5 and 2.0, and considering also the mass scale of the social interactions implicit in each of the various Dahlian democracy measures that the UDS considers, a UDS change of .0472 is something significant (See Table 2, below).

TABLE 3: Four Multivariate Regression Models of the Relationship Between Constitutional Change and Democratic Vitality in 243 Countries, 1946-2012

	UDS 1 Year Later [b]	UDS 5 Years Later	UDS 10 Years Later	UDS 20 Years Later
New Constitution	.0288** (.0095) [a]	-.0641*** (.0196)	-.1066*** (.0256)	-.0834* (.0350)
Amendment	.0109* (.0049)	.0306** (.0104)	.0288* (.0139)	.0472* (.0201)
Interim Constitution	.0240 (.0227)	.0426 (.0476)	-.0220 (.0640)	-.0241 (.0852)
Reinstated Constitution	.0502 (.0353)	.0761 (.0716)	.0201** (.0926)	.0682 (.1236)
Suspension of Constitution	-.0267 (.0240)	.1464** (.0492)	.1772** (0630)	.0786 (.0821)
UDS in Year of Constitutional Change	.9818*** (.0021)	.9252*** (.0043)	.8769*** (.0058)	.8028*** (.0082)
Post World War II	.0456*** (.0117)	.1918*** (.0243)	.2670*** (.0331)	.2312*** (.0492)
Post Cold War	.0255*** (.0080)	-.0297 (.0178)	-.1714*** (.0261)	-.2759*** (.0381)
Year of Constitutional Change	.0039*** (.0007)	.0160*** (.0016)	.0231*** (.0026)	.0292*** (.0051)
Squared Year of Constitutional Change	-.0001*** (0.0) [c]	-.0001*** (0.0)	-.0001*** (0.0)	.0002* (0.0)
Constant	-.0711*** (.1234)	-.2875*** (.0269)	-.3996*** (.0393)	-.3784*** (.0662)
Number of Observations	9624	8837	7865	5,949
R squared	0.9638	0.8453	.7690	.6435

a. Values in parenthesis = Standard Error   b. Score after 1, 5, 10, or 20 years of Unified Democracy Scores (UDS), an indicator of democratic vitality.
*c. Standard error approaching 0   * p ≤ .05   ** p ≤ .01   *** p ≤ .001*

Amend? Perhaps. Replace? This analysis raises questions. New constitutions may show a positive association in their first year, but that association becomes negative from there on out, declining by .1066 by Year 10 and then leveling a bit to negative .0834 in Year 20.

The divergence between amendments and new constitutions exposes a potentially critical element not yet accounted for in our model: the processual aspects of constitutional change. Implicit in constitutional amendment is some level of deliberation and participation, regardless of the extant political system. Yet new constitutions tend to come in more widely ranging set of forms and circumstances. When we count a new constitution, it is not enough to merely say there is one. We need to count the number of hands involved in writing it, and to account for the ways in which constitutions are written and ratified. One case of constitutional reform might signify instability, or autocratic fiat; another might represent the transition from a racial warfare state to a pacifist pluralist republic. To answer the specific question of the relationship between new constitutions and democracy, we will want to know about the relative stability of a society before, during and after the formation of the new constitution. We will want to know about what the constitution means for different groups of people. We will want to understand the nature of the constitutional reform process in terms of who drives it and how it is conducted. We will need to identify the substantive impact of the new constitution. Altogether, these questions form the basis for deeper inquiry, imagining variables we might employ in a comparative historical analysis. Drawing from our earlier discussion, we might identify these variables as *stability* (social stability v. social rupture); constitutional justice (distributed impacts v. specific impacts); substantive democratization (aspirational v. fully enacted), and various measures of processual democratization (initiated from below v. imposed from above; popular participation v. elite controlled). For one possible broad typology of processes of constitutional reform, see Table 4.

TABLE 4: Types of Constitutionalization

HOW PRODUCED	EXAMPLES
Political Rupture	S. Africa (1990s), Czech (1990s), Tunisia (2010s)
Oligarchic Retrenchment	United States (1780s), Chile (1980s)
Authoritarian Retrenchment	Saudi Arabia (2000s), Libya (1990s)
Resolution of Civil War	Colombia (1990s), Costa Rica (1940s)
Post-war Occupation	Germany (1940s), Japan (1940s)
Deliberative Transition	Canada (1980s), Iceland (2010s)
Transnational	UN (1940s), EU (2000s)

A return to our earlier regression analysis brings out two additional findings which each, in contrary ways, reinforces the need to both dig into our crossnational data and to go further, into case analysis. First, the apparent association between constitutional suspension and democratization is, at first blush, troubling. As shown in Table 3, though at first the relation is negative, by Year 10 the suspension of a constitution appears to be positively correlated with democratization at .1464 UDS. As with the correlations involving amendments and new constitutions, the association between suspension and democratization has a high level of statistical significance.

Some might think that perhaps there is a breakdown between countries of the core and the periphery which might explain the apparent (and unexpected) democratic goodness that flows from constitutional suspension. Yet two separate regression analyses - one run on countries of the core/semiperiphery, the other on countries of the periphery - revealed no such disparity. Neither did treating the core, semiperiphery, and periphery as conditioning variables in a single regression. Rather than show the details of those inconclusive analyses here, I instead have included Table 5 to show the overall trajectory of democratization in the core/semiperiphery

versus the periphery in relation to each type of constitutional change. As we can see, almost all the action in the suspending of constitutions has taken place in the periphery, with only one case appearing in the core and semiperiphery countries. It seems possible that the suspension of a constitution in some countries signifies a turn away from an unworkable prior regime.

TABLE 5: Constitutional Change and Positive/Negative Changes in Democracy (UDS)
as considered by Position in World System (core/semiperiphery v. periphery)

	1 Year Later: Direction of UDS Change				5 Years Later: Direction of UDS Change				10 Year Later: Direction of UDS Change				20 Year Later: Direction of UDS Change			
	Core/ Semiperiphery		Periphery		Core/ Semiperiphery		Periphery		Core/ Semiperiphery		Periphery		Core/ Semiperiphery		Periphery	
Event	+	-	+	-	+	-	+	-	+	-	+	-	+	-	+	-
New Constitution	11	20	193	171	15	16	222	158	17	14	193	171	14	14	175	172
Amendment	337	295	623	512	352	246	634	579	327	221	623	512	263	148	588	427
Interim Constitution	1	2	39	22	2	1	40	25	2	1	39	22	2	1	31	23
Reinstated Constitution	2	1	18	7	1	2	13	12	2	1	18	7	2	1	15	9
Suspension of Constitution	1	0	36	23	1	0	33	27	1	0	36	23	1	0	45	13
No Change	718	668	2925	2340	724	568	2982	2843	745	437	2925	2340	700	302	2777	1822
TOTAL	1070	986	3834	3075	1095	833	3924	3644	1094	674	3834	3075	982	466	3631	2466

Our other unlooked for yet perhaps unsurprising finding from our multiple regression analysis is that democracy begets democracy. Turning back to Table 3, we see that the UDS for Year 0 (when the constitutional event occurred) has a highly statistically significant .98, .92, .88, and .80 positive correlation with the UDS at Years 1, 5, 10, and 20, respectively; (and the inclusion of the Year 0 UDS as a conditioning variable almost certainly has a lot to do with the extremely high R squared values in these models). Our analysis gives at the least the impression of a democratic teleology – a democratic spiraling that runs counter to all kinds of conventional wisdoms.

Finally, because our primary interest in this research is related to constitutional reform efforts in the country that is located at the core of the world system – the United States of America – let's turn to the other side of the constitutional change timeline. Table 6, below, shows the results of a multinominal logistic regression analysis of the relative likelihood that a particular type of constitutional change event will occur over time in the countries of the core and semiperiphery as opposed to the countries of the periphery. Here, as earlier in our analysis, constitutional event is a categorical variable.

TABLE 6: MULTINOMIAL LOGISTIC REGRESSION ANALYSIS of RELATIVE LIKELIHOOD of CONSTITUTIONAL CHANGES in COUNTRIES of the CORE & SEMIPERIPHERY and OVER TIME

	Core & Semiperiphery	Year [a]	Constant
New Constitution	*- 1.258* (0.1907)[b] ***	*- 0.0270* (0.0028) ***	*- 1.7881* (0.1049) ***
Amendment	0.7995 (0.0578) ***	0.0002 (0.0015)	*- 1.5895* (0.0662) ***
Interim Constitution	*- 1.7927* (0.5935) **	*- 0.0233* (0.0068) ***	*- 3.6791* (0.2536) ***
Reinstated Constitution	*- 0.8456* (0.6167)	*- 0.0244* (0.0105) *	*- 4.5975* (0.3934) ***
Suspension of Constitution	*- 2.9093* (1.010) **	*- 0.0368* (0.0073) ***	*- 3.3494* (0.2445) ***

*a. Where 1946 is Year 0   b. Values in parenthesis = Standard Error   Pseudo R² = 0.0287   * p ≤ .05   ** p ≤ .01   *** p ≤ .001*

This analysis reveals the greater stability of the countries of core and semiperiphery as opposed to the periphery, with new, interim and suspended constitutions proving much less likely in the core and semiperiphery countries. The one type of constitutional change which is more likely to occur in the countries of Europe, North America, and the advanced economies of the Pacific Rim is that which is also most common – the amendment – this having an 80% greater likelihood of occurring in any given country of the core or semiperiphery than in one of the periphery in any particular year. This finding is noteworthy considering our earlier

identification of the strong positive correlations between amendments and democratization. Finally, across all countries we're seeing that the probability of the more unstable forms of constitutional change is decreasing with each year; we can't tell whether amendments are more or less likely with each year as our analysis is not statistically significant where they are concerned.

What does all of this tell us? Perhaps that regular constitutional change is a healthy thing. Among our preliminary findings, those dealing with amendments are most telling. Amendments are the most common frequent form of constitutional change. Amendments are more likely to occur in the more stable countries of the world system than in those that are less stable. Amendments are strongly associated with greater short term and long-term democratization. With all this in mind, consider again the United States of America and think about how often the U.S.A. amends its own constitution and how it compares in this regard to other core countries. The data suggest that the United States might be harmed by their relative incapacity to engage in constitutional renewal. To borrow and modify a line from Robert F. Kennedy – perhaps those who make constitutional amendments impossible make more risky forms of constitutional reform inevitable.

D. Conclusion

This analysis sheds light on our research question, but only enough to illuminate the entrances to some of the many paths left to be explored. We can see that something important is happening here, and that when constitutions are changed the democratic vitality of a society is also impacted. There is an association, but we cannot fully see what the nature of that association is. To the extent we can infer causality that inference is limited to the case of constitutional amendments, where there seem to be democratizing effects. Even here, however, we should be

careful. Selection bias is inherent in any constitutional amendment; those amendments are, after all, at some level the products of collective decision-making, the very kind of selection bias that democracy prefers.

Furthermore, when we see democratization following constitutional reform, we are not yet in a position to parse out its contributing causes. How much of that democratic change is produced processually, how much is the result of substantive democratization, and how much is the independent product of the social movements, political upsurge, and general climate of cultural change that usually precede and accompany constitutional reforms? Without finding answers to those questions, we may not be able to effectively evaluate the degree to which constitutions are, at best, expressive literature, or, at worst, statist hindrances which merely appear to drive democratization when in actuality they coopt it.

Turning to our conservative and liberal critics of active constitutionalism, it may be that their concerns hold some validity despite the evidence of the positive association between constitutional amendments and democratization. After all, a society may become more democratic for a majority of its population yet do so at the expense of constitutional justice for all. And given the gradual democratization trend over the late 20th century it is fair to ask whether the relative observed gains associated with new constitutions are worth costs, be they economic, ecological, political, or otherwise, which may be present and yet are unaccounted for in our model.

Nonetheless, I have a lot to work with here if I want to take this analysis further. The Unified Democracy Scores offer measures of uncertainty, and my composite dataset uses nested data, and these could be incorporated into future modeling. Doing this would allow for more refined

and perhaps reliable results, for multilevel modeling, and for consideration of spillover and other indirect effects.

What has seemed most important, moving forward, is to account for the type of constitutional process involved (bottom-up or top-down), the extent to which a democracy movement was present in that process, the scale and the form of engagement of that movement if it was present, and the effects of pre- and post-event coups and other ruptures. My next immediate step on finishing the analysis presented here, was to identify specific cases for comparative historical analysis. Without a deeper study, we are left only with impressions of patterns of constitutionalism and democratization. To make this research truly useful to scholars and to practitioners both, we need to understand the processes that produce those patterns.

E. Next: A Comparative Analysis

So what then, is the answer – in times such as these that try the souls of democrats, is it more dangerous to pursue constitutional change, or is there a greater danger in avoiding it? Following my statistical analysis of constitutional change and democratization, I began a qualitative comparative study of constitutional revolutions. After 16 months of research, coding, and analysis, involving over 900 sources, that work is nearing completion. Here I share a very short summary of this work in progress.

Toward the end of the 20th century, many countries entered formal constitution-making processes. This wave of constitutionalization came about as part of a tumultuous reordering of the world system (Colón-Ríos 2010). Popular movements for democratization vied with authoritarian countermovements over the establishment of new national, regional, and global institutions. In Australia, Canada, and South Africa, long periods of popular constitutional struggle came to a head. In China, Saudi Arabia, Turkey, constitutionalization came quickly and

was imposed from above. In Iran and Poland, democrats allied and then fell out with authoritarian countermovements. In Brazil and Spain, democrats controlled the constitutional field and set much of the agenda.

Much of today's world is defined by constitutional crises and demands for structural reform. In the United States, widespread concern over presidential, judicial, and corporate power have fueled a series of popular mobilizations for constitutional change. In Europe, the fates of the European Union, its constituent states, substates, and regions are swept up in a maelstrom of movements and countermovements. On five continents, national constitutions are tested or broken by authoritarian movements and regimes. And globally, the climate crisis has forced the question of climate governance onto the terrain of global constitutionalism. There is great uncertainty and worry in this new period, and many are searching for new forms of order. What can we learn from the last period that might prove useful today? In facing today's constitutional crises, what can democrats do, and what should they do?

My current work relies on a comparative analysis of the 11 major countries that engaged in formal constitutionalization between 1974 and 2001. These include Australia, Brazil, Canada, China, Iran, Poland, Russia, Saudi Arabia, South Africa, Spain, and Turkey, each at the time a top-30 GDP country of population greater than 15 million. Because of their scale and prominent positions, these countries have greater relevance to countries and regions of the world core currently engaged in debates over democracy and constitutional change, particularly the United States and Europe.

My main finding is that agenda-setting matters: Democracy movements that prioritized demands for constitutional change came away with much more democratic outcomes than movements that were less prepared for constitutional tumult. The study provides models for

explaining four types of outcomes, among them the level of democratic participation in the constitutionalization process, the democracy movement's success in getting its agenda inscribed in a new constitution, the movement's success in getting its constitutional agenda substantially enacted, and the democracy movement's fate post-constitutionalization. To explain these outcomes, this study considers the scale of the democracy movement itself, the presence or absence of an authoritarian countermovement, movement unity and countermovement unity, the constitutionalist politics practiced by the democracy movement, whether the movement operated above or below ground, the duration of the constitutional struggle, the level of ethnolinguistic fractionalization, the country's past history of constitutional change and rupture, and other potentially causal conditions.

In general, we find greater democratization:

> (a) when democracy activists articulate a more comprehensive agenda for constitutional reform;
> (b) when democracy movements operate at a mass, systemic scale;
> (c) when the formal constitutionalization process is more participatory; and
> (d) when democrats participate in constitutional struggles over a longer period.

Individually and in combination, these are necessary conditions for both formal and substantive constitutional democratization. Furthermore, the absence of these conditions accounts for most cases of failure. Taking lessons from both social movement studies and constitutional studies, I argue that when a democracy movement involves large numbers of people in the construction and articulation of a clear constitutional agenda, it deploys a constitutional master frame that redefines the political situation, the constitutional process, and the society's historical trajectory, as well as the movement's own collective identity. The South African Freedom Charter is one classic example of such revolutionary constitutionalism. The practice of revolutionary constitutionalism also contributes to a more participatory

70

constitutionalization process, as was the case not only in South Africa, but also in Brazil, Canada, Poland, and Spain. In turn, such participatory processes offer greater political opportunity for ethnonational and racial groups, women, poor people's movements, and other marginalized groups to not only seek inclusion but also to reconstruct a country's collective identity. An important result is greater coordination between the substantive social constitution and the formal political constitution. This promotes greater trust and political legitimacy, government and societal function, and constitutional endurance.

III. The Case of the USA: Movements in History

"We have every opportunity and every encouragement before us, to form the noblest purest constitution on the face of the earth. We have it in our power to begin the world over again."
~ Thomas Paine, Common Sense

Movements for constitutional reform have risen across the United States. Tens of millions of Americans have signed on to the proposition that the federal constitution should be changed. The idea that 21st century understandings of human rights and democracy should be inscribed in our basic law has been moved from the margins to the mainstream. But what would it actually take to modernize the U.S. Constitution?

This question may seem like a technical one. There are well-known and lesser known formal procedures for achieving constitutional change. But the law in action is never limited to the specifics of formal procedure (Galanter 1966, Sutton 2001). If we really want to know what it would take to drive human rights into our basic law, we must dig deeper and turn to the past experience of social movements for constitutional reform. What can we learn from that history about the obstacles that face advocates of human rights and democracy today in their efforts to amend the Constitution, and how might those obstacles be overcome?

In taking on these questions, we will find that constitutional change is not merely a matter of formal legal procedure or political contention. Constitutionalism is a social movement form. Constitutionalization is a social change process. Those who wish to sanctify and give life to human rights in the basic law of the United States must struggle with the challenges faced by constitutional reform movements that are particular to American society.

A. Constitution Making 101

What appears here in this chapter I produced in a slightly different form for a book edited by leading sociologists of human rights (Iyall Smith et alia 2017). I argue in this chapter that if we wish to learn whether faith in constitutional reform might be justified as a means toward securing human rights, we can begin in familiar territory by looking to the procedures through which people have changed the U.S. Constitution in the past or could change it in the future. Constitutional change is intrinsically procedural. Procedures for constitutional reform range from more formal to less formal, from amendment to constitutional convention to various forms of constitutional review. At the same time, we should not let any dry associations we might have with the word "procedure" fool us. Most of the significant changes in the constitutional history of the United States have followed and helped produce great social rupture. Constitutional change is rarely anything other than revolutionary.

The amendment process is the most familiar procedure for constitutional reform. Article V of the U.S. Constitution provides for not one but two formal paths toward amendment.[1] The first of these is amendment initiated by Congress. Here the process begins when one or more members of Congress propose an amendment resolution. For ratification, the amendment must first win a vote of two thirds of the members in each chamber of Congress. Then it must secure the support of the legislatures of three quarters of the states.

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[1] "The Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three fourths of the several states, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the Senate." U.S. Const. art. 5.

Every change to date to the text of the federal constitution has been the direct result of amendment by this familiar process. Yet some important amendments have actually occurred in response to the probability of implementation of the second constitutional amendment process, that of the constitutional convention initiated by the states.[2] Here a state legislature begins the process by adopting a resolution calling for a national constitutional convention and specifying the purpose and scope of that convention. Once two thirds of the states have adopted such a resolution, Congress is charged with convening a convention. Any amendments to the Constitution proposed by that convention must then, again, secure the ratification of three quarters of the states.

Constitutional review is the less formal and much more commonplace set of procedures through which various political actors have changed the federal constitution.[3] In the process of constitutional review, the text of the Constitution remains unchanged, yet the meaning of that text is reinterpreted by the federal courts, Congress, the president, or the people of the United States. This is deeply problematic, for as we shall see, the practice of constitutional review is dominated by elites concerned more with enlarging the role of the state than with the protection of human rights.

When the federal courts engage in constitutional interpretation, this is called judicial review. The Supreme Court of the United States and its lower courts have engaged in so much judicial review that much of what Americans believe themselves to understand about their

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[2] For instance, the 17th Amendment, providing for the Direct Election of Senators, was adopted by Congress in order to avoid a probable constitutional convention.

[3] Constitutional review is sometimes described as an *informal* process of constitutional change; this is simply wrong. Consider that when courts, legislatures, and executives interpret the Constitution, they do so according to well established sets of procedures. They generally record their decisions, intending them to be read and relied upon by others. Only popular review might be understood today to be informal in character, and even there we find a historical tendency toward formalism, with great efforts made to record the proceedings and decisions of mass meetings, public votes, and the like.

constitution has actually been the product of court decisions. When the Constitution said that

Black people were, "so far inferior that they had no rights which the white man was bound to

respect," that was the Supreme Court of *Dred Scott*, not the text of the Constitution, that was

speaking. And when forty years later the Constitution said that "separate but equal" was

consistent with the principles of equal protection – and then again 60 years later still, when the

Constitution changed its mind and said that "separate" was "inherently unequal" – in each case it

was the Supreme Court that was speaking.

Americans have become so accustomed to hearing the voice of the Constitution come

from the robes of the Court that the process of constitutional review has become subsumed

within the doctrine of judicial supremacy. But judicial review and judicial supremacy are not the

same thing; the former was contested and the latter was anathema for much of U.S. history

(Kramer 2004). In his first inaugural address in 1861, Abraham Lincoln spoke for a dominant,

republican critique of the notion of judicial supremacy:

> *"The candid citizen must confess that if the policy of the Government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court, the people will have ceased to be their own rulers, having to that extent practically resigned their Government into the hands of that eminent tribunal."*[4]

Lincoln's criticism of judicial supremacy remains a vital force in debates over

constitutional review to this day. Political scientists and legal scholars have long debated what

Alexander Bickel termed the "counter-majoritarian difficulty" (Martens 2007) and what Jamin

Raskin more recently described as, "reading democracy out of the Constitution" (2005). The

Supreme Court of the United States, an elite body if ever there were one, has more often

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[4] As appears in Kramer 2004 at p 212 par 2

discovered rights and protections for the wealthy and powerful as opposed to the poor and disenfranchised (Kairys 2006, Coleridge et alia 2007, Morris 2008, Jung 2011, Coleridge 2014).

Yet if not the Supreme Court, who should decide what the Constitution means? Originally, it was held that Congress and "the People" themselves were to serve as the final arbiters of constitutional review. In practice, congressional review has proven limited. When the Supreme Court issues a determination on a constitutional question, it does so with a clear voice and following a formal, visible procedure. Congress, however, rarely speaks in one voice. To the extent that Congress has engaged in constitutional review, it has done so most effectively through its role in the confirmation and rejection of federal judges. Efforts to settle constitutional questions through resolutions of Congress have been undermined by the federal courts as well as by Congress' own inability to function as a disciplined institution (Bryant and Simeone 2001).

Complicating matters has been the expansion of the powers of the presidency to shape the meaning and practice of constitutional rights, powers and duties. The idea that the executive branch would ever attain something akin to executive review was considered and flatly rejected by the first generations of U.S. citizens. Yet today the president exercises review powers all the time through claims of executive privilege, the use of signing statements, and the issuance of uncontested executive orders (Berger 1974).

This last practice has very serious consequences in questions of war and peace. Article I, Section 8 of the Constitution makes clear the primary role of Congress as the branch responsible for overseeing the U.S. military and deciding on the use of military force. Yet in the 20th and 21st centuries, successive presidents have ignored Congress' primary authority over war powers and engaged in unauthorized warfare across the globe. And Congress and the federal courts have let them. The text of the Constitution says one thing, but the practice of all three branches of the

federal government says another (Scarry 2003, Irons 2005, Constitution Project 2005). The American people are left without any direct say on war powers, and so their opposition to empire building, war, human rights violations, and the expanded security state takes form beyond the Washington D.C. beltway.

Washington today doesn't show much respect much for the institution of the sovereign power, that branch of government which the revolutionaries of 1776 called "The People." Yet the role of the people in deciding constitutional questions has never been a matter left to Washington to decide on its own. Popular sovereignty is a matter of practice, not simply of normative law, and the power of the people earns respect when it is exercised, not in its absence. Popular movements have repeatedly decided for themselves what the Constitution does say and what it should say. This practice of popular review predates the Constitution of 1787 and has played a significant and largely progressive role throughout U.S. history (Kramer 2004).

The procedures of popular review are sometimes quite formal, involving public meetings, testimony, and popular votes. Formal popular review can be seen in constitutional amendment processes as well as in efforts to counterpose local, state, and global governmental institutions against federal power.[5] In other cases, popular review is less formal and less direct, manifesting in mass mobilizations for or against a particular interpretation of the Constitution.

Where does all of this leave the advocate of a human rights constitution? Most of what we think of today as constitutional law is the product of some form of constitutional review. Yet constitutional review is dominated by the judiciary and the executive, the least democratic and

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[5] Examples of constitutional struggles between localities, states, the federal government and institutions of global governance range rebound throughout U.S. history, and include more recent cases involving municipal engagement in global policy questions around trade, war and peace, civil liberties, and immigrant rights, as well as state level efforts to challenge federalization of the National Guard, and much more (Santos and Rodríguez-Garavito 2005, Manski and Peck 2006, Manski and Dolan 2009, Conti 2011).

least accessible federal branches. Popular constitutional review is commonly practiced, but when its practice is informal its impact is usually indirect. Formal popular participation in the shape of efforts to amend the constitution is more directly effective. Yet social movements seeking formal constitutional change face such significant challenges that it is often said that they are unworkable . . . or are they?

B. A History of Amending America

Much of the history of social change in America is a history of popular movements engaged in constitutional struggles. The same revolutionaries who destroyed two million dollars worth of British East India Company tea in Boston Harbor weren't just saboteurs, they were also constitutionalists. They engaged in popular lawmaking as a matter of course, drafting and adopting hundreds of local resolutions of independence and statements of principles that prefigured the U.S. Declaration of Independence and the Constitution (Maeier 1997, Raphael 2002, Young 2006, Beaumont 2014).

The abolitionists who voted in the years immediately following the Revolution to end slavery in northern states and sought to nullify the various Fugitive Slave Acts, grounded their actions in what they sometimes called the "Liberty Constitution." This was an interpretation of the Constitution that drew on the Declaration of Independence and earlier revolutionary documents to conclude that in disputes between liberty (for slaves) versus property (in slaves), the Constitution favored liberty (Goodell 1849). Radical constitutionalism had more than a small role in the two most significant revolutionary movements of the first century of U.S. history (Manski 2006a).

A journey through American constitutional history is tempting. But our purpose here is limited. It is enough to recognize that the Constitution has been changed many times, and that social movements have been the primary agents of those constitutional changes that enlarged human rights and deepened democracy, the two great riverways of progressive constitutionalism.

The many struggles to expand governmental human rights protections are today celebrated in official histories. This may be because so many of them proved ultimately successful. As should be well known, when the Constitution of 1787 was first drafted, the vast majority of human beings living within the borders of the United States did not enjoy the "blessings of liberty" promised by the Preamble. Women, men who didn't own significant property, non-whites, slaves, indentured servants, and non-Christians were denied fundamental rights in most states and across the United States (Lobel 1988, Ollman and Birnbaum 1990, Dahl 2001, Levinson 2006). Social movements are what changed all that. Since the 1800s, liberation movements have secured constitutional reforms that brought the majority of Americans within the protections of the Constitution.

At least eight constitutional amendments following the adoption of the Bill of Rights constitutionalized the liberation of particular populations. The post-Civil War Reconstruction Amendments – the 13th, 14th and 15th Amendments – respectively abolished slavery (1865), greatly expanded equal protection and due process rights (1868), and guaranteed equal voting rights to non-whites and former slaves (1871). Women secured their part of the vote with the 19th Amendment in 1920. Those who wished to drink alcohol certainly felt liberated by the abolition of Prohibition with the 21st Amendment in 1933. The 23rd Amendment gave the voters of Washington D.C. representation in the Electoral College (1961). The use of the Poll Tax and

other taxes to deny poor people the right to vote was abolished with the 24th Amendment in 1964. And 18, 19, and 20 year olds gained access to the vote with the 26th Amendment in 1971.[6]

Social movements sought each and every one of these amendments, and more. For instance, the early 19th century extension of the right to vote to non-propertied white males was the result of constitutional struggle at the level of the states. In 1848, 100 women's rights delegates at the Seneca Falls Convention engaged in archetypal popular constitutionalism with their signatures on the Declaration of Rights and Sentiments. In the decades following, working at the state level, women won liberation from *coverture*, the old system of property law in which children and married women were the possession of the male head of household. Constitutional amendment campaigns like the Child Labor Amendment (1924) and the Equal Rights Amendment (1974) remain unratified, yet they have recognizably affected American law and culture by framing public debates over child labor and the status of women.[7] And even where constitutional debates have been initiated by the opponents of human rights, the resulting public deliberation has often produced the opposite from the intended effect. Over the past twenty years, as the state-by-state conflict over same-sex marriage has gone on, the debate altered social norms, eventually leading to the Supreme Court's 2015 recognition of equal marriage rights.[8]

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[6] I write "access to the vote" as opposed to the "right to vote" because the Supreme Court of the United States has ruled that, "The individual citizen has no federal constitutional right to vote for electors for the President of the United States …" as per *Bush v. Gore*, 531 U.S. 98 (2000). One response to that ruling has come in the form of the national campaign for a Right to Vote Amendment.

[7] President Franklin D. Roosevelt's proposal for an Economic Bill of Rights has played a similar role as a North Star for employment, wage, health, housing, welfare, and other critical economic rights (Blau and Moncada 2006).

[8] A review of *Obergefell v. Hodges*, 576 U.S. 644 (2015) will show that both the majority and the dissents claimed popular grounding, with the majority pointing to a marked shift in public opinion in the course of the marriage debate, and the minority claiming that a plebiscite would be required to find equal protection rights for same sex couples.

As we've seen, campaigns to secure human rights protections in the Constitution have profoundly changed our society. Yet that is only half the picture. Struggles for human rights and collective liberation nearly always have been associated with struggles for political and economic democracy. The logic of this is simple. Democratic processes are often thought to be more likely than elite-driven processes to generate human rights protections. And human rights protections that are the result of democratic deliberation are thought to be more resilient than those handed down from on high (Kramer 2004).

The history of efforts to democratize the Constitution is less recognized than the history of campaigns to expand constitutional rights. This may be in part because only one amendment to date – the 17th Amendment, which mandates the direct election of U.S. Senators (1913) – is commonly thought of as having democratized the structure of the federal government. But American democracy movements have played a much more powerful role in the history of constitution-making than the textual residue of a single amendment suggests.

Consider the most celebrated provisions of the U.S. Constitution, the Bill of Rights. These first ten amendments not only provide negative rights against state action. They are designed to strengthen the capacity of the "the People" to act as the sovereign. The First Amendment constitutionalized the critical role of popular assemblies, public debate, citizen petitions, and the popular press as institutions of self-government. The Second Amendment, together with the Constitution's War Powers and Militia clauses, was largely intended to protect against the development of a standing army (Buhle et al 2010). The Fifth, Sixth, and Seventh Amendments enshrine that democratic bane of many a judge, prosecutor, and corporate attorney – the jury. The 9th and 10th Amendments reserve powers to the people and the states not expressly delegated to the federal government. We should remember, as well, that the Bill of

Rights was forced upon the Framers, anti-democrats that most of them were. Democratic uprisings compelled a second (in this case, progressive) crucial compromise, without which the new republic might not have survived.

This dynamic was to repeat in later years. Suffrage for unpropertied white males followed widespread popular constitutionalism such as that famously practiced with Rhode Island's People's Convention and the Dorr Rebellion. The U.S. Civil War, Abolition, and Reconstruction had at least a little something to do with a man named John Brown who, together with other 45 others, convened a convention in Chatham, Canada to draft the *Provisional Constitution and Ordinances for the people of the United States*. The idea was that, after arming slaves with weapons from the armory at Harpers Ferry, Virginia, insurrectionary forces would need a constitutional framework for the administration of territories under their control (Tsai 2010).

Brown's guerrillas were not alone among abolitionists in this. In 1859, Wisconsin's legislature, dominated by radical abolitionists engaged in determined resistance to enforcement of the Fugitive Slave Act of 1850, began secession proceedings (Manski 2006a). Two years later, with the Confederacy threatening to defeat Union forces, a conference of western governors gathered in Cleveland and warned President Lincoln that if the federal government proved too incompetent to win the war, the abolitionist states "will act for themselves."[9] Some to this day

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[9] "I must *be permitted to say it, because it is a fact,* there is a spirit evoked by this rebellion among the liberty-loving people of the country, that is driving them to action and if the Government *will not permit them to act for it, they will act for themselves*. It is better for the Government to direct this current than to let it run wild. So far as possible we have attempted to allay this excess of spirit, but there is a moral element and a reasoning element in this uprising, that cannot be met in the ordinary way. There is a conviction of great wrongs to be redressed, and that the Government is to be preserved by them. The Government must provide an outlet for this feeling, or it will find one for itself." Alexander Randall to Abraham Lincoln, "Letter on Behalf of the Western Conference of Governors, as Reprinted in The Military History of Wisconsin: A Record of the Civil and Military Patriotism of the State in the War for the Union, by Edwin B. Quiner, Chicago, Clarke & Co, Publishers, 1866. P. 64, Par 4," May 6, 1861.

deride the radical constitutionalism of the abolitionist movement as unrealistic. They should remember that that movement *did* realize its primary goals.

Popular constitutionalism has also taken less confrontational forms. The populist, progressive, and socialist movements of the late 19th and early 20th centuries succeeded in bringing democratic reforms such as municipal home rule and direct legislation to the constitutions of states across the country. Both of these critical initiatives originated in popular frustration at the inability of the state and national legislatures to achieve desired human rights and good government policies. And both democratic reforms have proven useful to human rights campaigners to this day (Manski and Dolan 2009).

Finally, it helps us to recognize the many powerful efforts to democratize the Constitution which have not proven successful as of yet. Having learned that dangers of leaving questions of war and peace in the incapable hands of the three Washington branches of the federal government, efforts to secure a War Referendum Amendment – requiring a vote of the people before the use of military force in a non-defensive action – achieved 73% public support in 1938 and the support of half of Congress (Manski 2006b). Indeed, the experiences of the two World Wars convinced millions of Americans of the need both to rewrite the U.S. Constitution and to create a new global constitutional order (Culbertson 1949, Tugwell 1970 and 1974, Boyer 1995. The Universal Declaration of Human Rights, as well as the United Nations, UN agencies, and various associated compacts all resulted in part from the upsurge in world federalism.

The intended lesson here is that a powerful mutualism can form between liberation movements and democracy movements (Flacks 1988). Movement demands for human rights and collective liberation challenge the legitimacy of the existing order and strengthen the case for democratization. Movement demands for democratization challenge the authority of the existing

order, causing the establishment to consider giving in on specific human rights questions rather than risk losing state power. Similarly, human rights amendments expand the circle of standing and personhood, and thereby democratize the polity. Democracy amendments strengthen the capacity of the people to safeguard their own rights.

C. Shall We Overcome?

Movements to humanize and democratize the U.S. Constitution are active across the United States. These movements are treading well-worn procedural paths to constitutional reform. But the contemporary United States is not the bowie knife frontier society of pre-Civil War America, nor the tumultuous progressive era of the 1910s, nor the optimistic New Frontier society of the 1960s. Today's constitutional reformers face a particular set of cultural, structural, and strategic challenges. How likely are they to succeed?

The oldest and most difficult obstacle to constitutional reform rests in the provisions of the Constitution itself. The Constitution's architect, James Madison, was an admirer of that great English anti-democrat, Edmund Burke. Madison intended to produce a Burkean constitution (Young 1993). Thomas Jefferson, who called for a constitutional convention every 30 years and, "a little revolution from time to time," chastised Madison that, "The earth belongs to the living, not to the dead." But Jefferson and Thomas Paine were not present (nor were they wanted) when Madison and his fellow Federalists adopted the procedural requirement that amendments win ratification by three quarters of the states. This poses what social movement scholars would call a very challenging political opportunity structure that was a tall order even in Madison's day. Two centuries later Americans are still significantly governed from beyond the grave.

The structural difficulty faced in amending the Constitution has directly produced a second, cultural obstacle, that of the Sacral Constitution. Its many years have given the document such quasi-religious character that many Americans react negatively to calls for constitutional reform. For instance, in the weeks immediately following *Citizens United v. FEC*, U.S. Senator Russ Feingold of Wisconsin reacted negatively when urged to support a constitutional amendment to overturn the Supreme Court's ruling protecting corporate campaign expenditures as free speech. He initially warned against "tampering with the Constitution," and suggested a court-packing strategy and legislative reform instead.

Fear of constitutional change often goes beyond the surface of secular religiosity and into fears of other kinds; specifically, fears of other people. The concern, as expressed by some liberals, is that "if the Constitution is opened up" by amendment or a constitutional convention, civil, political, economic and other human rights will be taken away (Allan 2003, Leachman 2014). The concern, as expressed by the U.S. Chamber of Commerce, is the opposite – that all kinds of human rights (to health care, organize unions, quality education, and more) will find a constitutional home. And the concern, as expressed by some conservatives, is that personal gun rights will be done away with, or that "the immigrants will take over" (Malcolm 2016).

The notion of the Sacral Constitution, as well as fears of other people, both pose what social movement scholars sometimes call collective identity problems. Collective identity problems arise when people who have common grievances have difficulty developing a sense of group identity through which they can work and act together. The difficulties here are several. For a constitutional reform movement to cohere sufficient social consensus to succeed, it may need to overcome obstacles posed by elites whose distrust of the American public underlies fears of "constitutional tampering." Then, once elites become involved in constitutional reform efforts,

they often seek to establish themselves as leaders in the new movement, potentially undercutting the leadership cohorts that prepared the movement upsurge in the first place.[10] Finally, and most seriously, even in the absence of elites, constitutional reform movements face the problem of becoming popular movements in practice, not just in name. In a both pluralistic and white supremacist society such as the United States, in which group identities are many, intersectional, and also oppositional, the formation of an inclusive constitutionalism that is truly expressive of majoritarian sentiments is both difficult and required.

Constitutional reform movements also face particularly significant resource mobilization problems. Amending the Constitution is a long-term project, often spanning decades, not just years. The fact that at minimum 38 states must sign on for ratification means that the movement must build strong support in nearly every state of the union. All of this requires the development of resource capacity in the forms of labor, organization, and financial capital. Given that constitutional reform movements usually arise from the margins, rather than the political core, the challenge of mobilizing the necessary resources for success is all the more significant.

Activists consider all of these factors (resource mobilization, collective identity, political opportunity structure) and more in deciding whether to invest their time and energies in a particular constitutional reform campaign. Social movement scholars call such common considerations of "whether a campaign is worth it" matters of *strategic choice*. Activists ask themselves a series of utilitarian questions: How likely is the campaign to succeed? What are the potential risks of cooptation by members of Congress, other politicians, or Beltway elites? For

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[10] Prior experience and long-term involvement can produce personal knowledge and commitment, as well as function-specific forms of social movement organization, that are better suited to stewarding a radical reform through to ratification. Elite players that join in process will often face difficulties in negotiating the tensions between needing short and midterm victories (which is to say, statutory changes, executive actions, or court rulings) in order to maintain their established resource base and the longer-term mobilization strategies required for constitutional amendments.

that matter, what are the cooptation risks posed by other social movement actors, or by perceived opponents of the movement (Martens 2007)? If successful, how much of an effect would the constitutional reform actually present: Would the change be merely expressive or would it actually be felt in daily life?

Finally, one particular question that is as present for constitutional reformers today as it was in the Civil War and World War periods is this: Is the United States the future? This question arises from two directions at once. From within the United States, struggles over federalism have increasingly involved human rights protections enacted at the local and state level struck down by the federal courts under the guise of preemption doctrine. Absent a complete reinvention of federalism doctrine on questions of municipal home rule, reserved powers, and human rights versus property rights, should the federal courts be trusted with the job of constitutional review?

From without the U.S., the challenge posed by corporate globalization raises similar questions about the long term effect of amendments to the U.S. Constitution. Will U.S. (or EU, Argentine, Mexican, South African, Indian, etc) constitutional guarantees of human rights and democracy withstand challenges from transnational trade tribunals organized via the World Trade Organization (WTO), Trans-Pacific Partnership (TPP), or Transatlantic Trade and Investment Partnership (TTIP)? And even should U.S. constitutional provisions survive such challenges intact, can the United States withstand the likelihood of a *capital strike* involving the withdrawal of massive amounts of capital from our economy by transnational corporations? It may not be enough for Americans to democratize and humanize our constitution. We may need to participate in something more: A global constitutionalism.

D. Amending Society by Amending the Constitution

Constitutional reform movements in the United States face serious challenges. Nevertheless, popular constitutionalism sometimes succeeds. When it does, we find that it is not merely the written constitutional text that has been amended, it is society itself. The process of overcoming the structural, cultural, and strategic obstacles to constitutional reform is deliberative, participatory, and usually transformative.[11] In reconstituting law, constitutional reform movements play a role in the reconstitution of existing social relations.

The procedural obstacles to reform posed by the anti-democratic Burkean provisions of the Constitution can be turned to advantage. The need to secure the support of at least 38 states creates a long-range terrain of struggle composed of many intermediate campaigns that each of them have clear, definable goals. This in turn necessitates serious organizing, outreach, and public debate. Length by length, stoked along the way by the incremental availability of winnable victories, constitutional reform movements build up their resource mobilization capacity. Thus, the political opportunity structure of constitutional change may actually be advantageous to the very kind of long-term movement building required to amend the Constitution.[12]

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[11] There is an emerging discussion on the question of whether and how constitutional reform processes produce democratization. In a crossnational longitudinal study of 244 countries over 68 years, I found strong evidence of a positive democracy effect from constitutional amendment processes. Devra Moehler makes the case that constitution making in Uganda produced "distrusting democrats" who were better equipped to participate in politics, but less inclined to do so at the national level. Abrak Saati analyzes twenty cases of transitional processes in less stable societies involving constitution making and concludes that the idea that participation produces democratic effects is a myth.

[12] A contemporary example of this approach is to be found with the Move to Amend (MTA) coalition's very deliberate, bottom-up strategy involving a series of escalating campaigns. First, an MTA affiliate is asked to collect signatures to place a resolution supporting the We the People Amendment on a local municipal or county ballot. Once a sufficient number of communities in a state have adopted amendment resolutions (generally once 50% of the population is represented by such resolutions), the campaign moves to the state level to secure state legislative support or, where possible, to place an amendment resolution on the statewide ballot. In following these steps, prior to serious engagement with

The collective identity problems faced by constitutional reform efforts similarly invoke broad deliberation. The notion of an inviolate Sacral Constitution often falls aside when confronted with the living constitutionalism inherent in popular participation. In the case of *Citizens United v FEC*, for instance, concerns about constitutional tampering have given way in the face of broad popular support for constitutional amendment.

Fears of the other often prove less tractable. The construction of a majoritarian constitutional reform block in a society that is evermore plural involves significant engagement across class, racial, gender, geographic, age, ideological and other boundaries. In the process, individuals and groups will take sides, recognizing common interests and defining differences. Constitutional debate acts as a focal lens through which momentous social questions emerge with clarity. From Reconstruction to the Equal Rights Amendment, popular constitutionalism has a demonstrable history of generating new collective identities and antagonisms – both of which are essential elements in the process of social change.

Individuals considering whether to become involved in a constitutional reform effort will often weigh these and other factors, including alternative uses of their time and energies. They will look not only at the success rate for past amendment campaigns, they will also consider the success rate of alternatives. In some cases, as with women's suffrage, they may decide that they cannot secure the social changes they seek without amending the Constitution. And always they will find their evaluation of their strategic alternatives shaped by how they feel about the present constitutional situation; what is merely a disagreeable nuisance to some may prove intolerable for others.

Congress, Move to Amend's leadership is building up the resource capacity, leadership networks, and social consensus necessary to secure constitutional change.

The world of the 21st century bears some resemblance to those of the 18th, 19th, and 20th centuries, but only some. Revolutions against aristocracy, slavery, and colonialism produced constitutions consecrating particular conceptions of human rights and democracy. Those constitutions do not encompass modern conceptions and therefore do not mandate the kind of participatory and socially just society that growing numbers of people around the world have come to expect. Furthermore, the old conceptions of representative democracy and individual liberties are under a constant assault by the institutions of global capitalism. Constitutional reform in one country –even a country as powerful as the United States– may not be, on its own, enough.

In the challenge of constitutional reform we are presented with a singular opportunity to reconstitute not only our basic law, but our society. We have, as Paine promised us, the "power to begin the world over again," and to do so in a deliberative, democratic and non-violent manner. If we are serious about constitutionalizing human rights and democracy, we should decide whether the path forward involves a series of amendments or a constitutional convention, as per the procedures of the U.S. Constitution. Maybe the path involves an entirely new constitutional process, a democratic revolution, or popular engagement in global constitutionalism. Perhaps there are multiple paths forward. Decisions about constitutional strategy should be informed not only by an analysis of law and the state, but by an understanding of the kind of social movements necessary for the radical reconstitution of society. Constitutionalism is a social movement form. Constitutionalization is a social change process. The history of American progress is a history of amending America.

IV. After the Millennial Turns

Twenty years ago a movement of movements came together in the streets of the largest city of the Pacific Northwest and defeated the WTO, the central state building project of global capitalism. The "Battle in Seattle" was an exclamation punctuating a larger period of struggle. What is the relevance of that last period to the current one? What produced it, and what in turn have the movements of that period left for us today?[13]

Through the 1990s popular movements in the United States made a series of cultural turns that, by the turn of the millennium, had made possible not only the Seattle WTO uprising but also the promise of another world to come. These "movement turns" - anarchist, democratic, and global - were closely linked reorientations of popular movements around paradigms of autonomy, participation, and globality. Together, they produced movements with significantly different goals, practices, and trajectories than the movements of the preceding period. Activism, organizing, and struggle in the first millennial years felt and looked different: Confident, assertive, and visionary.

With this study I analyze the period of struggle of 1994-2014 in the United States. The Seattle WTO uprising was a transformative event in this period. I briefly address what happened in Seattle, where the Seattle moment came from, and how what happened in Seattle related to the movements of the period. I answer these questions not only to document a vital recent history but also to systematically bring knowledge about the last period into engagement with the movements of today. I also address what is different about the current period: A socialist turn on the U.S. left and a nationalist turn on the U.S. right.

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[13] This chapter also serves as an introduction to a special 20th anniversary issues of the journal *Socialism and Democracy*, of which I was primary author.

What happened in Seattle? Over the week of November 28th to December 3rd, 1999, the streets of Seattle were filled with marchers whose banners flew the colors of every hue of the social movements of the 1990s. At that historical moment, that unity in diversity was remarkable, especially where it revealed new alliances between labor unions and environmental groups, urban organizers and rural farmers, and people of the Global North and the Global South. More remarkable still was that these alliances succeeded in their ambitious goal of shutting down the WTO meeting. Led by thousands of young activists trained in the nonviolent wilderness defense campaigns of the Pacific Northwest and Cascadian region, on November 30, 1999, the Seattle protesters effectively blocked the entrances to the Washington State Convention and Trade Center.

Police cracked skulls, broke arms, attacked the protesters with pepper spray, plastic projectiles, tear gas, and stun grenades, and instituted martial law in much of the city. In response, the police cracked skulls, broke arms, attacked the protesters with pepper spray, plastic projectiles, tear gas, and stun grenades, and instituted martial law in much of the city. By the next day, tens of thousands of Seattleites, angered by the police violence, had joined the protests. Next, scores of WTO delegates walked out in a show of support for the uprising, sounding the beginning of the end for the WTO meeting. Supporters of the Seattle uprising rallied in hundreds of communities around the world. By the end of the week, labor unions and community groups had called a one-day regional general strike, the first such mass work stoppage widely observed in the area in nearly a century. [14]

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[14] This and the previous paragraph are reproduced from Manski's "Seattle WTO Uprising Still a Force in World Events, 15 Years Later," *Berkeley Journal of Sociology*, December 2014.

Seattle was an exclamation that punctuated the times. Describing the uprising as an exclamation is appropriate because, from the revolutionary ecological movement Earth First! to the social justice service sector union UNITE HERE!, the exclamation point was the punctuation mark most idiosyncratic of the popular movements of the 1990s. Just as Chicago '68 took on a particular set of meanings for U.S. movements in later years, Seattle '99 became a signifier for a repertoire of collective action and of a "Seattle Moment" in world history (Wood 2012). It became the object of academic studies (Butko 2006; Cockburn and St. Clair 2000; Juris 2008;), activist retrospectives (Boyd 2002; Notes from Nowhere 2003; Guilloud 2009; Dossani 2019; Starr 2019), documentaries (Friedberg and Rowley 2000), and even big budget film thrillers (Townsend 2008). Many of these came at anniversaries or in the years immediately following the uprising. But missing until now has been a disciplined attempt to bring social movement scholarship into engagement with activist experience in providing a systematic analysis not only of what happened in the streets of Seattle, and what occurred in the Seattle Moment, but of the larger period of struggle.

What was the relationship between that moment and the larger period? For popular movements in North America, events elsewhere were what set the larger millennial period in motion. Movements from below took down edifices of the Cold War from the Berlin Wall to apartheid Soweto. A movement from above imposed new regimes of governance through the North American Free Trade Agreement (NAFTA), Asian-Pacific Economic Cooperation (APEC) process, General Agreement on Trade and Services (GATT), World Bank, and International Monetary Fund (IMF).

The single most influential event that opened this period in the United States was something that happened almost a thousand miles south of the border in Jovel, Chiapas, México on January

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1, 1994 – the Declaration of the Lacandon Jungle by the Ejército Zapatista de Liberación Nacional (EZLN). For many activists within the United States, the audacity of the Zapatistas in declaring "Ya Basta!" and making war on colonialism, empire, racism, and neoliberal capitalism deeply resonated. The coalition that had resisted NAFTA was strong and growing. Support for the LA Uprising of 1993 - the mass protests against police brutality that followed the beating of Rodney King - was widespread and led to demands for prison and police abolition. A new anti-corporate politics was taking hold in the resistance campaigns against the austerity, deregulation, privatization, and corporatization policies of the Clinton era. And an upsurge of immigrant rights organizing responded to Clinton's implementation of new anti-immigrant laws.

The trajectory of popular movements of this period shared several tendencies. One was a cognitive and emotional shift from an activist pose of "doing what one can" and building for an as-yet not visible future in which, as a popular bumper sticker of the 1980s declared, "The U.S. Left Will Rise Again," and toward a more assertive posture expressed in the chant, "Ain't No Power Like the Power of the People" and then later that, "Another World is Possible," and "Another U.S. is Necessary," and finally, by the 2010s, that "We Are Unstoppable, Another World is Possible."

Another tendency of movements in this period is shown in the shift from single issue politics in the early 1980s, to multi-issue politics by the early 90s, to intersectional, synthetic, and eventually, systemic politics by the early 2000s. This shift is illustrated by the change from so-called "corporate campaigns" targeting individual corporate bad actors such as Exxon or Dow in the 1980s, to campaigns seeking wholesale reform of corporate law in the 1990s, to the

emergence of a popular anti-capitalist politics by the early 2000s.[15] Another example of this change can be found in the late 1990s articulation of a politics of prison and police abolition as a response to anti-police brutality and community police reform campaigns of earlier years.

My contributions to the study of Seattle 1999 and the Seattle Moment come in our situating Seattle as a transformative event in a transformative period for the movements of the United States. Thus, I address the millennial period, the movements particularly relevant to what happened in Seattle. And I focus on the United States. Seattle resonated globally, with solidarity actions organized around the world, and Seattle was part of a global process. But Seattle was also significant for the United States in that it both represented a qualitative leap in the participation of U.S. movements in global struggles to levels unseen since the beginning of the Cold War and also in that it involved processes quite particular to U.S.'s domestic politics of corporate power, austerity, and resource extraction.

In the following pages I elaborate a way to conceptualize the dimensions and trajectories of the movements of the millennial period. I introduce and analyze the three millennial turns – anarchist, democratic, and global – most relevant to Seattle and much of what followed from it. I describe the contemporary socialist turn and explore how that is related and yet different from what the movements of the previous period produced. And I provide an orchestral score for the rest of the works collected here, showing how they speak to each other in sounding a larger understanding of our times.

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15 In the words of a frequently repeated expression of Richard Grossman of the Program on Corporations, Law, and Democracy, this shift initially entailed a change of focus "from what corporations *do* is the problem to what corporations *are* is the problem."

A. The Dimensions and Trajectories of Movements

How can we learn from a history of struggle? Social interaction at the level of society are so complex that drawing lessons about regularities in social struggle, never mind forming predictions about movement trajectories, is considered very difficult (McAdam et al 2001; Krinsky and Mische 2013). In convening this collective study of the movements of the 1990s-2000s period as they related to Seattle, I emphasize the explanatory power of activist praxis. Such an emphasis recognizes that self-identified change-makers – activists - are the primary builders of movements (Flacks 1988). Activists analyze histories, current conditions, and possible futures, and the understandings they create significantly determine their goals and actions (Eyerman and Jamison 1991). Thus, these understandings provide data critical to explaining the trajectories of social movements. In this section I describe five analytical concepts useful in such study; four of these – movement elements, movement building, periods of struggle and terrains of struggle – are drawn from earlier work (Manski 2019a); the fifth concept – the movement turn – I introduce here.

Movement *elements* include all the various types of resources, continuity structures, cultural repertoires, and leadership properties believed by social movement scholars to matter to what movements do. The elements of movements include material resources in the form of capital, labor, and organizational resources (McCarthy and Zald 1977; Ganz 2000; Han 2014); structures, networks, and communities that reinforce collective identity and support movement continuity (Rupp and Taylor 1997; Taylor and Whittier 1992; Hunt and Benford 2007; Flesher Fominaya 2010); cultural repertoires that include tactics, frames, and strategies for collective action (Tilly 1977; Swidley 1986; Snow et alia 2013); and activists themselves and the leadership they provide (Whalen and Flacks 1989; McAdam 1989; Barker and Krinsky 2016).

Table 7, below, provides a simple matrix for identifying the elements that movements use and produce.[16]

Table 7: Matrix of social movement elements for identification and analysis

Object Type	Movement Element	Analytical Question
Resources	Material resources	*What material resources are produced/reduced?*
	Organization	*What organizational capacity is produced?*
	Strategic capacity	*What resources are identified, created, deployable?*
Continuity	Submerged networks	*What informal networks are created/persist?*
	Continuity structures, communities, movement scenes	*What collective identities are maintained or built in particular places and communities?*
Culture	Frames	*What frames have been produced through which activists, adherents, publics, and opponents interpret contention?*
	Repertoires, Toolkits, Packages	*What tactics, postures and other cultural artifacts have been produced?*
	Spillover and Diffusion	*What cultural artifacts have been adopted or passed on between movements?*
	Institutional Schemas	*What cultural artefacts are embedded in the structures of institutions?*
	Cultures of Resistance and Transformation	*What are the cultural idioms and ideological frameworks activists have developed as strategies of action?*
Leadership	Development	*What are the ways in which activists learned, and what did they learn?*
	Biography	*Who are the individuals involved, what are their histories, and what do they bring to their movement work?*
	Cohorts	*What are the collective experiences generated in past waves of contention?*

Movement building is what Rosa Luxemburg referred to when she wrote of the, "the great underground work of the revolution [which is] in reality being carried on without cessation, day by day and hour by hour, in the very heart of the empire" (2008, p133). I define movement

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[16] Modified from Manski, Methodological Approaches to Movement Waves and the Making of History. Some of the text in this section is drawn from that chapter, sometimes in part, and occasionally in whole.

building as the purposive production of social movement elements for use in future struggle. The movement building process is purposive in that it involves the conscious action of activists. The process produces movement elements to the extent that it builds resources, continuity structures, culture, and leadership. The process is praxiological in that it is produced in relationship to activist consciousness of past and future struggle, as well as to the social conditions activists believe they face.

Thus, activists construct and operate in relation to temporal and sociospatial dimensions that frame their struggles. The former of these Luxemburg referred to as a *period of struggle;* the latter, Antonio Gramsci called a *terrain of struggle.* Activists often go to great effort to declare the times and the scope of the struggles in which they are engaged. Almost every movement declaration – whether issued in Seneca Falls in 1848, Port Huron in 1963, or Chiapas' Lacandon Jungle in 1994, to invoke a few famous documents from American histories – involves a clear statement explaining and framing the period, the terrain, the actors, and the stakes. Across the Atlantic, "The Manifesto of the Communist Party" of February of 1848 was such a statement. But even in the absence of such world historic declarations, activists commonly work to develop collective understandings of the dimensions of struggle in which they operate. These emergent dimensions in turn frame and indirectly shape the trajectories of movements and history.

A more direct shaping of movement trajectories comes about via what I define as a *movement turn* – a reorientation and reconfiguration of a broad social movement tradition of the left or right around a central organizing principle, otherwise known as a paradigm (Kuhn 1962). In recent years, the use of the word "turn" has entered social movement studies, spilling over from social theory where the structural, postmodern, cultural, relational, and material turns, among others, have had profound effects. I have yet to run across a common definition of what

98

such a "turn" is, so here I define it as a broad cultural reorientation around a paradigm, accompanied by ideological reconfiguration on the basis of that paradigm.

A turn, therefore, does not only involve those involved in making it; a turn affects and alters the priorities of many other members of a much larger whole. The rise of jazz was not a matter only for jazz musicians; it influenced the entirety of American music, dress, language and more. Similarly, the turn towards anarchism in the U.S Left of the 1990s had implications not just for anarchists, but for mass media, electoral politics, and everyday life. Turns in a social movement tradition are not the only processes that shape movement trajectories, of course; other forces such as repression come into play. But movement turns are powerful because they shape what activists attempt to do.

Figure 1: The Cognitive Praxis of Social Movements
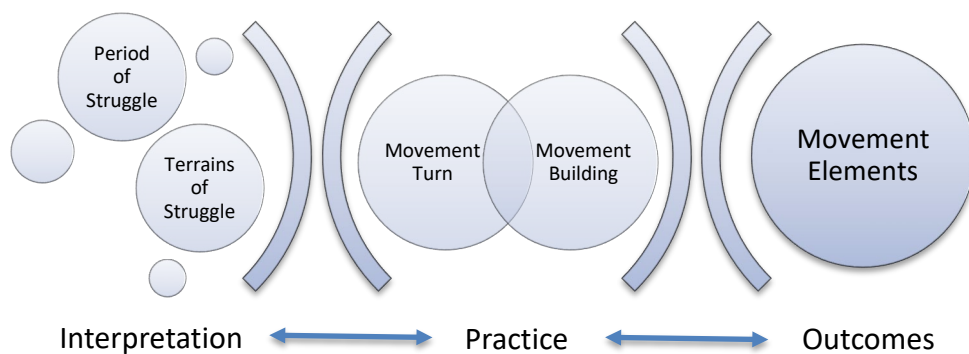
The relationship between these five concepts can be described as follows. Based on their understandings of emergent conditions, past histories, and long-term goals, activists articulate the

dimensions of their struggles. They work to reorient their movements around paradigms necessitated by the logics of those struggles. They engage in movement building activities consistent with such turns and in the process they produce the elements available to future movements.

Mass uprisings such as those that occurred in Seattle in 1999 and throughout the last several decades are often described by outside commentators as "spontaneous." In social movement studies of Spain's M15 Indignados, the Arab Spring, Wisconsin Uprising, among others, such descriptions are increasingly referred to as articulations of "the myth of the spontaneous uprising" (Fominaya Flesher 2015, Said 2015, Manski 2016b, Charrad and Reith 2019). Uprisings and other movement events may have logics of their own (Shultziner and Goldber 2015). But they do not emerge out of thin air. Seattle was a production of history, and history is a cognitive praxis. [17]

B. The Three Turns of the Millennial Left

The board movement tradition of the U.S. left turned toward anarchism, radical democracy, and global justice beginning in the early 1990s. These anarchist, democratic, and global turns, sped early mobilizations such as Redwood Summer, the LA Uprising, the Zapatista Uprising, as well as by a more generalized anti-corporate politics among labor, student, and community activists, set the pattern for much of the early 21st century activism that followed. These millennial turns passed on common practices, slogans, resources, networks, and other critical

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[17] In the immortal words of Inigo Montoya, "You keep using that word. I do not think it means what you think it means." It turns out that the myth of the spontaneous uprising is a kind of double myth, for the word "spontaneous" actually means, "occurring without external stimulus . . . of one's own accord." This is nearly the opposite meaning intended by most of those who speak of spontaneous uprisings as if they were invoked by unpredictable external circumstances. See: https://www.etymonline.com/word/spontaneous

elements of the 2001-2008 anti-war movement, the 2006 Day Without an Immigrant, the 2011 Wisconsin Uprising and #Occupy movement, and later, common framings of Black Lives Matter and the climate justice movement as struggles against global capitalism.

The millennial turns were the products of multiple generations of activists that came of age politically throughout the 20th century. Thus, while many Gen Xers and Millennials played important roles in what happened in the millennial period, they were hardly its sole authors. Indeed, the period authored the collective biographies of these activists. Just as the 60s generation was in part produced by the work of activists and artists in the 1940s and 50s, so too was much of what has been ascribed to the activism of the 2010s a carry-over from the earlier period, and much of what occurred in that earlier millennial period a product (and a reaction to) the 1970s and 80s.

The anarchist, democratic, and global turns that I describe below, and which are explored in other ways throughout this collective work, were of course not the only important turns in the broad left movement tradition of the U.S. during the 1990s-2010s. The case can and should be made for others – for instance, a queer turn in the 1990s – and an abolitionist turn and a socialist turn taking hold in the mid-2010s. But the three millennial turns described here are those clearly mattered most to what happened in Seattle in 1999 and which most shaped the period defined by Seattle.

Note also that absences may matter as much as presences. The absence of other turns in *overall* movement orientation – particularly in centering anti-racism – is a part of this history too. And activist reckonings with that absence were, in part, what produced the movements of later years.

In introducing this study of Seattle and movements at the millennium, I draw both on the contributions assembled here and on data drawn from semi-structured interviews conducted by me, Hillary Lazar, and Suren Moodliar with over 150 people active in the movements of the 1990s-2010s.

1. The Anarchist Turn

As a number of scholars have observed, there has been a distinct and notable "anarchist turn" in recent decades (Epstein 2001; Graeber 2002; Cornell 2011; Rousselle and Evren 2011; Blumenfeld et al 2013; Wigger 2016). As Simon Critchley comments in the introduction to *The Anarchist Turn*, an edited volume from a conference held at the New School in 2011:

> For a long time, the word anarchist has been used as an insult . . . In the last decade, maybe longer, this caricature anarchy and anarchism has begun to crack. What we little too easily called "globalization" and the social movements it spawned seem to have proven what anarchists have been advocating; an anarchical order is not just desirable, but also feasible, practical, and enactable. This has led to revitalized interest in the subterranean anarchist tradition and the understanding of anarchy as a collective self-organization without centralized authority (Critchley in Blumenfeld et al. 2013, 3).

If Critchley, and others who share this perspective, are correct, this necessarily begs the questions, what prompted this shift? Why recently? Why anarchism? In setting out to answer these questions, it may be helpful to first consider what anarchism is, so as to better understand why it became so attractive to the activists of the millennial period.

In so many words, classical anarchism—with its origins largely in Western philosophical traditions coupled with a smattering of insurrectionary action and revolutionary labor unionism—emerged through the concurrent rise of industrial capitalism and the the Enlightenment. Informed by the concern for individual liberty and freedom, early 19th century

102

anarchist thinkers such as Mikhail Bakunin, Joseph Pierre Proudhon and Max Stirner among others, sought to make sense of the rapidly changed social landscape in the wake of industrialization. Specifically, they sought to resolve how to respond to new forms of inequalities and coercion that now derived less from feudal or manorial rule and more from an increasingly centralized state established to maintain exploitive labor conditions under capitalism (Marshall 2010; Runkle 1972; Woodcock 1987; Graham 2012). For anarchists, the goal was to ensure freedom from all forms of domination.

Anarchists being constitutionally anti-doctrinaire, they have articulated various visions for what such freedom might looks like in practice or of what steps may be necessary for achieving a liberated society. Peter Marshall describes anarchism as, "a broad river" within which, "it is possible to discern a number of distinct currents" (2010, p6). In the most general terms, for anarchists the primary concerns are with ensuring freedom against top-down coercion of any kind and the ability of all beings to flourish in every way possible. For many anarchists, this implies that all are freely able to participate in the decisions that shape their lives, while enjoying access to the resources necessary to do so.

Among contemporary anarchists there is also a fairly universal emphasis on principles if voluntary association (and the ability to choose with whom and how we choose to associate); mutual aid (cooperation and reciprocity fueled by a shared sense of struggle); anti-authoritarianism (with the state as the highest, though not only, expression of top-down authority); decentralization (so as to diffuse centralization of power); autonomy (and by extension self-governance); and direct action (as a necessary method for achieving liberation). Although some contemporary anarchists eschew these principles in favor of total autonomy,

there is the idea of a commitment to creation of a deeply participatory or directly democratic society (Gordon 2015; Hammond 2015).

Another major element to consider is the prefigurative politics of contemporary anarchism. As explained by Marianne Maeckelbergh, prefiguration is a practice which "means removing the temporal distinction between the struggle in the present and a goal in the future; instead, the struggle and the goal, the real and the ideal, become one in the present" (2011:4). In other words, rather than waiting for the "big R" revolution as with other radical Left schools of thought, as explained in the Preamble to the IWW constitution, prefiguration means "building the new world in the shell of the old." This suggests that activists engaged in prefigurative politics would aim to create in the here and now the kinds of relationships they perceive to having revolutionary potentiality. As Luke Yates further explains:

> The notion of 'prefigurative politics' . . . refers to scenarios where protesters express the political 'ends' of their actions through their 'means', or where they create experimental or 'alternative' social arrangements or institutions. Both meanings share the idea that prefiguration anticipates or partially actualizes goals sought by movements (2015: 1).

Perhaps one the most clearly identifiable examples of prefigurative politics is in the adherence to practices of mutual aid, often in reference to ideas from anarchist Peter Kropotkin's work *Mutual Aid* (1902). Although mutual aid is not exclusively the purview of anarchists, contemporary activists draw on Kropotkin's argument that contra-distinct to Darwinian competition the natural world is based in cooperation. Hence, transformative social relationships ought to be modeled along cooperative lines, thereby challenging the competition, inequalities, and alienation encouraged by capitalist competition (Sitrin 2012; Williams 2012; Benski et al 2013; Schneider 2013; Bray 2013; Hammond 2015).

So, what then gave rise to the anarchist turn of the millennium and wide scale adoption of these types of ethical practices? Although anarchism is certainly not the only organizing logic in the most recent mobilizations, as Critchley and others have suggested, since the Global Justice Movement, its importance and these corresponding principles and techniques have grown, and possibly eclipsed, other radical schools of thought or revolutionary "sensibilities." In short, this shift must be understood as a response to the broader socio-economic and political landscape of the late twentieth century. Namely, as the deleterious effects of neoliberalism and expansion of global capitalism began to be felt by communities throughout the world, activists found the range of traditional alternatives wanting—to many younger activists in particular, national governments appeared to be dominated by corporations; the United Nations was politically impotent; Communism was a failure; and the social welfare state was under attack by neoliberal austerity.

Consequently, anarchism's emphasis on direct democracy and prefigurative modeling of socially just alternatives made it an attractive alternative for many new activists. For this reason, in 1994, when the Zapatista's demonstrated that it was possible to push back against the forces of global capitalism and effectively put forth a new form of anarchist theory and praxis directly challenging neoliberalism, it reignited a sense of political possibility among the Left—tipping the scales towards anarchism—effectively, ushering in the birth of the Global Justice Movement and laying the groundwork for many of the most recent mobilizations (Cornell 2011; Marshall 2010; Epstein 2001; Kingsnorth 2003; Martinez and Garcia 2004; Prokosch and Raymond 2002; Rousselle and Evren 2011; Solnit 2004).

In examining the anarchist turn, it is also important to acknowledge that the notion that there has been some kind of abrupt re-emergence out of the blue is actually somewhat misleading.

Although there has been a definitive upsurge in anarchism, this dramatic "turn" has actually been far less than some have suggested. Throughout the twentieth century, anarchism has been a mainstay among the Leftist alternatives, even when marginal in comparison with other radical traditions. Long before the Zapatista uprising in 1994 and the 1999 Anti-WTO protests in Seattle, there were distinct rumblings of anarchism's coming resurgence as early as the 1960s. In fact, many of the techniques of the Global Justice Movement are directly attributable to the anti-nuclear movement of the 1970s and 1980s, including non-violent direct action; tactical use of disruptive theatrics; consensus decision-making; participatory democracy; horizontally-networked affinity groups; mass convergences; and a general commitment to "prefigurative" politics (Epstein 1991).

Yet, as most historians and movement scholars agree, the real birth not only of the alter-globalization movement, but the anarchist turn as well, was the Zapatista Uprising. It was shortly after midnight, on New Year Day of 1994 when 3000 indigenous peoples from the mountainous areas outside of San Cristobal de las Casas in Chiapas, Mexico retaliated against the impending the North American Free Trade Agreement, aimed at establishing free access to markets for US corporate interests. The uprising sent a shockwave throughout the world as it ignited the political imaginations of the Left and cemented the nascent anarchist-leanings. Facilitated by new digital technologies, what had to this point only been burgeoning connections and understanding of shared sense of struggle suddenly coalesced as the Zapatista movement became a cause célèbre overnight and embodiment not only of the anti-globalization efforts, but of a new form of anarchism in action—*Zapatismo* (Retain 2002; Kingston 2003; Callahan 2004).

Certainly, although not all Zapatistas explicitly referred to themselves anarchists, in both principle and practice there were definite resonances with anarchism—most obvious being their

"withdrawing [of] consent to be governed and experimenting with self-organization and collective rule" and establishment of more than thirty autonomous zones governed through directly democratic processes and rotation of leadership (Kingston 2003: 196). They also coordinated decision-making across the communities through "*encuentros*," large horizontally networked convenings that would serve as a model for the Global Justice Movement. For the Zapatistas the goal was not "to take power, but rather to contribute to a vast movement that would return power to civil society" and represented "communal people's power . . . grassroots autonomy" and ensure equality for all (Martinez and Garcia 2004: 215).

Moreover, reflecting the anarchist principle of avoiding imposition of prescriptive solutions on others, the Zapatistas framed their political stance as one of "posing questions"—as they said, "walking we ask"—rather than proffering a new party line or rigid ideology. These processes, they believed, would usher in "revolution to make revolution possible." Many believed they were on the road to achieving that goal; "*Ya Basta*!"—"enough already"— had become the new battle cry of the now-Global Left and represented a way to make a collective stand against neoliberalism and global capitalism.

This anarchist current and principles of *zapatismo* carried over to the broader alter-globalization or Global Justice Movement (GJM) that evolved out of the transnational Zapatista solidarity efforts. The GJM is generally considered to have lasted through the first years of the early 2000s when the US invaded Iraq in 2003 and the movement shifted to become anti-war in focus. During the heyday of the GJM, there were numerous mass transnational demonstrations (much like the Zapatista *encuentros* and the mass convergences of the 1970s environmental movement) centered around protesting global governing bodies such as the World Trade Organization, World Bank, International Monetary Fund, and the summits of the wealthiest

107

nations known as the G8 (now the G20). Described as a "movement of movements" the GJM

reflected the confluence of numerous transnational movements—from environmental justice to

women's rights— that contested the impact of neoliberalism on peoples around the world, and

particularly the Global South (Moghadam 2012).

Given the number of activists, organizations, and movements involved, it may seem

surprising that there were such clearly definable shared characteristics across them. Yet, while

variation existed, there were several structural, discursive, and ideological-based trends that

typified the movement—most of which, (if not always explicitly by name, certainly in practice),

which were firmly rooted in principles of *zapatismo* as well as other anarchist values and

organizing models. Along with its de-centralized, horizontal structure, the GJM like other

anarchist-oriented mobilizations was equally committed to undoing hierarchies of all kinds,

which speaks to the movement's grounding in the prefigurative dimensions. As public

intellectual Naomi Klein explains in the introduction to *The Global Activists Manual: Local*

Ways to Change the World:

> This movement has declared that it has "no followers, only leaders . . . Rather
> than handing down manifestos from on high, the task has become a process of
> identifying the key ideological threads—the shared principles—that bind together
> this web of activism. Self-determination is clearly one. Democracy another. So is
> freedom, more specifically, the right plan and manage our own communities
> based on human needs as part of a larger global community: globalism and
> localism in balance" (2002: 7).

Moreover, during the mass convergences, not only did anarchists within the PGA and DAN

serve as core organizers, but the coalitions that convened followed the affinity group, spokes

council and consensus-based decision-making models. In addition, each of the gatherings had an

intentional space aimed at experimenting in modeling "village-based" solidarity along the lines

of both the Zapatista's autonomous zones and, arguably, the 1960s communes and anti-nuclear

occupations of the 1970s and 80s. These centers offered everything from lodging to workshops to puppet-making and art stations and more than anything provided a place to connect and converse outside of the larger protests (Reitan 2002; Prokosch and Rayond 2002; Juris 2009, 2010, 2011).

Undoubtedly, the most dramatic of the GJM demonstrations was the anti-WTO demonstrations, known as the "Battle of Seattle," that mobilized more than 40,000 from a broad spectrum of social justice causes. During a series of protests that occurred over several days at the end of November and early December, tens of thousands took to the streets, engaged in civil disobedience, staged theatrical disruptions with giant puppets and performances, and battled with the police. For many, Seattle marked a watershed moment in the struggle against global capitalism and fueled the movement's fire. It also radicalized a new generation of activists who cut their political teeth within a largely anarchist-informed social protest. And, although it was the "black bloc" anarchist contingent that garnered the most media attention for their militancy and property destruction, as most scholars acknowledge, in general, the "Battle of Seattle" may be considered an anarchist-influenced mobilization. So, too, were the many convergences in the years that followed as protestors engaged in "summit hopping" (della Porta and Tarrow 2005). As Mark Lance, a philosophy professor at Georgetown University and anarchist, commented in an interview with the *Washington Post*, "Seattle was a large coming-out party for anarchists . . . Anarchism has certainly become much more visible through the global justice movement" (Foster 2003).

Clearly, not everyone involved in these networks or doing the core organizing were self-identified anarchists. Reflecting on the relationship between anarchism and the young people attracted to the anti-globalization summits, Barbara Epstein actually calls into question just how

109

"anarchist" these new converts are. According to her, "[u]nlike the Marxist radicals of the sixties, who devoured the writings of Lenin and Mao, today's anarchist activists are unlikely to pore over the works of Bakunin" (Epstein 2001). Consequently, for her, if anything, the young anti-globalization activists "might be better described as an anarchist sensibility than as anarchism per se" (2001). Even so, she acknowledges the definitively anarchist ideological underpinnings and organizational practices of the movement. She observes:

> For contemporary young radical activists, anarchism means a decentralized organizational structure, based on affinity groups that work together on an ad hoc basis, and decision-making by consensus. It also means egalitarianism; opposition to all hierarchies; suspicion of authority, especially that of the state; and commitment to living according to one's values. Young radical activists, who regard themselves as anarchists, are likely to be hostile not only to corporations but to capitalism. Many envision a stateless society based on small, egalitarian communities. For some, however, the society of the future remains an open question. For them, anarchism is important ainly as an organizational structure and as a commitment to egalitarianism. It is a form of politics that revolves around the exposure of the truth rather than strategy. It is a politics decidedly in the moment (Epstein 2001).

Since the early 2000s, anarchism has only further gained in its potency as a dominant Left alternative (Epstein 2002; Gubracic and Lynd 2010; Graeber 2002; Maeckelbergh 2012; Dixon 2014). Although much of the energy of the Global Justice Movement diffused after the start of the Iraq War in 2003, it certainly did not dissipate altogether. Many of the individual anarchist-informed movements remained connected through various informal and formalized networks, which helped to create the latent corps of the Occupy movements in 2011 (Benski et al 2012). As explained by Uri Gordon in his article on "Anarchists Against the Wall":

> The past ten years have seen the full-blown revival of a global anarchist movement, possessing a coherent core political practice, on a scale and scope of activity unseen since the 1930s. From anticapitalist social centers and eco-feminist communities to raucous street parties and blockades of international summits, anarchist forms of resistance and organizing have effectively replaced Marxism as the chief point of reference for radical politics in advanced capitalist countries (2010: 414).

110

As he sees it, anarchism is best understood as "primarily a political culture shared across a decentralized global network of affinity groups and collectives" (Gordon 2010: 415). And within this culture there are certain identifiable characteristics such as a particular repertoire of direct action, anti-hierarchical and voluntary modes of organizing and a language rooted in traditional anarchism.

To be sure, the relevancy of anarchism for contemporary social movements and activists is most obvious in the Occupy Movement, Spanish and Greek anti-austerity movements, the Arab Spring and the many other revolutions and instances of collective action that swept the globe in 2011 (Feixa 2012; Castañeda 2012; Juris 2012; Pickerill and Krinsky 2012; Milkman et al. 2012; Howard and Pratt-Broyden 2013; Karyotis and Rüdig 2013; van de Sande 2013; Abbas and Yigid 2015). In fact, in many ways, these movements directly mirror the principles and practices of the Global Justice Movement and its anarchist historical antecedents. Given the anti-capitalist thrust to these uprisings coupled with widespread disillusionment over systems of governance or what can be considered a systemic "crisis of legitimacy," it comes as no surprise then that there was an "anarchist DNA" to these mobilizations (Markoff 2002; Williams 2012; Bamyeh 2013). No doubt adding to this was the direct participation and mentorship by countless veteran anarchists who were radicalized during the Zapatista *encuentros*, in Seattle, and even in New Left activism. Consequently, there was an anarchist impulse imbued throughout these movements, evident in the shared commitment to horizontality, more inclusive participatory politics and "directly democratic" practices, and "prefigurative" communities based along principles of mutual aid (Sitrin 2012; Williams 2012; Benski et al 2013; Schneider 2013; Bray 2013; Hammond 2015).

The salience of anarchism, however, has only grown in prominence since 2011, as anarchist ethics and praxis have diffused into other mobilizations and movement spaces—ranging the emergence of smaller movement networks such as Mutual Aid Disaster Relief to other large-scale uprisings like the Gezi Park takeover in Turkey and the Bookchin-influenced, democratic confederalism in the Rojava Revolution (Abbas and Yigit 2015; Leverink 2015; Spade 2020). One of the clearest examples of this is in antifascist resistance efforts. Post-2016 in the era of Trump, with the rise of fascism and the intensified normalization of organized white supremacist forces, much of the more militant antifascist resistance and community self-defense organizing, has come out of anarchist and anarchist-leaning organizing efforts, akin to the black bloc dimensions to the alter-globlization days. Notably, the Resist This J20 mobilizations against Trump's inauguration, employed horizontally-networked models to coordinate the efforts (Loadenthal 2020). This, of course, has resulted in the re-emergence of the vilified trope of anarchists as violent terrorists, eliciting not only severe repression, but also, once again, solidifying anarchists' role as the political boogeyman du jour.

Yet, it is far from limited to antifa organizing. During the early phases of the Black Lives Matter movement in 2014, organizers employed action councils (Milkman 2017).[18] And, more recently during the wave of protests in the summer of 2020, police abolition—previously largely a concept only embraced by anarchists and radical anti-authoritarians—has become a widely held perspective among liberal progressives and even mainstream Democrats. The youth-led Extinction Rebellion movement is very much predicated in direct mass action (Fithian 2019).

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[18] It should be noted that despite popular use of the term, Black Lives Matter is now organized as an official network with recognized chapters. The groups calling for action councils may or may not have been affiliated with the official network. The movement is more often referred to as the Movement for Black Lives.

There has been an uptick in horizontal, worker cooperatives. Community self-defense proejcts and immigrant solidarity efforts exemplify mutual aid in practice. And, in the midst of the Covid-19 global pandemic, the explosion of mutual aid projects when shelter-in-place rules went into effect even further expanded the widescale adoption of this anarchist principle (Sitrin 2020).

To be sure, there has also been a resurgence of interest in socialism and party politics, clearly evident in explosive growth of the Democratic Socialists of America inspired by Sanders, which skyrocketed from 6000 to 50,000 members in a matter of months. In the lead up to the 2016 election and, again, during the 2020 presidential race, there has been a definitive move away from refusal to engage in electoral politics and a sense of urgency and pragmatic necessity to do so. There has also been a greater degree of acknowledgement among anarchists of the value to Marxist analysis of capitalism. And, for some, a willingness to engage in big tent or umbrella groups. Ironically, perhaps for this reason, anarchism has even found its way into theoretically non-anarchist spaces such as the DSA. The Libertarian Socialist Caucus, for instance, is explicitly comprised of "syndicalists, council communists, anarchists, cooperativists, and municipalists, among many others" and, specifically, puts forth a remarkably anarchist-resonant platform based on self-determination, freedom from hierarchy, domination, and coercion, an understanding of shared struggle, and solidarity based in mutual aid.[19] Democratic Socialist congressional rep, Alexandria Ocasio-Cortez even did a national conference call on the importance of mutual aid for pandemic response.

One might even argue that these logics have, in fact, informed mainstream culture and society more broadly. Take, for example, the Sharing Economy, which draws on language of

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[19] https://dsa-lsc.org/

mutual aid and resource pooling into a form of compassionate capitalism. Meanwhile, there has been what might be thought as the "hot topification" or commodification of anarchist culture and aesthetics. And there is the proliferation of new forms of anarchist-informed knowledges as it has become both a critical topic for scholars and more academics are adopting an anarchist framework to their analysis. Needless to say, for activists and movement scholars alike, this suggests a need to think more about how as this diffusion happens into mobilizations and society, anarchism (and other radical tendencies) retain its uniquely radical potential without becoming watered down, misappropriated or coopted.

Returning to the "anarchist turn," however—where, then, does that leave us? Are we still feeling the effects of the turn that took hold at the end of the twentieth century and birth of the twenty-first? Or are we experiencing a new upsurge and phase of anarchism's popularity? Are other radical currents and political trends regaining ascendency? Or are we moving towards a cross-pollination of radical perspectives? How do we make sense of the ways that anarchism resonates with, informs, and is, in turn, influenced by other currents? These are all questions that bear further consideration. Still, it is undeniable that we can see the direct influence of the anarchist turn in today's mobilizations, woven and blended into other radical tendencies in subtle ways and totally shifting our resistance efforts in others.

2. The Democratic Turn

"I have no interest in Beltway politics. I don't plan to return to Washington D.C. unless at the head of a conquering army or to visit the cherry blossoms in the spring."

~ Richard L. Grossman, frequent quip

Richard Grossman spent many years in Washington. He worked with unions and progressive thinktanks, organized Environmentalists for Full Employment in the 1970s, and was briefly the executive director of Greenpeace USA. But by the late 1980s, Grossman had concluded that most everything popular movements were doing was no longer working. For every registered lobbyist on behalf of the public interest there were 100 working for a major corporation on the other side of the issue. For every dollar spent by an ordinary citizen in support of candidates for office, there were 1000 invested by that same corporation. Media consolidation meant that fewer and fewer corporations controlled what people saw and heard. The repertoire of movement tactics – of writing letters, organizing consumer boycotts, holding protests – was becoming less effective. Yes, a strike or a direct action campaign might win a particular battle. But overall, working people were losing the war.

Grossman decided it was time for popular movements to step back and put their energies into rethinking not just their strategies and tactics, but also their understanding of history, of who they were, and of what they were trying to accomplish. Together with Ward Morehouse of the International Campaign for Justice in Bhopal (ICJB), and then joined by Mary Zepernick and Virginia Rasmussen of the Women's International League for Peace and Freedom (WILPF), he founded the Program on Corporations, Law and Democracy (POCLAD). They had no pretensions or intensions that this new group would become a big budget mass membership organization. The purpose of POCLAD was to instigate a radical shift in the ways activists and

ordinary people thought about accomplishing the task of self-governance. Thus, there were

newsletters, books, speaking tours, and eventually, films, all following from an initial pamphlet,

Taking Care of Business: Citizenship and the Articles of Incorporations:

> We are out of the habit of contesting the legitimacy of the corporation, or challenging
> concocted legal doctrines, or denying courts the final say over our economic lives . . .
> What passes for political debate today is not about control, sovereignty, or the economic
> democracy which many American revolutionaries thought they were fighting to secure.
> Too many organizing campaigns accept the corporation's rules, and wrangle on corporate
> turf. We lobby congress for limited laws. We have no faith in regulatory agencies, but
> turn to them for relief. We plead with corporations to be socially responsible, then show
> them how to increase profits by being a bit less harmful. How much more strength, time,
> and hope will we invest in such dead ends? (Grossman & Adams 1993)

The most important thing POCLAD did was to convene scores of weekend meetings called

"Rethinks," short for, "Rethinking the Corporation, Rethinking Democracy." These were

structured democratic discussions, each bringing together 25-50 activists from nearly every

sector of the popular movements of the day. By the end of the 1990s, thousands of well-

connected activists and millions of Americans had taken part in or at least read something

POCLAD produced. A second circle of organizations founded by some of those activists

eventually reached tens of millions more.

It is important to neither overstate nor understate the influence of those initiatives. It is

certainly true – and my research shows – that by the late 1980s there were movement veterans

taking lessons from their experiences, regrouping, and thinking seriously about strategy. For

instance, Medea Benjamin, Kevin Danaher, Kirsten Moller, and Kathie Klarreich formed Global

Exchange in an effort to build transnational people-to-people networks in responding to

corporate globalization. Global Exchange's version of rethinking and reorienting made

significant contributions to the Global Turn of U.S. movements, addressed in the next section.

What was notable about these kinds of efforts – and particularly about the POCLAD "Rethinks"

was that they were designed to lay the conditions for what I have called here "a movement turn." In the case of POCLAD, the idea was to, as Grossman often put it, "take Highlander on the road," by which he meant taking the democratic strategic function that the Highlander Folk School had played for the 1930s-1940s southern labor movement and the 1950s-1960s civil rights movement and bringing it to people across the country.

The paradigmatic idea in the democratic turn of the 1990s was that the people must govern themselves. This was not a new idea. But what made it a movement turn, as opposed to a principle or a tradition, was that many activists oriented their energies toward achieving genuine democracy. They took on not just corporations, but the existence of the corporation. They challenged not just policies, but the entire apparatus of government. They responded to corporate globalization with a vision of a global democratization. They insisted that democracy was not something done for or to us, but something we do for and with each other. Deeply symbolic of this turn is the chant created on the streets of Seattle in 1999 that so came to define the left politics of the millennial period that it became cliché: "This is what democracy looks like!"

The democratic tradition is one of the deepest traditions of the left. Some have argued that democracy is, understood critically, what it has long meant to be on the left (Flacks 1988). In the United States, the most significant upsurge in which the language of democracy was significantly present was that of the 1960s, when the Port Huron Statement's call for "participatory democracy," was read and heeded by tens of millions around the world (Flacks and Lichtenstein 2015). That rhetoric and a short yet intense period of organizing teach-ins, popular schools and universities, and alternative institutions was deeply formative, especially at "the grassroots," and it resonates to this day. But it never came together in a national or global fight for democracy. The democratic turn had roots in the 60s, but it did not begin at that time.

117

Why did it emerge 30 years later? The answer that emerges from my research is that the many people who were regularly engaged in progressive activism in the U.S. of the early 1990s were, like Grossman and other movement veterans, thinking critically about the times they were living in and the trajectory of their society. Relatively few had the personal qualities and biographies that Grossman and other contemporary democracy activists had. But they were open to reorienting their work around the problem of the corporation and democracy.

In part this strategic openness stemmed from the cultural contexts in which they did their work. The valuing and practice of participatory democracy had been challenged and deepened by the feminist movement (and broader feminist turn) of the 1970s and was a daily norm for many activists. Also still resonating out of the 1960s was the critique of "corporate liberalism" – that the liberal regulatory state served to legitimate corporate capitalism and protect it from its own dysfunctions (Sklar 1988). Finally, the international solidarity movements of the 1980s meant that extensive personal ties many U.S. activists had to liberation and democracy struggles in Latin America, the Caribbean, Africa, and west and southeast Asia, provided a sense of accountability for "fixing the problem here in the U.S.," as well as a sense of possibility that "if they can end Apartheid in South Africa, maybe we can do the same thing here in the United States" (Cobb 2016).

The strategic openness to a democratic turn was matched by a decisive sense of strategic necessity. Most significant was a widespread understanding that the people of the United States were being subjected to a program of domestic structural adjustment related to the polices imposed on other countries through the Reagan administration's neoliberal Washington Consensus agenda of the 1980s (Manski and Peck 2006). This meant the end of general assistance and the corporatization of welfare, education, corrections, and other public services. It

also meant the decimation of union jobs and power. It also drove a general trend toward the corporatization of everyday life, including social movement organizations themselves. Alongside was an emerging realization of the scale of an emerging triple global ecological crisis involving global ozone depletion, loss of biodiversity, and climate change. Major corporations were visibly at the center of these concerns; it was easy to see that the power of corporations was itself a problem that had to be dealt with.

That the 1986-1994 was a time of particularly great global upheaval also contributed significantly to the openness and determination of older activist to rethink and the eagerness of younger activists to try something new. Democratic uprisings swept much of the globe in those years, from the Philippines' People Power Revolution to the Haitian struggle for democracy. The dismantling of the Soviet Union and the collapse of the regimes of the Warsaw Pact countries, together with the brutal crushing of the Tiananmen Square democracy movement, sent the signal to many that if there were to be an alternative to corporate capitalism, it would not come from Moscow or Beijing but instead from popular movements around the world – including in the U.S.. Finally, the ratification of NAFTA by the U.S. Congress in 1993, followed by the Zapatista uprising of 1994, made deep impressions on every single activist I interviewed. There was a collective sense that they were entering a new period of struggle, with new terrains and new logics, and that new strategies and movement building practices were needed.

One terrain of struggle for the those "working to build a democracy movement" in the words of the campus-based 180/Movement for Democracy and Education was the fight over trade and the global economy. Shared with the proto-Global Justice Movement – characterized in domestic media at the time as the "anti-globalization movement" and by movement activists as the "anti-corporate globalization movement" – the terrain of global trade meant something a bit different

for democracy activists than it did for international NGOs. The title of David Korten's widely circulated and photocopied 1995 book, *When Corporations Rules the World*, says it all. For the radical democrats of the 1990s in the U.S. the struggle was about global popular sovereignty versus corporate rule. It must be added that this collective action frame operated not just in the United States but also in the popular struggles against the GATT, MAI, and World Trade Organization in countries all over the world. In the words of the 1997 Port Elgin Declaration, issued by many leading activists of the Global South and North, "The ultimate goal must be to give the world's peoples the sovereign right to govern themselves as they wish and deserve to be governed" (Clarke 1997).

A second terrain of struggle was that of elections and government, the very institutions historically described as pillars of American democracy. By the early 1990s, the long fight for campaign finance reform that had begun in the 1970s seemed to be losing ground to a flood of corporate money so alarming that politicians ranging from Jerry Brown and Ross Perot to Russ Feingold and Paul Wellstone were winning votes with populist messaging. For democrats, the rise in corporate financing and of the Democratic Leadership Council under Bill Clinton and Al Gore meant that the Democratic Party was regarded as an unreliable vehicle for reform, at best. The best known and most highly regarded living activist in the U.S. at the time was Ralph Nader, known not only as a leading consumer advocate but also as the father of public interest research, law, and lobbying. By the mid-90s, Nader had reached a conclusions similar to Grossman: The entire apparatus "Nader and his raiders" had set up in Washington D.C. was not working. This was the beginning not only Nader's runs for the presidency, but also of a major upsurge in independent politics that produced three national progressive parties – the New Party, the Labor

Party, and the Green Party (Manski 2015). Thus, one product of the democratic turn was the rise of independent politics and of new forms of independent movement-party organizations.

Another set of practices that emerged on the electoral terrain involved voting rights and election integrity. Many of those who went through the national fight over the Florida 2000 presidential recount had also been in Seattle in 1999 and saw the two events as part of a larger struggle. They took lessons from those experiences and joined with longstanding civil rights and election reform organizations like Rainbow PUSH, NAACP, Public Campaign and the Center for Voting and Democracy (now FairVote), in convening meetings, conferences, and summits to build what they called a "New Voting Rights Movement." Democracy Summer, the first of these gatherings, took place in in the summer of 2001 in Tallahassee, Florida. The participants drafted a Voter Bill of Rights, which activists still refer to as a framework guiding their actions. An immediate result of this movement building process was the No Stolen Elections! campaign of 2004 and the Ohio presidential recount. Over the longer term, the tactical repertoire of this new movement came to include independent recount efforts, election integrity audits, and election reforms such as rank choice voting (RCV).

A third terrain of struggle critical in the 1990-2010s was that over corporatization and austerity. Given how intense it was, it is remarkable not only this terrain has been largely forgotten today, but also that some of the elements it produced still matter in contemporary politics. A meme popular in the 1990s – distributed not on social media but in the form of stickers and t-shirts – was an image of a road sign with the words "Resistance May Be Expected." The resistance to structural adjustment policies imposed on working people in the United States was commonly articulated as "anti-corporate." The generally non-violent ferocity of welfare families, Indigenous and radical environmentalists, student anti-corporate

campaigners, community activists, and unionists in resisting what seemed to them to be an onslaught of corporate takeovers set in motion forms of resistance and movement building practices that prefigured the Wisconsin Uprising of 2011 and the Occupy movement that followed (Manski 2019a).

It also made for a ready audience for POCLAD and its associated networks. One such network was organized through the Democracy Teach-Ins (DTIs), a coordinated set of mass participatory educational events on hundreds of college campuses across North America. The DTIs posed a single question: "Can we pursue democracy and social justice when corporations are allowed to control so much power and wealth?" Out of this process and others like it, a discourse around "corporate personhood" and "corporate rule" emerged and came to define much of the youth politics of the late 90s. While anti-corporate politics are no longer as prominent in the discourse of the U.S. left, they have become consensus positions embedded in mainstream organizations and carried forward in the popular campaign for a We the People Amendment making clear that corporations are not persons entitled to the protections of the Bill of Rights.

It was this last campaign that, together with the post-Florida pushes for ratification of a Right to Vote Amendment and a Popular Vote Amendment, that opened up constitutionalism as a new terrain of struggle for the left of the 2000s-2010s. Supreme Court decisions like *Timmons v. Twin Cities Area New Party* (1997), *Bush v. Gore* (2000), and *Citizens United v. FEC* (2010), which respectively struck blows against independent political parties, the right to vote, and popular sovereignty over corporations, each added to the sense that it was strategically necessary for democracy activists to take on the project of constitutional reform.

122

They did this in particularly democratic ways. For instance, the movement to overturn *Citizens United* began nearly a year before that decision was rendered. When the Court issued its ruling that corporations were members of a "protected class" guaranteed a standard of review of strict scrutiny under the First Amendment, activists were reading to go with a MovetoAmend.org website and a mobilization plan that moved from the bottom up. They began with municipal and country ballot measures that put support for a "We the People Amendment" before the voters. Wherever possible, these referenda were initiated through citizen petitioning, the idea begin to build a groundswell of support that would either compel congressional action or allow for the convening of an alternative constitutional process. As described earlier, in the ten years since *Citizens United,* at least 673 communities and seven states have adopted We the People Amendment resolutions, of which at least 320, including those in major cities like Los Angeles, San Francisco, Chicago, and Milwaukee as well at the state level in Colorado, Montana, and Washington, won adoption by a popular vote (Move to Amend 2020).

Altogether, the democratic turn was far more widespread than one might expect from the relatively small and poorly funded network of pro-democracy activists and organizations that worked to produce it. There was a reorientation of the left around the idea of fighting for democracy and demanding democratic reforms. The frames of corporate power, corporatization, corporate personhood, and "This is What Democracy Looks Like!" became mainstream. The practice of independent politics, election integrity audits and recounts, and popular constitutionalism are now regular features of American political life. And there are several cohorts of activists and networks of organizations that emerged out of the democratic turn who remain engaged in the history making taking place today.

3. The Global Turn

Commenting on the Green New Deal in 2019, Jeremy Brecher notes that:

> . . . it's very, very internationalist, rooted primarily in a recognition that the problems of climate change are global problems, and can only be addressed globally, but also rooted in a set of values and norms that are totally at odds with an economic nationalist approach to solving problems. That's another way in which it is a legitimate offspring of the Battle of Seattle. The Green New Deal represents a complete break with the idea that we have to let markets decide these things, but it's not a nationalist response to it. It's an internationalist, a common people's response. (Brecher and Moodliar 2020)

Brecher's observation is consistent with his advocacy, twenty-years earlier, for a "globalization-from-below," in which social movements and organizations would not merely collaborate with each other internationally (i.e. between nation-states), but their mobilizations, targets, frames, repertoires would be global, i.e. across borders or transnational in scope (see Brecher et al 2000). This understanding of social movement activities matches the globalization of capital wherein corporation ownership, control, production, and distribution activities are no longer multinational, domiciled in a single country but operating in several countries, but now transnational and domiciled in many countries. It was also an alternative frame to the corporatist globalization envisioned by the International Labor Organization (ILO) (2008) under the rubric of a "fair globalization."

Operating with a similar frame, Chris Hardnack (2020) traces the emergence of the global justice frame to neoliberal globalization and the social movement responses from below, particularly to the World Bank and International Monetary Fund (IMF). Particular mobilizations by the emerging global justice movement proved pivotal. Central to this narrative are the counter-summits of social movements particularly the "Earth Summit" (Rio de Janiero 1992, Peck 2020) and the transnational gatherings leading to the formation of La Via Campesina.

Evidence of the global turn after Seattle and the portability of its repertoires abound particularly as one notices similarities between the Seattle mobilizations and those in cities like Barcelona (Juris 2008) and at summits in Genoa, Gothenburg, Quebec City. More positively, global civil society mobilizations became routinized for over a decade following Seattle with the creation and launch of the World Social Forum (Sen 2009). Jackie Smith (2020) explores the impact of the World Social Forum process and notes its influence of social movements within the United States. It is valuable then to pause and note the direction – rather than social movements elevating their claims to a global platform, Smith provides evidence of a dialectic in which the global influences the national with her poignant example at the heart of Empire, i.e. the United States and the US Social Forum process.

For many activists, the appearance of the globalized movements were consistent with early periods of social movement activity. In fact, Moghadam (2018) locates these developments in a broader revolutionary context (rejecting the separation of the study of social movements from those of revolutionary movements.

Ironically, as much as these movements can now be understood as globalized, further insights may be gained by comparing these movements with those that have appeared at earlier stages, for example the World Festival of Youth and Student Movement gatherings in the former Soviet Union that drew tens of thousands of people and impact the global peace movement as well as later anti-nuclear mobilizations. Still earlier movements, apart from the official party-based internationals of the socialist movement, include the international Pan African congresses, and the global abolitionist movement of the 19th century. In contrast with the global turn, these earlier international movements appealed to national governments and were operating in relatively stable systems of nation states. Going further back, however, to the formative years of

the international state system and protean capitalist world order, one finds social movements that had a truly global character involving actors resisting the authority of the nation states that sought to exploit the labor and territories (Linebaugh and Rediker 2003).

C. The Millennial Turns and the New Period

The three turns of the millennium that manifested most dramatically in Seattle 20 years ago were not, it must again be stated directly, the only significant turns on the U.S. left of that period. Just there is evidence of a feminist turn and an ecological turn in the 1970s reached much further than the networks of activists that produced them and of a queer turn and a media turn in the 1990s, there have been other profound transformations that matter today. On the right we clearly have seen a nationalist turn, and on the left we are likely experiencing an abolitionist turn – both rooted in earlier processes and with their own narratives of struggle.

The anarchist, democratic, and global turns of the 1990s-2000s period had particular import for what happened at The Millennium Round ministerial meeting of the World Trade Organization. They also have much to do with the way in which a new and much talked about turn of the U.S. left – a socialist turn – has taken place.

1. After the Millennial Turns: A Socialist Turn

At the dawn of the 21st Century, socialist thinking and theorizing, especially those identified with Marxism, in the Anglo-American world was colored by a sense of defeat and despair. If third-world revolutions together youth, black and other people of color insurgencies, and other so-called "new social movement" projects once fed revolutionary hopes, these too had receded. Notwithstanding early to mid-1990s promise of a Labor Party supported by a major industrial union (see Dudzic and Isaac 2012) and the Teamster-led UPS strike of 1997, the labor movement

core of socialist projects appeared both weak and without hope of resuscitation. Indeed, it became commonplace to recognize the "new geography of work" (see Ross 2008) and attendant fracturing and precarity of the working class. No wonder, then, that the leading intellectual of the post-1960s new left would signal a retreat from socialism in *New Left Review.* Perry Anderson's (2000) "Renewal" appealed to thinkers and political traditions outside the socialist and Marxist lineages he so eruditely and precisely chronicled. Indeed, as recently noticed by George Souvlis (2020) and notwithstanding Anderson's historical materialism, his thinking about social change and the prospects for revolution are tied closely to a realist reading of the state and inter-state relations and less so to any class-based projects. Although his journal (and its book publishing arm, Verso) would remain centered in left politics and pay close attention to the new movements emerging (see for example Mertes 2002; Graeber 2002; Shepard and Hayduk 2002), its publications in the early 2000s do not reveal any coherent socialist project, at least not beyond those of the Latin American Pink Tide which it embraced tentatively (see Wilpert 2007).

By the second decade of the current century however, alongside the Arab Spring, Occupy and Black Lives Matter movements, however, a distinct socialist turn may be discerned. A Bhaskara Sunkara (2011) polemic, "Why We Loved the Zapatistas," signaled a break with the GJM that seems to capture the *affect* of the socialist turn:

> We loved the Zapatistas, because they were brave enough to make history after the end of History. We loved the Zapatistas, because we were afraid of political power and political decisions. We loved the Zapatistas, because we thought we could do without a century and a half of baggage. But we could have done far more for the Zapatistas if we mounted a better challenge to the system that shackles us all — neoliberalism. I mean capitalism.

The romance and elan of revolutionary Zapatismo are taken here as signs of political immaturity and even a dereliction of duty. At this juncture, literally days into the explosive

#Occupy movement's birth, Sunkara demanded both a political turn and an engagement with "a century and half of baggage," i.e. the real worlds of socialism as expressed in the communist and social democratic experiences since 1848.

His call parallels a socialist re-emergence after decades of relative obscurity, often submerged within other movements. Indeed, one of the earliest signals of the turn was relatively warm reception of John Nichols's (2015) "The S-Word," originally published in 2013 which chronicled the 19th century/early 20th century *domestic* roots of American socialism and municipalism. More dramatically, however, was the election to city council that same year of a socialist, one campaigning as such, in a city-wide election in Seattle (Johnson 2013). Kshama Sawant would go on to repeat her successful campaign two more times, in each case defeating liberal Democratic Party rivals while defending her class-struggle politics. Although the beneficiary of the city-wide coalition effort involving a wide range of left-wing political forces including left-liberal and anarchist currents, Sawant closely identifies with a socialist organization, Socialist Alternative. Rather than hiding her affiliations, she successfully traded on these to appeal to voters. Although her campaigns have embraced critical single issues--$15/hour minimum wage, rent control, mass incarceration, taxing Amazon, etc.—all of these have been framed in the context of a broad class struggle challenging not only capitalists, but capitalism itself (see Gupta 2015).

The breakthrough election of Sawant to the city council of a command city in the global capitalist economy would not be replicated elsewhere by her political tendency, although they ran competitive races elsewhere, especially in Minneapolis (Mullen 2017). However, elsewhere in the United States, socialists would find success in numerous state assembly and local races running with the support of the Democratic Socialists of America (DSA). (In Texas, for example,

4 DSA-backed candidates won county, judicial, and college trusteeship elections in 2018, see

Blain 2018.) Of course, the 2016 and 2020 presidential campaigns of Bernie Sanders placed

socialists and socialism at the center of public debate. Although precise definitions of Sander's

socialism would prove elusive, certain programmatic elements stand out.[20] These include a

strong commitment *by the state* to the provision of public goods especially those that impact the

working class' quality of life (affordable housing, healthcare access, free education, secure

retirement, and a safe environment, see Day and Uetricht 2020). Departing from traditional

liberalism, Sanders framed such benefits not only as human rights, but also as goods *denied to*

the working class by "the billionaire class." As such, the struggle for these public goods is a class

struggle. In asserting that these public goods are human rights attainable through a class struggle

expressed in both naming-and-shaming campaigns and through referenda, and in electoral

campaigns, Sanders also created the space for socialism to enter the public conversation at a

national level, something that Sawant had achieved at the municipal level. Moreover, in calling

for a political revolution, one to be waged collectively, Sanders signaled a challenge to

establishment politics, making it clear that his run within the Democratic Party primaries was a

matter of political convenience rather than loyalty or philosophical commitment.

Of course, one person does not a social movement make, however the Sanders campaign,

together with other dramatic insurgencies at the congressional level, including the campaigns of

the now legendary Alexandria Ocasio Cortez, have involved millions of people with thousands

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[20] We do *not* intend to develop a definition of socialism and especially not one that characterizing positions or thinkers relative to any abstract or doctrinal definition. Instead, we are identifying as socialist those currents that have declared themselves to be socialist and ascribed certain positions that they hold to be emblematic of their socialism. As such, earlier socialist currents, for example the new communist movement (described by Elbaum 2002) is clearly socialist, has contributed, long after its heydey to social movement turns including the anarchist, democratic, global, and present one, is not treated as an example.

engaged in voluntary campaign work, grassroots donors raising millions of dollars, and a network of non-party campaigning organizations and get-out-the-vote operations . More than "detoxifying" the socialist appellation (Day and Uetricht 2020), these campaigns suggest a sea-change in American politics and the prospect that social movement activity may find a corresponding and responsive electoral movement. The scale of the new wave relative to established power should not be over-estimated however. As John Lawrence (2020) notes, there are some 500,000 elected offices in the United States, but three major progressive and socialist groups (Our Revolution, DSA, and Justice Democrats) endorsed just under 440 candidates in 2018.

To the degree that Sanders, Ocasio Cortez and their cohort of politicians signal a novel socialist turn, observers would be well advised to notice that the core issues that they have bundled into a single *socialist* package have long been part of the public conversation all be they as discrete *issues*. Movement organizations including many unions, community-based organizations, and campaigns have long championed single-payer health systems, raising the minimum wage, student debt forgiveness, robust social safety nets, prison abolition, immigrants' rights, etc. Moreover, several large national networks represent "poor people's" networks and predate the turn. However, it is also worthwhile noticing that many of these organizations, often bound by their corporate form or legal identities, were nonetheless often home to socialist organizers and movement building projects from earlier generations. One example is particularly instructive in this regard. It is the political and organizer training that the founders of the Black Lives Matter movement received through their interactions with Los Angeles's Labor Community Strategy Center, itself anchored in revolutionary socialist politics going back

decades (Ball 2015). Recognition of the submerged networks and abeyance structures however does not obscure the phoenix-like rebirth of socialist organizations.

For context, DSA's growth represents a leap over previous centralized national organizations. In the 1980s, Van Gosse (1994) estimated that membership of the Committee in Solidarity with the People of El Salvador (CISPES) to approach 2,000. In that era of mostly small left wing organizations, CISPES represented, 'the only explicitly "left" current that operated consistently all across the country (in all 50 states, not just a few big cities), with a practical commitment to revolutionary change…' By the end of the 1990s, various socialist cadre organizations could claim memberships ranging from 400-500 to a few thousand, in the case of the International Socialist Organization (ISO).

Outside the electoral terrain, socialist activists and more broadly, progressive activists (understood here as people with economic justice goals and socially progressive racial, gender, sexual orientation, labor, and environmental sensibilities) have more broadly advanced labor and employment struggles. These are especially evident in the service and education sectors in the building of broad and inclusively campaigns for raising the minimum wage and for defending workplace rights. Spectacular strikes in "red" and right-to-work states, celebrated in Eric Blanc's (2019) *Red State Revolt* seem to indicate that the socialist turn, in this case the pursuit of the public good (education) is closely tied to a working class agent (organized/organizing teachers). The optimistic labor writings of Jane McAlevey (2012; 2016) are consistent with this turn expressing confidence in the capacity of service sector and immigrant workers to overcome historical obstacles to their organization in fighting unions. Critical to the campaigns that she describes of union organizing tactics that extend well beyond the shop floor and adopt corporate campaign tactics – corresponding to a strategy that involves workers *and their communities*:

131

"When unions… understand the basis of the relationship between the workers and their own community— they can defeat not only a bad employer but… they can change not only their workplace but also society." (McAlevey 2016, 204)

Corresponding to and alongside the labor and socialist organizing, a number of platforms for socialist thinking and debate have been built by a new generation of socialist activists. The adjective "new" is merited by the fact that these activists are generally not associated with the traditional socialist formations, or where they may be affiliated with older socialist formations, e.g. DSA or the former International Socialist Organization, they represent a new cohort of leaders, ones not closely tied to the previous and often moribund leadership. In addition to quasi-party or party-like entities (Socialist Alternative, the now defunct International Socialist Organization, the Party of Socialism and Liberation, and the Democratic Socialists of America), journals and publishing houses, once stagnant, now form a vital new arena of debate and propagandizing with ancillary social media expressions. The flagship and unparalleled publication of the socialist left in *Jacobin* an online and print publication with 60,000 paid subscribers and a web readership of 2-million monthly in 2020 (*Jacobin* 2020). Another publishing house, Haymarket Books, founded in 2001 and initially closely tied to the International Socialist Organization, has seen its reach expand enormously. *Publishers Weekly* (Milliot and Kirch 2018) included it, along with Seven Sisters Press, as among the fastest-growing independent publishing houses – a fact that it attributes to the public reaction to the Trump Administration. Strong social media platforms, some independent spinoffs of the political projects that inspired them (e.g. post-Howard Dean campaign), including the Young Turks, whose videos received over a billion views on YouTube (Uygur 2013), and *Chapo Trap House*, a podcast founded in 2016, has over 200,000 weekly listeners and a budget of several hundred

thousand dollars based on crowdfunding (Koshy 2019). Their irreverent *The Chapo Guide to Revolution: A Manifesto against Logic, Facts, and Reason* (Biederman et al. 2019) debuted at number 6 on the *New York Times* non-fiction bestseller list. Together, these platforms have an extraordinary reach when compared to previous generations of socialists.

If, as the foregoing suggests, evidence for a socialist turn abounds, how are we to understand the concepts and framing that it has diffused across social movements? Further, if this is indeed a novel turn among social movements, what innovations should we expect in regard to issues that have traditionally bedeviled movements of the broad left in previous eras? Three propositions seem to define the socialist turn: first, that politics and political organizations matter; second, that state power is a worthy target; and third, that class struggle is the route to power and way to address social ills. Underlying all three concepts is the model of capitalism as the source of these ills – including racism, environmental destructions, and extreme inequality.

The electoral orientation exemplified by Sanders campaign and insurgencies at the city, state, and congressional levels of government may also be viewed as a decisive break with past socialist and social movement practice which emphasized building community power and horizontal forms of organization. The socialist turn is also an embrace of organization and, despite its voluntarist dimensions, organizing even on the terrain of consolidated corporate power: socialists now frequently compete with liberal Democrats *within* the Democratic Party and establish socialist caucuses and alliances across interest groups within the institution that most socialists had theretofore abandoned. Inside and outside the Democratic Party, the goal of the socialists is the building of a "mass party of the working class" (see Schwartz and Sunkara 2017). Outside the Democratic Party other socialist currents have continued to develop albeit on a smaller scale. Correspondingly, new publications on the left have reacted against the perceived

133

inadequacies of grassroots and network style organizations that characterized the Global Justice

Movement and its successors like #Occupy (Dean 2016; Gosse 2020; Sunkara 2019).

The technological infrastructure choices of the socialist movement also contrast with

previous generations. For Jeff Juris (2012), the email lists of the Global Justice Movement gave

way to the more decentralized forms of social media (with Twitter being the most emblematic of

the technologies) of the #Occupy Movement. The internal operations of DSA and a number of

related projects however are strongly tied to a much more structured technology, Slack, which

offers an integrated suite of communications and project management apps. That this is more

centrally managed and propriety technology also reflects a shift from the anti-corporate, free-

and-open-source commitments of the GJM and IndyMedia era. (For a very representative

exchange on DSA and its use of Slack, see Anon [2018].)

To fully appreciate the nature of the socialist turn's organizational choices and its remoteness

from earlier anarchist and democratic turns, one only need look at the approach to funding and

fundraising adopted by the organizations identified with the turn. A recent article by a leading

DSA figure, David Duhalde (2020), parses the difference between PAC and SuperPAC funding

sources. While developing a critique of the latter and the opacity of its funding sources, Duhalde

affirms the idea socialists ought to be open to taking such funding even if we reject the

legitimacy of such financial aggregators on principle. This is in sharp contrast to the self-

funding, direct volunteer labor, and in-kind donations models that characterize earlier turns. The

differences here are both in the scale and the organizational infrastructure required to achieve

such scale.

Concomitant with socialist turn's electoralism is an optimistic reading of the power of the

state to effect socialist-oriented goals including especially those that expand the social safety net

e.g. Medicare for All. This again is in sharp contrast, but not necessarily in contradiction with the localist and solidarity-economy approaches that characterize the GJM. Christian Parenti (2014) contrasts the traditional Jeffersonian, small-farmer approach of the left (celebrated, for example, by *Michael Hardt Presents the Declaration of Independence* [Jefferson and Hardt 2007]) and with his own version of a reading "Hamilton beyond Hamilton," on state-led industrialization in the context of climate breakdown and decarbonizing the economy. The most ambitious and unambiguous embrace of the central state comes from *Jacobin* founder and publisher, Bhaskar Sunkara (2019) whose *The Socialist Manifesto* recapitulates the history of social democracy, one centered on the Western European experience albeit informed also with cautionary accounts the Communist and Third World embrace of socialism.[21] For Sunkara, the state offers an escape from zero-sum conflicts within the working class and a opportunity to build coalitions for structural reforms that challenge the logic of capitalist accumulation. Parenti's (2020) more recent contextual re-reading of the US constitution finds a state that Sunkara would appreciate, that is, one with powers that are "numerous, sweeping, and economically transformative" (Parenti 2020, 136). Their statism is echoed in DSA's embrace of the Green New Deal (2019) which contrasts with liberal approaches to the project that subsidize an anticipated capitalist-led transition to a decarbonized economy. Instead, the state is an active creator of public goods and institutions necessary for an aimed rapid (albeit late) decarbonization of the economy by 2030.

The road to state power in the socialist turn, as exemplified by Sunkara's (2019) work and others registered above (Blanc 2019 and McAlevey 2016) is defined by a bold re-assertion of the *class struggle* based on the working class. However, and one might wonder how it could

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[21] This is not the place for a full review of Sunkara's account of social democracy however, it bears mentioning that his is not an uncritical account of the Western European experience. Indeed, he mischievously appropriates the title of an anti-communist screed, *The God That Failed*, to entitle his chapter on social democracy.

otherwise, this is not the working class of anyone's grandparents. Instead, their class struggle building of socialist power acknowledges structural transformations of the working class – expanding out from its industrial core and focusing on strategic new sectors including (especially for McAlevey 2016) logistics and the new working classes of the service sector (which closely tie workplace processes with community needs and clients). Sunkara's (2020) plain-spoken chapter "How We Win," similarly explores how the working class can be won to party programs that emphasize the universalistic and structural reforms that at once, address immediate needs and leave the class-as-a-whole better positioned for further reforms. How then are the traditional challenges that have bedeviled class base projects, particularly those in the US? Following the Sanders' campaign of 2016, Sunkara's emphasis on universalistic, economic justice programs is cast as a win-win proposition – at once raising the living standards of the more exploited and oppressed parts of the working class, namely people of color, without alienating more privileged layers of the working class. The pages of *Jacobin* are consistent with this approach extending beyond healthcare to matters of criminal justice, housing, education, and transit. The GJM's emphasis on the commons is here transformed into public goods won through the class struggle. Several leading black and socialist thinkers especially Cedric Johnson and Adoiph Reed have similarly approached these struggles although, especially in the case of Reed, this long precedes the current socialist turn.

The collective approach to race-class questions is of course not without controversy - see Powell (2020) for a recent account. However, there are several indicators that the current debates over race and class are taking place on a qualitatively new organizational and political terrain that earlier ones on recognition and representation that characterized the GJM (See Martinez 2000). Rather than opposed camps, advocates of a more race-aware politics, opposed to what

136

they allege to be a "class reductionism" are routinely engaging one another is share publications and other for a – often within the same organization. For example, DSA has an organized Afrosocialist Working Group which gives voice to and an organized platform for Black, Indigenous, and other People of Color organizers. During the current rebellion challenging Black oppression, both the Working Group and its parent organization have come out in active, on-the-ground support of the Movement for Black Lives. Another political development—encompassing a much wider range of socialist perspectives—indicates a new level of organizational sophistication and complexity to the race-class question. In contrast with his 2016 presidential campaign, Bernie Sanders 2020 campaign gained the active support of a large number of people of color organizations and during the 2020 primary season, helped Sanders win large majorities of the Latinx and younger African American vote. His campaign's framing of race-class questions had also shifted, this time round Sanders embraced explicit racial justice frames earning the endorsement of a number of leading African American activist intellectuals including founders of the Combahee River Collective who first theorized intersectionality in the 1970s (Smith 2020). None of the foregoing indicates a resolution of the debates over race and class.

On the contrary, the field continues to be an arena for serious debate, controversy, and even rancor. However, with the socialist turn, advocates at the poles of these debates seem to have found common projects - in presidential politics, in organization building, and on the streets.

If the current socialist turn-identified here with an emphasis on building a mass party, organizing under rubric of the class struggle, and hoping to wield state power appears to be the dominant form of socialism accessible to the broad public, it does not exhaust the socialist spectrum, party-building projects of the vanguardist type continue to attract adherents (see, for

example, Socialists Alternative and the Party of Socialism and Liberation). Another socialist current, one that derives directly from the Black Liberation movement, the GJM and solidarity economy movements, and an African American Marxism-Anarchism, may be discerned in the Cooperation Jackson movement (Nangwaya and Akuno 2017). It coexists with the socialist turn appears to be developing denser base-building relationships with locally- and regionally-defined communities and spurred close to a dozen other projects attempting to reproduce the model elsewhere in the United States, see Akuno (2019). While the model overlaps with the socialist turn, its frames place greater emphasis on racial justice and extends its model of the class struggle beyond workplaces and the working class itself to include proletarianized populations whose consumption power is exploited long after their exclusion from formal capitalist workplaces.

D. Conclusion: Revolutionary Constitutionalism after the Millennial Turns

If, as Chantal Mouffe (2009), Alain Touraine (1997), Herbert Marcuse (1979), Richard Flacks (1988) and others have asserted, democracy is the broad historical tradition of the left, the trajectory of the U.S. left should tell us something about the future of democracy in this country. The reorientation of the left around anarchist, democratic, and global paradigms in the 1990s-2010s period resulted in a mix of tactics, frames, strategies, network, and resources quite unlike that of earlier periods.

The anarchist turn changed the way in which activists in general, anarchist or not, did their work. Horizontalism, direct democracy, mutual aid, and mass direct action became things practiced by non-anarchists. The democratic turn left behind a consistent demand for democracy, alongside cries for justice, inspiring campaigns to democratize elections, government, media, the workplace, and much else. It dramatically stepped up the practice of movement constitutionalism

and brought ideas about corporate personhood and popular sovereignty far beyond the confines of the left. The global turn set the stage for the climate movement of the 21st century, making again possible the idea that not only is another world possible, but that it would be up to a transnational movement to constitute a new global order capable of transitioning beyond the carbon economy.

By 2016, the millennial turns had run their course and new openings and threats appeared on the left's horizons. The emergence of a socialist turn on the left swept together most of the remaining energies from the millennial turns, uniting them, for the moment, with veterans of socialist and communist cadre organizations, the progressive wing of the Democratic Party, and millions of new activists in their teens and 20s who identify with socialism, and increasingly, with different forms of communism. Put another way, the socialist turn may be in the process of reproducing the left as the Left.

But the left is filled with contradictions. Anarchism may have grown quite pragmatic, and many anarchists no longer identify as such even if the maintain opposition to domination and the state. Yet many of the newer socialists range from Marxist social democrats to communists organizing openly not as cadre but instead around community base-building for dual power.

There is a liquidity to the left politics of the moment, one that is sure to firm up once the question of the state is posed inescapably. In this mix there remain, coming out of the democratic turn, ongoing mobilizations for constitutional change supported to a greater or lesser extent by nearly all involved. The specter of disintegration is present, but so too is the possibility of revolutionary constitutionalism allowing the left to transcend one of its history obstacles through a program of participatory deliberation and mass organizing. Furthermore, the global climate crisis and the response to it provide a strategic imperative for exactly that. A slogan popular

among socialists these days is "no one is going to save us but ourselves." A fusion of the millennial turns, the socialist turn, and the global climate justice movement is expressed in the policies of the global Green New Deal. But that mix also suggests something that goes further and deeper: A global movement engaged in a constitutional struggle to institute a democratic, sustainable, and equitable global order.

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163

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