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Toward a Predistributive Democracy: Polanyi and Piketty on Capitalism, Moral Economy, and Democracy in Crisis

Abstract: As accelerating inequality careens into plutocracy, and America tilts toward autocracy, Karl Polanyi and Thomas Piketty have become key resources for understanding the link between the social exclusions of capitalism and democracy in crisis. This and its companion article (Somers 2022a) explore each of these thinkers and put them into dialogue to generate the outlines of a democratic political economy that I dub a *predistributive democracy*. Deconstructing capitalism's moral economy of *market justice*, building on legal and economic *institutionalism*, and advocating a movement of *countervailing power* against escalating commodification and dedemocratization are central components of the project. The first article focused on Polanyi's contribution to a predistributive democracy. This one engages Piketty's work as it evolves from a bent toward economic naturalism to a robust institutionalism and an agenda for a participatory democratic socialism. Neither Polanyi nor Piketty is a legal theorist, yet both thinkers are indispensable to the new Law and Political Economy (LPE) project and the movement for a predistributive democracy.

Keywords: Thomas Piketty, Karl Polanyi, capitalism, moral economy, redistribution, inequality, authoritarianism

I. Introduction

According to Freedom House's 2022 annual *Freedom in the World* report, "The United States has experienced a multiyear decline in its democratic norms and institutions, with growing pressure on election integrity, judicial independence, and safeguards against corruption."¹ This trend aligns with a

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multiyear increase in rates of US inequality since the 1970s—rates that show not merely an explosion of wealth at the top, but an extractive relationship in which over the past forty years, \$50 trillion has been effectively appropriated from the “99 percent” and redirected upward to the top 1 percent, such that every year since 1980, the bottom 90 percent has lost \$2.5 trillion and gifted it to the wealthiest Americans (Price and Edwards 2020).²

To the extent that they concern themselves with inequality, let alone questions of democracy, most economists would see these developments as independent (Berman 2022). By contrast, a field of social scientists and legal scholars—usually self-identified as political economists—have long hypothesized a definite, if complicated, relationship between the two phenomena, and sought to identify the causal logic by which rising inequality is correlated with increasing threats to democratic rule (Hacker and Pierson 2010; 2020; Bartels 2018; Jacobs and Soss 2010; Larcinese and Parmigiani 2024). At first glance, this “inequality-plutocracy hypothesis” (Kenworthy 2022) seems straightforward: Thanks to numerous political mechanisms, constitutional design, and judicial decisions—such as money being ruled as equivalent to free speech in *Citizens United v. FEC*, 558 U.S. 310 (2010)—disproportionate economic power is readily convertible into disproportionate political power, making oligarchy and the rise of right-wing populism an inevitable outcome of plutocracy and the failure of democratic rule to meet the needs of working people (Acemoglu 2024; Acemoglu and Robinson 2024; Gilens 2012; Page and Gilens 2017; Wilkinson and Pickett 2009; Savage 2021; Case and Deaton 2020). As Stiglitz (2024a, 3) recently confirms, “the growth of inequality provides a fertile field for authoritarianism and illiberal ideas.” But what are the mechanisms that explain this “fertile field”? Is it simply the power of the rich? And how do we explain the choice of white working-class and rural voters—some of those most afflicted by neoliberal politics—to support the party aligned with the plutocrats and to increasingly endorse its autocratic dedemocratizing agenda (Hochschild 2024; Hacker and Pierson 2020; Schaller and Waldman 2024; Newman and Skocpol 2023; Piketty 2020)?³

To understand these twin crises of looming authoritarianism and accelerating inequality, and the link between them, scholars and political thinkers have over the last decade increasingly turned to the work of Karl Polanyi and Thomas Piketty. Polanyi, a Hungarian political economist who spent much of his life as a refugee from war, political tyranny, and American McCarthyism, wrote his masterpiece, *The Great Transformation* (Polanyi [1944] 2001) (hereinafter *GT*), over eighty years ago in the midst of World War II’s global conflagration (Dale 2016a). Although known primarily for his critique of the “disembedded” market economy, Polanyi’s primary motive in *GT* was to explain the triumph of

¹ The report continues: “Partisan manipulation of the electoral process is partly responsible for the degraded quality of elections. A swell of Republican-led efforts to alter voting rules—including changes to the number, locations, and hours of polling sites—followed the Supreme Court’s 2013 decision to strike down Section 5 of the 1965 Voting Rights Act” (Freedom House 2022). See also Eisen et al. (2024); Boese et al. (2022); Calhoun et al. (2022); Heffner 2020; and Kuttner (2018).

² The 2020 Rand Study was completed before COVID-19, which exponentially increased the redistributive process from the bottom to the top as evidenced in the growth of billionaire wealth between 2020 and 2024: In 2020, the US had 614 billionaires with a combined wealth of \$2.947 trillion; in 2024, the US had 737 billionaires with a combined wealth of \$5.529 trillion, an 87.6 percent increase of \$2.58 trillion (Collins and Ocampo 2024). Economic Policy Institute (EPI) reports that “from 1978–2022, top CEO compensation shot up 1,209.2% compared with a 15.3% increase in a typical worker’s compensation” (Bivens and Kandra 2023). See also World Inequality Lab (2022); Saez and Zucman (2021); Alvaredo et al. (2020), and Lindert and Williamson (2016). Malleon (2023, 1) writes that the “median American worker would have to work for seven and a half million years to earn as much” as Elon Musk’s worth of \$270 billion. Put differently, “the total amount of money that a typical American will earn in their whole life—after, say, 40 years of work—is the same as would be earned by Musk in just 14 minutes.”

³ The puzzle of this phenomenon was made famous by Frank (2004).

fascism in Europe and the annihilation of democracy (Block and Somers 2014). To do so, he argued, required returning to the birth of political economy in Ricardian England and the institutional and cultural transformations accompanying its invention of the self-regulating market (*GT*, 32).

The book was virtually ignored in its time, as explaining fascism by market society's inherently antidemocratic properties and its violently destructive consequences for the social and natural worlds was hardly a popular position in the emerging Cold War (Block and Somers 2014; Dale 2024). Now recognized as one of the most consequential works of twentieth-century social science, its influence is nonetheless paradoxical: At the time of *GT*'s publication in 1944—more than ten years into FDR's New Deal—Polanyi thought that the ideological reign of laissez-faire had been permanently defeated by the devastations of two world wars and the global depression. He was wrong, of course, as he did not anticipate the rebirth of market utopianism in 1970s neoliberalism.⁴ But the great achievement of Polanyi's work is that eighty years later it accounts with extraordinary prescience for today's crisis of democracy and the rise of global fascist movements wrought by that very rebirth.⁵

Seventy years after *GT*'s original publication, Thomas Piketty, a master of data and a product of mainstream economics education in the US and Paris, burst into superstar status in 2014 with his *Capital in the Twenty-First Century* (Piketty 2014a) (hereinafter *C21*). An unlikely blockbuster for a volume thick with tables and graphs, *C21* documents the rise and fall and rise again of inequality since the eighteenth century. The book makes a lawlike argument that without external interference, the rate of capital returns will outpace the rate of national growth ($r > g$), thus inexorably increasing both inequality (especially in wealth) and threats to democratic rule, as belief in democracy's egalitarian political precepts becomes harder to sustain in the face of such radical social and economic inequality. Criticism and praise of *C21*—its data, its methodology, its theory—became a cottage industry. But Piketty is hard to keep up with. Since *C21*, he has published *Capital and Ideology* (2020) (hereinafter *CI*), *Time for Socialism* (2021), *A Brief History of Equality* (2022) (hereinafter *BHE*), and *Nature, Culture, and Inequality* (2024), and collaborated on *Political Cleavages and Social Inequalities* (Gethin et al. 2021). Not only is he prolific, but his theoretical approach has evolved dramatically over the course of his writing, and those shifts are important for understanding what a critical political economy needs to do.

In this and its companion article (Somers 2022a), I put the two thinkers in dialogue to generate principles of a new democratic political economy that can help explain the political and socioeconomic crises we currently face. The dialogue has two axes of inquiry. First, how to explain and deconstruct the social exclusions and dedemocratization institutionalized in the heart of the market economy. Second, how Polanyi's and Piketty's key insights can guide us toward a political strategy to challenge neoliberalism's exclusionary and antidemocratic structures. The previous article began the task by exploring Karl Polanyi's critique of capitalism through the lens of his legal institutionalism, an approach that stipulates that the market economy, rather than being a self-regulating set of economic forces, is fundamentally constituted by politics, law, and legal processes.⁶ Legal institutionalism, in compressed form, postulates that capitalism cannot be understood independently of the constitutive role of law (Deakin et al. 2017; Benkler 2023; Grewal 2014; 2017; Pistor 2019). But Polanyi's work

⁴ Although he quickly recognized his initial optimism was wrongheaded (Polanyi [1945] 2018; [1947] 2018).

⁵ Joseph Stiglitz, in his Foreword to *GT* (2001, vii) almost twenty-five years ago, writes: “[I]t often seems as if Polanyi is speaking directly to present-day issues. His arguments—and his concerns—are consonant with the issues raised by the rioters and marchers who took to the streets in Seattle and Prague in 1999 and 2000 to oppose the international financial institutions.”

⁶ This is also the foundational premise of the new Law and Political Economy (LPE) project. See Harris and Varellas (2020); Grewal et al. (2017); Britton-Purdy et al. (2020).

demonstrates that the powers of law must be understood in their most capacious sense to include not only constitutional foundations, legally enforced policies, and statutory instruments of legal coercion, but also cultural legal constructs as well as normative concepts of economic justice and moral economies.

The summation of the previous article can be stated succinctly: Neoliberalism has for over four decades thrived under the illusory banner of the deregulative ideal—the exigency of the market to be free of the intrusions of government and political power. Yet no more than in the era of *laissez-faire* has neoliberalism aspired to a market free of power. Rather, it is a project to reappropriate the powers and institutions of democratic governance and to exercise permanent predistributive control of the market economy. There is no such thing as deregulation, only reregulation, as the economy is always a creature of power and law. The question is always the same—who will control those levers of power and law? The signature achievement of neoliberalism’s forty-year reign has been that of *seizing and repurposing predistributive law and state power for inegalitarian ends*, all the while convincing us that what we are watching is the free market at work and that the ensuing maldistributive outcomes are the result of freedom *from* power.

To come to that conclusion, Somers (2022a) developed four precepts:

1. **Capitalism is a bifurcated process:** Polanyi is usually associated with the argument that market society developed from the economy’s “disembedding” from state and society. But this, according to Polanyi, was in fact an ideology hardened into a legal construct, since the idea of a self-regulating market is a “stark utopia” (*GT*, 3).⁷ Instead, Polanyi alerts us to the *bifurcated* nature of modern market societies—divided between the utopian *idea* of a self-regulating market—a cultural invention of a nonpolitical economy self-organized by natural market forces—and the unacknowledged reality of an economy as an institutional order constituted at its core by structural arrangements of power, law, and social relations of coercion.⁸ The two dimensions—the cultural/ideational and the institutional—are equally powerful and must be given equal analytic attention. Political economy is at once a cultural economics.
2. **Market justice is capitalism’s moral economy:** At the ideational level, whether in its original *laissez-faire* version or today’s neoliberalism, the free-market economy consists of both a culturally constructed fictitious *political* economy (market naturalism) and a *moral* economy (market justice).⁹ The political economy of market naturalism is a self-declared science specifying the relationship between economy and polity, as well as a prescription for how that relationship must be carried forward. Market naturalism is the foundation of the moral economy of *market justice*, which defines the morally just

⁷ “The utopian nature of a market economy explains why it never could be really put into practice. It was always more of an ideology than of an actual fact . . . the separation of economics and politics was never carried completely into effect” (Polanyi 2014, 218).

⁸ This may evoke Marx’s famous base and superstructure dichotomy, and while there are similarities between the “appearance vs. reality” realist framework, as will become clear in my discussion, the substantive argument is quite different, as Polanyi locates the “economic” at both the ideational and the structural level, and strenuously resists the delineation between “ideal” versus “material” forces.

⁹ A common mistake among critics of market capitalism is to believe that morality has an exclusively progressive bent. *GT* makes clear that capitalism’s success is as much due to its moral economy as to its economic principles; it is a misunderstanding of the book to read it as a story of markets *versus* moral economy (Somers 2020), rather than of *competing* moral economies.

distribution of rights, privileges, and deserts. Market justice stipulates that because market processes are rooted in natural forces and putatively unbiased by arbitrary powers of politics and law, its outcomes—however unequal—are inherently fair, and postmarket adjustments (redistributive taxes) in the interest of greater equality are unjust violations of people’s fair earnings. Its moral mandates thus justify inequality and social exclusion, define redistribution as theft,¹⁰ sustain the legal powers of property rights and freedom of contract, and delegitimate—often criminalize—democratization beyond its most constricted market-conforming limits, appropriate for only a narrow segment of deserving citizens.

3. **The economy is an “instituted process”:** Although obscured by the cultural fiction of a self-regulating market, the economy is in reality an “instituted process” (Polanyi 1957) organized through the institutional powers of policy, law, coercion, and predistribution. Predistribution is a Polanyian-inspired concept that is especially useful in addressing the flaws in naturalistic conceptions of a market economy, as it explains how the market’s distributional outcomes (wages and earnings) are not the result of “market forces” but are engineered by government policies and legal institutional powers operating inside the economy. Understanding predistribution is essential to undermining the myth of neoliberalism as a free-market system, as it redefines the economy as a site that structures the balance of power among competing institutions and market participants (capital interests, property owners, employers and employees, etc.). Predistribution also serves as a guide to Polanyi’s alternative theory of political economy, which dissolves the fictive division between a “nonpolitical” “stateless market” allegedly free of power, and the state as the exclusive site of power. *Legal* predistribution is central to this analysis, as it explains how the law operates inside the market through contract law and property rights, as well as statutory laws and regulations, to influence not only the *predistribution* of initial market distributions—toward more or less equal wages and incomes—but also to determine the distribution of relative market power and the allocation of rights among market participants in the first place (Vogel 2021). For Polanyi, markets are not merely “embedded” in government, law, and social relations; they are allocative institutions of power, making them thoroughly social and political institutions legally engineered *from the inside out*. Polanyi argues that effacing the infrastructural place of power, law, and coercive commodification inside the economy is the foundational deceit at the core of classical political economy, modern neoclassical economics, and by implication, today’s neoliberalism.
4. **Capitalism’s antidemocratic DNA:** Predistributive analysis exposes the fictitiousness of the claim that the market economy is free from government power. Freedom from the *power of democracy*, however, has been a structural constant of capitalism from its inception. The diktats of market justice combined with the political/legal power at the heart of the market mechanism make it inevitable that

¹⁰ It is critical to note that the “redistribution is theft” diktat is only lodged against democratic attempts to *mitigate* extreme market inequalities. By contrast, market justice apologists have no moral problem with upward redistribution. The apparent contradiction is made to go away by the fact that the term “redistribution” is used exclusively to describe more equalizing policies, while distributive policies designed to aid the wealthy are treated not as “redistributive” but as *natural* market processes.

struggle over control of that power turns democracy into a potentially mortal threat to wealth and property. Identifying capitalism's moral economy brings a sobering recognition of how a powerful morality of market justice can be mobilized to dictate the silencing of democratic voices in both the public and private spheres. A principal component of that struggle against democratic intrusion into the economy is *predistributive dedemocratization*—the antidemocratic mechanisms that are built into the heart of the market. While there are multiple dedemocratizing devices outside the market—voter suppression, the Electoral College, the unelected power of the juristocracy—it is the relatively invisible internal instruments of dedemocratization that are especially lethal as they are obscured under the guise of the market's "natural processes." Dedemocratization and citizen exclusion are built into the institutional infrastructure of market society to ensure its freedom from a democratic citizenry. For Polanyi, dedemocratization is foundational to the structural calculus of marketization, making the silencing of the demos not merely a consequence but a causal agent in modern market dynamics and social exclusion. Markets are predistributively designed to dedemocratize, thus turning citizens into subjects (Somers 2022b).

This article moves from Polanyi to Piketty, and probes Piketty's work as successively developed in three of his books over the last decade. The themes discussed can be previewed in four points:

1. *C21* breaks through the decades-long indifference toward inequality by explaining wealth and property's consistently faster rate of growth over that of labor income to have been inherent to capitalist societies for over two hundred years—the $r > g$ inequality. *C21* exhibits a tension between a naturalized formalizing of the dynamics driving inequality and Piketty's sometimes explicit but secondary argument that power and institutions are the critical forces shaping this appearance of natural market forces. While *C21* tilts overly toward naturalism, however, in *CI* historical institutionalism predominates and renders a powerful explanation of how institutionalist forces have operated over time and place to create a sequence of justificatory regimes of inequality, culminating in today's extreme "hypercapitalism" and a paralyzing divide between a "Merchant Right" and a "Brahmin Left" in modern politics.
2. *CP*'s turn to institutionalism points to how moral economies designed to justify inequality are critical mechanisms in the work of sustaining property dominance and in keeping democracy at bay. Although the arguments falter somewhat at times in abstracting the ideologies too sharply from the political-economic regimes, Piketty nonetheless demonstrates how patterns of inequality and social exclusion cannot be explained independently of the causal powers exercised by this historical sequence of "inequality regimes."
3. *CI* and *BHE*, unlike *C21*, drill down to the power of law in political economy and discover the strength of legal predistribution in shaping inequality, even reporting that compared to redistributive policies, predistribution has greater influence in determining comparative levels of inequality (Bozio et al. 2023). Curiously, however, in both books, Piketty's agenda for a "participatory democratic socialist" alternative to hypercapitalism leaves predistribution out of the picture and reverts almost exclusively to redistributive progressive taxation and a revived welfare state as the main mechanisms to combat inequality. At the same time, *BHE* in particular makes clear the porousness of the line dividing redistribution and predistribution; for example, the availability of public goods by a welfare state will by definition slow down neoliberalism's accelerating commodification of the citizenry by loosening employers' power

over the lives of working people, just as imposing a 90 percent marginal tax on extremely high incomes will deter corporations from offering exorbitant compensation to CEOs since they won't be willing to have so much of that pay go to the government in taxes, thus imposing a de facto ceiling on top incomes and reducing the pay gap between employers and employees.

4. Piketty's position has evolved dramatically over time, and his shifts toward institutionalism and predistribution—above all, his prioritizing decommodification and redemocratization—are instructive for understanding the necessary steps toward a critical political economy. But his continuous prioritizing of redistributive solutions over predistributive ones creates political problems for a progressive agenda: It inadvertently endorses the idea that it is best to leave market forces unimpeded and to rely on government to do remedial egalitarian reshuffling of income after the fact. It bypasses the link between redistributive social policies and white supremacy. It deflects attention from the coercive powers of predistributive dedemocratization. It insufficiently recognizes how the courts work to racially exclude. And it misses the connection between the center-left's abandonment of predistributive policies and the steady exodus of white working-class voters to right-wing parties.

My goal is not to weigh the merits of these two thinkers against each other, but to put them into dialogue to find their commonalities. These include warning us of the menace market capitalism poses to democratic fragility, emphasizing the political consequences of capitalism's moral economy of market justice, and developing the foundations of a critical political economy. Despite their differences, then, Piketty comes to share much with Polanyi—especially how capitalism's moral economy undermines freedom for most, as well as why economic democratization must be the chief vector of a countervailing movement toward what I call a *predistributive democracy*.

A predistributive democracy is an alternative political economy, a moral political countervision, and a strategic agenda for structural and ideational “non-reformist reforms” (Akbar 2023; Gamal 2023; Klare 2023; Wright 2010; 2019)—an agenda that diagnoses inequality not simply as a problem of income distribution but of the *maldistribution of power* and the acceleration of commodification, dedemocratization, and authoritarian rule. A predistributive democracy is both end and means—a vision to “build democratic power toward emancipatory horizons . . . beyond legal reforms” (Akbar 2023, 2497), in which decommodification, full democratization of public and private spheres, and freedom from racialized and gendered subjection are the aspirational goals. At the same time, a predistributive democracy spells out how to mobilize the *countervailing power* (Galbraith [1952] 2012) of a democratic citizenry.

Market justice dictates that the economy—because it is alleged to be a self-regulating mechanism free of power and politics and biased interests—must be fully insulated from the “outside” forces of the democratic populace. Introducing the concept of *extractive social redistribution* (Somers 2021) helps explain that the citizenry is not a political force outside the economy—whose influence in market processes is illegitimate—but a source of extracted value *inside* the economy that is critical to market processes and capital accumulation. This justifies the moral and political right of citizens to exercise democratic authority inside the market. The challenge is to devise strategies for turning the policies and legal mechanisms of neoliberal predistribution against their dedemocratizing, commodifying, and exclusionary logics.

The article concludes by commending Polanyi and Piketty as potential recruits for LPE's effort to create a new political economy that places “themes of power, equality, and democracy” at the center

of the project (Britton-Purdy et al. 2020). At the same time, however, their work warns against the folly of any complacency about the success of this venture. Revisiting Polanyi's analysis (*GT*, 139–40, 231–56) of the conflict in the 1930s that catapulted Europe into fascism should alert us to the current precarity of democratic fragility.¹¹ Piketty (2020; 2022) echoes this analysis in his picture of a similar fork in the road today between democratic survival and hypercapitalist barbarism. The link between increasingly monstrous expressions of neoliberal social exclusion and successful ventures toward capital's freedom from democracy (for example, Slobodian 2023) reprise the conditions Polanyi so carefully theorized eighty years ago—above all, the impulse within today's conservatives and moneyed elites to embrace autocratic rule over even the mildest socioeconomic reforms and rid themselves of the democratic menace. When faced with a choice between what they deem to be economic policies inimical to their financial interest and the suppression of democracy with the aid of an authoritarian state, today's elites, like yesterday's, opt for the latter (Bouie 2024; Pistor 2024a; 2024b; Luce 2024; Levitsky and Ziblatt 2018; 2023). Today, as Gerstle (2024) observes, “[e]xpressing contempt for democracy and the Constitution has now become a reasonable—even fashionable—position for a US presidential nominee to hold.” Organizing a movement of countervailing democratic power—informed by the lessons of Polanyi and Piketty (and Galbraith ([1952] 2012))—could not be more urgent.

This article is a contribution to that ongoing discussion, through three of Piketty's books. Part II of this article discusses *Capital in the Twenty-First Century* (2014); Part III brings Polanyi and Piketty into initial dialogue; Part IV discusses *Capital and Ideology* (2020); Part V discusses *A Brief History of Equality* (2022); Part VI introduces the concept of predistributive democracy, bringing together Polanyi and Piketty; and Part VII concludes by discussing the link between social exclusions, plutocracy, democratic crises, and an impending American authoritarianism.

II. *Capital in the Twenty-First Century*

A. *Bringing Inequality Back In*

To understand what made the publication of *C21* such a phenomenon, we must start with the context of complacency into which *C21* landed. While it was long past what Grewal and Purdy (2017, 63) call the “Golden Age of Capitalism”—an era Piketty associates with Simon Kuznets's (1955) reigning thesis that widely shared growth following World War II was the norm¹²—the perdurability of that intellectual mindset nonetheless persisted. Despite forty years of rising inequality, except for some academic and progressive writings (among the most important being those of Stiglitz (2012) and Piketty and his associates (Piketty and Saez 2003; 2006; Atkinson et al. 2011; Alvaredo et al. 2013)), it took the crash of 2008 and the appearance in 2011 of the Occupy Wall Street movement (and its

¹¹ See especially Eley (2021) for a deep historical argument about the similar crises—the crisis of democratic governance and the embrace of violence over oppositional debate—that are making a turn to fascism in the US increasingly possible.

¹² Daniel Hirschman (personal correspondence) convincingly argues that this “straw argument” was never Kuznets's thesis, despite his being blamed for it, and that he was “much too much of an institutionalist” to have supported any kind of general law. Indeed, his model specifically applied not to industrialized societies but to those in transition from rural to urban.

pointed references to “the 1 percent” versus “the 99 percent”) to make the media and the political sphere take notice of inequality.¹³

Piketty’s primary foil is Kuznets, yet a more relevant target might have been the judicial doctrine of Law and Economics. A product of the University of Chicago, Law and Economics was promulgated in the late 1960s and 1970s by the celebrity judicial conservatives Richard Posner (1983) and Robert Bork, who used neoclassical economics to divide the juridical landscape between the legal exigencies of market efficiency (wealth maximation) and nonjudicial concerns about distribution—placing between them an unpassable gulf (Berman 2022; Britton-Purdy et al. 2020; Crouch 2011; Harcourt 2011; Khan 2017; McCluskey et al. 2016; Teles 2012). On the one side, contract, antitrust, tax, corporate, and property law made growth and efficiency the normative lodestars and the only legitimate concerns of common law. On the other, distributional questions were deemed appropriate only in “public law” contexts, to be adjudicated after society’s wealth was fully maximized. By restricting the appropriate interests of so-called “private law” to facilitating efficiency, the doctrine curated an intellectual politics of contemptuous indifference toward inequality.¹⁴ The size of the pie, not how the pie was divided, was of paramount judicial value. But neither could one find a judicial forum for greater socioeconomic equality on the political and constitutional side of the wall between matters of economic efficiency and those of political equity. For, as Britton-Purdy et al. (2020) spell out, just as issues of inequality were banished from the domain of economic efficiency and wealth maximization, economic concerns were excluded from the domain of constitutional law (Sitaraman 2016).

Law and Economics quickly came to dominate both law schools and the judiciary, reshaping doctrinal approaches to economic law. Antitrust doctrine, for example, shifted away from even a nominal commitment to combating noncompetitive monopoly power, yielding decades of procorporate megamergers in the name of efficiency-driven “consumer welfare” (Khan 2017; 2018; Khan and Vanheesan 2017; Berman 2022; S. Paul 2021; Stiglitz 2015; Wu 2018; Crouch 2011). When judges schooled in Law and Economics took up issues touching on economic policy, concerns for distributional inequity became homeless, just as they were in economics departments. *C21* gave these concerns a home.¹⁵

¹³ Arguably, the most enduring effect of Occupy Wall Street was to keep attention on inequality long after the movement’s collapse. On the rise of both public and scholarly concern for inequality after 2011, see Savage (2021); Hirschman (2021). On the reasons for its long neglect among economists, see Cook (2018).

¹⁴ Perhaps the most famous exemplar of such contempt is Robert Lucas, Chicago Nobel Prize-winning economist, who wrote: “Of the tendencies that are harmful to sound economics, the most seductive, and in my opinion the most poisonous, is to focus on questions of distribution” (Lucas 2004, 8).

¹⁵ Cook (2018, 23) argues that the “great marginalization” of inequality from twentieth-century economics can be explained by the discipline’s three central theoretical pillars, including that of marginal productivity theory, which figures largely in the following discussion. Hirschman (2021, 739) identifies another reason for sustained ignorance of inequality in the hegemony of the mid-twentieth-century economic “knowledge infrastructure” that collected, processed, and distributed data in ways that channeled attention to some forms of income inequality, while making others invisible. These technologies made it impossible to track top incomes, creating the conditions under which experts, policymakers, and the public alike all missed the rise of the 1 percent.

B. *Inequality Across History: The Fundamental $r > g$ Inequality*

Piketty's monumental achievement is to have constructed a trajectory of wealth and income data and established the rise of inequality over two centuries, with one mid-twentieth-century interruption.¹⁶ Revealing just how consistently capital wealth outpaces wage-driven income, *C21* tells a story about the rise, fall, and rise again of massive inheritance inequalities. He labels the last four decades as the return of patrimonialism, in which the “past devours the future” as inherited wealth turns into current economic injustice (Piketty 2014a, 746).¹⁷

Because *C21* aims to explain as well as to describe, much of the argument turns on what Piketty calls the “fundamental $r > g$ inequality”—the rate of return on capital (average annual rate of 4 to 5 percent) consistently rises faster than the level of economic growth (1 to 1.5 percent annually). Since growth includes labor's share of national income, the process inexorably produces increasing inequality. This is even further amplified during periods of hypercapitalism (for example, neoliberalism) when capital's share of income increases even more than usual, and labor's share lags GNI.¹⁸ The historical argument follows from the model: Unimpeded since the eighteenth century, $r > g$ created a nineteenth-century patrimonial society in which past wealth accumulated, compounded, and endowed inherited wealth on subsequent generations, dramatically outpacing economic growth and income from labor. In the twentieth century, the external shocks of World War I and World War II depleted capital stock and value and reduced the ratio of the capital stock to GDP, leading to greater equality through the early 1970s. This was followed by a sharp turnabout in the later 1970s and more than four decades during which the rate of capital return grossly exceeded national growth, bringing us today to a society that closely resembles the patrimonial inheritance society of the nineteenth century.¹⁹

¹⁶ Piketty often states that he is primarily concerned with wealth inequality, while Kuznets was dealing with income. But due to measurability problems with wealth he often refers back to income, such as in discussing supermanagers' salaries, and in the end *C21* deals with both wealth and income inequality. Since it is a mistake to separate them entirely, as they almost always rise and fall in tandem, I use “inequality” throughout to refer to both. On wealth, income, and inequality in *C21*, see Naidu (2017) and Tribe (2015). On the reaction to *C21* more generally, see Piketty (2015a, b; 2017), and DeLong et al. 2017).

¹⁷ As impressive as is *C21*'s data collection, there were inevitable critiques of his empirical methods, some from the left (Peden 2014; Sutch 2017), some from mainstream economists who didn't like his model—Summers (2014), and of course some from the right (for example, Reynolds 2014; McCloskey 2014). While Giles's (2014) conservative attack in *The Financial Times*, brilliantly countered by Martin Wolf (2014) and Piketty (2014b) himself, received the most publicity at the time, it is more telling to recall the opinion of Gregory Mankiw (2015), the former Chairman of George W. Bush's Council of Economic Advisers, who both caricatured and confirmed the dominance of the mainstream policy perspective when he argued that even if Piketty was correct about rising inequality (which he doubted), it didn't really matter since, because “the rich are better than the less wealthy at allocating capital (which is why they are rich), their control over capital through private ownership is justified as it creates greater economic growth for everyone” (cited in Lachmann and Brandon 2021, 754).

¹⁸ “When the rate of return on capital significantly exceeds the growth rate of the economy (as it did through much of history until the nineteenth century and as is likely to be the case again in the twenty-first century), then it logically follows that inherited wealth grows faster than output and income . . . it is almost inevitable that inherited wealth will dominate wealth amassed from a lifetime's labor” (*C21*, 34).

¹⁹ The logic is that the capital share of GNI will increase in proportion to the ratio of the capital stock to GNI. If $r = 5$ percent and the capital stock is $2x$ GNI, then the capital share of income is 10 percent. But if the capital stock is $6x$ GNI, then the capital share of income is 30 percent. In explaining today's extreme inequality, Piketty also emphasizes the last decade of falling growth rates, which contribute to inequality by exacerbating the *amount* by which r exceeds g (thanks to anonymous reviewer for this). If we (unlike Piketty) continue to apply $r > g$ to the present, it correctly predicts that the level of inequality will have skyrocketed post-COVID-19, evidenced by what we now know about the spike in billionaire wealth as it exploited the vulnerabilities of the lockdowns (Tooze 2021).

The $r > g$ inequality formula, so simple in its elegance and implicit condemnation of rentier capitalism, immediately became a best-selling meme, and when coupled with Piketty's own rock stardom suddenly became ubiquitous on mugs, T-shirts, and tote bags. The surprising commercial success of this synecdoche for *C21*'s overall argument crowded out all nuance and hardened $r > g$ into a naturalized model, standing independently of social and political context as a self-propelling law of economic development. Yet this is precisely what Piketty was apparently trying to preemptively avoid by repeatedly characterizing his work as centered on politics and institutions and deeply "wary of economic determinism" (*C21*, 20).

In truth, $r > g$'s epistemological status is difficult to nail down, as Piketty uses it in multiple registers. Is it a statistical regularity in the Humean sense of event-event correlation, rather than strict lawlike causality, that Piketty traces to the Middle Ages and across many different economic systems? Or is it simply a historical pattern, indicating how things have gone, but not that they necessarily had to go that way? This would be close to a historical empirical generalization—a regularity that is associated with inequality throughout history, but one with conditionality and variability, as evidenced in the story of the twentieth-century departure from the eighteenth- and nineteenth-century norms.²⁰ $r > g$ can also be read as a natural tendency, indicating a "normal" route of development, a reading that too uncomfortably echoes the modernization theory of yore in attributing "deviance" to what are in fact varying trajectories. It could even be understood as merely a heuristic device, like Weber's "ideal type," to understand why things "deviate" when they do.²¹ And at times Piketty seems to characterize $r > g$ by its utter contingency, a "narrative," as he calls it (*C21*, 2), surrounded by indeterminant conditionalities that could just as plausibly change. Indeed, so much does he assert the primacy of politics throughout a book that seems to be an economic argument that Jacobs (2017) argues that "Politics" in *C21* is "Everywhere and Nowhere." In this she captures a real paradox of *C21*: On the one hand, its star player, $r > g$, is attributed with an automaticity that is only derailed in the face of external interruptions, while at the same time it is those very interruptions that highlight the centrality of political contingencies.

His caveats notwithstanding, Piketty is not blame-free for creating the impression of an economic determinism that he at once vigorously rejects. While he never quite names the precise epistemic status of $r > g$, his "laws of capitalism" framework clearly suggests a naturalized systemic conception of the economy. For every rejection of determinism that Piketty offers, there is another reference to $r > g$ as the "central contradiction of capitalism"—a terminology that evokes a logic of capital autonomous of law and politics. And even though technically $r > g$ is not one of these named laws but rather a generalization derived from them, the two laws he actually names as such are long forgotten while $r > g$ takes on the status of law, and capitalism the status of a natural object with inherent properties and logic.²² Whatever the proclaimed contingencies, then, at the end of the day the most common

²⁰ Piketty allows for several conditions to determine whether the $r > g$ inequality will continue to produce inequality in the long run. These include *consumption levels*: if the capitalist consumes all their wealth, they'll have less to pass on, less to invest, etc.; *demography*: when the wealthy have numerous children, their wealth is increasingly divided (which explains the devotion to primogeniture in so many societies); *exceptional external events*: for example, wars, which dramatically deplete capital stocks; *taxes*: which in their progressive form Piketty identifies as a leading countervailing force to inequality.

²¹ Thanks to the anonymous reviewer who suggested some of these possibilities. But great fortunes are so huge that it is impossible for billionaires to personally consume them. Moreover, they pay almost no income tax because unrealized gains and borrowed money are not taxed. So instead of drawing on streams of capital income, they simply borrow money against their shares, which have ever-increasing value, and live off that. Thanks to Elizabeth Anderson for emphasizing this point.

²² As per Acemoglu and Robinson (2015) who suggest in their critique that $r > g$ is properly interpreted as Piketty's unnamed "third law of capitalism." Others who name $r > g$ as *C21*'s primary law of capitalism include Kunkel (2014) and Zevin (2021).

interpretation of $r > g$ is that of either a law or a “lawlike” phenomenon that embodies natural and endogenous properties of capitalism—specifically the inexorability of the rate of capital to outpace the rate of growth—which correlates with rising inequality of wealth and income distributions.

C. *Interruptions and Resumptions*

Among its greatest achievements, *C21* eviscerates the then still prevailing, albeit wobbling, premise that the mid-twentieth-century period of distributional convergence was the norm for liberal capitalism. To the contrary, Piketty argued, $r > g$ is the norm, and it is the relative egalitarianism reaching its peak level of equality in 1945–73 that needs to be explained.

The empirical evidence for this midcentury historical anomaly is incontrovertible. But *C21*'s explanation is again ambiguous. By attributing causality to the massive decline and depletion of capital triggered by two world wars and the Great Depression, we are left to wonder whether this is a story about the primacy of politics after all, in which wars and taxes can overdetermine what may be just a historical trend toward inequality rather than any inherent property of capitalism.²³ Or does *C21*'s emphasis on the power of events *external* to the normal steady drumbeat of the inequality process simply reinforce the impression of $r > g$'s lawlike endogeneity? I return to this question below.

D. *Democracy and Meritocracy*

C21 is an account of economic inequality, but on page 1 Piketty also makes clear its normative commitments: “[C]apitalism automatically generates *arbitrary* and *unsustainable* inequalities that radically *undermine the meritocratic values on which democratic societies are based*” (*C21*, 1, emphasis added). Piketty is hardly the first to enunciate a link between rising inequality and the dangers to democracy. What distinguishes his argument is that he routes it through the ideational regime of meritocracy. Meritocracy is the popularized version of neoclassical economics' *marginal productivity theory*, which asserts that the market's distributional outcomes reflect *market justice*—that is, labor receives precisely what is deserved based on its value-added contributions and productivity, independent of any relations of power, of extraction of value from labor by capital, or of the collective value of multiple workers (Somers 2022a).²⁴ In democracies, where the professed absolute equality of legal citizenship rights (political and civil) contrasts dramatically with vast economic inequalities, the gaping contradiction is compensated for by the entrenched vindictory discourse of meritocracy—namely, that such extreme economic disparities are warranted by the differences in people's skills, productive value, and contributions and thus should have no negative implications for our belief in market justice. Making meritocracy the linchpin between distributional outcomes and the fate of democracy reveals the normative critique underlying Piketty's concern over ever-rising inequality, and foreshadows *Capital and Ideology*'s centering of inequality's ideological justifications.

But whereas the traditional progressive concern moves from excessive economic power to the inevitability of excessive political power, Piketty's route hinges less on the political domination accrued by economic power and more on the foundational place of culture and ideology in sustaining a

²³ The New Deal's progressive taxation also played a part in these years, but taxation gained its causal effectiveness only secondarily and due to the prior collapse of capital (*C21*).

²⁴ According to Cook (2018), Clark ([1899] 2001) first invented marginal productivity theory as a way to combat the influence of Henry George, the massively influential nineteenth-century populist who posited that land renters were effectively pillaging the masses through the distinctly *unearned* rents of landed property. On important critiques of marginal productivity theory for today see Alperovitz and Daly (2008), Behrle (forthcoming), Lind (2023), and Collini (2023).

democratic polity. For democracy to thrive, the justice of inequality needs to be believed in, making meritocracy—like market justice—the fictional glue to bind that belief. The problem is this: What happens to democracy when inequality reaches such heights that it strains the credibility of a true meritocracy?²⁵

This is the precarious place where Piketty locates us as we rocket toward “unsustainable” levels of maldistribution. A system so dependent on a belief in meritocracy is perilous to democracy when its levels of inequality reach heights that are incompatible with the democratic principles of equality: How long are we expected to believe that the CEO truly deserves five hundred to one thousand times the pay of the average employee? Indeed, some of the strongest parts of the book challenge the empirical validity of meritocratic justifications for inequality by interrogating whether there is any correlation between income/wealth disparities and productive value. After extensively canvassing the data on top salaries and super manager contributions, his conclusions are resoundingly negative, adding fodder to the concern about the fragility of our democratic order.

In short, in a democratic society in which a presumptive legal and political equality among citizens is a national trope, an enormous amount rides on the discourse of meritocracy to legitimate such extreme socioeconomic inequality. Belief in the shady and empirically wobbly ideology of meritocracy is one of the few bulwarks keeping the deluge of inequality from flooding our last spaces of democracy. Whether meritocracy can bear the weight of so much disingenuous justificatory work is a political and cultural question that bears heavily on the future of democracy, which Piketty focuses on more in his subsequent work. But in the face of ever-increasing popular disillusionment with democracy, in *C21* Piketty seems to have accurately identified a Hobson’s choice—take democracy built on the deceptive meritocratic delusion protecting grotesque inequality, or lose democracy altogether.

III. Polanyi and Piketty in Dialogue

A. Commonalities

While this brief discussion of *C21* may suggest little direct overlap with Polanyi’s *The Great Transformation* (as discussed in Somers 2022a), the two books share more than is immediately obvious. They are both disciplinarily heterodox, they both derive theory from patterns of history, and they both exhibit unabashed disregard for social scientific injunctions against moral passion and normative analysis. Most important, they both make clear that the depredations of capitalism are not signs of market failures, but of *markets working exactly as they were intended*. Polanyi describes in exquisite detail the neoclassical ideal of the self-regulating market with its requisite degree of fictitious commodification, while demonstrating how the closer social life is pushed toward this ideal, the more deracinated social relations become. As crises of social exclusion intensify, countervailing resistance increases, which in turn prompts market oligarchs to tighten their control over civil society and deepen its alliance with repressive state power—a chain of processes that inexorably weakens the foundations of democratic rule. Piketty likewise argues (*C21*, 35) that $r > g$, the main cause of inequality, is not a result of market “imperfection”: “[T]he more perfect the capital market (in the economist’s sense), the more likely r is to be greater than g .” As the political theme of both books is the link between

²⁵ Thus, Piketty writes: “[I]t is almost inevitable that inherited wealth will dominate wealth amassed from a lifetime’s labor by a wide margin, and the concentration of capital will attain extremely high levels—levels potentially incompatible with the meritocratic values and principles of social justice fundamental to modern democratic societies” (*C21*, 34). For more on meritocracy see Markovits (2019), Sandel (2020), Lears (2021), Anderson (2021b), and Woodruff (2014).

destructive economic outcomes and increasingly fragile democratic rule, it is especially notable that they both dismiss as specious the excuse that “market failures” are at issue.

Both also agree on the powers of ideational regimes. Recall how Polanyi in *GT*, after demolishing the tenets of market naturalism, forces us to nonetheless face up to the strength, power, and purpose of market justice, convincing us that we are “paying one’s own way” and “not responsible for other people’s suffering” (*GT*, 266). Market justice thus worked as a cultural bulwark protecting capitalism from the judgment of history and of its own victims during the economic crises of the 1930s. With the gold standard’s austerity imperatives and the myth of the stateless market firmly in place at the global level, and marginal productivity theory established as scientific truth, massive unemployment and social exclusion were deemed to reflect people’s moral deficits and inadequate merit, while obscuring the gold standard’s brute redistributive power in driving these outcomes (Somers and Block 2021).

In *C21*, meritocracy serves to justify the ravages of inequality by pitting the “just deserts” of marginal productivity theory against the potential pitchforks of rebellion, should the “losers” begin to ask why the putative legal equality of citizenship rights (political and civil) should not apply equally to socioeconomic inequality. In democracies, given the gaping contradiction between belief in political equality and the reality of economic inequality, everything depends on the persuasiveness of meritocratic precepts. Like Polanyi, Piketty makes short shrift of meritocracy’s empirical foundations. His own investigation of the spectacular increase in top managers’ salaries declaratively rules out any meritorious justification. “[M]uch more consistent with the evidence,” he argues, “is that these top managers by and large *have the power to set their own remuneration*, in some cases without limit and in many cases without any clear relation to their individual productivity” (*C21*, 32, emphasis added; see also Vogel 2021, 282.).

This takes us to what may be the most important of their shared concerns: that democracy itself is threatened by the power of market justice and meritocracy in the face of an onslaught of suffering brought on by inequality, social exclusion, and societal disarray. There is in both works the clear transposition of soaring unequal economic power into comparable political plutocratic control, which eclipses any democratic agency in the public sphere. But it is Piketty’s contention that capitalism’s “arbitrary and unsustainable inequalities” will inexorably “radically undermine the meritocratic values on which democratic societies are based” that dovetails with Polanyi’s account of how, as global capital defiantly refused the desperate demands of working people to mitigate the suffering of economic depression in the 1930s, fascists were easily able to gain control by reinstating social welfare and market regulation in exchange for the pound of flesh of freedom itself. Both are adamant that, in Piketty’s words, “if we are to regain control of capitalism, we must bet everything on democracy” (*C21*, 748).

B. *Divergences*

1. Denaturalization and Institutionalism

Polanyi’s legal redistributive institutionalism nonetheless poses challenges to the naturalism of *C21*. Despite the many allusions to political contingencies, by defining $r > g$ as “the fundamental structural contradiction of capitalism” (747), *C21*’s argument defaults to a “presumptive [economic] naturalism” (Peden 2014; Kunkel 2014), which in turn defaults to the standard market naturalist binary between market forces on the one side and external political “interventions” on the other (see Somers 2022b, fig. 1).

For Polanyi, by contrast, power and market governance are part of the elementary constituents of organized means of livelihood. Legal predistributive analysis pierces the economists' claim that markets are free of power and coercion. It instead locates power in the heart of the legal market contract, in property, and thus into the very categories of $r > g$.²⁶ This throws into question the very meaning of r and g . Neoclassical economics treats rates of return on capital, rates of growth, and the rights of property and freedom of contract as autonomous economic processes, beyond which lies the external sphere of power and governance. By inserting coercion and power into these putatively self-governing economic concepts, legal predistributive institutionalism scrambles the familiar indicators that define the boundaries of market and state.

Polanyi's institutionalism requires that we identify the specific set of political arrangements and legal mechanisms at work *inside* what appears to be the self-contained economic dynamic of $r > g$. We need to ask: What are the engines of inequality that make a theorem limited to impersonal market variables appear to be true? To deconstruct the causal powers that make $r > g$ empirically plausible we need to detect the full array of predistributive legal mechanisms that structure markets and drive economic outcomes, including anti-trust law (see Khan 2017; 2018; Khan and Vaheesan 2017; Wu 2018; Lynn 2010; Teachout and Khan 2014; Teachout 2020; Crouch 2011; Piraino 2007; Rahman 2016a); intellectual property rights (Schwartz 2021; Baker 2016; Kapczynski 2014; 2020; Pistor 2019); global trade agreements and corporate dominated tribunals (Block 2018; Block and Somers 2014); and labor law over the last four and a half decades of wage suppression (Farber et al. 2021; Bagenstos 2013; 2020; Mishel and Bivens 2021; Lichtenstein 2021; Shierholz et al. 2022). Polanyi's method was to identify those arrangements while not assuming that all market economies are organized by the same configurations or the same organizational interactions. For Polanyi, while history has patterns, they are not produced by laws of capitalism, but by the historically variable powers of political power and legal redistribution—socially produced laws, in short.²⁷

2. From Laws of the Market to Market-Constituting Laws

At issue in the institutionalist critique of *C21*'s naturalist leanings is ultimately the use of the term "law" and the paradox that the same word has diametrically opposed meanings. On one side, *C21*'s explicit and implicit references to the "laws of capitalism" inhabit the naturalist tradition that mimics the world of physics—think the law of gravity—and ascribes such scientific necessities of nature to the social world. Since only the natural world has inherent properties and inexorable dynamics that can even reasonably be called laws (and even those have long been questioned, for example, Cartwright (1983)), to attribute laws of necessity to social phenomena like capitalism is to willy-nilly accede to social and economic naturalism.

On the other side stands legal institutionalism, for which the "laws of capitalism" is a wrongheaded misdirection away from substantive common and statutory law, legislatures and courts, politics and policy (Commons 1924; Deakin et al. 2017; Hodgson 2001; 2009; 2015; Frerichs 2024). These elements of what David Grewal (2014, 652) calls capitalism's "legal ordering" are what Moyn calls the "humdrum, messy, and contingent laws that mere mortals have made to structure transactions or

²⁶ A report from the Roosevelt Foundation echoes the Polyanian institutionalist analysis of inequality: "Our economy rewards those who have power," and directly links to this diagnosis of power the explosion of inequality, the top 1 percent's capture of most of the recovery's gains, the stagnating of mobility and wages, and the withering of unions and the public sector (Abernathy et al. 2019). See also Farber et al. (2021) and Sargent (2019).

²⁷ For excellent critiques of *C21* from an institutionalist political economy perspective, see Hopkin (2014), Acemoglu and Robinson (2015), Peden (2014), Moyn (2014), and Grewal (2014).

organize politics” (Moyn 2014, 50; see also Pistor 2019; 2020). These laws constitute the historically changeable infrastructure that reveals what appears to be the neutral price mechanism as legal mechanisms by which power is distributed and wealth is created and immunized on behalf of the privileged few and withheld from the many. As Acemoglu and Robinson (2015) argue, it is these varying legal and institutional arrangements that explain the varieties of capitalism in general and of wealth and income distribution in particular (see also Grewal and Purdy 2017).

Given the elective affinity between Polanyi’s legal institutionalism and the earlier Legal Realists and institutionalist economists, such as Hale (1923; 1943) and Commons ([1934] 1990), it is especially fitting that some of the most Polanyi-adjacent critiques of *C21* (albeit, not self-defined as such) come from the new Law and Political Economy (LPE) scholarship and affiliates, which have revived and reimagined the legacy of Legal Realism and Critical Legal Studies, and which are once again making law central to political economy (see especially Benkler 2023; Deakin et al. 2017; Grewal 2014; 2017; Grewal and Purdy 2014; 2017; Harris and Varellas 2020; Howse 2017; Moyn 2014; 2019; Pasquale 2014; Pistor 2019; 2020). In his authoritative reviews of *C21*, for example, David Grewal (2014; 2017) puts the institutionalist case incisively: Because capitalism is a legal ordering, “[u]nderstanding why $r > g$ has generally held—and why it briefly did not—requires *an account of capitalism as a socioeconomic system structured through law* . . . the bargains at the heart of capitalism are products of law” (Grewal 2014, 652, emphasis added). He argues that a much more complete understanding of why $r > g$ has held, and when it has not, requires reconsidering *C21*’s $r > g$ inequality in the context of the “actual” laws of capitalism—the complex of legal institutional doctrines and practices that structure the rate of return on capital and the levels of growth. And while he faults *C21* for its neglect of what he calls capitalism’s “legal foundations” (I prefer “legal infrastructure”), he credits the work for its inducement to push beyond the simple $r > g$ inequality in search of “further study of the actual laws of capitalism—those behind the statistical regularities discussed as ‘laws’—that is, of the various legal and institutional arrangements governing capitalist economic systems” (ibid. at 652–53).

Grewal argues in a Polyanian *métier* for the importance of historicizing capitalism’s originating markets, and systematically demonstrates how at every turn these (grain and labor) markets were created by legal practices, from precapitalist laws and statutes to new laws designed to better structure capitalist aspirations. Most significantly, he underlines what is perhaps Polanyi’s most critical point—that the new, more “modern” laws were neither pathways to a new “free market” capitalism nor mechanisms that “freed” markets from their precapitalist constraints. Rather, they were transformations that entailed substituting one legal-regulatory regime for a different, more capital-friendly legal-regulatory regime (Grewal 2014, 653–54). This is almost always obscured by linguistic fiat: Since the late eighteenth century the rhetoric of market processes has successfully created an “alchemy of misrecognition” (Somers 2018). “Free markets,” “laissez-faire,” and “deregulation” have always been used to misdirect us away from and so obscure the fact that it is political power and legal and policy mechanisms, not “free” markets, that drive wealth upward toward wealth and capital, whereas the terms “overly regulated,” “political interference,” and “distorting government meddling” into markets are used to amplify and draw negative attention to those policies that are intended to have equalizing effects on market processes.²⁸

Right on cue in the search for the inequality-making institutional mechanisms missing from *C21*, Pistor’s (2019) *The Code of Capital* analyzes how law creates wealth and value by bestowing some assets

²⁸ In the binary of market naturalism, what is “natural” is by definition free and fair, and what is government-inflected is by definition unfree and unjust—hence the alchemy of misrecognition also works normatively.

and property with greater value and anointing them worthy of more state protection than others—all by the “code of law” that has perdured in the law of contract and property first invented by premodern country solicitors. Pistor takes Piketty to task by highlighting the legal coding by which assets—especially financial—are converted into wealth and given the privilege of selective state immunity (Pistor 2019, 4–5). She thus accounts for enduring patterns of inequality by putting both private law and state power into the heart of the market economy.

For one of the most instructive critiques of *C21* from an institutional perspective, we can look to Steven Vogel’s (2021) master class in institutionalism as he addresses what he calls the “inequality snowball” since the 1970s. Arguing that it cannot be explained by “natural” economic processes (whether $r > g$, globalization, or automation) nor even by changes in redistribution, such as tax cuts for the rich, Vogel builds from his own pioneering work (Vogel 1996; 2018) to demonstrate that accelerating inequality is driven by market governance, itself a complex of intersecting mechanisms—formal laws and regulations, informal business practices, and social norms—that structure and instantiate the rules of what we misleadingly call market competition. These in turn determine the balance of power among the “core relationships” in a market economy—employers and workers, borrowers and lenders, producers and consumers, and so on (Vogel 2021).

Very much in the Polanyian tradition, Vogel argues that what may look like simple market transactions or contractual agreements are weighted toward one party or the other by the work of these various mechanisms of market governance. To underline that structuring markets is equivalent to the more familiar activities of statecraft, Vogel calls it *marketcraft*. It is the government-driven distribution of powers and policies that determines the relative strength and weakness of parties engaged in bargaining over the terms of contract, or transacting prices and wages. Anderson (2017) also demonstrates how the authoritarian power of employers over employees in private firms is entirely based on legal power ascribed by the state to the owners of capital by way of its structuring of the default labor contract (in the same way as the nineteenth-century marriage contract granted all power to the husband).

In short, it is market governance by human-made laws, not the impersonal quasi-natural “laws of the market,” that controls relative power and levels of inequality. This is the work of predistribution, by which primary economic processes and market outcomes are constitutively shaped by governance and law.²⁹

3. The Interruption: Accounting for Historical Shifts in Income Distribution

A critical element of *C21*’s story is the mid-twentieth-century interruption in the $r > g$ pattern. Piketty’s data show a marked decline in wealth and income inequality in England, France, and the United States from 1910 to 1970. His explanation for this unusual pattern centers on the destruction

²⁹ It is important to call attention to two recent manifestos, which while not developed solely as critiques of *C21* nonetheless encapsulate the LPE and Polanyi-inflected institutional approach to the problems of inequality, dedemocratization, and the critique of naturalism. Neil Fligstein and Steven Vogel (2020), in “Political Economy After Neoliberalism,” and LPE founders Britton-Purdy, Grewal, Kapczynski, and Rahman (2020) take on in detail the hegemony of the neoliberal “Twentieth-Century Synthesis” in law. Both provide blueprints for investigating inequality through an institutionalist lens that captures and brings into the present the legacies of Polanyi (again, not explicitly), Legal Realism and institutional economics, and even the critical legal scholarship of the 1970s and 80s (for example, Roberto Unger, Duncan Kennedy, and Karl Klare). For how the idea of predistribution can be effectively mobilized politically, see Vogel (2019) on the 2020 Warren campaign.

of physical capital in the two world wars combined with war-induced budgetary and political shocks, which disrupted the normal pattern of returns on capital investment (Piketty 2014a, 147–48).

Here the tension between *C21's* institutionalist pronouncements and its weak embrace of institutionalism in the empirical analysis is especially evident. At first glance, Piketty's focus on political events to explain the dramatic reversal of the inequality pattern appears to confirm his proclaimed institutionalism. But on closer scrutiny, the political factors of causal significance are what Piketty himself calls "chaotic and unpredictable" external shocks. While Piketty does identify some institutional factors, such as taxes, that can be subjected to systematic political-economic theorizing, the events that had the greatest impact on political economy in the mid-twentieth century—world wars, nation-state breakdown, the Great Depression, depletion of capital, the Cold War—which changed the course of political economy in the mid-twentieth century, appear as external shocks like asteroids or natural disasters (Peden 2014; see also Eley forthcoming 2026a; Eley forthcoming 2026b).³⁰

From an institutionalist perspective, however, the focus should not be on what unexpected *outside* forces disrupted the fundamental law of capitalism ($r > g$), but rather what changed in the way of *internal* institutional arrangements that altered the nature and distribution of market power, and what mechanisms caused such changes. Polanyi's account centers on how government predistributive policies changed the structure of the economy over the late nineteenth and twentieth centuries. By no means does *GT* discount the importance of war. But rather than wars appearing as exogenous shocks, Polanyi explains them through structural changes and class conflicts over the organization of the global economy—war as political economy, waged through violence.

GT explains World War I through the conflict between rising working-class movements and the constraints of the gold standard. Some governments tried to insulate their economies from the pressures of the gold standard by imposing tariffs on foreign goods. But this was not enough. So virtually all the major European powers in the last decades of the nineteenth century turned to colonialism as a strategy of protection. Those colonies with resources could produce a revenue stream that helped stabilize the home economy, while the colonies provided safe markets for domestic products. The rush to empire at the end of the nineteenth century was an effort to manage the growing class divide at home. As the search for lucrative colonies brought Germany into direct conflict with England, the antagonism froze Europe into two competing alliances that disrupted the balance of power that had kept the European peace for a century. The European war was in part a consequence of the growing class divide within England and Germany that could not be ameliorated because the gold standard had taken on the status of a necessary fact of nature (Somers and Block 2020a; see Tooze 2015).

Polanyian institutionalism and his focus on the global economy thus shows us how to think differently about World War I's origins and significance, transforming it from a freak outside event to a theorizable dimension of the political-economic order on a global scale. Rethinking *C21's* discussion of $r > g$'s inequality interruption from a Polanyian angle focuses us on a complex of powerful restructuring changes both before 1914 (imperialism and the rise of labor movements), and during World War I's period of total mobilization. These combined to create a political opportunity structure from which socialist parties and a newly empowered organized working class could pressure political elites to pursue egalitarian predistributive and redistributive policies that wrenched away income from

³⁰ Importantly for postwar European democracies, governments inflated away their domestic debt burdens, leaving their war bondholders with essentially zero or even negative returns.

the top 1 percent. Changes in the legal/political regimes shifted the balance of power in the direction of decommodification. Most importantly, these changes—especially as embodied in the New Deal—did not reflect the triumph of a newly regulated economy overturning a deregulated one. Rather, it signaled the overturning of the more capital-friendly legal regulative predistributive order by one more subject to democratic influence, a political-economic regime characterized by reorganized institutional arrangements and realignments of predistributive power among the basic participants in the global market economy. This institutionalist political explanation for the interruption importantly highlights the rise and fall of socialist movements and their trade union allies, forces that are effectively absent in the story recounted in *C21* (see Eley forthcoming 2026a; Eley forthcoming 2026b).

4. Redistribution Versus Predistribution

A final area of comparison between *C21* and *GT* is in their respective solutions. Polanyi argues for both redistributive and predistributive solutions to the sufferings inflicted by market society, but focuses most intensively on predistributive decommodification and market democratization. *C21*—for all its commitment to democracy in the public sphere—identifies a global wealth tax as the premier solution to inequality, which, unlike national income taxes, would (in theory) dissuade global capital flight and capture offshored national tax havens (*C21*, 747–48). Much has been made of the utopianism of this proposal, but this criticism is unhelpful. Piketty himself acknowledges the practical difficulty of implementing a global wealth tax (*ibid.* at 35). And what, after all, is wrong with issuing calls for a “real utopia” (Wright 2010) that can become a normative horizon point for collective action?³¹

Not on its utopianism but on the merits of the argument is where we should direct our attention. And here most appealing is *C21*'s foregrounding the collective agency that would have to be summoned to impose a wealth tax through “democratic deliberation.” In this sense, *C21*'s global wealth tax is less a tool of redistributive amelioration and more a creative approach to building democratic agency over capital. This expansive way of justifying fiscal policy as an exercise in democratic muscle building is a well-placed corrective to the technocratic Keynesianism that proved so fatal to social democracies everywhere, including that of the New Deal (Block and Somers 2014).

Despite its potential for activating democratic deliberation, however, the problem lies with the sole focus on redistribution. As I argue in much greater depth below, marshaling democratic efforts to attack inequality only *after* the market has produced egregious levels of maldistribution restricts the scope of democratic agency to *redress* in the public sphere, and neglects its potential to challenge predistributive power *inside* the market—the real source of pretax inequalities. A global tax solution thus fits too comfortably with the original market naturalist paradigm, which sacralizes natural (and “private”) market forces and limits redress to political solutions *outside* the market to deal with the most extreme instances of income inequality. Not only does this allow the market to retain its fictive status as a pristine site of natural nonpolitical dynamics, undistorted by the external forces of power and politics. It also ignores the cultural power of the diktats of market justice, which delegitimize such redistributive solutions as government theft of fairly earned rewards. In the end, it conforms to the conservative demand to restrict democratic action to the public sphere where it cannot challenge the

³¹ For an important contribution to this debate over a global wealth tax, see “Patriotic Millionaires” (Disney 2024).

imposed firewall between politics and the economy, and thus defangs the potential of democratic empowerment to combat the engine of inequality inside the market.³²

The practical argument, moreover, for a global wealth tax becomes less convincing the greater inequality becomes. Once fortunes rise to the hundreds of millions or even billions, the superrich will stop at nothing to insulate themselves from taxes and all other forms of legal accountability. They can afford to hire lobbyists, lawyers, accountants, and tax advisors to make that a reality. They bankroll candidates for elective office as well as for the Supreme Court who will use their powers to protect the wealthy. Even those with modest great fortunes offset by huge liabilities, such as Donald Trump, can still afford to hire lawyers that can overwhelm prosecutorial resources, forever putting off the day of accountability (on the ability of the global rich to avoid taxes, see Saez and Zucman 2019; 2020). This is why it's so important *to use predistributive power to prevent vast fortunes from being concentrated in anyone's hands in the first place*, rather than trying to claw some of it back afterward through taxes.

IV. *Capital and Ideology*

Capital and Ideology (2020) is both continuous and radically discontinuous with *C21*. Even more than in *C21*, one must be awed by the breathtaking ambition and control of sources, by the book's indifference to conventional disciplinary boundary policing, and by Piketty's ability to seamlessly integrate historical with normative reasoning while theorizing new analytic categories to explain centuries of inequalities and the grotesque forms of policy violence (especially in colonial and slave societies) designed to enforce them. Documenting and assembling previously unrecognized data, explaining causes, and proposing generative solutions to combat the menace of dedemocratization is also continuous with *C21*.

Radically discontinuous is the lack of ambiguity as to the chief causal protagonist. In *Capital and Ideology*, $r > g$ is nowhere to be found. In its stead are “inequality regimes”—“discourses and institutional arrangements that justify and structure the economic, societal, and political inequalities of a given society” (*CI*, 2) along the two “existential” axes of political order and property: The rules and borders of the polity, and the procedures for regulating property relations (*ibid.* at 4). The two axes are consistently entwined: Who owns property almost inevitably sets the rules of the polity. For *CI*, modern history since the French Revolution has been dominated by the rule of proprietorship and now neo-proprietorship—Piketty's term for the political ideology of an “ownership society,” which “sacralizes property rights” and whose purpose is the “absolute protection of private property,” conceived of as a universal right available to all, regardless of status (154).³³

CI travels through vast swaths of time and space to discover how different societies construct ideational regimes along these two axes. The book demonstrates how they have worked together to consistently make inequality appear *natural, inevitable, immutable, and justified*—from premodern “trifunctional” to post-French Revolutionary proprietorship, to colonial and slave societies, to the egalitarian interruptus of post-World War II social welfare/social democratic regimes, to the neoliberal neo-proprietorship “hypercapitalist” present. For each of these periods and transitions, *CI* makes the eventual delegitimizing of the reigning inequality regime the necessary precondition for its subsequent overthrow and replacement by a successor regime. And while in the end, the same

³² Even Exxon managed to delay legal payouts for the Valdez disaster for twenty years, via endless appeals. (Thanks to Elizabeth Anderson for suggesting this more detailed critique of a global wealth tax.)

³³ “Proprietorship ideology rests on a simple idea, namely that the primary purpose of the social and political order is to protect private property rights for the sake of both individual emancipation and social stability” (*CI*, 189).

sequence of inequality regimes dominates across the globe, Piketty argues against any inherent teleology to the pattern. Each point of transition he labels (in an echo of Weber’s “switchmen”) as a “switch point,” where and when the course of history might have been otherwise, depending on policy and political choices driven by ideological shifts.³⁴ Choice, contingency, and history now dominate where naturalism once seemed supreme (Piketty’s deep commitment to historical argument over the deductive logic typical of economics has won him acclaim among historians, for example, Coopersmith and Popp (2022)). Most notably, *CI* has discovered Karl Polanyi,³⁵ and in a kind of natural experiment, we now have the opportunity to ask what difference a Polanyian perspective makes to Piketty’s approach.

A. *Critique of Naturalism*

It matters a great deal, although we cannot of course know how much of Piketty’s rethinking can be attributed to Polanyi’s influence. Above all, the naturalism of $r > g$ that haunted *C21* has disappeared in favor of a deep social constructionism: “The market and competition, profits and wages, capital and debt, skilled and unskilled workers, natives and aliens, tax havens and competitiveness—none of these things exist as such. All are social and historical constructs” (*CI*, 7). Acknowledging that this “runs counter to the common conservative argument that inequality has a *basis in nature*,” Piketty now asserts that “[w]e must beware of anyone who tries to *naturalize* inequality or deny the existence of alternative forms of social organization” (*ibid.* at 12) and rightly dismisses the claims of those “elites of many societies, [who] in all periods and climes, have sought to ‘*naturalize*’ inequality” (7, emphasis added; see also Cook 2020).

Polanyi would surely cheer this takedown of naturalism (*GT*, 116–35). But scorning naturalism and turning all economic life into social constructs are not the same thing. For Polanyi, fictitious commodification is fictitious because humans, nature, and money are not actually commodities. That they are *treated* as such under the powers of legal predistribution and subjected to being bought and sold according to the price mechanism is *not* a fiction. Piketty clearly understands this, as he explains Polanyi’s theory of commodification as entailing matters of life and death and points to the Irish and Bengali famines as engineered genocides tailored “to signal to sellers (workers) that the time had come to respond to market demand” (*CI*, 182). While the famines were clearly socially manipulated, Piketty emphasizes that the ensuing genocides can hardly be construed as social constructs.

This ambiguity between what does or does not count as a social construct would have been better resolved had Piketty embraced the full breadth of Polanyi’s analysis of market naturalism. Instead, Piketty argues for reducing Polanyi’s political economy of nineteenth-century market society to *CP*’s concept of proprietorship, going so far as to suggest that “ownership society” was what Polanyi really meant when he used the terms “laissez-faire” and “economic liberalism.”³⁶ This is doubtful, as

³⁴ Serious consideration in 1790s France, for example, was given to Thomas Paine’s proposal for a 10 percent inheritance tax to fund a universal income, as well as to Condorcet’s 5 percent high-income tax. Both were rejected in favor of regressive tax policies that laid the groundwork for the postrevolutionary inegalitarian “sacralization of property” that dominated for the next century (*CI*, 118–19).

³⁵ So much so that Piketty lists him among the small handful of “researchers whose recent and not-so-recent work I have relied on most heavily” (*CI*, 1041), and in a distinct homage to *GT*, names a section of the book “Rethinking the ‘Great Transformation’ of the First Half of the Twentieth Century” (*ibid.* at 416–20).

³⁶ Piketty writes: “Polanyi does not explicitly use the term ‘ownership society,’ but that is what he has in mind. In particular, he stresses the quasi-sacralization of private property in the period 1815–1914. Broadly speaking, I think the term ‘proprietorship’ better captures what is at stake here than ‘liberalism,’ which plays on the ambiguity between economic liberalism and political liberalism” (*CI*, 485).

Polanyi's thesis is that the propertied and the political economists invented and modeled the idea of a self-regulating autonomous market on an organic natural entity precisely to claim a scientific rationale for *escaping the reach of state power*, as only nature has the innate capacity to self-regulate independent of human-made law. To be sure, Polanyi fully understands the mystifying—and naturalizing—power of property being sacralized as a “natural right” (Somers 2022a). But the political economy of market naturalism (Somers 2022a, fig. 1) entails a full regime organized around a foundational divide and existential conflict between property and state, economy and government, as well as the normative system of market justice and just deserts to which it gave rise. This regime finds its fullest expressions in the legal violence of commodification, property rights, and contract. To be sure, it is to Piketty's credit that in his concept of proprietorism, he is focusing, like the classical economists, on property rather than markets alone as the key site of ideology. But for the same reason, proprietorism cannot by itself capture the full spectrum of market naturalism's political, moral, and scientific reach, nor its legacy in today's meritocracy-justified inequality regime.

What follows briefly takes us far afield from an institutionalist critique of naturalism, as *CI*'s investigation of proprietorism's justification for inequality begins to border on sympathy: “[I]t is not easy to construct norms of justice acceptable to the majority” (*CI*, 124), and “[t]he sacralization of private property is basically a natural response to fear of the void” (*ibid.* at 123).³⁷ Fortunately, this therapeutic empathy is brief. It nonetheless distracts from the reality that dominant political economies are not the result of freestanding normative choices but of moves by political-economic actors to appropriate and/or preserve power when faced with path-dependent forks on roads rutted by historical institutions. What Piketty calls proprietorism was a weapon of the propertied to escape the political controls of mercantilism and its statutory laws of labor protection (such as the Poor Laws and labor statutes), which required seizing the powers of the state and the reins of public and private law to depose those controls in favor of new forms of power associated with the self-regulating market. Rather than a new and persuasive choice point, this change was driven by the power of market naturalism with its hardened and restrictive binaries and normative categories that endowed rights for some and rightlessness for others, and defined justice as predistributive legal violence, smashing up lives and communities and longstanding institutions, only to impose new ones more conducive to the “natural order” of things (Somers 2022a).

B. *Ideology and Institutionalism*

The most notable aspect of *CI* is its argument for the autonomy and the primacy of ideas and ideology: “The history of all hitherto existing societies is the history of the struggle of ideologies and the quest for justice” (*CI*, 7–8). Recruiting Polanyi to his cause, Piketty writes that “Polanyi proposed a magisterial analysis of . . . the *ideology* of the self-regulating market” (*ibid.* at 469, emphasis added). The term “ideology” suggests that Piketty concurs with Polanyi's argument that it was never an *actually* self-regulating market, but a utopian ideological regime organized by legal power.³⁸ On closer reading, however, neither the idea nor the reality of the self-regulating market features in *CI*, which raises the

³⁷ “Absolute respect for property rights acquired in the past offered a new form of transcendence, which made it possible to avoid widespread chaos and fill the void left by the end of trifunctional ideology. The sacralization of property was in some ways a response to the end of religion as an explicit political ideology” (*CI*, 123). It seems oddly out of character with the rest of Piketty's writing to suggest that the provenance of market naturalism—or proprietorism—is a psychoanalytic reaction formation to “fear of the void.”

³⁸ As per Polanyi, “The utopian nature of a market economy explains why it never could be really put into practice. It was always more of an ideology than of an actual fact . . . the separation of economics and politics was never carried completely into effect” (Polanyi 2014, 218).

question of what work this reference to Polanyi's theory is doing to advance the argument.³⁹ What appears to interest Piketty in Polanyi is less the power of the fictitious naturalism of the self-regulating market and more the opportunity to stress the autonomy of ideology: "I insist that the realm of ideas, the political-ideological sphere, is truly autonomous" (*ibid.* at 7). Polanyi would support this acknowledgment of the causal and performative powers of justificatory ideational regimes. But he would no more buy into *CI*'s brief for the absolute autonomy of ideas and ideologies than he would the economistic fallacy of *C2I*'s $r > g$. For the hallmark of Polanyi's institutionalism is a rejection of the false binary between the ideal and the material (*GT*, 165–66; Polanyi [1947] 1968, 68; 2018, 248–49). Just as so-called ideal values are at once material (for instance, people who sacralize fish will die of starvation next to a stream full of trout), so too are wage demands expressions of ideal normative wants (social status, family care, and so on). For Polanyi it is not that ideologies are more or less significant than "material" institutions; it is that ideologies, if they have any social significance at all, are themselves institutional structures that are both causal drivers and causal effects of institutional arrangements. When they achieve the status of regimes they embody institutionalized rules that organize human behavior and shape social conditions (Block and Somers 2014, 58–59).

As such, ideological regimes do not trump other mechanisms of history, but *cocreate* history with other powers and laws to which they are intimately hitched. It is an interdependent process—neither the ideational nor the institutional would be able to move history on its own. In the case of the self-regulating market, the key to understanding the dynamics of capitalism is the misalignment—and the mystification created—between the ideational regime of a self-regulating market on the one hand, and on the other, the active, purposeful, and politically driven institutional engineering underlying market processes. The ability of an ideology to drive structural mechanisms is more relevant to understanding its power than whether it is "true," "accurate," or even "just."

By contrast, in *CI* it seems to matter enormously whether an idea is a "good" one, or a "true" one, as the book implies that the fate of ideologies largely depends on their degree of conformity to reality, their rationality, and their alignment with majority ideas of justice. This suggestion is difficult to square with the continuing hegemony of economic and political claims that endure despite empirical disconfirmation. Part of the problem is that *CI* is ambiguous as to the meaning of ideology. While the book begins by characterizing these ideational structures in terms of regimes, throughout the text ideologies often become "attitudes" or "social perceptions" (*CI*, 416–17, 436, 466, 768)—social-psychological individual mentalities that are far more malleable than the institutional and structural arrangements that characterize an ideational regime.

So while Polanyi has indeed invaded *CI*—the new volume completely escapes the economistic naturalism of $r > g$ —Piketty does not yet embrace the full extent of Polanyi's complex institutionalism. Adding ideology as a justificatory structure is necessary but insufficient for a deep institutional analysis. To be sure, in *CI* ideational autonomy is not completely abstract. The actual doing and the causing is carried out by political actors making political choices, albeit themselves triggered by the proximate force of ideological shifts and commitments. But it is the proximity that poses problems. Beyond the reigning regime of proprietorism, for example, missing entirely are the larger macroinstitutional structural dynamics (that are central to legal institutionalism) that press upon these choices and commitments—globalization, financialization, the judicial destruction of unions, privatization of public goods, and so on (see also Lachmann and Brandon 2021, 761; Reddy 2021).

³⁹ There are only two passing references to the idea of a self-regulating market in a 1,044-page text. Although see *CI*, 641–44 on the EU's attempt to organize the supra-economy based on its "naturalism."

Without a focus on the global pressures of the gold standard leading to the fascist crises of the 1930s or the Bretton Woods agreement, the egalitarian interruption that ensued is less intelligible (Block and Somers 2014; Somers and Block 2020a). Absent macroinstitutional dynamics, *CI* seems to be trying to decide whether causal primacy should go to ideology and politics on one side, or institutionalized political-economic power on the other, but in the end lays its bets on the former.⁴⁰

C. *Predistribution Versus Redistribution*

Among the many concepts not found in *C21*, but taking a significant role in *CI*, is that of predistribution. It first makes an appearance in the discussion of a research project that Piketty and his colleagues carried out comparing inequality in France and the US (Bozio et al. 2023) (first version published in 2018). Their findings that the US has a higher level of inequality is hardly surprising; that the reason is not lower rates of redistributive taxes and transfers in the US (they were practically indistinguishable between the two countries) certainly is. Instead, because the primary income shares of US workers are so much lower than for those in France, they attribute higher US inequality to differences in *predistributive* measures: “[I]t is clear that no transfer policy (whether in cash or in kind) can deal satisfactorily with such a massive distortion in the distribution of primary incomes (that is, incomes *before* taxes and transfers). When the share of primary income going to the bottom 50 percent is nearly halved in the space of just forty years and the share going to the top 1 percent is doubled (Fig. 11.5), *it is illusory to think that the change can be compensated simply by ex post redistribution*” (*CI*, 528, emphasis added). Concluding that today’s inequality gap between the US and Europe can be explained “entirely” by the differences in pretax incomes, they write: “It is at least as essential to look at ‘predistribution’ policies (which affect primary inequality) as at ‘redistribution’ policies (which reduce inequality of disposable income for a given level of primary inequality)” (*CI*, 529; see also Blanchet et al. 2020; Bozio et al. 2023).

For a scholar so consummately associated with the power of progressive taxation and the global wealth tax, Piketty’s new attention to predistribution is significant. It is especially heartening that he breaks from the concept’s originally limited association with a progressive policy agenda to instead define it as the structural exercise of legal and political power inside the market (see also Reich 2015; Somers 2021; 2022a). Even better, he doesn’t limit his critique of taxation’s lesser capacities to affect primary inequality to the American outlier. Acknowledging implicitly that it is the structure and distribution of power in market relations that trumps redistribution, *CI* states that the rates of inequality in all the cases surveyed are primarily determined by their “primary distribution of resources”—their predistributive practices, in short (*CI*, 528).

CI doesn’t just gesture at the importance of predistribution, moreover, but identifies the precise mechanisms through which it operates. Inching even closer to legal predistributive analysis, *CI* zeroes

⁴⁰ *CI*, like *C21*, is often hard to pin down, as its arguments in the detailed text often belie its more programmatic statements. So, for example, he writes “People sometimes imagine that each culture or civilization has some ‘essence’ that makes it naturally egalitarian or inegalitarian. . . . In fact, everything depends on the rules and institutions that each human society establishes” (*CI*, 186). Or, in discussing the EU, after observing that the “assumption is that the ‘market’ and ‘free competition’ automatically yield a just distribution of wealth, and transfers that depart from this ‘natural’ equilibrium are seen as an act of generosity on the part of the winners (on this view, only transfers of public funds count as ‘transfers,’ whereas flows of private profits are considered part of the ‘natural’ functioning of the system” (ibid. at 642), he writes: “[R]elations of ownership and production are always complex, especially within human communities as large as the EU, and cannot be regulated by the ‘market’ alone. They always depend on specific institutions and rules, which are based on particular sociohistorical compromises; these include the legal, fiscal, and social systems, labor law, corporate law, and worker bargaining power” (642).

in on law as an essential mechanism of predistribution, especially labor and corporate law (*CI*, 530), as well as collective bargaining, unionization, and, more generally, the rules and institutions involved in wage setting (*ibid.* at 530). On the minimum wage, for example, Piketty stresses that while it is an indispensable tool—its precipitous decline over the last decades is responsible for much of the US’s spiking inequality—it is still no substitute for wage bargaining and power sharing at the branch and firm level (531–32). In addition to law and collective bargaining powers, *CI* points to educational opportunities—and the shrinking access to them over recent decades—as critical predistributive mechanisms of declining wages (533–48).

As significant as is *CI*’s new focus on predistribution, which was completely absent in *C21*, it rightly does not draw an impenetrable boundary between pre- and redistribution (see also O’Neill 2020a). Taxes not only entail cash and program transfers; they also redound back to primary wages as “taxing wealth leads to structural reductions of wealth inequality in each new generation, which also helps to equalize investment opportunities and thus the future distribution of labor and capital income” (*CI*, 532). Higher tax rates on large incomes have the effect of deflating “extravagant” executive salaries, just as sharp reductions of top tax rates beginning in the 1980s skyrocketed executive pay—in fact, more so than any other variable examined—which exists in relative proportion to employee power and wages (*ibid.* at 532–33).

Absent from this discussion, however, is the effect on commodification of redistributive social and public goods, above all those goods that make it possible to rely less on the dictatorial power of an employer, and more on provisioning by the social state (O’Neill 2020a; Esping-Andersen 1990). Public goods are key catalysts of decommodification. The more we have access to a public health system, the less subservient we are to an employer for health care benefits, which increases our bargaining power and decreases our commodification. There are many other instances in which redistribution and predistribution are deeply entwined that *CI* might have taken up—how taxes redound upon the basic structure of the market economy by funding the legal system that protects private property, for example (Holmes and Sunstein 1999; Murphy and Nagel 2002; O’Neill 2020a). But *CI*’s move to centering predistribution is an invaluable advance over *C21*, especially in measuring the relative import of predistribution and the primacy of pretax income inequality, and for emphasizing that primary incomes can only be made more equal by using law and union power to increase the bargaining power of working people, to expand access to higher education, and to democratize the management of corporations (Crewe 2024).

D. *Law and Legal Systems*

In *C21*, the only laws to be found were the “fundamental laws of capitalism.” In *CI*, we are alerted multiple times to the vital role of actual statutory and private law in shaping inequality regimes. Law makes preeminent appearances in differentiating the abstract and universal right of property ownership from the status-bound right of ternary societies; in buttressing the power of the central state to uphold ownership societies; in the strategies by which metropolises expropriate the wealth of colonial and enslaved peoples; and in controlling the bodies of the poor and unemployed domestically. Law facilitates the reach of empire, and legitimates slavery in the antebellum US, and after slavery’s defeat, it buttresses a century of legal racial apartheid. In the twenty-first century it sets the terms by which EU financial institutions are able to mobilize legal predistributive mechanisms to drive up inequality in its debtor member states. It is readily available to the rich to evade tax collection and hide assets, and to underwrite the work of squelching democratizing national initiatives. In contrast to the relative convergence of labor income since the 1990s, it is the central reason for the increase in wealth

inequality between men and women (especially after divorce or separation) (*CI*, 692). And for all these reasons, *CI* argues that new global and national egalitarian legal infrastructures are critical to the project of a new egalitarian “participatory socialism.”

Like *GT*, then, *CI*, while it does not offer a theory of law on its own terms, finds that the power of law answers the question of how inequality—or in rare cases, greater equality—persists and increases across time and space. Notably, *CI*'s analysis of law's import in explaining primary income disparities is very similar to Polanyi's account of how legal predistribution is the sine qua non of labor commodification (see Somers 2022a), in which labor laws enable or disable unions' collective bargaining power or facilitate codetermination in firm management (*CI*, 495–500, 504–05, 972–73).

Missing, however, from these discussions of legal predistribution (my term, not Piketty's) is emphasis on the coercive powers of law in the a priori allocation of legal rights. Most puzzling of all, given that *CI* is organized around the foundationalism of property, Piketty does not address the legal coercion at the root of the sacralization of property. In a book about proprietorship and neo-proprietorship, where is the legacy of Legal Realism and institutional economics in deconstructing the legal roots of property? For Piketty, property sacralization is the foundation of modern inequality, and law is an accessory enforcer. For Legal Realists and institutionalist economists, property rights are conditional on law and coercion (Pistor 2019; Holmes and Sunstein 1999; Hale 1923) and ultimately on the legal powers generated by market naturalism's appropriation of natural law.⁴¹

E. *Wage Suppression*

CI would have benefited by including Polanyi's focus on legal predistribution and commodification as engines of inequality. Mainstream economics explains the last forty years of workers' wage stagnation as the result of passive market forces—globalization, automation, technological change, and the “skills gap.” *CI*'s $r > g$ inequality is, similarly, an impersonal economic dynamic with no political engineering or intentional exercise of coercive or institutional power. In a pathbreaking study, Larry Mishel and Josh Bivens (2021) systematically demonstrate through comparative analysis that these accounts fail to explain the recent decades of US wage trends and wage inequality. Instead, using the indicator of the enormous gap between decades of rising levels of productivity and decreasing compensation rates for workers, they measure the precise impact on inequality of a collection of legal and predistributive (my term, not theirs) policy mechanisms I am calling predistributive. These have suppressed wage growth since the late 1970s. These include deliberately elevated levels of unemployment implemented both by austerity policies and the Federal Reserve's privileging of inflation over jobs;⁴² legally coerced deunionization and assaults on collective bargaining; and capital-enhancing globalization policies—not the fact of globalization, but the laws and policies that design it.

Following in the institutionalist tradition (Freeman and Medoff 1984; Levy and Temin 2007; Bivens et al. 2018), Mishel and Bivens use the active term wage *suppression* rather than wage *stagnation* to make clear that depressing wages is intentional, not the passive “collateral damage” of growth strategies or

⁴¹ While we must admire the eclecticism of *CI*'s sources and applaud its indifference to graduate-level demands for reviews of the literature, works from the Legal Realist and institutional economics traditions are not mere “literatures” but rather codifications of decades of comparative historical findings and judicial rulings that are foundational to all succeeding studies of property and law (see especially Rahman (2016b), Britton-Purdy et al. (2020), Fried (1998), Block (2013), and Krippner and Flores (2024)).

⁴² “For the bulk of the past four decades, our government hasn't merely declined to achieve full employment through public hiring; it has actively sought to keep millions of Americans perpetually unemployed” (Levitz 2021).

general efficiency. It is engineered by policymakers “who invited and enabled capital owners and business managers to assault the leverage and bargaining power of typical workers, with the inevitable result that those at the top claim a larger share of income.”⁴³ Productivity growth is not the problem; rather, it is the *distribution* of its gains, which has gone almost completely to the top 1 percent. This is “failure by design” (Bivens 2011), engineered by predistributive policies in the labor market and the strengthening of employers’ power relative to their rank-and-file workforce (which increasingly includes those workers with a four-year college degree).⁴⁴ What this study emphasizes, moreover, is that the increasing disparity between employer and employee power since the 1970s has been created by the *weakening of labor*.⁴⁵ Whereas employer power is ubiquitous and constant, it is the conscious destruction of workers’ institutions of *countervailing* power—high-pressure labor markets, unions, and binding minimum wages—that has driven down wages and obstructed wage growth (see also Reich 2015).⁴⁶

Standard economics and modern market policies depend on the postulate that labor markets are the same as any other market, subjected to the same laws of supply and demand: In the words of the president of the Federation of German Industry, Michael Rogowski, in 2005: “Labour has a price, just like pork. In the business cycle, prices are high when pork is hard to come by. Where there is a lot of pork about, prices fall” (Cyran 2013, cited in Wade 2014, 7). If labor is just like pork, then power is irrelevant: We don’t imagine that the price of pork has any implications for the power of a pig to resist slaughter, so why should we think otherwise with labor? When power is introduced into the equation by labor advocates, current judicial doctrine effectively nullifies its significance by holding that competitive markets reflect “equal power” between the two parties (Economic Policy Institute 2020; *Epic Systems Corp. v. Lewis*, 584 U.S. __ (2018) (Ginsburg, J., dissenting)). To make the balance of power a factor in explaining wage inequality requires appreciating the fictitiousness of labor as a commodity and the labor market as comprised of what Burawoy (2014; 2019) calls “accelerating commodification.” The fiction that labor is a standard market commodity obedient to the laws of supply and demand serves to conceal the asymmetries of power both in initial endowments and in negotiations.

Polanyi, like Marx, the Legal Realists, and institutionalist economists, dismissed the claim that labor and capital have equal bargaining power. Hale (1923; 1943), and Wagner (National Labor Relations

⁴³ Notice the relational terms of this argument: When working people get less, the owners get more—a radically different approach than mainstream economics’ preferred worry over poverty but not inequality. These corporate and policy decisions had the most adverse consequences for low- and middle-wage workers, who are disproportionately women and minorities, the groups whose legacy of being discriminated against in labor markets means that they especially need low unemployment, unions, strong labor standards, and policy supports for leverage when bargaining with employers. Note that we’re more likely to hear about “labor militancy” than “capital militancy” when the subject is wage-price spirals, but this is probably because it is *taken as given* that capital will be militant and usually effective in protecting its share of income.

⁴⁴ They also contend, and provide the data, that the dynamics that have challenged the growth of living standards for the vast majority are based on workers not sharing in economic gains, not, as some have argued, on consumers suffering from monopolistic prices.

⁴⁵ That the ratio of workers’ wages to top managers salaries has increased from 10 to 1 in 1970 to 450 times that today is in no way related to managers having become 45 times more marginally valuable over the decades. Rather, it is explained by an intersecting set of laws and policies that have broken the link between productivity and wages and instead redirected these productivity gains of the last decades exclusively to the top 1 percent of the 1 percent.

⁴⁶ As Mishel and Bivens (2021) argue convincingly, inequality is primarily a wage suppression issue. They estimate that excessive unemployment, eroded collective bargaining, and corporate-driven globalization explain 55 percent of the divergence between growth in productivity and median hourly compensation. They then estimate the added impact of a diminished overtime salary threshold, employee misclassification, employer-imposed noncompete agreements, and corporate fissuring-subcontracting and major-buyer dominance to account for another 20 percent.

Board 1949), argued that the doctrine of freedom of contract occludes how property law allocates vastly unequal power to owners, just as it disempowers workers through commodification and lack of alternative means of survival. In 1935 the death of *Lochner*⁴⁷ was effectively declared with the triumph of the National Labor Relations Act (NLRA) and Wagner’s (National Labor Relations Board 1949) successful 1935 argument that redistributive laws in favor of workers (such as the right to unionize) did not violate but actually fortified contractual freedom by correcting for initial power imbalances endowed by one-sided property rights. Apparently, however, *Lochner* was just dormant. Forty years of neoliberalism, as Bagenstos (2020) has recently made clear, reveal that *Lochner* is very much undead, its redistributive coercions once again contributing mightily to wage suppression and inequality.

Zombie *Lochnerism* now operates primarily through labor and employment law as well as a “weaponized” use of the First Amendment (*Janus v. AFSCME*, 138 S. Ct. 2448, 5202 (2018) (Kagan, J., dissenting)). Courts deploy the “equal-power assumption” (Bagenstos 2020; Mishel 2022b) to rule that New Deal laws and policies (such as the NLRA and Fair Labor Standards Act [FLSA]) that unions and legislatures enacted to redress the extreme asymmetry of power between employers and employees now violate the doctrine of equal power in employment law.⁴⁸ As a result, employers have the capacity to defeat challenges to employment-at-will, the power to recategorize employees as independent contractors, the ability to force arbitration in labor contracts, and the benefit of right-to-work laws designed to destroy unions (Anderson 2017; Bagenstos 2020). Just as when the nineteenth-century “free agent” was forced to be free by the coercive mechanisms of the New Poor Law (Somers 2022a), today the “equally empowered” worker is coerced into formal legal equality by the doctrine of a neutral, nonpolitical baseline of negotiation (Economic Policy Institute 2020; Mishel 2022b). Neo-*Lochnerism* demonstrates how different institutional arrangements and strategies of legal engineering can achieve the same ends under different circumstances.

F. *The Egalitarian Interruption*

CI does a turnaround from *C21* in explaining the 1945–75 egalitarian interruption (*CI*, 415–577). Gone are the ad hoc *dei ex machina* of unpredictable and untheorized external shocks. Instead, *CI* draws on Polanyi’s institutionalist explanation for World War I as rooted in imperial nation-state rivalries. *C21*’s chief cause of interruption—the physical destruction to capital inflicted by the two world wars—is replaced by policy choices and political decisions, especially those that deconcentrated wealth and reduced the influence of property.⁴⁹ In the Polanyian tradition, *CI* centers political power’s capacity to “desacralize property rights” (*ibid.* at 512–13).

⁴⁷ William Novak (2022) has recently argued the contrarian position that *Lochner* was itself never as hegemonic as it is usually assumed to have been.

⁴⁸ For example, *EPIC Systems Corp. v. Lewis*, 138 S. Ct. 1612 (2018), a now classic case of enforcement of arbitration (and see Justice Ginsburg’s dissent at 1634–35). On the abuse of “employment-at-will doctrine,” which allows employers to fire workers for any cause, see Blades (1967), Garden (2022) and Feinman (1976) for a discussion of the origins of the at-will rule. The now classic case of using the First Amendment against unions is *Janus v. AFSCME*, 138 S. Ct. 2448 (2018), which represents what Justice Kagan (dissenting in *Janus*, 138 S. Ct. at 2502) called an unequivocal transition to a “weaponized” view of the First Amendment among the Court’s majority. On the deeper meaning of *Janus*, see Andrias (2019). On the role of power and law in the labor market more generally, see Harris and Varellas (2020) and Britton-Purdy et al. (2020).

⁴⁹ These policy choices included “expropriation of foreign assets, nationalization of firms, imposition of rent and price controls, or reduction of the public debt through inflation, exceptional taxes on private wealth, or outright repudiation” (*CI*, 416).

Where *CI* takes a social-psychological step too far away from institutionalism is in crediting as the primary cause “the ‘great transformation’ of *attitudes* toward private property and the market” (*CI*, 36, 417, italics added). Yes, ideas and ideologies absolutely can under some conditions drive history (see, for example, Somers and Block 2005). But ideas are not “attitudes” and as *CI* is a book about justificatory inequality *regimes*—not individual mental states but structured institutionalized discourses—it is disconcerting to find causal powers attributed to the former. It is rarely the *perceived* truth or falseness, the rationality or the justice of an idea that decides its fate. Good and just ideas have been discrediting private property since the seventeenth-century English Diggers, since Condorcet and Godwin in the eighteenth century, or Paine and Cobbett in the early nineteenth, not to mention Marx. Whether ideas—or attitudes—change history depends on whether they achieve the status of ideational *regimes* with the capacity to organize and disorganize markets and economies, politics and law—market justice or socialism, for example (Somers 2008, 171–209, 254–88).⁵⁰

G. *Return of Hypercapitalism: The Brahmin Left Versus the Merchant Right*

CI accounts for the demise of the egalitarian interlude and the rise of hypercapitalism by cataloging the multiple failures of social democracy. Initially (1945–60), social democratic and center-left parties stabilized the wealth and income equality achieved between 1910 and 1950. Beginning in the mid-1970s, however, they pulled back pressure on markets, no longer seeking equitable educational access, worker power sharing in corporate governance, or other predistributive policies affecting not merely income distribution but reducing commodification more generally (McCallum 2019). By the 1990s, globalization became the universal lodestar of the center-left. Party leaders bowed to its putative naturalist strictures by lowering corporate taxes and disavowing policies that would conflict with the demands and treaties of global capital. Echoing the pattern of the gold standard’s stranglehold on the global economy in the 1920s and 30s, the European Union established an undemocratic monetary federation, which it used to discipline debtor nations while quashing democratic economic national reforms (Stiglitz 2016; Streeck 2024; 2014). Commodification and dedemocratization skyrocketed once again (Ferrerias 2020), leaving working people increasingly rightless in private tyrannies (Anderson 2017; Burawoy 2014; 2021), vulnerable to the ideational misdirection that points to immigrants, marginalized people of color, and leftists as the cause of their suffering.

To capture this political transformation, *CI* identifies a global political realignment pitting a new “Brahmin Left” of center-left professionals against a “Merchant Right” comprised of the wealthy in alliance with (white) working classes (Gethin et al. 2022). Striving to attract higher-income professional voters, social democrats and center-left parties effectively abandoned their traditional working-class constituencies. They did not invest in supranational political or fiscal instruments that could confront on equal grounds the international cartels, treaties, and organizations now dominating their own economies and decimating domestic manufacturing. In the US, under the Clinton and Obama administrations, Democrats became cheerleaders for the global economy and its fictive claims to immutable naturalism (Streeck 2024; Kuttner 2018; Block and Somers 2014, 150–92; Block 2018).⁵¹

⁵⁰ In the end, *CI* returns to its institutionalist commitments when it attributes the egalitarian shift to a change in the organization of political power: “All the historical trajectories we have looked at in this book show how intimately the structure of inequality is related to the nature of the political regime. Whether we were looking at premodern trifunctional societies or nineteenth century proprietary societies or slave societies or colonial societies, it was the way political power was organized that allowed a certain type of inequality regime to persist” (*CI*, 1016–17; see also 496).

⁵¹ For those who think market naturalism has long passed as serious ideology, consider the words of former President Bill Clinton in 2005, saying that globalization is the “economic equivalent of a force of nature, like wind or water” (van Marle

As others have also shown (Streeck 2024; Shenk 2024; Geismer 2022; Mudge 2018; McCallum 2019; Gerstle 2022), this neoliberal embrace on the part of social democratic parties had the effect of pushing working-class voters into the arms of (faux) populist, social nationalist right-wing parties—a phenomenon that has created a global oligarchy of billionaires, while inflicting crushing material harms on the very people who support them. Despite espousing the mantle of populist anti-elitism, this plutocracy rules as brutally as any we’ve encountered in a century (*CI*, 885–88; Serwer 2021).

Where *CP*s account of the return of hypercapitalism falls short is in addressing the perdurability, deep structures, and path dependencies of proprietarianism’s institutionalized regimes of racism and nationalism. While a democratizing social state successfully imposed new, more egalitarian policies during the postwar settlement, deeper forms of racialized, gendered, and nationalistic institutionalization are not so easily extinguished (Adelman 2019). As the revival of neo-Lochnerianism demonstrates, the midcentury judiciary’s prioritization of democratic and civil rights was anomalous, as neoliberal doctrine easily adapted from Fourteenth Amendment freedom of contract to more flexible First Amendment and equal-power doctrines—all to the same effect of consistently cordoning off democratic efforts to equalize market power (Bowie 2021b; Brisack 2024; Doerfler and Moyn 2020; Cohen 2020; Bagenstos 2020; Economic Policy Institute 2020).

Although much less so than in *C21*, still too neglected in *CI* is one of the chief targets of the neoliberal countermovement—the balance of power in the workplace. Although *CI* does address the weakening of collective bargaining and the dramatic collapse of the minimum wage, it focuses less on how these outcomes (and many more documented by Anderson (2017; 2021a, 2023), Mishel and Bivens (2021), Vogel (2021), Eidlin (2018), and Western and Rosenfeld (2011)) were engineered through legal redistribution as part of the neoliberal countermovement. Now in its crosshairs, moreover, were the once-vaunted privileges of educated workers, who are now subject to the precarity and accelerated commodification once limited to blue-collar workers. Because the public sector unions that often represent them have likewise been under relentless assault, it seems hardly a puzzle that these newly proletarianized regularly support parties of the left.

CI fails to theorize this dual commodification process. The destruction of traditional unions has eliminated nonmarket alternatives to total employer subordination—no more generous union health care, secure pensions, unemployment benefits, and so forth. When combined with their abandonment by the center-left, small wonder that blue-collar workers seek right-wing alternatives. In the case of professionals, the loss of nonmarket privileges of greater self-determination and autonomy—being able to set work schedules and maintaining competitive market value based on education—has triggered their interest in the public unions associated with greater democracy and the left. When these two parallel processes of increasingly exacerbated commodification of two different workforces are placed together, Piketty’s electoral stalemate between the Brahmin Left and the Merchant Right comes increasingly into focus.

V. *A Brief History of Equality*

In his newest volume, *A Brief History of Equality* (2022) (*BHE*), Piketty surprises yet again by inverting his usual subject of inequality and instead centering the history of *equality*, focusing in particular on the

2016), and former UK prime minister Tony Blair, about the globalization debate, “You might as well debate whether autumn should follow summer” (Blair 2005).

historical and institutional conditions of what he now dubs the “Great Redistribution” (1945–75). *BHE* poses three questions:

1. What are the historical and institutional conditions that made greater equality possible during the Great Redistribution (1945–75)?
2. What stopped the progressive increase in equality in the 1970s?
3. What are the conditions necessary to reignite the “march toward equality”?

Even more so than *CI*, *BHE* takes a complete institutionalist turn, leaving behind the naturalism that characterized *C21*'s focus on the $r > g$ dynamic as internal to capitalism. In *BHE*, it is politics, policy, and power that drive greater or lesser degrees of equality. And in keeping with his long-term methodological commitments, like for Polanyi, it is above all history—not deductive logic—that informs Piketty's theoretical arguments, his political prognostications, and his agenda for a democratic socialist future, one that he characterizes as “participatory, federalist, ecological and multicultural” (*BHE*, 226).

The throughline of *BHE* is Piketty's interrogation of history to identify the specific institutional arrangements that marked the rise and fall of the Great Redistribution (on Piketty's use of history, see Coopersmith and Popp 2022). But before he gets there, he probes the question of how the Western world's industrial development and growth diverged so significantly from the rest. Following Pomeranz (2021) and Sven Beckert (2015), he trains his eye on military and colonial domination, and above all, on the extractive economies of slavery imposed across the globe. Even formal abolition only served to further enhance the power of the propertied, as in the US South where former slaves were deprived of their promised forty acres and a mule and the slaveowners allowed to keep all their land, which they leveraged into an autocratic agrarian monopoly shareholder system, a legacy that for Piketty justifies reparatory—but not identitarian—forms of justice today (*BHE*, 1, 225).

To explain how continuously rising inequality was interrupted in the early twentieth century, *BHE* spends little time on the wars and economic depressions so central to *C21*. While losing foreign and colonial assets contributed to the deconcentration of property, it was above all the rise of twentieth-century welfare states and progressive taxation on income and inheritance that finally halted the relentlessly increasing levels of inequality. From these two institutional achievements came greater access to education, health care, food, and transportation—predistributive markers that led not only to higher growth levels and collective prosperity, but also, implicitly following T. H. Marshall (1950), allowed those previously marginalized due to their limited market value to become actively participating citizens (*BHE*, 121–49).

Because welfare states and progressive taxation were historic progressive achievements that must themselves be explained, *BHE* identifies two necessary prior background conditions: large-scale social/political movements that transformed power relations, and, following both *C21*'s and *CP*'s emphasis on the democratic value of collective debate, a new political consensus derived from “democratic deliberation” over the norms of social justice. For Piketty, these background conditions are not only essential for the emergence of progressive taxes and the welfare state; they contain the potential to altogether transform capitalism and establish the foundations of the democratic socialism that is Piketty's ultimate telos. But before looking more closely at this claim, *BHE* addresses the question of What Went Wrong?

To explain the sharp reversal toward inequality that resumed in the mid-1970s, *BHE* now dissects the same institutional achievements for their limitations, ascribing an instability and indeterminacy to their actual implementation. Far from reflecting a real political consensus, each was derived from “a precarious, unstable, and temporary compromise,” itself the object of social conflicts and challenges. As a result, neither the welfare state nor progressive taxation realized their full egalitarian potential or purposes. The welfare state never overcame uneven access to education and health care. Progressive taxes on income, inheritance, and property were undermined by insufficient progressivity, by lack of attention to international tax avoidance, and ultimately by the political power of plutocrats to obstruct and control law.

The critical background conditions, moreover, were never fully met. Egalitarian social movements were insufficiently inclusive, a robust alternative social justice narrative was never fully achieved, and “the hyperconcentration of property,” while lessened somewhat by taxes, nonetheless persisted throughout the Great Redistribution, easily giving rise to neoliberal financial desupervision and the free circulation of capital in the 1970s and 1980s (*BHE*, 152). With a suppression of the federal minimum wage (from \$11/hour in 1970 to \$7.25/hour in 2020, adjusted for inflation); continuous judicial, political, and corporate assaults on unions; and a reconcentration of property, this recidivism—what Piketty calls a set of “political reversals on the social, fiscal, educational, and financial levels”—has proceeded to such an extent that in terms of wealth inequality, the US in 2020 is now close to the maldistributive malignancies of Europe in 1913 (*ibid.* at 151–52).⁵²

From this autopsy of the Great Redistribution—the cause of death traced to the limits of its institutional instantiation—Piketty moves quickly to the third question and *BHE*’s true purpose: How to “continue the march toward equality”? Again, history, not deduction, instructs as he uses the past to identify the conditions that will both facilitate and undermine egalitarianism going forward. History, he states, teaches that we must “deepen and generalize the institutions that made the movement toward equality, human progress, and prosperity possible over the course of the twentieth century starting with the welfare state and progressive taxation” (*BHE*, 155)—this time corrected of their previous shortcomings and more widely accessible. Laying out a radical institutionalist agenda far more progressive than anything on order among mainstream center-left parties today, Piketty covers a breathtaking bill of particulars, including reparations for the slave trade and the extraction of colonial riches, wealth taxes, guaranteed employment, a revival of union power with workers’ representation (codetermination) on corporate boards, and a basic income proposal that evokes Thomas Paine and Henry George in its plan to dilute the power of concentrated property by creating a property right of “inheritance for all” (*ibid.* at 160–68). Piketty calls his overall project “democratic socialism,” a system capacious enough, as in *CI*, to coalesce under its rubric a wide range of progressive aspirations, all to underline his argument for the “very great diversity of possible economic systems” (*ibid.* at 117).

Now we arrive at the nub of *BHE*: The welfare state and progressive taxation do not just explain past equality. *If* they are intelligently designed and legally buttressed, they are the necessary institutional conditions for a revival of egalitarianism and the transformation of capitalism into a new democratic socialism (*BHE*, 74). In the case of progressive taxation, whether it will facilitate rather than obstruct egalitarianism depends entirely on its degree of fiscal progressivity. Twentieth-century history demonstrates that “confiscatory” rates on the wealthiest not only are possible (consider the 90 percent marginal rates in the US under Eisenhower), they are necessary for moving toward egalitarian ends.

⁵² Writing pre-COVID-19, Piketty cannot address the post-COVID-19 findings that reveal the stunning degree to which the top billionaires increased their wealth during the pandemic. See note 2, above.

Piketty convincingly argues that if accompanied by a renewed “worker power” fueled by a basic income scheme and a guaranteed employment system, real fiscal progressivity would contract the salary range.⁵³ With respect to the welfare state, Piketty ascribes to it the potential to decommo- dify large sectors of the economy, especially in health care and education, but also in culture, transportation, and energy (ibid. at 156; see also Crewe 2024). And decommo- dification could go much further in the future—both in terms of the breadth of sectors to be “decommercialized” and in terms of the potential for new “decentralized and participatory” collective organizational forms. And circling back to their interdependency, the long-term aim of the welfare state is not merely decommo- dification through public goods but also to finance them through a system of “fiscal justice”—which requires socializing wealth through an extremely progressive tax (BHE, 157).

The welfare state and progressive taxation, then, are not just the preeminent causes of the Great Redistribution; they are also indispensable to transforming capitalism into a new democratic socialism. Like Erik Olin Wright (2010; 2019), Piketty advocates for nonreformist reforms to be embedded in a stream of transformations that have the potential to sequentially destabilize neoliberalism, guided by a countervision “making it possible to structure a different world that is far more emancipatory and egalitarian than the present one” (BHE, 155, 238).

VI. Piketty’s Progress

Unusual among public intellectuals of global stature, Piketty has decisively changed his theoretical orientation. There is one aspect of his work, however, that has remained consistent across time—his prioritization of progressive taxation and redistribution as the centerpieces of his proposals for an egalitarian future. This consistency is both puzzling and problematic. In *C21*, a global wealth tax is a logical antidote to the outsized power of capital over national growth ($r > g$). But *CI* and *BHE* make the institutionalist argument that it is redistributive policies more than redistributive ones that are accelerating inequality. *CI* emphasizes Bozio et al.’s (2023) comparative findings that attribute greater inequality in the US not to redistribution but to predistribution, and conclude that today’s inequality gap between the US and Europe can be explained “entirely” by the differences in pretax incomes (*CI*, 529). In both *CI* and *BHE*, predistribution is not only more causally consequential to inequality; it is also Piketty’s main justification for the transformative properties of the welfare state and progressive taxation. He repeatedly stresses their decommo- difying and redistributive effects (BHE, 156) to explain why they must be the keystones of democratic socialism.⁵⁴ Despite this explanatory shift, redistributive solutions are nowhere to be found in either book’s explicit agenda for a democratic socialism. Why?

One possible explanation would rightly emphasize the porousness of boundaries drawn between predistribution and redistribution and focus instead on their circular relationship, by which

⁵³ These echo the rights proposed by Polanyi in *GT*, as well as by FDR in his 1944 Economic Bill of Rights (Sunstein 2006), and revived in the recent Green New Deal.

⁵⁴ In this he is echoed by many others. Dean Baker (2020) and Vogel (2021) observe that as morally outrageous as is a tax system that facilitates corporate tax avoidance on a massive scale, the “real story” of inequality is pretax income. In his commentary on Saez and Zucman’s (2020) (Piketty’s colleagues) proposal for a wealth tax, Baker (2020) writes: “Unfortunately, their wealth tax is not an effective solution . . . it distracts from the causes of the rise in inequality, which is before-tax income, not declining tax rates. . . . The market is structured in ways that have caused an enormous share of national income to be diverted to those at the top.” Here Baker (2016; 2020) joins Stiglitz (2015), Galbraith (2016), Vogel (2021), Blanchet et al. (2020), O’Neill (2020b), and Bozio et al. (2023) in demonstrating that inegalitarian redistributive market power outpaces even the most regressive taxes in driving up inequality. On global inequality see Chancel and Piketty (2021).

redistributive taxes create a feedback loop with powerful predistributive *effects*. Progressive taxation through its predistributive effects intervenes not merely after the fact of market inequality through government policy, but into the “very heart of the process of production” (*BHE*, 157). *CI* stresses how taxing wealth creates structural reductions of wealth inequality, while high tax rates on large incomes “deflate” high salaries (*CI*, 532–33). *BHE* makes the same point, demonstrating how “progressive taxation . . . enabled us not only to more fairly distribute taxes on wealth and income but also to impose narrow limits on inequalities before taxes” (157). And there is no question that the welfare state, funded by progressive taxation, has powerful predistributive decommodifying effects, not only in changing the structural balance of power in the market and deconcentrating capital, but also in providing public goods that lessen our dependency on private capital to meet essential social needs.⁵⁵

In these and many other ways, Piketty joins Polanyi in demonstrating the degree to which primary market outcomes are never the result of “natural” market dynamics but of legally and politically driven institutional powers that organize market relations, in this case redistributive government policies that redound to more egalitarian predistributive consequences. But this only deepens the puzzle of why there is no mention of redistribution in his agenda of democratic socialism. I don’t have an answer, but it is important to point out several problematic implications of this omission.

A. *Redistribution Does Not Challenge the Moral Economy of Market Justice*

BHE stresses that in the struggle to reestablish the conditions for a renewed “march toward equality,” social movements and collective empowerment alone are insufficient; an alternative social justice narrative is equally essential. In his effort to contribute to that vision, however, Piketty does not offer an alternative moral economy that challenges the prevailing market justice one, but instead presents rational arguments for the social benefits of the welfare state and progressive taxation, especially their transformative potential. For all his dedication to the lessons of history, the lesson that Piketty seems to skate over is that since the birth of classical political economy in the late eighteenth century, we have lived under the moral hegemony not of rational discourse, but of market justice’s declamation of the *moral* superiority of allegedly fair *processes*—regardless of outcomes—and of redistribution’s violation of those processes.⁵⁶

Market justice is the normative claim that distributional outcomes produced by legally voluntary market transactions, including those of the labor market, operating in a neutral/natural price system are by definition morally just—regardless of radically unequal consequences for wages and incomes. Market adjudications are fair because they are allegedly uninfected by the corruption of political interests and untouched by arbitrary political power. Market justice, recall (Somers 2022a), produced three enduring diktats that have continued, despite interruptions and modifications, through the present: (1) that inequality of wages and wealth is morally and economically justified as it represents the appropriate value of market contributions and productive efforts (marginal productivity theory); (2) that efforts to remediate extreme poverty through taxes and redistribution are moral violations of

⁵⁵ See Bruenig (2019; 2022; 2024) for the important argument that because the effects of inequality are felt by household members outside the workplace (especially children), even greater predistributive equality will not obviate the need for the welfare state, and it is a mistake to pit them against each other in a progressive agenda. At the same time, see Kuttner (2024a) for a reminder of “how the welfare state fails the poor.”

⁵⁶ This has been the signature moral issue of laissez-faire and neoliberalism as well, and the foundation for why the putatively free process of the market—regardless of the outcome—has long reigned as the highest value of economic justice. For how this contributes to the undermining of redistributive taxes, see Collini (2023) and Bower-Bir (2022).

the fair outcomes of market justice; they represent government theft and perversely incentivize social parasitism; and (3) that democracy, unless contained to its market-conforming limits, is a chronic threat to market justice as it embodies an illegitimate external force to market governance that violates the necessary firewall between politics and power on the one side and natural market processes and property on the other.

Notwithstanding a brief period of relative diminishment during Piketty's Great Redistribution, this moral economy of market justice revived in the 1970s with the rise of neoliberalism and contributed mightily to the defeat of welfare state programs and the undermining of progressive taxation, despite—or even because of—their success in reducing poverty and inequality (Somers and Block 2005).

To wit: As part of the pandemic emergency relief plan, the Biden administration passed a child tax credit (CTC) payment, expecting it to be so popular that it would be renewed in 2022. It was indeed popular, and wildly successful in alleviating poverty and reducing inequality (Burnside 2022; Olen 2022). But it was not renewed. Instead it was defeated by Republicans and conservative Democrats, who condemned the program for violating market justice and disincentivizing the will to work. Michael Strain, a policy economist at the conservative American Enterprise Institute and leading opponent of the program, parroted Malthus from two centuries earlier (Somers and Block 2005) when he commented, “Yes, this alleviated child poverty, but it didn't really do a whole lot to encourage self-sufficiency” (Casselmann and DePillis 2023). The CTC is only the most recent poster child for how the moral economy of market justice easily converts the successful mitigation of child suffering into a moral crime. Piketty's rationalist claim that the success of the program will sway its opponents appears tone deaf to the powers and history of market justice. Its moral mandates have been among neoliberalism's most powerful weapons in defeating the policies and the practices of the welfare state and progressive taxation, especially when mapped onto the living legacy of racial exclusion in the US (Bouie 2023; Segers 2022).

In short, because Piketty's agenda for welfare states and progressive taxation is founded on redistribution, it is profoundly *politically* vulnerable. History demonstrates that the themes of market justice and marginal productivity theory, and a culture of meritocracy, have repeatedly been used to delegitimize redistribution on the grounds that it inflicts moral violence against the justice of nonpolitical market processes, and that it uses “stolen” money (taxes) to provide for those whose very needs confirm their undeservingness. Even worse, it sets the stage for these moral “parasites” (beneficiaries, usually people of color) to be deemed unfit for the privileges of full citizenship (Somers 2017).⁵⁷

A progressive agenda absent a confrontation with neoliberal predistribution leaves market justice and its diktats unimpeded. It further sacralizes the fiction of market naturalism, and implies that in the interest of efficiency and growth we should first “let markets do what markets do,” and only afterward have governments use taxes to do the mopping up and remedial reshuffling of income, not to achieve real equality but to mitigate the suffering of the poorest by means of taxes and means-tested transfer

⁵⁷ For a similar argument, see Kurz (2024): “It is essential for the viability of democracy that the public considers the distributive effects of public policy to be just. Without a just policy to tax the winners and help the losers recover their income and dignity, democracy will be weakened. Those harmed have turned against the educated elites who designed the policy, and against immigrants they perceive as taking their jobs and competing for scarce public goods and services. They have found a home in new anti-democratic movements such as Donald Trump's MAGA, which has now taken control of the Republican Party.”

programs. This is a losing political strategy. Market justice's demonization of redistributive taxes and its condemnation of social provisioning as moral hazard continues to exert enormous power over neoliberal policy and law, manifesting in lax laws against tax avoidance by the rich and ever more hostility to progressive taxation (Saez and Zucman 2019), fueling a powerful populist antitax movement on the right, and driving taxes to become steadily more regressive since the 1980s (Graetz 2024; Kuttner 1980).

A primary focus on redistribution thus reinforces the worst deceptions of market naturalism—the binary that aligns on one side of a fictional divide an economy with all that is natural, volitional, impartial, and uncoercive and, on the other, the state with all that is coercive, dominating, marked by the exercise of power, and confiscatory. It belies *CI*'s emphasis on the powers of inequality's cultural apologetics, as if enlightened reason on the benefits of progressive taxation will be sufficient to overcome the powers of our current inequality regime. That Piketty overlooks the causal powers of market justice and marginal productivity theory in favor of rational arguments about social improvement is radically at odds with his otherwise deep sensitivities to history and ideology.⁵⁸

B. *Redistribution as Electoral Strategy*

The third problem with Piketty's advancement of redistribution over predistribution is in its consequences for building a progressive electoral strategy, especially one that can bring college-educated and working-class voters together in a political coalition. In *CI*, Piketty advances a pathbreaking analysis of the divide between the "Brahmin Left" and the "Merchant Right," in which educated voters across the West have moved away from their previous affiliations with conservatives toward left parties, while (white) working classes abandoned their previous commitment to leftist parties and joined the "merchant" class in right-wing parties (see also Gethen et al. 2022). Piketty in part accounts for this inversion of working-class affiliations with what has become standard fare—left parties have over the last decades become increasingly "identitarian" and multiracial, prioritizing "cultural" issues of race, gender, and ethnicity while abandoning the economic concerns of working people, such as deindustrialization, globalization, outsourcing of jobs, and wage stagnation.⁵⁹

There is some truth to this argument, but only some. In "Compensate the Losers?" Kuziemko, Longuet-Marx, and Naidu (2023) investigate the causes of this now well-recognized class realignment by reviewing the specific party programs and agendas "supplied" by the American Democratic Party from the 1940s through 2020. They find not that the party has neglected economic issues but that the *substance* of its economic agendas transformed over time. Beginning in the mid-1970s, which they deem an inflection point, the party began to shift from its traditional commitment to predistributive economic policies toward a more redistributive agenda. Specifically, they abandoned an emphasis on *preventing* pretax wage and income inequalities by bolstering strong unions, supporting a robust minimum wage, enforcing antitrust legislation, and endorsing the kinds of trade policies and tariffs on cheap foreign imports that protect domestic industries, turning instead to an agenda in which they became cheerleaders for globalization, promoted deregulation, and touted the "end of big government" while promising tax-and-transfer programs to remediate the falling wages and job losses that ensued. This "Compensate the Losers" strategy was an agenda-changing transition orchestrated

⁵⁸ It also neglects the history of the New Left's critique of the welfare state (Piven and Cloward 1971) as well as the failures of welfare statism that Kuttner has recently discussed (2024b).

⁵⁹ The number of books and articles making this same argument is enormous. For a sampling, see Judis and Teixeira (2023), Hilton (2021), Newman and Skocpol (2023), and Kazin (2022).

by “the New Democrats,” a corporate- and Wall Street–friendly faction of the Democratic Party, targeted to attract more educated, white, middle-class professionals (Kuziemko et al. 2023).

As Hacker et al. (2023) have recently demonstrated, the strategy was successful with the highly educated, who moved into the Democratic Party motivated by their attraction for the Democratic Leadership Council’s renunciation of “obsolete” New Deal policies. What was surely not anticipated, however, was the political impact on white working-class constituents, who had since the 1940s been stalwart Democrats. With the transformation from predistributive to redistributive policies beginning in the late 1970s, non-college-educated white voters began to leave the party, crossing paths with entering educated affluent voters. The realignment across parties might have been a net zero if the percentage of educated voters had continued to rise, as it did in the 1980s and 1990s. But with this trend of rising college-educated voters coming to a standstill, the result has been politically catastrophic for the Democratic Party, as it has hemorrhaged support from the white working class, culminating in the realignment that created the Brahmin Left versus the Merchant Right and that returned Trump to the White House in the 2024 election.

At first glance, this seems hardly newsworthy. The betrayal of working people by center-left parties who abandoned traditional social democratic policies to actively consolidate the neoliberal order in the 1990s has been well documented by many, including Gerstle (2022), Mudge (2018), Lichtenstein and Stein (2023), Kazin (2022), Geismer (2022), Hilton (2021), McCallum (2019), and Somers and Block (2005). It is also not news that Wall Street–friendly politicians and economists have long opposed predistributive policies, claiming that “interfering” with “impersonal” market forces distorts efficiency and undermines increasing growth and the size of the overall economy.⁶⁰

What makes Kuziemko et al.’s (2023) research so important, however, is that rather than assuming that voters face a binary choice between “culture” and a lump category of “economic issues,” they *disaggregate* into predistributive and redistributive categories the economic policies put on offer.⁶¹ Their research finds that working-class voters—Black and white—prefer an agenda that advocates for well-paying domestic jobs, fairer wages, protective trade policies, union support, and collective bargaining, rather than a redistributive one that requires being compelled to supplicate for government largesse *after* being shafted by outsourced job losses, low wages, and insecure employment. It is a preference that is undeniably also driven by the belief in market justice—the idea that decent wages are earned and reflect what is deserved, whereas government social programs are associated with handouts to the less deserving.

The conclusion is stark: It is not that educationally differentiated voters’ economic preferences have changed since the 1940s; rather, it is the policies *supplied* by the Democratic Party that have changed from those that once attracted the working classes to those preferred by the more educated. The shift from predistributive to redistributive policies has been disastrous for the Democratic Party. Piketty

⁶⁰ See Berman (2022) on the convergence of how conservative and liberal economists in Washington-elite policy positions came to think along these same neoliberal lines.

⁶¹ Under the Biden regime, for the first time in decades the Democrats made a radical turn *toward* a predistributive agenda, including a vigorous “active government” industrial policy, and the signature Biden accomplishments—the Inflation Reduction Act, the CHIPS Act, and Infrastructure Investment and Jobs Act. Lina Khan’s active role in enforcing long-dormant antitrust law at the FTC also falls under the predistributive rubric. The outcome of the 2024 election makes clear that even this agenda did not work to win back white working-class voters, although the negative impact of post-COVID-19 inflation clearly outweighed any positive impact that Biden’s predistributive policies might have had. Indeed, little of Biden’s ambitious predistributive care and family support agenda, which would have had the most direct impact on working people’s lives, even survived Republican and conservative Democratic congressional opposition.

seems unaware of this. By advocating not for progressive redistributive policies but for government to “compensate the losers” for the market’s radical inequalities in the form of taxes and social programs, Piketty’s agenda does not mitigate but rather exacerbates the missteps associated with the center-left’s electoral strategy.⁶²

C. *Convergence of Racism and Redistribution*

In *CI* and *BHE*, Piketty details the role of colonialism and slavery in generating the vastly unequal wealth of the West, and stresses their enduring impact, such that today’s “slaveholding and colonial societies are among the most inegalitarian in history” (*BHE*, 93). Nowhere in the wealthy world is this legacy more entrenched than in the US, which only came close to achieving a multiracial democracy in 1965—and has since been dismantling it through legal and policy means.⁶³ Yet in his agenda for a revival of the march toward equality, Piketty elides how this entrenched legacy is spectacularly combustible when mapped onto his vision of reviving both the welfare state and progressive taxation, the centerpieces of his progressive agenda.

That combustibility arises from the political fragility of social citizenship rights mixed with the white rage directed toward the redistributive taxes associated with its benefits—both a product of white supremacy and the American tradition of excluding nonwhites from full citizenship (Katznelson 2005; Gilens 2000). The fate, moreover, of any existing social welfare program has not been determined by its empirical outcomes—whether it actually succeeds in reducing poverty or keeps children from hunger during parental unemployment, for example. Rather, its fate has hinged on the imputed *moral worth*—the deservingness—of its presumed beneficiaries (Bower-Bir 2022; Schram 1995; Somers 2017; Levitsky and Russell 2016; Hancock 2004). And it is precisely because those beneficiaries were/are believed (incorrectly) to be predominantly nonwhite, thus “undeserving” “welfare queens,” that public antipathy toward Aid to Families with Dependent Children (AFDC) (established by the Social Security Act of 1935) became so amplified that it was easily destroyed by the Clinton administration in 1996 (Somers and Block 2005; Handler and Hasenfeld 2006). In the more recent past, Republicans in red states have refused to accept free money from the federal government to expand Medicaid or to provide school lunches for the poor, while these same states have cut income taxes to the bone, based on a “Starving the Beast” strategy by which low revenues driven by radical tax cuts make social spending all but impossible.⁶⁴ For him to assume that fronting a progressive

⁶² According to Ungar-Sangon (2024), Democrats were seen [by the American working class] as the party of the educated elites and the dependent poor, the party behind the mechanism that conveyed their hard-earned tax dollars to people defrauding the system. *The Washington Post* (Guastella 2024) reports that only “18 percent of Democratic political ads from 2022 mentioned jobs at all. Less than 2 percent mentioned the need for good, high-paying, living-wage or union jobs, and issues such as reshoring manufacturing and implementing a bold industrial policy were virtually absent. Even President Biden’s own signature economic policies barely registered. Candidates were 6.5 times more likely to talk about abortion than the Inflation Reduction Act, the Chips Act or the bipartisan infrastructure law. No wonder many working-class voters don’t think Democrats represent their interests on the campaign trail.” See also Hacker and Pierson (2024).]

⁶³ Both through individual state legislatures and supreme courts, as well as US Supreme Court rulings, such as restrictive voting ID requirements (*Crawford v. Marion County Election Bd.*, 553 U.S. 181 (2008)) and by dismantling the landmark 1965 Voting Rights Act (*Shelby County v. Holder*, 570 U.S. 529 (2013)), as well as through extreme partisan gerrymandering (*Alexander v. South Carolina NAACP*, 602 U.S. ___ (2024)).

⁶⁴ “Starving the Beast” is a conservative strategy to use tax cuts to (indirectly) bring about spending cuts (Krugman 2010; Somers 2008; Bartlett 2007, 2010). A version of the strategy, made famous under Reagan, can be traced back to antebellum America in the compromises the US government made with slaveholding states to minimize the taxes on their human

agenda with welfare and redistribution will not hit the shoals of these white supremacist legacies suggests that Piketty has been paying insufficient attention, at least in the US, to these mechanisms of exclusion (McGhee 2021; Somers 2008, 63–117; 2022a, 257–60; 2022b).

Meaningful social citizenship programs, then, are not merely obstructed by white supremacy; even when they have been successfully implemented (for example, AFDC, Obamacare, food stamps), recipients are labeled as social parasites—“takers” rather than “makers”—which further promotes their exclusion from full democratic citizenship on the grounds that *simply being eligible for social assistance is proof of moral unworth*.⁶⁵ The strategy of “welfare queening” the beneficiaries of social citizenship not only destroyed meaningful welfare policies in the 1990s; it became a leading tactic in targeted dedemocratization through voter suppression of those deemed moral outlaws (Somers 2022b; Hancock 2004).

To bolster his case for advancing a primarily redistributive agenda, Piketty argues for an alternative narrative of justice. Because, however, he fails to grapple sufficiently with white supremacy, he once again fails to note that in the US, arguments for redistributive policies have been repeatedly wrecked by the racially inflected “just deserts” of market justice. Whether it is chronic combat over the taxes necessary to sustain the social state (Collini 2023; Scheve and Stasavage 2016; Graetz 2024; Kuttner 1980) or over the righteousness of welfare provisioning (Gilens 2000; Block et al. 1987; Somers 2022b; Somers and Block 2005; Hancock 2004), policy debates over redistribution have been marked by racialized moral warfare over contested concepts of fairness and the politics of “skivers and strivers” (Monbiot 2015). As the history of chronic battles between market justice and social justice makes painfully clear, even an alternative justice narrative will have to do combat on a disputed moral terrain—one comprised of asymmetric power and a history of racialized assumptions, and dominated by market justice warriors.⁶⁶

The enduring legacy of white supremacy so poisons the promise of both welfare and progressive taxation that Piketty’s redistributive agenda is a tenuous proposition in the US (McGhee 2021). A program of *universal* predistribution—which, according to Kuziemko et al. (2023), is favored by both the white and nonwhite working-class populations—has been more successful in addressing inequality by guaranteeing jobs, raising the minimum wage, and activating an industrial policy (Hacker et al. 2023).⁶⁷ To be sure, white supremacy must also be vigorously confronted in the public sphere by combating voting rights suppression, judicial exclusion, the right-wing suppression of affirmative action, and the banning of African American history, among other things (Crenshaw 2024). But with

“property” and in the process instantiate a remarkably inept tax-collecting state (see Desmond 2021). This refusal on the part of red states to take federal money for any social welfare needs has led to the collapse of rural hospitals, whose revenue stream was destroyed once the Supreme Court declared that states cannot be forced to expand Medicaid. (Obamacare had radically reduced subsidies to hospitals for treating the uninsured, because the subsidies were expected to be coming from Medicaid.) Republicans so successfully deployed the themes of market justice and white supremacy that they convinced their white constituents to oppose Medicaid expansion, even those who would have directly benefitted the most from its expansion (Metzl 2019; see also McGhee 2021).

⁶⁵ The practice of excluding from citizenship those who are by need forced on relief from the state goes back to the “New Poor Law” of 1834, by which those who accepted social provisioning to stay alive were required to be imprisoned in workhouses and to give up all freedoms and rights of citizenship (Somers and Block 2005; Block and Somers 2014, chap. 5).

⁶⁶ Few have provided more philosophical ammunition, as well as prestige, to the anti-social justice crusade than Hayek (1976). But see Lukes (1997) for critique.

⁶⁷ Kuziemko et al. (2023) remind us that the 1963 iconic March on Washington was organized not under the banner of Tax the Rich, but of Jobs and Freedom.

respect to the economy, leading with a redistributive rather than a predistributive agenda triggers a moral economy of market justice shot through with racial injustice, which exacerbates not just a culture but an institutionalized *economy of exclusion*. Piketty appears to have a blind spot when it comes to American racism, which may explain why he has chosen to focus so heavily on a redistributive-centric agenda that inadvertently enhances rather than diminishes that economy.

D. *Minimizing the Countermovement of Capital*

Piketty does not address neoliberal predistributive dedemocratization, which may explain why he disproportionately blames the social democratic left for the rise of hypercapitalism and suggests that for all he has taken on board from Polanyi, he misses the full meaning of Polanyi's famous concept of the "double movement." The idea of the double movement is that the excessive depredations of marketization and commodification almost always trigger countermovements that will fight on behalf of the "reality of society." Those are by no means necessarily progressive. Fascist movements of the 1930s are one of Polanyi's prime examples of countermovements in the context of the global depression, no less than were progressive movements against commodification, such as the nineteenth-century working-class struggles for factory control and the universal franchise, or the twentieth-century socialist movements and the support behind FDR's New Deal.

The double movement, in short, entails two opposing sides. Successful periods of social democracy such as the New Deal and Piketty's Great Redistribution will likewise trigger *countermovements of capital*, whereby corporate and business powers organize to remarketize and regain class dominance. To be sure, during the 1990s, the center-left governments of Blair, Clinton, and Schroeder actively contributed to consolidating the neoliberal breakthrough (Mudge 2018; Gerstle 2022; Judis and Teixeira 2023; Lichtenstein and Stein 2023; Newman and Skocpol 2023). But by focusing almost exclusively on the failures of the left, Piketty downplays the degree to which neoliberalism's triumph should be attributed to the strength of the countermovement of capital, as it exercised ruthless political and legal agency in the cause of regaining economic domination (Streeck 2024; 2014; Mizruchi 2013; Philips-Fein 2009; Graetz 2024; Rampell 2023). That meant all-out *dedemocratizing* assaults on the social state, especially on social citizenship, rising wages, workplace rights, union membership, and collective bargaining (Lichtenstein 2021; Mishel and Bivens 2021; Eidlin 2018).

Neoliberal ideational campaigns were no less decisive. These included reviving the hegemony of market justice and its racially inflected justifications for inequality; morally demonizing taxes and social provisioning; and fighting against any widening of the franchise (Lachmann and Brandon 2021, 761; Somers and Block 2005).⁶⁸ In addressing unions' diminishing power and the falling value of the minimum wage, for example, Piketty minimizes the active role of capital when he writes in the passive voice about unionization decreasing or the wage collapsing. But *how* exactly and by whose agency this happens matters enormously. Piketty surely knows that it was the countermovement of capital that systematically engineered these outcomes through legal redistribution (Mishel and Bivens 2021; Vogel 2021; Eidlin 2018; O'Neill and White 2019; Western and Rosenfeld 2011). But, as Zevin (2021,

⁶⁸ And one could readily add the center-left embrace of neo-Keynesian technocratic economics and the substitution of efficiency over equality to the exclusion of any competing economic viewpoints (Berman 2022).

28) notes, capital in *CI* is “curiously inert: neither it, nor its bearers, chase, drown, tear asunder, conjure, revolutionize, or melt anything into air. Blink and you miss it.”⁶⁹

In comparison, Polanyi’s approach to the rise of autocracy stands in stark relief. In explaining the fascist triumph, Polanyi writes: “Not the illusionary danger of a communist revolution, but the undeniable fact that the working classes were in the position to force possibly ruinous [economic] interventions, was the source of the latent [capitalist] fear which, at a crucial juncture, burst forth in the fascist panic” (*GT*, 200). If Polanyi places the onus for democracy’s demise fully on global capital—its refusal to abandon the gold standard and its attack on even the mildest social reforms in the 1920s and 1930s—Piketty seems to absolve today’s global proprietarians for their authoritarian collusions. He attributes the rise of “social nativism” to social democratic betrayals, not to the activities of the financial and business classes: “[T]he egalitarian social-democratic coalition of the postwar era proved incapable of revising and renewing its program and ideology. Instead of blaming either liberal globalization . . . or working-class racism (which is no more inevitable than elitist racism), we would do better to explore the ideological failures of the egalitarian coalition” (*CI*, 40). Again, to be sure, the failures of center-leftism were egregious, as cataloged above. But it is either bad faith or bad theory to focus exclusively on the failures of the left, as this misdirects us away from dissecting and pinpointing the precise mechanisms that made possible neoliberalism’s triumph (Mirowski and Plehwe 2009; Streeck 2024; 2014; Kuttner 2018). From the New Deal through the egalitarian interruption, to the triumphalism of the Thatcher-Reagan return, neoliberals targeted precisely those democratizing and egalitarian achievements that Piketty so compellingly documented.

Market justice’s diktat against popular sovereignty from the outset mandated dedemocratization through delegitimation and engagement. If we are to move toward democratic socialism rather than social nationalist barbarism, the progressive agenda needs also to “blame . . . liberal globalization” and to name it for its unwavering tendencies, past and present, to “sacralize” property at the cost of democracy.

E. Law as an Agent of Exclusion and Dedemocratization

Piketty’s focus on redistribution rather than predistribution also leaves unchallenged the power of market justice to justify excluding democratic forces from economic influence. We usually associate antidemocratic measures with voter suppression and Jim Crow in the public sphere. But because it is covert and hardwired into the economy, *predistributive dedemocratization* works more efficiently to cordon off market dynamics from citizen influence.⁷⁰ Law is central to this process of predistributive dedemocratization, but because Piketty favors redistributive solutions over predistributive ones, it does not come sharply into focus as a target for his progressive agenda.

In linking egregious levels of inequality to diminishing democratic rule, Piketty confirms decades of political science documenting how economic inequality readily transposes into disproportionate and oligarchic political power (Page and Gilens 2017; Hacker and Pierson 2020; Bartels 2018). Yet a weakened democracy is not just the end point to a causal sequence moving from economic inequality

⁶⁹ In a deep consideration of *CP*’s analysis of nineteenth-century America, Richard John (2022) similarly observes the surprising absence of the power of capital, creating a history void of political contestation in favor of bloodless structural analysis.

⁷⁰ Market justice’s antidemocratic diktat, and how it leads to predistributive dedemocratization, is explained and elaborated in Somers (2022a, 238–39, 251–54, 257–60).

to political inequality and then to plutocracy. Predistributive dedemocratization is *itself* an active agent in the making of the market's maldistributional outcomes and accompanying exclusions.

While both *CI* and *BHE* call attention to the law's role in furthering more or less inequality, the books tend to bundle the law under the generic rubric of politics and policy, which elides the question of what is particular to the law's powers and how the law works to lubricate its powers of domination. The ability to *ascribe* rights, to *take away* rights, and to *mandate coercion* in enforcing rights are unique qualities of law that shape predistributive powers inside the market economy. This has made the American judiciary a key site of predistributive dedemocratization. The Supreme Court has a unique and almost inviolable dedemocratizing power in judicial review, which allows it to repeatedly nullify democratically instantiated laws and policies (Doerfler and Moyn 2025; Moyn 2020). In the *Lochner* era, judicial review allowed the court to repeatedly strike down democratically enacted legislation intended to protect labor from the coercive power of employers. At face value, these rulings could be viewed simply as cases of control by property over labor. But that would be too narrow a lens. By implementing judicial predistributive dedemocratization, the courts engaged and defanged citizens' right to exercise democratic power over the conditions of their own livelihoods.

The defeat of *Lochnerism* in the 1930s and during the mid-twentieth-century postwar settlement came in great part from the success of countervailing democratic powers of unions and rare episodes of judicial support (for example, NLRA, Fair Standards Act, etc.). Under neoliberalism, however, neo-*Lochnerism* once again has been able to consistently strike down democratic efforts to challenge, for example, employment-at-will, right-to-work, and forced arbitration clauses.⁷¹ Neoliberal interpretations of constitutional law, building on the original immunization afforded to property and contracts against the citizenry, has thus reengineered dedemocratization into the heart of the labor process.⁷² This is not merely the outcome of the disproportionate power of the propertied. In its judicial form, predistributive dedemocratization is the underlying means of democratic exclusion. Piketty's redistributive agenda cannot confront this.

Piketty emphasizes the powers of law when he writes that states have instituted legal systems in which the wealthy have won a "quasi-sacred right to enrich themselves by using a country's public infrastructures and social institutions . . . , and then, with the stroke of a pen . . . to move their assets to another jurisdiction, without any arrangement (i.e., law) to follow the wealth in question and to tax it in a way that is fair and coherent with the rest of the tax system" (*BHE*, 170–71). And he argues that battles for equality in education, and against racial, ethnic, gender, and sexual discrimination, all need to be fought for with laws. But other than advocating that the law of firms should change to allow for a wider adoption of the German system of comanagement, there is too little discussion of how legal predistribution works to shape power relations among market participants. Given his emphasis on property's intransigent concentration, we need more on how this is sustained by the mechanisms of legal predistribution, such as in Pistor's (2019; 2020) "codes of capital." The gap between his historical analysis pointing to legal particulars, especially in property rights, slavery, and colonialism, and the absence of a focus on combating predistributive legal mechanisms in his

⁷¹ In an especially notable instance of predistributive legal engineering, in 2018 the Court inflicted a nationwide right-to-work regime on government employees, making it illegal to require union dues from nonmembers who nonetheless free ride on collective bargaining (*Janus v. AFSCME*, 138 S. Ct. 2448 (2018)). On the impact of right-to-work laws on inequality see VanHeuvelen (2020).

⁷² Although see Fishkin and Forbath (2022) for an optimistic view of the progressive potential of the Constitution.

progressive agenda has the effect of minimizing law's causal powers in structuring markets, concentrating property, and facilitating oligarchy and authoritarianism.

VII. Toward a Predistributive Democracy

In capitalist democracies, the professed equality of citizenship's legal and political rights contrasts dramatically with the experience of vast economic inequalities. As Piketty reminds us in *C21*, that stark contradiction is made to go away by the discourse of meritocracy. Encapsulated in the concept of "just deserts," whether called meritocracy, the moral economy of market justice, or marginal productivity theory, capitalist democracies depend on the power of this justificatory apparatus for their moral legitimacy. It explains and vindicates disparities in rewards and status by objective differences in the value of people's efforts and contributions. In an echo of Thomas Kuhn's theory of anomalies, however, Piketty (*C21*, 1) warns that there is a point when capitalism's "arbitrary and unsustainable inequalities [will] radically undermine the meritocratic values on which democracies are based." What happens then? Writing in 2013, Piketty puts his full faith in democracy: There are "nevertheless ways democracy can regain control over capitalism" (*C21*, 10).

Polanyi, writing seventy years earlier in very different language, found just such a crisis point in the late 1920s and early 1930s. In the unrelenting misery of mass unemployment and hunger, popular faith in democracy was severely tested by global capital's addiction to the austerity policies dictated by the gold standard (*GT*, 2001). In that context, democracy could not be the savior, because making popular sovereignty the target and the casualty of that same global market was precisely how, for the agents of capital, *the crisis could be solved*. Fascism was the solution that would preserve capitalism by using an authoritarian state to suppress the effects of its excesses by eliminating democracy.⁷³

As the inequality that Piketty alerts us to in *C21* quickened into what in *CI* (2020) he calls "hypercapitalism," today he no longer sees democracy as capable of bringing it to heel. Stating that inequality is not merely economic but ideological and political, Piketty concedes his earlier underestimation: The "proprietary" (property-centric) ideational apparatus can both squelch democratic efforts to "regain control over capitalism" as well as foster nativism and authoritarianism. In *BHE* (2022) he thus calls not merely for inequality reduction through global taxes but for a radical transformation to democratic socialism driven by decommodification and economic democratization, just as Polanyi argued for decades earlier. Unchecked capitalism, each clearly maintains, both paves a path for authoritarianism and amplifies democratic fragility. Whether in the analysis of capitalist perils or in his formulation of a political response, Piketty now shares much with Polanyi's analysis. That common understanding can be characterized by an appeal for what I am calling a *predistributive democracy*.

A predistributive democracy is an alternative political economy, a moral countervision, and a mandate for structural and ideational nonreformist reforms—one that diagnoses inequality not simply as a problem of income distribution, but of *the maldistribution of power* and the acceleration of commodification, dedemocratization, and authoritarian rule. A predistributive democracy is both means and ends, method and destination. Its goal is to hardwire democracy and decommodification into the infrastructure of the economy by reappropriating the predistributive powers that currently

⁷³ To be sure, history also proved to Polanyi that this course was not inevitable, as the American New Deal embodied an alternative path (*GT*). And while he quickly became disillusioned with its transformative capacities, Polanyi believed in the possibilities for a move toward socialism it briefly promised (Polanyi [1945] 2018; [1947] 1968; Dale 2016a).

advantage wealth and capital and reverse engineering them to egalitarian and democratic ends. The project of a predistributive democracy begins by rejecting the standard discourse that frames the current crisis as an opposition between “conservative” versus “liberal” views on the economy, which pits “less” or “more” government “intervention” into a neutral market system. The concept of a predistributive democracy, by contrast, stipulates that the market economy is an institution built on power—legal, governmental, and coercive. There can be variation in the balance and the effects of that power, and variation in who benefits from that balance and those effects. They can either strengthen or weaken the bargaining position of different market participants, either bolster or tame corporate profits through antitrust and rules of monopoly. They can be calibrated either to skew income and wealth to the .01 percent or to contribute to a more equitable wage and income structure. Forty years of neoliberal redistribution has overwhelmingly weighted the balance in favor of the .01 percent with the effect of radically escalating inequality and weakening the democratic citizenry.⁷⁴ The goal of a predistributive democracy is to radically transform that balance of power and its effects toward an egalitarian democratizing agenda.

A predistributive democracy is not only a goal but a means, and its realization will depend on building movements for “countervailing power” (Galbraith [1952] 2012) aimed toward an “emancipatory horizon” (Akbar 2023). These countervailing movements must organize to implement an iterative series of radical reforms intended to destabilize the current balance of undemocratic economic power. Nonreformist radical reforms involve incremental processes of change in which immediate reforms create the conditions for succeeding cycles of more radical transformation. No less committed socialists than Ralph Miliband (1994), André Gorz (1968), and Erik Olin Wright (2019) advocate for these kinds of reforms that are intended to chip away at the social order and trigger successive cycles of increasingly destabilizing alterations. The strategy is to laser focus on the most inequalitarian redistributive policies inside the economy and to impose radical reforms to make market outcomes more egalitarian, rather than waiting for the government to remediate after the fact, as in redistribution. Jacob Hacker (2011, 2013; Hacker et al. 2013) explains that as a progressive project, redistribution, unlike redistribution, focuses on market reforms that encourage a more equal distribution of economic power and rewards *before* the government collects taxes or pays out benefits. O’Neill and Williamson (2012) elaborate: “Instead of equalizing unfair market outcomes through tax-and-spend or tax-and-transfer (redistribution), we instead engineer markets at their internal structural level to create fairer outcomes from the beginning” (see also Kennedy 2019; Chwalisz and Diamond 2015).

Beyond just “fairer outcomes,” however, the countermovement for a predistributive democracy must confront an oligarchy that, in a vicious circle, is able to orchestrate redistributive dedemocratizing policies that facilitate the accumulation of great wealth, which in turn allows them to influence and all but unilaterally determine the policies and personnel of government and governance. This in effect discards all but the veneer of democracy (Larcinese and Parmigiani 2024; Bartels 2018; Brown 2019; Gilens and Page 2014; Reich 2015; Hacker and Pierson 2020; Kurz 2024; Crouch 2004). The goal, then, must be not merely a redistribution of income, or even wealth, but a *redistribution of power* driven by the countervailing power of egalitarian movements and institutions that aim to turn currently commodified subjects into full citizens (*GT*, 259–62; Block and Somers 2014, 218–40; Somers 2008).

⁷⁴ See Rand study, cited in note 2 above, which reports that since 1981 over \$50 trillion has been redistributed from the bottom 90 percent to the top 10 percent of the American population.

The three vectors to a predistributive democracy are thus decommodification, democratization, and countervailing power movements—each organized to steadily disrupt and destabilize neoliberal redistribution, while aiming toward a horizon of greater democratic transformation. Before looking more closely at each of these vectors, however, it is important to briefly restate the essentials of the predistributive political economy on which movements for a predistributive democracy must ground their policy agendas. In the most condensed form, there are three principles. Together they are expressed in the agenda for a predistributive democracy:

- There is no such thing as deregulation; there is only reregulation. The stateless market is a cultural institutional construct; the economy is constitutively legally regulated, engineered and “market-crafted” (Vogel 2018) by the law and the state. The question is always: To whose benefit?
- The market is not “influenced” by rules and regulations; it is itself an allocative institution of power predistributively designed to either commodify or decommodify.
- Capitalism engages and restricts democracy on the claim that citizen participation in economic process would be an outside force “politicizing” and distorting the apolitical market. The process of *extractive social redistribution* counters that the citizenry is already inside the economy, in the form of social value extracted from government, community, and households, making it a key component of internal economic growth and justifying full *democratic participation in the economy*.

A. *Decommodification*

Decommodification is central to Polanyi’s project of subordinating the economy to democratic society. It takes direct aim at the beating heart of the market malignancy—the fictitious commodification of humans, nature, and tokens of exchange, as well as the social necessities of medical care, water, housing, food, education, care work, and environmental safety. This is the foundation of his vision of “freedom not as an appurtenance of privilege, tainted at the source, but as a prescriptive right extending far beyond the narrow confines of the political sphere into the intimate organization of society itself” (*GT*, 264). In its most complete form, decommodification entails disempowering the private wage contract by removing fictitious commodities from the market and no longer subjecting them to the price mechanism. Decommodifying labor, Polanyi argues, would entail “a transformation as radical as was the establishment of a competitive labor market,” as private market governance would no longer be insulated from public scrutiny, and the terms and conditions of waged work would instead be structured through democratic deliberation in the public sphere (*ibid.* at 264).

This captures his ideal socialist vision. But Polanyi well understood that the movement toward freedom is not an idealized zero-sum relationship, in which anything short of full decommodification would be a losing strategy. Instead he understands it as a continuum—more or less commodification, more or less subjection, more or less domination, more or less freedom—depending on the strength and reach of nonreformist reforms. For example, even while he did not see them as ends in themselves, Polanyi saluted the transformative effects of the predistributive reforms that mitigated the worst abuses of both nineteenth-century market society—factory legislation, trade union legalization, the Mines Act—as well as those of the New Deal that saved much of humanity throughout the nineteenth and twentieth centuries (Somers and Block 2021).

Reverse engineering the American Constitution's privileging of property rights and contract over the rights of the citizenry by significantly enlarging our rights-bearing status from negative to enhanced socioeconomic rights is central to Polanyi's project to "disestablish the commodity fiction" (*GT*, 260): "Rights of the citizen hitherto unacknowledged must be added to the Bill of Rights," including the whole range of socioeconomic rights from having a job to having a decent education (*ibid.* at 264–65). To be meaningful, these rights have to be more than doctrinal: "No mere declaration of rights can suffice: institutions are required to make the rights effective" (264).⁷⁵ In these demands for a guaranteed job, for education and health care, Polanyi anticipated not only Marshall's (1950) famous conception of social citizenship, but also today's global movement for decommodification (Ferrereras 2020).

Piketty also stresses decommodification, but his prioritizing of reviving welfare states and progressive taxation means that he makes the case for getting there indirectly, through the route of redistribution. At first glance this appears to conflict with the predistributive agenda. But as discussed previously, by advancing the case for the decommodifying *effects* of public goods that redistributive policies make possible—not just health care and education, but also inheritance for all and a federal jobs guarantee—he underlines their impact in the sphere of predistribution. Expanding public goods thus qualifies as a transformative decommodifying reform, as every social and economic need that can be met outside the workplace bestows that much less dependence on the tyranny of "private government" (Anderson 2017) and thus furthers the goal of decommodification (O'Neill 2020a). Most importantly, it changes the rights-bearing status of would-be subjects by institutionalizing access to the means of livelihood in the public sphere and endowing legal muscle to their rights as citizens by putting correlative pressure on the state's duty to honor those rights.⁷⁶

Viewing commodification as a continuum from subjection to freedom from domination underlines the porousness of the line between redistribution and predistribution. A public good that exists in the public sphere creates a feedback loop, turning policies that originate in redistribution into predistributive ones that loosen the bonds of commodification and domination. In both Piketty and Polanyi, the rights to public goods, like T. H. Marshall's (1950) social citizenship, are thus critical forms of countervailing power that can push the continuum of decommodification further away from subordinate dependency.

Moving toward greater degrees of decommodification requires efforts to restructure the market with predistributive policies that can destabilize and replace the kinds of neoliberal policies that have been in place for decades. It is beyond the scope of this article to lay out a detailed predistributive policy agenda (and there are many rich resources to turn to for that),⁷⁷ so here I can only point to several areas that are especially critical to the decommodifying project: (1) strengthening the bargaining power

⁷⁵ Quite remarkably, and surely unbeknownst to the other, almost simultaneously in 1944 FDR gave a too-little-known speech advocating for a "Second Bill of Rights," also comprised of socioeconomic rights. See M. Paul (2023); Sunstein (2006).

⁷⁶ Hence Marshall's (1950) enduring argument for the power of social citizenship as the chief mechanism for obtaining human worth independently of market value. See also Esping-Andersen (1990) and Anderson (2023) on social democratic platforms for citizenship.

⁷⁷ See especially Akbar (2023), Anderson (2017; 2023), Baker (2016), Benkler (2023), Block (2025), Britton-Purdy et al. (2020), Ferreras (2020), Ferreras et al. (2022), Fishkin and Forbath (2022), Kapczynski and Michaels (2024), Kuziemko et al. (2023), Mazzucato (2021), M. Paul (2023), Rahman (2016a, b, c, d; 2024), Wright (2010; 2019); Piketty (2020; 2022; 2024).

of working people; (2) building a universal system of care and social support; and (3) constraining corporate power.

Strengthening the bargaining power of working people primarily requires a renewed policy agenda to strengthen unions, above all a determined push to pass the languishing PRO (Protect the Right to Organize) Act, which would go a long way toward augmenting and stanching the decrease of union membership (Rogers 2023; 2020). The National Labor Relations Board (NLRB) must be bolstered (Greenhouse 2024a), and a relentless focus placed on eliminating “noncompete” and forced arbitration clauses from labor contracts (Economic Policy Institute 2020; Mishel 2022b), as well as on reforming labor law to end employment-at-will (Anderson 2023; 2017; Rogers 2023; 2020). It requires a resolute effort to increase the federal- and state-level minimum wage and link that wage to inflation. Piketty makes an especially persuasive case for “social ownership” and for what the Germans call comanagement or codetermination, which would give workers a greater voice in corporate decision-making (*CI*, 972–75). Ferreras (2017; 2023) advocates for what she calls the “bicameral firm,” in which employees would have their own forum for influencing management. With the right financing, it should be possible to develop worker cooperatives and even employee-owned firms (Wright 2010; Meyers 2022; see also Guinan and O’Neill 2018).

Pressure must also be put on the Federal Reserve to honor its dual commitment to employment as well as inflation management, as its overbearing concern for the latter has steadily driven up unemployment, weakened the bargaining power of workers, driven up inequality, and widened the racial wealth gap (Baradaran 2017; Block 2022; Omarova 2021). We should look to the Fed Up campaign as a model for this kind of pressure (Benkler 2023).

A universal system of care and support is one in which, as Polanyi argued, the vital needs of livelihood are removed from the market (Block and Somers 2014), and, as Piketty suggests, everyone has access to fundamental goods: “education, health, the right to vote, and more generally to participate as fully as possible in the various forms of social, cultural, economic, civic and political life” (*CI*, 968).⁷⁸ Building a “care economy” requires expansive goals, but the fact that many aspects of a universal care agenda were formally proposed in the Biden administration’s Build Back Better bill, including expanding programs that pay families for eldercare and childcare, universal day care, and free pre-K, means that they are not entirely outside the realm of possibility (although see Tooze 2024).⁷⁹ Other items on this programmatic list would include returning to state support for higher education, revoking the nonprofit status of hospital conglomerates, increasing public social housing, and above all, creating a public single-payer health care system (Sitaraman and Alstott 2019; Sitaraman 2019; Collins et al. 2019). All of this would require banning private equity from all industries that traffic in the necessary goods of social life, including health care, education, newspapers, and even mobile home parks and prisons/detention facilities. Piketty even adds a program of “temporary private ownership,” combined with a lump sum “universal capital endowment” that ensures greater social insurance, a “circular ownership” of wealth, and a vigorous program of “educational justice,” requiring a level of equalization that crosses class boundaries (*CI*, 975). He even goes so far as to advocate rewriting the rules of globalization to conform to a postnational “social federalism,” organized around regional

⁷⁸ Continuing in a very Rawlsian dialect, Piketty writes: “A just society organizes socioeconomic relations, property rights, and the distribution of income and wealth in such a way as to allow its least advantaged members to enjoy the highest possible life conditions” (*CI*, 968). On Piketty’s Rawlsian legacy, see O’Neill (2021).

⁷⁹ However, that “Build Back Better” (much of which was designed to support gendered reforms to the care economy) was defeated even in a Democratically controlled Congress should be a sobering reminder of how aspirational all the policies of a predistributive democracy are, especially in the wake of the 2024 election.

clusters of nation-states dedicated to providing “global public goods” that would all but eliminate national borders (*ibid.* at 1031).

Constraining corporate power first entails a program of enforcing and strengthening antitrust law to fight monopolies and monopsonies. Law and Economics’ undermining of antitrust doctrine has had a sizable impact on the rate of profit of large corporations by allowing established firms to extract monopoly profits by arbitrarily bidding up their prices. Those firms can claim, as Big Pharma does, that their profits result from superb management, but in reality they are the work of legal predistribution. In fact, when it comes to Big Pharma, two different kinds of legal predistribution are at work. For one, their heightened profits reflect the changes in legal doctrine that now facilitate monopolies and oligopolies in the name of “consumer welfare.” But equally important are patent and copyright law, under which, within the protective rubric of the most Orwellian use of the term “free market,” pharmaceutical companies first take advantage of policies that allow them to extract the lion’s share of their research expenses from the public coffers of government investment (Block and Keller 2014; Mazzucato 2015), and then, thanks to patent law, are able to secure decades of government protection and monopolization that prohibits competition (Baker 2016). The “New Brandeisians,” as today’s advocates for renewed antitrust have been dubbed, focus on combating this neoliberal doctrine of anti-antitrust that predistributively coddles monopolies in the name of consumer welfare, efficiency, and growth, while prohibiting any consideration of distributive equity (Lynn 2010; Khan 2018; Khan and Vaheesan 2017; Teachout 2020; Teachout and Khan 2014; Rahman 2016c; Reich 2015; Steinbaum 2019; Vaheesan 2020; Schneider and Vaheesan 2019).

The flip side of breaking monopoly is defanging the power of monopsony, in which a single employer (the “buyer” of labor) so dominates a region that it has complete leverage over the price of what is a surplus of job seekers (“sellers” of labor). The powers of a labor force desperate to get and keep a shortage of jobs are even more diminished when the (theoretical) options for exit are made meaningless by the absence of alternative sources of livelihood, making the possibilities for democratic expression all the riskier and the tyranny of private government all the more tyrannical. Since monopsony conditions are themselves the inevitable result of monopoly consolidation, breaking up monopolies in the interest of decommodification becomes all the more exigent (De Spiegelaere and Roethig 2024).⁸⁰

There are numerous additional policies on the wish list of how to constrain corporate power. Why not encourage the cooperative rather than the corporation as the default form for business enterprises (Meyers 2022)? Altering the presumption of shareholder primacy in corporate governance would go a long way to legitimating greater constraint of corporate power. Given the enormous power endowed to global capital by bilateral investment treaties (such as NAFTA) to wipe away democratically enacted domestic policies, such as labor and environmental regulations, why not a greater push for ending these treaties altogether, along with the investment tribunals used to implement their power (Streeck 2024; Greenhouse 2024b; Kuttner 2018; Columbia Center on Sustainable Investment 2022)? Proposals to bring workers, women, and underrepresented minorities onto corporate boards, such as have been enacted in much of Europe, should be supported (Anderson 2023; O’Neill and White 2019;

⁸⁰ See Callaci (2024) for an important criticism of the Biden administration’s approach to fighting monopsony, which focuses on insufficient labor market competition and ignores the arguments of the labor movement, which center on the asymmetrical power held by labor even in a market of perfect competition. See also Bivens et al. (2018). For another view, see Autor et al. (2024).

Furendal and O’Neill 2022; Guinan 2019; Warren 2019). And there should be a much greater focus on bringing human rights norms more fully into trade law and policy at the international level.

There are many more: Baker (2016; 2024b; 2024c) and Kapczynski (2014) argue for challenging the system of patents and copyrights as a primary predistributive driver of inequality, while Reich (2015), Stiglitz (2015; 2019; 2020), Baker (2016), and Sitaraman (2019) all have developed extensive programs for combating the judiciary’s multiple methods of predistributive market “rigging” that drive wealth and income upward to an ever more financially bloated plutocracy. To this we should add regulating derivatives, cryptocurrency, and the lending industries, with the goal of killing off all financial business models that make profits from predation, extraction, laundering, tax avoidance, and speculative bubbles. And going even further, why not ban the bundle of profit-extracting strategies that define private equity, such as OpCo/PropCo, dividend recapitalization, and bogus management fees on acquisitions that are used to drain them of assets.⁸¹ All of these seemingly obscure means of corporate and financial industry enhancements contribute mightily not only to soaring inequality but also to the massive political influence that blocks legislative decommodifying efforts and facilitates the turn to authoritarian rule (Stanley 2024).

B. *Democratizing the Economy*

For forty years commodification and dedemocratization have accelerated in tandem, as the two are mutually reinforcing. Policies designed to decommodify cannot progress without a concomitant set of policies that aim to democratize the economy and reverse the work of predistributive dedemocratization. This should not be surprising: The more the voices of citizens are excluded from influencing the conditions that shape their lives and livelihoods, the more that employers and capital interests can commodify and subordinate. Hence Polanyi argues that first a free and egalitarian society depends on democratizing social relations inside the market economy: “Socialism is, essentially, the tendency inherent in an industrial civilization to transcend the self-regulating market by consciously subordinating it to a democratic society” (*GT*, 242–43). And in *CI* and *BHE*, Piketty likewise argues for democratizing the economy as an essential element of his “participatory socialism.”

But democratizing the economy will be no easier to achieve than decommodification. For while predistributive political economy reveals the claim that markets are free from political power to be but a performative economic and legal construct (Baker 2024b), what *is* true is that the agents of market society have always aspired to be free from one specific form of power—the *power of democracy*. Making real this aspiration in the economic sphere is the work of *predistributive dedemocratization*, which uses the ideology of market justice to justify, and the powers of predistribution to implement, excluding from the entitlements of democratic citizenship the right of most people to exercise any influence over the conditions of their livelihoods. The United States has long used judicial, economic, and political power to block, restrict, and contain the reach of popular sovereignty beyond that of a market-conforming public sphere by instantiating a judicial firewall between the political and economic spheres, thus constricting democratic participation or “encaging democracy” in Slobodian’s (2018) vernacular, or, more recently, escaping it altogether (Slobodian 2023; see also Polanyi [1940] 2018; Rana 2024; Doerfler and Moyn 2020; 2025).⁸²

⁸¹ Thanks to Elizabeth Anderson who suggested this detailed wish list of corporate constraints.

⁸² Public choice theory, an enormous influence on the architects of neoliberalism in the 1960s and 1970s, explicitly defines democratic politics as nothing less than organized predation upon property by political predators (Buchanan 2000; MacLean 2017).

Examples of how predistributive dedemocratization is hardwired into the economy include the rulings of what has been dubbed the neo-Lochnerian juristocracy, especially those that weaken unions, such as *Janus v. AFSCME*, 138 S. Ct. 2448 (2018). These effectively shut down the ability of workers to exercise their voice and their influence over the conditions of their work, leaving unfettered the complete authority of private firms over the lives of their employees (Anderson 2017; Block and Sachs 2020a, b). *Epic Systems Corp. v. Lewis*, 138 S. Ct. 1612 (2018) similarly subjects employees to a kind of internal tyranny through forced arbitration clauses built into the labor contract. The Federal Reserve's bias toward fighting inflation over full employment and the power endowed to it to set interest rates, and thus determine unemployment levels, is another mechanism of dedemocratization, since as a central bank it is insulated entirely from even legislative democratic influence (Block 2022; Desan 2015; Omarova 2021).⁸³ Global investment treaties, such as NAFTA, are another means of predistributive dedemocratization, as they allow investor-state dispute settlement tribunals to financially punish member states for implementing democratically enacted domestic labor and environmental protections (Streeck 2024; Columbia Center on Sustainable Investment 2022; Greenhouse 2024b; Kuttner 2018; Block and Somers 2014).

To build a policy agenda for economic democratization, it is important to make the political-economic case for why such radical democratizing reforms are not only essential but economically justified.⁸⁴ The logic of market justice, recall, vindicated an adversarial relationship to democracy by the diktat that because the economy is an autonomous, natural, self-regulating entity, it can only be distributionally fair, efficient, and capable of wealth maximization when insulated from “outside” political interference. Democratic rights-claims to participate in shaping the conditions of people's own livelihoods were thus deemed dangerous and illegitimate *because they came from outside the economy*. Recognizing and theorizing the role of *extractive social redistribution* is one way to challenge this argument by demonstrating, contrary to the claim that the democratic citizenry is “outside” the economy, how much of what appears to be private capital accumulation is composed of *value extracted from society*.

Extractive social redistribution is the process by which private wealth, corporations, and businesses accumulate profit and drive the economy by extracting value from society and the commons—from society's accumulated knowledge and technology, from the unpaid care work carried out by households and communities, from government investments in research and innovation—and converting this value into exclusively private gain (Block and Keller 2011; Block 2025; Mazzucato 2018; Zuboff 2019). Bringing attention to extractive social redistribution clarifies how much of private wealth is less the product of a firm's own productivity and capital investments and more the

⁸³ Former director of the Federal Reserve, Alan Greenspan, famously justified his anti-inflationary policies by stressing the importance of maintaining a continuous level of job insecurity among workers to prevent them from becoming overly confident about their bargaining power over wages (Woodward 2000, 168).

⁸⁴ While the focus of this article is on democratizing the economy, it is no less critical of course to address the crisis of dedemocratization in the public sphere, as the two are deeply entwined. The more people are excluded from even the polity, the less they will be able to participate in challenging the neoliberal economy. The “tyranny of the minority” (Levitsky and Ziblatt 2023) in the US, through the undemocratic Senate, Electoral College, gerrymandering, and judicial review, is just the formal institutional means by which the Republican Party has seized control over much of the public sphere. Add to that decades of voter suppression, legal purges of voter rolls, and impossible voting ID requirements, and we have a thoroughly undemocratic system passing as a democracy. Possible policy ideas for redemocratizing the polity could include mandatory voting and/or no-excuse voting by mail, and overturning felony disenfranchisement laws. There is a popular movement to end the Electoral College (unlikely to succeed), and there are movements to give statehood to Washington, DC, and Puerto Rico, all of which would further democratize the public sphere (see Britton-Purdy et al. 2020).

product of value extracted from social productivity, knowledge, skills, technology, and social infrastructure. Elizabeth Warren (2011) captured the practice of extractive social redistribution in a now-famous speech, in which she explains that the rich get rich by freeloading off the societal value of social and hard infrastructure, created by society. Warren directed her criticism in particular to high-tech monopolies, whose vast wealth was built by vacuuming up personal data from citizens and recycling it into private gain (Fourcade and Gordon 2020; Zuboff 2019; Kapczynski 2020).

Another example is the “sharing economy,” which is based on extracting people’s assets and labor and monetizing it through an intermediary software platform owned by Silicon Valley—itsself wholly a product of government-funded (that is, societal) technological knowledge and public university research (Block and Keller 2011; Mazzucato 2015). Rent seeking is among the oldest and most reliable forms of extractive social redistribution, one that has been in the crosshairs of capitalist critique since Thomas Paine ([1795/96] 2015) and Henry George (Collini 2023; Cook 2015). And perhaps nothing better illustrates the meaning of extractive social redistribution than the fortunes of Big Pharma. A recent study of drug pricing documents how much taxpayer money went into research and development for ten of the most popular drugs, finding that public investment totaled \$11.7 billion in NIH funding, saving Big Pharma \$1,485 million per drug (Ledley 2024).⁸⁵

Extractive social redistribution thus names the process by which capital is able to extract from what Polanyi calls the “reality of society”: “All along the line, human society had become an accessory of the economic system” (Polanyi [1944] 2001, 79). It embodies Polanyi’s most influential insight: Labor and land—the chief vectors of capital accumulation—are “no[ne] other than the human beings themselves of which every society consists and the natural surroundings in which it exists” (ibid. at 75). As feminist theorists have argued for decades, these humans only have value as “labor” because of the vast amount of socially reproductive care work done in families, communities, schools, indeed by the entire social infrastructure that makes society and social reproduction possible—little of which is returned to the social commons (Callaci 2022; Aulenbacher et al. 2018; Federici 2012; Folbre et al. 2013; Hester 2018; Fraser 2016).

Put succinctly, modern economies reward activities that extract value rather than create it (Mazzucato 2018).

This brief digression into extractive social redistribution lays out the political-economic counternarrative to market justice on which a movement for a predistributive democracy can stand and justify a new democratizing agenda. What is characterized as an economy built from private property, business investment, and capital accumulation has in fact been extracted from our work of social reproduction, our data, the taxes that motorize the developmental state (Block et al. 2023), our government, our collective inheritance, our community resources, our social cooperation, and our social infrastructure, even while our political and democratic claims to participate in that economy are suppressed by predistributive dedemocratization. Recognizing that citizen wealth is *constitutive* of the economy undermines the wrongheaded rationalizations for keeping the economy unaccountable to its citizens. It clearly demonstrates that because private wealth is a *fictive* private asset actually comprised of value extracted from the social commons, its privilege of excluding the demos rests on illicit foundations. A predistributive democracy aims to reclaim those foundations by democratizing our

⁸⁵ It is worthwhile to consult the World Inequality Lab’s 2018 report, which analyzes how much of government indebtedness stems from the ability of private capital and businesses to appropriate enormous amounts of public wealth (Alvaredo et al. 2018).

extracted but submerged and denied social value. The challenge is to activate the untapped value of the demos, already inside the economy, and turn it into righteous democratic social citizenship claims.

Making extractive social redistribution explicit thus justifies the movement for economic democracy. Because government, community, and citizen value are fueling so much of the economy, the demos can no longer be seen as a force outside the economy. Justifying democratizing the economy by focusing on extractive social redistribution can be traced as far back as Paine's manifesto for universal social insurance in 1795. In *Agrarian Justice* ([1795/96] 2015), he turned on its head the standard Lockean assumption that property is the natural right of those who have "mixed their labor with the soil" (Anderson 2023; Somers 1995; Shapiro 1995). Instead, he writes:

Personal property is the effect of society; and it is as impossible for an individual to acquire personal property without the aid of society, as it is for him to make land originally. . . . All accumulation, therefore, of personal property, beyond what a man's own hands produce, is derived to him by living in society. (Paine [1795/96] 2015, 34)⁸⁶

Since private property is built on societal wealth, justice requires returning that social wealth to the commons: "[Wealth] owes on every principle of justice, of gratitude, and of civilization, a part of that accumulation back again to society from whence the whole came" (Paine [1795/96] 2015, 34).

Because government and much of civil society—and thus citizen value—is fueling so much of the economy (Block 2025), the demos cannot be defined as an outside force. As so much capital accumulation is due not to earned production but to rent seeking and extracting from public investment, it follows that the democratic public has "a social claim to the wealth that it generates, a moral claim that is presently largely unrecognized" (Alperovitz and Daly 2008, 156). Making this explicit is necessary groundwork for countervailing movements to justify upending the policies of dedemocratization, unbridling the engaged powers of democratic citizenship beyond the limits of a market-conforming democracy, and paving the way for a policy agenda of democratization.

Laying out a detailed policy agenda for how to activate that untapped potential is beyond the scope of this article. I can only point in some important directions toward radical reform.⁸⁷ As I do so, it becomes increasingly clear that the work of decommmodification and democratization intersect and overlap. Consider, for example, the work of challenging the doctrine of "equal power," forced arbitration agreements, the right of employers to fire "at will," and the judicial sanction of the "consent-based" freedom of contract. In all of these practices and legal coercions, working people are not merely subject to commodification. They are also stripped of their full citizenship rights when they set foot inside the workplace—and often outside the workplace as well. To redress this, Piketty (2020), Ferreras (2020), and Ferreras et al. (2022) advocate convincingly for the kind of comanagement schemes that will facilitate both decommmodification and economic democratization by providing

⁸⁶ Warren Buffett, among the wealthiest men on the earth, is channeling Thomas Paine when he implicitly recognizes extractive social redistribution: "[Society] is responsible for a very significant percentage of what I've earned" (Buffett, cited in Caulkin 2013). He also makes a mockery of the market justice diktat that the wealthy "deserve" their wealth and income since it is not derived from their contributions but largely is due to their ability to extract it from society's vast "understructure" (Malleon 2023).

⁸⁷ I refer readers to the much more extensive work on democratizing policy agendas. See especially Akbar (2023), Anderson (2017; 2023), Baker (2016), Benkler (2023), Block (2025), Britton-Purdy et al. (2020), Ferreras (2020), Ferreras et al. (2022), Fishkin and Forbath (2022), Kapczynski and Michaels (2024), Kuziemko et al. (2023), Mazzucato (2021), M. Paul (2023), Rahman (2016a; 2024), Wright (2010; 2019); Piketty (2020; 2022; 2024).

employees their own institutional site from which to democratically participate in decision-making (see also O'Neill and White 2019; Furendal and O'Neill 2022; and Guinan 2019 on Sweden's Meidner policies).

Another impetus toward democratization comes from thinking through the implications of what Fred Block (2025) calls our current shift toward a postindustrial "habitation society." A habitation society is one in which the majority of what is produced is neither agricultural nor industrial commodities but rather goods and services that make up the social (hard and soft) infrastructure, especially housing, climate-related services, health care, and family care. Notably, the bulk of the investment that makes up this habitation economy is not made by business (only 29 percent) but by government (28 percent) and communities (comprised of households plus nonprofits [43 percent]). Since it has long been orthodoxy that private capital makes the bulk of the economy's investments, Block's reconfiguration of investment ratios challenges neoliberal justifications for low taxes, austerity, and attacks on government spending for its (putative) crowding out of private capital. It also has implications for democratizing predistribution. Recognizing that it is not private capital but government and households that are driving the bulk of economic investments once again makes clear that citizen value is substantially fueling the economy, and cannot be called an outside force. The challenge for the work of democratizing this kind of social predistribution is to direct that inside power toward democratic and egalitarian ends.

One of the earliest movements to set out a policy agenda derived from an understanding of the care dimension of the habitation economy is that of the Wages for Housework (WFH) movement of the 1970s (Dalla Costa [1975] 2019; Federici 1975; 2012; Toupin 2018; Somers 1974; Johnson and Somers 1972). The movement stipulated that women's free labor inside the home was not just a moral wrong or an expression of sexism but part of a system by which women's unremunerated social value was extracted from the commons and converted into private capital. Feminists at the time balked at the movement, fearing that its (rather remote) success would further lock women into the home and out of the paid workforce. WFH countered that it would only be possible to combat the expropriation of women's contributions and free them from the household by first recognizing that the free work of social reproduction does not merely facilitate men's ability to labor (although of course it does that). It is equally in itself a source of economic value that directly builds capital accumulation, and thus justifies a policy that not only compensates accordingly but also mandates that women have the right to democratically participate in an economy built on their value (Bock et al. 1975).

Block (2025) himself also sets out a democratizing agenda of radical reforms that would allow people control over the soft and hard infrastructure that comprise the economic fundamentals of the habitation economy. These include endorsing the policies of the Green New Deal, which is formulated to do just this not only by shifting to renewable energy and lowering greenhouse gases (Aronoff et al. 2019; N. Klein 2019; Pettifor 2019), but also by building a care economy—both of which demand democratic participation on the part of the citizens whose value is already central to the investment that makes up the bulk of this new economy (Aulenbacher et al. 2018; Folbre 1994; 2020; 2021; Cooper 2019; Folbre et al. 2013; Hester 2018; Fraser 2016). Block (2025, chap. 7) calls this a program of "democratizing habitation" and describes it as a series of radical reforms that can address racial injustice, gender exclusions, and socioeconomic inequality by building on the power of the very citizens whose value already comprises so much of the economic environment in which they live. The goal is to amplify popular voices to be able to influence their environment on the grounds that their collective value is already embedded in the economy that shapes the conditions of their livelihood.

This commitment to redress the wealth extracted from communities dovetails with Guinan and O'Neill's (2019) influential agenda for "Community Wealth Building," a program geared to mobilize the power of democratic participation to "democratize our economy from the ground up to build the equitable and sustainable political-economic system we all need . . . and transform our economic system by creating a web of collaborative institutions, from worker cooperatives to community land trusts and public banks, that empower and enrich the many, not the few" (see also the Democracy Collaborative, www.democracycollaborative.org). Another policy suggestion along these same lines is that of Rahman (2018a; and see also 2018b) who argues for the "revival of the public utility concept" to claw back the value of the commons that has been extracted by the privatization of our utilities' infrastructure to build public utilities owned by the communities in which they operate.⁸⁸

Also on the predistributive democratizing agenda, and in response to extractive social redistribution, must be renewed support for a revived antitrust policy. I discuss this above in the agenda for decommodification. But monopolization also has long serviced predistributive dedemocratization not only by enriching the financial plutocracy (Reich 2015; Baker 2016; Krippner 2012) but also by suppressing the voices of the democratic citizenry on the grounds that efficiency and consumer welfare (prices), not distributive justice, justify a defanged antitrust law in favor of mergers, acquisitions, and "bigness" (Wu 2018; Posner 1983; Khan 2017; 2018). While it was Lynn (2010) who first brought back to public attention the predatory politics of monopolization, the effort has quickly grown into a democratizing movement with Rahman (2016b) arguing that to oppose monopoly is to support the demos against a financial autocracy, and Khan (2018, 131) writing that "antimonopoly is a key tool and philosophical underpinning for structuring society on a democratic foundation."⁸⁹

One of the most logical policy arguments that follows from recognizing the predations of extractive social redistribution focuses directly on the tech economy. Jaron Lanier (2014) proposes that each of us should be paid for extracting our data in the form of "nanopayments" for the value of our (usually inadvertent and involuntary) "contributions" to social media and AI. Arguing that such payments are "the only way that democracy and capitalism can be in alignment," Lanier suggests that at scale, these micropayments might provide living incomes. Not unlike the Wages for Housework movement, if successful, such a reform would clearly count as nonreformist as it would tear away the veil and make visible the extent to which YouTube, Facebook, X, and systems like ChatGPT are actually extractive projects.⁹⁰ Evgeny Morozov (2024) also proposes policies to challenge the extractive tyranny of "techno-solutionism"—the idea that markets, enhanced by digital technology, can "effectively replace governments." These so-called market solutions are actually nothing more than the ability to commercialize and turn into prized intellectual property (protected by law) the innovative basic science that has been driven by government and citizen taxes. But rather than commercialize further, as Lanier proposes, Morozov (2024) proposes treating data as a collective good, subject to precisely the kind of democratic control envisioned in the project for a predistributive democracy.

⁸⁸ A 2024 ballot proposal in Ann Arbor, MI successfully passed with 79 percent approval, proposing a city-run sustainable energy utility with new investments in local renewable energy, with the aim of improving power reliability and reducing carbon emissions. The new community-based utility would supplement the much-reviled DTE Energy, which has repeatedly failed its residential customers.

⁸⁹ As director of the FTC in the Biden administration, Khan has successfully challenged several high-profile cases of monopoly, significantly reversing the neoliberal anti-antitrust law movement of the last decades (Wu 2024). In the wake of the 2024 election, all of that progress is now on death row.

⁹⁰ Thanks to Angela Harris for suggesting this example.

Perhaps the most surprising (because they were actually enacted over the last three years) set of policies designed to combat extractive and dedemocratizing social redistribution are those of the Biden administration's industrial policy, comprised of the Inflation Reduction Act, the CHIPS Act, and the bipartisan infrastructure bill (Tooze 2024; Wu 2024; Lemann 2024; Galbraith 2024; Hacker et al. 2023). Industrial policy entails the government selectively distributing public resources—in the form of grants, special lending, government contracts, and “ownership stakes”—to particular sectors of the economy with the intent to boost their production capacities and their associated technologies. Once maligned as “centralized planning,” industrial policy is framed as a middle way between free markets and state control, and unlike the Keynesian welfare state, it focuses less on redistribution and social transfers and more squarely on the site of redistribution. The policy is driven by government munificence—investments drawn from taxes, not from private capital—and thus implicitly entails citizen value being appropriated to enhance private capital.

Because it appears to reject the free-market rules of deregulation, industrial policy is usually associated exclusively with progressive aims. This is another triumph of misdirection, because like other forms of redistribution, under the guise of free-market “deregulation,” industrial policy can just as easily be used to advantage wealth as to counteract the unequal powers of wealth. For four decades, neoliberalism has covertly practiced industrial policy under the misleading moniker of deregulated markets by shifting government resources toward finance, pharmaceuticals, and fossil fuels (Baker 2016; 2024a; Galbraith 2024; Tooze 2024). This is the harmful neoliberal version of industrial policy that a democratizing agenda aims to reverse engineer through progressive policy.

In its progressive variant, industrial policy directs social value to those sectors whose development is expected to enhance the public good rather than meet the demands of wealth maximation or national competitiveness (Schrank and Whitford 2009; Kapczynski and Michaels 2024). Thus under the Biden regime, egalitarian-oriented industrial policy in its three signature acts became overt for the first time since FDR in the effort to move toward renewable energy, to build job-creating infrastructure, to deconcentrate economic power, to strengthen unions, and even to embed racial-equity goals in these new sectors (Lemann 2024). Even though Galbraith (2024) calls it only a “plausible simulacrum of an industrial policy,” its goal has been to redirect resources to benefit the public good, especially in its efforts to give primacy to the disadvantaged and marginalized. In this respect, progressive industrial policy has great potential for a predistributive democracy as the outsized role of government investment in shaping the economy implicitly affirms the presence of citizen value inside the economy, and so undermines the justification for excluding popular input. Instead it has the potential for activating the demos to demand influence over economic processes and decision-making.

But, as Kapczynski and Michaels (2024) make clear, it is only potential, as industrial policy requires an enormous degree of “administrative discretion.” That discretionary power is vulnerable to manipulation by powerful interests, with the capacity to undermine the very progressive goals the policy claims to advance. The solution is to make the administrative practice more democratically accountable—without which industrial policy can itself be hijacked into the services of neoliberalism's redistribution of wealth upward. The only way to ensure that industrial policy “advances shared goals for democratic development,” they conclude, is by ensuring that the administrative law designed to implement it is compelled by movements of *countervailing democratic power* to push it in the direction of benefiting the public good, with a particular focus on excluded and marginalized populations

(Kapczynski and Michaels 2024; see also Rahman 2024; Ledley 2024; Lemann 2024; Schrank and Whitford 2009; Rappeport 2024; Rodrik 2011).⁹¹

C. *Countervailing Power*

The project of a predistributive democracy can only hope to reverse neoliberal predistributive dedemocratization by building what John Kenneth Galbraith famously dubbed “countervailing power” (Galbraith [1952] 2012).

A major vulnerability of redistributive policy, as pointed out above, is in the inevitable conflict it provokes over the legitimacy of the government’s coercive powers to “confiscate” earned income. By contrast, the silence surrounding the predistributive origins of inequality supports the deceptive appearance that unequal market outcomes are impersonal, natural, and benignly independent of any political power, such as automation and technological change (Baker 2024c). Predistributive political economy begins from the premise that because the very existence of markets and market transactions depends on the prior establishment of property rights through the government’s enforced allocation of rights, markets are from the start shot through with power and coercion. Following the Legal Realists, we must openly acknowledge the reality of coercion in order to combat it in the interest of equality (Hale 1923; 1943; Commons 1924). For Polanyi, the work of hidden coercion in the service of property is especially active in the labor market. Because that market depends on human commodification, and because commodification is driven by the legal coercion that underlies the free contract (*GT*; Somers 2022a, 239–41), then coercion is already there deep in the recesses of so-called neutral markets and must be named as such (Krippner and Flores 2024). Only by exposing the speciousness of the idea that market relations are volitional—and recognizing that the labor market and the labor contract are both coercive—can we appreciate the urgency of *countering the coercion of capital with the countervailing power of democratic politics*.⁹²

In their treatise on how to make industrial policy more democratically accountable, Kapczynski and Michaels (2024, 28) explain, “democratic industrial policy requires not only an empowered state. It also requires forms of countervailing power that can help hold the state and the private sectors to account.” Countervailing power, as Kapczynski and Michaels define it, is the “organized capacity of structurally disadvantaged groups to exercise collective influence . . . [that] must span over both the state itself, and the private sector actors who make critical ordering decisions” (ibid. at 6). Some may

⁹¹ Biden’s industrial policy was also intended as a political strategy to win back red states and working-class allegiance. Post 2024 election, that goal has been ruled an abject failure, despite Kuttner’s (2024b) view that “[n]ot since FDR have industrial workers and unions had a better friend than Joe Biden” (see also Kaufman 2021). Whether this was due to shortcomings in communicating the benefits of his industrial policy or whether those benefits have not yet begun to be experienced is the subject of fierce debate. But even before the electoral defeat, Galbraith (2024) ruled Biden’s industrial policy an impossible aspiration based on four decades of neoliberal gutting of the social, productive, and technological infrastructure necessary to realize even its most modest goals. See also Tooze (2024).

⁹² There is a legal literature that demonstrates that this level of coercion was recognized by the legislature and the judiciary in the debates surrounding the successful passage of the Wagner Act in 1935. Little over a decade later, conservative forces organized against the Wagner Act were able to partially undo it through the radically antilabor Norris-LaGuardia and Taft-Hartley Acts by convincing the courts to deny the previously recognized presence of asymmetrical power in labor relations and the fundamental right of labor to organize to rebalance that power. See Feldman (1994), Getman and Marshall (2001), Klare (1978), Matheny and Crain (2001; 2004), McCammon (1993; 1994), Pope (2002), and Tomlins (1985). Thanks to Angela Harris for suggesting I include this point.

balk at the link between exercising power and democratization. But the power at issue is not that of state tyranny but that of democratic movements organized to counter the undemocratic rule of existing economic power. This is precisely Polanyi's point when he laments that fascism was the inevitable outcome of the liberal denial that power and legal coercion are already central in shaping our livelihoods, but shaded under the utopian fiction of the self-regulating free market:

Freedom's utter frustration in fascism is, indeed, the inevitable result of the liberal philosophy, which claims that power and compulsion are evil, that freedom demands their absence from a human community. No such thing is possible. . . . This leaves no alternative but either to remain faithful to an illusionary idea of freedom and deny the reality of society, or to accept that reality and reject the idea of freedom. The first is the liberal's conclusion; the latter the fascist's. (*GT*, 265)

Rather than allowing the liberal illusion of volition and contract to be pitted against the threat of power and coercion, recognizing that both markets and states are built on and organized by power allows us to recognize that there is no zone of neutrality. In an earlier context, he was even more direct:

It is part of the ineluctable alternative of human existence that we can choose only between different kinds of power, and different uses to which to put it, but we cannot choose *not* to originate power or *not* to influence its use once it has been created. . . . There is no contracting out of society. (Polanyi [1937] 2018, 152)

With this in mind—that there is no contracting out of being enmeshed in relations of power—movements for countervailing power must focus on building “systematic, organized power among groups” (Kapczynski and Michaels 2024, 28) of those most excluded and subordinated by commodification and by existing forms of predistributive dedemocratization. Building this kind of organized power usually entails assembling it from existing associations and social networks (the classic work on associations and democracy is Cohen and Rogers 1995; see also Bagg 2024; S. Klein 2022; Andrias and Sachs 2021). But turning movements and organizations into effective countervailing power cannot be realized without achieving what may be the most difficult aspiration of all—*solidarity* within and across associations and networks, and especially across race and gender divides (Harris 1994; Glenn 2003). Solidarity, as Taylor and Hunt-Hendrix (2024) convincingly argue, is a “concept as fundamental to democracy as . . . equality, freedom and justice.” In the effort to ward off the radical levels of inequality and exclusion conducing today toward authoritarianism, achieving solidarity is nothing less than a “national priority.”

In thinking through the building blocks of countervailing power, then, fostering “connection and participation” through solidarity in everyday life should be a priority. Taylor and Hunt-Hendrix (2024) argue for universal social supports rather than for stigmatizing means-tested programs that distinguish between the “deserving” and “undeserving.” And they reconceive of public goods as opportunities designed “to facilitate connection and solidarity in addition to providing essential support and services.” To make this vision concrete, Taylor and Hunt-Hendrix demand not a “welfare state” but a “solidarity state” (see also Rahman 2016a, d; 2024).

When John Kenneth Galbraith ([1952] 2012) first conceptualized the concept of countervailing power, unions were his exemplars. But decades of political and legal war against unions have decimated their strength and percentage of the labor force (Shierholz 2019; Rogers 2023; Mishel 2022a; Nolan 2024; Andrias and Sachs 2021; Ahlquist 2017; Flavin 2018). These defeats have radically accelerated the

share of income and wealth going to the top 1 percent (Economic Policy Institute 2021; Shierholz 2019; Ahlquist 2017; Flavin 2018), such that even Lawrence Summers (Stansbury and Summers 2020) now argues that strengthening unions is the “central and urgent priority” for combating inequality. Yet despite the staggering loss of union strength, membership size, and influence, unions are still the model aspirational site of countervailing power. Rebuilding union membership, reviving the rights of collective bargaining, and restoring progressive labor law must therefore be at the heart of a predistributive democracy’s project to build countervailing power (Rogers 2023; Farber et al. 2021; Shierholz et al. 2022), especially through a determined effort to pass the PRO Act, which would promote workers’ abilities to organize, strike, and collectively bargain.

At stake in reviving unions is much more than income redistribution because *union power is democratic power*. As Block and Sachs (2020a) remind us: “[Without] unions . . . millions of lower-income Americans have lost their most effective voice in our democracy” (see also Block and Sachs 2020b). Revitalizing union power requires massive countervailing legal redistribution to challenge the decades of dedemocratization of the neo-Lochnerian courts (Nolan 2024; Economic Policy Institute 2021). That means targeting the legal fiction of “equal power” and the “right to work” laws that have crippled the power of unions (Rogers 2023; Mishel 2022a; Anderson 2022; Mishel 2022b).⁹³ Just as predistributive democratization is a precondition for decommodification, so unions are critical vectors for both democratization and decommodification (Economic Policy Institute 2021; Lichtenstein 2021; O’Neill and White 2019; Ferreras et al. 2022; Stiglitz 2024b).

If solidarity is essential to building countervailing power, then policies that foster solidarity across race and gender must also be priorities (Harris 1994; 2009; Benkler 2023; Akbar 2023; Kapczynski and Michaels 2024). Addressing the new forms of gender subordination has become urgent in the face of the right wing’s attack on gender equality, especially evident in their pronatalist politics, legalized crusade for forced birthing, and all-out assault on women’s reproductive health care (Filipovic 2024). But organizing gendered labor has proved challenging, as the Wages for Housework movement demonstrates (Somers 1974; Bock et al. 1975). Organizing the overwhelmingly female, nonwhite, and immigrant domestic workforce has been a priority for several decades, but with mixed results (Poo 2023; Eyster 2024; Hayashi 2010; Kallick and Capote 2022). As part of the Biden administration’s Build Back Better bill, the American Families Plan agenda actually dovetailed with much of feminist theory’s analysis of how to reverse the subordination caused by the gendered divide in social reproduction and care (Aulenbacher et al. 2018; Folbre 1994; 2021), but was defeated by Republican opposition.

With respect to race and the depredations of racial capitalism, Collins et al.’s “Ten Solutions to Bridge the Racial Wealth Divide” (2019) offers a comprehensive strategy for partially decommodifying access to basic goods while also redressing aspects of racial hyperexploitation (Benkler 2023, 102; see also Baradaran 2017). Hamilton and Darity (2009) also argue for universal decommodification approaches “whose benefits decrease progressively with household wealth, rather than household income,” which will in effect benefit Black Americans because the inherited wealth gap between Black and white Americans is significantly larger than the income gap (Benkler 2023, 104). Hamilton and Darity (2009) and Darity and Mullin (2020) also advocate for reparations (although whether in monetary form is

⁹³ It is also the case that not all unions are the same, as we saw highlighted, for example, in the different stances taken by the UAW versus the Teamsters in the 2024 elections. Some unions are quietist and management oriented, while others are focused on base building, and they differ with respect to whether they define their charge as purely instrumental or also as being vessels for democratization (see especially Rogers 2023).

unclear), which could address the deeply entrenched racial exclusion embedded in intergenerational poverty (see also Coates 2014). Recognizing that capitalism and racism are inextricably entangled demands using a “racial capitalism framework” to organize movements and formulate racial justice policies (Akbar 2023; Harris 1994; Murch 2022; McNally 2022; Kundnani 2020), as for example in the case of the KC Tenants Union, a 2019 citywide tenant union “led by a multigenerational, multiracial, antiracist base of poor and working-class tenants in Kansas City” (Akbar 2023, 2547–48).

Building successful and enduring solidarities across race and gender divides clearly requires organizing for universal reforms, such as the 1935 Social Security Act. Programs targeted exclusively to nonwhite identities and low-income earners have led repeatedly to stigmatized means testing and to aggressive backlash. Accused of perversely generating moral hazards and of attracting the “morally undeserving,” such policies have proved profoundly politically vulnerable and ultimately have led to further social regression, as the courts have stepped in to undermine anything that can be maligned as “reverse discrimination” (Somers 2017; 2022b). Piketty (albeit with a French bias) understands as much when he writes that “a just society must be based on universal access to fundamental goods” (*CI*, 1003; see also McGhee 2021; Sitaraman and Alstott 2019; Sitaraman 2019; Benkler 2023, 104).

Above all, the effort to build a solidaristic movement for countervailing power requires operationalizing the lesson of a predistributive political economy that it is power and law that determine the balance of power inside the market economy and in turn shape the life chances of market participants. Law has propelled neoliberalism to its heights and it is law that has likewise impeded and disorganized the movements that have worked so hard to resist it. With respect to building countervailing power, Martha Ertman (2020), for example, explains how the law has been used to amplify the gendered and raced extraction of labor in the workplace through the use of “nonbillable hours.” This further subordinates women and workers of color and isolates them from the dominant sectors of the workforce, making them increasingly difficult to reach by traditional union organizing. But it is precisely because “law is central to the creation and maintenance of structural inequalities in the state and the market” (Harris and Varellas 2020) that movements for countervailing power must prioritize harnessing and mobilizing the law to foster building power against those inequalities. Benkler (2023) points to the Clean Slate Project (Block and Sachs 2020b) and Hiba Hafiz’s (2021; 2022) “whole of government” approach as examples of movements aimed at building worker power by transforming labor law (see also Rogers 2023; Mishel 2022a), as well as to aggressive enforcement of antitrust law, as discussed above (Khan 2017; Wu 2018), particularly as it intersects with rebuilding labor rights (Hafiz 2020; S. Paul 2019, 2020).

In mobilizing the law to counter the regressive use of law, movements for countervailing power have a rich tradition of legal theory to build on, such as Legal Realism and institutional economics, as well as the burgeoning body of legal scholarship loosely coalesced under the LPE project (Britton-Purdy et al. 2020; Harris and Varellas 2020). What Akbar et al. (2021) call “movement law” aims to braid together racial and gender justice with struggles for economic justice through movements for countervailing power (Akbar 2023; see also Bowie 2021b; Akbar 2018; 2020; Harris 1994; Rahman and Thelen 2021; Vogel 2021). But successful movement law demands something more than analysis; it demands that we see “beyond legalism” to a “more unruly concept of law” (Akbar 2023, 2562, 2564) that destabilizes existing practices and aims for the moral imperative of making people’s lives better and subject to less suffering. As per Polanyi and Piketty, law in the interest of progressive change “will only succeed as part of a broader popular political transformation” (Benkler 2023, 111), which only solidaristic movements for countervailing power can inspire.

This raises one last issue, central to the question of whether even a strongly solidaristic expression of countervailing power can be successful in the context of the American judicial system, which as we have repeatedly seen is not only a structural obstacle to democracy but an active agent in striking down democratic legislative acts, especially those entailing economic reforms (Blalock 2015; 2022; Blalock and Kennedy 2022). Because, for example, the deunionization of America is unequivocally the accomplishment of a neo-Lochnerian judiciary, and because democratically enacted progressive measures can be obviated with the swipe of judicial review, much of this policy agenda will be obstructed by a dedemocratized court system, demonstrating that the vectors to a predistributive democracy are deeply interdependent—and precarious (Doerfler and Moyn 2025; Fishkin and Forbath 2022). Among legal scholars today there are differing thoughts on how progressives should address this impediment.

One group has coalesced around the idea of building a progressive constitutional political economy (Fishkin and Forbath 2016; 2022; Forbath 2019; Fishkin 2021; Rahman 2016b; 2016d; McCluskey 2016; 2020), in which problems of inequality and social exclusion are recognized to be not just political but problems of constitutionalism—meaning that in American fundamental law one can find arguments that *require* the dispersal of “economic and political power, rather than letting it get concentrated in too few hands” (Fishkin 2021). This could happen through widening Fourteenth Amendment citizenship requirements to include various forms of socioeconomic rights, or by making Polanyi’s and Piketty’s rights to fundamental goods into entitlements of citizenship (*GT*, 263–65; *CI*, 428, 967–68, 1003). Those in this camp believe that because the egalitarian “anti-oligarchic” mandate is *already* in the Constitution, it is imperative to revamp the courts (expand the number of Supreme Court justices, limit their terms of service, and so on) to redirect them to fulfill their constitutional duty to respect that mandate.

Another group of legal thinkers rejects this approach on the grounds that the courts, especially the Supreme Court, are not—with a few notable exceptions—the friends of egalitarianism (Bowie 2021a; 2021b; Brisack 2024; Moyn 2020; Doerfler and Moyn 2020; 2025; Rana 2024; Cohen 2020), let alone of any project that aims toward democratic socialism. Instead, they argue, it is to participatory democratic politics that we must turn to implement the work of progressive political economy and what I have dubbed a predistributive democracy. Does this rejection of a constitutional political economy suggest overturning *Marbury v. Madison*? Or giving legislatures the power to overrule Supreme Court decisions? Answering these questions is beyond the scope of this article, but if we are serious about moving toward a predistributive democracy the debate must be engaged (see especially Bowie 2021a; 2021b; Doerfler and Moyn 2020; 2025; Rana 2024).

VIII. Conclusion: Democratic Socialism or Authoritarian Barbarism?

In a pathbreaking essay, Britton-Purdy, Grewal, Kapczynski, and Rahman (2020) challenge the neoliberal “Twentieth-Century Synthesis” in law, much of it associated with Chicago Law and Economics’ assertions of the imperative of market efficiency (see also Berman 2022). By efficiency, Law and Economics scholars mean that market autonomy and aggregate growth maximization must displace distributional concerns, which they assert have no place in judicial deliberation. They postulate market neutrality, by which market relationships and labor contracts are fair and equal, that everyone comes to the table with equal resources, that there are no power imbalances, and that the economy is nonpolitical, free of coercion and power. The new LPE rejects each of these postulates, as they obscure actual asymmetries of power inside the economy while rendering illegitimate any democratic influence over market processes. LPE thus aims to turn this synthesis upside down by

placing “themes of power, equality, and democracy” at the center of inquiry, reviving the legacies of Legal Realism, and creating a new “legal imaginary.”⁹⁴

Viewed through this prism, Polanyi and Piketty are ideal recruits for the analytic and normative aspirations set by the LPE vision. Both thinkers make foundational contributions to an institutionalist democratic political economy that destabilizes market justice and its diktats. Their combined political economy, which I have dubbed a program for a predistributive democracy, lays the groundwork for an agenda of de commodification and redemocratization. Most importantly, it alerts us to the exigencies posed by social and political exclusion, dedemocratization, and the political-economic roots of the authoritarianism we are currently facing. Both Polanyi and Piketty speak to the importance of a redistributive and predistributive vision, stressing that it must be truly universal and rights based, and avoid the exclusion, moral explosives, and moral subordination built into means-tested remedies, while advancing social citizenship and universal public goods.

The question even this political economy leaves us with, however, is the same one we must ask of the LPE project: Is economic reform—should it even be possible—sufficient to save democracy?

Writing in the early 1940s at a moment of indeterminate futurity, Polanyi ends *The Great Transformation* by forcing us to confront the fork in the road that presaged European fascism. In the early 1930s at the height of the Great Depression and caught in the grips of the gold standard (the utopian self-regulating market writ large), liberal democracy and global capitalism were at an impasse (*GT*, 258–68). On the one side, the forces of democracy, primarily represented by strong but embattled minorities within Western European parliaments, demanded economic reforms, unemployment compensation, wage relief, and other social protections, as well as democratic control over the currency. On the other side stood the financial and business classes that, captured by the logic of the gold standard’s austerity edicts, refused to concede to even minimal parliamentary “interference” in currency or national economies.⁹⁵ The choice faced by the financial and business classes was whether to begrudgingly stand on the side of democracy at the cost of their austerity policies, or turn to fascism to eliminate entirely the democratizing demands for socioeconomic reforms. “It was out of such a perilous deadlock that in the twentieth century the fascist crisis sprang” (*ibid.* at 139–40; see also Eley forthcoming 2026a; Eley forthcoming 2026b).

They chose fascism—not all of finance and business, of course, but enough to turn history and bring democratic governments to their knees. Their solution to the impasse, Polanyi writes, was to save capitalism by submitting to the control of autocracy, both in the economic and political realms: “The fascist solution of the impasse reached by liberal capitalism can be described as a reform of market economy achieved at the price of the extirpation of all democratic institutions” (*GT*, 245). It would “revitalize” the economic system while “reeducating” the people via “scientific methods of torture” (*ibid.* at 245). Only in the US case (and in Sweden) was the FDR administration willing and able to

⁹⁴ Harris and Varellas (2020) make a similar programmatic LPE call, and both make gender and racial capitalism central. Fligstein and Vogel (2020) make a more compact case for a new political economy that puts power, predistribution, and market governance at the heart of economic analysis.

⁹⁵ “With the international gold standard the most ambitious market scheme of all was put into effect, implying absolute independence of markets from national authorities. World trade now meant the organizing of life on the planet under a self-regulating market, comprising labor, land, and money, with the gold standard as the guardian of this gargantuan automaton. Nations and peoples were mere puppets in a show utterly beyond their control” (*GT*, 226).

bring market forces to heel in the New Deal.⁹⁶ While both the democratic and the fascist alternatives “reformed” capitalism by going off gold, the former forced it to succumb to democratic economic reforms, whereas the latter eagerly accepted a long sought-after escape hatch—conveniently ridding it of the chronically vexing “predations” of democracy (especially those of unions and parliaments) in return for “protection” against the people by fascist governments.

More than seventy-five years later, in an uncanny echo of *GT*’s portentous closing, in *CI* and *BHE* Piketty locates us at a similar fork in the road, which in *CI* he calls a switch point and in *BHE* a crisis. As in the 1930s, neoliberal market society and “neo-proprietarian hypercapitalism” have galvanized forty years of rising inequality, leaving behind vast swaths of the population with little recourse to democratic resistance. Once again, there are two alternative futures: Either toward authoritarian social nativist regimes that practice hypercapitalism in populist garb by directing blame at immigrants and marginalized populations, or the alternative—Piketty’s “participatory socialism.” In O’Neill’s (2021, 94) felicitous rephrasing of Rosa Luxemburg, Piketty’s fork in the road is between “participatory socialism” and “social nativist barbarism.”⁹⁷

There’s no evidence that Piketty intended to echo Polanyi’s “fork in the road” metaphor, which underlines just how akin are the two thinkers’ sensibilities, especially their similar perception of the fundamental conflict between oligarchy and democracy. But how did we arrive in such a reverberation of the 1930s?

Polanyi explained the “breakdown of our civilization” in the 1930s in part by the standoff between the self-regulationist utopianism of the gold standard and parliamentary democracies pushing for socioeconomic reforms. But this was only the proximate cause. His deeper answer is that fascism’s roots are to be found in Ricardian England’s invention of the “stark utopia” of the self-regulating market.⁹⁸ To briefly recap from Somers (2022a), like all utopias, this one began with the normative ideal of a world of property free of politics and outside power. Classical political economy imposed that ideal onto reality by deeming the social landscape to be divided between a self-contained market sphere self-organized by the natural rights of property autonomously of government (except for protection of property through the rule of law) in opposition to a separate site of coercive politics marked by the artificial, arbitrary machinations of government. Most importantly, to explain the *capacity* of market society to govern itself, classical political economists invented market naturalism—the claim that market society modeled a perfect symmetry with the self-regulating laws of nature.

Markets, on this account, self-regulate in equilibrium as long as they are not distorted by the coercive powers of government control and interference. Market naturalism in turn produced its own moral

⁹⁶ Polanyi compares the United States to Europe and underlines the historical circumstances that allowed its business class to defy the gold standard and make a class compromise that avoided the deadly impasse and the leap to Nazism: “That social protectionism did not in this [American] case result in a deadlock was due to the fact that the United States went off gold in time. . . . The eclipse of Wall Street in the 1930s saved the United States from a social catastrophe of the Continental type” (*GT*, 237–38). See Dale (2016a) and Somers and Block (2021) on Polanyi’s views on the New Deal. On FDR’s lengthy struggle bringing Wall Street to heel, see Henriques (2023).

⁹⁷ And see Piketty’s (2021) own reflections on *CI*. In an echo of this Polyanian fork in the road, Ezra Levin of the progressive group Indivisible told NBC News in 2021, “We are at an inflection point in American history. Down one path is a Trump-inspired white plutocracy, and down the other is a representative democracy” (NBC News 2021).

⁹⁸ “But if the breakdown of our civilization was timed by the failure of world economy, it was certainly not caused by it. Its origins lay more than a hundred years back in that social and technological upheaval from which the idea of a self-regulating market system sprang in Western Europe” (*GT*, 5). “In order to comprehend German fascism, we must revert to Ricardian England” (*ibid.* at 32).

economy to usurp public law's claim over matters of law and justice. This was market justice, which deemed that market outcomes, because they are natural and free of the prejudices of "man" and government, were by definition morally just—which in turn justified inequality, demonization of redistribution, and a delegitimation of democratic popular sovereignty, for its putative threat to market justice.

For Polanyi, the self-regulating market, the market naturalist political economy that supported it, and the moral economy of market justice that legitimated its "murderous" outcomes were a dangerous illusion, and he used institutionalist political economy to disrupt them in their entirety. For one, the binary landscape that separated power, planning, and coordination from the "self-regulating naturalistic" economy was but a utopian thought experiment. Like all utopias, to be made real this one required political engineering and violence by the very sources of institutional power its advocates claimed to abhor—government and law, coercive instruments of coordination and planning without which there could be no market in the first place. And the chief propellant of the market's putatively natural outcomes is the state's legal redistributive power.

Because predistribution is constitutive, in itself it is neutral—whether it produces more or less inequality depends on the distribution of power both within the market and in the macroenvironment of political power that surrounds it. Under the original regime of laissez-faire capitalism (just as over the last four decades of neoliberalism), Polanyi recounts how—despite numerous countermovements of legal decommodification, some of which were successful—legal predistribution accelerated commodification of social life in all its dimensions, dramatically exacerbating social suffering, all the while amplifying its justificatory regime of market justice, while curtailing the capacity of citizens to exercise their political power in the economic domain. These relentless processes of commodification and dedemocratization inexorably thrust forward through the nineteenth and early twentieth centuries to culminate in the late 1920s clash between parliamentary democracy and global capital's immovable dependence on gold during the Great Depression. Given the utopianism of the self-regulating market, it was an inevitable outcome: The gold standard, after all, is but the self-regulating market scaled to the global economy, and, as such, bears within it the same instruments of commodification and dedemocratization that were—and continue to be—destined to combust (Rodrik 2011).

Moving from history to his existential reflections on market society's historical slide into fascism, Polanyi theorized the conditions that made it possible, isolating three:

- Underestimating the institutionalized cultural powers of a moral economy that justified economic suffering on a massive scale as a fair, unbiased, and natural phenomenon, explained by the sufferers' own lack of market value, as well as by the "undeserving" and the social parasites, which in turn obstructed policy efforts to remediate social misery.
- The refusal of so many to accept the inexorable fact of market *power* as the inherent "reality of society," making it equally difficult to exercise the necessary countervailing democratic power *against* capitalism's intrinsic drive to increasing commodification and dedemocratization.
- The difficulty of recognizing the dedemocratizing mandate that is morally justified by market justice and is institutionally situated in instruments of redistributive dedemocratization. There is an innate antidemocratic virus at the core of capitalist societies, which at crisis points has morphed into autocracy and fascism. Why? Because when faced with the choice between solving crises through economic reforms or seeking protection from an authoritarian state,

agents of capital have almost always opted for the latter—with the added benefit of “extirpating” democracy.⁹⁹

Piketty’s answer to how we got to today’s fork in the road develops over time from the naturalistic $r > g$ formula of *C21* to *CI* and *BHE*, which shed naturalistic overtones and embrace much of the Polanyi-inflected institutionalist framework. His combined works tell a story of Western colonial domination and the violent expropriation of slavery, which combined with a ruthless property regime—entrenched since the French Revolution through a complex justificatory apparatus—and created vast dynasties of inequality that reigned through the late nineteenth and early twentieth centuries until temporarily stymied by the Great Redistribution (1945–75). While *BHE* documents how the welfare state and progressive taxation dramatically compressed the previous levels of inequality, he attributes inequality’s reversal in the 1970s to the insufficiencies of those very institutions and the failure of the left to defend them (more accurately put, to collude in its undoing), leading to the revival of an amped-up hypercapitalism. Because merit-centered alibis are increasingly unable to bear the burden of justifying the return of “unsustainable” levels of inequality, today we face a political standoff between a Merchant Right and a Brahmin Left, which pits billionaire donors bolstering right-wing nativist faux populists against a coalition of the poor, people of color, and an affluent educated Brahmin Left. In this realignment, previous alliances have turned upside down and we are once again staring down the jaws of outright fascism.

To escape the autocratic option, Polanyi and Piketty prioritize decommodification and redemocratization—what I have dubbed a predistributive democracy. It is the resolute primacy of democracy in the battle against the supremacy of commodification in the case of Polanyi and neo-proprietarianism for Piketty that ultimately ties them together in more ways than separate them. Polanyi’s famous definition of socialism as the transcendence of “the self-regulating market by consciously subordinating it to a democratic society” (*GT*, 242–43) belies any reading of his work as a moralizing contest between markets and protectionist welfarism, just as Piketty’s ultimate formulation of his agenda in terms of decommodification and economic democracy trumps any more simplistic reading of his work as advocating the redistributive utopianism of a global wealth tax.

But it is fair to ask of both Polanyi and Piketty whether there is a means to match their democratizing ends? As much as Piketty stresses the centrality of social and collective action to gain power, he also puts enormous trust in democratic deliberation, transparency, and the rationality of good ideas to gnaw into hypercapitalism. “[N]othing can be considered permanent: what was transformed in the past by institutions and the mobilization of political movements and ideologies can be transformed again by similar means, for better or for worse” (*CI*, 186).

Polanyi, likewise, lays his bets on power’s willingness to concede on the grounds of good faith and belief in justice. When arguing that the privileges long associated with the control of wealth must ultimately be constrained, Polanyi acknowledges that “the comfortable classes” will be “less anxious” to extend their own freedoms to “those whose lack of income must rest content with a minimum of [freedom]” (*GT*, 262). Polanyi suggests that despite initial reluctance, even the well-off will come to recognize that their own freedom depends on the freedom of all: “Such a shifting, reshaping and enlarging of freedoms should offer no ground whatsoever for the assertion that the new condition must necessarily be less free than was the old” (*ibid.* at 263; Block and Somers 2014, 236).

⁹⁹ In the US case there’s a myth that Wall Street financiers and business interests “agreed” to a compromise with FDR’s regulatory controls. They did no such thing; they were forced kicking and screaming to succumb (Henriques 2023).

Viewed from our current point of view, Polanyi was too optimistic about the wealthy being willing over the long term to relinquish their own power.¹⁰⁰ True, power did concede in 1945–46, just as in 1918–19. And while the latter certainly did not last, the former did for a while in the postwar settlement, until capital and power regrouped during the 1970s. Piketty expresses a similar belief to Polanyi's that the plutocratic forces most responsible for afflicting humanity with the cruelties of material and social deprivation would be willing through democratic deliberation to reevaluate their committed sacralization of property in favor of "a new, more equitable, more sustainable economic model" (*CI*, 1037). Since both are able to manage competing beliefs, Polanyi also writes (*GT*, 248): "Fascism, like socialism, was rooted in a market society that refused to function"; and Piketty: "Good will is not enough without solid conceptual and institutional underpinnings" (*CI*, 12).

It is their latter, more realistic reflections that are more fitting for our current condition. As commodification and dedemocratization continue to accelerate, we can extrapolate from Polanyi's analysis of fascism's triumph in the 1930s that, despite the green shoots of the Biden administration's progressive industrial policy and efforts at moving toward a predistributive democracy, and especially in light of the outcome of the 2024 election, Polanyi would be decidedly pessimistic about the future. The clue is in the third lesson he draws from European fascism's success in the 1930s—that fascism's triumph was but the most virulent expression of capitalism's innate antidemocratic DNA.¹⁰¹ It is a virus so lethal that repeatedly, corporate power and socioeconomic elites—motivated by economic priorities—have abandoned the rule of law rather than concede to democratic economic reforms. In some of the most important words found in *GT*, Polanyi writes: "The victory of fascism was made practically unavoidable by the [economic] liberals' obstruction of any reform involving planning, regulation, or control" (*GT*, 265).

In the face of democratizing challenges, economic elites repeatedly turn to state power as the solution to the menace allegedly posed by "planning, regulation, or control." But the stunning hypocrisy must be noted: For of concern to economic liberals was only *democratic* "planning, regulation, or control." By contrast, and giving proof to Polanyi's insistence on the foundational predistributive power always at work in the heart of markets, they repeatedly supported *authoritarian* interventionism in the service of their desired policies, thus decisively weakening the democratic forces that might otherwise have averted the fascist catastrophe (*GT*, 242).¹⁰²

¹⁰⁰ Burawoy (2021, 214) calls this mistaken belief in a newly enlightened rejection of market fundamentalism "Polanyi's paradox"—having demonstrated that the collapse of civilization could be attributed to the world historical destruction wrought by market utopianism, Polanyi convinced himself that humanity would never again allow itself to be so irrational. It was clearly "a mistaken idealistic response to a materialist diagnosis." At the same time, it is arguable that Piketty's "Brahmin Left" has captured some of this idealism, in that the U-curve that characterizes the Democratic Party today represents its coalition of many high earners combined with the lowest earners, especially among people of color (Hacker et al. 2023).

¹⁰¹ Economic liberalism has from its inception been committed to stamping out popular democracy, precisely to shield the market from democratic intrusions: "Inside and outside England, from Macaulay to Mises, from Spencer to Sumner, there was not a militant liberal who did not express his conviction that popular democracy was a danger to capitalism" (*GT*, 234). It was a principle structured into the American constitution, designed to shield property from the power of popular democratic politics: "In spite of universal suffrage, American voters were powerless against owners" (*ibid.* at 234). On *GT*'s analysis of US constitutional designs to protect property, see Somers and Block (2021), and see *BHE* (110–20) on European constitutional indemnifications against property redistribution.

¹⁰² To underline this point, Polanyi compares the United States to Europe and explains that the former avoided the road to Nazism by going off gold: "The eclipse of Wall Street in the 1930s saved the United States from a social catastrophe of the Continental type" (*GT*, 237–38).

History rhymes indeed, although not in perfect symmetry. In an eerie reverberation of Polanyi's analysis, throughout 2024 the Republican Party and its wealthy donors, Wall Street wealth, and even so-called traditional "normal" conservatives all replayed the same scenario. After a brief period of performative shock and repulsion in response to the insurrectionist assault on the US Capitol of January 6, 2021, when many Republicans distanced themselves from Trump and the attempted coup, in 2024 they enthusiastically fell in line, once again renewing their allegiance to Trump despite his outright promise of authoritarianism.¹⁰³ One after another they made clear that a Democratic alternative (whether Biden or Harris)—with its potential for higher taxes on the rich, FTC Chair Lina Khan's continuing successes in reviving antitrust law (Wu 2024), and a revitalized NLRB paving the way for a regrowth of unions (Greenhouse 2024a)—was unthinkable in comparison to the coddling of wealth they knew to anticipate from a second Trump presidency.¹⁰⁴ As Harold Meyerson (2024) put it, "Leading Wall Street and Silicon Valley pooh-bahs believe the tax cuts he'll give them are a bigger deal than preserving democratic norms." And in a direct echo of Germany's 1933 conservatives' assessment that the greater threat came from the Social Democrats/Communists than from Hitler, Sutton (2024) writes: "[T]he threat to capitalism from the Democrats is more concerning than the threat to democracy from Trump." (See especially Peter Thiel's screed against capitalism being able to coexist with democracy (Gellman 2023).) Once again, Republicans and billionaires appear to have made this choice not despite, but *because* these policy gifts came packaged in what Polanyi (*GT*, 245) called an "extirpation of democracy."

Reverberations of the calamitous fate of Europe in the 1930s thus resound in America's surging market authoritarianism.¹⁰⁵ One of the strongest expressions of this is in the right's pronatalist rhetoric and their concerted attack on gender equality, most consequentially in the ripping away of women's reproductive health care rights (Filipovic 2024). The complicity between the Republican Party, a colluding judiciary, and a populist base that defines half the population as illegitimate moral outlaws undeserving of citizenship rights, most clearly underscores that it is not free markets nor market justice that is threatened by democracy, but democratic citizenship that is threatened by the contemporary moment of capitalism's antidemocratic virus (Pistor 2024a; 2024b).

In coming face-to-face with the multiple threats wrought by neoliberalism today, we can take comfort in Polanyi and Piketty seeing eye-to-eye with LPE in calling out the alarm that the degree of social and

¹⁰³ For example, billionaire private equity tycoon Stephen Schwarzman, CEO of the Blackstone Group, said to be the most powerful man on Wall Street, endorsed Trump's candidacy on May 25, 2024, after having publicly declared his defection from Trump after the January 6 insurrection (Jones 2024). The same is true for Jamie Dimon, CEO of JP Morgan Chase, a self-declared Democrat, who joined what is called "the normalizers" when he made clear his support for Trump at the Davos Meetings, January 2024 (Aftergut and White 2024). "Normalizers" is the term for those mainstream conservative and economic elites whose endorsement of Trump "normalizes" his authoritarian aspirations.

¹⁰⁴ In sync with Polanyi's conclusions, based on their comparative study of how nations slide into autocracy from democracy, Levitsky and Ziblatt (2018; 2023) conclude that the tipping point is the decision of "normal" conservatives and their party, along with wealthy donors, to prioritize their policy goals (tax cuts, deregulation, anti-unionization, etc.) over sustaining parliamentary democracy and risking being subjected to progressive economic reforms. Many others report this same phenomenon in 2024's presidential contest (Bouie 2024; Heet 2024; Luce 2024; Serwer 2024; Dawsey et al. 2024; Griffith 2024). The most significant instance of this conversion was that of Trump's most prominent Republican critic and primary opponent, Nikki Haley, who disappointed many of her followers when she endorsed Trump under cover of then-candidate Biden's alternative "catastrophic" rule (Smith 2024).

¹⁰⁵ Eley (2021) warns against denying current echoes of fascism simply because we do not see precisely the same conditions as in 1930s Europe, such as Nazi Brownshirts in the streets, or even a comparable threat to capital posed by the left. Rather, the alarming echo is in the similar nature of the *crisis* facing the US and Western Europe then and now, namely that governing institutions have ceased functioning effectively and a sufficiently predictable popular consensus is no longer plausible, leading to violence as an increasingly viable expression of politics. Eley calls this the "fascism-producing crisis."

political exclusion we confront today is not merely a moral issue of deep injustice and harm—although it certainly is that; nor is it merely an economic issue of redistributing income—although income must indeed be redistributed. It is at the core the maldistribution of power. It is also the continuing violence and unfreedom inflicted by dedemocratization and accelerating commodification that are at once the cause and consequence of asymmetrical market and political power. Inequality is far more than a problem of just economic distribution. It deprives people of full democratic citizenship and of being recognized as moral equals. As Anderson (1999, 289) puts it, the aim of egalitarian justice is “to create a community in which people stand in relations of equality to others.”

But it is the democratic dimension of LPE’s, Polanyi’s, and Piketty’s agenda for a new political economy that brings us to perhaps the most intractable problem of all, one well beyond the scope of this article. We currently live in a world in which democracy is no longer the solution, but very much part of the problem (Rhodes 2024). As Trump’s 2024 electoral victory attests to, illiberal oligarchs and “legalistic autocrats” (Scheppelle 2018) today use the very structures, procedures, and protections of democracy to seize power and advance autocratic interests—all in the name of protecting “the (real) people” from the failures of the market and from the predations of the “undeserving” (Berezin 2009; Calhoun et al. 2022; Scheppelle 2018). When the market exclusions produced by amplifying commodification are associated with either the neglect or the collusions of the Democratic Party (or the center-left outside the US), then democratic rule loses credibility among the populace and politics increasingly moves onto an extraparliamentary terrain of violence and right-wing populism, paving the way for Trump, Orbán, Meloni, and others (Eley 2021; Kurz 2024; Acemoglu 2024; Burawoy 2014; 2019).

To be sure, we should not give up hope that what I have dubbed Polanyi’s and Piketty’s vision of a predistributive democracy could reverse power inside the market toward egalitarian ends, remove people and life’s necessities from commodification, and build countervailing democratic power in both the economy and the public sphere, and thus yet ward off this dystopian “democratic degeneration” (Calhoun et al. 2022). As the headwinds are enormous, it is surely a desperate aspiration. Ultimately, however, Polanyi believed in a force more powerful than the market and even democracy—the “reality of society.” By this he meant that market society’s sine qua non logic of ever-accelerating commodification of the very foundations of social life—humans, nature, our means of livelihood, and knowledge itself—would ultimately hit a wall in its own self-devouring appetites (Streck 2016; Somers 2018; Fraser 2022). The reality of society cannot be endlessly extracted and dispossessed and still remain existentially viable. At that point, Polanyi writes, we will have to come to recognize the exigency of exercising countervailing democratic power:

The discovery of society is thus either the end or the rebirth of freedom. While the fascist resigns himself to relinquishing freedom and glorifies power which is the reality of society, the socialist resigns himself to that reality and upholds the claim to freedom, in spite of it. (*GT*, 268)

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