

BLACK URBAN ECOLOGIES AND STRUCTURAL EXTERMINATION

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Residents of low-income, metropolitan communities across the United States frequently live in “food apartheid” neighborhoods—areas with limited access to nutrient-rich and fresh food. Local government law scholars, poverty law scholars, and political theorists have long argued that structural racism embedded in America’s political economy influences the uneven development of such Black urban ecologies. Accordingly, food justice scholars have called for local governments to develop urban agricultural markets that combat racism in global corporatized food systems by localizing food development. These demands have only amplified during the COVID-19 pandemic, which has ravaged Black communities where residents suffer from preexisting health conditions and weakened immune systems associated with food insecurity. However, while local governments are increasing development of urban agriculture in Black urban spaces, in some instances, this has only driven Black and minoritized residents to compete against one another for access to healthy food and scarce farmland. Thus, the development of urban agriculture may function to recreate the very problems of racial capitalism and neoliberalism embedded in America’s political economy that animate food insecurity in the first place.

This Article argues that urban agriculture imbued with racial capitalist norms and neoliberal politics—e.g., “neutral” and “colorblind” policies that ignore historic state-sponsored racial discrimination, limit governmental market interventions, and promote individualistic competition and private ownership—will fail to mitigate the structural oppression that drives food insecurity in Black urban landscapes marred by environmental degradation, or Black urban ecologies. Instead, such forces distort urban agriculture into a weapon of exploitation, expropriation, and erasure, each foundational elements of a social theory of ecological systems change this Author calls structural extermination. This Article illustrates the theory of structural extermination, which has broad explanatory power, by examining Washington, D.C.’s history of urban farming legislation, beginning with the passage of the Food Production and Urban Gardens Program Act of 1986 and continuing, most recently, with the Urban Farming Land Lease Amendment Act of 2019. By documenting a visible shift in political discourse about Washington, D.C.’s urban farming program, from a community-oriented initiative for gardening and food donation to a market-centered program for land leasing and tax abatement, this analysis reveals how decontextualized and dehistoricized urban agriculture risks legitimating and rationalizing competitive market structures that enact violence upon the poor, and push low-income residents out of the city altogether. Finally, this Article calls for the democratization of ecological placemaking in Black urban geographies, a decolonial praxis that would embrace a justice-based vision of community economic development premised upon the principles of social solidarity, economic democracy, and solidarity economy.

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*“The snake, the rat, the cat, the dog
How you gonna see him if you livin’ in the fog?”*

– DMX¹

“Each day you see us black folk upon the dusty land of the farms or upon the hard pavement of the city streets, you usually take us for granted and think you know us, but our history is far stranger than you suspect, and we are not what we seem.”

– Richard Wright²

1. DMX, *Damien, on It’s DARK AND HELL IS HOT* (UMG Recordings, Inc. 1998).

2. RICHARD WRIGHT, *12 MILLION BLACK VOICES: A FOLK HISTORY OF THE NEGRO IN THE UNITED STATES* 10 (1941).

INTRODUCTION

The vulnerability of global food supply chains and the importance of food access in urban geographies has been laid bare by the COVID-19 pandemic. Not only have government-mandated social distancing policies impacted seasonal farming labor,³ but the viral risk exposure of low-wage workers in food processing and distribution facilities has severed food supply chains and augmented public health concerns over the safety of food.⁴ As food supply chains have been disrupted, America's long history of racial discrimination and governmental neglect in the uneven siting of full-service grocery stores and fast food restaurants has been exposed.⁵ In predominantly Black urban geographies in cities across the United States, one frequently discovers a paucity of full-service groceries stores with healthy and nutrient-rich foods, and a plethora of restaurant chains with cheap, highly processed, and unhealthy meals.⁶

A lack of access to adequate healthy and nutrient-rich food can trigger deficiencies in nutrients and calories that are necessary to combat diseases. Additionally, eating too much nutrient-deficient "fast food" can lead to obesity, diabetes, and heart disease, each preexisting health conditions that have been linked to a heightened risk of mortality from COVID-19.⁷ The answer to fragile food supply chains and food insecurity in urban spaces appears to be simple—develop more options for urban residents to purchase locally grown healthy foods or grow it themselves. Thus, urban agriculture has surfaced as a

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3. See, e.g., *COVID-19 and the Food and Agriculture Sector: Issues and Policy Responses*, ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (Apr. 29, 2020), <https://perma.cc/6JCK-RFCG>.
 4. See, e.g., *The Impact of COVID-19 on the Food Supply & Feeding the Hungry*, WASTE360 (May 7, 2020), <https://perma.cc/QV6M-V5ZU>.
 5. See Kate Meals, *Nurturing the Seeds of Food Justice: Unearthing the Impact of Institutionalized Racism on Access to Healthy Food in Urban African-American Communities*, 15 SCHOLAR 97, 110 (2012) ("[Government] policies include providing public assistance that is insufficient to cover the cost of fresh food, drawing resources and services out of the cities, zoning and incentive policies that favor corporations over community-based businesses and urban farming, and government subsidies that facilitate saturation of urban communities and schools with fast food.").
 6. *Id.* at 120–23. While this Article focuses on the challenges of food insecurity in predominantly Black urban neighborhoods, the problems of neoliberalism and racial capitalism discussed herein impact non-Black communities in profound ways, including low-income, predominantly white communities in rural landscapes. Although such communities may benefit from application of this Article's recommendations, their discussion is beyond the scope of this Article.
 7. See *Obesity, Race/Ethnicity, and COVID-19*, CDC (Jan. 8, 2021), <https://perma.cc/85YL-QQ7Q>; *Consequences and Long-Term Health Effects of Obesity*, TAMPA GEN. HOSP., <https://perma.cc/UL2E-R8R7> (providing a summary of long-term health effects from obesity including, but not limited to, type/2 diabetes and cardiovascular complications); *Evidence Used to Update the List of Underlying Medical Conditions that Increase a Person's Risk of Severe Illness from COVID-19*, CDC (Nov. 2, 2020), <https://perma.cc/22VD-H82Z>.

viable solution for “food sovereignty” to free urban residents from the shackles of an increasingly corporatized global food supply chain.⁸ Urban farming markets have grown steadily in number across the country.⁹ However, what often goes undiscussed is the political economic structure of urban agriculture,¹⁰ which can either promote food sovereignty or, as this Article reveals, exterminate the poor from the city altogether under the forces of gentrification or food-related illness.

As food insecurity emerges as a causal link to the preexisting health conditions associated with mortality from COVID-19, what happens when local governments construct property-centered agricultural markets in Black urban neighborhoods that encourage Black and minoritized residents to compete against one another for access to public land to farm their own healthy and fresh food?¹¹ This Article explores the persistence of food insecurity in Black

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8. See generally CHRISTINA D. ROSAN & HAMIL PEARSALL, *GROWING A SUSTAINABLE CITY?* (2017); Megan Horst et al., *The Intersection of Planning, Urban Agriculture, and Food Justice: A Review of the Literature*, 83 J. AM. PLAN. ASS'N 277 (2017); Teresa Marie Mares & Allison Hope Alkon, *Mapping the Food Movement: Addressing Inequality and Neoliberalism*, 2 ENV'T & SOC'Y 68 (2011) (“[F]ood movements in the United States would be strengthened through reframing their work within a paradigm of food sovereignty, [emphasizing the production of local alternatives], but also enable a dismantling of the policies that ensure the dominance of the corporate food regime.”).
 9. U.S. DEP'T OF AGRIC., *URBAN AGRICULTURE TOOL KIT* (2016), <https://perma.cc/QV25-ZYWJ>. See also Mares & Alkon, *supra* note 8, at 75. See generally IVETTE PERFECTO ET AL., *NATURE'S MATRIX* (2009) (noting that highly populated urban areas often inhibit ecological growth and development because of the lack of ecological resources available to promote biodiversity, creating hardship for urban farmers).
 10. See Stephanie A. Maloney, Note, *Putting Paradise in the Parking Lot: Using Zoning to Promote Urban Agriculture*, 88 NOTRE DAME L. REV. 2551, 2574 (2013) (noting that the City of Philadelphia defines urban agriculture as “gardens, farms, and orchards that involve the raising and harvesting of food and non-food crops” in urban spaces); Nathan McClintock, *From Industrial Garden to Food Desert: Unearthing the Root Structure of Urban Agriculture in Oakland, California* 5 (Inst. for the Study of Soc. Change, Working Paper No. 2007-2008.32, 2008) (“More abstract theoretical critiques argue that UA programs are inadvertently complicit in the neoliberal political agenda; in filling the gaps in the social safety net left by the neoliberal roll-back of state services, these programs ultimately employ a neoliberal discourse of entrepreneurialism and self-help, thereby shifting responsibility to individuals and away from the state, ultimately creating self-disciplining ‘neoliberal citizen subjects.’”).
 11. While race as a tool for human categorization is a social construct that too often essentializes and oversimplifies, racial categorizations are employed with tangible effect in the United States to exploit, suppress, and dehumanize subordinated populations. See MICHAEL OMI & HOWARD WINANT, *RACIAL FORMATION IN THE UNITED STATES* 13 (2014) (“[B]odies are visually read, understood, and narrated by means of symbolic meanings and associations.”). Thus, I use the term “Black” to describe individuals of African American identification and individuals of other African diaspora cultures. I also use the term “minoritized” to describe how cultural groups are often pushed to the margins of society based upon racial,

urban geographies, the so-called Black ghettos of America,¹² which are frequently characterized as food deserts and food swamps, but are more appropriately referred to as “food apartheid” neighborhoods replete with abandoned lots.¹³ In such neighborhoods, environmental degradation reflects the social, political, and economic dimensions of urban ecological systems. This Article considers the claim of American sociologist Nathan Hare that environmental degradation in Black urban America reflects the intersection of anti-Black racism, neoliberal politics, and unmitigated capitalist expansion, each working in concert to construct America’s “Black urban ecologies.”¹⁴ This Article makes this link more explicit in the context of contemporary urban agricultural practices, which often fail to mitigate the structural disadvantages that drive food insecurity in low-income Black ghettos, particularly where rising land values push out legacy residents. Such market-centered economic ecosystems not only insist on “neutral” and “colorblind” policies that ignore how racial discrimination has shaped Black communities, but also limit strong governmental interventions in favor of unfettered market competition.

cultural, or other social categorizations, such as Hispanic Americans, certain immigrant populations, and Muslims.

12. I embrace a strong conception of the term “ghetto” in the sociological tradition of Loïc Wacquant to describe herein low-income communities largely comprised of self-identified African American peoples that each stand as an “instrument of ethnoracial closure” and a place of “territorial stigmatization.” See generally Loïc Wacquant, *The Two Faces of the Ghetto: Constructing a Sociological Concept*, 160 ACTES DE LA RECHERCHE SCIS. SOCIALES 4 (2005).
13. The definition of “food desert” varies. The U.S. Department of Agriculture (“USDA”) defines a food desert as a census tract with a substantial share of residents (1) living in low-income areas that (2) have low levels of access to a grocery store or healthy, affordable food retail outlet. See, e.g., Michele Ver Ploeg et al., *Mapping Food Deserts in the United States*, ECON. RSCH. SERV., U.S. DEP’T OF AGRIC. (Dec. 1, 2011), <https://perma.cc/LRH4-YYFE>. Low access is defined as having fewer than five hundred people or thirty-three percent of the area’s population within one half-mile of a supermarket or large grocery store in an urban area, or within ten miles of the nearest grocery store in rural areas. See *Food Access Research Atlas*, ECON. RSCH. SERV., U.S. DEP’T OF AGRIC. (Oct. 31, 2019), <https://perma.cc/KLB6-PCNQ>. “Food swamps” are defined as “areas that have more stores selling high-calorie, less-nutritional foods than stores selling healthy food.” Mariam K. Ahmed, *(Not) My Plate: The Factors That Affect the Diets of Impoverished Communities*, 43 HUM. RTS. MAG. 24, 25 (2018), <https://perma.cc/HW2R-QK38>.
14. See Nathan Hare, *Black Ecology*, 1 J. BLACK STUD. & RSCH. 2, 2 (1970) (“The legitimacy of the concept of black ecology accrues from the fact that: (1) the black and white environments not only differ in degree but in nature as well; (2) the causes and solutions to ecological problems are fundamentally different in the suburbs and ghetto (both of which human ecologists regard as ‘natural [or ecological] areas’; and (3) the solutions set forth for the ‘ecological crisis’ are reformist and evasive of the social and political revolution which black environmental correction demands.” (alteration in original)).

Urban development, local government law, and property law scholars, such as Sheila Foster and Lisa T. Alexander,¹⁵ have long argued that structural racism embedded in America's political economy influences the development, or lack thereof, of Black urban ecologies. Whereas proponents of neoclassical economics and private ordering assume a neutral economic marketplace riddled with market inefficiencies that merit targeted, but limited government intervention¹⁶—a marketplace where anyone can grasp the helm of America's fabled Dream when vaunted by hard work and self-determination—political theorists such as Cedric Robinson have advanced the concept of *racial capitalism* to explain how “the development, organization, and expansion of capitalist society pursued essentially racial directions.”¹⁷ In so doing, Robinson clarified why “it could be expected that racialism would inevitably permeate the social structures emergent from capitalism.”¹⁸ Further, economic geographers and urban ecologists, such as David Harvey and Harini Nagendra,¹⁹ have long noted that neoliberal politics shapes the language of policy debates, defines the contours of governmental power, and frames the ethics of private ordering and market functioning in urban ecological market development.²⁰

Building upon such insights, food justice scholars have claimed that racial capitalist norms and neoliberal political ideals risk twisting urban food markets in Black urban ecologies into weapons of exploitation, expropriation, and era-

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15. See, e.g., Sheila R. Foster, *Collective Action and the Urban Commons*, 87 NOTRE DAME L. REV. 57 (2011); Sheila Foster & Christian Iaione, *The City as a Commons*, 34 YALE L. & POL'Y REV. 281, 302–06 (2016); Lisa T. Alexander, *Community in Property: Lessons from Tiny Homes Villages*, 104 MINN. L. REV. 385, 402 (2019); Lisa T. Alexander, *Occupying the Constitutional Right to Housing*, 94 NEB. L. REV. 245 (2015).
 16. Etienne C. Toussaint, *Dismantling the Master's House: Toward a Justice-Based Theory of Community Economic Development*, 53 U. MICH. J.L. REFORM 337, 361–62 (2019) (discussing the arguments of neoclassical economic theory).
 17. See CEDRIC ROBINSON, *BLACK MARXISM 2* (Univ. of N.C. Press 2000) (1983).
 18. *Id.*
 19. See, e.g., DAVID HARVEY, *REBEL CITIES* 5, 18–19 (2012) (arguing that urbanization has resulted in the absorption of capital surpluses by developers, while furthering the dispossession of urban residents of control over their city's development); Hita Unnikrishnan et al., *Contested Urban Commons: Mapping the Transition of a Lake to a Sports Stadium in Bangalore*, 10 INT'L J. COMMONS 265, 266–67 (2016) (arguing that the urbanization of cities in the developing world has resulted in the depletion of ecological resources that the community historically relied upon).
 20. Some scholars emphasize the role of economic interests in shaping the influence of neoliberal politics on urban spaces. See, e.g., GÉRARD DUMÉNIL & DOMINIQUE LÉVY, *CAPITAL RESURGENT: ROOTS OF THE NEOLIBERAL REVOLUTION* (2004). Others emphasize the role of sociopolitical institutions in shaping the influence of neoliberalism. See, e.g., JASON STAHL, *RIGHT MOVES: THE CONSERVATIVE THINK TANK IN AMERICAN POLITICAL CULTURE SINCE 1945* (2016). Still others emphasize the politico-legal dimensions of neoliberalism. See, e.g., TIMOTHY P. R. WEAVER, *BLAZING THE NEOLIBERAL TRAIL* (2015); Corinne Blalock, *Neoliberalism and the Crisis of Legal Theory*, 77 L. & CONTEMP. PROBLEMS 71, 83–84 (2014).

sure.²¹ Accordingly, they argue in favor of infusing culturally resonant farmer's markets, community gardens, and urban farms in Black urban enclaves to disrupt the power of the global corporate food system.²² As the COVID-19 pandemic continues to devastate Black communities that suffer from limited access to healthy and nutrient-rich food, the development of local food markets has emerged as a critical building block for reimagined urban spaces.²³ This Article builds upon and pushes further than current food justice and urban development discourse to draw more explicit links between neoliberal politics and the logic of racial capitalism in understanding contemporary Black urban ecologies, offering three contributions with broad implications.

First, this Article introduces the concept of *structural extermination*, a framework that describes discrete processes of socio-ecological and politico-economic systems change in Black urban geographies.²⁴ This theory draws insights from Erik Olin Wright's integrated class analysis framework (itself drawing upon both the Weberian and Marxist traditions) and Cedric Robinson's concept of racial capitalism,²⁵ and also builds upon the Author's prior work on the concept of "racial ritualization," which clarifies how white supremacist beliefs are ritualized in U.S. political economy in ways that degrade the

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21. See Alison Hope Alkon, *Food Justice and the Challenge to Neoliberalism*, 14 *GASTRONOMICA* 27 (2014); Eric Holt-Giménez & Annie Shattuck, *Food Crises, Food Regimes and Food Movements: Rumbblings of Reform or Tides of Transformation?*, 38 *J. PEASANT STUD.* 109, 116, 119 (2011); Meleiza Figueroa & Alison Hope Alkon, *Cooperative Social Practices, Self-Determination, and the Struggle for Food Justice in Oakland and Chicago*, in *NEW FOOD ACTIVISM* (Alison Alkon & Julie Guthman eds., 2017).
 22. See, e.g., Joshua Sbicca & Justin Sean Myers, *Food Justice Racial Projects: Fighting Racial Neoliberalism from the Bay to the Big Apple*, 3 *ENV'T SOCIO.* 30, 30 (2017); Miguel A. Altieri, *Agroecology, Small Farms, and Food Sovereignty*, 61 *MONTHLY REV.* 102 (2009); *CULTIVATING FOOD JUSTICE* (Alison Hope Alkon & Julian Agyeman eds., 2011); MICHAEL M. BELL, *FARMING FOR US ALL* (2004).
 23. See Sabine O'Hara & Etienne C. Toussaint, *Food Access in Crisis: Food Security and COVID-19*, 180 *ECOLOGICAL ECON.* 1, 1–2 (2021).
 24. See *infra* text accompanying note 29. Other scholars have described these challenges. This framework seeks to clarify these processes in a comprehensive framework. See, e.g., Horst et al., *supra* note 8, at 278; Brian Massey, *D.C.'s Urban Farms Wrestle with Gentrification and Displacement*, *CIV. EATS* (Feb. 27, 2017), <https://perma.cc/GBK9-LWRE>; Sara Safransky, *Greening the Urban Frontier: Race, Property, and Resettlement in Detroit*, 56 *GEOFORUM* 237, 238–40 (2014).
 25. I owe a debt of gratitude to Professor Athena D. Mutua, who helped me better identify the convergence of ideas and the noted scholars contained in this Article. Professor Mutua also pointed me toward the work of various ClassCrit scholars who are wrestling with these same concepts in similar ways, including herself. See generally, e.g., Athena D. Mutua, *ClassCrits Time? Building Institutions, Building Frameworks*, 1 *J.L. & POL. ECON.* 333 (2021) (chronicling the development of ClassCrits writing on class and law, and discussing how Erik Olin Wright's approach to class analysis and Cedric Robinson's theory of racial capitalism can benefit ClassCrits scholarship).

dignity of Black and minoritized people.²⁶ In the context of urban agriculture, the theory demonstrates how the creation of urban farms and local food markets that privilege the rhetoric of individualism and self-determination, while discounting the reality of domination and opportunity hoarding, will facilitate the exploitation of the poor, the expropriation of public and common property in poor neighborhoods, the erasure of the poor's stories of freedom struggle from collective memory, and eventually, the extermination of the poor from the urban landscape altogether.

Second, this Article describes how the theory of structural extermination is revealed by Washington, D.C.'s decades-long history of urban farming legislation, which has gained increased attention in the age of COVID-19.²⁷ Importantly, although beyond the scope of this Article, the developing concept of structural extermination has explanatory power outside of the urban agriculture context, such as in affordable housing law and policy debates that have also been amplified by the pandemic's economic impacts, triggering threats of eviction nationwide.²⁸ Third, and finally, this Article offers strategies to "decolonize"²⁹ Black urban ecologies at risk of structural extermination by elevating three principles of the social and solidarity economy described in the Author's justice-based theory of community economic development ("CED")—(1) social solidarity, (2) economic democracy, and (3) solidarity economy.³⁰

26. See generally Etienne C. Toussaint, *Of American Fragility: Public Rituals, Human Rights, and the End of Invisible Man*, 52 COLUM. HUM. RTS. L. REV. 826 (2021), <https://perma.cc/H4UB-KQE8> (describing how racial ritualization inhibits reciprocal recognition autonomy among subordinated populations, thereby offending dignity and degrading political equality).

27. See, e.g., Alexander Spearman, *6 Times as Deadly: COVID-19's Brutal Impact on Black People in D.C.*, ABC 7 WJLA (June 4, 2020), <https://perma.cc/3L65-HUW4>.

28. The Author intends to build upon the theory of structural extermination in future work. See, e.g., Toussaint, *supra* note 26, at 905 ("The surge of eviction filings across the country during the pandemic, notwithstanding a federal moratorium on foreclosures and evictions, forewarns that Black Americans will continue to experience high rates of homelessness." (citation omitted)).

29. See Hare, *supra* note 14, at 8 ("The real solution to the environmental crisis is the decolonization of the black race.").

30. These three principles serve as guideposts for local ecological placemaking and are clarified in a justice-based theory of community economic development advanced and more fully discussed by the Author in prior scholarship. See generally Toussaint, *supra* note 16, at 337. The justice-based theory is also in conversation with other theories of urban development that offer important insights. See, e.g., SHEILA FOSTER & CHRISTIAN IAONE, CO-CITIES: EMPOWERING EQUITABLE AND SELF-SUSTAINING COMMUNITIES THROUGH LAND AND RESOURCE STEWARDSHIP (forthcoming 2021) (arguing that collective stewardship of common property and co-governance of urban communities can sustain diverse political, social, and economic environments); SUSAN FAINSTEIN, THE JUST CITY (2006) (calling for a shift from neoliberal policies that favor economic growth at the expense of social policy to progressive policies that prioritize equitable development and citizen participation); DUNCAN

Part I of this Article articulates the foundational processes of structural extermination, a social theory of ecological systems change that operates across three dimensions in Black urban geographies: (1) *exploitation*, which links the spirit of American exceptionalism in urban development to a sustained hope in the meritocratic ideals of the so-called American Dream, notwithstanding the exploitative nature of racial capitalism; (2) *expropriation*, which relates the privatization of public goods in urban development to a weakening public welfare role of government that enables the expropriation of public and common property in marginalized communities; and (3) *erasure*, which clarifies how the delegation of public accountability in urban development erases historic and state-sanctioned discrimination from collective memory, both degrading the dignity of marginalized people and furthering gentrification.

To showcase structural extermination at work, Part II follows by exploring the history of urban farming legislation in Washington, D.C., highlighting valiant efforts taken by the District of Columbia Council to combat food insecurity and increase access to healthy and fresh produce in D.C.'s low-income (and predominantly Black and minoritized) neighborhoods. Next, Part III argues that the decisive shift in political discourse regarding Washington, D.C.'s urban farming program—from a community-oriented initiative for gardening and food donation to a market-centered program for land leasing and tax abatement—reflects all three elements of structural extermination, threatening urban agricultural development in the District and invading food justice discourse in America more generally.

Finally, Part IV calls for the democratization of ecological placemaking in Black urban geographies, a decolonial praxis that evokes the anti-capitalist ethic of the Author's justice-based theory of CED.³¹ Taken together, by calling into question the moral authority and political legitimacy of neoliberal market ordering in the age of COVID-19—one marred by increased food insecurity among Black and minoritized peoples—and by calling into question the non-profit industrial complex that too often hinders the economic democracy of the poor,³² this Article reveals the decolonization of ecological placemaking in Black urban geographies as a pathway toward a new vision of food justice.

MCLAREN & JULIAN AGYEMAN, *SHARING CITIES* (2015) (articulating a “sharing paradigm” that promotes trust and collaboration in the urban development to encourage civic engagement, political activism, and social solidarity).

31. I also draw inspiration from Huey P. Newton's dialectical materialist philosophy of “revolutionary intercommunalism,” which sought to overcome anti-Black racism by leveraging interdependent and cooperative mechanisms of human relation to combat the imperialistic and extractive dimensions of global capitalism. See John Narayan, *Huey P. Newton's Intercommunalism: An Unacknowledged Theory of Empire*, 36 *THEORY CULTURE & SOC'Y* 57, 66 (2017).
32. See John Moore, *Beyond the Non-Profit Industrial Complex*, TRUTHOUT (Oct. 13, 2018), <https://perma.cc/GJ3N-RLNU> (defining the nonprofit-industrial complex as “a set of symbiotic relationships that link political and financial technologies of state and owning-

I. STRUCTURAL EXTERMINATION: TOWARD A SOCIAL THEORY OF ECOLOGICAL SYSTEMS CHANGE

Urban agriculture imbued with racial capitalist norms and neoliberal politics—e.g., “neutral” and “colorblind” policies that ignore historic state-sponsored racial discrimination, limit governmental market interventions, and promote individualistic competition and private ownership—will fail to mitigate the structural oppression that drives food insecurity in Black urban geographies. Rather, as this Part argues, these forces distort urban agriculture into a weapon of exploitation, expropriation, and erasure, each foundational elements of a social theory of ecological systems change this Author calls *structural extermination*. In this Part, the Author builds the theory of structural extermination as a conceptual framework to clarify the dynamic interactions, interrelations, and interdependencies between the residents of Black urban ecologies and the socio-ecological and politico-economic processes that construct and govern their surrounding environments.³³

First, Section A describes the process of exploitation, which links the spirit of American exceptionalism in urban development to a sustained hope in the meritocratic ideals of the American Dream, notwithstanding the exploitative nature of racial capitalism. Then, Section B describes the process of expropriation, which relates the privatization of public good in urban development to a weakening public welfare role of government that enables the expropriation of public and common property in marginalized communities. Finally, Section C describes the process of erasure, which clarifies how the delegation of public accountability in urban development erases historic and state-sanctioned discrimination from collective memory, both degrading the dignity of marginalized people and furthering gentrification. When these modalities work in concert within Black urban socio-ecological and politico-economic systems, they not only perpetuate the narratives and logic of anti-Black violence that find roots in American colonialism and U.S. racial capitalism;³⁴ in the age of pandemics, they exterminate the poor from the city.

class control with surveillance over public political ideology, including and especially emergent progressive and leftist social movements”).

33. Socio-ecological models help to situate human development within the context of its immediate physical and social systems; interacting systems within its surrounding environment; broader social, political, and economic conditions that influence the structure of its systems; and the societal beliefs and attitudes that influence the shape of its social, political, and economic conditions. See generally URIE BRONFENBRENNER, *THE ECOLOGY OF HUMAN DEVELOPMENT* (1979).
34. See W. E. Burghardt Du Bois, *The African Roots of War*, *ATL. MONTHLY* (May 1915), <https://perma.cc/S6FS-7UML> (“Lying treaties, rivers of rum, murder, assassination, mutilation, rape, and torture have marked the progress of the Englishman, German, Frenchman, and Belgian on the dark continent. The only way in which the world has been able to endure the horrible tales is by deliberately stopping its ears and changing the subject of the conversation as the devilry went on. . . [From the slave trade,] on which the British Empire and the

A. Exploitation

The intersection of racial capitalism and neoliberalism in food justice discourse and urban agriculture development promotes the *exploitation* of Black and minoritized populations in three discrete ways: (1) neoliberal politics amplify an ethic of American exceptionalism in political discourse; (2) governments exploit the rhetoric of American exceptionalism to justify the creation of competitive economic markets in urban geographies divided across racial and class lines; and (3) newly created neoliberal urban agricultural markets exploit extraordinary success stories to conceal the structural disadvantages of ordinary low-income urban residents, enabling well-resourced entrepreneurs to exploit market opportunities in disinvested communities. The multi-staged process of exploitation furthers *domination* by enabling an elite class of urban farming entrepreneurs to “control the laboring effort of [others] for [their] own advantage,”³⁵ granting them power to both manipulate political rhetoric to justify market support and maintain primary control over access to newly created food resources in food-insecure landscapes.

First, neoliberal politics amplifies an ethic of American exceptionalism. American exceptionalism is a capacious term rooted in the evolution of Western cultural, political, and intellectual history since the American Revolution.³⁶ In the context of U.S. political economy, one might define it simply as a patriotic notion that American politics achieves a fundamentally meritocratic social and economic order by grounding law and public policy in America’s unique vision of republicanism, individualism, and laissez-faire economics.³⁷ The vision of the United States as the “shining city upon a hill” among nations,³⁸ vaunted by its ideals of liberty and equality, sustains the perceived fairness of competi-

American were largely built . . . ‘Color’ became the world’s thought synonymous with inferiority, ‘Negro’ lost its capitalization, and Africa was another name for bestiality and barbarism. Thus the world began to invest in color prejudice.”)

35. ERIK OLIN WRIGHT, UNDERSTANDING CLASS 9 (2015).

36. See Eric Foner, *What is American Exceptionalism?*, ETHICS & INT’L AFFS. (Aug. 8, 2013), <https://perma.cc/6RV9-SFG7>; see generally THOMAS PAINE, COMMON SENSE 1 (1776) (arguing moral and political reasons as a justification for the American colonials to declare independence against England by connecting independence to the unique American political identity that existed in the colonies at the time of the American Revolution; “The cause of America is in a great measure the cause of all mankind.”); Katelyn C. Jones, *Deconstructing American Exceptionalism*, in EXPLORING THE SOCIAL AND POLITICAL ECONOMY OF ALEXIS DE TOCQUEVILLE 271, 271–72 (Peter J. Boettke & Adam Martin eds., 2020).

37. See generally DAVID HARVEY, A BRIEF HISTORY OF NEOLIBERALISM 7 (2005) (“The assumption that individual freedoms are guaranteed by freedom of the market and of trade is a cardinal feature of neoliberal thinking, and it has long dominated the US stance towards the rest of the world.”); Toussaint, *supra* note 16, at 381–87.

38. *Ronald Reagan and The Shining City Upon a Hill*, OUR LOST FOUNDING (Jan. 11, 2020), <https://perma.cc/5U7S-LF4J>; see also John F. Kennedy, *Address of President-Elect John F. Kennedy Delivered to A Joint Convention of the General Court of the Commonwealth of Massa-*

tive economic markets that foster the individual and private use of property with limited government intervention.

Second, in the context of food justice discourse in Black urban geographies, the amplification of American exceptionalism as a concept is itself exploited to justify the creation of neoliberal urban agriculture within geographic spaces divided across racial and class lines. For example, urban farming government programs often establish opportunities for community members to participate in newly created markets by competing for limited slots to access farmland without additional governmental support. Scholars have long argued that the politicized rhetoric of self-determination belies the structural barriers that hinder social and economic progress for Black and minoritized citizens in neglected communities.³⁹ In 1889, in *The Philadelphia Negro*, W.E.B. Du Bois argued that Black people in Philadelphia were systematically excluded from economic opportunity in ways that departed from mere class exploitation.⁴⁰ Not much has changed in over a century, as William Darity, Jr. reminds: “Studying hard and working hard clearly is not enough for black families to make up for their marginalized financial position.”⁴¹

By embracing the rhetoric of race neutrality,⁴² neoliberal urban agriculture avoids wrestling with the history of institutional racism that underscores the stark racial disparities in Black urban ecologies. While many urban farms are marketed as open to all, they often rely upon nonprofit organizations to advocate for marginalized community residents who need help. For example, Acta Non Verba: Youth Urban Farm Project is a nonprofit organization that manages an urban farm in West Oakland, California, with a goal of addressing food insecurity in the area and empowering underserved residents and youth with education about food production.⁴³ Yet, farm manager Aaron De La Cerda

chusetts, January 9, 1961, JOHN F. KENNEDY PRESIDENTIAL LIBR. AND MUSEUM, <https://perma.cc/USG5-7NGB>.

39. See, e.g., LISA SUN-HEE PARK, ENTITLED TO NOTHING: THE STRUGGLE FOR IMMIGRANT HEALTH CARE IN THE AGE OF WELFARE REFORM 9 (2011) (“[P]overty is individualized as personal moral failings so that the solution centers on disciplining non-normative bodies to perform in ‘responsible’ and ‘entrepreneurial’ ways.”).

40. See W.E.B. DU BOIS, THE PHILADELPHIA NEGRO 229–31 (Henry Louis Gates, Jr. ed., 2007).

41. WILLIAM DARITY JR. ET AL., SAMUEL DUBOIS COOK CTR. ON SOC. EQUITY & INSIGHT CTR. FOR CMTY. ECON. DEV., WHAT WE GET WRONG ABOUT CLOSING THE RACIAL WEALTH GAP 8 (2018), <https://perma.cc/YC5Y-G86C>.

42. See Samuel R. Bagenstos, *On Class-Not-Race*, in A NATION OF WIDENING OPPORTUNITY 105 (Ellen D. Katz & Samuel R. Bagenstos eds., 2015) (discussing the arguments of “class-not-race” advocates and highlighting key problems in the struggle to address issues of social and economic justice).

43. *Food Access, Gentrification, and Decolonization: An Urban Farmer’s Words on the Racial Tension of Our Food Systems*, CONSCIOUS KITCHEN (July 30, 2020), <https://perma.cc/ZPM7-PVQN>.

laments that gentrification has threatened the farm's mission, not only because gentrification has changed the area's demographics, but also because gentrifiers who seek out urban farming resources impair the farm's central mission to focus solely on underserved families. While nonprofits like Acta Non Verba are important advocates for social justice who seemingly "embody the best of America,"⁴⁴ the emphasis on nonprofit programming as the predominant solution to poverty in the United States serves only to normalize the extreme injustice of a billionaire class that avoids public scrutiny through periodic charitable donations.⁴⁵

Thus, the struggles of undervalued and under-resourced nonprofit urban farms only furthers the belief that the existence of food apartheid neighborhoods in predominantly Black and minoritized communities is due *not* to governmental neglect and recklessness, but instead to a toxic "subculture" of poverty that demands greater pipelines for charity.⁴⁶ One is led to believe that low-income neighborhoods have the right opportunities, but simply the wrong people. As a result, to address food insecurity, urban development policies must attract the "right" people into undervalued spaces with market-based incentives (e.g., tax credits) that serve their individual interests, providing opportunities for such private benefits to "trickle down" to the poor.⁴⁷ In other words, the rising tide of one urban farm, it is believed, can lift the boats of food insecurity in neighboring food apartheid areas if only the right people choose to get involved. However, even well-intentioned nonprofit urban farms in Black urban neighborhoods can backfire when Black residents believe they are not for them, and instead are merely a sign that they are losing their community.⁴⁸

Third, neoliberal urban agriculture exploits the success stories of well-intentioned organizations like Acta Non Verba in West Oakland to conceal capitalism's reliance on racialism to justify ordinary and widespread economic inequality in Black urban ecologies. For example, Josh Singer, Executive Director and founder of Wangari Gardens in Washington, D.C., confessed that the community garden built in a rapidly gentrifying neighborhood is increasing

44. *What is a "Nonprofit"?*, NAT'L COUNCIL OF NONPROFITS, <https://perma.cc/9434-Y9Y8>.

45. See, e.g., Theodore Schleifer, *Why Jeff Bezos's \$100 Million Donation to Food Banks Won't Satisfy His Critics*, VOX (Apr. 2, 2020), <https://perma.cc/D7JS-PMUU>. See generally ROBERT B. REICH, *THE SYSTEM: WHO RIGGED IT, HOW WE FIX IT* (2020) (describing the contradictions of Fortune 500 corporations advocating for corporate social responsibility but paying millions of dollars in compensation to their CEOs every year).

46. See Oscar Lewis, *Culture of Poverty*, in *ON UNDERSTANDING POVERTY* 187, 199 (Daniel P. Moynihan ed., 1969) ("The subculture [of the poor] develops mechanisms that tend to perpetuate it, especially because of what happens to the worldview, aspirations, and character of the children who grow up in it").

47. Trickle-down economics has also influenced policies addressing housing inequality. See generally Anthony E. Cook, *The Moynihan Report and the Neo-Conservative Backlash to the Civil Rights Movement*, 8 GEO. J.L. & MOD. CRIT. RACE PERSPS. 1 (2016).

48. Massey, *supra* note 24.

food access while also pushing poor people out, opening the door for a new entrepreneurial class to exploit market opportunities in formerly disinvested Black geographies.⁴⁹ To be sure, community gardening—distinct from urban agriculture—can be an important way to provide public access to land that benefits community education about nutrition and beneficial eating habits.

Nevertheless, many emerging urban farms and community gardens do not grant control over the “means of production” to urban residents, or “power” as described by Erik Olin Wright,⁵⁰ whether individually or collectively owned, and more commonly operate such ventures as nonprofits. This phenomenon captures the meaning of the term *racial capitalism* advanced by Cedric Robinson, an effort to clarify the logic of modern capitalism and its historic commitment to racialism.⁵¹ Modern political discourse on economic markets typically relies upon neoclassical economic assumptions about market behavior and the human condition.⁵² As a result, law and public policy typically emphasize market orderings where “wealth maximization, transaction costs, and externalities” serve as “linking theories that connect analysis of legal rules and institutions with the general equilibrium model of neoclassical economics.”⁵³ These rules demand a very specific, narrowly defined rationality that eliminates all other principles and measures of human behavior, especially collective ones.⁵⁴ Human conflicts (e.g., racial discrimination) become “market failures” and human harms (e.g., air pollution) become “market externalities,” both comprising “inefficiencies” that disrupt market equilibrium and, resultantly, demand modifications in cost accounting (e.g., via cost-benefit analysis) or market pricing (e.g., via entitlement allocations).⁵⁵ However, the neoclassical framing of economic markets as neutral spaces peppered with inefficiencies elides the structural subordination of racialized populations in its very architecture.

49. *Id.*

50. WRIGHT, *supra* note 35, at 7–11.

51. *See generally* ROBINSON, *supra* note 17, at 2 (“[T]he development, organization, and expansion of capitalist society pursued essentially racial directions . . . [I]t could be expected that racialism would inevitably permeate the social structures emergent from capitalism.”).

52. *See* Anup Dash, *Toward an Epistemological Foundation for Social and Solidarity Economy*, UNITED NATIONS RSCH. INST. SOC. DEV. 3–4 (2014), <https://perma.cc/C64W-RHNNH> (describing the neoclassical economic system as “[t]he intellectual and ideological home of the capitalist economic system . . . the belief in the universality of rational choice theory; the efficient market hypothesis; the instrumentally rational, utility-maximizing, ‘separative self’ underlying the concept of the ‘*homo economicus*’; the assumption of a ‘separate sphere’ of economic activity, and that markets and hierarchies are alternative modes of coordination.” (citations omitted)); Charles R.P. Pouncy, *The Rational Rogue: Neoclassical Economic Ideology in the Regulation of the Financial Professional*, 26 VT. L. REV. 263, 273–74 (2002).

53. Jedediah Britton-Purdy et al., *Building a Law-and-Political-Economy Framework: Beyond the Twentieth Century Synthesis*, 129 YALE L.J. 1784, 1800 (2020).

54. Sabine U. O’Hara, *Valuing Socio-Diversity*, 22 INT’L J. SOC. ECON. 31, 31–49 (1995).

55. Britton-Purdy et al., *supra* note 54, at 1805–06.

To be sure, some argue that the fundamental root of America's social and economic inequities is not the structure of its political economy (or its urban agriculture models), but simply the legacy of white supremacy that resides in the hearts and minds of a few bad actors.⁵⁶ Yet, as Charisse Burden-Stelly argues, "racial oppression is sutured to capitalist exploitation and structures every aspect of the lives of Black Americans."⁵⁷ Cedric Robinson's articulation of racial capitalism rejects the notion of a neutral economic system altogether, and instead suggests that capitalism, properly conceived, is a system "dependent on slavery, violence, imperialism, and genocide."⁵⁸ According to Robinson, modern capitalism in the U.S. context was not a disavowal of the discriminatory feudalism of Europe that thrived prior to America's industrial revolution.⁵⁹ Instead, modern U.S. capitalism was an outgrowth of the racialism that already pervaded Western feudal society.⁶⁰ Thus, despite the progress of American democ-

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56. Despite Isabel Wilkerson's proposition in her acclaimed book, *Caste: The Origins of Our Discontents*, that our modern travails are rooted fundamentally in a lack of empathy and a hoarding of privilege among an upper white "caste"—the elite in modern U.S. political economy defined by "a fixed and embedded ranking of human value that sets the presumed supremacy of one group against the presumed inferiority of other groups on the basis of ancestry and often immutable traits"—a superficial recognition of the plight of the "subordinate caste" will not resolve the labor exploitation that sits at the root of U.S. socio-economic inequality. Compare ISABEL WILKERSON, *CASTE: THE ORIGINS OF OUR DISCONTENTS* 17 (2020), with Charisse Burden-Stelly, *Caste Does Not Explain Race*, BOS. REV. (Dec. 15, 2020), <https://perma.cc/WX7D-G9G4> ("The rise of the capitalist global order occurred contemporaneously with racial ordering in the United States, with narrations of racism shifting alongside changes in the political economy.").
57. Burden-Stelly, *supra* note 56. Such insights resonate with numerous scholars of the Black radical tradition. See generally, Du Bois, *supra* note 34; Louise Thompson Patterson, *Toward a Brighter Dawn*, VIEWPOINT MAG. (Oct. 31, 2015), <https://perma.cc/DM9E-4XE8>; WALTER RODNEY, *HOW EUROPE UNDERDEVELOPED AFRICA* (1972); MANNING MARABLE, *HOW CAPITALISM UNDERDEVELOPED BLACK AMERICA* (1983); ROBINSON, *supra* note 17; GERALD HORNE, *THE APOCALYPSE OF SETTLER COLONIALISM: THE ROOTS OF SLAVERY, WHITE SUPREMACY, AND CAPITALISM IN 17TH CENTURY NORTH AMERICA AND THE CARIBBEAN* (2018); GERALD HORNE, *THE DAWNING OF THE APOCALYPSE: THE ROOTS OF SLAVERY, WHITE SUPREMACY, SETTLER COLONIALISM, AND CAPITALISM IN THE LONG SIXTEENTH CENTURY* (2020).
58. Robin D.G. Kelley, *Foreword* to ROBINSON, *supra* note 17, at xiii; ROBINSON, *supra* note 17, at 27 ("Race became largely the rationalization for the domination, exploitation, and/or extermination of non-'Europeans' (including Slavs and Jews).").
59. ROBINSON, *supra* note 17, at 10 ("Indeed, capitalism was less a catastrophic revolution (negation) of feudalist social orders than the extension of these social relations into the larger tapestry of the modern world's political and economic relations.").
60. See *id.* at 28 ("What concerns us is that we understand that racialism and its permutations persisted, rooted not in a particular era but in the civilization itself As an enduring principle of European social order, the effects of racialism were bound to appear in the social expression of every strata of every European society no matter the structures upon which they were formed. None was immune."); see also Robin D.G. Kelly, *What Did Cedric Robinson Mean by Racial Capitalism*, BOS. REV. (Jan. 12, 2017), <https://perma.cc/LRV6-DEUV>. On

racy in working to overcome the racial sins of its past, capitalism in America requires a racialized other to justify the morality of wealth maximization for an elite class in competitive marketplaces, and to blunt the urgency of class-based alliances,⁶¹ notwithstanding gross inequities in economic distribution across both class and racial lines.⁶²

The prioritization of economic efficiency at the expense of racial equity suggests an economic value to racialism in capitalist markets. Accordingly, the exploitative design and construction of neoliberal urban agriculture that position the food-insecure to compete for access to limited farmland and healthy food to meet their food security needs, although odd, makes sense in context. Racial capitalist marketplaces must manipulate the political rhetoric of self-determination, justified by exceptional success stories, to ensure that the masses ignore the structural disadvantages borne by Black and minoritized people, and to ultimately enable a privileged few to exploit market opportunities in disinvested Black geographies. Unfortunately, as history reveals time and time again, such private benefits habitually come at the expense of the continued and widespread marginality of the urban poor.

B. Expropriation

The intersection of racial capitalism and neoliberalism in food justice discourse and urban agricultural development also facilitates the *expropriation* of property—both real and intangible—in Black urban ecologies. Expropriation occurs in two ways: (1) neoliberal politics perpetuate laws and public policies in Black urban ecologies that privatize public institutions, public services, and

the role of racialism in the colonization of Africa, see RODNEY, *supra* note 57 (“It is widely accepted that Africa was colonized because of its weakness. The concept of weakness should be understood to embrace military weakness and inadequate economic capacity, as well as certain political weaknesses: namely the incompleteness of the establishment of nation-states, which left the continent divided, and the low level of consciousness concerning the world at large, which had already been transformed into a single system by the expansion of capitalist relations.”).

61. See generally W.E.B. DU BOIS, BLACK RECONSTRUCTION IN AMERICA (1935) (describing how racism was used to disrupt the advancement of formerly enslaved Black Americans during the Reconstruction era and disrupt the prospect of class-based alliances among the poor); Jodi Melamed, *Racial Capitalism*, 1 CRITICAL ETHNIC STUD. 76 (2015).
62. Palma Joy Strand & Nicholas A. Mirkay, *Racialized Tax Inequity: Wealth, Racism, and the U.S. System of Taxation*, 15 Nw. J.L. & Soc. POL’Y 265, 265 (2020) (describing “the connection between wealth inequality and the increasing structural racism in the U.S. tax system since the 1980s . . . which has been fueled by racial animus and anxiety.”). Similarly, Sabine O’Hara argues that the success of capitalist markets is contingent upon a narrowly defined logic that excludes all cultural diversity and is especially hostile toward communal, as opposed to individualistic, notions of success; hostile toward communal objectives; hostile toward communal ownership; and hostile toward nonlinear notions of time. See O’Hara, *supra* note 54, at 31.

public spaces for the so-called common good, which collectively impairs the ability of low-income residents to participate in local placemaking; and (2) neoliberal politics inspire laws and policies that enable the transfer of both public and “common” property in disinvested urban neighborhoods to the private ownership of a privileged entrepreneurial class. The increased privatization of community resources facilitates opportunity hoarding, or “social enclosure,” where “the economic advantages people get from being in a privileged class position are causally connected to the disadvantages of people excluded from those class positions.”⁶³

First, the process of expropriation in Black urban ecologies begins when local governments privatize public institutions, public services, and public spaces in furtherance of the so-called common good, each undermining the fundamental public welfare role of government. For example, local governments are increasingly turning toward social impact investing as a strategy to address environmental degradation in disinvested urban spaces. In 2016, Washington, D.C., launched the nation’s first environmental impact bond (“EIB”), leveraging up-front capital from Goldman Sachs Urban Investment Group and Calvert Impact Capital to upgrade D.C.’s outdated raw sewage and stormwater system.⁶⁴ In 2018, Mayor Keisha Lance Bottoms announced that Atlanta’s Department of Watershed Management would use the EIB model to finance green infrastructure to address local flooding.⁶⁵ These examples highlight how the privatization of environmental remediation in urban spaces is increasingly promoted as an economically efficient way to shift investment risks to the private sector. Such a shift presumably reduces public spending on risky social programs that bring uncertain public costs and unproven public benefits to the city, both traditionally borne by taxpayers.

Before explaining how privatization enables expropriation in Black urban ecologies, it is important to clarify how commonplace assumptions about the investment “risks” of neglected urban spaces are influenced by racist views of Black urban geographies. Urban scholars point toward Neil Smith’s work on “uneven development,” which clarified an “equalization-differentiation” dialectic, to explain why capital both seeks growth opportunities in places where there is a rent gap (the process of equalization), and resists opportunities in places where there are threats to growth (the process of differentiation).⁶⁶

63. WRIGHT, *supra* note 35, at 6–8.

64. See generally Etienne C. Toussaint, *Green Capitalism: The Case of the Environmental Impact Bond*, in INVESTING FOR SOCIAL & ECONOMIC IMPACT (Dorcas R. Gilmore et al. eds., forthcoming) (describing EIB’s full funding from Goldman Sachs and the Calvert Foundation and its promises regarding addressing CSO problems in Washington, D.C.).

65. Chris Lewis, *Atlanta Environmental Impact Bond Breaks into Public Market*, CONSERVATION FIN. NETWORK (June 24, 2019), <https://perma.cc/4FEN-9SLQ>.

66. NEIL SMITH, UNEVEN DEVELOPMENT (2008); see also RUTH WILSON GILMORE, GOLDEN GULAG: PRISONS, SURPLUS, CRISIS, AND OPPOSITION IN GLOBALIZING CALIFORNIA

Others point toward the work of Samir Amin and Andre Gunder Frank on “underdevelopment,”⁶⁷ which highlights the way racialism frames the economic, political, and social relations between the urban periphery and the urban core. Historian Manning Marable argued that the development-underdevelopment dialectic was a manifestation of the U.S. political economy’s systematic exploitation of Black communities, leading Marable to define the United States as a “racist/capitalist state.”⁶⁸ Such scholars reveal in different ways how racialism complicates calculations of risk, value, and *devalue*, in Black urban geographies.⁶⁹ As John Logan and Harvey Molotch clarified, there has long been a tension between the “exchange value” of disinvested urban markets treated as commodities, and their “use value,” which is reflected by the resource needs of their residents.⁷⁰ Thus, white-supremacist ideology has historically set the stage for the expropriation of surplus value in Black urban ecologies.⁷¹

As a result, while private investors are granted access to Black urban ecologies to “fix” longstanding problems with green infrastructure development, the *use value* of such spaces for their low-income residents—which, scholars argue, should also encompass their option value and intrinsic value⁷²—is neglected in conversations on placemaking. Property law scholars have argued that city-dwelling residents should be granted property rights based upon a more capacious view of common property that, alongside natural capital, also embraces their “social capital” as a common resource to be held in trust by local govern-

(2007); Laura Pulido, *Rethinking Environmental Racism: White Privilege and Urban Development in Southern California*, 90 ANNALS ASS’N AM. GEOGRAPHERS 12 (2000).

67. See SAMIR AMIN, *UNEQUAL DEVELOPMENT: AN ESSAY ON THE SOCIAL FORMATIONS OF PERIPHERAL CAPITALISM* (1979); Andre Gunder Frank, *The Development of Underdevelopment*, 18 MONTHLY REV. 17, 17 (1966).
68. MARABLE, *supra* note 57, at 10.
69. See, e.g., JESSICA TROUNSTINE, *SEGREGATION BY DESIGN* (2018); Elizabeth Korver-Glenn, *Compounding Inequalities: How Racial Stereotypes and Discrimination Accumulate Across Stages of Housing Exchange*, 83 AM. SOCIO. REV. 627 (2018).
70. These disconnects in value are well documented and point to the narrow definition of value as “exchange value” based on individualized notions of usefulness, defined by the individual interest rationality of neoclassical economics. For a critical review, see, for example, JOHN GOWDY & SABINE U. O’HARA, *ECONOMIC THEORY FOR ENVIRONMENTALISTS* (1996); THOMAS S. KAKOVITCH & SABINE O’HARA, *PHYSICS AND THE NEW ECONOMY* (2014); see also JOHN R. LOGAN & HENRY MOLOTCH, *URBAN FORTUNES* 2 (1987) (“The pursuit of exchange values in the city does not necessarily result in the maximization of use values for others.”); Harvey Molotch, *The City as a Growth Machine: Toward a Political Economy of Place*, 8 AM. J. SOCIO. 309, 309 (1976).
71. See MARABLE, *supra* note 57, at 7.
72. Sabine U. O’Hara, *Economics, Ethics and Sustainability: Redefining Connections*, 25 INT’L J. SOC. ECON. 143, 151 (1998) (analyzing the relationship between economic decisions and their effects on sustainability, wealth creation, and welfare, O’Hara asserts a “detached decision maker guided by individual interest and a detached individually based concept of agency . . . justifies not only human control to meet human satisfaction but judges as irrational and inferior those that do not meet the standards [of the detached decision maker]”).

ment.⁷³ Social capital is crucial in low-income Black communities where a lack of generational wealth often precludes private property ownership and substantive engagement in community economic development, rendering sociocultural ties and relational networks as the primary means to establish connections to place and experience a “gain” in the community’s use value. Local governments do not customarily value the social capital of their constituents because the law fails to provide “a conceptual structure or language in which to assess the interests and rights of nonproperty, non-‘commons’ owners’ ‘rights’ to the city.”⁷⁴ However, the absence of such a property right means that residents of Black urban ecologies with meaningful social capital are not typically consulted as local experts during the development of environmental remediation projects or agricultural markets. With no means to challenge uses of public land and common property that harm the public interest, many residents of Black urban ecologies are robbed of a chance to shape local placemaking: their democratic participation is expropriated.

To be sure, some might argue that reducing government spending through increased reliance on private investments will benefit local budgets. If local governments do not have to spend public funds to repair water systems or build urban farms, for example, such money can be spent on other urban problems like public education or public transportation. However, the privatization of public service delivery can also reduce public welfare if private stakeholders avoid “risky” investments or “risky” public service delivery models that demand significant short-term costs, especially when the calculation of such costs are tainted by racial biases, racial assumptions, and racial stereotypes.⁷⁵ For example, the construction of a hydroponic urban farm managed by an established urban farmer may be a safer investment than constructing an urban farm managed cooperatively by low-income residents, yet the latter may yield better long-term results for community empowerment, especially when it amplifies existing social capital. Thus, the impulse to glorify economic efficiency may come at the expense of social equity due to conscious (and unconscious) racism in the perceived exchange values of Black urban ecologies that neglect their use value for marginalized citizens.⁷⁶

73. Sheila Foster, *The City as an Ecological Space: Social Capital and Urban Land Use*, 82 NOTRE DAME L. REV. 527, 533–34 (2013).

74. *Id.* at 571; see also Abraham Bell & Gideon Parchomovsky, *Of Property and Antiproperty*, 102 MICH. L. REV. 1, 3 (2003) (arguing for “a new private property regime capable of providing optimal preservation incentives to both market participants and political representatives”); Michael A. Heller, *The Dynamic Analytics of Property Law*, 2 THEORETICAL INQUIRIES L. 79, 80 (2001).

75. Etienne C. Toussaint, *The New Gospel of Wealth: On Social Impact Bonds and the Privatization of Public Good*, 56 HOUS. L. REV. 153, 208 (2018).

76. Sara Rimer, *Why Money Flows Uphill*, THE BRINK (Dec. 15, 2015), <https://perma.cc/R2VY-YXPB>; Will Kenton, *Equity-Efficiency Tradeoff*, INVESTOPEDIA (Jan. 26, 2021), <https://perma.cc/3U27-BJ2H> (noting conflicts that may arise when efficiency is favored over equity).

The process of expropriation in Black urban ecologies continues when, secondly, local governments transfer public and “common” property in disinvested Black and minoritized neighborhoods to private ownership under the guise of furthering the common good. For example, Chicago’s Large Lots Program enables existing property owners to purchase vacant residential lots on their block for \$1 each.⁷⁷ While the program promises to develop vacant land in neglected areas of the city, it does not specifically target the needs of low-income nonproperty owners who may be longstanding residents with valuable social capital. Although free market approaches to resolving historic governmental neglect might be justifiable on consequentialist ethical grounds,⁷⁸ a utilitarian approach to increasing social welfare can nonetheless result in the establishment of unethical markets with noxious distributional effects.⁷⁹ In other words, a rising tide may lift some boats, but it might also sink others. In the context of Black urban ecologies—especially in growing cities like Chicago and Detroit and Baltimore—what happens when urban farms are located within food insecure neighborhoods where land is cheap, vacant land is abundant, and the need for healthy and nutrient-rich produce is great?

If urban agriculture in Black urban ecologies does not consider whether racial discrimination might hinder the participation of Black and minoritized residents—whether, for example, Black and minoritized residents will struggle to obtain affordable business loans or the necessary business insurance to launch farming ventures—then vacant land will merely become a source of profit for those with means to exploit market opportunities, and a site for the expropriation of common property. More than allowing savvy entrepreneurs to “profit from the pain” of marginalized citizens,⁸⁰ such profiteering undermines the autonomy of those who become means within the private order and cannot exercise agency to escape the exploitative dimensions of the market. If market participants lack power to make decisions regarding their participation in the

in policymaking, such as less-successful businesses and entrepreneurs earning less income and opportunity, resulting in decreased social mobility and increased wealth gaps). Mariana Mazzucato points to the false dichotomy between laissez-faire markets and public intervention. She argues that the unchecked power of free markets does not result in value creation, but instead in value extraction. *See generally*, MARIANA MAZZUCATO, *THE VALUE OF EVERYTHING* (2018).

77. *See* Patrick Barry, *Website Helps Residents Buy \$1 Vacant Lots*, LISC CHI. (Apr. 4, 2014), <https://perma.cc/DXQ4-RUZW>.

78. *See* Toussaint, *supra* note 75, at 182 (“[T]he means of social welfare delivery are justified by the measurable benefits to individuals and society in terms of social welfare or utility.”).

79. *See* DEBRA SATZ, *WHY SOME THINGS SHOULD NOT BE FOR SALE: THE MORAL LIMITS OF MARKETS* 92–98 (2010).

80. Cary Martin Shelby, *Profiting From Our Pain: Privileged Access to Social Impact Investing*, 109 CAL. L. REV. 101, 103 (2020) (“The commodification of marginalization has taken many forms due to the increasing reliance on private investment as a response to an assortment of injustices.”).

markets that contain them (e.g., a slave market), the moral legitimacy of the marketplace might arguably be called into question.⁸¹ In the words of Karl Polanyi, neoliberal urban agriculture that allows the wealthy to prey upon the precarity of Black urban residents offers “freedom for those whose income, leisure and security need no enhancing, and a mere pittance of liberty for the people, who may in vain attempt to make use of their democratic rights to gain shelter from the power of the owners of property.”⁸²

The expropriation of common property in Black urban ecologies occurs because of the way law contextualizes the “commons” in urban landscapes.⁸³ Instead of vacant public land in poor Black neighborhoods being “owned” by everyone as a public commons, vacant land near Black residents and “exogenous ‘Others’”⁸⁴ is deemed uncivilized land and, resultantly, as *terra nullius*, or “land belonging to no one.”⁸⁵ This classification seemingly justifies the settlement and development of vacant land by entrepreneurs who promise to infuse capital into the city. In urban spaces, common resources—such as waterways and beach fronts—are traditionally managed by local governments who hold such resources in “trust” for the benefit of the general public and regulate access to such resources under principles of rational choice and risk pooling.⁸⁶ However, instead of urban farms or community gardens in poor Black neighborhoods being placed into the public trust as a common resource whereby residents can advocate for the public interest, communal ties to vacant land are ignored altogether in neoliberal urban agriculture because “social” ties to land are not recognized under property law.

Building upon the work of Elinor Ostrom and other urban development scholars,⁸⁷ Sheila Foster’s *Co-City Framework* helps to clarify why the transfer

81. See, e.g., Julia Morley, *The Ethical Status of Social Impact Bonds*, LONDON SCH. OF ECON. 12–13, 18–19 (2017) (unpublished manuscript), <https://perma.cc/5QDN-98T6> (“Markets characterized by ‘very weak or highly asymmetric knowledge and agency’ of participants are likely to be noxious,” and “[a] crucial piece of information that may not be made clear to the individuals who are intervened upon by the SIB is that they are effectively a profit-centre for private investors.” (citations omitted)).

82. KARL POLANYI, *THE GREAT TRANSFORMATION* 265 (1944).

83. The notion of a “commons” in the urban landscape has often been conceptualized as “a highly privatized” space with “an aggregation of individual property rights and land ownership subject to market exchange.” Foster, *supra* note 73, at 533.

84. LORENZO VERACINI, *THE SETTLER COLONIAL PRESENT* 3 (2015).

85. Cf. *Terra Nullius*, GUSTAVUS ADOLPHUS COL., <https://perma.cc/2SC5-4Z9H>; New Jersey v. New York, 523 U.S. 767, 787 (1998) (“Since the 19th century the most generous settled view has been that discovery accompanied by symbolic acts give no more than ‘an inchoate title, an option, as against other states, to consolidate the first steps by proceeding to effective occupation within a reasonable time.’”).

86. See Nicholas Blomley, *Enclosure, Common Right and the Property of the Poor*, 17 SOC. LEG. STUD. 311, 318 (2008).

87. See FOSTER & IAIONE, *supra* note 30, at 41–73 (leveraging Ostrom’s studies regarding the “commons” concept to differentiate the urban commons premise, and to explain the design

of common property in Black urban ecologies into private hands should be viewed as a kind of expropriation.⁸⁸ In the context of urban agriculture, more than merely a right to challenge usages of land that thwart the public interest, a more robust conception of common property demands a right *not* to be excluded from urban agriculture development altogether, especially when such exclusion furthers domination.⁸⁹ Foster argues for cities to shift away from a dependency on individualistic property ownership and instead ground common property rights in the concept of “land stewardship,” or “one’s (or a collective’s) ability to sustainably use land to provide goods and services that support adjacent communities.”⁹⁰ Arising out of the “collective action and active participation” of all residents in stewarding land, Foster and Iaione’s approach integrates a *positive* conception of the liberty interests served by property law with respect to the urban commons, or a right to be free from domination that degrades one’s sense of democratic participation in local placemaking.⁹¹ The concept of land stewardship suggests, in this Author’s view, that the counterweight to *terra nullius* should not be the leasing of publicly owned land to a few, but urban agriculture models that trend toward collective ownership and co-governance of land as common property.

Foster’s insights affirm a sense that urban agriculture that facilitates the systematic transfer of public land into private hands risks expropriating the nonproperty rights of urban residents. Such outcomes not only exclude residents from democratic decision-making regarding the usage of common property, they also *reveal* racial capitalism. This is a common fate of the development of vacant lots in Black urban geographies.⁹² Put another way, U.S. racial capitalism not only reflects the enduring exploitative dimensions of colonial resource extraction and forced labor, it also reflects the kindred spirit of territo-

principles that characterize a “co-city”). See generally ELINOR OSTROM, GOVERNING THE COMMONS (1990).

88. See Dan Wu & Sheila Foster, *From Smart Cities to Co-Cities: Emerging Legal and Policy Responses to Urban Vacancy*, 47 *FORDHAM URB. L.J.* 909, 910–12 (2020); FOSTER & IAIONE, *supra* note 30, at 10–13, 307–08.
89. Nicholas Blomley, *The Right to Not Be Excluded: Common Property and the Struggle to Stay Put*, in *RELEASING THE COMMONS* 89, 90 (Ash Amin & Philip Howell eds., 2016) (“Treating commons as a right [of inclusion], rather than a set of resources, or an autonomous space, also allows us to recognise the multiple and historically layered struggles for inclusion, and against exclusion, in urban space.”). See generally Henri Lefebvre, *The Right to the City*, in *WRITINGS ON CITIES* 61 (Eleonore Kofman & Elizabeth Lebas trans., Blackwell Publishers 1996) (1968).
90. Wu & Foster, *supra* note 88, at 913.
91. See FOSTER & IAIONE, *supra* note 30, at 120 (“[E]ven the best participatory or collaborative practices, and especially those which simply devolve planning processes to the sub-local level without offering new tools and resources to enable meaningful involvement by the most vulnerable populations, are prone to domination by economic elites and/or strong or corrupt sub-local leadership.”) (citation omitted).
92. See, e.g., Wu & Foster, *supra* note 88, at 910–11.

rial *expropriation* under a “settler-colonial present.”⁹³ When the poor are unequipped with the resources to compete in neoliberal urban agriculture, racial capitalism expands the racial wealth gap by dismantling the social capital of devalued communities.⁹⁴ To be sure, this kind of exclusion by displacement, and its resultant accumulation by dispossession,⁹⁵ is not new.⁹⁶ Rather, it is part and parcel of the third modality of structural extermination: erasure.

C. Erasure

Finally, the convergence of racial capitalist logic and neoliberalism in urban agriculture permits *erasure* in Black urban ecologies in two ways: (1) it erases public accountability for historic state-sponsored racism and governmental neglect in Black urban geographies, which degrades the dignity of Black and minoritized people; and (2) it erases the urban poor from the city altogether through gentrification and, in the worst-case scenario, death itself from exposure to food-related illness. The erasure of Black and minoritized bodies from the urban landscape not only resonates with Saskia Sassen’s concept of “expulsion,” which captures the way global economic markets systematically displace the poor when they are no longer of value to the wealthy,⁹⁷ but also underscores the way the struggles of low-income Black and minoritized peoples are erased even as they continue to reside among the wealthy.

First, by constructing neoliberal urban agriculture as a policy prescription for food insecurity in food apartheid neighborhoods, local governments delegate public accountability for food justice to a privileged group of urban entrepreneurs. Rather than enable citizens to hold local political leaders accountable for the management of public health, neoliberal urban agriculture entrusts a

93. VERACINI, *supra* note 84; Nancy Fraser, *Expropriation and Exploitation in Racialized Capitalism: A Reply to Michael Dawson*, 3 CRITICAL HIST. STUD. 163 (2016); Nancy Fraser, *Is Capitalism Necessarily Racist?*, POL./LETTERS (May 20, 2019), <https://perma.cc/2DXV-38NP>; Anibal Quijano, *Coloniality of Power, Eurocentrism, and Latin America*, 3 NEPANTLA 533 (2000); Robin Kelley, *The Rest of Us: Rethinking Settler and Native*, 69 AM. Q. 267, 267–76 (2017); RACIAL FORMATION IN THE TWENTY-FIRST CENTURY 66–90 (Daniel Martinez HoSang et al. eds., 2012).

94. See, e.g., MEHRSA BARADARAN, THE COLOR OF MONEY (2017) (describing how racism in banking crippled economic development in predominantly Black communities).

95. David Harvey, *The New Imperialism: Accumulation by Dispossession*, 40 SOCIALIST REG. 63 (2004).

96. See Foster, *supra* note 73, at 571 (“Displaced, low-income populations who are moving, ostensibly out of ‘choice,’ while their old neighborhoods are being redeveloped . . . and often marketed to the affluent, are expected to bear the social externalities of a redevelopment policy predicated on their exclusion.” (citation omitted)).

97. See SASKIA SASSEN, EXPULSIONS 10 (2014) (“We can characterize the relationship of advanced to traditional capitalism in our current period as one marked by extraction and destruction . . . At its most extreme this can mean the immiseration and exclusion of growing numbers of people who cease being of value as workers and consumers.”).

limited number of private stakeholders with the public's power of accountability.⁹⁸ With no mechanism to assess the trustworthiness of urban farming entrepreneurs to prioritize the common good, nor any procedures to sanction urban farming entrepreneurs who fail to uphold the public interest at the expense of their private benefit, there is no guarantee that all citizen experiences will be considered when urban farming entrepreneurs create public food markets. Although food insecurity in Black urban geographies often stems from historic state-sponsored racism and governmental neglect, states like Maryland and California have committed to urban agriculture frameworks that encourage private urban farming primarily through reductions in property taxes or tax credits.⁹⁹ By using the tax code to incentivize private citizens to develop privatized and small-scale urban agriculture, such government programs risk erasing public accountability for the persistence of food insecurity. This approach to food justice seems guided by a hope that the private benefits of urban farming in disinvested Black neighborhoods will trickle down to the homes of food insecure residents. Yet, in some cities, such as Denver, Colorado, capital-intensive hydroponic vertical farms have become amenities to attract buyers for expensive condominiums, not sources of healthy food for the area's former public housing residents.¹⁰⁰

In this way, driven by a quest for economic efficiency, neoliberalism enables private ordering to shape the language of policy debates, define the contours of governmental roles, and frame America's ideals of liberty and equality within a market-centered conception of liberal democratic citizenship. This framing appears to be neutral yet elides material disadvantage and systematic plunder. For example, scholars have revealed the concentration of land contamination in low-income Black and minoritized neighborhoods as linked to racist land-zoning policies and inequitable municipal services.¹⁰¹ Thus, neoliberal

98. Public accountability has been called "the hallmark of modern democratic governance," characterized by political processes, such as electoral replacement, that enable citizens in representative democracies to exert influence on political leaders to act in the best interests of the people. See Mark Bovens et al., *Public Accountability*, in *THE OXFORD HANDBOOK OF PUB. MGMT.* 182 (Ewan Ferlie et al., eds. 2005).

99. Ludwig Hurtado, *L.A.'s Incentive for Urban Farming Fails to Take Root*, BLOOMBERG CITY-LAB (July 24, 2018), <https://perma.cc/T8D9-22FZ>; MD. CODE ANN., TAX-PROP. § 9-253 (West 2020).

100. Joshua Sbicca et al., *In Changing Urban Neighborhoods, New Food Offerings Can Set the Table for Gentrification*, *THE CONVERSATION* (July 10, 2020), <https://perma.cc/9BLB-KG66>; Joshua Sbicca, *Urban Agriculture, Revalorization, and Green Gentrification in Denver, Colorado*, 26 *THE POLITICS OF LAND* 149, 151–52 (2019) (arguing that sustainability initiatives have resulted in a "green gentrification" by displacing low-income residents out of newly revitalized neighborhoods, and that despite the good-faith efforts of some, urban sustainability initiatives often attract white, wealthy, and more privileged individuals into the community).

101. See generally Paul Mohai, *Environmental Justice and the Flint Water Crisis*, 32 *MICH. SOCIO. REV.* 1, 26 (2018) (elaborating upon the role of race in environmental justice: "it is believed

food justice policies fashion a distortionary effect, nourishing a craving for private property rights, private ordering norms, and fiscal austerity measures that mask systems of subordination and shelter the concentration of power into the hands of an elite “creative class.”¹⁰² By privileging the interests of tech start-up entrepreneurs and engineers, and by undermining public accountability for poverty and gentrification, local governments leave the longstanding residents of Black urban ecologies with few tangible weapons to fight for food justice.¹⁰³ Even more, as the Author has argued in prior work, human moral dignity requires more than mere material resistance to human vulnerability; human dignity, which must be viewed as co-extensive with liberty, manifests when people “enjoy equal ownership over the political institutions that craft the laws, policies, and procedures that shape their daily lives.”¹⁰⁴

Second, neoliberal urban agriculture that provides privileged access to vacant lots to a limited entrepreneurial class erases the urban poor from the city altogether through gentrification. Given the individualizing nature of neoliberal urban agriculture where the perception of neutrality justifies exploitation for the benefit of a few urban entrepreneurs, notwithstanding the needs of poor residents, many food insecure citizens will remain unable to access healthy food. Scholars have recently raised concerns about “eco-gentrification” or “green gentrification,” where new green infrastructure improvements in previously disinvested urban neighborhoods—such as New York City’s High Line, an elevated walking park built on an abandoned rail line in the Chelsea neighborhood of Manhattan¹⁰⁵—can lead to the displacement of low-income residents as land values increase over time.¹⁰⁶ By ignoring the lack of collective ownership

by many researchers and scholars that people of color communities are targeted for hazardous waste sites, polluting facilities . . . because they lack resources and political clout to fend off the siting of such [hazardous] facilities”). Further, they are viewed as “‘paths of least resistance’ by industry and government.” *Id.*

102. See Shicca et al., *supra* note 100; Amit Batabyal, Opinion, *Attracting Creative People Does Not Guarantee City Prosperity*, DEMOCRAT & CHRON. (May 10, 2019), <https://perma.cc/B7DN-TAF9>.

103. See generally NICHOLAS BLOMLEY, UNSETTLING THE CITY (2003) (discussing how traditional conceptions of private property in urban spaces both further gentrification and discount the potential for community property rights to serve as a moral claim of the urban poor).

104. Toussaint, *supra* note 26, at 883.

105. See Mallory Richards, *Who Benefits from Public Green Space?*, SCI. AM. (Sept. 19, 2020), <https://perma.cc/2MNG-7XPB> (“The High Line is a mark of success for real estate developers and New York’s tourism industry, but it has also contributed to rising inequity among New York’s residents.”).

106. Hamil Pearsall, *From Brown to Green? Assessing Social Vulnerability to Environmental Gentrification in New York City*, 28 ENV’T & PLAN. C 872, 877–78 (2010). See generally Isabelle Anguelovski et al., *New Scholarly Pathways on Green Gentrification: What Does the Urban ‘Green Turn’ Mean and Where Is It Going?*, 43 PROGRESS HUM. GEOGRAPHY 1064, 1064–86 (2018).

of the commons during the construction of green projects in urban areas, leaving residents with minimal countervailing power to influence changing urban demographics, local governments force the poor to bear the negative effects of eco-gentrification. Even more, during the age of COVID-19, when urban food markets are disembedded from land altogether—with virtual markets bringing produce to our doorstep—low-income residents are further disconnected from the land in their neighborhood.¹⁰⁷

Disconnection from land also arises when poor urban residents cannot afford the resources or training necessary to participate in urban farming. Thus, notwithstanding urban agriculture's promise for food insecure neighborhoods, when residents of Black urban ecologies are forced to compete for limited access to urban farms, some residents will necessarily be left behind. In the era of COVID-19, such outcomes can trigger increased vulnerability to disease, and even death, rendering neoliberal urban agriculture as a capitalist game of life and death. Unfortunately, such extermination will continue unless cities take a proactive, community-centered approach to urban agricultural development. As Manning Marable argued, "Each oppressed person under capitalism must come to the realization that his/her death is a *requirement* for the continued *life of the system*."¹⁰⁸

II. A BRIEF HISTORY OF URBAN AGRICULTURE LEGISLATION IN WASHINGTON, D.C.

The history of food insecurity in Washington, D.C., provides a snapshot into the broader story of food justice discourse in America. Jim Crow segregation in the early twentieth century relegated Black Americans in the nation's capital to segregated ghettos where housing was substandard, healthcare and education were inadequate, municipal services were limited, and environmental and food security were perpetually threatened by the forces of racial capitalism.¹⁰⁹ Out of sheer necessity, living in a culture governed by white-supremacist norms, the incessant threat of racial terrorism,¹¹⁰ and laissez-faire economic principles, minoritized populations in the nation's capital prior to the Civil Rights Movement developed a robust network of decentralized small-scale food businesses—cottage industry "hucksters" and mom-and-pop shops.¹¹¹ These

107. See Sabine U. O'Hara, *Reclaiming Local Contexts: Disrupting the Virtual Economy*, in A RESEARCH AGENDA FOR CRITICAL POLITICAL ECONOMY 165, 165–80 (Bill Dunn ed., Edward Elgar Publishing Ltd. 2020).

108. MARABLE, *supra* note 57, at 129.

109. See generally MARY-ELIZABETH B. MURPHY, JIM CROW CAPITAL (2018).

110. See generally HENRY LOUIS GATES, JR., STONY THE ROAD: RECONSTRUCTION, WHITE SUPREMACY, AND THE RISE OF JIM CROW (2019) (describing the emergence of Jim Crow and the roots of structural racism after emancipation and prior to the Civil Rights movement).

111. O'Hara & Toussaint, *supra* note 23, at 3.

small businesses leveraged the principals of cooperative economics to consolidate purchasing power in search of economic democracy, use community capital to traverse market barriers to entry, embrace economic self-determination to thwart racial terrorism, and collectively pursue upward mobility.¹¹²

However, following the 1968 race riots, there was a sustained “white flight” to high-opportunity suburbs across the United States.¹¹³ Further, the economic crises of the 1970s catalyzed the rise of neoliberalism during the Ronald Reagan administration, which paved the way for big-box supermarkets to swoop into urban developments.¹¹⁴ As a result, hundreds of cooperatively owned grocery stores in D.C. were put out of business. The neoliberal turn in political economy was not divorced from the politics of racism, but rather was steeped in it. Much in the way legislation on housing and Social Security during the Keynesian-managerial “New Deal” era of President Franklin D. Roosevelt incorporated racially exclusive programs that sustained white privilege,¹¹⁵ so too did the emergence of neoliberalism under President Reagan exploit racial tensions and racist tropes to thwart the development of class-based alliances between White and Black workers.¹¹⁶ The rise of neoliberalism saw a

112. *Id.* at 3–4. See generally Johanna Bockman, *Home Rule from Below: The Cooperative Movement in Washington, D.C.*, in CAPITAL DILEMMA 66 (Derek Hyra & Sabiyha Prince eds., 2016).

113. Christine H. Rossell, *School Desegregation and White Flight*, 90 POL. SCI. Q. 675, 683 (1975).

114. See Peter Ikeler, *The Making of Big-Box Retail*, in HARD SELL 23, 23–51 (2016) (examining the growth of big-box retail stores, the author highlights how the assembly-line methodology famously known in the 1940s “underwent its own crisis in the 1970s and transitioned into what many call ‘neoliberalism;’” further citing how this phenomena occurred simultaneously with a period called *overconsumptionism*, which resulted in “increasing political subsidization of a sub-bourgeois, mass layer of managers . . . who, faced with rapidly declining organization among the working poor and minorities during the 1970s, have been overwhelmingly successful in profiting”).

115. See *African Americans, New Deal Inclusion*, LIVING NEW DEAL, <https://perma.cc/BQ3Z-U56Q> (“Relief and public works programs were open to unemployed people of all races, but local officials and contractors, particularly in the South, bent the rules to hire fewer African Americans, exclude them from skilled jobs and pay them less than Whites Another failure of New Deal policy was in the long-term effects of the Homeowners’ Loan Corporation . . . and Federal Housing Administration (FHA) . . . Black applicants were regularly refused FHA loans and were therefore unable to gain home ownership, while white households moved *enmasse* to segregated suburbs.”).

116. See Joshua F.J. Inwood, *Neoliberal Racism: The ‘Southern Strategy’ and the Expanding Geographies of White Supremacy*, 16 SOC. & CULTURAL GEOGRAPHY 407, 417 (2015) (analyzing the “Southern Strategy” as a geographically and spatially motivated attempt to divide white voters by a white spatial imaginary, which is an attempt to “hoard resources,” and results in “idealiz[ing] pure and homogenous spaces, controlled environments, and predictable patterns of design and behavior.” (citation omitted)).

decisive shift in local governance from “managerialism” to “entrepreneurialism.”¹¹⁷

Accordingly, D.C.’s decentralized small-scale food networks in its Black and minoritized neighborhoods were eventually replaced with food apartheid neighborhoods, the defining ecology of America’s Black urban geographies.¹¹⁸ To be sure, minoritized communities in D.C. and elsewhere organized to overcome their food insecurity. For example, the Washington, D.C., Chapter of the Black Panther Party, established in July 1970, implemented the People’s Free Food Program in 1971 to address food insecurity, and later, the People’s Free Health Clinic based in the Anacostia neighborhood to address inadequate health care.¹¹⁹ Yet, it would take until the 1980s for the District of Columbia Council to begin debating legislation aimed at increasing access to healthy and nutrient-rich food in D.C.’s poorest wards. This Part describes the evolution of urban agriculture policy in Washington, D.C., to demonstrate how, over the span of three decades, it has taken a decidedly neoliberal turn in ways that privilege the interests of urban entrepreneurs while diminishing public accountability for poverty. Further, this Part demonstrates how such changes have contributed toward the structural extermination of Black urban ecologies, leaving Black D.C. residents increasingly vulnerable to the crises of our modern age.

A. *Urban Gardens and Supermarkets in the Nation’s Capital*

In 1986, then–City Council Chairman David A. Clarke proposed the Food Production and Urban Gardens Program Act (the “1986 Act”) to serve the needs of low-income communities in the District through urban gardening and local food buying clubs.¹²⁰ Specifically, the 1986 Act “required that the Mayor establish . . . an inventory of vacant city lots . . . encourage the donation and cultivation of vacant lots . . . [encourage] food buying clubs and produce

117. See David Harvey, *From Managerialism to Entrepreneurialism: The Transformation in Urban Governance in Late Capitalism*, 71 GEOGRAFISKA ANNALER 3, 5 (1989) (“Deindustrialization, widespread and seemingly ‘structural’ unemployment, fiscal austerity at both the national and local levels, all coupled with a rising tide of neoconservatism and much stronger appeal (though often more in theory than in practice) to market rationality in privatization, provide a backdrop to understanding why so many urban governments, often of quite different political persuasions and armed with very different legal and political powers, have all taken a broadly similar direction.”).

118. See generally ASHANTÉ M. REESE, *BLACK FOOD GEOGRAPHIES: RACE, SELF-RELIANCE, AND FOOD ACCESS IN WASHINGTON, D.C.* (2019).

119. See generally Arielle Milkman, *The Radical Origins of Free Breakfast for Children*, EATER (Feb. 16, 2016), <https://perma.cc/42RD-VJ7N>.

120. Food Production and Urban Gardens Program Act of 1986 § 6-210, D.C. CODE § 48-401 (2014); see Wendy Swallow, *Urban Garden Plan Eyed for Vacant Lots: D.C. City Council Weighs Legislation*, WASH. POST, Jan. 18, 1986, at F1.

markets throughout the District, . . . [and create] incentives and outreach to promote the availability of vacant lots.”¹²¹

As a result of the 1986 Act, the District implemented the University of the District of Columbia’s (“UDC”) technical assistance program for gardening and food production in coordination with the Office of the State Superintendent of Education.¹²² However, not until 2011 would UDC establish the College of Agriculture, Urban Sustainability and Environmental Sciences (“CAUSES”) to focus attention on food systems and green infrastructure capacity building in the District. Today, CAUSES offers “research-based academic and community outreach programs that improve the quality of life and economic opportunity of people and communities in the District of Columbia, the nation and the world.”¹²³

Despite popular support for the mission of the 1986 Act, its implementation stagnated over the ensuing decades as Washington, D.C., became an increasingly divided community across racial and class lines.¹²⁴ Instead of funding the urban farming program, political attention shifted toward the dominant neoliberal strategy of using tax incentives to attract private investment to fill the public funding gap.¹²⁵ In 2000, the D.C. Council passed the Supermarket Tax Exemption Act, which waived certain property taxes, sales taxes, and licensing fees for up to ten years for grocery stores located in neighborhoods with limited access to healthy and fresh food.¹²⁶ However, the effort (literally) bore little fruit for low-income neighborhoods. A 2018 study revealed that, since 2000, only

121. D.C. CODE § 48-402 (2014).

122. *Id.*

123. *Vision, Mission, Goals*, UNIV. OF D.C., <https://perma.cc/98A5-FRNH>.

124. Tinsae Gabriel, *Economic Inequality in DC Reflects Disparities in Income, Wages, Wealth, and Economic Mobility. Policy Solutions Should Too.*, D.C. FISCAL POLY INST. (Aug. 6, 2018), <https://perma.cc/A9PT-BBXT> (“Racially-biased policies and practices in hiring, homeownership, and education have led to large racial disparities in income, wages, wealth, and economic mobility in DC. . . . The median household income for Black DC residents, \$38,000 in 2016, is less than a third of the median household income for white residents, \$126,000. The median income for Latinx families, \$65,000 Incomes are the lowest in Wards 7 and 8—which are home to the city’s highest concentration of Black residents.”); KILOL KIJAKAZI ET AL., *URB. INST., THE COLOR OF WEALTH IN THE NATION’S CAPITAL* (2016), <https://perma.cc/5LZK-6M2P>.

125. See SABIYHA PRINCE, *AFRICAN AMERICANS AND GENTRIFICATION IN WASHINGTON, D.C.* (Italo Prato et al. eds., 1st ed. 2014); William W. Rees, *Ecological Economics for Humanity’s Plague Phase*, 169 *ECOLOGICAL ECON.* 106519 (2020) (describing the expansion of neoliberal economic policy over the last fifty years).

126. Supermarket Tax Exemption Act of 2000, D.C. CODE § 13-166, 47 D.C. Reg. 3801 (Oct. 4, 2000) (“to exempt the owner of a qualified supermarket in a priority development area from sales taxes on the purchase of building materials and equipment used to undertake the construction or substantial rehabilitation of a qualified supermarket; and to exempt the qualified supermarket from the payment of license fees, personal property taxes, and real property taxes levied on the supermarket for 10 years”).

two of the twenty-two D.C. grocery stores that had received tax exemptions were in Ward Eight, and no grocery store with an exemption was located in Ward Seven.¹²⁷

Notwithstanding, food justice advocates have continued to rely upon supermarkets as a solution to food insecurity in food apartheid neighborhoods.¹²⁸ On July 13, 2010, the D.C. Council introduced the Food, Environmental, and Economic Development in the District of Columbia Act of 2010 (the “FEED-DC Act”) to address “the grocery gap.”¹²⁹ The FEED-DC Act has three goals: “(1) to improve access to healthy foods in low-income neighborhoods; (2) to encourage green technology in food stores; and (3) to create good jobs in areas with very high levels of unemployment.”¹³⁰ Alongside targeting tax exemptions at grocery stores in low-income neighborhoods, the law established a “grocery ambassador” in the Deputy Mayor’s office to assist grocers with opening new stores and lowering operating costs.¹³¹ Further, it positioned the District to qualify for funding under President Barack Obama’s Healthy Food Financing Initiative,¹³² while also forging an ongoing partnership with the D.C. Department of Small and Local Business Development (DSLBD) to help fund healthy food retail projects in low-income areas, such as small corner grocery

127. Wards Seven and Eight are home to the highest percentage of non-Hispanic Black residents among all eight wards in Washington, D.C., at ninety-five percent and ninety-four percent respectively. Both Wards Seven and Eight also suffer from the highest rates of food insecurity and food-related illnesses. See O’Hara & Toussaint, *supra* note 23. The location of full-service grocery stores across D.C. follows this trend. D.C. HUNGER SOLUTIONS, CLOSING THE GROCERY STORE GAP IN THE NATION’S CAPITAL 1 (2018), <https://perma.cc/FN6C-TC6Y> (“A review of the grocery store landscape conducted in the spring of 2016 by D.C. Hunger Solutions revealed that of the 49 full-service grocery stores in the District, there are only two in Ward 7 and just one in Ward 8. This represents a decline in the number of stores in each of these wards since D.C. Hunger Solutions last analyzed access to grocery stores in the District in 2010.”).

128. Whitney Pipkin, *Food Access Advocates Walk The Long Walk . . . To The Nearest Grocery Store*, WBUR (Nov. 1, 2017), <https://perma.cc/JU9S-Q4LJ> (covering D.C. organizers’ efforts to bring attention to food injustice in the city, during which local advocates gathered five hundred people, including six D.C. Council members and the deputy mayor, to march two miles from District Ward Eight to the nearest Giant Foods Store, ultimately, resulting in “the city’s mayor announc[ing] plans to funnel \$3 million into projects that would provide new grocery and housing options”).

129. *Good News for the District’s Food Deserts: FEED DC Act Passes*, D.C. FISCAL POL’Y INST. (Jan. 19, 2011), <https://perma.cc/XP25-V7A7>.

130. *Id.*

131. FEED DC Act, D.C. CODE § 2-1212.23 (2021), 58 D.C. Reg. 746.

132. See Press Release, U.S. Dep’t of the Treasury, Obama Administration Details Healthy Food Financing Initiative (Feb. 19, 2010), <https://perma.cc/2JR8-XY7B>.

stores and local farmers markets.¹³³ Finally, the Act required participating grocery stores to accept SNAP and WIC benefits.¹³⁴

B. *Food Justice in the Twenty-First Century*

1. *The Urban Farming and Food Security Amendment Act of 2014*

Almost thirty years after the passage of the Food Production and Urban Gardens Act of 1986, on February 4, 2014, the D.C. Council introduced Bill 20-677, the D.C. Urban Farming and Food Security Act of 2014 (the “2014 Amendment”).¹³⁵ The 2014 Amendment sought to revive and update the 1986 Act by (1) establishing an urban farming land leasing initiative for District-owned vacant lots (the “Land Lease Program”), (2) providing a nonrefundable tax credit for food donations made to food banks or shelters, and (3) abating fifty percent of real property taxes on unimproved, privately owned land leased for small-scale urban farming purposes (the “Tax Abatement Program”).¹³⁶ The Council sought to reverse the lack of healthy food options in low-income neighborhoods by transforming vacant properties into green spaces that would improve the blight in disinvested segments of the city. The Council also sought to amplify the growing “nationwide movement toward locally-grown food” that was emerging in the District, which already boasted several local farming ventures, including Three Part Harmony Farm, Common Good City Farm, and City Blossoms.¹³⁷

In June 2014, the Committee of the Whole and the Committee on Finance and Revenue held a joint public hearing on the bill. Various witnesses testified on the unique benefits of urban farming for low-income neighborhoods. For example, the Executive Director of DC Greens, stated, “In a city with crushing obesity rates, and grave food access issues, urban agriculture can provide community-based access to healthy foods The presence of agriculture in the center of urban landscapes normalizes food production for both children and adults”¹³⁸ The owner of Good Sense Farm recommended a leasing period longer than three years, incentives for farmers of color, and sup-

133. See D.C. FISCAL POL’Y INST., *supra* note 129 (describing partnerships in the FEED DC Act).

134. D.C. CODE § 2-1212.22(a)(1)–(2) (2021).

135. D.C. Council B20-677 (2014).

136. *Id.*

137. See *Capital City Farming: 10 Urban Agriculture Projects in Washington, DC*, FOODTANK (Feb. 2014), <https://perma.cc/Z3GP-DHUR>.

138. *D.C. Urban Farming and Food Security Act of 2014: Joint Public Hearing Before the D.C. Council Comm. of the Whole and Comm. on Fin. and Revenue*, D.C. Council B20-677 (June 12, 2014) (written testimony of Lauren Schweder Biel, Executive Director, DC Greens) (bullets in original removed).

port for utilizing cooperative business structures,¹³⁹ while the Co-Executive Director of City Blossoms noted the difficulty of finding land in the District for farming and “recommended leases of 10 years or more, establishment of a land trust, a property tax exemption, and back tax forgiveness for those who contribute to a land trust.”¹⁴⁰ A Director of Kid Power, Inc., argued that the bill could be strengthened by incorporating incentives for farmers to sell their produce in D.C. neighborhoods identified as food deserts,¹⁴¹ while a public witness urged the Council to adopt urban agriculture policies from Cleveland, Ohio, including “affordable water rates for local growers, an incubator pilot project, and a grant program to support new farmers.”¹⁴² The Director of Fiscal and Legislative Analysis in the D.C. Office of Revenue Analysis and Office of the Chief Financial Officer raised concerns over the broad language for income tax credits for food donations, which she argued could have negative fiscal consequences.¹⁴³

Among the many criticisms of Bill 20-677, the Council emphasized the potential for tax-exempt organizations to lose their tax-exempt status if their property was used to produce food commodities;¹⁴⁴ concerns over zoning regulations for agricultural land use;¹⁴⁵ concerns regarding the scale of urban farming covered by the program;¹⁴⁶ and concerns over the limited three-year lease term, which might deter farmers from risking the high start-up cost and hinder the development of long-term job opportunities.¹⁴⁷ Further, Mark Chambers, then Associate Director of the Energy and Sustainability Division within the Department of General Services, highlighted several unanswered questions regarding the bill, including:

what benefits the District might receive from applicants from their use of the land, which agency or agencies would maintain the District’s parcels during the off-season, how water would be funded on the sites, whether and how the District would reclaim property that

139. *D.C. Urban Farming and Food Security Act of 2014: Joint Public Hearing before the Council of the District of Columbia Comm. of the Whole and Comm. on Fin. and Revenue*, D.C. Council B20-677 at 7 (Nov. 18, 2014) [hereinafter Nov. 2014 Hearing].

140. *Id.* at 9.

141. *Id.* at 7.

142. *Id.*

143. *Id.* at 9 (“[A]ny person could claim the credit if any food were donated [T]he non-refundable tax credit for donations in Bill 20-677 is worth much more than the charitable deductions under existing law . . .”).

144. *See, e.g., id.* at 4.

145. *Id.* (The Committee on the Whole Report noted that such concerns would be addressed by then pending updates to the zoning code as part of the Zoning Regulations Review).

146. *Id.* (The Committee on the Whole Report declared both large and small-scale urban farming both independently valuable in the city).

147. *Id.* (The Committee on the Whole Report noted that the three-year period was a minimum and could be reevaluated at the end of the period by the relevant parties).

ceased to be used for urban farming, whether the District would be responsible for environmental remediation of the sites, how issues related to rodents would be handled, and whether sustainable practices would be required.¹⁴⁸

Chambers also called for more resident engagement in the program development and noted the need for a rulemaking provision, citing Baltimore, Maryland's urban farming initiative as a model for the District.¹⁴⁹ Notably, the Council received no testimony or comments from any Advisory Neighborhood Commission¹⁵⁰ on the legislation,¹⁵¹ revealing the monopoly that political elites often enjoy over the lawmaking process.

Based upon public testimony and recommendations from various D.C. Council committees, the final version of Bill 20-677 included "community gardens" in its definition of permissible land uses under the urban farming program; clarified that tax-exempt organizations would not lose their exempt status for commercial urban farming or community gardening activities on their grounds; provided a ninety-percent tax abatement for private land used, leased, or allowed to be used for agricultural purposes under certain conditions; and specified that individuals or entities would be eligible for tax credits for donated food commodities from urban farms or community gardens to District-based food banks or shelters.¹⁵² Additionally, the bill required the Mayor (by February 1, 2015) to identify at least twenty-five District-owned vacant lots (of at least 2,500 square feet in size) for the urban farming program.¹⁵³ The bill made clear that the 2,500-square-foot requirement for urban farms did not apply to community gardens.¹⁵⁴ Alongside having no pending agreements for development or sale, the soil in the proposed lots was to be tested by the D.C. government

148. *Id.* at 6.

149. *See id.*

150. *See generally* Justin Lini, *Advisory Neighborhood Commissions, Explained*, GREATER GREATER WASH. (Sept. 30, 2016), <https://perma.cc/XU7F-8XDE> ("ANCs weigh in on many of the decisions that the District's governing bodies make. . . Commissioners can also offer resolutions and testify before the DC Council.").

151. *See* Nov. 2014 Hearing, *supra* note 139. *See also* *Are Advisory Neighborhood Commissions on the Decline?*, WASH. INFORMER, Oct. 21, 1992, at 9 ("In approving the new city charter, District voters also elected to initiate a new form of local government – Advisory Neighborhood Commissions. The 37 ANCs, each representing 2,000 or more residents, were established to advise the City Council on neighborhood problems and opinions. The ANCs were also charged with the responsibility of carrying out information about government's activities back into the neighborhoods.")

152. Nov. 2014 Hearing, *supra* note 139, at 1–2.

153. *Id.* at 2.

154. *See* D.C. Urban Farming and Food Security Act of 2014, sec. 101(a), § 2(1) (2015), 62 D.C. Reg. 1504 ("[']Community garden' means an area managed and maintained by a group of individuals to grow and harvest food crops or non-food crops for personal or group consumption"); *id.*, sec. 101(c), § 3a. (a)(1)–(2) ("Urban Farming Land Leasing Initiative

and found to be free of any contaminants that might impair the growth of food for safe consumption.¹⁵⁵ Importantly, private land used for urban agriculture would also need to be tested for contaminants to qualify for the ninety-percent tax abatement, yet the Act did not specify who would conduct such testing.¹⁵⁶

The Urban Farming and Food Security Amendment Act of 2014 became effective on April 30, 2015.¹⁵⁷ Unfortunately, the Fiscal Impact Statement for Bill 20-677 indicated that funds would be insufficient in fiscal years 2015 through 2018 to implement the program.¹⁵⁸ Not only would the program require additional staff and start-up resources to launch the urban farming program and land leasing initiative, it would incur additional costs for soil testing, water access, and combined tax incentives of approximately \$6.6 million over a four-year period.¹⁵⁹

The year 2014 also saw the enactment of the Food Policy Council and Director Establishment Act of 2014.¹⁶⁰ The Act established a thirteen-member Food Policy Council of food leaders and government staff appointed by the Mayor whose collective goal is to promote positive food policies that advance food access. The Council also seeks to build a local food economy in the District that ensures D.C. residents have access to “reliable, affordable, nutritious food near their residence.” As recently as 2020, the Council has included policy priorities that emphasize food access and equity, entrepreneurship and food jobs, nutrition and food system education, urban agriculture, and sustainable supply chain management in D.C.¹⁶¹

2. *The Urban Farming and Food Security Amendment Act of 2016*

On June 30, 2015, the D.C. Council introduced the Urban Farming and Food Security Amendment Act of 2015 (later changed to the year 2016, the “2016 Amendment”) to improve the administration and implementation of the existing urban agriculture legislation. Although the provisions of the 2014

. . . the Mayor shall identify at least 25 District-owned lots for potential urban farming. (2) These lots shall: (A) be a minimum of 2,500 square ft”).

155. Nov. 2014 Hearing, *supra* note 139, at 2.

156. D.C. Urban Farming and Food Security Act of 2014, sec. 201(a)(2), § 47-868(a) (“[I]f an owner of real property uses the property . . . for an agricultural use, 90% of the real property tax otherwise levied by § 47-811 on the land value . . . shall be abated . . . ; provided, that: (1) The soil on the property has been tested and found to be free from contaminants and safe for use in the growth of food”).

157. D.C. CODE §§ 48-401-03.

158. Nov. 2014 Hearing, *supra* note 139, at 10–11.

159. *Id.* at 11.

160. Tim Carman, *Chef Spike Mendelsohn to Chair the District’s New Food Policy Council*, WASH. POST (Feb. 27, 2015), <https://perma.cc/K4BJ-5DJD>.

161. 2020 DC Food Policy Priorities, D.C. FOOD POL’Y COUNCIL, <https://perma.cc/P9HA-TRLV>.

Amendment had been adopted subject to appropriation in the budget, and were subsequently funded, its programs had not been implemented due to ambiguities in program management and public accountability.¹⁶² Thus, the 2016 Amendment sought to refine the District's urban farming program by articulating a clearer management structure and more targeted tax incentives.

First, the 2016 Amendment directed the Department of General Services ("DGS") to administer the Land Lease Program with broad management discretion. DGS, in coordination with the Office of Planning, would identify District-owned properties in DGS's inventory (to be at least 2,500 contiguous square feet of vacant space and not encumbered by a pending sale or development agreement) to be used for urban farming.¹⁶³

Second, the 2016 Amendment revised the formula for the Tax Abatement Program to reduce program costs. While a private property owner who leases his or her real property to an urban farm would still receive a ninety-percent real property tax abatement on the portion of the property used as an urban farm, such abatement could only be for an amount up to \$20,000.¹⁶⁴ Further, applicants (residents or entities) to the urban farming program would need to demonstrate both D.C. residency and experience in agricultural production with the ability to obtain requisite licensing or permitting for urban farming, limiting the pool of potential program participants. The length of the land lease was modified to a minimum of five years (with an option period of up to an additional five years) to address prior concerns from advocates, but not to exceed fourteen years to avoid triggering a land disposition under the Land Disposition Transparency Amendment Act of 2016.¹⁶⁵ Lastly, the 2016 Amendment retained the requirement that site soil be tested for contaminants (specifying arsenic, lead, and heavy metals) before any produce could be sold from an urban farm. While the amendment did not clarify who would pay for such soil testing (an issue identified during hearings for the 2014 Amendment), it incorporated the soil testing process into DGS's newly established semi-annual certification of the real property for tax abatement eligibility under the

162. URBAN FARMING AND FOOD SECURITY AMENDMENT ACT OF 2016, D.C. COUNCIL COMM. OF THE WHOLE REP., B21-293, at 2 (2016) [hereinafter COMM. OF THE WHOLE REP.]; see DC FOOD POLICY COUNCIL ET AL., FOOD SYSTEM ASSESSMENT 61 (2019), <https://perma.cc/P7LR-V39V> (establishing that the 2017 Act (via the 2016 Amendment) added provisions to clarify how the tax abatement for urban agriculture should be applied); see also *id.* at 40 (stating that in 2018, DGS pushed to rollout two provisions of the 2014 Act by leasing D.C. residents owned land parcels specifically for urban farming, and DGS, joined by the Office of Tax and Revenue, implemented a property tax abatement for private property owners to lease their property).

163. D.C. Council B21-293 at 2 (2016).

164. *Id.*

165. Urban Farming and Food Security Amendment Act of 2016, D.C. Council B21-293, at 1 (Dec. 20, 2016) (Mendelson Amendment).

urban farming program, suggesting an intent to shift the responsibility for soil testing (and its associated costs) to private farmers.¹⁶⁶

Third, to further minimize the program's fiscal impact on the city's budget, the 2016 Amendment repealed tax credits for food donated to food banks,¹⁶⁷ amended the Urban Farming and Gardens Program (D.C. Code 48-402) by deleting the term "community garden" from the statute that incentivized farming on vacant lots of any size,¹⁶⁸ and established limitations on public expenditures related to urban farming.¹⁶⁹ While the 2016 Amendment retained the land leasing program, it simplified the administration of the program by eliminating community gardens from eligibility for tax abatements.¹⁷⁰ Finally, perhaps in response to concerns regarding governmental liability raised by Mark Chambers and others during hearings for Bill 20-677, the 2016 Amendment incorporated a new provision providing, in relevant part, "Nothing in the act shall be construed to create governmental liability or a cause of action against the District related to the safety of food produced on land leased from the District" pursuant to the Act.¹⁷¹

166. *See id.* ("(3) Before certifying that a property is eligible for a real property tax abatement pursuant to this section, the Department shall ensure, at a minimum, that: (A) The soil on the real property has been tested and found to be substantially free from arsenic, lead, and heavy metals and safe for use in the growth of produce fit for human consumption"); *see also* Laura Hayes, *Key Urban Agriculture Programs Delayed as City Swaps Who Will Manage Them*, WASH. CITY PAPER (June 7, 2019), <https://perma.cc/78AK-NHQE> ("Director Keith A. Anderson provided the following statement: '[DGS] is pleased to be taking a leadership role to implement the District's first-ever Urban Farming Program. As such, it is incumbent upon the agency to follow safety precautions that include soil testing standards'").

167. *See* D.C. Council B21-293 (Dec. 20, 2016) (Mendelson Amendment) ("(b) Chapter 18 is amended as follows: (1) The table of contents is amended as follows: (A) Strike the section designation '47-1806.14. Tax on residents and nonresidents - Credits - Tax credits for farm to food donations.' and insert the section designation '47-1806.14. Tax on residents and nonresidents - Credits - Tax credits for farm to food donations. [Repealed].'" in its place.)

168. *Compare* D.C. Council B20-677 (2014) ("(a) Section 2 (D.C. Official Code § 48-401) is amended to read as follows: 'Sec. 2. Definitions. For the purposes of this act, the term': (1) 'Community garden' means an area managed and maintained by a group of individuals to grow and harvest food crops or non-food crops for personal or group consumption, donation, or fundraising that is incidental in nature . . .) *with* D.C. Council B21-293 (Dec. 20, 2016) (Mendelson Amendment) ("(5) 'Vacant land' means land located in the District of Columbia that: '(A) Consists of at least 2,500 contiguous square feet of unimproved land'").

169. *See* D.C. Council B21-293 (Dec. 20, 2016) (Mendelson Amendment) ("(d) Section 3b (D.C. Official Code § 48-402.02) is amended to read as follows: Sec. 3b. Limitations on Expenditures. 'No more than \$400,000 in Fiscal Year 2016 and \$350,000 in each fiscal year thereafter shall be used by the Mayor to implement the Urban Farming Land Lease Program . . . Section 47-868 is amended to read as follows: . . . (3) No abatement under this section shall exceed \$20,000 per parcel of real property, per tax year.'").

170. COMM. OF THE WHOLE REP., *supra* note 162, at 3.

171. D.C. Council B21-293, Section 3(c) of the Comparative Print at 6 (July 12, 2016).

Despite making several substantive changes to the District's existing urban farming legislation, not the least of which was stripping community gardening from the statute, the Committee of the Whole received no public testimony on the 2016 amendments and no comments from any Advisory Neighborhood Commission, citing the similarity to prior legislation as justification for such omissions.¹⁷² The Fiscal Impact Statement for the 2016 Amendment affirmed the sufficiency of funds in fiscal years 2016 through 2019 to implement the program.¹⁷³

3. *The Urban Farming Land Lease Amendment Act of 2019*

Concerns regarding the possible contamination of soil on vacant land leased under the Land Lease Program stalled program implementation.¹⁷⁴ Alongside ambiguities on the meaning of the relevant statutory language, “substantially free of contamination,” it remained unclear whether DGS was responsible for funding the soil testing of District-owned land.¹⁷⁵ Additionally, the statute required soil testing even if farmers did not plan to use the site soil (an option for farmers using raised soil beds, for example). Indeed, the first two farmers selected by DGS in the spring of 2019 for the program planned to use hydroponic towers or raised beds, yet soil testing standards had yet to be finalized by DGS.¹⁷⁶

As a result, on July 9, 2019, the Council introduced B23-390, the Urban Farming Land Lease Emergency Amendment Act of 2019 (the “2019 Emergency Amendment”) to clarify the soil testing requirements for the Land Lease Program.¹⁷⁷ The final version of the 2019 Emergency Act, which was signed by Mayor Bowser on July 24, 2019 and set to expire on October 22, 2019, authorized “the Department of Energy and Environment to waive soil testing requirements for a lessee who agrees not to plant in or use the site soil” of the leased

172. *See id.* at 4.

173. *Id.*

174. *See* Hayes, *supra* note 166 (“The sticky point is that the amended legislation from 2016 says DGS must have proof that the soil has been ‘tested for and found to be substantially free of contamination’”); Emilia Calma, *The Geography of Environmental Toxins in the District of Columbia*, D.C. POL’Y CTR. (Oct. 15, 2020), <https://perma.cc/TRT2-JTTQ> (describing polluted land and other environmental toxins around the District).

175. According to the Council, it was believed that “lessees must prove that the soil has been tested and found to be substantially free of contamination from arsenic, lead, and heavy metals.” D.C. COUNCIL B23-390, COMM. REP., URBAN FARMING LAND LEASE AMENDMENT ACT OF 2019, at 2 (2019).

176. *Id.* at 2 (“In March 2019, two farmers were awarded leases for public land under the Land Lease Program. Neither farmer intends to grow produce in the site soil; they instead plan to use hydroponic towers or raised beds.”).

177. Urban Farming Land Lease Emergency Amendment Act of 2019, D.C. Act 23-100 (July 24, 2019).

property (instead, using raised beds, greenhouses, or hydroponic and aquaponic towers).¹⁷⁸

Due to the looming expiration of the emergency legislation, on July 11, 2019 the Council introduced B23-0390, the Urban Farming Land Lease Amendment Act of 2019 (the “2019 Amendment”) to allow the emergency amendments to go through the formal public hearing process. The 2019 Amendment incorporated the amendments of the 2019 Emergency Act and added several additional statutory changes. First, to avoid further program implementation delays, it clarified that the District (and not the Department of Energy and Environment) was authorized to “enter into a lease agreement with a qualified applicant to create and maintain an urban farm on vacant land.”¹⁷⁹ Second, the amendment specified that the Department of Energy and Environment (and not the lessee) would be responsible for testing the soil at District-owned sites (in consultation with DGS) to be offered for lease under the Land Lease Program.¹⁸⁰

Third, the amendment made several definitional changes, including: (1) modifying the definition of “urban farms” to include rooftop farms, indoor farms and greenhouses; (2) qualifying the definition of “farms” as including those “substantially free” of chemicals (specifically arsenic, lead, and heavy metals) identified in regulations to be promulgated by the Mayor; and (3) amending the definition of “substantially free of contamination” to include farms that do not use site soil to grow produce.¹⁸¹ Finally, the Act amended the District Department of the Environment Establishment Act of 2005 to include a revised mission for the Office of Urban Agriculture at the Department of Energy and Environment (“DOEE”),¹⁸² removing community gardening from its mandate, but including grantmaking duties to provide urban farmers with infrastructure and operating support.¹⁸³ Further, it clarified agency responsibilities by moving primary management of the Land Lease Program and the Tax Abatement program from DGS to DOEE.¹⁸⁴

178. *Id.* at 1.

179. *Id.* at Sec. 2(a).

180. *See* D.C. COUNCIL, COMM. ON TRANSP. & THE ENV'T REP., B23-390, URBAN FARMING LAND LEASE AMENDMENT ACT OF 2019, at 3 (2019), <https://perma.cc/AX2X-4ZAT>.

181. *See id.* at 3.

182. *See id.* (“The mission of this Office is to encourage and promote urban, indoor, and other emerging agriculture practices in the District. Its duties include developing and implementing District-wide policies and programs to promote urban farming and agriculture, providing guidance to other District agencies, engaging in outreach, and applying for and accepting grants on behalf of DOEE.”).

183. *Id.* (According to the Council, “community gardens are currently promoted by the Department of Parks and Recreation (DPR) and receive ample support there.”).

184. *Id.*

On November 18, 2019, the Committee on Transportation and the Environment held a public hearing on the 2019 Amendment.¹⁸⁵ Food justice advocates provided several recommendations for the Land Lease Program. For the first time since the Council began considering amendments to the District's Urban Farming initiative in 2014, an Advisory Neighborhood Commission ("ANC") Commissioner provided public testimony.¹⁸⁶ In a bit of irony, Sondra Phillips-Gilbert, ANC Commissioner for 6A07, emphasized the need for more communication with both the ANC and marginalized communities in food desert neighborhoods of the District.¹⁸⁷ The owner of Apogee Farm and one of the lessees awarded under the Land Lease Program recommended increased financial support for farmers and encouraged DOEE and DGS to engage with community members on food access needs.¹⁸⁸ Dr. Sabine O'Hara, Distinguished Professor at CAUSES, and the Author provided recommendations on ways to expand access to urban farming for marginalized and underserved neighborhoods by embracing cooperative economic market structures and establishing community land trust arrangements, similar to other leading urban farming programs across the country.¹⁸⁹ Most of these recommendations were taken under advisement by the Council.

On February 27, 2020, the bill was signed by Mayor Bowser and became law on April 16, 2020, as the COVID-19 pandemic was beginning to take its toll on the predominantly Black and food insecure wards of D.C. However, the fiscal impact statement provided by the District's Chief Financial Officer on December 10, 2019, revealed that there are once again insufficient funds in D.C.'s budget in fiscal years 2020 through 2023 to implement the bill.¹⁹⁰ According to the CFO, the amended Land Lease Program and Tax Abatement Program would cost \$276,000 in fiscal year 2020 and \$1.1 million over the four-year financial plan period.¹⁹¹ Further, the new requirement for the District to conduct soil testing on District-owned land would reduce the funding available for the programs. Finally, the Fiscal Impact Statement noted that the newly created Office of Urban Agriculture currently has no resources to issue any grants.

185. See Laurel Schwartz, *Urban Gardens Offer Seeds of Hope*, WASH. POST, Oct. 10, 2020, at B1; see also D.C. COUNCIL, COMM. ON TRANSP. & THE ENV'T REP., *supra* note 180; *Urban Farming Land Lease Amendment Act of 2019: Hearing on B23-390 Before the Comm. on Transp. & the Env't*, 23rd Council (D.C. 2019).

186. *Id.* (statement of Sondra Phillips-Gilbert, Comm'r, ANC).

187. *Id.* at 66.

188. *Id.* at 32–33 (statement of Thomas Langan, Founder & CEO, Apogee Farms).

189. *Id.* at 21–27 (statement of Dr. Sabine O'Hara, Professor, Coll. of Agric., Urb. Sustainability, & Env't Scis., Univ. of D.C., & Etienne C. Toussaint, Professor, Univ. of D.C.). See generally O'Hara & Toussaint, *supra* note 23 (expanding this testimony into an article).

190. D.C. COUNCIL, COMM. ON TRANSP. & THE ENV'T REP., *supra* note 180, at 5.

191. See *id.*

III. STARVING IN CHOCOLATE CITY: STRUCTURAL EXTERMINATION AS SLOW DEATH

While many cheered the passage of the Urban Farming Land Lease Amendment Act of 2019, food insecurity in Washington, D.C., remains unresolved.¹⁹² While the Council of the District of Columbia navigated a decisive shift in political discourse about urban agriculture in D.C. over the span of three decades—from a community-oriented conversation about gardening and food donations to a market-centered debate about land leasing and tax abatements for entrepreneurs—D.C.’s predominantly Black wards continued to develop the health preconditions for increased mortality from COVID-19.¹⁹³ As D.C.’s Black and minoritized residents now suffer disproportionately from the novel coronavirus due to decades of racial segregation and government neglect,¹⁹⁴ it remains unclear whether the latest version of D.C.’s urban agriculture program will mitigate food insecurity.

This Part contends that D.C.’s urban farming program, as it currently stands, will not significantly reduce food insecurity. Rather, the fate of D.C.’s Black urban ecologies may grow worse, in large part due to the racial capitalist norms and neoliberal ideals incorporated into the legislation.¹⁹⁵ The law’s normative subtext reflects the modalities of structural extermination invading food justice discourse in America.¹⁹⁶ Even more, the pace of urban agricultural devel-

192. See, e.g., Lola Fadulu, *Food Insecurity Believed to Be Higher than Before Virus*, WASH. POST, Oct. 2, 2020, at B4 (The rate of food insecurity in the District has increased to an estimated 16%; “[t]he pandemic has exacerbated food insecurity in communities of color, data shows. The Office of Planning report refers to a survey from April that found that Black households in D.C. were 13.5 times more likely to report that they sometimes did not have enough food to eat than White households in the city.”).

193. For a study of economic, health, educational, and environmental disparities in Washington, D.C., by Ward, see Sabine O’Hara, *The Five Pillars of Economic Development: A Study of a Sustainable Future for Ward 7 and 8 in Washington, D.C.*, FIVE PILLARS REP. (Mar. 7, 2021), <https://perma.cc/43MH-3NAB>.

194. See Justin W. Moyer, *‘Legacy of Inequality’ to Blame for COVID-19 Deaths Among Black D.C. Residents, Report Says*, WASH. POST (June 2, 2020), <https://perma.cc/W3AR-HZXL>.

195. The term “neoliberalism” as a structural theory of political change defines the twentieth-century resurgence of nineteenth-century laissez-faire economic liberalization. See Harvey, *supra* note 37, at 2 (explaining that under neoliberal orthodoxy, “[s]tate interventions in markets (once created) must be kept to a bare minimum because, according to the theory, the state cannot possibly possess enough information to second-guess market signals (prices) and because powerful interest groups will inevitably distort and bias state interventions (particularly in democracies) for their own benefit”); see also NOAM CHOMSKY, *PROFITS OVER PEOPLE: NEOLIBERALISM AND GLOBAL ORDER* 20 (1999) (explaining that the basic tenets of neoliberalism are “liberalize trade and finance, let markets set price (‘get prices right’), end inflation (‘macroeconomic stability’), privatize”).

196. See Melanie Pugh, *A Recipe for Justice: Support for a Federal Food Justice Interagency Working Group*, 72 FOOD & DRUG L.J. 341, 343–46 (2017) (discussing the history of food justice in the United States, highlighting the adverse effects on communities of color and low-income communities, and arguing for governmental support to remedy this phenomena).

opment in Washington, D.C., clarifies structural extermination as a theory of incremental social change.¹⁹⁷ In this way, the violence of structural extermination should be conceived as a deceptive kind of “slow death”—a harm that stems from structural conditions that trigger “the physical wearing out of a population and the deterioration of people in that population that is very nearly a defining condition of their experience and historical existence.”¹⁹⁸

As this Part argues, D.C.’s urban farming legislation enacts slow death by exploiting the rhetoric of American exceptionalism to justify integrating race-neutral and individualistic language into the law, undermining existing inequality across racial and class lines. Further, it expropriates common property in low-income neighborhoods, where urban farms are likely to be located, by promoting individual ownership. Finally, it erases D.C.’s history of cooperative economics and collective ownership in Black neighborhoods, as well as the ongoing food security challenges that predominate D.C.’s Black wards. At best, the program enacts a kind of “spirit-murder” of Black urban residents by refusing to acknowledge D.C.’s history of anti-Black racism.¹⁹⁹ At worst, it fails to mitigate food insecurity in food apartheid neighborhoods, perpetuating the physical death of Black and minoritized bodies made painfully visible in the age of COVID-19.

A. *Exploitation*

First, Washington, D.C.’s amended urban farming program risks furthering the *exploitation* of Black urban ecologies across the District. Although the food justice initiative began as an attempt to promote community gardening in lots of any size and food donations to meet community needs, the final amended version of the program is structured as an open market competition for the individual and private use of public land, to be leased for “a base period of 5 years . . . not [t]o exceed 14 years,” and to be granted to eligible applicants with “experience in agricultural production.”²⁰⁰ The legislation’s race-neutral and individualistic language promotes the exclusive use of public space for a privileged and elite entrepreneurial class of D.C. residents with farming experience or access to training.

197. Roxane de la Sablonnière, *Toward a Psychology of Social Change: A Typology of Social Change*, FRONTIERS PSYCH. (Mar. 28, 2017), <https://perma.cc/MQD4-G4CQ> (defining incremental social change “as a situation where a slow event leads to a gradual but profound societal transformation and slowly changes the social and/or the normative structure or changes/threatens the cultural identity of group members”).

198. See Lauren Berlant, *Slow Death (Sovereignty, Obesity, Lateral Agency)*, 33 CRITICAL INQUIRY 754, 754 (2007).

199. See Patricia Willis, *Spirit-Murdering the Messenger: The Discourse of Fingerpointing as the Law’s Response to Racism*, 42 U. MIAMI L. REV. 127, 129 (1987).

200. D.C. CODE § 48-402 (2021).

Further, D.C.'s urban farming program avoids wrestling with the history of institutional racism that underscores the racial disparities in food security that characterize the District's eight wards.²⁰¹ In so doing, it suggests that the Black and minoritized residents living in low-income and food insecure wards are to blame for their high rates of diabetes, asthma, hypertension, and ultimately, mortality from COVID-19. Evoking its commitment to American exceptionalism, D.C.'s urban farming program does not include any preferential treatment for low-income Black and minoritized residents of food apartheid neighborhoods, does not place any restrictions on to whom or to where farm produce from urban farms in food apartheid neighborhoods can be sold, and does not identify a concrete plan to provide education and training to equip low-income Black and minoritized residents of food apartheid neighborhoods with the agricultural and business skills necessary to compete in its neoliberal urban agriculture program.

Thus, in its moral commitment to a neutral and merit-based vision of individual uplift, D.C.'s urban farming legislation reveals the way exploitative markets camouflage capitalism's dependence on racialism to justify economic inequality. The program's neoliberal emphasis on market fundamentalism, race neutrality, and limited government intervention conceals the way capitalist logic has historically worked to justify gross health inequities in food apartheid neighborhoods. In this way, neoliberal rationality perpetuates racist tropes of the so-called lazy, uneducated, and unhealthy residents of Black urban geographies across America.²⁰² Subordinated and oppressed populations have long defied these tropes and stereotypes. As Nathan McClintock explains, "African Americans enslaved by smallholders and plantation owners alike tended small subsistence gardens or (provision grounds); both the labor invested in maintaining these plots and the produce grown from them ultimately subsidized slave-based commodity production."²⁰³ Washington, D.C., also boasts a history of Black and minoritized residents using localized subsistence farming, buoyed by cooperative economics, to meet food needs amplified by government neglect.

Still, racist tropes have only been augmented in the age of COVID-19, revealing the durability of racism. For example, in April 2020, during the early stages of the coronavirus pandemic, President Donald Trump's Surgeon General pathologized the experiences of Black people dying from COVID-19 by instructing Black and minoritized communities to avoid alcohol and drugs to help slow the spread of the virus.²⁰⁴ Such cultural explanations for gross health

201. See generally Reese, *supra* note 118; Lisa Sturtevant, *The New District of Columbia: What Population Growth and Demographic Change Mean for the City*, 36 J. URB. AFFS. 276 (2013).

202. See, e.g., Reese, *supra* note 118, at 10–11.

203. Nathan McClintock, *Urban Agriculture, Racial Capitalism, and Resistance in the Settler-Colonial City*, 12 GEOGRAPHY COMPASS 1, 4 (2018).

204. *President Trump with Coronavirus Task Force Briefing*, C-SPAN (Apr. 10, 2020), <https://perma.cc/8ZAC-RHDH> (statement of Jerome Adams, Surgeon General) ("[W]e need you

inequities obscure the way racial capitalism in the United States exploits the precarity of the poor by justifying the profits of the privileged. D.C.'s urban farming program does the same by "rewarding" savvy and well-resourced entrepreneurs with privileged access to public land for farming, while continuing to neglect the food security needs of the poor. According to the United Nations, "the United States already leads the developed world in income and wealth inequality, and it is now moving full steam ahead to make itself even more unequal."²⁰⁵ In the age of COVID-19, while a privileged and predominantly non-Black class works remotely from home, sheltered safely in place, essential workers in low-wage jobs are forced to brave the outdoors with inadequate protection.²⁰⁶ When the poor are forced to brave such risks to survive, yet are not given adequate tools to survive their food insecurity, they are no longer essential; instead, they become sacrificial.²⁰⁷

B. Expropriation

Second, Washington, D.C.'s amended urban farming program sets the stage for the expropriation of public land in its predominantly Black wards. One might argue that the construction of a competitive bidding process for private access to public land, coupled with the incentive of an exemption from real property taxation and possessory interest taxation, represents an effort to privatize the delivery of fresh and nutrient-rich produce to food insecure neighborhoods across the District. One might further argue that the privation of public services in an age of fiscal austerity represents an opportunity to leverage social impact investments to improve disinvested urban communities. However, while D.C.'s urban farming program seemingly furthers the common good in the short term by increasing the quantity of fresh produce grown across the District while minimizing public spending, it remains unclear whether such production will also result in a state-sanctioned expropriation of community property that furthers racial injustice.

Importantly, D.C.'s urban farming program does not require its hand-selected farmers to make their produce financially accessible to the residents of food insecure neighborhoods, nor does it require its farmers to consider how

to do this, if not for yourself, then for your abuela. Do it for your granddaddy. Do it for your big mama. Do it for your pop-pop."); Juana Summers, *U.S. Surgeon General: People of Color 'Socially Predisposed' to Coronavirus Exposure*, NPR (Apr. 10, 2020), <https://perma.cc/EK4-CJP3>.

205. *UN Expert Calls US Income Inequality 'a Political Choice'*, ASSOCIATED PRESS (June 4, 2018), <https://perma.cc/L4JT-6SC8>.

206. Leonard E. Egede & Rebekah J. Walker, *Structural Racism, Social Risk Factors, and Covid-19 — A Dangerous Convergence for Black Americans*, 383 *NEW ENG. J. MED.* e77(1), e77(2) (2020).

207. Miriam Jordan et al., *Poultry Worker's Death Highlights Spread of Coronavirus in Meat Plants*, *N.Y. TIMES* (Apr. 9, 2020), <https://perma.cc/ZK2K-3WUS>.

their farming activities empower (or disempower) the residents of food-insecure neighborhoods (perhaps through the creation of stable local jobs for at-risk youth). Not only does such private power weaken the government's role as an advocate for, and protector of, the public interest of food insecure neighborhoods, it also transforms the social and economic justice of the poor into a private cost-benefit analysis. In neoliberal urban agricultural markets, without additional tax-based incentives, why would an urban farmer choose to sell produce at a discount to low-income residents when high-end restaurants near corporate offices in downtown D.C. will pay a premium? By aggregating all rights and entitlements to public land in one owner, the program undermines the use value of urban property, which emerges "through spatial relationships that result from the density and proximity characteristic of urbanization."²⁰⁸

By establishing a neoliberal urban agricultural market to fill the public welfare gap—in this case, a gap defined by the lack of widespread public access to fresh and nutrient-rich produce across D.C. due to the existence of food apartheid neighborhoods, infringing upon and impairing the public health of many D.C. residents—the D.C. Council's role in furthering public health is demoralized. To the public, it appears that political leaders are less concerned with shaping an ethical vision of public life that advances democratic citizenship,²⁰⁹ and instead, are more concerned with identifying ways to maximize private interests that advance collective benefits. This approach to urban development, coupled with America's history of racialism in predatory capitalist markets, furthers the exploitation of perceived "rent gaps" in poor Black communities.²¹⁰

Are such markets ethical? According to Debra Satz, moral markets have two outcomes: (1) no harm is done to individuals; and (2) no harm is done to society.²¹¹ With its individualistic focus and assumptions of market neutrality, it is unclear whether D.C.'s urban farming marketplace, as constructed, inflicts "no harm" to individuals or society. Will D.C.'s urban farming program socially and economically empower marginalized residents of the nation's capital to mitigate their own food insecurity, or will it enable private stakeholders to profit from produce grown on public land in Black urban geographies, shipped to the highest bidder (e.g., high-end restaurants in downtown D.C.) while the health and wealth gap widens? Will D.C.'s urban farming program undermine the moral and ethical value of nonprofit or philanthropic organizations that are

208. See Wu & Foster, *supra* note 88, at 920.

209. See generally Robert McCartney, *Ethics Reform in Washington Region: More Is Still Needed After All These Years*, WASH. POST (Jan. 13, 2020), <https://perma.cc/Q5BP-3EQ2>.

210. See Neil Smith, *Gentrification and the Rent Gap*, 77 ANNALS ASSOC. AM. GEOGRAPHERS 462, 464 (1987) (revealing the "rent gap" as a driver of gentrification; as the difference between the rent amount and the perceived "best use" of the location grows, the area becomes more attractive for developers).

211. See SATZ, *supra* note 79, at 94–95.

dedicated to serving the public health needs of marginalized populations, but struggle to obtain governmental support? These questions, and their associated stories of struggle, risk being erased from collective memory.

C. Erasure

Third, the D.C. Council's amended urban farming program erases D.C.'s history of racial discrimination in food access, as well as its history of environmental injustice in low-income Black and minoritized neighborhoods. Historically, not just in Washington, D.C., but across the United States, land contamination in urban centers is concentrated in predominantly Black and low-income communities.²¹² Yet, the D.C. urban farming program avoids exploring this history in the nation's capital by clarifying, in relevant part, that nothing "shall be construed to create governmental liability . . . related to the safety of food produced on land leased from the District."²¹³ Indeed, the recently amended legislation waives soil testing requirements for farmers that capitalize on agricultural technologies that do not require the usage of potentially contaminated site soil—e.g., raised beds, greenhouses, and hydroponic towers. In so doing, the law evades the implications of land contamination on public land in low-income neighborhoods by passing primary responsibility to private actors.²¹⁴ Even more, it proffers technological innovation as a solution, yet neglects to wrestle with the high start-up costs of new farming technologies that dictate who can access and utilize such resources.

Such economic and informational barriers to market entry belie the notion of D.C.'s urban farming marketplace as free, neutral, and colorblind. Even if urban farmers from food insecure neighborhoods acquire the start-up capital and agricultural skills necessary to implement raised beds, greenhouses, and hydroponic towers on potentially contaminated land in D.C.'s predominantly Black wards, the siting of urban farms upon vacant lots in low-income neighborhoods means the poor will remain exposed to the risk of contamination from unanticipated events not contemplated by the amended legislation. For example, flash floods or rodent infestations that occur long after vacant lots

212. See Robert Bullard, *Race and Environmental Justice in the United States*, 18 YALE J. INT'L. L. 319, 320–25 (1993).

213. D.C. CODE § 48-402.03.

214. See generally Adalberto Aguirre Jr. et al., *Introduction: Neoliberal Globalization, Urban Privatization, and Resistance*, 33 SOC. JUST. 1 (2006) (exploring social issues in the privatization of housing and other economic functions, the authors explain neoliberal policies promote "the retreat of previous governmental control of resources and state regulations, including public services . . . also known as *privatization*, it is the 'sharing or delegating of authority to non-governmental agents'").

have been remodeled for farming purposes can inflict unintended harm on neighboring residents.²¹⁵

Washington, D.C., has a storied history of Black and minoritized neighborhoods fighting for access to fresh and healthy food to supplement their food insecurity.²¹⁶ During the Jim Crow era, low-income and minoritized D.C. residents relied upon cooperative economics and a localized industry of food hucksters and corner grocers to obtain healthy food, primarily because the public health of such residents was neglected by the government.²¹⁷ The establishment of a so-called fair and neutral urban farming marketplace legitimates D.C.'s racialized history of food access inequality on moral grounds, absolving the government of its role in neglecting the poor and helping to establish food businesses that discriminated against its Black and minoritized residents.²¹⁸

Such apathy is not only morally reprehensible, it calls into question the limits of the public welfare role of government. Does the construction of a neoliberal urban agriculture prohibit the public in Black wards in D.C. from using vacant land for community gardens, recreational community activities, or other community-oriented ends that might more immediately further the public interest? Rather than defer to the privatizing impulse of neoliberal politics that privileges economic efficiency, which in the case of D.C.'s urban farming program has resulted in a land leasing program that literally deleted governmental support for community gardens from the law's text altogether, governments should consider alternative approaches to building equitable communities. Local governments do not have to reinvent the wheel; various examples exist that demonstrate how to employ "regulatory incentives to promote more pooling and affordability-by-design, alternative financing sources, and strategic partnerships."²¹⁹ If governments neglect such options, the future of Black urban ecologies governed by exploitation, expropriation, and erasure, forewarns structural extermination.

IV. DECOLONIZING BLACK URBAN ECOLOGIES

Racial capitalism and the politics of neoliberal rationality, which prevail upon contemporary food justice discourse in the age of COVID-19, have set the stage for low-income Black and minoritized communities across America to

215. AUDREY VOGEL, ASSESSING GREEN INFRASTRUCTURE IMPLEMENTATION IN WASHINGTON, D.C. TO PROMOTE EQUITY AND CLIMATE CHANGE RESILIENCE (Apr. 2019) (unpublished master's thesis, University of North Carolina at Chapel Hill) (on file with the Carolina Digital Repository).

216. *See generally* ALEXANDER J. MOORE, THE FOOD FIGHTERS: DC CENTRAL KITCHEN'S FIRST TWENTY-FIVE YEARS ON THE FRONT LINES OF HUNGER AND POVERTY (2014).

217. O'Hara & Toussaint, *supra* note 23.

218. *See generally* MOORE, *supra* note 216.

219. *See* Wu & Foster, *supra* note 88, at 938.

become *Terra Nullius* branded by food apartheid neighborhoods. When urban agriculture is tinged by neoliberal politics and steeped in racial capitalist norms, it perpetuates health disparities by limiting access to healthy and nutrient rich food in Black urban ecologies.²²⁰ This Part argues that food justice efforts in urban spaces should embrace a justice-based approach toward urban development that (1) fosters political equality among members of the local community to overcome the political construction and racial dimensions of state-sponsored privilege, (2) democratizes the ownership of wealth-generating property to promote long-term metropolitan equity, and (3) crafts empowerment-centered and community-owned institutions to address the structural dimensions of systemic poverty.²²¹

Applying the contours of this framework to urban agriculture, and building upon the work of other food justice and urban development scholars,²²² this Part explores alternate strategies to overcome the limitations of modern urban agriculture shaped by racial capitalist and neoliberal norms. Specifically, it discusses the need to promote: (a) social solidarity through collective co-governance mechanisms, (b) economic democracy through collective co-ownership institutions, and (c) solidarity economy through progressive zoning and land-use public policies designed to craft a new vision of urban life. Such measures promote new ontological formations of democratic governance for the urban landscape by grounding lawmaking in the experiences of subordinated populations in local context, the “banal acts of daily subsistence” that “reflect and reproduce capitalist social relations, express their contradictions, and contain the seeds of their overcoming.”²²³

A. Social Solidarity

Washington, D.C.’s urban farming program may struggle to promote social solidarity due to its neglect of two key community-building strategies: (1) *participatory co-governance*, which disrupts systems of class privilege and racial-

220. Alison Hope Alkon, *Food Justice and the Challenge to Neoliberalism*, 14 *GASTRONOMICA* 27, 28–31 (2014) (critiquing neoliberalism in food and agriculture, Alkon states “neoliberalism consists of two phases: a rolling back of state provisioning including a [government provided] safety net, and a rolling out of NGO and other third-sector actors attempting to take the state’s place” creating “decades of institutionally racist development patterns ensuring that urban black neighborhoods would not prosper”).

221. See Toussaint, *supra* note 16, at 387–414.

222. See, e.g., STEPHEN J. SCANLAN & SAM REGAS, *FOOD AND POVERTY* 142–61 (Leslie H. Hossfeld et al. eds., 2018) (highlighting “the intersection of deindustrialization’s legacy and the Great Recession with poverty and inequality and how access to nutritious food is problematic for the poor in urban environments”).

223. See Meleiza Figueroa, *Food Sovereignty in Everyday Life: Toward a People-Centered Approach to Food Systems*, 12 *GLOBALIZATIONS* 498, 502 (2015); see also Taiaiake Alfred & Jeff Corntassel, *Being Indigenous: Resurgences against Contemporary Colonialism*, 40 *GOV’T & OPPOSITION* 597, 611 (2005).

ized hierarchy embedded in law; and (2) *equitable development*, which transcends local autonomy concerns and embraces the regional dimensions of inequality that expose the uneven and inequitable dimensions of urban landscapes.²²⁴ D.C.'s urban farming legislation calls for individualism and self-determination as solutions to food insecurity. But, in so doing it also reaffirms the persistent call for colorblindness and race neutrality in law.²²⁵ Further, it ignores the pervasive and dominating impact of racial capitalism in Black and minoritized neighborhoods across America that have only been amplified during the era of COVID-19.²²⁶ Rather than seeking to unveil the "hidden societal constraints that hinder human moral dignity and perpetuate racial domination" in predominantly Black and minoritized wards that lack access to healthy food, D.C.'s urban farming program shelters "white expectations of *de facto* race-based privilege" and rationalizes "the 'property' rights of white privilege" by ignoring D.C.'s stark and racially divided access to economic markets.²²⁷

Scholars have argued that *social solidarity* calls for more inclusive conceptions of urban resource governance and human ecologies that transcend racial capitalist norms.²²⁸ What might a *Black ecology* in urban landscapes become when stripped of the dominating logic of racial capitalism and anti-Blackness? Black women scholars have long advocated for Black feminist ecologies that reflect the long history of "Black diasporic spirituality, ecological ethics, resilience and resistance."²²⁹ For example, Sylvia Wynter wrote of the "cultural guerrilla resistance" of the enslaved to the "structure of exchange-value" of the plantation where "produce is made in response to its profitability on the mar-

224. See Toussaint, *supra* note 16, at 389. See generally David J. Barron, *The Community Economic Development Movement: A Metropolitan Perspective*, 56 STAN. L. REV. 701 (2003).

225. See ELLEN D. KATZ & SAMUEL R. BAGENSTOS, A NATION OF WIDENING OPPORTUNITIES 105 (2015) (discussing the arguments of "class-not-race" advocates and highlighting key problems in the struggle to address issues of social and economic justice).

226. Layla Brown, *The Pandemic of Racial Capitalism: Another World Is Possible*, 7 FROM EUR. S. 61 (2020) (arguing because of the profit driven and significantly underfunded healthcare system, *inter alia*, COVID-19 "is a virus of pandemic proportions, the true pandemic is racial Capitalism"; further, COVID-19 has the potential to be "exploited by neoliberal regimes to perpetuate suffering for the majority of people and accumulation of wealth for the few").

227. See Toussaint, *supra* note 16, at 392; cf. Isabelle Anguelovski, *Healthy Food Stores, Greenlining and Food Gentrification: Contesting New Forms of Privilege, Displacement and Locally Unwanted Land Uses in Racially Mixed Neighborhoods*, 39, 1209 (2015) (analyzing an example of food gentrification in Boston, Massachusetts) INT'L J. URB. & REG'L RSCH..

228. FOSTER & IAIONE, *supra* note 30, at 16 ("Even the highest form of participation and citizen power can fall short of altering the unequal power dynamics, privileges and advantages that often characterize urban geographies that are stratified by class, ethnicity, immigrant status, and race.").

229. See Romy Opperman, *We Need Histories of Radical Black Ecology Now*, BLACK PERSPS. (Aug. 3, 2020), <https://perma.cc/DUA6-WSN8>.

ket.”²³⁰ Instead, Wynter writes, on plots of land provided to the enslaved, they grew food such as yams for survival and nourished “secretive history”—“the land remained the Earth — and the Earth was a goddess; man used the land to feed himself; and to offer first fruits to the Earth; his funeral was the mystical reunion with the earth.”²³¹ If, as George Beckford suggested, the “persistent underdevelopment”²³² of Black urban ecologies can be linked to the normalized racial violence of the plantation, then as McKittrick contends, it is “the plantation that anchors a series of debates about the workings of antiblack racism and the knotted-creolized organization of diasporic life in the new world.”²³³

McKittrick links the future of Black urban ecologies to “a decolonial poetics” that seeks to expose the dehumanization of “geographies of the racial other [that] are emptied out of life precisely because the historical constitution of these geographies has cast them as the lands of no one.”²³⁴ By disrupting the logic of neoliberal urban agriculture that prioritizes resource extraction and land expropriation, reimagined Black urban ecologies can meet the food insecurity needs of marginalized populations while strengthening Black engagement with local placemaking.²³⁵ Co-governance strategies, such as community-based administrative mediators and institutional coworking spaces, can foster grassroots collaboration to ensure public needs are prioritized. In so doing, urban agriculture can become “a way to stake a claim to permanency, education, economic citizenship, and community leadership, rather than only as a vehicle for food security.”²³⁶

B. Economic Democracy

Second, Washington, D.C.’s urban farming program must pursue *economic democracy*, which calls for democratizing ownership of the primary factors of production within political economies—land, labor, and capital—or more sim-

230. Sylvia Wynter, *Novel and History, Plot and Plantation*, 5 SAVACOU 95, 97, 100 (1971).

231. *Id.* at 99, 101.

232. GEORGE BECKFORD, PERSISTENT POVERTY 200 (George Beckford Estate 2d ed. 1999) (1972) (analyzing the structural factors and the economics of underdevelopment).

233. See Kathrine McKittrick, *Plantation Futures*, 17 SMALL AXE 1, 4 (2013).

234. *Id.* at 5–7.

235. See Nathan McClintock, *Radical, Reformist, and Garden-Variety Neoliberal: Coming to Terms with Urban Agriculture’s Contradictions*, 19 LOCAL ENV’T 147, 165–66 (2014); KENNETH GOULD & TAMMY LEWIS, GREEN GENTRIFICATION 15–16 (2016).

236. Eve Tuck et al., *Geotheorizing Black/Land: Contestations and Contingent Collaborations*, 3 DEPARTURES CRITICAL QUALITATIVE RSCH. 52, 55 (2014) (considering the “implications of the settler colonial roots of social science, the voyeuristic tendencies of academic researchers, and the historical presence of Black people as ‘other’ in the academy for academic community research”).

ply, the democratization of wealth.²³⁷ The amended legislation repeats the assumptions of familiar supply-side economic policies that expect the production of more goods to facilitate economic growth that trickles down to all members of a community.²³⁸ Thus, in the context of neoliberal urban agriculture, it is expected that the increased production of fresh produce in Black urban geographies will produce increased health benefits that “trickle down” to the households of food insecure residents. This assumption perpetuates the false belief that individual agency can save one from poverty in capitalist America. Further, it sustains cultural stereotypes of low-income communities that blame the victims of economic and racial injustice for their poverty.²³⁹

Here, the concept of racial capitalism disrupts the perceived rationality of neoliberal market ordering by unearthing its racialized origins. The work of Katherine McKittrick links the economic structure of Black urban ecologies to the structure of the slave plantation.²⁴⁰ Black geographies have historically been mapped as spaces of violence, poverty, and uneven development to establish the exploitation of Black labor.²⁴¹ But what if, as McKittrick queries, the culture of

237. See generally MARJORIE KELLY & TED HOWARD, *THE MAKING OF A DEMOCRATIC ECONOMY* (2019) (highlighting seven elements of a fairer economy: community, inclusion, place, good work, sustainability, democratic ownership, and ethical finance as a democratic economy that promotes equality and fairness to all).

238. Supply-side economics is described under two separate premises. First, some use the term to refer to the fact that production (supply) underlies consumption and living standards. In the long run, some believe that income levels reflect the ability to produce goods and services that people value. Higher income levels and living standards cannot be achieved without expansion in output. Second, the term is also used to describe how changes in marginal tax rates influence economic activity. Thus, some believe that high marginal tax rates strongly discourage income, output, and the efficiency of resource use. Supply-side policy typically consists of lower direct taxation, privatization of state or publicly owned assets, and deregulation to remove barriers to entry to various markets and forcing competition. James D. Gwartney, *Supply-Side Economics*, *THE LIBR. OF ECON. & LIBERTY*, <https://perma.cc/U3YM-Y89P>.

239. DENISE FERREIRA DA SILVA, *TOWARD A GLOBAL IDEA OF RACE* (David Campbell & Michael J. Shapiro eds., 2007) (employing critical race theory and feminist perspectives to clarify how modern ontologies contribute to appropriations of current power structures).

240. See McKittrick, *supra* note 233, at 5–8 (“[T]he plantation spatializes early conceptions of urban life within the context of a racial economy: the plantation contained identifiable economic zones; it bolstered economic and social growth along transportation corridors; land use was for both agricultural and industrial growth; patterns of specialized activities—from domestic labor and field labor to blacksmithing, management, and church activities—were performed; racial groups were differentially inserted into the local economy, and so forth.”); see also KATHERINE MCKITTRICK, *DEMONIC GROUNDS* 75 (2006) (defining the plantation as a town with its own economic and political system).

241. Katherine McKittrick, *On Plantations, Prisons, and a Black Sense of Place*, 12 *SOC. & CULTURAL GEOGRAPHY* 947, 951 (2011) (“[T]he process of uneven development calcifies the seemingly natural links between blackness, underdevelopment, poverty, and place . . .”). See generally RICHARD ROTHSTEIN, *THE COLOR OF LAW* (2017).

“racial segregation, economic exploitation, and sexual violence mapped not a normal way of life but a different way of life?”²⁴² What if the plantation hid “secret histories”—“the actual growth of narratives, food, and cultural practices that materialize the deep connections between blackness and the earth and foster values that challenge systemic violence.”²⁴³ The Black freedom struggle emerges, then, not as an effort to archive and catalogue a violent past, but instead as a “deciphering practice,”²⁴⁴ a site of discovering and reimagining new modes of human being in relation to nature.

In the context of urban agriculture, a justice-based approach to urban development seeks to shift the ownership of land, labor, and capital to community-based entities governed by community residents, the laboring class who might harbor alternate worldviews about human relations to nature that challenge the violent legacies of the plantation economy.²⁴⁵ Urban farming programs in other states—from Boston, Massachusetts,²⁴⁶ to Cleveland, Ohio,²⁴⁷ to Providence, Rhode Island,²⁴⁸ to Philadelphia, Pennsylvania,²⁴⁹ to Athens, Georgia,²⁵⁰ to Chicago, Illinois,²⁵¹ to Madison, Wisconsin,²⁵² and Louisville, Kentucky²⁵³—have taken steps towards such ends by using progressive co-governance models like community land trusts to maintain community owner-

242. McKittrick, *supra* note 233, at 10.

243. *Id.*

244. Sylvia Wynter, *Rethinking “Aesthetics”: Notes Towards a Deciphering Practice*, in EX-ILES 237, 271 (Mbye Cham ed., 1992) (“A deciphering practice takes the existing inequalities of our order, both as the expressive enactment of the governing code of life and death as the index of the ‘rhetorical mystifications’ that must be at work, in order to determine how that order should be normatively felt about and known, if the collective behaviors that bring the structuring processes of the order into being are to be dynamically induced and stably replicated.”).

245. See Christina D. Rosan, Opinion, *Making Urban Agriculture an Intentional, Equitable City Redevelopment Strategy*, FRONTIERS (June 26, 2020), <https://perma.cc/BWC2-B6PK> (arguing for acknowledgment of the “deep systematic exclusion and racism that make urban agriculture both necessary and possible,” and “innovative and radical ideas about how to use community land trusts, and cooperative ownership of land that provide alternatives to the ‘exchange over use value,’ ‘growth machine’ paradigm”).

246. See Urban Omnibus, *Housing Brass Tacks: Community Land Trusts*, ARCHITECTURAL LEAGUE OF N.Y. (Jan. 10, 2018), <https://perma.cc/QLQ4-N7AH>.

247. See *Re-Imagining a More Sustainable Cleveland*, CLEVELAND URB. DESIGN COLLAB. (Dec. 19, 2008), <https://perma.cc/72NK-8GXU>.

248. See SOUTHSIDE CMTY. LAND TRUST, <https://perma.cc/5NMX-VH8B>.

249. See NEIGHBORHOOD GARDENS TRUST, <https://perma.cc/X23S-LKT5>.

250. See ATHENS LAND TRUST, <https://perma.cc/S9US-VAMB>.

251. See NEIGHBORSPACE, <https://perma.cc/997Q-JT36>.

252. See MADISON AREA CMTY. LAND TRUST, <https://perma.cc/6Q7U-CJFJ>.

253. Jessica Owley & Tonya Lewis, *From Vacant Lots to Full Pantries: Urban Agriculture Programs and the American City*, 91 U. DETROIT MERCY L. REV. 233, 248 (2014).

ship of public land and ensure that common property is used for the public benefit.

A critical tool to facilitate collaborative management and collective ownership of common resources, community land trusts (“CLTs”)—typically non-profit entities—feature a place-based membership, a democratically elected “tripartite” board of local stakeholders,²⁵⁴ and a commitment to the stewardship of land on behalf of the local community.²⁵⁵ By acquiring permanent ownership of land, held in trust in perpetuity and leased to other entities through long-term ground leases, the CLT separates the exchange value of land in the market from its use value among residents. This strategy has already proven successful. In the well-known Dudley Square Neighborhood Initiative in Boston, Massachusetts, residents used a CLT to create “225 new affordable homes, a 10,000 square foot community greenhouse, urban farm, a playground, gardens, and other amenities of a thriving urban village.”²⁵⁶ Emerging urban agriculture programs should take similar steps to promote collective ownership and land stewardship.

C. *Solidarity Economy*

Finally, Washington, D.C.’s urban farming program should seek to establish solidarity economies, the third pillar of justice-based CED.²⁵⁷ Solidarity economies are “empowerment-centered and community-owned institutions that address the structural dimensions of poverty,”²⁵⁸ which in the context of urban farming might take the form of community-owned entities that enable residents to cooperatively manage farming activities.²⁵⁹ Unfortunately, D.C.’s current farming program emphasizes entrepreneurship and individualism. In so doing, the D.C. Council not only ignores the District’s history of solidarity economies through the story of the DGS cooperatives,²⁶⁰ but also the history of cooperative economics in Black American agricultural communities more gen-

254. Wu & Foster, *supra* note 88, at 918 (defining “tripartite” as “an equal number of seats represented by users or people who lease the land from the CLT, residents from the surrounding community who do not lease land from the CLT, and the public and private sector (usually public officials, local funders, non-profit providers of housing or social services, and others”).

255. See generally James J. Kelly, Jr., *Land Trusts that Conserve Communities*, 59 DEPAUL L. REV. 69 (2009).

256. Oksana Mironova, *How Community Land Trusts Can Help Address the Affordable Housing Crisis*, JACOBIN (July 6, 2019), <https://perma.cc/2XMA-39FS>.

257. See Toussaint, *supra* note 16, at 407–14.

258. *Id.* at 407.

259. See, e.g., NEIGHBORSPACE, *supra* note 251.

260. O’Hara & Toussaint, *supra* note 23, at 4.

erally,²⁶¹ such as Fannie Lou Hamer's Freedom Farm in 1969,²⁶² and the more recent Cooperation Jackson initiative in Jackson, Mississippi.²⁶³

The aversion to establishing solidarity economies to address food insecurity in predominantly Black and minoritized wards in the nation's capital suggests an intentional dismissal of Black American history, or the *erasure* of Black freedom struggles from collective memory. This demonstrates not only the stultifying effects of neoliberal rationality, but also the hauntology of white supremacy from the Reconstruction era, a time when racial terrorism sought to erase the efforts of the Freedmen's Bureau to empower formerly enslaved Americans.²⁶⁴ This too emerges as Sylvia Wynter's *secretive history*.²⁶⁵ UDC has taken important steps toward reviving the culture of cooperative economics and local food economies that once sustained Black communities in Washington, D.C., drawing upon what Ashanté M. Reese has called "memories and myths" of a distant past.²⁶⁶ UDC's Urban Food hubs model not only centers community needs in its development of bio-intensive soil-based and high-efficiency soilless aquaponics and hydroponics farming systems in D.C., it also has made much-needed and ongoing investments in training, workforce development, and community engagement in D.C.'s low-income wards.²⁶⁷ However, D.C.'s urban farming program has yet to establish a more robust strategy for building upon the grassroots efforts of UDC's College of Agriculture, Urban Sustainability, and Environmental Sciences.

The future of urban farming in the District will depend upon bold efforts to promote community empowerment and resist structures of anti-Blackness and domination that inhibit radical imagination of Black urban ecologies.²⁶⁸

261. JESSICA GORDON NEMBARD, *COLLECTIVE COURAGE: A HISTORY OF AFRICAN AMERICAN COOPERATIVE ECONOMIC THOUGHT AND PRACTICE* 28 (2014) ("[T]here seems to be no period in U.S. history where African Americans were not involved in economic cooperation of some type.").

262. See Monica M. White, "A Pig and a Garden": *Fannie Lou Hamer and the Freedom Farms Cooperative*, 25 *FOOD & FOODWAYS* 20 (2017).

263. *The Story of Cooperation Jackson*, COOPERATION JACKSON, <https://perma.cc/PX83-GSVT>.

264. See generally ERIC FONER, *A SHORT HISTORY OF RECONSTRUCTION* (2015) (describing the role of racial attitudes and white supremacists in shaping the trajectory of progressive legislation for Black Americans emancipated from chattel slavery).

265. McKittrick, *supra* note 233, at 10–12 (described as "a mode of being human that, while often cast out from official history, is not victimized and dispossessed and wholly alien to the land; rather, it redefines the terms of who and what we are vis-à-vis a cosmogony that, while painful, does not seek to inhabit a location closer to that of 'the fittest' but instead honors our mutually constitutive and relational versions of humanness").

266. Ashanté M. Reese, "We Will Not Perish; We're Going to Keep Flourishing": *Race, Food Access, and Geographies of Self-Reliance*, 50 *ANTIPODE* 407, 421 (2017).

267. See Sabine O'Hara, *The Urban Food Hubs Solution: Building Capacity in Urban Communities*, 28 *METRO. UNIVS.* 69, 86 (2017).

268. See Rosan, *supra* note 245 ("We need a more 'radical' narrative around urban agriculture and greening and redevelopment in U.S. cities that is guided by the need to develop policies that

Urban agriculture in America's Black urban geographies must become more than merely the cultivation of food in vacant lots upon urban landscapes. It must embody "an extension of the Black liberation struggle[,] . . . a strategy of resistance, an act of self-determination, a challenge to systemic violence, and an aspiration."²⁶⁹ Local governments must take affirmative steps to incentivize collective management and ownership of public space in Black urban geographies through zoning, land-use regulations, and other progressive legislation to incentivize new resource governance models.²⁷⁰ Such efforts are already under way in New York City, for example, to promote the development of CLTs.²⁷¹ Washington, D.C., already has a history of using limited-equity cooperatives to empower long-term residents in rental buildings to collectively purchase their building with governmental assistance and to resist displacement under the force of gentrification.²⁷² Similar programs can be established to promote cooperative ownership of local farms.

CONCLUSION

Washington, D.C.'s urban farming program, premised on the perceived neutrality of individualistic and competitive urban agriculture programs, establishes a zero-sum game of capitalism as the District's preferred pathway for the urban poor to escape food insecurity. Yet, such food insecurity has historically been shaped by exploitative and capitalistic food markets. Thus, while competitive market structures offer an opportunity for self-determination, they also obscure the inevitability of extermination for poor urban residents, whether it manifests as gentrification, or death itself from food-related disease. But, what do such acts of "social death" say of the civility of the people who engage them?²⁷³ Perhaps it clarifies how we lose a sense of humanity in the predatory game of capitalism, or maybe it simply reveals the extent of our enslavement to the violent system of racial capitalism.

address racial discrimination, disenfranchisement, loss of community control, and displacement of low-income, often minority residents.").

269. Sara Safranksy, *Rethinking Land Struggle in the Postindustrial City*, 49 *ANTIPODE* 1079, 1093 (2016).

270. See Wu & Foster, *supra* note 88, at 928 ("Incentives can include allowances for mixed-use development, parking lot reductions, investment into nearby public transit, tax benefits, tax increment financing, fast-track review, social impact bonds, inspection, and utility connection, fee waivers, narrower street widths, and the like." (citations omitted)).

271. See Abigail Savitch-Lew, *The NYC Community Land Trust Movement Wants to Go Big*, CITY LIMITS (Jan. 8, 2018), <https://perma.cc/333L-4TGX>.

272. See COAL. FOR NONPROFIT HOUSING & ECON. DEV., *A STUDY OF LIMITED-EQUITY COOPERATIVES IN THE DISTRICT OF COLUMBIA* 3 (2004), <https://perma.cc/8KGT-MX3T>. See generally AMANDA HURON, *CARVING OUT THE COMMONS* (2018).

273. Cf. ORLANDO PATTERSON, *SLAVERY AND SOCIAL DEATH* 6 (1982) (describing slavery as a kind of "social death" whereby one is not accepted as fully human in a society).

This Article argues that structural extermination can be avoided by embracing a justice-based vision of community economic development. To overcome the limitations of urban agriculture shaped by racial capitalist and neoliberal norms, local governments should explore strategies that promote social solidarity through collective co-governance mechanisms, economic democracy through collective ownership institutions, and solidarity economies through progressive zoning and land-use public policies.

