

Abolition and International Human Rights: Taiwan's Affirmation of Black American Abolitionist Movements

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America's use of police to maintain a social order that protects the interests of white upper-class citizens is similar to Taiwan's use of a police state to protect the interests of its authoritarian regime from 1945-1987. America's history and international positionality are vastly different from Taiwan's. However, grassroots movements that abolished Taiwan's police state affirm the strategies of American abolitionist movements for Black liberation and police accountability. Three main lessons from Taiwan's example confirm Black American abolitionists' divest-invest strategies: (1) state sanctioned violence and exploitation are tools for preserving the interests of the ruling class, (2) those tools can be dismantled through interest convergence and direct action, and (3) abolition is divestment and investment, so everyone must fight to build a better system that replaces the dismantled one. Taiwanese grassroots movements' demands for reparations, democracy, and a more inclusive social order demonstrate that abolition is not a political flashpoint. Rather, abolition is an intergenerational human rights movement demanding fundamental societal transformation that shifts power to historically marginalized communities.

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PREFACE

I am writing this preface on January 6, 2021, as pro-Trump insurgents conduct an armed takeover of the United States Capitol Building with little intervention from the police or the National Guard. From pictures and videos, it appears that most of the insurgents are white. The police and military’s weak response to this attempted coup stands in stark contrast to the police’s violent, militarized response to non-violent Black Lives Matter protests during the summer of 2020. This day, like all days, illustrates the salient point at the heart of this paper: the American police exist not to promote public safety, but to preserve a particular social order that benefits rich, white Americans. To enact meaningful justice in the United States, we must divest from this system rooted in white supremacist ideologies and invest in infrastructure that promotes a more inclusive, safe, and healthy social order.

The priorities of America’s police and military are not unique and are reflected in other countries throughout the world. During Taiwan’s martial law era of 1945-1987, the government used armed law enforcement and the military to maintain a social order that benefited those in power. As a Black American who rarely saw and never interacted with police when I lived in Taiwan from 2017-2018, I was shocked to learn that it had been under martial law 30 years prior to my arrival. Being an American citizen in a small country that depends on America as an ally granted me substantial privilege in a social hierarchy that contemporary Taiwan hopes to protect, and at least partially explains why I was shielded from any negative police interactions. However, as a Black person, I couldn’t help but notice how much freer and safer I felt in Taiwan than I feel in America. I was pulled over by the police within 24 hours of returning home to Kansas after a year without any police interactions in Taiwan. My feelings and anecdotal experiences are not totally subjective, as “the 2017 Freedom House index shows that Taiwan ranks as

the second-freest country in Asia,” and ranks ahead of the United States globally in terms of freedom.¹

Abolition is an expansive and iterative political framework and organizing strategy with many sub-strategies. This paper focuses on one sub-strategy: monetary divestment from state-sanctioned violence and investment into social infrastructures such as housing, healthcare, education, and democratic institutions. As the prolific abolitionist, organizer, and educator Mariame Kaba states:

*“Prison-industrial complex [PIC] abolition is a political vision, a structural analysis of oppression, and a practical organizing strategy . . . PIC abolition is a vision of a restructured society in a world where we have everything we need: food, shelter, education, health, art, beauty, clean water, and more things that are foundational to our personal and community safety.”*²

The abolitionist divest-invest sub-strategy is not new. Grassroots Black American organizers have fought and are currently fighting for the divest-invest model of abolition, and Taiwan’s example demonstrates that these organizers’ work should be supported and expanded. Citing the authors of the 1971 publication *Struggling for Justice*, Mariame Kaba writes, “‘without a radical change in our values and a drastic restructuring of our social and economic institutions,’ we can only achieve modest reforms of the criminal punishment system (including policing).”³ Political prisoner Eddie Ellis championed abolitionist divestment and investment in the early 2000s.⁴ Fred Moten and Stefano Harvey’s 2004 essay entitled *The University and the Undercommons* asserts:

*“What is, so to speak, the object of abolition? Not so much the abolition of prisons but the abolition of a society that could have prisons, that could have slavery, that could have the wage, and therefore not abolition as the elimination of anything but abolition as the founding of a new society.”*⁵

State-sanctioned violence is also an expansive and iterative concept with many definitions. This paper focuses on the *legal* infliction of physical

¹ Brad R. Roth, *Human Rights and Transitional Justice: Taiwan’s Adoption of the ICCPR and the Redress of 2/28 and Martial-Law-Era Injustices*, in *TAIWAN AND INTERNATIONAL HUMAN RIGHTS: A STORY OF TRANSFORMATION* 51, 53 (Jerome A. Cohen, William P. Alford & Chang-fa Lo eds., 2019).

² Mariame Kaba, *So You’re Thinking About Becoming an Abolitionist*, in *WE DO THIS ‘TIL WE FREE US* 2, 2 (Tamara K. Nopper ed., 2021).

³ Mariame Kaba, *Whether Darren Wilson Is Indicted or Not, the Entire System is Guilty*, in *WE DO THIS ‘TIL WE FREE US*, *supra* note 2, at 54, 55.

⁴ Mariame Kaba, *Community Matters. Collectivity Matters*, in *WE DO THIS ‘TIL WE FREE US*, *supra* note 2, at 164, 174.

⁵ Fred Moten & Stefano Harvey, *The University and the Undercommons: Seven Theses*, 79 *SOCIAL TEXT* 101, 114 (2004).

harm, imprisonment, and labor upon people's bodies by agents of the state like the police, the military, and corrections officers. Taiwan's abolition of the police state formed during its martial law era affirms many of the divest-invest strategies, tactics, and theories of contemporary Black American abolitionists and exemplifies critical race theorist Derrick Bell's interest convergence theory.⁶ In their post-abolitionist system, Taiwanese activists fought for investments in reparations, the strengthening of democratic institutions, the strengthening of social infrastructures, and the increased legal protection of marginalized populations. These are all strategies that contemporary Black American abolitionists consistently champion. It is important to note that contemporary Taiwan still has police, but its strong social infrastructures have substantially shifted governing power from the police to the people.

Despite several striking similarities, the United States obviously differs from Taiwan. The United States is not under a national martial law decree like Taiwan was, and most of the United States' carceral system operates at a state and/or local level instead of a national level.⁷ Also unlike Taiwan, the United States' carceral system is rooted in race-based exploitation, and a racial majority mostly inflicts the harms of the carceral system on racial minorities. Most of the victims of the United States' carceral system have been disenfranchised for centuries, while Taiwan's official martial law era lasted for 42 years. The United States is geographically larger and more ethnically diverse than Taiwan. All of these differences make it much harder to build a cohesive abolitionist movement in the United States. Nevertheless, Taiwan's incredible example demonstrates that contemporary Black American abolitionists' divest-invest model is not just a far-fetched dream, but a tangible reality in another part of the world.

I want everyone, especially Black Americans, to feel the freedom and safety that I felt while in Taiwan. This is not a theoretical exercise for me, but rather an effort to tangibly help myself and others feel safe in their own bodies and their own countries. Grassroots movements of Taiwanese citizens helped abolish the police state, a system that largely benefitted a few people in power. Abolition allowed for the expansion of democracy and other institutional systems that benefit Taiwanese people more broadly. Taiwan "has one of the best national health insurance systems in the world, cultural diversity is generally respected, intense political competition . . . has led to three peaceful party turnovers," and its active Constitutional Court recently legalized marriage equality.⁸ I hope that by studying the abolition of Taiwan's police state and the nation's transition to protecting civil and human rights, I

⁶ See Derrick Bell, *Brown v. Board of Education and the Interest Convergence Dilemma*, in THE DERRICK BELL READER 33, 35 (Richard Delgado & Jean Stefancic eds., 2005).

⁷ Wendy Sawyer & Pete Wagner, *Mass Incarceration: The Whole Pie 2020*, PRISON POLICY INITIATIVE (March 24, 2020), <https://www.prisonpolicy.org/reports/pie2020.html>, archived at <https://perma.cc/T69P-4E9K>.

⁸ Chien-Chih Lin, *Towards an Analytical Framework of Constitutionalism in Asia: The Case of Taiwan*, in TAIWAN AND INTERNATIONAL HUMAN RIGHTS, *supra* note 1, at 97, 98.

can help American abolitionists interested in Black liberation continue their human rights movement for reparations, divestment from oppressive police forces, and investment into important elements of our social infrastructure. Taiwan created a more equitable society, and so can we.

Part I of this paper will argue that state-sanctioned violence has been used as a tool for preserving the interests of the ruling class in both the United States and Taiwan. Part II will explain how people in the United States and Taiwan used interest convergence and organized resistance to dismantle the oppressive legal frameworks that enable state-sanctioned violence. Part III will explore how Taiwan has been able to shift societal power and successfully fight for long-term transitional justice, and argue that the United States' attachment to old systems of oppression will make its road to transitional justice look much different from Taiwan's.

I. STATE-SANCTIONED VIOLENCE AND EXPLOITATION AS A TOOL FOR PRESERVING THE INTERESTS OF THE RULING CLASS

In Taiwan and the United States, histories of colonialism and economic exploitation laid the groundwork for the future governments of both countries to protect their interests through state-sanctioned violence. Notably, the legal frameworks of both countries adapted to explicitly allow and encourage violence inflicted by the state. Contextualizing the countries' police states within their histories of colonialism and economic exploitation demonstrates how police violence is not a random, rare, or extralegal occurrence, but rather a calculated and intentional system of oppression that operates to protect the political and economic interests of those in power. Exposing the oppressive roots of Taiwan and America's police states therefore strengthens arguments for divestment from these systems and investment into equitable social infrastructures.

A. *Colonialism, State-sanctioned Violence, and Economic Exploitation in Taiwan*

The colonial history predating Taiwan's martial law era laid the foundations for a future authoritarian regime to exert social control. Indigenous Austronesian peoples populated Taiwan before the Portuguese and the Dutch colonized the island in the 1500s and 1600s. China's Qing dynasty then took over in 1683, bringing Han populations to inhabit Taiwan. Modern conceptions of rule of law did not exist during any of these historical periods.⁹ In 1895, Japan colonized Taiwan and "[t]he infrastructure, roads, harbors, railroads, power plants, and factories built by the Japanese government set a basis for later economic development. Like other colonies, Taiwan's re-

⁹ Jerome A. Cohen, William P. Alford & Chang-fa Lo, *Introduction - An Overview*, in TAIWAN AND INTERNATIONAL HUMAN RIGHTS, *supra* note 1, at 3.

sources were exploited to benefit the Japanese, not the Taiwanese.”¹⁰ As part of its exploitation of Taiwanese resources, the Japanese colonial government “forcibly moved many indigenous communities down the mountains and into the plains in efforts to extract forest products.”¹¹

The Japanese colonial government sought to build a Japanese identity among Taiwanese people of both Han Chinese and Austronesian descent. One tool that the Japanese colonial government used to achieve this goal was the Meiji Constitution, which contained some Western legal concepts,¹² but did not create democratic systems for Taiwanese people.¹³ The other tool that the Japanese colonial government used to instill a Japanese identity in Taiwan’s inhabitants was state-sanctioned violence. Han people and assimilated indigenous peoples were subjected to Japanese laws and regulations, whereas unassimilated indigenous peoples were subjected to the control of the “indigenous police” who “often resorted to the violent use of state power.”¹⁴ The Japanese colonial government used economic exploitation and state violence to deprive oppressed communities of sociopolitical power in ways that bolstered their own hegemonic privilege and control. The resulting physical and social infrastructure created fertile ground for an authoritarian regime to take root.

After Japan’s defeat in World War II, China resumed governance in Taiwan through the Republic of China (ROC) or the Nationalist Kuomintang (KMT) government in 1945. When the Chinese Communist Party (CCP) defeated the KMT in 1949, the KMT fled to Taiwan under the leadership of Chiang Kai-shek and made Taipei its capital.¹⁵ The KMT saw Taiwan as the “base for national salvation,” where they could exploit natural resources to “rescu[e] China from the Communists.”¹⁶ In order to preserve these political interests, the new KMT government in Taiwan created its own legal legitimacy by creating the 1947 ROC Constitution. The KMT then used the legal legitimacy granted to it by the ROC Constitution to tightly control foreign exchange and trade, institute state ownership of major industries, and eventually penetrate “universities, the entertainment community, farmers’ associations, fishermen’s associations, labor unions, trade unions, and local financial associations.”¹⁷ In other words, “economic policies became at best the servant of political mobilization.”¹⁸ The KMT thus took advantage of the

¹⁰ Chun-Yuan Lin, *The Evolution of Environmental Rights in Taiwan*, in TAIWAN AND INTERNATIONAL HUMAN RIGHTS, *supra* note 1, at 471, 473.

¹¹ JIUNN-RONG YEH, *THE CONSTITUTION OF TAIWAN: A CONTEXTUAL ANALYSIS* 226 (2016).

¹² See Cohen et al., *supra* note 9, at 3.

¹³ YEH, *supra* note 11, at 27.

¹⁴ *Id.* at 226.

¹⁵ Cohen et al., *supra* note 9, at 3.

¹⁶ Chun-Yuan Lin, *supra* note 10, at 473.

¹⁷ YEH, *supra* note 11, at 35.

¹⁸ *Id.*

infrastructure left behind by the Japanese colonial government to economically exploit Taiwanese people.

The KMT quickly created an oppressive legal framework for the express purpose of preserving its precarious new power and political interests. The KMT was in an unstable position because Taiwanese people saw it as a foreign regime and the CCP saw it as a group of exiled rebels.¹⁹ To strengthen its power and its political interests, the KMT and Chiang Kai-shek needed to force Taiwanese people into submission. The KMT therefore replaced the 1947 ROC Constitution with the Temporary Provisions Effectuated During the Period of National Mobilization for Suppression of the Communist Rebellion (Temporary Provisions) in 1948, followed by a 1949 Martial Law Decree “for power consolidation in a time of emergency.”²⁰ In order to pass the Temporary Provisions, the KMT bypassed the processes in the ROC Constitution and forced the National Assembly and Constitutional Court to rubber-stamp their decisions.²¹

By taking swift political action, the KMT created an oppressive legal framework from which it could preserve its power by economically exploiting citizens and exerting social control. With the Temporary Provisions and Martial Law Decree in place, the KMT could manipulate highly differentiated systems to “exert social and political control over different classes of citizens.”²² The Temporary Provisions and martial law prevented full constitutional democracy from taking effect on the island, causing Taiwanese people to “suffer harsher political repression than during the [Japanese] colonial days.”²³ For example, the court system was under strict KMT control, and was used by the party to impose punishments – including the death penalty – on political dissidents.²⁴ The KMT suppressed freedom of speech by censoring the media to prevent political dissent from being broadcasted, and by punishing political dissidents through violent extralegal measures enacted by secret police and the military.²⁵ There was a broad-based suppression of other fundamental rights and freedoms, including bans on freedom of association,²⁶ bans on national representative elections, and bans on political parties.²⁷ The KMT added to its oppressive legal framework by passing laws such as the Publication Act, the Civil Association Act, and the Public Gathering Act with the perfunctory approval of the Constitutional Court.²⁸ The

¹⁹ *Id.*

²⁰ *Id.* at 1.

²¹ *Id.* at 33–34.

²² *Id.* at 215.

²³ Chun-Hung Chen & Hung-Ling Yeh, *The Battlefield of Transitional Justice in Taiwan: A Relational View*, in *TAIWAN AND INTERNATIONAL HUMAN RIGHTS*, *supra* note 1, at 67, 70.

²⁴ Jerome A. Cohen, *Taiwan's Political-Legal Progress: Memories of the KMT Dictatorship*, in *TAIWAN AND INTERNATIONAL HUMAN RIGHTS: A STORY OF TRANSFORMATION* *supra* note 1, at 19, 20.

²⁵ *Id.*

²⁶ Chien-Chih Lin, *supra* note 8, at 105.

²⁷ YEH, *supra* note 11, at 2.

²⁸ *Id.* at 194, 209.

resulting state-sanctioned violence, commonly referred to as the “White Terror” was “long imposed.”²⁹ Chiang Kai-shek and the KMT successfully used the legal system and law enforcement to exert an extreme level of social control that preserved the party’s power and interests.

B. Colonialism, State-sanctioned Violence, and Economic Exploitation in the United States

Much like Taiwan’s authoritarian regime, American policing derives from a desire to preserve the economic and political interests of those in power through extreme social control. American policing originates in large part from “slavery, colonialism, and the control of a new industrial working class.”³⁰ Modern policing evolved from slave patrols, which began in South Carolina during colonial times to protect the economic interests of wealthy white enslavers by suppressing the revolts of enslaved Black people.³¹ After slave patrols violently suppressed enslaved Black people’s Stono Rebellion in 1739, the colonial American government gave slave patrols the right to exercise violent state power against Black people.³² The government agreed to compensate wealthy white enslavers for any property damage caused by patrols’ violence.³³ The colonial American government then formalized its commitment to protecting the economic interests of wealthy white people by establishing “slave codes” that legally encouraged white militias to maintain the social and economic order of slavery by beating, whipping, chasing, coercing, and shooting enslaved Black people.³⁴ Slave patrols introduced modern American policing strategies, such as paying people to enforce legal rules, giving law enforcement officers a “patrol” or a “beat,” using profiling to stop “trouble” before it starts, using guns and other weapons in the line of duty, and using identification cards to assess the legal status of an individual.³⁵ In the United States today, Black people are still profiled by the police at overwhelmingly disproportionate rates due to biased suspicions about their inherent criminality.³⁶ American police still use weapons more than police in any other developed democracy,³⁷ and state and federal laws still authorize the police’s use of deadly force despite its disproportionate impact on Black people.³⁸ Just as the Japanese colonial government’s economic ex-

²⁹ Cohen, *supra* note 9, at 19.

³⁰ ALEX S. VITALE, *THE END OF POLICING* 73 (2018).

³¹ Tim Sandle, *Southern Slave Patrols*, in *THE USE AND ABUSE OF POLICE POWER IN AMERICA: HISTORICAL MILESTONES AND CURRENT CONTROVERSIES* 15, 15 (Gina Robertiello ed., 2017).

³² *Id.* at 16.

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.* at 17.

³⁶ VITALE, *supra* note 30, at 12.

³⁷ *Id.*, at 11.

³⁸ *Id.*, at 19.

ploitation created a blueprint for the KMT's oppression, the colonial American system's economic exploitation of enslaved Black people created a blueprint for modern policing in the United States.

After America's colonial period ended, the United States government continued protecting the economic interests of wealthy white people by using violent state power against Black people through policing. Police violently suppressed abolitionists' and Black people's freedom of speech because emancipation directly threatened the economic interests of wealthy white Americans.³⁹ After the Civil War, state governments were interested in maintaining a social and economic order that benefitted wealthy white Americans during slavery. The state governments created laws and economic systems that forced newly freed Black people to accept employment in the sharecropping system.⁴⁰ Police and judges received kickbacks from wealthy white people through a "convict leasing" system, in which police frivolously arrested and incarcerated Black people and leased them out to perform forced labor for profit.⁴¹ Law enforcement maintained the political control necessary for economic exploitation by enforcing poll taxes and other voter suppression efforts.⁴²

Unfortunately, the United States' modern policing reflects infrastructure created during slavery. The United States currently has the highest rate of incarceration in the world,⁴³ and wealthy white Americans continue to profit from disproportionately Black prisoners and forced prison labor.⁴⁴ The police murders of a disproportionate amount of Black people reflect the police's continued legal authorization to use deadly violence to maintain America's unjust social and economic order. Law enforcement continues to maintain political control by disproportionately enacting violence on Black people who exercise their freedom of speech.⁴⁵ The police wield control by beating, shooting, and caging Black people when they protest for their rights.⁴⁶ These actions result in the stripping of disproportionately Black ex-convicts of their right to vote.⁴⁷

Part I of this paper has demonstrated that police actions and state violence tend to maintain a social order that favors society's most powerful people. The KMT's use of strict authoritarian laws, suppression of democ-

³⁹ Anne Cross, *Police Brutality, in THE USE AND ABUSE OF POLICE POWER IN AMERICA*, *supra* note 31, at 211, 215.

⁴⁰ VITALE, *supra* note 30, at 98.

⁴¹ *Id.*

⁴² *Id.*

⁴³ MICHELLE ALEXANDER, *THE NEW JIM CROW: MASS INCARCERATION IN THE AGE OF COLORBLINDNESS* 6 (2012).

⁴⁴ *See id.* at 230–32.

⁴⁵ *See* Vanessa Garcia & Emmanuel Pierre-Louis, *Police Mistreatment in Cases of Civil Disobedience, in THE USE AND ABUSE OF POLICE POWER IN AMERICA*, *supra* note 31 at 218, 223.

⁴⁶ *See id.*

⁴⁷ *See* ALEXANDER, *supra* note 43, at 142–43.

racy, and state violence to preserve its own economic and political interests is similar to the United States' continued use of law enforcement, the suppression of democracy, and state violence to preserve wealthy white people's economic and political interests. As we will see in Part II of this paper, power must be shifted to marginalized communities to dismantle the oppressive status quo.

II. INTEREST CONVERGENCE AND ORGANIZED RESISTANCE AS MECHANISMS FOR DISMANTLING OPPRESSIVE LEGAL FRAMEWORKS

The legal regimes of Taiwan's police state and Nineteenth and Twentieth century American policing explicitly encouraged the protection of powerful interests through economic exploitation and state-sanctioned violence. As a result, marginalized communities in both countries had to create and capitalize on moments when their interests converged with those of the state. Critical race theorist Derrick Bell coined this "interest convergence" theory, which hypothesizes that powerful people have no incentive to meet the demands of marginalized communities until those demands coincide with powerful people's interests.⁴⁸ Meaningful change therefore requires sustained, organized resistance that creates and/or capitalizes on moments of interest convergence that temporarily shift power to marginalized communities. Marginalized communities in Taiwan's martial law era and the United States' Reconstruction and Civil Rights Eras courageously launched organized resistances against their oppressive regimes before those regimes had any incentive to change. Marginalized communities in both countries suffered violent backlash as a result. However, power began to shift toward marginalized communities in Taiwan and the United States during moments of interest convergence brought on by World War II and the Cold War. In Taiwan and the United States, the shift in power brought on by interest convergence allowed both countries to dismantle oppressive legal frameworks.

A. *Interest Convergence and Organized Resistance During Taiwan's Martial Law Era*

Taiwanese people enacted organized resistance against the KMT regime from the very beginning, and the KMT reacted violently to preserve its economic interests.⁴⁹ The first major uprising is referred to as the infamous 2/28 Incident.⁵⁰ Organized groups of Taiwanese people began an uprising against the KMT/ROC on February 28, 1947, because they saw the new government as an imposing foreign regime. KMT military governor Chen Yi initially

⁴⁸ Bell, *supra* note 6, at 35.

⁴⁹ Roth, *supra* note 1, at 51, 54.

⁵⁰ *Id.*

seemed open to negotiating with the Taiwanese, but then proceeded to violently suppress the insurgents with KMT reinforcements from Mainland China.⁵¹ The death toll from the 2/28 Incident is estimated to be between 18,000 and 28,000.⁵² The immediate and overwhelmingly deadly suppression of Taiwanese political dissidents marked the beginning of the White Terror and set an oppressive tone for the KMT's authoritarian regime. Despite the imminent threat of the KMT government, Taiwanese people continued to engage in organized resistance throughout the martial law era. Taiwan's rapid economic growth in the 1960s bred a strong middle class and an emerging civil society that began to call for social and political reforms.⁵³ Taiwanese political dissidents formed several organizations collectively referred to as *dangwai*, which functioned as a human and civil rights movement as well as a quasi-political party.⁵⁴ Taiwanese citizens' decades of organized civil and human rights activism put pressure on the KMT government, and the shifting international landscape following the Cold War augmented that pressure.⁵⁵

The KMT's violent reactions to the *dangwai*'s movement for the abolition of Taiwan's police state became more intense as the KMT's international relevance and power became more precarious. International acceptance of new states that emerged after the Cold War was contingent on their conformity to democracy and constitutionalism.⁵⁶ The KMT/ROC therefore initially enjoyed official recognition and other international relations advantages from the West during the Cold War because it was an anti-Communist regime, in contrast to the People's Republic of China.⁵⁷ The KMT regime employed the language of human rights on the international stage in order to maintain its own legitimacy in the Cold War context, but its actual enforcement of martial law inspired the *dangwai* to expose the KMT's human rights violations to the international community.⁵⁸ Concurrently, mainland China's growing economic power made it increasingly relevant on the international political stage. The United Nations replaced the ROC (Taiwan) with the People's Republic of China (China) as the only official representative of the Chinese government in 1971.⁵⁹ As a result, the United Nations recognized Taiwan as part of China rather than an independent state, causing many

⁵¹ *Id.*

⁵² *Id.*

⁵³ YEH, *supra* note 11, at 4.

⁵⁴ Song-Lih Huang & Yibee Huang, *The Role of NGOs in Monitoring the Implementation of Human Rights Treaty Obligations*, in TAIWAN AND INTERNATIONAL HUMAN RIGHTS, *supra* note 1, at 305, 306.

⁵⁵ YEH, *supra* note 11, at 6.

⁵⁶ Jacques deLisle, "All the World's a Stage": Taiwan's Human Rights Performance and Playing to International Norms, in TAIWAN AND INTERNATIONAL HUMAN RIGHTS, *supra* note 1, at 173, 178.

⁵⁷ *Id.* at 175–76.

⁵⁸ Huang & Huang, *supra* note 54, at 306.

⁵⁹ Chun-Yuan Lin, *supra* note 10, at 474.

states to terminate their diplomatic relationships with Taiwan.⁶⁰ Recognizing the new fragility of the KMT's power and relevance, Chiang Kai-shek started to put more effort into Taiwan's domestic infrastructure and economic policy.⁶¹ To that end, the KMT enacted even harsher political suppression of the *dangwai* to preserve its authoritarian economic and political interests.⁶² Ironically, the KMT's harsh suppression of the *dangwai*'s organized abolitionist movement eventually became detrimental to the KMT's economic and political interests.

The *dangwai* delivered a lethal threat to the KMT's authoritarian political and economic interests by capitalizing on the KMT's increasingly rocky relationship with the United States. Before the 1970s, the United States served as a crucial ally to and security blanket for the KMT.⁶³ The *dangwai* ensured that Taiwan's human rights shortcomings became more evident to the United States in the 1970s, a decade in which a feature of the United States' foreign policy during the Carter administration was human rights protection.⁶⁴ The United States government severed diplomatic and defense relations with Taiwan in the 1970s.⁶⁵ In this new environment, the United States "suggested new, human-rights related conditions for continued U.S. support."⁶⁶ The United States' severance of official diplomatic relations with Taiwan made the KMT's position on the international stage even more fragile than it was before, giving the *dangwai* incredible leverage in its fight for the abolition of Taiwan's police state.

After the United States severed official diplomatic ties with Taiwan, the successes of the *dangwai*'s calls for the abolition of Taiwan's police state can be understood through the lens of interest convergence. The *dangwai* of the late 1970s and early 1980s brought international attention to the KMT's human rights abuses by creating powerful human and civil rights organizations like consumer protection groups, a group of women lawyers called the Awakening Foundation, and a group of human rights lawyers called The Taiwan Association of Human Rights.⁶⁷ Inspired by pro-democracy movements and other demonstrations of "people power" around the world, the *dangwai* took to the streets for public protests and demonstrations that exposed violent KMT suppression.⁶⁸ The KMT violently arrested eight *dangwai* journalists at the 1979 International Human Rights Day Protest in Kaohsiung (commonly referred to as the "Kaohsiung Incident"), garnering considerable international media attention that pressured the KMT government into hold-

⁶⁰ YEH, *supra* note 11, at 6.

⁶¹ Chun-Yuan Lin, *supra* note 10, at 474.

⁶² See Cohen, *supra* note 24, at 23.

⁶³ See deLisle, *supra* note 56, at 175.

⁶⁴ See *id.* at 176-77.

⁶⁵ *Id.* at 177.

⁶⁶ *Id.*

⁶⁷ YEH, *supra* note 11, at 196.

⁶⁸ *Id.* at 5.

ing a public trial.⁶⁹ The politically motivated assassination of a *dangwai* journalist in San Francisco by KMT affiliates strengthened international condemnation of the authoritarian regime, especially from the United States.⁷⁰ By taking advantage of the international landscape to threaten the KMT's power, the *dangwai* capitalized on KMT atrocities to force the KMT to recognize their own interest in the preservation of human rights.⁷¹ This interest convergence allowed the *dangwai* to register as an official opposition political party called the Democratic Progressive Party (DPP) in 1986,⁷² and caused the KMT to end martial law in 1987.⁷³ Astoundingly, the *dangwai*'s organized resistance shifted the KMT's interests so sharply that Taiwan's democratic transition was "introduced and managed by officials of the authoritarian regime itself."⁷⁴

B. *Interest Convergence and Organized Resistance During the United States' Civil Rights Era*

Much like Taiwanese people's organized resistance against the KMT in the 1940s, Black Americans' organized resistance after the Civil War was met with violent reactions perpetuated by governments within the United States to preserve white economic interests. During the Reconstruction era, civil rights legislation and the protection afforded by federal troops allowed Black people to vote in large numbers, gain considerable local and federal political control, and open schools and businesses.⁷⁵ Black people's breathtakingly fast and organized consolidation of political and economic power directly threatened white people's political and economic interests, leading to violent backlash. White supremacist groups like the Ku Klux Klan sought to restore slavery's racial and economic order by unleashing a "terrorist campaign" across the South "complete with bombings, lynchings, and mob violence."⁷⁶ This terrorist campaign was endorsed by the Supreme Court and federal and state governments, effectively legalizing white supremacist vigilante mob violence against Black people.⁷⁷ The federal government withdrew

⁶⁹ Chen and Yeh, *supra* note 23, at 74–75.

⁷⁰ Cohen, *supra* note 24, at 25.

⁷¹ deLisle, *supra* note 54, at 177.

⁷² Huang and Huang, *supra* note 55, at 306.

⁷³ Chen and Yeh, *supra* note 23, at 69.

⁷⁴ Roth, *supra* note 1, at 53.

⁷⁵ ALEXANDER, *supra* note 43, at 29.

⁷⁶ *Id.* at 30.

⁷⁷ See generally *Slaughter-House Cases*, 83 U.S. 36 (1873) (holding that the Privileges and Immunities Clause of the Fourteenth Amendment applies to federal citizenship but not state citizenship, which laid the groundwork for state governments to engage in anti-Black state-sanctioned violence); *U.S. v. Cruikshank*, 92 U.S. 542 (1876) (holding that the Bill of Rights did not apply to state governments, which effectively allowed white supremacists to terrorize and kill Black people without legal consequence); *The Civil Rights Cases*, 109 U.S. 3 (1883) (holding that the Thirteenth and Fourteenth Amendments do not allow the federal government to outlaw private discrimination, which effectively prevented the federal government from curtailing private discrimination's violent and anti-Black consequences).

its troops from the South in 1877, giving white supremacist terrorists even more power to enact violence against Black people.⁷⁸ Like the 2/28 Incident, the United States governments' immediate backlash to Black resistance set an oppressive tone for the decades to come.

Like the KMT's issuance of a martial law decree shortly after the 2/28 Incident, the United States created an oppressive post-slavery legal framework to ensure that wealthy white interests would still be protected. An agrarian depression in the 1880s caused many poor white farmers—who represented most white people in the South—to question the political and economic dominance of wealthy white planters.⁷⁹ The resulting white Populist movement worked with established Black Populists to enact an organized political resistance against wealthy white interests.⁸⁰ This interracial movement combined with Black people's incredible economic and political gains during the Reconstruction Era threatened white supremacist political interests and wealthy white people's economic interests.⁸¹ Pre-existing Jim Crow laws served as a legal mechanism for severing the radical ties between poor white people and Black people in order to preserve a white supremacist status quo.⁸² Jim Crow laws created a racial caste system that segregated and disenfranchised Black people in employment, housing, education, and “virtually every other sphere of life,” which perpetuated violence against Black people through its racist belief systems and institutions.⁸³

Nevertheless, much like Taiwanese people during the beginning of the martial law era, Black people's continued organized resistance against an oppressive legal regime put pressure on the United States government that became augmented by the shifting international landscape. Black civil and human rights groups successes in the late Nineteenth and early Twentieth centuries can be understood through the lens of interest convergence brought on by World War II and the Cold War. Like Taiwanese people's formation of the *dangwai*, Black people launched an organized resistance to Jim Crow laws by creating several civil and human rights groups during the late 1800s and early 1900s. These groups included the National Association for the Advancement of Colored People (NAACP),⁸⁴ the National Association for Colored Women's Clubs⁸⁵, and the Congress of Racial Equity (CORE)⁸⁶. These groups fervently fought against lynching, segregation, and Jim Crow

⁷⁸ EQUAL JUST. INITIATIVE, RECONSTRUCTION IN AMERICA: RACIAL VIOLENCE AFTER THE CIVIL WAR, 1865–1876 92 (2020), <https://eji.org/wp-content/uploads/2005/11/reconstruction-in-america-rev-111521.pdf>.

⁷⁹ ALEXANDER, *supra* note 43, at 33.

⁸⁰ See generally OMAR H. ALI, IN THE LION'S MOUTH: BLACK POPULISM IN THE NEW SOUTH, 1886-1900 64, 78 (2010); ALEXANDER, *supra* note 43, at 32–34 (describing the history behind the Southern, multiracial, working-class movement of the late 1800s).

⁸¹ *Id.* at 29.

⁸² *Id.* at 34.

⁸³ *Id.* at 35.

⁸⁴ *Id.* at 36-37

⁸⁵ About NACWC, NAT'L ASS'N OF COLORED WOMEN'S CLUBS, <https://www.nacwc.com/history>, archived at <https://perma.cc/8ZFP-8VDB>.

laws throughout the early Twentieth century. During World War II, the obvious similarities between the Jim Crow legal system and the oppressive policies of the Third Reich damaged the United States' "credibility as the leader of the 'free world.'" ⁸⁷ This damaged credibility affected the United States' power to win the hearts and minds of non-white people from the Global South in the Cold War fight against communist countries. ⁸⁸ The Soviet Union at least marketed itself as a place where non-white citizens from the Global South could access its world class universities, equitable housing, and wide access to the arts. In contrast, Jim Crow laws blatantly forced and relegated Black and non-white people into dilapidated schools, facilities, and neighborhoods. ⁸⁹ Black civil and human rights groups who had already been resisting Jim Crow for decades capitalized on the United States' weakened reputation by launching several lawsuits challenging Jim Crow, including *Smith v. Allwright*, 321 U.S. 649 (1944) and *McLaurin v. Oklahoma*, 339 U.S. 637 (1950). ⁹⁰ By the time the NAACP launched a federal challenge to school segregation through *Brown v. Board of Education*, 347 U.S. 483 (1954), the Supreme Court ruled in favor of desegregation at least partially for the purpose of salvaging the United States' international reputation. ⁹¹ The United States' precarious Cold War position strengthened domestic movements for civil and human rights in ways similar to the strengthening of the *dangwai* when Taiwan's political position became precarious in the 1970s.

Interest convergence sparked by the Cold War continued to bolster the United States' Civil Rights movement. The brutal lynching of 14-year-old Emmett Till one year after the *Brown v. Board of Education* decision catalyzed the civil rights movement, leading to the creation of more civil and human rights groups like the Southern Christian Leadership Conference (SCLC) ⁹² and the Student Non-Violent Coordinating Committee (SNCC). ⁹³ Like the *dangwai*, these organizations took advantage of the international landscape to threaten the United States' Cold War power. They launched non-violent protests like lunch counter sit-ins ⁹⁴ and Freedom Rides ⁹⁵ along-

⁸⁶ *Congress of Racial Equality (CORE)*, THE MARTIN LUTHER KING, JR. RSCH. AND EDUC. INST., <https://kinginstitute.stanford.edu/encyclopedia/congress-racial-equality-core>, archived at <https://perma.cc/2T7R-XNCU>.

⁸⁷ Bell, *supra* note 6, at 36.

⁸⁸ *Id.*

⁸⁹ Richard Delgado, *Why Obama: An Interest Convergence Explanation for America's First Black President*, 33 LAW & INEQ. 345, 355 (2015).

⁹⁰ ALEXANDER, *supra* note 43, at 36.

⁹¹ Delgado, *supra* note 89, at 345.

⁹² *SCLC History*, S. CHRISTIAN LEADERSHIP CONF., <https://nationalsclc.org/about/history/>, archived at <https://perma.cc/F5FU-A7UK>.

⁹³ *Student Nonviolent Coordinating Committee (SNCC)*, THE MARTIN LUTHER KING, JR., RSCH. AND EDUC. INST., <https://kinginstitute.stanford.edu/encyclopedia/student-nonviolent-coordinating-committee-sncc>, archived at <https://perma.cc/58Z2-GAD2>.

⁹⁴ *Id.*

⁹⁵ Freedom Rides, THE MARTIN LUTHER KING, JR. RSCH. AND EDUC. INST., 4 Aug. 2020, <https://kinginstitute.stanford.edu/encyclopedia/freedom-rides>, archived at <https://perma.cc/3XKK-Y95H>.

side CORE and the NAACP. In response to the civil rights movement's threats to white Americans' economic and political order, police violently suppressed these non-violent protests. Some of the police's tactics included denying permits, threatening and beating demonstrators, making discriminatory arrests, and failing to protect demonstrators from angry mobs of white vigilantes.⁹⁶ Images of police violence at non-violent protests sparked outrage across the globe and threatened the United States' Cold War power even more. An illustrative anecdote demonstrating the United States' obvious hypocrisy is when the coverage of police's violent response to non-violent civil rights protestors in Selma, Alabama interrupted a national broadcast condemning Nazi actions during the Holocaust.⁹⁷ America's international power at least partially depended on offering some form of equality to Black Americans, or else its image would be conflated with oppression and violence. In response to Black civil rights activists' immense pressure and the country's deteriorating international reputation, Congress passed the Civil Rights Act in 1964 and the Voting Rights Act in 1965.⁹⁸ Just like the KMT decided to end the martial law era after the *dangwai* shifted its interests, the U.S. federal government passed civil rights legislation in response to Black people's organized resistance and because of interest convergence.

Unlike the precarious international position that Taiwan continues to find itself in, the United States' strong international position gave it little incentive to cease its human and civil rights abuses against Black people and political dissidents in the late 1960s and 1970s. In 1967 alone, there were 164 protests against police brutality in Black neighborhoods across the nation.⁹⁹ So many protests erupted that President Lyndon B. Johnson founded the Kerner Commission, which found that the primary grievances among protestors were police practices and the discriminatory administration of justice.¹⁰⁰ The commission also found that the police were a symbol of "White power, White racism, and White repression" for the Black community, and that the Black community's primary demand in its protests was equal treatment and equal opportunity.¹⁰¹ Throughout the late 1960s and 1970s, social revolutions and protests threatened the political establishment's interests so acutely that it ordered law enforcement to enact violent crackdowns on polit-

⁹⁶ VITALE, *supra* note 30, at 48.

⁹⁷ Christopher Klein, *How Selma's "Bloody Sunday" Became a Turning Point in the Civil Rights Movement*, HISTORY (July 18, 2020), <https://www.history.com/news/selma-bloody-sunday-attack-civil-rights-movement>, archived at <https://perma.cc/7DKX-LTFK>.

⁹⁸ Civil Rights Act of 1964, Pub. L. No. 88-352, 78 Stat. 241 (1964) (prohibiting discrimination on the basis of race, color, religion, sex, or national origin); Voting Rights Act of 1965, Pub. L. No. 89-110, 79 Stat. 437 (1965) (restoring protections against legal barriers that prevent Black people from voting).

⁹⁹ Kaitlyn Clarke and Philip D. McCormack, *Kerner Commission Report on Race Riots and Police Response*, in THE USE AND ABUSE OF POLICE POWER IN AMERICA, *supra* note 31, at 94, 96.

¹⁰⁰ *Id.* at 97.

¹⁰¹ *Id.* at 96-97.

ical dissidents.¹⁰² The 1968 Democratic National Convention became a flashpoint symbolizing tensions between the police and people who threatened the political status quo.¹⁰³ When the political establishment did not want non-violent leftist protestors to interfere with the 1968 Democratic convention,¹⁰⁴ they deployed 12,000 officers from the Chicago Police Department and 6,000 Illinois National Guardsmen to use batons and teargas.¹⁰⁵

Ironically, it was the violent suppression of Black activists in the late 1960s and early 1970s that contributed to the white political establishment's insistence that crime was pathological for Black men, who were presented as criminals even in cases where white people committed crimes.¹⁰⁶ This led to the emergence of the conservative "Law and Order" or "Crime Control" philosophy of policing.¹⁰⁷ The federal government developed "Red Squads" to actively undermine groups like the Black Panthers and CORE.¹⁰⁸ Local police worked with the FBI to suppress Black civil and human rights movements through targeted arrests on trumped-up charges and assassinations of prominent Black leaders like Fred Hampton.¹⁰⁹ New legislation strengthened the Crime Control model of policing by enhancing law enforcement, redefining crime, mandating harsher sentences, limiting judicial discretion, eliminating or curtailing the use of parole, and restricting or eliminating correctional programming.¹¹⁰ Some examples of the legislation included the 1973 New York Rockefeller Drug Laws; the legalization of the death penalty; Clinton's Violent Crime Control and Law Enforcement Act of 1994; the 1994 Federal Death Penalty Act; and the Comprehensive Crime Control Act of 1984.¹¹¹

The Crime Control model also led to the "War on Drugs," which criminalized drug use from the 1970s to the 1990s with law enforcement tactics that are now critiqued as ineffective and unconstitutional.¹¹² In fact, the "War on Drugs" was specifically designed to disrupt Black communities despite several studies proving that white people are generally more likely to use illegal drugs than Black people.¹¹³ John Ehrlichman, counsel and Assistant to the President for Domestic Affairs under Nixon, explicitly stated:

¹⁰² Matthew J. Sheridan, "Law and Order" as a Popular Political Slogan, in *THE USE AND ABUSE OF POLICE POWER IN AMERICA*, *supra* note 31, at 159.

¹⁰³ Sealock, Miriam D, *Chicago Police During the 1968 Democratic National Convention* in *THE USE AND ABUSE OF POLICE POWER IN AMERICA*, *supra* note 31, at 98.

¹⁰⁴ *Id.* at 99–101.

¹⁰⁵ *Id.* at 101.

¹⁰⁶ Sheridan, *supra* note 102, at 159.

¹⁰⁷ *Id.*

¹⁰⁸ VITALE, *supra* note 30, at 49.

¹⁰⁹ *Id.*

¹¹⁰ Sheridan, *supra* note 102, at 160.

¹¹¹ *Id.*

¹¹² Steven Block, *Impact of the War on Drugs*, in *THE USE AND ABUSE OF POLICE POWER IN AMERICA*, *supra* note 31, at 183.

¹¹³ *Id.* at 187.

*The Nixon campaign in 1968, and the Nixon White House after that, had two enemies: the antiwar left and black people. You understand what I'm saying? We knew we couldn't make it illegal to be either against the war or blacks, but by getting the public to associate the hippies with marijuana and blacks with heroin, and then criminalizing both heavily, we could disrupt those communities. We could arrest their leaders, raid their homes, break up their meetings, and vilify them night after night on the evening news. Did we know we were lying about the drugs? Of course we did.*¹¹⁴

The use of the word “war” in “War on Drugs” also foreshadows how the government encouraged the creation of SWAT teams and the militarization of the police, which presently allow law enforcement to use body armor, tanks, and military-grade weapons from the Pentagon¹¹⁵ when interacting with Black communities.¹¹⁶

Part II of this paper demonstrated that power must be shifted to marginalized communities to dismantle an oppressive status quo, and that interest convergence helped shift that power in both Taiwan and the United States. Part III will explore how, without divestment from existing institutions or high levels of interest convergence to hold it accountable, the United States government has drastically expanded its carceral state to preserve the interests of the social and political status quo. Part III will also argue that international examples like Taiwan’s affirm Black American abolitionists’ strategies for dismantling contemporary state-sanctioned violence in the United States.

III. SHIFTING SOCIETAL POWER FROM THE GROUND UP FOR LONG-TERM TRANSITIONAL JUSTICE

The United States’ continued state-sanctioned violence and oppression of Black communities even after the dismantling of an explicitly racist legal regime demonstrates that fundamental societal transformation—not just the changing of laws—is necessary for reparatory and transitional justice. Mariame Kaba argues that “[r]epeated attempts to improve the sole option offered by the state [police], despite how consistently corrupt and injurious it has proven itself, will neither reduce nor address the harm that actually required the call.”¹¹⁷ As stated in the Preface, abolition is an expansive and iterative organizing strategy and political framework with many sub-strategies, and this paper focuses on one aspect of it: monetary divestment from

¹¹⁴ Dan Baum, *Legalize It All*, HARPER’S MAGAZINE (Apr. 2016), <https://harpers.org/archive/2016/04/legalize-it-all/>, archived at <https://perma.cc/2FTN-D34F>.

¹¹⁵ VITALE, *supra* note 30, at 25.

¹¹⁶ *Id.* at 11.

¹¹⁷ Mariame Kaba, *So You’re Thinking About Becoming an Abolitionist*, MEDIUM (Oct. 30, 2020), <https://level.medium.com/so-youre-thinking-about-becoming-an-abolitionist-a436f8e31894>, archived at <https://perma.cc/U45Q-CSUC>.

state-sanctioned violence and investment into social infrastructures such as housing, healthcare, education, and democratic institutions.

Although Taiwan and the United States both have histories of state-sanctioned violence rooted in colonialism and economic exploitation, a critical difference between the two countries' struggles toward abolition is that Taiwan's struggle did not have a widespread racialized majority-minority dynamic. The Taiwanese masses could be mobilized to divest from systems that did not serve them because the martial law era KMT government mostly benefitted a very small group of powerful people. Conversely, the racialized majority-minority dynamic in the United States makes divestment from white supremacist structures at least appear to be against the interests of America's white majority. The United States, therefore, has not divested from, nor fully acknowledged, the histories and mechanisms that allow state-sanctioned violence to flourish.

Despite Taiwan and the United States' very different placements within the divest-invest abolitionist framework, Taiwan's example affirms the work that Black American contemporary abolitionists are doing to create a more equitable American society. Organized groups of Taiwanese citizens in the post-martial law era have been transforming their society through interest-convergent demands for investments in reparations, democratic institutions, and strong protections for marginalized communities. Taiwan's decades-long fight for a more equitable society after the abolition of its martial law era demonstrates that the investment portion of the divest-invest abolitionist model is a multigenerational and multifaceted struggle for fundamental societal transformation. Although Black abolitionist civil and human rights organizations have not enjoyed the same level of interest convergence as Taiwanese organizations, Black American abolitionists have also organized for fundamental divestments and investments and refuse to be limited by superficial, short-sighted "reforms." The example set by the work of grassroots Taiwanese activism should compel the United States to take Black human and civil rights organizations seriously when they call for divestment from the police state and investment into social infrastructures that promote health, safety, and fundamental societal transformation.

A. Demanding Reparations

International scholars argue that the implementation of reparatory justice must be holistic and democratic to truly shift power. Reparatory justice mechanisms can mostly be classified into three overlapping groups: "mechanisms of accountability for past crimes, including trials[,] truth commissions and lustrations policies; victim-oriented restorative justice mechanisms, including reparations, construction of monuments and public memory projects; and mechanisms of security and peace, including amnes-

ties and pardons, constitutional amendments, and institutional reform.”¹¹⁸ Contemporary Black American organizers in Chicago have used a reparations framework that includes “repair, restoration, acknowledgement, cessation, and nonrepetition.”¹¹⁹ The international human rights community tends to promote “rule of law” reparatory legal processes that impose criminal sanctions on perpetrators of injustice.¹²⁰ For example, the United Nations’ Human Rights Committee emphasizes bringing to justice the perpetrators of human rights violators in its General Comment 31 of 2004. However, this framework often results in partisan exercises of power in which the winners of a political conflict impose judgment on vanquished adversaries and dress it up with international legal language.¹²¹ As a result, some commentators have argued that this narrow, legalistic interpretation of reparatory justice has impeded the creativity and usefulness of the concept because it gets hijacked by local political agendas,¹²² and lacks a broader consideration for and understanding of post-conflict societies.¹²³

In Taiwan, no specific actors have been criminally prosecuted or publicly exposed for past injustices because the party that committed the injustices (the KMT) retains significant political power today.¹²⁴ The KMT continued to rule Taiwan for more than a decade after legally dismantling the martial law decree, and KMT President Lee Teng-hui oversaw the political reforms that eventually led Taiwan to become a democracy.¹²⁵ But because he was hand-picked by the KMT’s former authoritarian leaders and was a member of the KMT himself, President Lee had significant incentives to avoid prosecuting his own party and comrades.¹²⁶ For example, while the DPP views the 2/28 Incident as the KMT’s forcible and ruthless imposition of a foreign regime, the KMT characterizes the Incident as a tragic episode attributable to lower-level wrongdoing.¹²⁷ Although Taiwan’s unconventional political climate makes it difficult to hold particular actors accountable for past atrocities, it eliminates the narrow reparatory justice process promoted by the international community and opens the door for organized groups of directly affected constituencies to impact Taiwan’s mechanisms for reparations.

Effective transitional and reparatory justice mechanisms implemented in Taiwan are the outcomes of the interaction between government and or-

¹¹⁸ CHEN & YEH, *supra* note 23, at 68.

¹¹⁹ Mariame Kaba & Andrea Ritchie, *We Want More Justice for Breonna Taylor than the System That Killed Her Can Deliver*, ESSENCE MAGAZINE (Dec. 6, 2020), <https://www.essence.com/feature/breonna-taylor-justice-abolition/>.

¹²⁰ See Kaba, *supra* note 117, at 74.

¹²¹ See JELENA SUBOTIĆ, HIJACKED JUSTICE: DEALING WITH THE PAST IN THE BALKANS, 170 (2009).

¹²² Chen & Yeh, *supra* note 23, at 68.

¹²³ *Id.*

¹²⁴ See Roth, *supra* note 1, at 53.

¹²⁵ Chen & Yeh, *supra* note 23, at 70–71.

¹²⁶ *Id.* at 70.

¹²⁷ See Roth, *supra* note 1, at 55.

ganized coalitions of grassroots actors.¹²⁸ Some scholars argue that the vertical (government to citizens) and horizontal (citizen to citizen) expansion of transitional justice is an important feature of the contemporary field, and that the state is no longer perceived as the only actor leading the transitional justice process.¹²⁹ This argument rings true in Taiwan, where the KMT took control of the party machine to confront dissent within the party and mass demonstrations by the public in order to obstruct historical justice in the process of Taiwan's democratization.¹³⁰ Taiwanese victims recognize that the public's knowledge of Taiwan's dark past is simplified and fragmented due to the lack of reparatory social processes like public truth hearings or the wide dissemination of research, and have therefore organized themselves into citizen groups and NGOs to influence the reparatory justice process.¹³¹ Victims, human rights scholars, and NGOs working in solidarity with each other have successfully targeted the recovery of traumatic memory and justice through protests and policy initiatives that strongly pressure the government into eventually endorsing some of their efforts.¹³² These communities and civil society organizations have collectively pressured the resistant KMT into ensuring that human rights parks and museums have ample protection and investment from the government in order to preserve public memory of past atrocities,¹³³ and have successfully fought for financial compensation for victims of the 2/28 Incident, the White Terror, and the Kaohsiung Incident.¹³⁴ The organized resistance of directly affected groups in Taiwan has shown that meaningful transitional and reparatory justice projects cannot be monopolized by the state, and must have substantial buy-in from citizens.¹³⁵

Unlike Taiwan, America does not have a broad base of support for reparations that could create meaningful interest convergence. The United States' uniquely racialized majority-minority dynamic makes it difficult to convince the white majority to literally divest money gained from oppression and reinvest that money into a Black minority. In fact, a 2020 poll shows that 90% of America's white majority opposes reparations.¹³⁶ This is different from Taiwan, where the majority of Taiwanese people were harmed or at least inconvenienced by the martial law era and were therefore more universally supportive of reparatory justice projects.

¹²⁸ See CHEN & YEH, *supra* note 23, at 67.

¹²⁹ See THOMAS OBEL HANSEN, TRANSITIONAL JUSTICE THEORIES, 105–06 (Susanne Buckley-Zistel, Teresa Koloma Beck, Christian Braun & Friederike Mieth eds., 2014).

¹³⁰ See Chen & Yeh, *supra* note 23, at 70–71.

¹³¹ See *id.* at 71.

¹³² See *id.* at 69.

¹³³ See *id.* at 73–74.

¹³⁴ See *id.* at 71, 75.

¹³⁵ See *id.* at 69.

¹³⁶ See Katanga Johnson, *U.S. Public More Aware of Racial Inequality but Still Rejects Reparations*, REUTERS (June 25, 2020), <https://www.reuters.com/article/us-usa-economy-reparations-poll/u-s-public-more-aware-of-racial-inequality-but-still-rejects-reparations-reuters-ip-sos-polling-idUSKBN23W1NG>, archived at <https://perma.cc/3BVD-XT4W>.

As a result of America's racialized majority-minority dynamic, the United States government has not provided financial reparations to Black Americans despite owing Black Americans trillions of dollars.¹³⁷ The contemporary United States government has continued to profit from the economic exploitation of Black people through mass incarceration,¹³⁸ which further limits its incentives to embark on a reparatory justice process. As a poignant example, President Joe Biden worked with ardent segregationists to pass the now infamous Violent Crime Control and Law Enforcement Act of 1994, which greatly contributed to mass incarceration by increasing funding for prisons and police, implementing mandatory minimum sentences, and implementing the "three-strikes" rule.¹³⁹

Organized groups of Black Americans like the Movement for Black Lives,¹⁴⁰ Black Lives Matter,¹⁴¹ and Black Youth Project 100¹⁴² have worked in solidarity to pressure the United States government for reparations in response to this adverse political landscape using tactics similar to those of Taiwanese victims. For example, the Movement for Black Lives has a Reparations Now toolkit, and its BREATHE Act calls for "reparations for survivors of police violence – and the families of those who did not survive and for people impacted by the drug war[.]"¹⁴³ Black organizers successfully pressured Chicago to legislate a reparations package for survivors of racist police violence in 2015 that included a formal apology, counseling, free education, a memorial, and financial compensation.¹⁴⁴ Black-led organizations like the Equal Justice Initiative¹⁴⁵ and the 1619 Project¹⁴⁶ have also recovered traumatic memory through museums, public education and school curricula centered around the Black American experience.

¹³⁷ Patricia Cohen, *What Reparations for Slavery Might Look Like in 2019*, N.Y. TIMES (May 23, 2019), <https://www.nytimes.com/2019/05/23/business/economy/reparations-slavery.html>, archived at <https://perma.cc/5R6V-ALF7>.

¹³⁸ ALEXANDER, *supra* note 43, at 230–32, 286–88.

¹³⁹ H.R.3355, 117th Cong. (2021).

¹⁴⁰ *Movement For Black Lives*, REPARATIONS, <https://m4bl.org/policy-platforms/reparations/> (last visited Jan. 21, 2021).

¹⁴¹ Mary Papenfuss, *Black Lives Matter Coalition Issues First Political Agenda Demanding Slavery Reparations*, CTR. FOR POPULAR DEMOCRACY, <https://populardemocracy.org/news-and-publications/black-lives-matter-coalition-issues-first-political-agenda-demanding-slavery> (last visited Jan. 21, 2021).

¹⁴² Natalie Moore, *Black Youth Project 100 Calls for Reparations, Releases Policy Agenda*, WBEZ (Feb. 1, 2016), <https://www.wbez.org/stories/black-youth-project-100-calls-for-reparations-releases-policy-agenda/06e80166-6ef3-4261-b4c9-74af101ad13d>, archived at <https://perma.cc/A2UJ-T5EL>.

¹⁴³ Mariame Kaba & Andrea Ritchie, *We Want More Justice for Breonna Taylor than the System That Killed Her Can Deliver*, in WE DO THIS 'TIL WE FREE US, *supra* note 2, at 66.

¹⁴⁴ Mariame Kaba, *Police Torture, Reparations, and Lessons in Struggle and Justice from Chicago*, in WE DO THIS 'TIL WE FREE US, *supra* note 2, at 104–09.

¹⁴⁵ *The Legacy Museum: From Enslavement to Mass Incarceration*, EQUAL JUST. INITIATIVE, <https://museumandmemorial.eji.org/> (last visited Jan. 21, 2021), archived at <https://perma.cc/R4QF-UPFQ>.

¹⁴⁶ Nikole Hannah-Jones, *The 1619 Project*, N.Y. TIMES (Aug. 13, 2019), <https://www.nytimes.com/interactive/2019/08/14/magazine/1619-america-slavery.html>, archived at <https://perma.cc/4DLR-D4SJ>.

Taiwan's example shows that interest convergence is necessary to convince an oppressive government to divest from itself. It is unlikely that there will be enough interest convergence between activists and the United States to lead to a meaningful distribution of reparations until the majority of Americans clearly understand the magnitude of the anti-Black oppression inflicted by white supremacist exploitation throughout history. Ironically, it is unlikely that most people will understand the magnitude of white supremacist oppression without reparatory justice projects that teach them about it. It is therefore important to support and expand the work that Black grassroots organizations are already doing in order to tip the interest convergence scales toward long-term reparatory and transitional justice.

B. Using International Interest Convergence to Create More Just Domestic Systems

After the KMT lifted the martial law decree in 1987, organized groups of Taiwanese people used the power they gained from interest convergence to successfully pressure the new government to divest from old governmental systems and invest in democratic institutions throughout the 1990s. In 1990, the Wild Lily Student Movement¹⁴⁷ gathered in front of the Chiang Kai-shek monument to chant for four main political reforms: “(1) dissolving the National Assembly; (2) abolishing the Temporary Provisions; (3) calling for a national affairs conference; and (4) providing a timeline for political and economic reform.”¹⁴⁸ The Wild Lily Student Movement put so much pressure on President Lee that he invited student leaders to the presidential office for discussion and promised reform.¹⁴⁹ The Wild Lily Student Movement also demanded national elections and eventually won.¹⁵⁰ After the KMT government arrested a group of students thought to be affiliated with the Independent Taiwan Association during May 1991, academics from “15 universities and research institutions established the ‘Academic Alliance Against Political Persecution’” and successfully “demanded the repeal of the Anti-Sedition Law” through protests and sit-ins.¹⁵¹ In September 1991, “two prominent academics . . . formed the ‘Article 100 Action Alliance’ to demand the abolition of Article 100” of the criminal code, which criminally prosecuted political dissidents.¹⁵² The Alliance’s October 8 sit-in at the Presidential office was dispersed by the military police, sparking other violently suppressed protests across Taiwan that included a hunger strike and a pro-

¹⁴⁷ Chun-Yuan Lin, *supra* note 10, at 477.

¹⁴⁸ YEH, *supra* note 11, at 38.

¹⁴⁹ *Id.*

¹⁵⁰ Chien-Chih Lin, *supra* note 8, at 106.

¹⁵¹ YEH, *supra* note 11, at 196–97.

¹⁵² *Id.* at 197.

longed demonstration enacted by the DPP.¹⁵³ The protests put so much pressure on the KMT that it revised Article 100 in May 1992.¹⁵⁴

These major movements of the 1990s pressured the government into investing into other democratic institutions, including “a direct presidential election, stronger democratic controls over the exercise of executive powers, increasing demand for governmental transparency and accountability,” and the expansion of free speech rights.¹⁵⁵ The Constitutional Court also became liberalized in the 1990s, as evidenced by the judiciary’s decision to order “first-term national representatives” to leave office, its increased propensity to label laws as unconstitutional, and its acceptance of petitions to safeguard individual rights and freedoms.¹⁵⁶ Contemporary organizations like the Constitutional Court Simulation¹⁵⁷ and the Sunflower Student Movement¹⁵⁸ have continued pressuring the government and the Court to democratize. Taiwanese people’s organized resistance during the 1990s laid the groundwork for the new Taiwanese government to adopt strong human and civil rights laws.

Taiwan has revised its constitution and exceeded international human and civil rights standards because the interests of Taiwanese organizers and the international community continued to converge. As stated earlier, adopting strong civil and human rights laws was vital for Taiwan’s preservation of Taiwan’s security, international stature, and support from the United States.¹⁵⁹ In recognition of this, civil and human rights organizations led the charge for revising Taiwan’s constitution through political participation and public-interest litigation.¹⁶⁰ Women’s advocacy groups like the Awakening Foundation pursued constitutional litigation as early as the 1980s, paving the way for other organizations to do the same.¹⁶¹ The constitution was revised six times between 1991 and 2005 due to pressure from human and civil rights groups,¹⁶² and the Constitutional Reform Alliance continues efforts to revise the constitution to this day.¹⁶³

Organized groups of Taiwanese people have also taken advantage of Taiwan’s precarious international position to pressure the government into investing in a National Human Rights Institution,¹⁶⁴ and incorporating inter-

¹⁵³ *Id.*

¹⁵⁴ *Id.*

¹⁵⁵ *Id.* at 5, 210.

¹⁵⁶ *Id.* at 5, 169–71.

¹⁵⁷ Yen-tu Su, *Rights Advocacy Through Simulation: The Genius of the Constitutional Court Simulation in Taiwan*, in *TAIWAN AND INTERNATIONAL HUMAN RIGHTS*, *supra* note 1, at 289–304.

¹⁵⁸ Chien-Chih Lin, *supra* note 8, at 106.

¹⁵⁹ DeLisle, *supra* note 56, at 173.

¹⁶⁰ Chien-Chih Lin, *supra* note 8, at 106.

¹⁶¹ *Id.* at 107; Yeh, *supra* note 11, at 203.

¹⁶² YEH, *supra* note 11, at 2.

¹⁶³ *Id.* at 201.

¹⁶⁴ Fort Fu-Te Liao, *Establishing a National Human Rights Institution - Taiwan in Global Trends*, in *TAIWAN AND INTERNATIONAL HUMAN RIGHTS*, *supra* note 1, at 133.

national covenants such as the International Covenant on Political and Civil Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESR) into Taiwan's domestic legal system.¹⁶⁵ In 2009, Taiwan's Legislative Yuan adopted the Act to Implement the ICCPR and the ICESR (Implementation Acts), causing both to operate as domestic law within Taiwan.¹⁶⁶ The Implementation Acts "obliged the government to issue state reports based upon the requirements of those human rights conventions and created a system of review of government implementation by independent international experts with prior experience of serving on similar international panels."¹⁶⁷

In order to ensure that the Implementation Acts were enforced, human rights groups and social organizations formed Covenants Watch to monitor the government's compliance with implementation by "writing, submitting and reviewing state reports, preparing shadow reports counter-balancing the views of the government, and engaging in dialogues with international experts to understand human rights challenges in Taiwan."¹⁶⁸ During the actual review, Covenants Watch got over 100 Taiwanese NGOs representing "indigenous groups, disabled people's organizations, LGBTI groups, and grassroots organizations of victims of forced evictions," to, "tell their stories of suffering to the review committees."¹⁶⁹ Even if these dialogues did not result in short-term policy changes, they made "government agencies aware of the NGOs' appeals."¹⁷⁰ The tireless work of organized Taiwanese citizens has benefitted the Taiwanese government, which frequently highlights its human rights accomplishments to bolster its international relevance and legitimacy.¹⁷¹ The organized resistance of Taiwanese civil and human rights organizations underscores how interest convergence can be used to divest from oppressive governmental systems and invest into more democratic institutions, and demonstrates how international frameworks can be used to promote justice domestically.

Unfortunately, because the United States has enjoyed global hegemony during recent historical periods,¹⁷² civil and human rights organizations in post-Cold War America have not had the same level of interest convergence with their government that Taiwanese citizens have enjoyed. Nevertheless, Black Americans have used international human rights frameworks as a means for strengthening domestic advocacy. After the 2014 police shooting

¹⁶⁵ Wen-Chen Chang, *Taiwan's Human Rights Implementation Acts: A Model for Successful Incorporation?*, in TAIWAN AND INTERNATIONAL HUMAN RIGHTS, *supra* note 1, at 241.

¹⁶⁶ Roth, *supra* note 1, at 51-52.

¹⁶⁷ Chang, *supra* note 166, at 227.

¹⁶⁸ *Id.* at 241.

¹⁶⁹ Huang and Huang, *supra* note 54, at 313.

¹⁷⁰ *Id.* at 313.

¹⁷¹ DeLisle, *supra* note 56, at 173.

¹⁷² Alexander Cooley & Daniel H. Nexon, *How Hegemony Ends: The Unraveling of American Power*, FOREIGN AFFAIRS (July/Aug. 2020), <https://www.foreignaffairs.com/articles/united-states/2020-06-09/how-hegemony-ends> archived at <https://perma.cc/FX39-8W6Q>.

of unarmed teenager Michael Brown in Ferguson, young Black leaders who had participated in the Ferguson uprisings created a coalition called “Ferguson to Geneva,” and decided to air their grievances before the United Nations Committee Against Torture (U.N. CAT) in the fall of 2014.¹⁷³ The Ferguson to Geneva delegation submitted a report to U.N. CAT describing the extrajudicial killing of Michael Brown and the violent repression of their protests, and took part in a live dialogue with representatives of the U.S. government, U.N. human rights experts, and members of CAT.¹⁷⁴ The Ferguson to Geneva delegation formed part of a larger delegation of Black American human rights activists that included members of We Charge Genocide, The Malcolm X Center for Self-Determination, and several others.¹⁷⁵ The U.N. CAT issued Concluding Observations about Ferguson and police brutality, which allowed the Ferguson to Geneva delegation to deliver recommendations using a human rights framework to shape police accountability, publicly shame local public officials and threaten their chances at reelection, and expand public consciousness about the American police’s recurring human rights violations.¹⁷⁶ In short, the Ferguson to Geneva delegation found that “public shaming at the international level can have a local impact.”¹⁷⁷ Like the experiences of post-martial law era Taiwanese activists, the Ferguson Delegation’s example shows that international human rights frameworks can be used to promote domestic justice, and that the work of Black American organizers placing abolition into an international human rights framework should be expanded and supported.

C. *Building the Power of Marginalized Communities*

Demands to protect marginalized communities in Taiwan made it more difficult for police to inflict human and civil rights violations with impunity. For example, Taiwanese LGBT activism laid the groundwork for major LGBT legal protections. Even after the martial law era ended, the KMT government viciously and regularly raided gathering places for gay men “under the charge of public obscenity, which was punishable both under the Social Order Maintenance Act and the criminal codes.”¹⁷⁸ Despite (and perhaps because of) this, Chi C-W began organizing for marriage equality, and lesbians established an activism organization called Between Us in the late 1980s.¹⁷⁹ As Taiwan’s LGBT civil society grew, it successfully advocated for

¹⁷³ Justin Hansford & Meena Jagannath, *Ferguson to Geneva: Using the Human Rights Framework to Push Forward a Vision for Racial Justice in the United States After Ferguson*, 12 HASTINGS RACE AND POVERTY L. J. 121, 121–54 (2015).

¹⁷⁴ *Id.* at 123.

¹⁷⁵ *Id.*

¹⁷⁶ *Id.* at 152–53.

¹⁷⁷ *Id.* at 153.

¹⁷⁸ Hsiaowei Kuan, *LGBT Rights in Taiwan - The Interaction Between Movements and the Law*, in TAIWAN AND INTERNATIONAL HUMAN RIGHTS, *supra* note 1, at 593, 595.

¹⁷⁹ *Id.* at 594.

the 2004 Gender Equity Education Act and gained various rights in terms of education, employment, and other fields.¹⁸⁰ The Taiwan Alliance to Promote Civil Partnership Rights, made up of a variety of LGBT rights organizations, advocated for marriage equality and adoption rights.¹⁸¹ The tireless activism of all of these LGBT organizations paved the way for the progressive judicial and legislative atmosphere that allowed Taiwan to become the first Asian country to legalize LGBT marriage in 2017.¹⁸²

Indigenous activism also laid the groundwork for some legal protections for indigenous peoples, although there is still much more work to be done. 540,000 people living in Taiwan are descendants of the Austronesian people, who have continued to have rich, self-sufficient cultures in spite of colonial theft of their lands, languages, and cultural traditions.¹⁸³ Japanese colonists and martial law era governments easily exploited the lands of indigenous peoples under the guise of development due to linguistic and cultural differences, and frequently used violence to force indigenous people to assimilate.¹⁸⁴ This long history of discrimination and violence drove indigenous peoples to protest even before the launch of democratization, leading to the formation of the 1984 Alliance of Taiwan Indigenous Peoples, which coordinated protests and demonstrations on behalf of indigenous communities.¹⁸⁵ Since the 1990s, the indigenous movements in Taiwan have concentrated on two interlocking goals related to inherent sovereignty and self-determination: self-government rights and traditional territorial claims.¹⁸⁶ Their activism led to the creation of the Council of Indigenous Peoples in Taiwan's Executive Yuan in 1996.¹⁸⁷ By standing in solidarity with one another and demanding both rights and representation, indigenous peoples' activism has led to the Indigenous People's Basic Act, the National Apology to Indigenous People, and the return of some sacred lands.¹⁸⁸

Nevertheless, indigenous peoples in Taiwan are still subjected to discrimination and violence today. Indigenous leader Savungaz Valincinan from the Bunun tribe spoke about the shared struggles and solidarity between Black American and Taiwanese indigenous peoples at Taipei's 2020 Black Lives Matter protest, and highlighted the continued displacement of indigenous peoples through housing discrimination.¹⁸⁹ A 2019 letter signed

¹⁸⁰ *Id.* at 597, 599.

¹⁸¹ *Id.* at 599–600.

¹⁸² *Id.*

¹⁸³ Chih-Wei Tsai, *National Apology and Reinvigoration of Indigenous Rights in Taiwan*, in TAIWAN AND INTERNATIONAL HUMAN RIGHTS, *supra* note 1, at 609, 620.

¹⁸⁴ Chun-Yuan Lin, *The Evolution of Environmental Rights in Taiwan*, in TAIWAN AND INTERNATIONAL HUMAN RIGHTS, *supra* note 1, at 475–76.

¹⁸⁵ YEH, *supra* note 11, at 227.

¹⁸⁶ Tsai, *supra* note 184, at 616–17.

¹⁸⁷ *Id.* at 615.

¹⁸⁸ YEH, *supra* note 11, at 231; TSAI, *supra* note 184, at 616–17.

¹⁸⁹ *Taiwan Black Lives Matter Protest Gets Indigenous Twist*, REUTERS (June 13, 2020), <https://www.reuters.com/article/us-minneapolis-police-protests-taiwan/taiwan-black-lives-mat>

by several indigenous tribes to Chinese President Xi Jinping denounced China's claim over Taiwan, and stated:

*It is true that we as Taiwan's indigenous peoples harbor some dissatisfactions with the modern Taiwanese political State system that has been built upon our Motherland . . . Nevertheless, Taiwan is a nation that we are all striving to build together, along with other people who recognize the land for what it actually is.*¹⁹⁰

As demonstrated by this quote, the perseverance, resistance, and foresight of indigenous peoples has continuously propelled Taiwan into more equitable futures, but at the unacceptably high cost of indigenous peoples' lives and land.

The activism of disabled people and healthcare advocates has led to the creation of disability rights and public healthcare in Taiwan. Taiwan's 1994 National Health Insurance Act provides universal equal access to healthcare and covers nearly 99% of the nation's citizens and residents.¹⁹¹ Despite this extremely equitable policy, Taiwan's laws initially regarded disability as an individual problem rather than a societal responsibility.¹⁹² In response to the considerable discrimination and segregation that disabled people faced under this regime, disabled people formed organizations to press for domestic incorporation of the Convention on the Rights of Persons with Disabilities (CRPD).¹⁹³ After years of anti-discrimination activism led by disabled persons organizations such as the League of Welfare Organizations for the Disabled, the Taiwanese government passed the CRPD implementing act in 2014.¹⁹⁴ The social equality implicit in the system of universal healthcare and disabled activists' successful anti-discrimination fight has substantially contributed to a political and social cohesion distinctive of Taiwan.¹⁹⁵

Women's rights activism has led to legal gender equality protections in Taiwan. The traditional Taiwanese family structure began to change in the 1960s along with the fast-growing economy because women were released from domestic life to join the workforce.¹⁹⁶ Men and women alike were mobilized for the greater political cause of the 1970s-1990s, leading women to

ter-protest-gets-indigenous-twist-idUSKBN23K0CE, archived at <https://perma.cc/5WSZ-EXSA>.

¹⁹⁰ Guest Contributor, 'This is Sacred Space': An Open Letter to Xi Jinping from the Indigenous Peoples of Taiwan, HONG KONG FREE PRESS (Jan. 8, 2019), <https://hongkongfp.com/2019/01/09/sacred-space-open-letter-xi-jinping-indigenous-peoples-taiwan>, archived at <https://perma.cc/EZ8P-G9J2>.

¹⁹¹ YEH, *supra* note 11, at 215.

¹⁹² William P. Alford, Qiongyue Hu & Charles Wharton, *People Over Pandas: Taiwan's Engagement of International Human Rights Norms with Respect to Disability*, in TAIWAN AND INTERNATIONAL HUMAN RIGHTS, *supra* note 1, at 643, 643.

¹⁹³ *Id.*

¹⁹⁴ *Id.* at 646-48.

¹⁹⁵ YEH, *supra* note 11, at 215.

¹⁹⁶ *Id.* at 218.

fight for the right of political representation.¹⁹⁷ A group of women lawyers founded the Awakening Foundation in 1982, creating an organization from which women could fight for their rights. Beginning in the early 1990s, women's rights groups and activists began proposing revision of the Civil Code that would give equal rights to women in families.¹⁹⁸ Women also brought and won a petition in the Constitutional Court challenging Article 1089 of the Civil Code, which privileged the decision of the father in cases of parental disagreement over how to exercise parental rights over a child.¹⁹⁹ In addition to fighting for their own rights, women's groups challenged several anti-LGBT laws and fought to protect LGBT children in school.²⁰⁰ Women's crucial role in democratizing Taiwan through strategic activism led to the creation of quotas to ensure that women are represented in elections and the national legislature.²⁰¹ By fighting for the rights and representation of themselves and others, women's rights activists created the social equity and cohesion necessary for Taiwan's democratization.

Taiwanese activists' strategy of investing in marginalized communities as a tool for dismantling undemocratic legal and governmental systems echoes Black American abolitionists' demands that our society invests in the most marginalized people first, which includes Black, poor, disabled, LGBTQ+, non-male, and indigenous peoples. In reference to violence experienced by women and gender non-conforming people, Dr. Alisa Bierra of Survived and Punished argues, "our political strategies must recognize that racialized gender violence and state violence are not isolated or oppositional, but integral to each other."²⁰² In reference to indigenous peoples, Mariame Kaba asserts, "there are Native people, Indigenous people the world over, having survived eliminationist policies, having survived genocide . . . where are we in relationship to them? . . . [Black American activists and organizers] are in a conversation right now over land trust reparations . . . when we are not on our land."²⁰³ Mariame Kaba paraphrases Morgan Basichis, a former staff member of Community United Against Violence, by saying that "the very systems that we're working to dismantle live inside us,"²⁰⁴ and abolitionists use that maxim to avoid replicating ableist policing

¹⁹⁷ *Id.* at 221.

¹⁹⁸ *Id.* at 219.

¹⁹⁹ *Id.*

²⁰⁰ Kuan, *supra* note 179, at 597.

²⁰¹ YEH, *supra* note 11, at 218–19.

²⁰² Mariame Kaba, *Black Women Punished for Self-Defense Must Be Freed from Their Cages*, THE GUARDIAN (Jan. 3, 2019), <https://www.theguardian.com/commentisfree/2019/jan/03/cyntoia-brown-mariama-alexander-black-women-self-defense-prison>, archived at <https://perma.cc/NR55-9YB6>;

²⁰³ Mariame Kaba & Eve Ewing, *Everything Worthwhile is Done with Other People*, ADI MAG. (2019), <https://adimagazine.com/articles/mariame-kaba-everything-worthwhile-is-done-with-other-people/>, archived at <https://perma.cc/Y7ZJ-FKW3>.

²⁰⁴ Mariame Kaba, Autumn Brown and Adrienne Maree Brown, *The Practices We Need: #MeToo and Transformative Justice*, in WE DO THIS 'TIL WE FREE US, *supra* note 112, at 126, 139–40.

practices within alternative services like social work and child welfare regimes.²⁰⁵

Additionally, Black people with other marginalized identities have consistently led Black liberation movements. The strategies, lives, and writings of LGBTQ+ Black Americans like Bayard Rustin, Dr. Angela Davis, James Baldwin, Pauli Murray, Marsha P. Johnson, Lorraine Hansberry, and Audre Lorde shape past and contemporary civil rights movements by centering the voices of marginalized Black people. The strategies, lives, and writings of Black women like Ella Baker, Fannie Lou Hamer, Dorothy Height, Daisy Bates, Shirley Chisolm, Diane Nash, bell hooks, Alice Walker, Toni Morrison, Octavia Butler, Mariame Kaba, Tarana Burke, Derecka Purnell, Michelle Alexander, and Ruth Wilson Gilmore play instrumental roles in civil rights movements and bring feminist and womanist perspectives to patriarchal organizing spaces. The Black Lives Matter movement was founded by three Black feminist women: Alicia Garza, Opal Tometi, and Patrisse Cullors. Major Black liberation organizations like Movement for Black Lives, Black Lives Matter, and Black Youth Project 100 unabashedly center LGBTQ+, feminist, disabled, and working-class Black perspectives and leadership.

By centering marginalized perspectives and demanding investments into historically oppressed communities, Black liberation movements encourage the United States to move past shallow police reforms and move toward fundamental societal transformation. There have been many unsuccessful attempts to reform the police in the United States without divesting from them. Andre Gorz and Ruth Wilson Gilmore popularized the concept of “non-reformist reforms,” which “don’t make it harder to dismantle the systems we are trying to abolish.”²⁰⁶ Non-reformist reforms often divest resources from the police and invest those resources elsewhere. Despite demands for non-reformist reforms, most police reforms enacted today invest more money and power into the police. Civil lawsuits against the police are extremely inaccessible and often unsuccessful because of American laws’ substantial police protections.²⁰⁷ In fact, a recent report found only fifty-four officers charged for fatal on-duty shootings in the last ten years; of those, only eleven were convicted.²⁰⁸ Other reform ideas include diversifying the police, increasing police training, and increasing community policing. However, a large body of evidence shows that the race of individual officers has no effect on the use of force,²⁰⁹ that American police officers already receive

²⁰⁵ Mariame Kaba, “*Community Matters. Collectivity Matters*”, in *WE DO THIS ‘TIL WE FREE US*, *supra* note 2, at 147, 174 (Tamara Nopper ed., 2021).

²⁰⁶ Mariame Kaba and John Duda, *Toward the Horizon of Abolition*, in *WE DO THIS ‘TIL WE FREE US*, *supra* note 2, at 95, 96.

²⁰⁷ Marny Requa, *Constitutional Mandates*, in *THE USE AND ABUSE OF POLICE POWER IN AMERICA* *supra* note 31, at 333, 337.

²⁰⁸ VITALE, *supra* note 30, at 18.

²⁰⁹ *Id.* at 12.

an immense amount of training,²¹⁰ and that “community policing” expands police power without reducing over-policing on people of color and the poor.²¹¹ These reforms, which pour more money and power into the police, have overwhelmingly fallen short of protecting Black American lives.

In light of unsuccessful police reforms, contemporary Black American abolitionists like Dr. Angela Davis and Mariame Kaba have refocused movements for police accountability on the larger systemic forces contributing to police violence like colonialism, economic exploitation, and white supremacist ideologies.²¹² Dismantling these root causes of police violence requires a societal transformation that reforms like body cameras and training cannot fix. Residents in high-crime communities have been asking for better schools, parks, libraries, and jobs, but these services are rarely provided because the residents lack political power to obtain support that would make their communities safer and healthier.²¹³ Instead of asking the police to be the lead agency in dealing with homelessness, mental illness, school discipline, youth unemployment, immigration, youth violence, sex work, and drugs, contemporary Black abolitionists demand that funding be divested from the police and invested into education, healthcare, and housing programs that can tackle inequality directly. Mariame Kaba observes:

*You know, there are groups of people who are living a type of abolition now. I want you to think of affluent white neighborhoods . . . They've got housing, healthcare, jobs: all the things that make it so people won't feel we need police, prisons, and surveillance. There are some communities already living that today.*²¹⁴

As we see from the example of Taiwan's successful efforts to protect marginalized communities by strengthening social and political infrastructures, listening to Black activists' calls for social and political investment will help the United States become a more equitable society.

CONCLUSION

Taiwan's abolition of its police state affirms that Black American abolitionist movements are, at their core, human rights movements. The United States differs from Taiwan in many obvious ways, but three main lessons from Taiwan's example confirm Black American abolitionists' divest-invest strategies: (1) state sanctioned violence and exploitation are tools for preserving the interests of the ruling class, (2) those tools can be dismantled

²¹⁰ *Id.* at 8.

²¹¹ *Id.* at 17.

²¹² See generally ANGELA Y. DAVIS, *ABOLITION DEMOCRACY: BEYOND EMPIRE, PRISONS, AND TORTURE*, (1st ed. 2005).

²¹³ *Id.* at 2.

²¹⁴ Mariame Kaba and John Duda, *Toward the Horizon of Abolition*, in *WE DO THIS 'TIL WE FREE US*, *supra* note 2, at 99.

through interest convergence and direct action, and (3) abolition is divestment and investment, so everyone must fight to build a better system that replaces the dismantled one. Taiwan's incredible example demonstrates that contemporary Black American abolitionists' divest-invest model is not just a far-fetched dream, but a tangible reality in another part of the world. Taiwan's example is still evolving and is far from perfect, but it shows that abolition is an intergenerational human rights movement demanding fundamental societal transformation that shifts power to historically marginalized communities. The example set by the work of grassroots Taiwanese activism should compel the United States to take Black human and civil rights organizations seriously when they call for divestment from the police state and investment into social infrastructures that promote citizen's health and safety. Taiwan is doing it, and so can we.