Non-reformist Reforms

LPE in Europe Policy Kickstarter

19th & 20th May 2025, University of Glasgow

In recent years, a move to draw from the insights of critical scholarship to build capacity for non-reformist reforms has emerged as one of the defining traits of the Law and Political Economy (LPE) movement.

A defining premise of LPE research is a focus on **the 'constitutive' role of law in the political economy**. LPE research and praxis is concerned with identifying, making visible, and politicising the active role that the state and its legal system is playing in terms of **distributing power and resources to particular social constituencies,** and thereby enabling processes of profit making and wealth accumulation that advantage the few at the expense of the many. LPE has a **reconstructive impetus** that builds on but goes beyond earlier traditions of critical legal thought. Many social groups and organisations around the world are engaged in struggles to try to transform capitalism, and everywhere they encounter legal regimes, legal institutions, and legal discourses that obstruct efforts at developing a more democratic and egalitarian social and economic model. It would seem prescient, therefore, for LPE scholars and activists to put their legal expertise at the service of these constituencies, in order **to try to identify creative ways in which legal activism, legal mobilisation, and policy reform, broadly conceived, can be used to enable the formation of alternative social relations and to advance organisational forms that have the potential to bring about transformative change.**

LPE scholarship on non-reformist reforms draws on the work of **André Gorz**, a leading social philosopher and pioneer of political ecology whose writings on labour relations and the material limits of production inspired the degrowth movement,[1] and the work of **Ruth Wilson Gilmore**,[2] a leading figure in prison abolitionist struggles in the US. The seminal contribution of **Amna Akbar** in the The Yale Law Journal elaborates on their contributions offers the first rigorous iteration of what we regard as an LPE vision for non-reformist reforms.[3]

In the sections below, we draw on Akbar's piece to **define non-reformists reforms**, and we then move to set out some **key questions and considerations for the LPE movement** with

[1] André Gorz, Strategy for Labor: A Radical Proposal 7 (Martin A . Nicolaus & Victoria Oriz trans., Beacon Press ed 1967); André Gorz, The Way Forward (1968) 52 New Left Review 47; André Gorz, 'Reform and Revolution' (1968) 5 Socialist Register 11.

[2] Ruth Wilson Gilmore, *Golden Gulag: Prisons, Surplus, Crisis, and Opposition in Globalizing California* (University of California Press, 2007).

[3] Amna Akbar, 'Non-Reformist Reforms and Struggles over Life, Death, and Democracy' (2023) 132 *Yale Law Journal* 8.

regard to advancing non-reformist reforms that can also inform **submissions to the Policy Kickstarter.**

Definitions: What are Non-Reformist Reforms?

In the domain of political economy, non-reformist reforms are initiatives that aim to **transform deeper structures of power and decision-making** within capitalism, advancing beyond temporary fixes to the system, and thereby creating the **conditions for lasting change**.

In contrast to government policies that seek to tame the worst excesses of capitalism, such as introducing a minimum wage, or regulatory measures that seek to stabilise capitalism, such as ensuring that financial institutions confirm to capital adequacy rules, non-reformist reforms are measures that **problematise the deeper structural logics of capitalism**, and that **challenge the legitimacy of the social relations** through which (high levels of) profit and economic growth are possible within this economic system.

Non-reformist reforms can take a **wide variety of different expressions**, encompassing changes to government policy, litigation strategies, the creation of community resources, and the development of strategies of resistance to extractive and exploitative practices on the local, national, regional, and international levels.

Unlike reformist initiatives that seek to correct isolated problems within the political economy, or that encompass mere 'surface modification of the old society',[4] non-reformist reforms seek to create **'ruptures within the political, economic, society order for deep transformation'**.[5] Crucially, this means envisioning 'a transformation of state and society, not simply as a matter of substance, but in terms of **who holds power and who governs'**.[6]

Praxis is central to advancing non-reformist reforms, as Gorz and Wilson Gilmore make clear, and Akbar emphasizes in her article. This means that non-reformist initiatives should not be 'top-down' solutions imposed by experts or technocrats from above but must be **advanced in partnership with communities and social groups who are struggling to achieve social, economic, environmental and political change** on the ground in particular sites in the political economy. Akbar argues that lawyers must put themselves at the service of communities in 'actually existing sites of struggle'.

It is an open question what the role of the state may be in advancing non-reformist reforms. The non-reformist perspective is faithful to the experiences of the vast majority of the global population, and to the analyses of generations of critical scholars, in acknowledging that **the**

[4] Rosa Luxembourg, Reform or Revolution and Other Writings (2006) p. 58.
[5] Akbar, supra n 3, p. 2526.
[6] Ibid, p. 2528 (drawing on Jane F. McAlevey, No Shortcuts: Organizing for Power in the New Gilded Age (OUP, 2016) 9-12.)

state and its laws has predominantly been and remains 'a site of domination, exploitation, expropriation, and legitimation' and lawyers have been 'central partners therein',[7] as the work of Katharina Pistor has recently shown (above all in the context of global finance).[8] At the same time, LPE scholarship notes that the state does not have fixed interests but is rather in a permanent position of strategic interaction with different actors. This allows to conceptualize how diverse forms of agency may drive state projects, even on the basis of principles of social organisation that differ from the immediate needs of capital accumulation. Yet, the non-reformist perspective warrants for caution when trying to 'use' law and the state for emancipatory ends. In Akbar's terminology, 'multiple grammars of struggle'[9] must be employed to advance non-reformist reforms. As the Latinx and Chicanx movement Mijente has stated, this involves 'organizing within, against, and without the state: "contesting for power within the state", "defending our communities against the state", and "dreaming beyond the state".'[10]

In summary, non-reformist reforms can be understood as reforms that **problematise the nature and legitimacy of the current political-economic system** and that aim to **shift the balance of power** between the 'haves' and the 'have-nots', and to 'build mass organisation'[11] in order to create '**new centres of democratic power'**[12] over different social institutions, including 'agriculture, the university, property relations, the region, the administration, the economy…companies, schools, municipalities….[and] large enterprise'.[13]

LPE and Non-Reformist Reforms: Questions and Next Steps

One of the core insights from writing on non-reformist reforms is that **forms of legal activism and the pursuit of change from within the legal system can be part of the struggle** to bring about social and economic change, but that these practices must be **approached with self-awareness of structural constraints, practical limitations, and risks of co-optation**. Some critical scholars of law have argued that we must **avoid reifying law and affording law special priority** in social struggles for change, as this can reinforce the legitimacy of a legal order that has been created to serve the interests of capital.[14] Others have argued that we must **insist**

[7] Akbar, supra n 3, p. 2508.
[8] Katharina Pistor, *The Code of Capital: How the law creates wealth and inequality* (Princeton University Press, 2019)
[9] Akbar, supra n 3, p. 2532
[10] Ibid.
[11] Amna Akbar, 'A Horizon Beyond Legalism: On Non-Reformist Reforms' LPE Project Blog, 13 November 2-23, https://lpeproject.org/blog/a-horizon-beyond-legalism-on-non-reformist-reforms/
[12] André Gorz, 'Strategy for Labor', supra n 1, p. 8, n 3.
[13] Ibid.
[14] For a full elaboration of the argument, see Robert Knox, 'Strategy and Tactics' (2012) 13 *The Finnish Yearbook of International* 21.

on law's unique position as an interlocutor between 'functionally differentiated' social systems: we should **engage in 'militant formalisms'**, insisting on the meaning and substance of social and economic rights in legal discourse in order to call out the institutions that merely pay lip service to these rights and hold them to account.[15] Both perspectives share the consideration that that **there must be a longer term strategy in mind when trying to 'strategically' engage with the law, or indeed in policy reform, for emancipatory ends**.

We want to end this Primer by advancing a few questions that could be borne in mind when workshop attendees are formulating their 'non-reformist reform' for submission to the workshop. We are not expecting everyone to answer all of these questions! But these questions will inform the brainstorming sessions and overall discussion at the workshop, and hopefully they can serve to further illuminate the debate on advancing non-reformist reforms in the three key areas of food, finance, and industrial policy.

- What is the non-reformist reform that you are proposing?
- Does the measure map on to an existing site of struggle? Has it come from civil society/community or is it more 'top down'? Is this important?
- Who or what do you consider to be the agent of social change in advancing the reform? Are there any other groups/actors who could be allies in advancing the form?
- What is the broader strategy that the reform is seeking to advance?
- Could the reform be co-opted? How? By whom?
- Is the reform likely to further reinforce or undermine the legitimacy of the liberal legal order?

And, finally, a broader question that we are struggling with:

- If advancing non-reformist reforms requires an overarching strategy concerning how that reform can bring about broader structural transformation within capitalism, does this require a unified approach, necessitating agreement between LPErs and communities, lawyers, and activists that they are working with on the nature of the problem and the long-term solution? Or can the approach of 'a million cuts'[16] be used, meaning that looser coalitions can make targeted interventions that seek to achieve transformative change in different areas of the political economy?

[15] For a full elaboration of the argument see Emilios Christodoulidis, *The Redress of Law: Globalisation, Constitutionalism and Market Capture* (CUP, 2021) Part VI

[16] The Red Nation - a contemporary Indigenous organisation dedicated to the liberation of Native peoples from capitalism and colonialism – argues for the abolition of capitalism by means of 'fire or a million small cuts' The Red Nation, *Communism is the Horizon Queer Indigenous Feminism is the Way* (2020), p. 37.