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Introduction

The year 2014, when I first ended up living in West Virginia, was one of the worst years of my life. My father died, my relationship ended, my short-term postgraduate job in St. Louis ended, my housing was in flux, and I could not seem to find a new job as a young attorney in one of the east coast cities where I wanted to settle. Having just turned thirty, grieving and disoriented, I found myself for the first time in Morgantown, West Virginia, like Dorothy in Oz.

Foreign and unplanned as it was, taking a job in West Virginia made some sense because it got me back within driving distance to my distraught family in Upstate New York. I had interviewed for my new position, a two-year academic fellowship with West Virginia University (WVU) College of Law, over Skype. I accepted the fellowship sight unseen, taking a $44,000 pay cut to do so. Getting there was a whirlwind: I found an online listing for a studio apartment above a WVU professor's garage in Morgantown for $420 per month, sold all of my furniture on Craigslist because it would not fit in said garage apartment, and got into my parents' old Volvo to drive back east.

I had no idea what I was getting into. But I was grateful to West Virginia for catching me as my life fell apart. I was nervous about being hired for a fellowship focused on land use law, in which I had no background whatsoever. Apparently there hadn't been that much competition for the job, I presumed.

I started this new position, called the Land Use and Sustainable Development Law Fellowship, in the summer of 2014. I would spend half of my time pursuing a funded master's degree in Energy and Sustainable Development Law, which meant taking courses on environmental, agricultural, and energy law. I would spend the other half of my time working in a program called the Land Use and Sustainable Development Law Clinic.[1]

I had been involved in law school clinics as a law student and liked them quite a bit. Clinics let law students gain practice experience while providing pro bono legal

[1] *Land Use and Sustainable Development Law Clinic*, W. Va. Univ.: Land Use & Sustainable Dev. L. Clinic (March 1, 2023), https://landuse.law.wvu.edu/ [https://perma.cc/D5PL-AJ8K].

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services to those in need before graduating. But I did not initially grasp in full what this program did.

Housed in a set of offices in WVU Law's basement, the Clinic was made up of one director (Kat), several attorneys (Jesse, Nathan, Jason, and Jared), a planner (Christie), and an office administrator (first Sarah when I started, then Erica). Each new academic year, a cohort of law students joined the team as well in exchange for academic credit. Half of the program's mission was to work with local governments throughout West Virginia on land use planning. The other half of the Clinic's work involved helping land trusts acquire conservation easements on natural space, particularly where it meant protecting drinking water sources.[2] When I was hired, the Clinic was also doing a special project on dilapidated properties.

I harbored some new-attorney fantasies about what a glamorous public interest career looked like. These daydreams involved passionate courtroom speeches, class action lawsuits, civil rights, and criminal law. They did not include drafting small municipalities' comprehensive land use plans and zoning ordinances, investigating property titles, or sorting out the law on derelict old buildings. They also did not involve the large spiders I discovered happily living in my new home above the professor's garage, one of which I awoke to find nestled in bed with me during my first week there. But I had a job, at least, and it was close to home.

When I drove my parents' old Volvo back east to West Virginia that summer (accompanied by my indefatigable mother), I did not know that living and working there would change my life and plant the seeds for various obsessions that would ultimately drive my work and fill my days as a law professor. Living in West Virginia turned out to be radicalizing. I became preoccupied with the socioeconomic, physical, and legal aspects of energy production, the business practices of fossil fuel companies, the struggles of small-town local governments, and the ways property and wealth seemed to systematically flow away from poor people. I observed the ways in which geographic and cultural distance from population centers shielded exploitative practices from scrutiny and reform and how policymakers – and even broader society as a whole – either enabled these practices or turned a blind eye to them.

While some people in my life would act like moving to West Virginia was akin to moving to the moon, West Virginia is not actually that far removed from cities and power centers. Figure 1.1 shows the state's layout. Monongalia County, where Morgantown sits, is less than a four-hour drive from Washington, DC.

I ended up enjoying life in Morgantown. I frequented the quaint downtown, shown in Figure 1.2. I ate the best scones I had ever tasted at the Phoenix Bakery,

[2] Landowners can place a restriction on their land known as a conservation easement, which means they give up development rights and restrict the land's development in perpetuity. A land trust is a nonprofit organization authorized to hold and enforce the easement's restriction on development. *See Frequently Asked Questions*, Land Tr. All., www.landtrustalliance.org/what-you-can-do/conserve-your-land/questions [https://perma.cc/56A6-EAHA].

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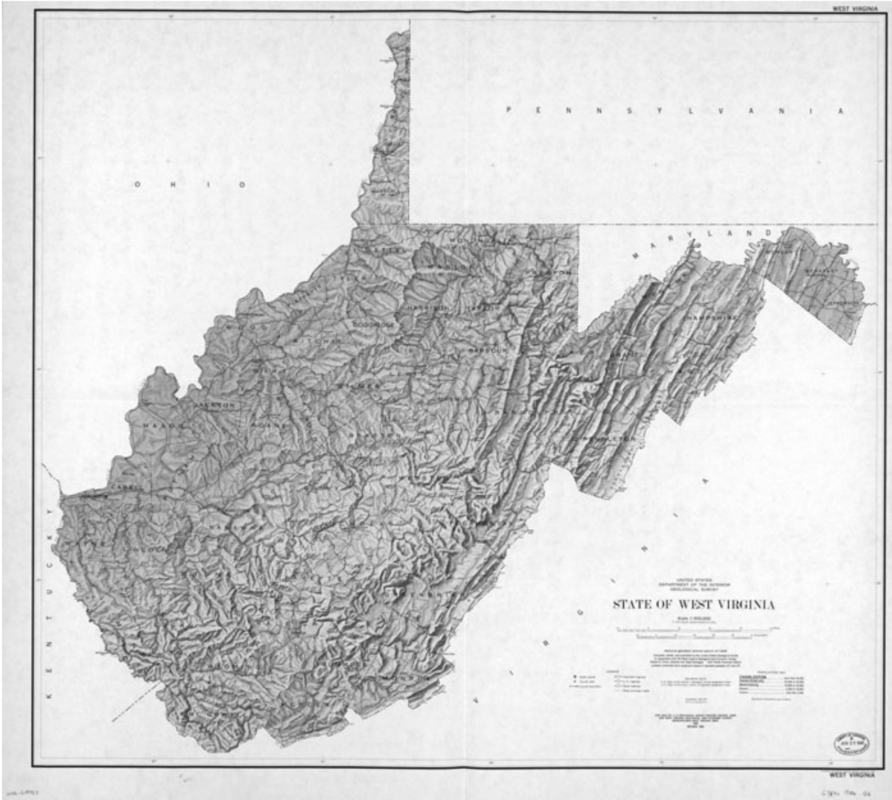

FIGURE 1.1 Map of State of West Virginia, U.S. Geological Survey, 1984, Library of Congress

jogged along the Monongahela River, and rode around town for free in a system of small, driverless trams elevated on a track that made me look like one of the Jetsons (the "Personal Rapid Transit" or "PRT," shown in Figure 1.3). I started a book club with people I met on Craigslist, met the guy who founded the Appalachian Queer Film Festival, and drank local beer with my two co-fellows and their boyfriends. I spider-proofed my little apartment. I grew to love the rest of the state, too – Coopers Rock, the New River Gorge, the Secret Sandwich Society, Point Pleasant with its stories of the Moth Man, and many breweries became favorite destinations. People were generally welcoming. There was a lack of affectation that I was accustomed to in my world of wealthy progressives.

But I also had moments, much like Dorothy in Oz or Alice in Wonderland, of wondering where the hell I had just landed. Did they really, literally blow up mountains here? Seeing the world of fossil fuels up close was like going through the looking glass. After my initial shock at the things coal and gas companies did in West Virginia, I became more and more angry.

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FIGURE 1.2 Old Coca Cola and local restaurant signs on a wall in downtown Morgantown, West Virginia, 2015, Carol M. Highsmith Archive, Library of Congress

FIGURE 1.3 Downtown Personal Rapid Transit station in Morgantown, West Virginia, 2015, Carol M. Highsmith Archive, Library of Congress

People's stories about coal and gas were often visceral and emotional. Life or death. The most heartbreaking moment I remember was an otherwise stoic friend choking up as he told me about bodies of people he knew being laid out on a lawn next to his house after a mine explosion.

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Locals I met did not drink the Morgantown tap water because it seemed to make people sick and because investigations revealed that water quality reports throughout the state were regularly falsified.[3] I had arrived in West Virginia six months after the massive Elk River coal-processing chemical spill had left much of the region southwest of Morgantown without potable water.[4]

Driving around town, I occasionally followed a truck with an open bed full of some kind of coal waste and a sign hanging on the back that said, "Not responsible for broken windows" – which did not add up, if I recalled my law school torts class. But it was a lie nonlawyers may well have believed. One local road's pothole from truck traffic was so wide and deep I could have driven the Volvo into it – like the opening of a cave – if I hadn't learned to swerve around it.

It quickly became clear that the fossil fuel companies expected total domination of local life, even in a college town such as Morgantown. In one series of events, the City of Morgantown tried and failed to limit massive trucks' ability to navigate loudly over Morgantown's narrow, historic streets at all hours, contributing to the dangerous road conditions I had experienced. The dispute involved someone's dog getting poisoned, I was told.[5] I heard from a colleague that a local law firm pulled its funding for a conference at WVU Law because of a report a professor published endorsing renewable energy policies. We took a graduate program field trip to a natural gas drill site, where a residential landowner had to live alongside development by the company that owned the mineral rights under his home. We heard there about the homeowner's daughter with special needs being called a bitch by a gas company employee and nearly getting driven off the road on her father's property.

The more I learned about West Virginia's story, the more a sense of guilt grew. How had I not thought more before this about where my energy came from? Figure 1.4 depicts the West Virginia coalfields, lying under much of the state like organs in a body, slated to be harvested. The themes, again, were not subtle. Blown-up mountains. Mine wars. Company towns. Black lung. Land agents. Man camps. Gas flares. Opioids. "They would never do this to other mountain

[3] Press Release, U.S. Att'y's Off., S. Dist. of W. Va., *McDowell County Woman Sentence [sic] in Federal Court for Filing Fraudulent Water Quality Reports* (March 26, 2015), www.justice.gov/usao-sdwv/pr/mcdowell-county-woman-sentence-federal-court-filing-fraudulent-water-quality-reports [https://perma.cc/K5SS-EFB4]; *Former Appalachian Laboratories Manager Sentenced for Falsifying Water Quality Data*, State J. (January 19, 2017), www.wvnews.com/statejournal/former-appalachian-laboratories-manager-sentenced-for-falsifying-water-quality-data/article_99b442f1-479f-508c-b645-ebc1b03a01ac.html [https://perma.cc/9CKS-Y7C9].

[4] Omar Ghabra, *After the Spill: Life in West Virginia's Coal Country*, Atlantic (January 9, 2015), www.theatlantic.com/national/archive/2015/01/life-in-west-virginias-coal-country/384316/ [https://perma.cc/Y4K6-LR7N].

[5] This was a rumor I heard associated with the case of *City of Morgantown* v. *Nuzum Trucking Co.*, 786 S.E.2d 486 (W. Va. 2016), in which the West Virginia Supreme Court held that Morgantown lacked the authority to regulate the weight and size of trucks traveling on portions of state road that went through the city limits.

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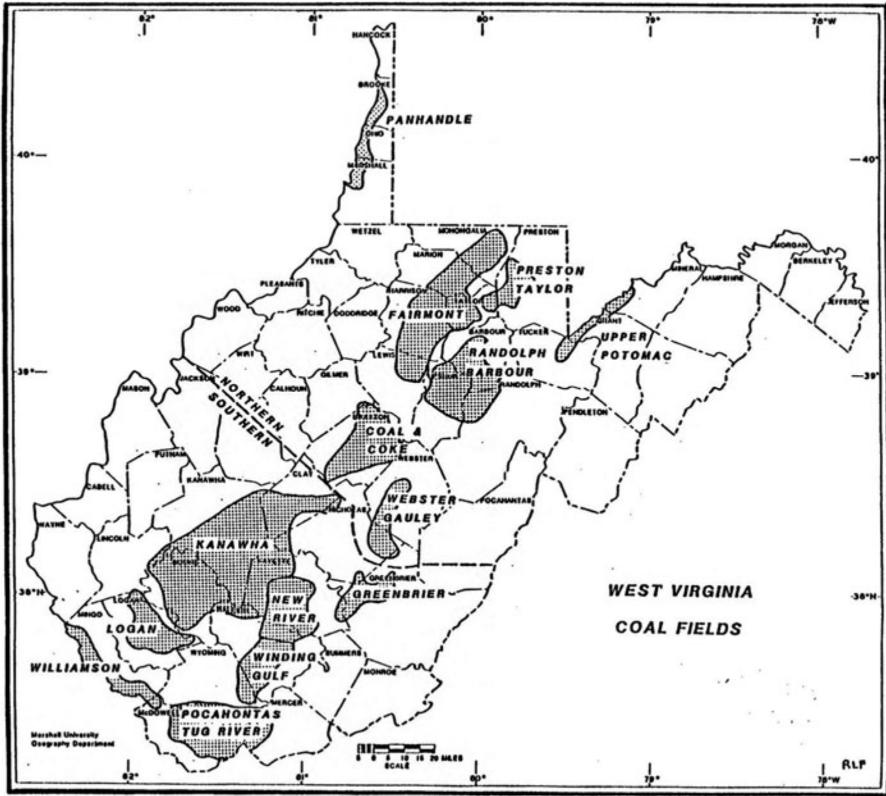

FIGURE 1.4 Map showing the fourteen coalfields of West Virginia, Coal River Folklife Collection, 1993, Library of Congress; Marshall University, Department of Geography

chains," a friend once commented. "Can you imagine someone blowing up one of the Rocky Mountains? But people want to flip a switch to turn on their blenders."

And again, there were beautiful things, too. Things that made me fall in love with the region in all its complexity. Music. Pepperoni rolls. Jokes. Families. Sheetz. Mountains, valleys, lakes, hollers, and gorges. Beer. Scones. Stories about uprisings.

Yet, as I settled into life in West Virginia and traveled with the Clinic team around the state, the violent stories that surrounded me did not match the stories I heard in the national conversation. I was taken aback by op-eds in national news outlets, dismissive views expressed in my social circle outside the region, limited concern in academic legal literature, and a simple lack of acknowledgment as to what Central Appalachia continued to endure. *Hillbilly Elegy*, a 2016 memoir by a lawyer who grew up in Middletown, OH – not then an obvious striver for the spotlight of the political right – was eagerly consumed by the public, the author's diagnosis of a

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problematic regional culture of laziness earnestly accepted.[6] But if I had not moved to Morgantown, I might not have known better either.

The legal Clinic I was highly privileged to be a part of, I came to appreciate, was doing radical work. It was, in fact, part of a long tradition of radical Appalachian and rural progressive movements that I would come to learn about. I came to call the Clinic's work "quietly revolutionary."

Doing any kind of environmental or economic development work in the heart of Appalachian coal country was, and remains, fraught with challenges. There was a reason for the Clinic's focus on transactional work – meaning work that did not involve the typical bread and butter of a law school's environmental law clinic, such as filing lawsuits, challenging permits, and pursuing other kinds of adversarial proceedings at the heart of my early public interest lawyer fantasies.

Initial funding for the Clinic came from a 2011 settlement decree after Appalachian Mountain Advocates, a nonprofit environmental law firm based in Lewisburg, sued Arch Coal, Inc., for Clean Water Act violations based on selenium pollution from six coal mines throughout West Virginia. The consent decree overseen by the U.S. Department of Justice and the Environmental Protection Agency provided that the funding would go toward a law school clinic that could help move the region in more sustainable directions – but not a clinic that would be in the business of suing coal companies, which Arch Coal would not agree to fund in the settlement.[7] So the clinic got to exist because of a win over coal, but coal's reach still tied their hands.

And so the Clinic's focus on land-use planning and natural conservation was born. The program was not set up to take down fossil fuels. It was there to mitigate some of the environmental and economic damage already done, to guard against further harm in the future, and to help the region prosper in new ways. Local governments sought the Clinic out for assistance in strategizing for a future beyond coal by way of creating locally driven community development visions that could attract new life, opportunities, and populations.[8] Or they just wanted to figure out how to

[6] J. D. Vance, Hillbilly Elegy: A Memoir of a Family and Culture in Crisis (2016); *'Hillbilly Elegy' Is No. 1; New Oprah Pick Is a Best Seller*, USA Today (July 5, 2017, 2:44 PM), www.usatoday.com/story/life/books/2017/07/05/hillbilly-elegy-jd-vance-behold-the-dreamers-oprah-winfrey-usa-today-best-selling-books/103398062/ [https://perma.cc/36GK-4XQ8] (describing popularity and widespread sales of *Hillbilly Elegy* memoir).

[7] Vicki Smith, *Arch Agrees to Pay $2M to Settle Pollution Lawsuit*, Charleston Gazette-Mail (October 3, 2011), www.wvgazettemail.com/news/arch-agrees-to-pay-2m-to-settle-pollution-lawsuit/article_a2fd76a3-2b05-545d-bd2a-8eaf4a2f43fb.html [https://perma.cc/WN8V-N87B]; Manuel Quiñones, *Activist Appalachian Law Firm Wages War on Coal*, E&E News: Greenwire (July 15, 2015, 1:09 PM), www.eenews.net/articles/activist-appalachian-law-firm-wages-war-on-coal/ [https://perma.cc/V6T6-9DXE]; Consent Decree, *United States et al.* v. *Arch Coal, Inc., et al.*, No. 2:11-0133 (S.D. W.Va. June 22, 2011), www.epa.gov/sites/default/files/documents/arch-cd.pdf [https://perma.cc/R4BP-ANUQ].

[8] Since it began, the Clinic has assisted dozens of communities throughout West Virginia with developing comprehensive plans, drafting ordinances, navigating floodplain management, and identifying owners of vacant and dilapidated properties, in addition to the Clinic's conservation activities.

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meet basic needs that had been neglected, such as getting wastewater treatment to households that still lacked it.[9] Land trusts sought the Clinic out to preserve those places that had not yet been destroyed or contaminated.

Entering this world inspired me to learn more about it, write about it, and share with others what I was learning in an effort to help bridge the disconnect between the truth that was apparent within the region and the shallower narratives outside it. But what might have become a research agenda focused solely on environmental injustice, energy policy, and rural poverty quickly became more complicated in the fall of 2016, just after I was hired as a law professor at the University of South Carolina. When Manhattanite Donald Trump was elected to the presidency that November, West Virginia – the focal point and inspiration for my scholarship on the exploitative, extractive rural economy – was suddenly "Trump country." Suddenly, just as much as I was writing about those whose communities had been devastated by the predations of ruthless corporations enabled by our legal system, I was also writing about Trump voters. Like me before I moved there, people from my world of wealthy urban progressives had not seemed to know or care all that much about West Virginia or its struggles before 2016. But now they actively hated it.

Trump was indeed relatively popular in West Virginia. Yet, the "Trump country" characterization of the region also felt like a warped version of the truth. As Priya Baskaran describes, "No shortage of recent prestige publications has popularized the narrative of West Virginia as 'Trump Country' – evoking an image of West Virginia as exclusively white, working-class, drug-addicted, poor, and angry in the wake of cultural reforms that place their personal values at odds with modern progressive politics."[10] Baskaran critiques the Trump-country narrative for its erasure of "people of color from the coalfields, both in the present day and historically."[11] Many Black Southerners, for instance, migrated to West Virginia in the early twentieth century for a chance at better opportunities in the coal mines.[12] Modern commentary often overlooks that hard-hit places in West Virginia, such as the small town of Keystone, are in fact majority Black.[13]

The Trump-country narrative also struck me as incomplete, missing something about West Virginia's political diversity and complexity. To my knowledge, my

Projects, W. Va. Univ. Land Use & Sustainable Dev. L. Clinic (February 24, 2023), https://landuse.law.wvu.edu/projects [https://perma.cc/HYR9-XEF5].

[9] Glynis Board, *Part II: Is There Something in the Water, Southern W.Va.?*, W. Va. Pub. Broad. (January 15, 2015, 2:20 PM), www.wvpublic.org/news/2015-01-15/part-ii-is-there-something-in-the-water-southern-w-va [https://perma.cc/9S3P-MEYV].

[10] Priya Baskaran, *Thirsty Places*, 2021 Utah L. Rev. 501, 528.

[11] *Id.*

[12] *Id.* at 529.

[13] *See id.*; *Keystone, WV*, Census Rep. (2021), https://censusreporter.org/profiles/16000US5443516-keystone-wv/ [https://perma.cc/PGK2-987C] (Keystone population 74 percent Black). *See also* Maybell Romero, *Rural Spaces, Communities of Color, and the Progressive Prosecutor*, 110 J. Crim. L. & Criminology 803, 810 (2020) (critiquing "whitewashing" of rural America).

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friends and colleagues, a mix of locals and transients like myself, mostly voted for Bernie Sanders in the May 2016 West Virginia Democratic primary, a couple of months before I moved to South Carolina. Sanders appealed because of his ambitious policy ideas, which seemed acutely relevant in a place that needed ambitious change. In fact, 123,860 West Virginia residents voted for Bernie Sanders in the 2016 West Virginia primary, compared to 86,354 who voted for Hillary Clinton and 156,245 who voted for Trump in the Republican primary.[14]

Few journalists would be interested in the fact that only 35 percent of West Virginia primary voters voted for Trump, while 28 percent voted for Sanders and 19 percent went for Clinton. In the 2016 general election, 489,371 West Virginia residents voted for Trump.[15] But an entire third of the state's voters – 231,860 people, or the rough equivalent of the population of Fremont, California – ultimately voted for someone other than Trump.[16] Roughly 680,000 of the eligible adult population did not vote at all.[17] So almost one million West Virginians – about half of the state's population – did something other than vote for Donald Trump in 2016.

I include this information not to suggest that Trump voters have not warranted attention or to apologize for Trumpism or the broader rise of the extreme political right in recent decades.[18] I am personally fearful about the rise of the political right in the United States and elsewhere, and I don't have the answers to fix it. I personally lost a constitutional right during the course of writing this book.[19]

And obviously, Trump did win handily in West Virginia. Some of the reasons why – trade liberalization, coal's decline, Democrats' aloofness, rural regions losing young people, misinformation campaigns, social media, a society long ago constructed on violent racial hierarchies, xenophobic rhetoric, and other fascist recruitment techniques – will emerge throughout this book. Part of why rural regions are disproportionately conservative, I will argue, is that our laws and policies make it difficult for other kinds of people to live there.

In any case, this nonuniform support for Trump is meant to illustrate that West Virginia's politics are more complex than is often portrayed. The national discourse left little room for the idea that Sanders and his more ambitious vision for redistributive policies may have appealed to the region's residents more than Clinton for

[14] *West Virginia Primary Results*, N.Y. Times (September 29, 2016, 10:38 AM), www.nytimes.com/elections/2016/results/primaries/west-virginia [https://perma.cc/8DRJ-K65M].

[15] *West Virginia Results: President*, N.Y. Times (June 15, 2018, 11:40 AM), www.nytimes.com/elections/2016/results/west-virginia [https://perma.cc/MX9M-2PKA].

[16] *Id.*

[17] This estimate is based on West Virginia's population of roughly 1.8 million in 2016, minus 20 percent of the population under eighteen, minus an estimated 3 percent of the population as nonvoting felons, and minus those who voted.

[18] *Cf.* Michael J. Klarman, *Foreword: The Degradation of American Democracy – and the Court*, 134 Harv. L. Rev. 1, 7 (2020) (describing weakening of Western democracies and rise of authoritarianism after 1970s).

[19] *See Dobbs* v. *Jackson Women's Health Org.*, 142 S. Ct. 2228 (2022).

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reasons other than sexism.[20] And the national discourse left little room for the more than 900,000 West Virginia residents – almost the population of Austin, Texas – who did something other than vote for Trump.

And Trump country was, we were told, beyond hope. Most wealthier, left-leaning urbanites hadn't cared *that* much about your black lung, your kid who had died from an overdose, or your town's closing hospital or grocery store before. But if you voted for Trump? Or, say, your neighbor did? Now you and everyone around you deserved these things, and you brought them on yourselves.

I think urban/rural dynamics have evolved somewhat as of this writing, but just after the 2016 election, urban progressives seemed happy to throw out the region's substantial populations of non-whites and nonconservatives along with their Trump-country enemies. Talking about West Virginia outside of West Virginia post-2016 was confusing and disheartening. I was asking, "Why and how is our society able to do these things to these people?" And the questions I was often asked in response were, "Why should we care about them?" and "What is wrong with them?"

In 2018, I heard historian Elizabeth Catte, the author of *What You Are Getting Wrong about Appalachia*, speak at WVU. Catte's insights offered a compelling counternarrative to the Trump-country story, rebutting stereotypes about the region and the idea that Appalachians brought their own fate on themselves.[21] Catte described herself as a "debt collector."[22] I took this label to mean that she hunted for accountability for those historical and modern actors and institutions that have been let off the hook for harm they have caused. By bringing new scrutiny to bear on those connections, a "debt collector" can declare that it's time for those accounts to be paid, or at the very least, acknowledged.

Catte's impulse to collect on debts resonated with me. We are often told that things have simply been done. Stories in the passive voice are offered up as grand explanations for unfortunate events. Coal declined. Natural gas went bust. The school closed. The plant closed. The bus stopped service. The population dropped. Bad things just happened.

But to get to the truth, we need to know who did those things. And I came to believe that the truth about West Virginia went further and cut more deeply into the story of the United States than the supposed moral flaws of the region's residents.

And indeed, quite a bit of literature explains the cultural "othering" of Appalachia in service of the region's exploitation. Judah Schept describes a "century-and-a-half old script" about backward hillbillies, depraved mountain people whose cultural

[20] *Cf.* Alan Rappeport, *Gloria Steinem and Madeleine Albright Rebuke Young Women Backing Bernie Sanders*, N.Y. Times (February 7, 2016), www.nytimes.com/2016/02/08/us/politics/gloria-steinem-madeleine-albright-hillary-clinton-bernie-sanders.html [https://perma.cc/2565-2QYN].

[21] Elizabeth Catte, What You Are Getting Wrong about Appalachia (2018).

[22] *See* Kim Kelly, *On Writing History in the Present Tense: An Interview with Writer and Historian Elizabeth Catte*, The Creative Independent (May 11, 2018), https://thecreativeindependent.com/people/writer-and-historian-elizabeth-catte-on-writing-history-in-the-present-tense/.

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defects "portend their own demise."[23] Like Elizabeth Catte, he observes that "'Trump country' pieces … add a veneer of contemporary – if shallow – political analysis to an otherwise predictable adherence" to the longstanding narrative about a culture of poverty that justifies the region's struggles.[24]

Yet, while Appalachia is surrounded by a particularized and harmful mystique, West Virginia is not, in fact, entirely unique in the broader story of rural America.[25] Appalachia was not the only "Trump country" post-2016.[26] The "urban/rural divide" writ large has been in the national spotlight for years.[27] The same stereotypes that help urbanites believe Appalachians deserve their fate are applied to remote communities elsewhere. As I learned more about these patterns, it eventually seemed important to look beyond Appalachia to understand the structural nature of its exploitation.

The forces that have made West Virginia into West Virginia are observable throughout the country in one variation or another. Like in West Virginia, the name of the game in urban–rural dynamics has often been "extraction."[28] If you're not in coal country, you might be in timber country. Or hog country. Or uranium country. Or gas country.

A common theme across distressed rural communities in different regions has struck me: Those regions are often staging grounds for hazardous extractive or industrial activity that primarily benefits people in distant places, beneficiaries who also remain ignorant of how and where the resources they use were actually produced. That rural economic activity might provide some kind of lifeline, even a source of identity and pride, to the locals engaged in it. But it is often not a quality lifeline, or a sustainable or resilient lifeline, in terms of worker safety, wages, benefits, uncertainty, quality of life, environmental impacts, and regional capacity to bounce back if something with the sector goes off course. Even outdoor recreation, which offers a tamer, glossier image than energy and agricultural work, can be seasonal and

[23] Judah Schept, Coal, Cages, Crisis: The Rise of the Prison Economy in Central Appalachia 24, 28 (2022).

[24] *Id.*; *see also* Elizabeth Catte, What You Are Getting Wrong about Appalachia (2018); Steven Stoll, Ramp Hollow: The Ordeal of Appalachia (2017); Nancy Isenberg, White Trash: The 400-Year Untold History of Class in America (2017).

[25] Schept, *supra* note 23, at 28 (describing Appalachia as part of "the broader story about the dialectal relationships between urban and rural America … and its location as one regional geography among many hinterlands that can be characterized by exploitation, expropriation, survival, reproduction, and resistance").

[26] *See, e.g.*, Thomas Kaplan, *This Is Trump Country*, N.Y. Times (March 4, 2016), www.nytimes.com/interactive/2016/03/04/us/politics/donald-trump-voters.html [https://perma.cc/3H5T-Q943] (including rural Massachusetts as "Trump country").

[27] *See, e.g.*, Josh Kron, *Red State, Blue City: How the Urban-Rural Divide Is Splitting America*, Atlantic (November 30, 2012), www.theatlantic.com/politics/archive/2012/11/red-state-blue-city-how-the-urban-rural-divide-is-splitting-america/265686/ [https://perma.cc/FR3Q-F8HU].

[28] *See generally* Loka Ashwood & Kate MacTavish, *Tyranny of the Majority and Rural Environmental Injustice*, 47 J. Rural Stud. 271 (2016).

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precarious, a difficult economy for a community or workers to rely on.[29] Meanwhile, while outsiders consume rural resources and labor, ignorant of the full effects of that work, they simultaneously look down on rural residents. This disdain helps justify both the ignorance of the rural and the consumption of it.

Noting the widespread shock about rural anger after the 2016 presidential election, Loka Ashwood observed, "The gap between urban prosperity and rural burden is largely old news for rural scholars. Consolidation of ownership over the means of production and the metabolic rift cultivated by rural resource extraction for largely urban consumption has left many rural communities depopulated and poor."[30] In other words, rural communities have often been used for resources and materials: coal, oil, gas, crops, meat, timber, copper, uranium, nuclear power, wind power.[31] Or something else local might be consumed by outsiders: skiing, hiking, water play, nostalgia, a sense of bucolic peace.[32] But somehow, the wealth generated from these consumptive activities rarely stays local. The hog waste, the nuclear waste, the drained soil, and the coal ash often do.[33]

In general, the data on rural populations' marginalization within our society are not particularly subtle. Those figures are often worse for the Appalachian region, but there are national trends, too. Rural populations face significant barriers to accessing critical infrastructure such as broadband internet, affordable energy, public transportation, and quality schools.[34] Rural regions face shortages of doctors and a recent wave of devastating hospital closures.[35] Health outcomes for rural residents

[29] *See, e.g.*, *Rural Outdoor Recreation Economies: Challenges and Opportunities*, Aspen Institute Community Strategies Group (February 16, 2023), https://extension.usu.edu/gnar/gnarly_blog/rural_rec_economies_aspencsg [https://perma.cc/V8JT-TK8Y].

[30] Loka Ashwood, *Rural Conservatism or Anarchism? The Pro-state, Stateless, and Anti-state Positions*, 83 Rural Socio. 717, 717 (2018).

[31] Jeanne Marie Zokovitch Paben, *Green Power & Environmental Justice-Does Green Discriminate?* 46 Tex. Tech L. Rev. 1067, 1079 (2014) (discussing raw material development in rural areas as environmental justice issue).

[32] *See, e.g.*, Lisa R. Pruitt, *Consuming the Rural, This Time in West Virginia*, Legal Ruralism Blog (October 14, 2018), http://legalruralism.blogspot.com/2018/10/consuming-rural-this-time-in-west.html [https://perma.cc/Z799-CF2Q] (describing tourism to rural places as form of consumption).

[33] Lisa R. Pruitt & Bradley E. Showman, *Law Stretched Thin: Access to Justice in Rural America*, 59 S.D. L. Rev. 466, 488 (2014) (describing rural communities as "increasingly the dumping ground for externalities associated with extractive industries and with all sorts of environmental hazards cast off by metropolitan areas").

[34] Ganesh Sitaraman et al., *Regulation and the Geography of Inequality*, 70 Duke L.J. 1763, 1797 (2021) (discussing "profound regional disparities in service quality and availability" of cell-phone service and high-speed broadband internet); Press Release, ACEEE, *Rural Households Spend Much More of Their Income on Energy Bills than Others* (September 26, 2019), www.aceee.org/press/2018/07/rural-households-spend-much-more [https://perma.cc/8EEW-2WZZ]; Pruitt & Showman, *supra* note 33, at 486 (discussing "dearth of public transportation in rural America" and associated challenges); John Dayton, *Rural Children, Rural Schools, and Public School Funding Litigation: A Real Problem in Search of a Real Solution*, 82 Neb. L. Rev. 99, 100 (2003).

[35] *See generally* Nicole Huberfeld, *Rural Health, Universality, and Legislative Targeting*, 13 Harv. L. & Pol'y Rev. 241 (2018).

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are consistently worse than for urban and suburban residents.[36] Rural populations, especially rural populations of color, bear disproportionately high rates of chronic poverty.[37] Many rural regions are "justice deserts" in which residents can't find affordable legal assistance when they need it.[38]

Highlighting these geographic disparities is not meant to diminish disparities viewed through other lenses; I am not trying to say, "Rural people have it worse than anyone else." In fact, underinvested and exploited urban communities share many of the same challenges as struggling rural regions.[39] Overlaying additional factors, such as race, gender, and class, onto geography also changes the picture that emerges. But "rural" – a term which I use to refer to a type of geographic area that is relatively population-sparse and remote from a major population center[40] – is an axis of *potentially* severe disadvantage alongside other relevant axes, such as race, class, gender, and national origin.[41] This book refers to rural as a type of place, not a type of person, which means there is vast diversity across, and inequality within, rural regions and populations.

My attempts to "debt collect" – to unearth truth and accountability in a sea of competing, murky narratives – have involved investigating the way law treats the rural and the use of rural resources and people for societal advancement. But these inquiries have often led to more questions with broader contours, ultimately motivating the writing of this book.

Questions that arose when I lived in West Virginia included: How has so much natural resource wealth been funneled away from West Virginia and other Appalachian states? Whose fault is the prevalence of misinformation on the effects of hydraulic fracturing? What factors explain the rise and fall of coal, and where does responsibility lie for both?

Broader questions borne of these initial questions include: Is rural depopulation as natural, inevitable, and desirable as I've been told, especially vis-à-vis the

[36] Public health scholars refer to this as "the rural mortality penalty." Although white rural Americans experience the penalty, its effects are more egregious for rural populations of color. Laura Richman et al., *Addressing Health Inequalities in Diverse, Rural Communities: An Unmet Need*, 7 SSM–Population Health 1 (2019).

[37] Mark H. Harvey & Rosalind P. Harris, *Racial Inequalities and Poverty in Rural America*, *in* Rural Poverty in the United States 141–42 (Ann R. Tickamyer et al. eds., 2017) (explaining that rates of poverty among racial minorities living in rural America are two and sometimes three times higher than for rural whites).

[38] *See generally* Lisa R. Pruitt et al., *Legal Deserts: A Multi-State Perspective on Rural Access to Justice*, 13 Harv. L. & Pol'y Rev. 15, 16 (2018).

[39] *See, e.g.*, Baskaran, *supra* note 10 (comparing barriers to accessing clean, potable water in Flint, Michigan, and southern West Virginia).

[40] Lisa R. Pruitt, *Rural Rhetoric*, 39 Conn. L. Rev. 159, 177–84 (2006) (discussing competing definitions of rural and noting the lack of a single, simple definition "from legislation or case law." *Id.* at 178).

[41] Hannah Haksgaard, *Rural Women and Developments in the Undue Burden Analysis: The Effect of* Whole Woman's Health v. Hellerstedt, 65 Drake L. Rev. 663, 686 (2017) (discussing relevance of intersectionality theory, in which axes of disadvantage are understood as interacting, rather than independent, to questions of rurality).

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waning of extractive industries like coal? How much of rural marginalization and challenges with rural service provision are natural, insurmountable outgrowths of remoteness and population sparseness? Do rural residents really destine themselves for poor infrastructure because of their relatively conservative voting patterns? How did some rural regions become so disproportionately white? Why is there so much poverty and vulnerability on Native American reservations, in Black communities in the South, and among predominantly Hispanic farmworkers?

These questions, too, led to more questions: What kinds of public programs and legal reforms would best address rural poverty and related economic struggles? How can unsustainable, isolated, hazardous mono-economies be phased out and replaced with new, more sustainable, more equitable economic and environmental practices? What can be done with a built environment that no longer matches its population? How are different geographic regions interdependent? Can societal use of rural resources be made equitable and sustainable? How do our broken, unhealthy food and energy systems fit into this story? What does racial justice in rural America look like? And, of course, the overarching question: What role does law play in all of this?

A common answer to these questions has something to do with corporations and capital. And it has something to do with government. It may be what Loka Ashwood calls "for-profit democracy," which she defines as a state of affairs "in which the utilitarian rule of the most people and the greatest profit defines the government's purpose … in a world of laws and markets deliberately designed to give the most protection to property that enables the centralization of revenue, at the expense of values that may matter more to us, like the love of family land or the security of a home."[42]

My diagnosis – an answer that sheds light on many of the questions listed earlier – turns on the widespread embrace of market supremacy in law and beyond.[43] That is, so long as our laws, policies, and collective ethos prioritize some fantasy version of "free markets" to the neglect of other, more important ideals, we are doomed to continue to exacerbate economic, racial, and geographic inequality and to feel the dire societal consequences of doing so.

Like many scholars today, I find myself returning to the programs and policies of the New Deal era as an apparently obvious antidote to the egregious inequalities that plague our modern society, as imperfect and even harmful as the New Deal often was.[44] Traditions of utilities and common carrier regulation, public infrastructure investments, government prioritization of the public interest, and efforts to rein in the power and the whims of the private sector all hold great promise

[42] Loka Ashwood, For-Profit Democracy: Why the Government Is Losing the Trust of Rural America 24–25 (2018).

[43] Jedediah Britton-Purdy et al., *Building a Law-and-Political-Economy Framework: Beyond the Twentieth-Century Synthesis*, 129 Yale L.J. 1784, 1796 (2020) (defining market supremacy as the perceived "necessary subordination of the political to the economic").

[44] *See* Sitaraman et al., *supra* note 34.

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for redistributing wealth and opportunity from the predominantly white, urban and suburban superelite and upper middle class back to everyone else, including neglected and exploited rural regions.

But obviously, getting to reform is not a simple task, politically or culturally. The questions earlier are largely informed by questions and arguments I have heard from those who are more skeptical of rural America's prospects as a viable part of society. I have often been asked: Why do they vote against their interests? Why should we care about people who have so much disproportionate voting power and who wield it so irresponsibly? Why don't they just move to places with more opportunities and infrastructure? Why should we subsidize their expensive and inefficient way of life? Wouldn't they all just think you're a coastal, urban, liberal elite and disagree with everything you think anyway?

Some skeptics also have simpler explanations and solutions for rural challenges. The cause of rural decline? Markets. Markets have systematically disadvantaged rural regions due to those regions' inherent inefficiency. Or due to the progress of technological developments. Or due to an innate human yearning for urban vitality and opportunity. These are natural, desirable developments. And the solution for rural decline? Markets. Remove barriers to mobility, such as by building more urban housing, so that the populations in struggling regions can relocate to more prosperous urban areas and join more efficient and productive agglomeration economies.[45]

The conversation does not go much further if markets are both the explanation and the solution for today's rural conditions. Market supremacy means the phenomena I've described are no one's fault but Mother Nature's. Or the fault of inevitable, desirable progress. And if something is natural, or the result of progress, it is benign. We can all rest easy.

The growing field of Law and Political Economy (LPE) offers a helpful set of methodological tools for answering my own questions and addressing the skeptics' concerns, which are, of course, not entirely irrelevant. LPE, a relatively recent scholarly movement in legal academia, has many predecessors that still occupy similar spaces today. The critical legal studies movements, various "law and" methodologies, and feminist legal theory, for instance, all offer visions for law and society that are based in principles such as justice and equality rather than market supremacy.

A 2020 *Yale Law Journal* article by Britton-Purdy, Grewal, Kapczynski, and Rahman laid out some basic tenets of LPE.[46] The authors use the term "market supremacy" to refer to the philosophy of the "rule of the market."[47] They explain that the lens of market supremacy turns on three theories, embraced most prominently in the law and economics movement: (1) elevation of efficiency and aggregate

[45] *See, e.g.*, David Schleicher, *Surreply: How and Why We Should Become Un-Stuck!* 127 Yale L.J. F. 571 (2017).

[46] Britton-Purdy et al., *supra* note 43, at 1796.

[47] *Id.*

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wealth maximization as ultimate priorities for society; (2) reduction of transaction costs to enhance market operations; and (3) identifying transactions' externalized costs and optimizing markets to internalize them.[48]

LPE has helped illuminate the ubiquitous-seeming market talk as merely another value-laden approach to the world. And LPE offers an alternative that seems far more intuitive, fundamental, and fair. Centrally, as articulated in the article mentioned earlier, "'the economy' is neither self-defining nor self-justifying."[49] Rather, the authors explain, "law is perennially involved in creating and enforcing the terms of economic ordering, most particularly through the creation and maintenance of markets."[50]

I appreciate this article, and LPE's emergence more broadly, because I have been trying to articulate for years – largely in response to the idea that Appalachia's struggles stemmed from naturally shrinking markets for coal – that markets are made, they are not forces of nature, and they can be changed, especially in the realms of energy and agriculture, with their heavy public policy involvement and outsized implications for rural welfare. The Yale article's authors propose that the LPE lens rejects market supremacy and instead centers on democracy, equality, and just distributions of power. They also observe that, for LPE to succeed, it must transcend beyond critique and offer something positive as an agenda.[51] This book takes on part of that task by connecting rural America to something that we don't often hear associated with it: hope and resilience.

LPE bears unique relevance to the story of rural America.[52] Rural communities are often framed as the ultimate victims of well-functioning markets that know innately to direct resources and opportunities to denser urban centers that provide more returns per capita on investments. But the LPE lens reveals the market-centric narrative of the rural, while not entirely baseless, as a red herring. This lens illuminates how human beings have made decisions, implemented through laws and institutions, that have disadvantaged rural communities on varying intersectional axes – undercutting the premise of markets as forces of nature.

It helps to name those decisions because in revealing the human agency that has shaped outcomes such as geographic inequality, we can see that alternative decisions remain within our collective control. Some examples of decisions that hurt rural communities and others, explored in more depth in the pages that follow, include President Reagan's and Congress's decision to deregulate intercity bus service in 1982; President Clinton's and Congress's decision to approve the North Atlantic Free Trade Agreement in 1993; a more recent Congress's decision to

48 *Id*. at 1796–97.
49 *Id*. at 1833.
50 *Id*.
51 *Id*. at 1834.
52 Portions of this chapter appeared previously in a blog post: Annie Eisenberg, *Applying the Lens of Law and Political Economy to Rural America*, Rural Reconciliation Project (October 20, 2020), www.ruralreconcile.org/ruralreview/lpe-as-lens [https://perma.cc/L4F2-FXHP].

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exclude high-volume hydraulic fracturing from major environmental statutes; and many state legislatures' decisions over the past several decades to pass so-called right-to-farm laws shielding agribusiness from nuisance lawsuits.

These decisions reveal that transportation markets, energy markets, trade markets, and agricultural markets are creatures of law and policy. And while this emphasis on decisions' consequences is geared toward accountability – debt collection – this analytical process also aims to offer a greater basis for hope than the discourse that often predominates. Laws and policies can be changed, and need to be changed radically, if crises of climate change, racial injustice, and economic and geographic inequality are to be addressed. Revealing markets for what they are – policy-driven manifestations of our collective values – helps reveal a path forward toward a more hopeful and equitable future.

LPE does not address the question of my own credibility, which arises sometimes with various audiences because I do not have a decidedly rural identity, yet have picked up a mantle of indignation about rural exploitation. I grew up in the college town of Ithaca, New York, the daughter of a law professor and a writer, and I regularly need to check my own privileged perspective as I write about rural communities. I am writing this book in the first person so that I may include my firsthand experiences as a practitioner and human being, interwoven with a more traditional scholarly discussion.

With this book, I aim to invite the reader to come along with me on the journey, part professional but also personal, that has led to my current understanding of an admittedly complex set of issues. I don't think it's a coincidence that I grew up in the backyard of Cornell University, a land-grant school whose contributions to food and agricultural sciences I'm only beginning to understand. But importantly, I am not attempting to speak for rural America or to present myself as an authentic rural voice. My goal is rather to amplify the voices of the scholars, practitioners, activists, and residents who know and care about rural regions but are too often drowned out by louder, more nefarious forces in our society. The goals of this book are to tell a fuller truth about rural places and people, to offer insights into possible ways to better address geographic inequality through law, and to persuade skeptics that addressing geographic inequality is both worthwhile and possible.

This book is designed to both amplify and advance the existing work of those who know and care about rural communities in order to address the skeptic's narrative that rural communities are beyond hope – that they are a vestige of the past and cannot be revitalized, but even if they could be, we as a society should not seek to revitalize them.[53] In other words, the book is meant to debunk the narrative, as

[53] Elizabeth Weeks, *One Child Town: The Health Care Exceptionalism Case against Agglomeration Economies*, 2021 Utah L. Rev. 319, 321 (critiquing the narrative that "[s]mall town America is dying and … not worth saving" and instead, rural residents must be freed to relocate "to enjoy the benefits of 'agglomeration economies'").

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Elizabeth Weeks describes it, that "[a]ny arguments for keeping [rural] residents in place and saving places like Wiota[, Iowa,] are intangible and economically irrational, the stuff of sentimental classic rock or modern country lyrics."[54] The book could be read from start to finish in narrative form. But it is also intended as a reference for those interested in particular subtopics related to the law's relationship with rural communities.

One pressing reason for non-rural people to investigate rural topics is that questions about rural life are not merely niche issues. How rural populations, lands, and resources are woven into American life is a question with broad relevance to everyone. Rural regions are still responsible for providing the bulk of the nation's food, water, energy, fibers, outdoor recreation, cultural and natural heritage sites, and wildlife conservation activities.[55] Ultimately, the rural story is a significant piece of the story of the United States. Where can people live and have a decent quality of life? Should we, as a society, expect people to relocate multiple times in their lives to pursue livelihoods? How burdensome should that be? Do we value emotional and familial attachments to neighborhoods, towns, regions, and states? How are we managing vast swaths of land, dramatic economic transitions, inequality, climate change, and crumbling infrastructure? What must we do about unsustainable, inequitable food and energy systems? What are the ongoing legacies of centuries of slavery and its deep connection to agriculture, and of ongoing occupation of Native lands? Who gets to have what in our messy society?

The overarching question here is not solely, "What should be done about rural poverty and economic decline?" It is also, "How did we arrive at such an inequitable, unsustainable way of life, and how can we do better?" Or more specifically, "How have our laws and policies done such a poor job of spreading wealth and opportunity out across populations and physical space, to the detriment of our very lifespans?" The simple answer to these questions involves the widespread embrace of market supremacy. The solutions, then, involve competing priorities: the pursuit of geographic equity, restorative racial justice, economic fairness, ecological resilience, and other principles that do not stand to make corporations much money, but on which our very survival depends. Reasons of morality, pragmatism, and collective survival all point toward trying to do better, and to think differently.

Overall, this book seeks to advance two main arguments. First, the limited stories so often told about rural communities are central to the fatalism and hopelessness that tend to surround the prospect of pursuing a different future in rural America. These limited stories stem from a dangerous alchemy of stereotypes, misunderstandings, short memories, assumptions based in market supremacy, and a simple lack of

[54] *Id*. at 323.

[55] *Cf*. Laurie Ristino, *Surviving Climate Change in America: Toward a Rural Resilience Framework*, 41 W. New Eng. L. Rev. 521, 522–23 (2019) (noting centrality of rural America to national resilience because "it is the locus of our nation's ecosystem services, including food and fiber provisioning").

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imagination. If we accept that Mother Nature created the status quo, our hands are tied until Mother Nature fixes it.

But an in-depth inquiry into the older and more recent legal history of rural communities reveals that rural America is a creature of public creation. In the rural story this book tells, legal and institutional forces – and human beings making decisions through those avenues based on their subjective values and priorities – have shaped life in small towns, throughout the countryside, and on tribal lands, challenging the idea that benign markets have organically "left them behind." In this book's alternative narrative, rural residents are often reacting rationally to circumstances beyond their control and to things that have been done to them, including our laws and policies embracing market supremacy over rural residents' well-being.[56]

Second, with a more balanced understanding of how modern rural America came to be, the prospect of a better future emerges. Since man-made laws and policies helped create the current mess of inequality and precarity that we're in, we – human beings – have the power to change those laws and policies for the better. In fact, as of this writing, many of the interventions rural scholars have been advocating for years are reflected in current policies of the Biden administration. This suggests that the prospect of a more hopeful, sustainable rural future is not simply idealism, but within reach now through federal initiatives and other efforts. By telling a fuller version of the rural story, this book seeks to help revive rural communities' path to prosperity by reimagining a rural America – and with it, the country as a whole – equipped for the challenges of the modern era.

To advance these arguments, the book is organized around three main themes. The first theme is myth-busting. Specifically, each chapter focuses on tackling a common myth or half-story surrounding rural communities, law and policy in rural communities, or the so-called urban–rural divide. The theme of my scholarship to date has been the skewed narratives about rural communities and the role of law and policy in shaping rural economic opportunity, or lack thereof. This book draws on this body of work to address the ways in which these narratives rely on mythology, and the more humanized, productive ways in which we could come to understand them.

The second theme revolves around my firsthand experiences as a legal practitioner in the field of community economic development. My career as a legal academic to date has involved a combination of practice and scholarship. As discussed earlier, my fellowship at WVU was half study through the pursuit of a master's degree, and half practice through a law clinic, the work of which this book will return to. The University of South Carolina School of Law hired me in 2016 to

[56] *Cf.* Alexander R. Thomas & Gregory M. Fulkerson, City and Country: The Historical Evolution of Urban-Rural Systems 8 (2021) (suggesting that the literature on urbanormativity "points not to culture influencing structure, but structure and culture in a dialogical dance as capitalism both depends upon and defines the urban–rural dynamics at its core").

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start a clinic modeled on the one in West Virginia, recognizing that a transactional environmental law clinic has better prospects for surviving Southern politics than a litigation-oriented one. The stories and anecdotes that I have lived and observed as a practitioner have been key drivers of my scholarship. I think they are important data points in and of themselves, so I include many of them here, ensuring to protect any client confidences as necessary.

Finally, the third theme involves a key moment in the legal history of rural development in the United States. This book project benefited from my seven-month residency in 2022 as a Kluge Fellow in Digital Studies at the Library of Congress, during which I conducted original archival research on the legal history of rural development. I centered this research on a focal point for this book: the Rural Electrification Act of 1936 (the REA).[57]

In learning about the role of law in rural communities, it often seems that all roads lead back to the REA, one of the crown jewels of the New Deal. How do we pay for rural infrastructure? The REA provides an example. How do we pursue geographic equity in opportunity and prosperity? The REA provides an example. How is the political will to pursue massive infrastructure investments secured? The REA is illustrative. How can we implement universalist approaches at the federal level while taking advantage of and accounting for unique localities' conditions? The REA took this on.

Of course, the REA was not perfect. Far from it. Navajo Nation, for instance, was entirely excluded from the REA. As a result, tens of thousands of residents of Navajo Nation are only now being connected to the electricity grid. Black homeowners were systematically deprived of the REA's benefits through racist aid distribution schemes. In many ways, the REA represents the best and worst of what U.S. law and policy is capable of.

A focus on the REA helps round out a discussion of myth-busting and anecdotal accounts of the rural with a prominent piece of (partially) effective rural development policy that can inform what is considered possible and what cautionary tales to avoid, especially in the ongoing conversation on rural broadband deployment – the electrification task of today, it is often said. We have been living in a time of political deadlock, when all infrastructure is considered "too expensive." Yet, the tides may be turning, and Congress's ambitious recent infrastructure investments may portend a new window of opportunity. To advance a broader vision for the rural future, this book looks back to a time when people believed big things were possible and took aggressive, non-market-supremacist steps – imperfect all the same – to make them happen.

[57] Rural Electrification Act of 1936, Pub. L. No. 74-605, 49 Stat. 1363 (codified as amended at 7 U.S.C. §§ 901–918c (2012)). Scholars in diverse fields have recognized the ongoing importance of the REA to modern questions, including energy justice, economic development, and, in particular, broadband deployment. *See* Alexandra B. Klass & Gabriel Chan, *Cooperative Clean Energy*, 100 N.C. L. Rev. 1 (2021); Anthony E. Varona, *Toward A Broadband Public Interest Standard*, 61 Admin. L. Rev. 1 (2009).

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Chapter 2 of this book begins by addressing what I call the "basic myths" about rural. These are the myths that turn on misunderstandings about definitions, data, or characterizations about rural America that lead people to believe that rural is not worth investigation in the first place. The main point of this chapter is to show that, yes, "rural" is a salient and important lens through which to understand the issues this book addresses. Rural has legal meanings. Those meanings are contested, and that contestation influences outcomes. Rural has special characteristics that affect law's reach into rural regions, including greater distances to travel and population sparseness. Rural is often forgotten altogether or mischaracterized in law and policy.

Urbanormative policymaking, scholars have shown, assumes universal urban conditions not consistent with the rural experience. Rural places are facing unique trends, such as depopulation and shrinking economic opportunities. Yet, rural regions remain necessary to a thriving and resilient society, especially in the face of climate change. Far-reaching stereotypes about rural affect all of these factors, again suggesting that the rural lens is worth looking through.

Chapter 3 turns to the myth of rural empowerment. Many tend to only think about rural populations during election season, when they see an angry sea of conservative, rural red seeming to dominate electoral maps. During that season, discourse inevitably turns to the disproportionate voting power of rural residents. Chapter 3 argues that, while this disproportionate voting power exists and is highly problematic for representative democracy, this one form of power does not somehow neutralize the other forms of disadvantage that rural populations face.

Those disadvantages include barriers to accessing infrastructure of all kinds, barriers to accessing essential service providers, patterns of chronic poverty alongside more novel trends in socioeconomic and population decline, and the effects of these trends on rural local governments' ability to meet residents' needs. Although many commentators' response to these trends is to argue that predominantly conservative rural residents "vote against their interests" – by voting for Republicans instead of the Democrats who promise to ameliorate these trends – and thereby make their own beds, subsequent chapters will illustrate how Democrats' policies have often not served rural regions well either.

Chapter 4 then challenges the myth that rural communities are unsustainable. The skeptic's narrative turns on the idea that rural communities are inefficient. Higher costs per capita for service provision inevitably dictate as much. Therefore, rural communities cannot justifiably be sustained because public and private resources will be put to much better use in cities. The chapter challenges this myth by highlighting the ongoing necessity of rural regions in our complex national ecosystem of urban–rural interdependence.

Assuming that rural communities and their many contributions to national welfare are necessary, the chapter highlights robust legal traditions of utilities and infrastructure regulation, such as the Rural Electrification Act, that helped mold markets to the public interest, including by serving disadvantaged regions that

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would otherwise be less appealing to private service providers. That system of economic regulation operated in service of geographic equity for decades. Although the system had its detractors from the outset, it illustrated an approach premised on the notion that rural communities were worth sustaining and possible to sustain, even in the face of unique challenges.

Chapter 5 addresses the myth embedded in the most prominent narrative about rural socioeconomic decline. Specifically, this chapter questions the ubiquitous use of the word "decline" to describe struggling rural regions' current situation. "Decline" implies a certain passive loss of vitality and does not ascribe agency to any causal factor. This chapter debunks the idea that rural regions have "declined" through the benign evolution of forces of nature by highlighting the contributing agents of federal and state laws and policies that have helped create modern rural conditions characterized by depopulation, shrinking opportunities, and reduced quality of life. The chapter proposes that rural America has not "declined," but has rather been undermined, sacrificed, or destroyed, to our collective detriment, often through policy measures where decision-makers knew the likely consequences of their actions. Modern rural America is a creature of public creation.

Chapter 6 turns to the myth that rural regions are populated only by white conservatives. The chapter takes on specifically the myth of ubiquitous rural whiteness and how that myth obfuscates rural racial and ethnic minorities' experiences and relationships with government. Much like the idea that rural voters vote against their interests, the idea of ubiquitous rural whiteness inspires some progressives to advocate nonintervention into distressed rural regions. Although this book's story of rural economic marginalization illustrates how rural white populations may well face severe challenges themselves, this chapter highlights the unique challenges law and policy have created for rural communities of color – the "minority of the minority," whose very existence is often obscured.

Land dispossession facilitated en masse by state and federal laws in particular has helped catalyze the whitening of rural America, driving Indigenous and Black populations into rural ghettoes or out altogether. But many rural communities of color maintain or seek out ties to rural regions, often bearing disproportionate burdens of chronic poverty – as illustrated by rural America's fast-growing Latino population. While one can vilify the white populations that benefit from inequality and discrimination within these localities – just as one might do for racial inequality in cities and suburbs – this chapter proposes that the failure to protect rural populations of color is also a collective failure of law and government.

Chapter 7 addresses the myth that rural regions are populated with right-wing radicals who irrationally hate all government. The chapter takes a deep dive specifically into the rural relationship with the federal regulatory state. A granular look at rural populations' disaffection with the federal regulatory state does not reveal themes of radicalism. Rather, such an analysis reveals rational reactions to perceptions of procedural exclusion, disappointment with substantive outcomes, and a sense

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that federal agencies serve the interests of someone other than rural populations. Agencies are perceived instead to owe fealty to corporations, the urban affluent, or, from the perspective of rural racial minorities, to white people.

Although the radicalizing effects of social media do take hold and contribute to broader patterns of polarization, the chapter compares and contrasts subjective rural accounts in sociological literature with objective structural features of the regulatory state. The apparent consistency of rural feelings with some of these objective structural features lends credence to rural feelings as a logical and predictable response to the regulatory state's failure to accommodate rural conditions. The common perception among rural populations – that the regulatory state binds them while failing to protect them – finds footing in real conditions, particularly trends of regulatory retreat from rural life in certain spheres alongside regulatory encroachment into rural life in other spheres over the past several decades.

Finally, Chapter 8 argues that rural America needs to be reconceptualized as a commons. Chapters 2 through 7 establish how the extractive rural economy and laws driven by market supremacy have undermined rural regions' resilience, to society's collective detriment. Chapter 8 argues that the urban majority does, in fact, have some level of entitlement to the resources in rural communities, and that rural America as a whole should be understood as a common resource. However, what has been missing from the exercise of that entitlement to date is a concomitant ethos of stewardship. In other words, if the urban majority is entitled to take from the rural, the urban majority is necessarily obligated to take care of the rural.

Critically, the urban majority's impetus to steward rural America does not stop at natural resource conservation. That impetus extends to the workers, residents, places, and infrastructure that are also critical to collective and regional resilience. The chapter contemplates policies that embrace an ethos of stewardship with a view to regional and collective resilience, with a focus on agricultural land, energy production, and infrastructure. Drawing on examples from federal legislative initiatives, the chapter proposes that interventions into rural regions to radically restructure urban–rural dynamics – for reasons of fairness, pragmatism, and collective survival – are already within reach. The chapter concludes with five overarching principles that should be considered in rural governance interventions to help better share and steward the rural commons.

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