

# EXPLOITING BORDERS: THE POLITICAL ECONOMY OF LOCAL BACKLASH AGAINST UNDOCUMENTED IMMIGRANTS†

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*Once they cross the border . . . They come into cities such as  
Hazleton. It's like a cancer.*

- Hazleton Mayor Louis J. Barletta, May 2006<sup>1</sup>

*The system is broken, the border is broken. We all know what  
we need . . . People in Arizona have made it very, very clear.  
Let's talk about the problem that is at hand.*

*Let's secure the border.*

- Arizona Governor Jan Brewer, July 2010<sup>2</sup>

## I. INTRODUCTION

Four years prior to Arizona's passage of one of the most far-reaching pieces of anti-Latino immigrant legislation signed into law in decades,<sup>3</sup> demands to "seal off the border"<sup>4</sup> were being made thousands of miles from the U.S.-Mexico divide. In 2006, Hazleton, Pennsylvania passed equally harsh legislation aimed at keeping undocumented immigrants out of their community. During this time, commentators described the local backlash in Ha-

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1. Kent Jackson, *Ferdinand: Time to Seal off Border*, STANDARD-SPEAKER, May 17, 2003, at 17.

2. Jim Cross, *Brewer: Obama Immigration Speech "Helpless,"* KTAR (July 2, 2010), at <http://ktar.com/?nid=6&sid=1310824>.

3. We are referring here to SB 1070, 49th Leg., 2d Sess. (Ariz. 2010), Arizona Sess. Laws Ch. 113, as amended by HB 2162, 49th Leg., 2d Sess., Arizona Session Laws Ch. 211. For a discussion on how SB 1070 legally sanctions racial profiling, see Gabriel J. Chin, Carissa Byrne Hessick, Toni Massaro & Marc L. Miller, *A Legal Labyrinth: Issues Raised by Arizona Senate Bill 1070* (Ariz. Legal Studies, Discussion Paper No. 10-24, Aug. 2010), available at <http://ssrn.com/abstract=1617440>.

4. Jackson, *supra* note 1.

zleton and other small cities across the United States as akin to “the opening of a deep and profound fissure in the American landscape”<sup>5</sup> wherein “all immigration politics is local.”<sup>6</sup> Yet, as the so-called “immigration problem” returns to its point of origin and the actual U.S.-Mexico border reclaims its place as the popular political referent from the more imaginary yet equally racialized borders of homogeneous interior cities, it appears that neither the Arizona law nor previous local-level legislation represent a “new” trend but rather an intensification of America’s growing anti-Latino immigrant backlash.

Mayor Barletta’s likening of border-crossers to an invasive disease that threatens to destroy the body politic plays on the racist fears of the white majority. Perhaps, however, the more troubling aspect of this sort of anti-immigration rhetoric stems from what was left out as the debate traveled from Arizona to Hazleton and back: particularly, the broader political-economic context that brought exploited Latino/a immigrant populations to economically distraught places like Hazleton in the first place. While politicians like Mayor Barletta and Governor Brewer *exploit the border* for its negative cultural associations, they are in effect enabling the *exploitation of immigrant laborers* to continue unencumbered by diverting attention away from an unforgiving pro-corporate economic order that relies on inexpensive immigrant labor to the detriment of American workers and immigrants alike.

Drawing from ongoing ethnographic sociolegal research<sup>7</sup> that explores anti-immigrant backlash in Hazleton, this article seeks to highlight a much more complex story than is typically heard in the public debate on immigration. We argue that national economic policies incentivizing the exploitation of immigrant labor have transformed state law and community-level development by creating faltering local economies primed for backlash as companies and business increasingly rely on ex-

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5. Alex Kotlowitz, *Our Town*, N.Y. TIMES MAGAZINE, Aug. 5, 2007, at 33.

6. *Id.* at Magazine Cover Page.

7. This paper draws from author Jamie Longazel’s ethnographic research on the community-level politics surrounding Hazleton’s Illegal Immigration Relief Act (“IIRA”). See Jamie Longazel, *I’ve Lost My City: Law, Community, and Immigration Under Colorblind Neoliberalism* (Mar. 22, 2011) (unpublished Ph.D. dissertation, University of Del.) (examining the political economic factors leading to the attraction of Latino/a immigrants to Hazleton and, ultimately, to passage of the IIRA) (on file with author Longazel). See also BENJAMIN FLEURY-STEINER & JAMIE LONGAZEL, *Neoliberalism, Community Development, and Anti-Immigrant Backlash in Hazleton, Pennsylvania*, in TAKING LOCAL CONTROL: IMMIGRATION POLICY ACTIVISM IN U.S. CITIES AND STATES 157 (Monica Varsanyi ed., 2010) (linking broad structural changes and Hazleton’s nostalgic imaginings of an idealized community to its vehement anti-immigrant response and also exploring prospects for immigrants’ rights activism amidst anti-immigrant social upheaval).

ploited immigrant labor to continue and, even, prosper. Unfortunately, the economic realities at the core of the conflict remain largely absent or obscured both in local-level debates on immigration and in legal intervention aimed at defeating discriminatory ordinances. Given the current state of our national, state, and local economies, there remains little reason to believe that subsequent anti-immigrant backlash will lessen any time soon. Considering this broader political economic context, we see a pattern of disturbing and hostile ethnocentric backlash that marks a state of affairs quite to the contrary. We will show that the recent tough-on-immigration efforts in both Hazleton and Arizona should be understood not as surprising innovations in immigration enforcement but rather as natural outgrowths of deepening economic crises and a veritable racist politics of denial and subterfuge. As local economies continue to falter, politicians avoid culpability by diverting public attention away from economic crises and corruption and, instead, hyper-focusing on so-called weakening border security.<sup>8</sup>

In presenting our case study of Hazleton, we begin Part II by providing a brief history of immigrant labor exploitation to demonstrate that U.S. immigration law has long been “firmly rooted in economic realities.”<sup>9</sup> In Part III, we describe how contemporary political-economic conditions have transformed state laws in Pennsylvania into corporate protectionist policies that have filtered down to small, economically unstable cities such as Hazleton. Specifically, we show how a once grassroots, pro-labor community development organization in the city has reorganized into an unintended catalyst for anti-immigrant backlash. Part IV looks to the defeat of Hazleton’s reactionary Illegal Immigration Relief Act (“IIRA”) and argues that community-level activism on both sides of the debate as well as subsequent legal intervention aimed at defeating the discriminatory ordinance largely obscures key political-economic conditions at the core of Hazleton’s so-called “immigration problem” and therefore makes any long-term prevention of anti-immigrant backlash in the city highly unlikely. It is our contention that this analysis shines a bright light on current conditions in the U.S., especially in the wake of Arizona’s harsh new law. We conclude by reflect-

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8. See FLEURY-STEINER & LONGAZEL, *supra* note 7. See also KITTY CALAVITA, *IMMIGRANTS AT THE MARGINS: LAW, RACE, AND EXCLUSION IN SOUTHERN EUROPE* (2005) (conceptualizing the notion of the “useful invader” and arguing that politicians in the neoliberal era strive to be at once “tough” on undocumented immigrants and “pro-growth”).

9. KITTY CALAVITA, *U.S. Immigration and Policy Responses: The Limits of Legislation*, in *CONTROLLING IMMIGRATION: A GLOBAL PERSPECTIVE* 55, 65 (Wayne A. Cornelius et al. eds., 2004) (1994).

ing on what we consider to be more promising avenues for immigrant advocacy in economically struggling cities.

## II. IMMIGRANT EXPLOITATION AND NATIVISM IN THE U.S.: PAST AND PRESENT

The history of U.S. immigration policy is largely one of economic exploitation.<sup>10</sup> This is especially true in the case of Mexican immigrants who have historically “formed a reserve labor pool that could be called up as the situation dictated.”<sup>11</sup> Yet, while the prerogative of big business has, to some degree, been one of immigrant inclusion, periodic waves of restrictionist sentiment have contributed to a “periodic tightening”<sup>12</sup> of immigration regulations.

The same laborers brought from Mexico by U.S. officials when their services were needed (i.e., during wartime labor shortages or when domestic workers were striking) found themselves forced out as political or economic forces dictated. The government-sponsored voluntary repatriation program implemented during the Great Depression, for example, led to the deportation of as many as 500,000 immigrants, many of whom were deported on government-chartered trains.<sup>13</sup> Subsequently, in 1954, the notorious “Operation Wetback” called for the deportation of over a million documented and undocumented immigrants not long after they were invited to the U.S. as part of the Bracero Program, a U.S. government sponsored initiative that ironically invited millions of Mexican migrant workers into the U.S. as a means to offset labor shortages created by World War II.<sup>14</sup> The Chicana/o example illustrates that the pillar of U.S. immigration law, especially as it relates to migrants from south of the U.S. border, has been a reliance on a temporary, indeed, *expendable* workforce.<sup>15</sup>

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10. See, e.g., PETER H. SCHUCK, *CITIZENS, STRANGERS, AND IN-BETWEENS: ESSAYS ON IMMIGRATION AND CITIZENSHIP* (1998); CALAVITA, *U.S. IMMIGRATION AND POLICY RESPONSES*, *supra* note 9; JOHN HIGHAM, *STRANGERS IN THE LAND: PATTERNS OF AMERICAN NATIVISM, 1860-1925* (2002).

11. Leobardo F. Estrada et al., *Chicanos in the United States: A History of Exploitation and Resistance*, 110 *DAEDALUS* 103, 112 (Spring 1981).

12. CALAVITA, *U.S. IMMIGRATION AND POLICY RESPONSES*, *supra* note 9, at 63.

13. See ROGER DANIELS, *COMING TO AMERICA: A HISTORY OF IMMIGRATION AND ETHNICITY IN AMERICAN LIFE* 307 (2002).

14. There are numerous historical examples of anti-immigrant policy at the federal, state, and local level. For example, traces of such anti-immigration policy were abundant in Hazleton, Pennsylvania during the coal mining era. See HAROLD W. AURAND, *COALCRACKER CULTURE: WORK AND VALUES IN PENNSYLVANIA ANTHRACITE, 1835-1935* 76-79 (2003).

15. See CALAVITA, *U.S. IMMIGRATION AND POLICY RESPONSES*, *supra* note 9, at 63.

### A. *The New Political Economy of Immigration*

The exploitation of Chicanos/as and Latino/a immigrants remains. But now there is a new twist. As recent events in Hazleton and Arizona have shown, “the structural transformations in the economy that reproduce a continued demand for immigrants *at the same time* contribute to restrictionist sentiment.”<sup>16</sup> Increased deregulation spurred by a largely anti-worker global economy has enabled corporations to focus almost exclusively on profit maximization over worker’s rights. This equates to an increased demand for immigrant workers who are willing to tolerate low wages and poor working conditions, but it also translates into economic uncertainty for Americans who see their economic prospects fading as fewer and fewer viable sources of employment remain available. The result of increased corporate deregulation is thus record levels of immigrants in the U.S. population<sup>17</sup> and the virtual normalization of racist scapegoating and open public hostility. In other words, exploited immigrants are cast now as the primary source of increased economic uncertainties that are, in fact, the result of a dramatically expanded corporate-welfare driven economic order.

### B. *The “New” Latino Threat*

The scapegoating of Latino immigrants for the prevailing economic uncertainty is by no means a new phenomenon in the U.S. Such misdirected blame, however, is more far-reaching and, indeed, hostile than ever before. In his important book, *The Latino Threat*, Leo Chavez outlines the contours of the contemporary anti-immigrant backlash, arguing that this backlash can best be understood as part of a broader “Latino Threat Narrative.”<sup>18</sup> Chavez asserts that this narrative portrays Latinos as crime-prone, anti-assimilationist (i.e., refusing to speak English), and determined to demolish American cultural values and reclaim territory that was once their own.<sup>19</sup> He states:

According to the assumptions and taken-for-granted “truths” inherent in this narrative, Latinos are unwilling or incapable of integrating, of becoming part of the national community.

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16. *Id.* at 64.

17. See STEVEN A. CAMAROTA, CTR. FOR IMMIGRATION STUDIES, IMMIGRANTS IN THE UNITED STATES, 2007: A PROFILE OF AMERICA’S FOREIGN-BORN POPULATION 1 (Nov. 2007), <http://www.cis.org/articles/2007/back1007.pdf> (finding that legal and illegal immigration reached a record of 37.9 million in 2007, where immigrants accounted for one in eight U.S. residents, the highest level in 80 years, and noting that only one in 21 residents were immigrants in 1970, one in 16 in 1980, and one in thirteen in 1990).

18. LEO R. CHAVEZ, *THE LATINO THREAT: CONSTRUCTING IMMIGRANTS, CITIZENS, AND THE NATION 2* (2008).

19. *Id.*

Rather, they are part of an invading force from south of the border that is bent on reconquering land that was formerly theirs (the U.S. Southwest) and destroying the American way of life.<sup>20</sup>

This narrative is most visible in the broader popular culture, in the rhetoric of anti-immigration pundits, and in citizen-led media spectacles that play on misguided public fears of a racialized other. Peter Brimelow's best-selling book, *Alien Nation*, for example, warns of an "ethnic revolution"<sup>21</sup> as white Americans gradually become the minority.<sup>22</sup> Pundits such as Lou Dobbs, the infamous former CNN host whose vicious anti-Latino/a rhetoric is now broadcast in a popular nationwide radio show, devote inordinate amounts of attention to berating "illegal aliens," including dismissing the potential for racial profiling in Arizona as "poppycock and bull."<sup>23</sup> Fox News, the nation's highest rated cable news network, has likewise contributed its fair share to the amplification of the Latino threat.<sup>24</sup> These pundits portray such "invaders" as looting the American Dream by taking advantage of undeserved privileges such as supposedly free medical care and financial breaks on college tuition. The portrayal of these "crimmigrants"<sup>25</sup> also shows them clogging the U.S. federal prison system. Perhaps most viscerally of all, Latina/o immigrants are portrayed as agents of contagion and hosts of infectious diseases.<sup>26</sup>

What is perhaps most troubling about this new common-sense is how it plays directly into the hands of corporations who exploit immigrant labor by distracting the public from the broader political and economic forces that attracted immigrants

20. *Id.*

21. PETER BRIMELOW, *ALIEN NATION: COMMON SENSE ABOUT AMERICA'S IMMIGRATION DISASTER* 73 (1995).

22. For a review of this and other alarmist books, see CHAVEZ, *supra* note 18, at 31, 33.

23. Audio recording: The Lou Dobbs Show, Callers: Mike from Long Island, NY (July 8, 2010), <http://www.loudobbs.com/programhighlights?pid=10473>.

24. Popular Fox News host Bill O'Reilly, for example, has delivered on several occasions the kind of rhetoric described in this article. In one episode of his show, *The O'Reilly Factor*, O'Reilly lambasted guest Geraldo Rivera over a disagreement about whether or not undocumented immigrant Alfredo Ramos should be deported for a non-felony drunk driving conviction. On several occasions, O'Reilly interrupted Rivera's arguments, screaming, "He doesn't have a right to be in this country!" and "[Y]ou want anarchy!" See video recording: *The O'Reilly Factor*, [http://www.youtube.com/watch?v=\\_J7xkuLqZAI&feature=related](http://www.youtube.com/watch?v=_J7xkuLqZAI&feature=related) (last visited Apr. 5, 2011).

25. Juliet P. Stumpf, *The Crimmigration Crisis: Immigrants, Crime, & Sovereign Power* (bepress Legal Series Working Paper No. 1635, Aug. 27, 2006), available at <http://law.bepress.com/expresso/eps/1635/>.

26. Peter Hart, *Dobbs' Choice: CNN Host Picks Immigration as His Ax to Grind*, Fairness & Accuracy in Reporting (Jan.-Feb. 2004), <http://www.fair.org/index.php?page=1162> on 9/4/2009.

to the United States in the first place. The result has been the passage of laws that sanction both economic exploitation and a growingly hostile *de facto* nativism. The seeds of the nativist-economic exploitation nexus can be traced back to the passage of the Immigration Reform and Control Act of 1986 (“IRCA”).<sup>27</sup> This federal law provided amnesty to immigrants who arrived in the U.S. before 1982 while at the same time requiring employers to merely demonstrate that they acted in “good faith” when investigating the documentation status of potential employees. The law thus served a dual purpose of symbolically satisfying the public demand for a bill that heightened employer accountability while more realistically satisfying the corporate demand for an increased stock of potentially exploitable immigrants.<sup>28</sup> More recently, Congress has passed a number of so-called “tough on immigration” laws that place extreme restrictions on both undocumented and legal immigrants while doing nothing to deter employers from exploiting immigrant labor.<sup>29</sup>

Another striking example of this tendency is the Supreme Court’s recent decision in *Hoffman v. National Labor Relations Board*.<sup>30</sup> In *Hoffman*, the Court focused on whether an undocumented worker who was fired by his employer for being involved with a union was entitled to back pay. Writing for the majority, Chief Justice Rehnquist declared that “awarding backpay in a case like this not only trivializes the immigration laws, it also condones and encourages future violations [of immigration law].”<sup>31</sup> In doing so, he repeatedly referred to the plaintiff’s behavior as criminal, despite no previous charge or conviction, while neglecting the illegal action taken by the plaintiff’s former employer in denying his right to participate in a union.<sup>32</sup> The *Hoffman* decision thus exploits anti-immigrant fervor and, at the same time,

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27. Immigration Reform and Control Act of 1986, Pub. L. No. 99-603, 100 Stat. 3359 [hereinafter IRCA].

28. See CALAVITA, U.S. IMMIGRATION AND POLICY RESPONSES, *supra* note 9, at 65-74 (arguing that the IRCA at once adhered to public demands for stricter immigration policy while at the same time enabled immigrant exploitation to continue).

29. See, e.g., Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. No. 104-208, 110 Stat. 3009-546; Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132, 110 Stat. 1214. More recent reports, however, suggest that the U.S. Department of Justice has begun an aggressive campaign of “silent raids” on businesses across the U.S. resulting in substantial fines levied against the employers of undocumented workers. While these “silent raids” do not typically result in automatic deportation, it is clear that undocumented workers are being terminated from employment. See Julia Preston, *Illegal Workers Swept from Jobs in ‘Silent Raids’*, N.Y. TIMES, July 10, 2010, at A1.

30. 535 U.S. 137 (2002).

31. *Id.* at 150.

32. See CATHERINE L. FISK & MICHAEL J. WISHNIE, *The Story of Hoffman Plastic Compounds, Inc. v. NLRB: Labor Rights Without Remedies for Undocumented Immigrants*, in LABOR LAW STORIES, 351, 380-81 (Laura J. Cooper & Catherine L. Fisk eds., 2005).

provides employers the opportunity to, as Justice Breyer states in his dissent, “hire with a wink and a nod those potentially unlawful aliens whose unlawful employment . . . ultimately will lower the costs of labor law violations.”<sup>33</sup>

### C. *Global Competitiveness at the Local Level*

As competition in the global political economy intensifies, both immigrant and U.S. laborers are obviously impacted. Immigrants continue to be exploited and many U.S. workers face grim economic prospects. Yet, the contemporary debate pays these injustices very little attention. Instead, U.S. workers and a growing majority of the American public react with demands for swift and punitive responses on the part of their political representatives. Not surprisingly, this places both immigrants and their advocates on the defensive.

Immigration law and politics at the state and local level have become remarkably similar. While the localizing of the immigration debate to places such as Hazleton has been surprising to some—indeed, as the curious words of Hazleton Mayor Lou Barletta testified, “Who would believe that a small city that sits on top of a mountain would have an illegal immigration problem?”<sup>34</sup>—the simultaneously exploitative and nativist character of local immigration law and politics, we believe, can be seen as the natural outgrowth of increasing global competitiveness and the passage of sweeping corporate protectionist policies. These broader political economic forces have resulted in the passage of state-sponsored corporate welfare policies that have filtered down to the local level. Cities in the midst of major economic transitions, such as old coal towns like Hazleton, must adapt thereby transforming once pro-labor, grassroots community development organizations into direct channels for this new and unforgiving economic order. It is this dramatic destabilization and complex transitioning to a post-coal economy that, we contend, has created the political-economic conditions for anti-immigrant backlash in Hazleton.

## III. THE POLITICAL ECONOMY OF LOCAL BACKLASH

### A. *Transitioning after the Fall of Coal*

Hazleton sits atop the largest basin of anthracite coal in the world. Its lucrative mining industry made the city an economic

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33. 535 U.S. at 156.

34. Mayor Louis J. Barletta, Speech at the Voice of the People USA Rally in Support of Mayor Barletta in Hazleton, Pa. (June 3, 2007), available at <http://www.youtube.com/watch?v=4CEKjiNY63I>.

boomtown in the latter half of the 19th century during which time tens of thousands of European immigrants arrived in Hazleton seeking work in the prosperous mines. Beginning in the early 20th century, however, the city's coal economy would begin a gradual decline.<sup>35</sup> By the mid-1950s, virtually all of Hazleton's mines were closed, leaving many of the city's working-class residents jobless.

In the 1950s, as the city was rapidly becoming a ghost town, a grassroots movement attempted to pull the city up from economic ruin. The result was the formation of CAN DO,<sup>36</sup> a community development organization whose mission was to "involve the entire community, raise money, represent all facets of the public on its board of directors, and . . . acquire land for industrial park development."<sup>37</sup> Its founders touted this participatory and inclusive approach in the local press, proclaiming that they "would like to have every facet of community life represented"<sup>38</sup> and, moreover, they publicly encouraged residents to play a part by proclaiming, "[T]his is your project and we want you to participate."<sup>39</sup>

The grassroots efforts were a success. Numerous community-oriented fund drives brought in enough money to build an industrial park that, at least temporarily, would resurrect the city from economic ruin. The city's working-class residents, many of whom were reluctant to leave their families in search of work elsewhere,<sup>40</sup> were provided with stable employment despite the closure of the mines.

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35. See THOMAS DUBLIN & WALTER LICHT, *THE FACE OF DECLINE: THE PENNSYLVANIA ANTHRACITE REGION IN THE TWENTIETH CENTURY* 4 (2005).

36. Our discussion and analysis of the CAN DO organization draws primarily from a vast archive of materials pertaining to CAN DO's history. The CAN DO archive is maintained by CAN DO in their downtown office in Hazleton, Pennsylvania. It includes newspaper articles, brochures, photos and other materials dating back from 1956 until the present. The CAN DO archive provides a valuable resource because it is both expansive and up-to-date. It consists of 22 chronologically ordered "books," each containing dozens of articles and artifacts. Author Longazel obtained access to the CAN DO archive between December of 2007 and July of 2008. Detailed notes gleaned from the CAN DO archives are on file with author Longazel. In this article, we cite the CAN DO archives using the book number and, where applicable, the date and article title [hereinafter CAN DO Archive]. A more in-depth analysis of CAN DO archival data is available. See FLEURY-STEINER & LONGAZEL, *supra* note 7. CAN DO archival data has been utilized in other research. See also DUBLIN & LICHT, *supra* note 35.

37. CAN DO, *UPON THE SHOULDERS OF GIANTS: THE CAN DO STORY* 5 (1991).

38. CAN DO Archive, *supra* note 36, Newspaper Article, *Public Meeting on Industrial Park Scheduled for Next Monday* (Mar. 26, 1956), at Book 1.

39. *Id.*

40. See DAN ROSE, *ENERGY TRANSITION AND THE LOCAL COMMUNITY: A THEORY OF SOCIETY APPLIED TO HAZLETON, PENNSYLVANIA* 147 (1981).

CAN DO continued to successfully attract industry with the help of federal and state funds throughout the 1950s, 60s, and 70s. In fact, the organization's efforts were nationally recognized in 1964 when Hazleton was named an "All-America City."<sup>41</sup> But in the 1980s, things would change as competition for attracting industry to an area became tougher than in years past,<sup>42</sup> causing CAN DO to undergo dramatic organizational changes.

### B. CAN DO, Inc. Adapts to a New Economic Order

The increased difficulty that CAN DO experienced in attracting industry in the 1980s can be attributed directly to broader changes in the political-economic climate of the time.<sup>43</sup> The rise of a market-based approach to social and economic problems—commonly termed *neoliberalism*<sup>44</sup>—brought about dramatic changes in the 1980s that made it increasingly difficult for Hazleton to remain economically viable. In particular, by transferring state power upwards to global institutions and state responsibility downwards to local institutions—a process that Erik Swyngedouw has popularly termed *glocalization*<sup>45</sup>—the new neoliberal order created an *economic war*<sup>46</sup> amongst rather than *within* municipalities,<sup>47</sup> causing dramatic changes to local-level institutions. In the case of Hazleton, the Reagan administration's commitment to privatization and devolution resulted in drastic

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41. The All-America City Award is a prize given nationally by the National Civic League (NCL). It is described by NCL as "America's oldest and most prestigious community recognition award, now in its 62nd year . . . given to ten communities each year for outstanding civic accomplishments. To win, each community must demonstrate innovation, inclusiveness, civic engagement, and cross sector collaboration by describing successful efforts to address pressing local challenges." National Civic League, All-America City Application (2009), <http://ncl.org/aac/about.htm>.

42. CAN DO Archive, *supra* note 36, Newspaper Article, *Industrial Competition Tough, CAN DO Official Says*, (Jan. 18, 1985), at Book 7.

43. For an in-depth discussion, see FLEURY-STEINER & LONGAZEL, *supra* note 7.

44. See DAVID HARVEY, A BRIEF HISTORY OF NEOLIBERALISM 2 (2005) ("Neoliberalism is in the first instance a theory of political economic practices that proposes that human well-being can best be advanced by liberating individual entrepreneurial freedoms and skills within an institutional framework characterized by strong private property rights, free markets, and free trade. The role of the state is to create and preserve an institutional framework appropriate to such practices."). See also Pierre Bourdieu, *Utopia of Endless Exploitation: The Essence of Neoliberalism*, *Le Monde Diplomatique* (Dec. 1998), <http://mondediplo.com/1998/12/08/bourdieu>.

45. ERIK SWYNGEDOUW, *Neither Global nor Local: "Glocalization" and the Politics of Scale*, in SPACES OF GLOBALIZATION: REASSERTING THE POWER OF THE LOCAL 137 (Kevin R. Cox ed., 1997).

46. Melvin L. Burstein & Arthur J. Rolnick, *Congress Should End the Economic War Among the States*, FED. RES. BANK OF MINNEAPOLIS ANN. REP. (1994), [http://www.minneapolisfed.org/publications\\_papers/pub\\_display.cfm?id=672](http://www.minneapolisfed.org/publications_papers/pub_display.cfm?id=672).

47. Kevin R. Cox & Andrew Mair, *Locality and Community in the Politics of Local Economic Development*, 78 ANNALS OF THE ASS'N OF AM. GEOGRAPHERS 307 (June 1988).

cuts in federal funding for community development, forcing CAN DO to adapt or fail. CAN DO went so far as to plead their case against the reduction of federal funds in front of Congress, but their pleas fell on deaf ears and it was decided that CAN DO would need to “change its way of thinking in order to compete.”<sup>48</sup>

The organization would remain Hazleton’s primary economic engine in the decades that followed, but their approach became far more market-oriented. Rather than vowing to represent the entire community, CAN DO’s new mission focused only on “improving the quality of life in the Greater Hazleton through the creation of employment opportunities.”<sup>49</sup> Moreover, decisions were made by CAN DO officials that went against broader community sentiment<sup>50</sup> reflecting the organization’s transformation from a grassroots developer to what we have coined a “neoliberal conduit.”<sup>51</sup>

As manufacturing jobs in Hazleton and in the state of Pennsylvania began to decline,<sup>52</sup> CAN DO was forced to rethink its approach to community development yet again in the 1990s. CAN DO would support a piece of state level legislation known as the Keystone Opportunity Zone initiative (“KOZ”) that would prove quite fruitful for the organization’s newly restructured mission. Similar to Enterprise Zones,<sup>53</sup> KOZ provides businesses operating in designated areas a moratorium on virtually all state and local taxes for twelve years.

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48. CAN DO Archive, *supra* note 36, Newspaper Article, *Wright: CAN DO Must Change Its Thinking* (May 16, 1985), at Book 7.

49. Brochure, CAN DO Greater Hazleton Economic Development, CAN DO Vision Brochure: What Vision, Drive and a Community CAN DO, <http://www.hazletoncando.com/CAN-DO-Marketing-Materials/View-category.html?dir=ASC&limit=20&limitstart=0&order=date> (last visited Apr. 18, 2011).

50. In one instance, the CAN DO organization found itself in a legal battle with a locally organized group of concerned citizens. See *Ass’n of Concerned Citizens of Butler Valley v. Butler Twp. Bd. of Supervisors*, 580 A.2d 470 (Pa. Commw. Ct. 1990).

51. FLEURY-STEINER & LONGAZEL, *supra* note 7, at 168.

52. Press Release, American Manufacturing Trade Action Coalition, Manufacturing Job Losses Cripple Pennsylvania Economic Growth as Higher Paying Jobs Traded for Lower Paying Jobs: Imperative for Candidates to Disclose Plans to Combat Foreign Predatory Trade Policies and Stop U.S. Manufacturing Job Losses (Apr. 2008), <http://www.amtacdc.org/SiteCollectionDocuments/2008/04%2008%2008%20Pennsylvania%20Press%20Statement.pdf>.

53. See STUART M. BUTLER, *The Conceptual Evolution of Enterprise Zones, in ENTERPRISE ZONES: NEW DIRECTIONS IN ECONOMIC DEVELOPMENT* 27, 31 (Roy E. Green ed., 1991). (“Originally conceived in Thatcher-era England, Enterprise Zone legislation resonated well with the neoliberal agenda of the Reagan administration, as the legislation was ‘in effect, a supply-side program to save the inner cities: It was the urban complement to the general conservative strategy of cutting taxes and regulation to stimulate economic growth.’”).

“Pro-corporate” legislation such as KOZ has been touted as an economic cure-all—indeed, as the “most powerful market based incentive, no taxation”<sup>54</sup>—but in reality has caused economic turmoil all over the U.S.<sup>55</sup> In Hazleton, KOZ resulted in a dramatic reconfiguration of the city’s economic and social landscape. Hazleton’s economy was largely manufacturing-based in recent decades, but after KOZ, warehousing plants and other previously unfamiliar industry (i.e., distribution centers) became commonplace throughout the city.<sup>56</sup> CAN DO’s current president has acknowledged that attracting business to the city all depends on the massive tax breaks afforded through KOZ,<sup>57</sup> and industry representatives admit that, without KOZ, “they would not be building [in Hazleton].”<sup>58</sup>

One of the most highly publicized successes in Hazleton was the attraction of Cargill Meat Solutions, a meatpacking plant that is notorious for the exploitation of immigrant labor.<sup>59</sup> Cargill set-up shop in 2001, brought approximately 1,000 jobs to the city, and played a key role in shaking up the city’s demographics.<sup>60</sup>

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54. David G. Argall, *A Policy Analysis of the First Six Years of Pennsylvania’s Keystone Opportunity Zone Program, 1998 to 2004: Enlightened Economic Development or Corporate Welfare?* 81 (2006) (unpublished Ph.D. dissertation, Pennsylvania State University), available at <http://proquest.umi.com/pqdlink?vinst=PROD&attempt=1&fmt=6&startpage=-1&ver=1&vname=PQD&RQT=309&did=1257801281&exp=04-05-2016&scaling=FULL&vtype=PQD&rq=309&cfc=1&TS=1302198941&clientId=1564> (describing how tax-free zones garnered support in the Pennsylvania state legislature).

55. Burstein & Rolnick, *supra* note 46 (“Competition among states for new and existing businesses has become the rule rather than the exception . . . While states spend billions of dollars competing with one another to retain and attract businesses, they struggle to provide such public goods as schools and libraries, police and fire protection, and the roads, bridges and parks that are critical to the success of any community.”).

56. For a discussion of CAN DO’s recent industrial recruitment efforts, see L.A. Tarone, *Has CAN DO Lowered Its Standards?*, STANDARD-SPEAKER, Aug. 14, 2003 (on file with author Longazel).

57. CAN DO Archive, *supra* note 36, Newspaper Article, *Hazle Allows CAN DO to Include Township in Opportunity Zone Request* (Nov. 18, 1998), at Book 17 (promoting the KOZ legislation, CAN DO President Kevin O’Donnell told a group of township supervisors, “Businesses . . . considering a move to Pennsylvania have asked the [Ridge] administration, ‘show us the Keystone Opportunity Zones.’”).

58. CAN DO Archive, *supra* note 36, *Meat Plant to Hire 700: Excel Starts Construction on Location Near Hazleton* (Apr. 19, 2001), at Book 19.

59. Other locales have hung “not welcome” signs and run television ads to express their discontent with Excel, a subsidiary of Cargill, locating in their towns. See L.A. Tarone, *supra* note 56.

60. In 2000, 95% of the city’s 24,000 residents were white. By 2006, a full 30% of an estimated 31,000 residents were Latino. See David G. Savage & Nicole Gaouette, *Judge Rejects Hazleton Law on Immigrants; A City Cannot Take Such a National Issue into its Own Hands, He Says*, L.A. TIMES, July 27, 2007, at A20. More recent estimates from 2009 rank Hazleton’s Luzerne County first in the country in terms of Hispanic population growth. See Mia Light, *Luzerne County has the Fastest-Growing Hispanic Population in the Nation*, STANDARD-SPEAKER, Sept. 16, 2009, available at <http://standardspeaker.com/news/luzerne-county-has-the-fastest-growing-hispanic-population-in-the-nation-1.258487>.

Offering poor working conditions and significantly less pay than most factory jobs in Hazleton, the meatpacking jobs were of little interest to Hazleton locals. Rather, up to 90% of Cargill's workforce—with numbers as high as 1,300 in 2009—is Latino.<sup>61</sup> The Keystone Opportunity Zone initiative vis-à-vis Cargill thus played a vital role in attracting an immigrant labor force.

When discussions of the so-called “immigration problem” are addressed in the media, however, KOZ is never discussed. Instead, KOZ is frequently cast as a panacea for economic recovery with an emphasis on the total number of jobs created in Hazleton and utter neglect of how many of those jobs are low-paying, anti-union, and dangerous. Even after the legislation's negative effects were widely felt by Hazleton residents, few have accused KOZ of being the catalyst behind the city's recent “immigration battles.”<sup>62</sup> Hazleton city officials such as Lou Barletta, who is now a member of the U.S. House of Representatives thanks to the popularity he generated by passing the IIRA, have instead reaped the political rewards of representing themselves as both job creators<sup>63</sup> and simultaneously “tough on immigration.”

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61. Estimates of the number of employees who work at Cargill vary from 800, according to the Greater Hazleton Chamber of Commerce, to 1,300, according to accounts we were consistently given while in the field. Regardless, even the lowest estimates would make Cargill, by far, the largest employer located within any of Hazleton's industrial parks. Likewise, estimates suggesting that between 70% and 90% of this labor force is Latino would make Cargill the area's largest employer of Hispanic migrants. See Dan Sheehan & Jose Cardenas, *New Culture in Old Coal Town*, *The Morning Call* (July 24, 2005), [http://articles.mcall.com/2005-07-24/news/3625456\\_1\\_pew-hispanic-center-hazleton-s-hispanic-spanish-mass/5](http://articles.mcall.com/2005-07-24/news/3625456_1_pew-hispanic-center-hazleton-s-hispanic-spanish-mass/5).

62. It is worthy to note that since the KOZ program was recently renewed in Hazleton, critics of KOZ have become particularly vocal. See, e.g., Sam Galski, *Director Fumes Over \$3.5M Tax Breaks*, *STANDARD-SPEAKER*, Oct. 2, 2009, available at <http://standardspeaker.com/news/director-fumes-over-3-5m-tax-breaks-1.300784>. Even so, however, most of these critiques focus on the damage done to the local tax base. Few critiques make the connection between CAN DO, KOZ, and the IIRA.

63. While advocating the exclusion of undocumented immigrants, Mayor Barletta has acknowledged that he “. . . increased industry within the city with the CAN-DO project. This project encouraged unskilled laborers to move into the city where housing prices were low and quality of life was increasing.” Defendant City of Hazleton's Proposed Findings of Fact and Legal Brief at 4, *Lozano v. City of Hazleton*, 496 F. Supp. 2d 477 (M.D. Pa. 2007) (No. 3:06-cv-01586-JMM). The simultaneous inclusion and exclusion of immigrant workers reflected in Barletta's support for CAN DO and his anti-undocumented immigrant stance resembles the politics of “useful invaders,” which has become common in industrialized nations in recent decades. See, e.g., KITTY CALAVITA, *IMMIGRANTS AT THE MARGINS: LAW, RACE, AND EXCLUSION IN SOUTHERN EUROPE*, *supra* note 8, at 48.

IV. *LOZANO V. CITY OF HAZLETON*<sup>64</sup>

Immediately after Hazleton passed its local ordinance, known as the Illegal Immigration Relief Act (“IIRA”), several local Latino residents—backed by the ACLU and other prominent national-level organizations—filed suit against the City of Hazleton. The IIRA would punish landlords that rented to undocumented immigrants, punish employees that hired undocumented immigrants, and make English the official language of the city. Plaintiffs claimed the ordinance was discriminatory and an unconstitutional encroachment on federal power. Judge James M. Munley, a federal court judge, agreed, ruling that the IIRA was unconstitutional.<sup>65</sup>

*Lozano* inspired a great deal of mobilization on both sides of the debate. Our ongoing analysis of the *Lozano* case and this subsequent activism reveals,<sup>66</sup> however, that despite the court ruling in favor of Hazleton’s immigrant population, neither the case nor the ensuing activism has been able to adequately address the economic realities at the core of this local conflict. In this context, Arizona’s draconian ordinance should come as less of a surprise as nativism and individual rights dominate the debate and narrow legal interpretations belittle the scope of the conflict to the exclusion of a vitally needed dialogue on economic justice.

A. *Community-Level Activism in the Wake of Lozano*

“Where’s the Fence? Close the Border in 90 Days!” These words were proudly displayed on a large banner that served as the backdrop for many anti-illegal immigrant rallies that took place in and around Hazleton in the summer of 2007.<sup>67</sup> A local group, Voice of the People, USA (“VOP”), orchestrated most of these rallies, which featured local and national activists as speakers.<sup>68</sup> As the language in the banner suggests, an alarmist, “tough on immigration” rhetoric characterized these rallies, as speakers frequently declared, “Illegal is illegal,” and warned of the loom-

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64. 496 F. Supp. 2d 477 (M.D. Pa. 2007), *aff’d in part, rev’d in part* 620 F.3d 170 (3rd Cir. 2010) (affirming lower court’s decision to enjoin enforcement of Hazleton’s ordinance).

65. *Id.* The ruling on this case is significant as it may serve as the benchmark for the constitutionality of other such ordinances, such as Arizona’s own anti-immigration law.

66. In this ongoing analysis, we draw from video footage of pro-IIRA rallies, participant observation from local pro-immigrant activists, interviews with activists on both sides of the debate, and an analysis of Judge Munley’s decision.

67. See e.g., Amanda Christman, *Rally for the Fight*, STANDARD-SPEAKER, June 4, 2007, at A1.

68. See Longazel, *supra* note 7.

ing social ills facing Hazleton and the nation as “illegal aliens” continue to penetrate America’s borders.<sup>69</sup>

These rallies and calls for tougher border enforcement were a direct response to the *Lozano* case and the immigrants’ rights activism represented by the lawsuit. Many activists that we spoke with said they felt a need to speak up and support Mayor Barletta against pro-immigrant groups. These individuals portrayed the mayor as a small-town underdog<sup>70</sup> facing-off against “the ACLU and 25 lawyers”<sup>71</sup> and held rallies to provide “a venue [for residents of Hazleton] to show their support for what [Mayor Barletta] was doing.”<sup>72</sup> In fact, many of these pro-IIRA activists became politically active for the first time in response to the legal challenges brought against the city’s ordinance. One activist’s account clearly demonstrates how *Lozano* inspired mobilization:

I am driving around and I see the Fox News truck and I thought: Oh geez, Mayor Barletta’s trial is going on today. And I pull over and I go out and there is all the pro-illegal immigration activists. Not immigration activists, *illegal* immigration activists . . . So I stuck around for an hour, and I left and I said, something has to be done here. There has to be a counterdemonstration, a counter show of support for *legal* immigration and against *illegal*. So I went ahead and I made a couple of phone calls . . . and I said: Look, I am going to have a rally in support of Mayor Lou Barletta and the IIRA.<sup>73</sup>

While national-level organizations took over the litigating duties, most local pro-immigrant activists in Hazleton devoted their time to a group known as the Concerned Parents of the Hazleton Area—a group whose mission seeks to provide a pathway for success for students and families in the Hazleton area for whom language is a barrier.<sup>74</sup> Although group members have de-

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69. One national activist speaking in Hazleton warned of impending threats of crime and disease from countries south of the U.S. border, stating, “These people have shown a pattern of disrespect and a pattern of criminal behavior coming from gang-ruled areas where there is no law!” He stated further, “We are getting four to ten active TB cases rushing across our southern border every night.” Video recording: William Gheen of ALIPAC in Hazleton June 3, 2007, <http://www.youtube.com/watch?v=IMedQM-fTOg> (last visited Apr. 27, 2011).

70. To raise funds for the legal case, Mayor Barletta supporters started a group called “Small Town Defenders,” a reflection of the heroic local image Mayor Barletta has tried to construct for himself. See Small Town Defenders, Welcome to Small Town Defenders, <http://smalltowndefenders.com/> (last visited Apr. 27, 2011).

71. Mayor Louis J. Barletta, Speech, *supra* note 34.

72. Anonymous Interview with Pro-IIRA Activist No. 1 (May 18, 2009). In order to protect the identity of interviewees, certain information has been omitted, including interviewee names, locations of interviews, and any organizational affiliations.

73. Anonymous Interview with Pro-IIRA Activist No. 2 (June 9, 2009).

74. Concerned Parents of the Hazleton Area, Mission, <http://www.cphazleton.org/aboutus/aboutus.htm> (last visited Apr. 27, 2011).

nied the organization being a direct response to the ordinance, their group's mission appears to be geared toward overcoming the negative perceptions of Latinos that the ordinance has cast.<sup>75</sup> Among other things, the group has worked toward its goal by teaching English, providing translators, and observing English as a Second Language ("ESL") classrooms to ensure quality teaching.

The *Lozano*-inspired activism that took place in Hazleton thus aspires to what might best be termed *conventional immigration wisdom*. As one pro-IIRA activist acknowledged, their activism was "directed at 'illegals' themselves, not at places of employment."<sup>76</sup> At the same time, many members of Concerned Parents seemed unwilling to provide an economic critique. Members often spoke of the long hours and strenuous working conditions that immigrants faced at Cargill and in other harsh factory settings, but few were willing to criticize these practices as socially and economically unjust. Instead, activists brought up these conditions to make the point that additional services were needed.<sup>77</sup>

Not surprisingly, post-*Lozano* activism has done very little to mobilize activists to confront the real economic challenges at the core of Hazleton's so-called "battle against immigration." To the contrary, our analysis suggests that *Lozano* may have aggravated rather than eased the conflict on the ground. Anti-Latina/o discrimination is still rampant while economic critique is perhaps less accessible to Hazleton residents now than it was when the conflict began. Locals are concerned with "sealing off the border" rather than the deeper economic uncertainties they face. This is particularly disturbing because it comes at a time when Hazleton's economic problems continue to worsen. Manufacturing jobs continue to decline, unemployment is skyrocketing, and

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75. Between April and June 2009, in studying the pro-immigrant activism that followed *Lozano*, author Jamie Longazel attended a number of Concerned Parents meetings. Extensive ethnographic field notes were taken at each of these meetings and such notes are on file with the author Longazel. For a more detailed analysis, see Longazel, *supra* note 7 (arguing that the emergence of the Concerned Parents group can be understood as a natural outgrowth of the politics that transpired following the passage of the IIRA).

76. Anonymous Interview with Pro-IIRA Activist No. 3 (July 26, 2009).

77. For example, some members of Concerned Parents explained that because parents were often working twelve or more hours a day in the factory, there was no one around to make sure their children got home from school safely. Rather than critiquing the long hours that immigrant laborers faced, the group instead helped the children who were left alone because of those long hours. See Longazel, *supra* note 7.

the IIRA's exorbitant legal fees have burdened the city with an unmanageable debt.<sup>78</sup>

### B. *The Limits of Lozano*

As discussed above, in order to overcome the devastating effects brought on by the demise of the coal industry, Hazleton turned to a piece of legislation that ultimately had the effect of attracting an easily exploitable immigrant labor force to the city. But the legal legacy of Hazleton's anti-immigrant backlash suggests nothing of this sort. Instead, the precedent set by what happened in Hazleton came from Judge Munley's *Lozano* ruling—a ruling that ignored the key circumstances that led to dramatic economic upheaval in the city and failed to provide Hazleton's Latino population with any real recourse.

In her article, *Justice as Told by Judges*, political scientist Doris Marie Provine provides a compelling and instructive account of the *Lozano* decision.<sup>79</sup> She rightly points out that “Judge Munley’s opinion entirely avoids the dilemmas that face small communities in adjusting to large numbers of new residents” and “will not settle the issues at stake” because “[l]egal decisions frame disputes too narrowly to satisfy the yearning for justice that moves people who believe they have suffered serious harm.”<sup>80</sup> Ultimately, Judge Munley ruled that Hazleton had usurped the federal government’s power to regulate immigration, but what real-life implications would this decision have? The ethnic conflict is unlikely to subside and embryonic immigrants’ rights organizations like Concerned Parents are confronted with economic prospects that remain grim.

The real legacy of *Lozano* is thus its narrow rights-based approach and neglect of the deeper economic injustices that drove the passage of the IIRA in the first place. In a Lexis search of over 100 law review articles that mention the Hazleton case, we found that almost all pertain directly to the narrow question of preemption addressed by Munley. And while some did see the

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78. According to the Pennsylvania Center for Workforce & Information Analysis, the average number of Luzerne County residents employed in the manufacturing sector has decline each year since 1975. Moreover, as of July 2010, Hazleton's unemployment rate is higher than any other city in Pennsylvania. See Jim Dino, *Hazleton's Unemployment Highest in Pa.*, Citizen's Voice (July 7, 2010), <http://citizensvoice.com/news/hazleton-s-unemployment-highest-in-pa-1.879835#axzz11xr82t1c>. Finally, the City of Hazleton is expected to pay \$2.4 million in attorney fees to plaintiffs challenging the IIRA. See Terrie Morgan-Besecker, *Legal Bills May Sock Hazleton*, The Times-Leader (May 8, 2009), [http://www.timesleader.com/news/Legal\\_bills\\_may\\_sock\\_Hazleton\\_05-08-2009.html](http://www.timesleader.com/news/Legal_bills_may_sock_Hazleton_05-08-2009.html).

79. See Doris M. Provine, *Justice as Told by Judges: The Case of Litigation Over Local Anti-Immigrant Legislation*, 3 STUD. IN SOC. JUST. 231 (2009), available at <http://www.phaenex.uwindsor.ca/ojs/ledy/index.php/SSJ/article/view/693/2347>.

80. *Id.* at 242.

case in a slightly different light (i.e., a violation of the equal protection clause), not a single law review article we reviewed took into consideration the role of other areas of law (i.e., economic development law) in perpetuating the backlash.<sup>81</sup> This is not to say that preemption was somehow irrelevant to this case, but rather to point out that abstract legal concepts more generally are unable to fully grasp the realities of social conflicts as they are experienced on the ground, nor are they able to account for and resolve the complexities that arise in cases such as Hazleton's.

This is most evident in the irony that Munley's decision relied on the 1986 Immigration Reform and Control Act and a subsequent determination made in *Hoffman* that the IRCA represents a "comprehensive scheme prohibiting the employment of illegal aliens in the United States."<sup>82</sup> As we have argued here, both the IRCA and *Hoffman* are striking examples of the *very legal developments* that contribute to the simultaneous criminalization and exploitation of immigrants in the U.S. today. In other words, the processes at the core of Hazleton's conflict were *further validated* as the discriminatory ordinance was struck down.

Given the law's unwillingness or inability to tackle the complexities inherent in local and state level immigration conflicts, we can only expect such social upheaval to continue. Arizona's recent tough-on-immigration stance is a case in point. The rhetoric coming out of Arizona is some of the harshest we have seen in decades and, although the Obama administration has decided to file suit against the state, all signs are suggesting that such litigation will have little substantive impact. Just as *Lozano* had the unintended consequence of amplifying the local-level conflict, evidence of a backlash is already emerging over the administration's decision to take legal action.<sup>83</sup> And even if the bill is ruled

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81. In reviewing the content of these law review articles, we are not criticizing the validity of the legal arguments that these reviews make. That is to say, we are not arguing that the authors of these articles were somehow in the wrong for choosing to discuss the *Lozano* case the way that they did. Instead, our intention here is to provide a more general critique of law by arguing that abstract legal concepts such as preemption often leave the law incapable of addressing real-life social conflict.

82. 535 U.S. 137, 147 (2002).

83. A Gallop Poll found that 50% of Americans opposed the Obama administration's decision to file suit against Arizona's immigration law compared to only 33% in support. See Frank Newport, *Americans Oppose Federal Suit Against Ariz. Immigration Law*, GALLUP (July 9, 2010), [http://www.gallup.com/poll/141209/Americans-Oppose-Federal-Suit-Against-Ariz-Immigration-Law.aspx?utm\\_source=alert&utm\\_medium=email&utm\\_campaign=syndication&utm\\_content=morelink&utm\\_term=politics](http://www.gallup.com/poll/141209/Americans-Oppose-Federal-Suit-Against-Ariz-Immigration-Law.aspx?utm_source=alert&utm_medium=email&utm_campaign=syndication&utm_content=morelink&utm_term=politics). See also David Runk, *9 States Back Arizona Immigration Law Against Feds*, HuffPost Politics (July 14, 2010), [http://www.huffingtonpost.com/2010/07/14/arizona-immigration-lawsuit-9-states\\_n\\_646997.html](http://www.huffingtonpost.com/2010/07/14/arizona-immigration-lawsuit-9-states_n_646997.html) (highlighting Michigan

unconstitutional, we would expect the perpetual denial of the broader economic conditions at the core of these conflicts to continue as the debate shifts in emphasis from border security to narrow legal questions of preemption. In short, there is little reason to be hopeful about quelling anti-immigrant fervor and the exploitation of immigrant labor has shown no signs of stopping.

## V. CONCLUSION

The Hazleton case demonstrates how insidious economic exploitation is masked by a so-called “battle over immigration.” Just as the American southwest historically “had its own source of readily available and exploitable labor in the colonized Mexicans,”<sup>84</sup> globalization creates a similar labor pool as it places communities across the United States in a position where they become dependent on corporations that exploit immigrant labor.

We might then also expect *Lozano* to further divert attention from the deeper economic crisis that exploits Hazleton’s white working class and Latino immigrant laborers alike. This is not to say that we are blaming the activists and attorneys who defeated a discriminatory ordinance. Rather, we are not optimistic about the efficacy of this strategy for long-term social change and the prevention of future anti-immigrant backlash. A focus on individual rights will, in all likelihood, entrench the status quo or perhaps catalyze additional social upheaval.

If the harsh economic realities facing communities are to stop being ignored, activists must work to bring them to the forefront of local politics. Such activism can begin by being critical of community economic development decisions and advocating for more direct involvement by community members themselves. This is challenging given the long history of community development organizations exploiting the working class’s demand for good-paying jobs by advocating a powerful nostalgic rhetoric that emphasizes past economic triumphs as a means to gain public support for economic decisions.<sup>85</sup> In the case of Hazleton, CAN DO officials ignored the community.<sup>86</sup> Instead, the organization’s corporate imperatives set forth by KOZ were its “brass

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Attorney General Mike Cox’ filing a brief on behalf of nine states supporting Arizona’s immigration law).

84. Estrada et al., *supra* note 11, at 112.

85. See Cox & Mair, *supra* note 47, at 307 (noting that locally dependent economic development groups often exploit the working-class need for attaining gainful employment while at the same time utilizing nostalgic images of past triumphs in order to gain support for their otherwise controversial economic development decisions).

86. When questioned about the arrival of the immigrant labor force, CAN DO officials distanced themselves from the debate, noting that they are “a private organization . . . not a public entity.” L.A. Tarone, *supra* note 56.

ring”<sup>87</sup> for attracting industry. Never once did CAN DO organize forums for community members that focused on the challenges of attracting good jobs to the region. Although clearly driven by the prevailing economic order and the allure of KOZ, CAN DO failed to engage Hazleton’s working class and instead hid behind its own pro-growth rhetoric and nostalgic past of economic prosperity. Thus, CAN DO effectively closed the door on locally-owned investment alternatives, which would have had “the effect of pumping money into a local economy, in contrast to the extraction of capital to corporate headquarters elsewhere.”<sup>88</sup>

It is especially ironic that CAN DO failed to engage Hazleton’s growing population of Latina/o immigrant entrepreneurs. In the time before the passage of the IIRA, Latino-owned businesses played a significant role in the revitalization of the city’s downtown, an area that had previously been a line of empty storefronts. Rather than embracing this as a viable option for economic growth, CAN DO ignored pleas from a group of Latino business owners who feared the obvious economic damage the IIRA would bring to their customer base. As one business owner acknowledged: “CAN DO and the Chamber of Commerce are more receptive to chain stores which leaves Latino small business owners forced to go their own way.”<sup>89</sup>

What is most promising about an economic justice approach<sup>90</sup> is that it serves the interests of both sides of what is now a deeply divisive “battle over immigration.” Andrea Batista Schlesinger lays out her vision of what she calls a *pro-immigrant populism*:

[I]f we want to avoid a race to the bottom between native and immigrant workers, we must create a policy that strengthens the workplace rights of immigrant workers. Simply put, when some workers labor without protected rights, the protected rights of all workers are jeopardized. After all, for most employers faced with a choice between a legal worker with rights

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87. CAN DO Archive, *supra* note 36, Newspaper Article, *Hazleton Allows CAN DO to Include Township in Opportunity Zone Request* (Nov. 18, 1998), at Book 17.

88. JOHN BOOKSER-FEISTER & LEAH WISE, *Betrayal of Trust: The Impact of Economic Development Upon Working Citizens*, in COMMUNITIES IN ECONOMIC CRISIS: APPALACHIA AND THE SOUTH 96, 106 (John Gaventa et al. eds., 1990).

89. Anonymous Interview with Business Owner (Apr. 30, 2008).

90. Support from local developers for a diverse base of small businesses, a living wage campaign, and the demand for improved working conditions are obviously important first steps. Additionally, by emphasizing economic justice at the local level, cause lawyers and awareness-raising organizations can, among other things, offer public critiques of exploitative laws like KOZ, push for stricter regulation of corporations, organize and educate community members, and work toward providing greater worker protections.

and recourse, and one they can exploit with impunity, the choice is all too obvious.<sup>91</sup>

It seems quite clear that the growing economic troubles of the white working class are at least part of the reason for recent nativist backlash.<sup>92</sup> As such, if the energies of anti-illegal immigration activists were devoted to pro- rather than anti-immigrant populism, the benefits may actually exceed expectations.<sup>93</sup> If immigrants are supposedly “taking jobs that Americans don’t want,” then it becomes imperative that both groups work together to improve the conditions and income associated with these jobs because, frankly, “[m]ore U.S. workers would be eager to do many of the jobs immigrants do if the wages and working conditions were more reasonable.”<sup>94</sup>

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91. Andrea Batista Schlesinger, *Pro-Immigrant Populism*, THE NATION, Mar. 5, 2007, at 8.

92. One way of interpreting Hazleton’s backlash is as a “ceremony of regret.” See David M. Engel, *The Oven Bird’s Song: Insiders, Outsiders, and Personal Injuries in an American Community*, 18 LAW & SOC’Y REV. 551, 580 (1984) (describing the ceremony of regret as “a symbolic effort by members of the community to preserve a sense of meaning and coherence in the face of social changes that they [find] threatening and confusing.” See also Longazel, *supra* note 7.

93. Activists from predominately rural areas may be able to apply the activities of larger immigrants’ rights groups by taking a political-economic approach to pro-immigrant advocacy. The Fair Immigration Reform Movement (FIRM)—a national coalition of groups fighting for immigrants’ rights—for example, emphasizes economic justice as one of their primary principles. Recognizing that “immigrants can be pitted against native-born workers in a labor market under stress from general economic insecurity,” FIRM “believe[s] strongly in the solidarity of all workers, especially low wage workers. Any worker—immigrant or native born—vulnerable to exploitation threatens the standing of all workers.” Center for Community Change, Principles for Comprehensive Immigration Reform, <http://www.communitychange.org/our-projects/firm-archive/our-work/comprehensive-immigration-reform/principles-for-comprehensive-immigration-reform> (last visited Apr. 27, 2011).

94. Fran Ansley, *Symposium: Social Movements and Law Reform: Inclusive Boundaries and Other Impossible Paths Toward Community Development in a Global World*, 150 U. PA. L. REV. 353, 396 (discussing the imperative of increasing democratic control over community development decisions in a way that unites immigrant and American labor). In problematizing the assertion that immigrants take jobs Americans do not want, Ansley writes, “Such a vision implies a segmentation of the labor market that is highly correlated to race and is constructed and policed by immigration law. Further, it suggests that such a market should not only be tolerated by Americans, but welcomed by them. It invites American workers in particular to embrace color-coded and nation-coded labor market segmentation as appropriate and mutually advantageous to different groups of laborers, rather than to reject it as discriminatory toward individual immigrants and destructive of the possibilities for cross-race movement-building and solidarity.” *Id.* at 397.

