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### Doing Policy from Below: Worker Solidarity and the Prospects for Immigration Reform

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# Doing Policy from Below: Worker Solidarity and the Prospects for Immigration Reform

Frances Ansley†

I remember stepping to the podium last winter and congratulating the editors of this journal: first, for organizing a symposium around the important theme of immigration policy, and second, for featuring a panel on the question of immigrant workers' rights. The focus on rights at least implicitly invited us to put the perspectives of U.S. immigrants at the center of our deliberations and dialogue. That in itself, I thought, was a brave and unusual move in the existing climate.

I also remember feeling somewhat intimidated by the assigned topic. The title of the panel, *Immigrant Workers: Employment & Constitutional Rights*, appeared to suggest that the speakers would somehow convey a comprehensive picture of the constitutional and employment rights of immigrant workers in the United States. To me, it seemed a fool's errand to try and catalog or outline any such thing in the setting of a symposium. The effort would have entailed covering a great swath of uneven territory, one whose complex and often contradictory contours are rapidly developing into several subspecialties and whose substance defies ready synthesis, even by someone (certainly not myself!) who can rightly claim to have mastered the field.<sup>1</sup>

Accordingly, I set myself a different task in Ithaca that day, grounding my remarks in some of my prior work that likely prompted the organizers to invite me in the first place. I will do likewise in this informal essay, but I should note that one advantage that I enjoyed in that setting is denied to me here. When we gathered on site for the symposium, I knew that later in the day attendees would have a chance to see Anne Lewis's recently released film *Morristown: In the Air and Sun*, a project that I have been privileged to work on for almost a decade. In many ways, the film and its informants speak more powerfully than I ever could about the realities that should inform our thinking on matters of immigration policy. So at the symposium, I had the luxury of knowing that much of my skeletal narrative and argument shortly would be clothed in the eloquent flesh of the documentary form. On the page here, to the contrary, the bones will have

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1. For those seeking a helpful guide, the elegant new book, LINDA BOSNIAK, *THE CITIZEN AND THE ALIEN* (2006), would be an excellent and thoroughly grounded place to start.

to go bare.<sup>2</sup>

The essay opens with a partial account of my own motivation and perspective on the question of immigration policy and immigrants' rights and shares how my journey to this point in my thinking shapes my views. Next, I urge that many more lawyers and others interested in achieving a just immigration policy should avoid concentrating so much effort on questions of doctrine, draftsmanship, and legislative deal-making. Instead, they should focus their intellectual and practical energies on building social movements that bring workers together across differences of race and nation to advance class-linked demands. Finally, I describe a few ways that some people are doing what I see as helpful work in the service of that goal.

\* \* \*

I became involved with immigration policy via twin roads that have criss-crossed throughout my life—the intersecting and co-constructing pathways of race and class. Some discussion of this personal history seems relevant here, in part for reasons of transparency. After all, readers may want to adjust for my bias, and this introductory disclosure may help them do so. Nevertheless, narrative can, of course, go beyond confession and sometimes function as a form of reasoning or persuasion. In truth, I do hope that some readers will be “narratively persuaded” and find that their experience resonates with mine in a way that leads them to be more open to my argument or to give it more serious consideration.

Until I was sixteen, I lived in Atlanta and then Columbus, Georgia, during a time when Jim Crow de jure segregation was alive and ruled daily life. Although I stood only around the edges of the civil rights movement, even at those outer-edges the vibrations were strong and transformative. It was an amazing time and place to be alive. I had the opportunity to meet extraordinary black people—members of a race that my environment and circle suggested should be either despised or patronized. Nonetheless, there they were, exploding those notions, courageously standing up, and brilliantly speaking out to challenge entrenched power.<sup>3</sup> I saw what previously had appeared to be invincible structures of subordination crumble before that challenge. I also had the opportunity to learn from ordinary

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2. MORRISTOWN: IN THE AIR AND SUN (Appalshop 2007). Fortunately, for those who want to pursue it, the film is now available from Appalshop, the venerable Appalachian community arts center in Whitesburg, Kentucky, through its website at <http://www.appalshop.org>.

3. Some of the people I owe thanks to were far from famous, and the names of many of them I have long forgotten. For example, the passengers on the segregated Greyhound bus that traveled between Atlanta and Columbus, Georgia showed me how people in transition can push subtly but firmly against unjust rules or generously welcome a shy teenager into their midst. Some remain giants who have continued to inspire others. In this latter category, I particularly recall Vincent Harding and Rosemarie Freene Harding, who came to speak one evening to the Columbus chapter of the Georgia Council on Human Relations, electrifying their listeners with their vision of an alternative society and their call to action. For a current window onto some of the Hardings' work, see The Veterans of Hope Project, <http://www.veteransofhope.org> (last visited Jan. 9, 2008).

and extraordinary white people who were interested in making different kinds of common cause with African Americans on matters of racial (and sometimes economic) justice.<sup>4</sup> I listened as the stories and analyses offered by mainstream white adults and community leaders began to change in response to these developments.

Although inspired and emboldened by the movement, the difficulties that the movement encountered troubled me. The same social landscape that offered vistas of change likewise demonstrated the entrenched power of racial hierarchy. Witnessing the dynamics of that period, I could see that institutions and mores that the white South supposedly abandoned, often in fact survived, morphed, and reestablished their dominion in new and perverse forms.

In that situation, it seemed evident to me that racism and its power to divide disadvantaged people explained not only the extreme trials that many members of the black community faced but also much of the entrenched power of Southern elites, the retrograde character of state and local policy, the miserliness of the public sector, and the poverty among white people—all of which were obvious features of the region. Racism produced many results but among the most important was its capacity to inhibit and destroy progressive action among have-nots, thereby defining and restricting civil rights gains in a way that left deep power relationships largely unchanged.

Therefore, I was ready and eager to respond to the vision of Martin Luther King Jr. when he announced a campaign to build an inter-racial movement of the poor. Further, it made sense to me when the Student Non-violent Coordinating Committee (SNCC), issued its controversial request that white students leave the organization.<sup>5</sup> SNCC told white well-wishers like me that if we wanted to change a region scarred by racial disparity, we should first organize poor and working-class white people; we should go talk to white folks and bring them into alliance with the movement for racial justice.<sup>6</sup> In other words, at least as I heard them, the key messages of the Poor Peoples' Campaign<sup>7</sup> and the marching orders sent out by both Dr. King and SNCC were that poor whites were the natural and needed allies in a movement for economic justice both in the South and across the nation.

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4. One such person was Anne Braden, whose astonishing book I read long before I met and worked with her. See ANNE BRADEN, *THE WALL BETWEEN* (Univ. Tenn. Press 1999) (1958); see also CATHERINE FOSSL, *SUBVERSIVE SOUTHERNER: ANNE BRADEN AND THE STRUGGLE FOR RACIAL JUSTICE IN THE COLD WAR SOUTH* (2002).

5. See John Hayakawa Török, *Freedom Now! Race Consciousness and the Work of De-Colonization Today*, 48 HOW. L.J. 351, 388 (2004). The decision behind SNCC's request for white students to leave the organization was neither easy nor uncontroversial. See HOWARD ZINN, SNCC: THE NEW ABOLITIONISTS 187-89 (1964) (describing contemporary struggles with the question).

6. Kendall Thomas, *A Political Conception of Racial Justice*, 27 N.Y.U. REV. L. & SOC. CHANGE 114, 118 (2002).

7. For more on the story of the Poor People's Campaign and of the complex relationships between King's network and SNCC, see TAYLOR BRANCH, *AT CANAAN'S EDGE: AMERICA IN THE KING YEARS 1965-68*, at 652-690 (2006).

After all, it seemed clear that poor whites had an obvious and demonstrable interest in joining with people of color. Only in unity with African Americans could poor whites hope to advance an economic agenda that might complete the abandoned and inadequate promises of both the post-Civil War Reconstruction and the New Deal and to unseat the conservative powers whose regressive rule depended on keeping blacks and whites securely divided from each other. Although poor white Southerners undeniably gained material and psychological benefits from the fact of being white, the gain came at the cost of a heavy net loss. Evidence all around us in the South demonstrated that time and again whenever poor Southerners moved to demand redistribution of the social surplus or a seat at the table of power, they were disarmed and derailed by the racial divide.<sup>8</sup>

Since those civil rights days, the story of race and class in the U.S. South—as in the rest of country and for that matter the world—has unfolded in new and sometimes surprising ways.<sup>9</sup> Nevertheless, the ability of racist ideologies and practices, however fluid, to continue to obstruct class-based understandings and alliances has remained potent. I am convinced that progressive economic change requires building unity among economically disadvantaged people across lines of race. The challenging mandate addressed to white progressives by the drum majors and foot soldiers of the civil rights movement in the late 1960s still dogs my trail and rings true to me today, even though a contemporary reading of that mandate clearly requires new adjustments and understandings.

At any rate, for the past thirty years, I have pursued and reinvented this work from a base in East Tennessee. I live in the Appalachian end of a long and diverse state that rolls out flat westward to the Mississippi River but here at our eastern end piles up into the Smoky Mountains. It is home to the long-lived Highlander Research and Education Center, a place where grassroots leaders from community organizations, labor unions, and local movements for change have been coming together across racial lines to participate in educational workshops and strategy sessions for over seventy years.<sup>10</sup> I have taught law for almost two decades at the University of Tennessee in Knoxville, and in that time, my students and I have collaborated with both Highlander and a range of grassroots and community-based groups that work on issues of economic inequality and insecurity. These days, on this latest leg of what I have felt to be my mandate, many of the dynamics described above remain the same, but new ones exist as well. At this point, for instance, it is clear that any hope for advancing cross-race understanding or mobilizing workers across racial lines requires a serious engagement with issues of immigration and the global economy.

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8. The literature on this point is of course enormous. For one thoughtful entry point, see MICHAEL HONEY, *SOUTHERN LABOR AND BLACK CIVIL RIGHTS: ORGANIZING MEMPHIS WORKERS* (1993).

9. For a suggestive sketch of how the story of race and class has unfolded, see Howard Winant, *The New International Dynamics of Race*, in *DOUBLE EXPOSURE: POVERTY AND RACE IN AMERICA* 45 (Chester Hartman ed., 1997).

10. See Highlander Research and Education Center, <http://www.highlandercenter.org> (last visited Jan. 9, 2008).

I first started to understand the new international dimension of race in the South when I began working with a new labor-community coalition that had formed to combat plant closings and deindustrialization in our state. We soon learned in the course of organizing and advocacy that most plant closings in Tennessee did not involve the closing of a business, but its physical relocation to off-shore places where cost savings could be realized through lower wages, incentive deals with local authorities, or a more business-friendly regulatory climate.<sup>11</sup> The favorite destination in those days was the export-processing zone of the *maquiladora* plants in northern Mexico.<sup>12</sup> This discovery prompted us to start investigating this new international feature of our regional economy and acquainting ourselves with neo-liberal theories that touted export-led development as the model of choice for poor countries in the global South. The irony, of course, was that most of the Tennessee plants that relocated to Mexico had been “runaway shops” from the more heavily industrialized North, businesses that originally came to Tennessee for many of the same reasons for which they were now leaving.<sup>13</sup>

Few of the workers with whom we spoke, however, appeared to know that history or appreciate that irony. As we interviewed people who were being laid off from factories that were shutting down, we heard references to “those Mexicans,” whom the workers viewed as “stealing American jobs.” We interpreted this discourse as one framed at least in part by race, and we were eager to engage and combat that drift.<sup>14</sup> In accord with the pedagogical theory of Highlander that peer-to-peer education is often the best route for adult learning, we began dreaming about how we might arrange an opportunity for economically vulnerable Tennessee workers to speak directly with some of “those Mexicans” and to hear from *maquila* workers themselves.

Eventually, we were able to organize a trip to the United States-Mexico border. In 1991, a delegation of nine blue-collar women workers from East Tennessee traveled with two participant-observers to Reynosa and Matamoros on the United States-Mexico border. A grassroots organization that was building a network among Mexican women workers in the *maquilas* hosted us. Through its efforts, the workers in the Tennessee delegation saw where their jobs were going and had an opportunity to meet with some of the workers who were now doing their jobs and others like them in Mexico.

Our explicit goal in organizing the trip and pursuing later follow-up was to promote class solidarity across divides of race and nation. We saw worker solidarity in general as a good and valuable thing. We also believed

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11. See Risa L. Lieberwitz, *Linking Trade and Labor Standards: Prioritizing the Right of Association*, 39 CORNELL INT'L L.J. 641, 644-45 (2006); see also Fran Ansley, *Standing Rusty and Rolling Empty: Law, Poverty, and America's Eroding Industrial Base*, 81 GEO. L.J. 1757, 1772-82 (1993).

12. See Lieberwitz, *supra* note 11, at 647.

13. See *id.* at 644-45.

14. Of course, this discourse also reveals a nationalist frame that raises its own problems. See *infra* pp. 107-09.

that new global co-production regimes<sup>15</sup> devised by multinational corporations created a context in which worker solidarity could show itself to be both practicable and self-evidently relevant to the interests of U.S. workers. From that first experimental trip, the project grew and developed. It led in many new directions, including additional exchange delegations, speaking tours, an educational video, and a serious lobbying effort directed at the Tennessee Congressional delegation, an effort that focused on opposition to "free trade" agreements and related grants of fast track authority. One group of workers fresh from their trip to Mexico gave formal testimony before the Office of the U.S. Trade Representative about what our travels had to teach about the North American Free Trade Agreement, which was then the subject of active negotiation between the first Bush administration and that of President Salinas in Mexico.<sup>16</sup> This whole exercise in cross-border class solidarity was both infinitely more difficult and more rewarding than we could possibly have imagined.<sup>17</sup>

While this experiential education project on the impact of capital mobility moved forward, however, the issues at home in Tennessee grew more complex. In the mid-1990s, many of the small towns hardest hit by plant closings began to experience an unprecedented wave of immigration from Mexico and Central America.<sup>18</sup> With this trend continuing strongly into the twenty-first century, Tennessee found itself squarely among the group of "new destinations" in the Southeast and elsewhere that attracted new streams of Latina/Latino migrants.<sup>19</sup> Some particular communities in the state, ones where there was a strong demand for low-wage labor, experienced sharp increases in their immigrant populations. A high proportion

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15. "Co-production" refers to manufacturing systems in which a product is made partly in one country and partly in another and travels across national boundaries as it passes through different stages in the production process. See Don Haynes, Book Review, 49 J. POL. 313, 314 (1987). Most items assembled in Mexican *maquiladora* plants are the products of co-production arrangements. See Stanley E. Fawcett et al., *The Realities of Operating in Mexico: An Exploration of Manufacturing and Logistics Issues*, 25 INT'L J. PHYSICAL DISTRIBUTION & LOGISTICS MGMT. 49, 50 (1995).

16. For selected transcripts of this hearing, see Frances Lee Ansley, *North American Free Trade Agreement: The Public Debate*, 22 GA. J. INT'L & COMP. L. 329, 388-403 (1992).

17. I have written about some of these adventures elsewhere. See, e.g., Fran Ansley, *The Gulf of Mexico, the Academy, and Me*, 78 SOUNDINGS 68, 68-104 (1995); Frances Ansley, *Putting the Pieces Together: Tennessee Women Find the Global Economy in Their Own Backyards*, in WOMEN WORKING THE NAFTA FOOD CHAIN: WOMEN, FOOD & GLOBALIZATION 141, 141-60 (Deborah Barndt ed., 1999) [hereinafter Ansley, *Putting the Pieces Together*]; Frances Lee Ansley, *Rethinking Law in Globalizing Labor Markets*, 1 U. PA. J. LAB. & EMPL. L. 369, 369-427 (1998) [hereinafter Ansley, *Rethinking Law*]; Fran Ansley & Susan Williams, *Southern Women and Southern Borders on the Move: Tennessee Workers Explore the New International Division of Labor*, in NEITHER SEPARATE NOR EQUAL: WOMEN, RACE AND CLASS IN THE U.S. SOUTH 207, 207-44 (Barbara Ellen Smith ed., 1999). The 1991 trip is the subject of a twenty-minute documentary, FROM THE MOUNTAINS TO THE MAQUILADORAS (Tennessee Industrial Renewal Network 1993).

18. See SUSAN WILLIAMS & BARBARA ELLEN SMITH, *ACROSS RACES AND NATIONS: BUILDING NEW COMMUNITIES IN THE U.S. SOUTH* 2-4 (2004).

19. See Kevin Sack, *Police Learning Spanish as Latino Population Grows*, N.Y. TIMES, Mar. 4, 2001, at A14.



of these newcomers were undocumented.<sup>20</sup> Local natives began to notice and react to this new Latino presence.<sup>21</sup>

Their reactions were not then and are not now monolithic; variation exists across and within these communities. Nevertheless, over time, positions have hardened in some quarters, and the political temperature has risen considerably. The issue of immigration, of course, has been front and center on the national agenda at several points.<sup>22</sup> Post-9/11 jitters have added to the various tensions,<sup>23</sup> and "the radio shock-jock crowd" has taken up the issue with flags and venom flying.<sup>24</sup> Finally, Tennessee politicians of all stripes and parties have—sometimes enthusiastically and sometimes reluctantly—joined the parade.<sup>25</sup>

At times the atmosphere of crisis and controversy has felt eerily like being transported back to Georgia in the late 1950s and early 1960s, when at least in the white community, arguments about desegregation of the public schools seemed to rage hot and loud on every agitated hand. The similarities are hard to miss. The Klan is back on board, along with newer white supremacist organizations that have found the troubled waters of immigration debate to be good fishing.<sup>26</sup> Many elements echo much of the talk and reproduce much of the climate that prevailed in that other era of massive racial upset and adjustment: the intense feelings of entitlement that many people voice when complaining about immigrants, the firm conviction that their privileges are well-deserved, and the evident sensation of invasion, displacement, and danger. There is another similarity to that earlier time. In that a substantial number of those who respond most favorably

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20. See Anita Drever, *New Neighbors in Dixie: The Community Impacts of Latino Migration to Tennessee*, in *LATINOS IN THE NEW SOUTH: TRANSFORMATIONS OF PLACE* 19, 20–24 (Heather A. Smith & Owen J. Furuseth eds., 2006).

21. See generally Bob Moser, *White Heat*, *THE NATION*, Aug. 28, 2006, at 11. For more on new destinations in the Southeast, see LEON FINK, *THE MAYA OF MORGANTON, WORK AND COMMUNITY IN THE NUEVO NEW SOUTH* (2003); *LATINO WORKERS IN THE CONTEMPORARY NEW SOUTH* (Arthur D. Murphy et al. eds., 2001); *NEW DESTINATIONS: MEXICAN IMMIGRATION IN THE UNITED STATES* (Victor Zúñiga & Rubén Hernández-León eds., 2005); STEVE STRIFFLER, *CHICKEN: THE DANGEROUS TRANSFORMATION OF AMERICA'S FAVORITE FOOD* (2005); William Kandel & Emilio A. Parrado, *Hispanics in the American South and the Transformation of the Poultry Industry*, in *HISPANIC SPACES, LATINO PLACES: COMMUNITY AND CULTURAL DIVERSITY IN CONTEMPORARY AMERICA* 255 (Daniel D. Arreola ed., 2004). For more on Tennessee in particular, see Fran Ansley, *Constructing Citizenship Without a License: The Struggle of Undocumented Immigrants in the USA for Livelihoods and Recognition*, in *INCLUSIVE CITIZENSHIP: MEANINGS AND EXPRESSIONS* 199 (Naila Kabeer ed., 2005); Drever, *supra* note 20, at 20–24; Jamie Winders, "New Americans" in a "New South" City? *Immigrant and Refugee Politics in the Music City*, 7 *SOC. & CULTURAL GEOGRAPHY* 421 (2006).

22. See Ansley, *Rethinking Law*, *supra* note 17, at 391–92.

23. Moser, *supra* note 21, at 12.

24. *Id.* at 12–14.

25. In the last session of the Tennessee General Assembly, there were over forty anti-immigrant bills introduced and some of them passed. See *Anti-Immigrant Bills Failed in the 2006-2007 TN Legislative Session*, <http://www.tnimmigrant.org/news.php?viewstory=54> (last visited Jan. 9, 2008).

26. See, e.g., Michelle Rupe Eubanks, *Klan Rallies in Tusculumbia*, *TIMES DAILY* (Tuscaloosa, Tenn.), May 27, 2007, available at <http://www.tuscaloosanews.com/article/20070527/NEWS/705270447/1007>; Moser, *supra* note 21, at 12.

to the restrictionist crusade and buy most eagerly into a nationalist or even xenophobic mind-set seem to be working class people, in this newer context, both black and white working class people—the very ones who I believe stand to gain the most if they could find ways of making common cause with low-wage immigrants here and with workers in other countries as well. Native-born workers clearly are hurt by a domestic regime that tolerates the creation of a race-marked and vulnerable underclass within our home labor market. They are also hurt by a global regime that guarantees the mobility of capital while restricting the mobility of people, and pits worker against worker and community against community around the world. Such a regime drains the institutions of electoral democracy of their capacity to set ground rules for the conduct of business and the protection of human and labor rights, yet many workers are apparently all too ready to blame “those Mexicans” in their various guises for the economic insecurity that dominates the current scene.

I make this statement about U.S. workers’ attitudes toward immigration with some wariness in this venue. I am aware that many of us in academia and the professions make far too many stereotypical assumptions about working class people and what they think, especially when it comes to matters of race.<sup>27</sup> The factory workers, both black and white, with whom I traveled to Mexico have been eager to look for ways to act in solidarity with the people that we met in our travels and have often expanded my own understanding and perceptions about matters of immigration and global justice for workers. Certainly, it should not be forgotten that subtle and not-so-subtle xenophobic ideas find plenty of willing purveyors among highly educated and well-resourced pundits, not to mention among the political elite.<sup>28</sup>

Nonetheless, many working people in the United States do participate in the anti-immigrant backlash.<sup>29</sup> Even though some labor unions have scored important successes in welcoming immigrant workers into their membership, have benefited from immigrants’ energy and leadership, and

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27. As Martha Mahoney has observed in a discussion of racial privilege:

Most whites understand racism as something that a second party (the racist actor) does to a third party (the subordinated person of a minority race); racism appears to be a phenomenon distinct from themselves. Because whites do not see the dominant norm of whiteness and the mechanisms of its reproduction, bigotry and prejudice—individualized and intentional harms—become the focus of inquiry for whites . . . . For white Americans above the working class—those who write the books and do most social analysis—racism often appears to be something that working class whites (particularly Southerners) do to African-Americans and other people of color.

Martha R. Mahoney, *Constructing Solidarity: Interest and White Workers*, 2 U. PA. J. LAB. & EMP. L. 747, 750-51 (2000) (footnotes omitted).

28. See CTR. FOR NEW CMTY., *NATIVISM IN THE HOUSE: A REPORT ON THE HOUSE IMMIGRATION REFORM CAUCUS* (2007); Mark Potok, *Bait and Switch: The SPLC vs. Lou Dobbs*, S. POVERTY L. CENTER, <http://www.splcenter.org/news/item.jsp?pid=282> (last visited Jan 9, 2008).

29. See Rodolfo O. de la Garza, *Understanding Contemporary Immigration Debates: The Need for a Multidimensional Approach*, BORDER BATTLES, July 31, 2006, [http://borderbattles.ssrc.org/de\\_la\\_Garza/index1.html](http://borderbattles.ssrc.org/de_la_Garza/index1.html).

have worked to advance immigrant workers' interests,<sup>30</sup> other unions are less convinced and significant numbers of individual union members have voiced dissatisfaction when labor leaders take stands in favor of full workplace rights for undocumented workers or a more generous immigration policy.<sup>31</sup> Workers in this country are dangerously divided on questions of race, class, and nationality, and many anti-immigrant groups actively recruit workers into their organizations and campaigns.

I see these difficult questions of immigration policy through the lens of my past experience and accumulated conviction. As recounted above, I lived through the civil rights period and have been inspired and forever shaped by its wonders, but I also witnessed the thwarting of its promise. One important reason I believe the movement was unable to better overcome the repression and containment it eventually suffered was that so few white working class people moved into active alliance with it. To their own detriment, very few realized that solidarity with the movement's history-making effort could have led to significant advances for them and their families.

Everything I learned from that saga tells me that today once more the need for cross-race—and now cross-nation—solidarity among working people will be acute and pivotal. In an era of globalization, the obstacles to achieving such internationalist and anti-racist solidarity will be enormous. At the same time, however, new global dynamics expose the moral and material logic of such solidarity and suggest its potential power. Meanwhile, one of the most strategic contexts where these questions of class solidarity and racial justice can and should be engaged in is upcoming battles over immigration policy and the rights of low-wage immigrant workers laboring in the United States.

I do not approach the question of immigration policy from the position of a government policy maker. I do not even approach it as someone whose near-term goal is to *persuade* a government policy maker. If the needed social movements were already strong and thriving, then perhaps my legal training, policy acumen, or deal-making abilities could be put to work at that level. As things currently stand, however, I believe that the primary task is movement-building across racial and national lines, and the demands of that task are substantial to say the least. Accordingly, my priority is to figure out how intellectuals, academics, and professionals like me—and like many of those who attended this symposium or are reading

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30. See RUTH MILKMAN & KENT WONG, *VOICES FROM THE FRONT LINES: ORGANIZING IMMIGRANT WORKERS IN LOS ANGELES* (2000); Jennifer Gordon, *Transnational Labor Citizenship*, 80 S. CAL. L. REV. 503, 526–27 (2007).

31. See Susan Ferriss, *Survival Tactic Stirs Up Unions: Enrolling Immigrants, Legal or Not, Is on the Rise but Rankles Some*, SACRAMENTO BEE, Oct. 1, 2007, at A1; Steve Greenhouse, *Labor Coalitions Divided on Immigration Overhaul*, N.Y. TIMES, June 26, 2007, at A19; Marc Santora, *'08 Candidates Weighing Consequences As They Take Sides on Immigration Plan*, N.Y. TIMES, May 19, 2007, at A11 (noting that labor unions are split on the issue of immigration).

this issue of the law journal—can best contribute to such a project.<sup>32</sup>

This reflection concludes with a few ideas about concrete ways that lawyers, academics, and other professionals interested in immigration reform might contribute toward movement building. Of course, there is a huge need for lawyers who are ready and willing to work with all kinds of groups interested in building bottom-up power for immigrants and other workers. The two speakers who shared my panel, Kati Griffith of the Cornell University Industrial and Labor Relations School and Keith Cunningham-Parmeter of Willamette Law School, provide wonderful models of young lawyers who are exploring this path. Their talks at the symposium made clear that they are honing many of the traditional skills that any lawyer needs and must deploy: mastering the crazy intricacies of immigrant workers' rights-and-no-rights, strategizing about discovery in the shadow of unpredictable immigration enforcement, zealously defending their vulnerable clients, anticipating legal and other issues, developing creative arguments, and marshalling relevant facts.<sup>33</sup>

Their work and that of others similarly engaged also makes clear, however, that lawyers undertaking this work need other skills as well. In particular, they need to be sophisticated and well-informed about theories of social change, methods of organizing, and ways of analyzing power relations in a given community or worksite. They must be able to envision legal rules and claims that can serve a larger collective strategy, strengthen a given organization, or encourage democratic leadership. The literature on ways that law and lawyering can advance (or retard) the process of organizing and movement building reflects a growing body of experience developed and shared by change-minded practitioners.<sup>34</sup>

Lawyers representing low-wage immigrant workers are well-represented among the people developing these experiences and sharing their lessons. They include attorneys who work with federally-funded legal services and independent non-profits, lawyers who work with workers' centers and labor unions, and clinical law teachers and their students involved in innovative projects that stress the importance of building organizations and supporting the development of grassroots movements.<sup>35</sup>

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32. See JAMES GREEN, *TAKING HISTORY TO HEART: THE POWER OF THE PAST IN BUILDING SOCIAL MOVEMENTS* (2000) (providing the perspective of a historian asking some of the same questions from his own disciplinary foundation).

33. . Keith Cunningham-Parmeter, Address at the Cornell International Law Journal 2007 Symposium: Immigration Policy: Who Belongs? (Feb. 24, 2007) (transcript on file with the Cornell International Law Journal); Kati L. Griffith, Address at the Cornell International Law Journal 2007 Symposium: Immigration Policy: Who Belongs? (Feb. 24, 2007) (transcript on file with the Cornell International Law Journal).

34. See Loretta Price & Melinda Davis, *Seeds of Change: A Bibliographic Introduction to Law and Organizing*, 26 N.Y.U. REV. L. & SOC. CHANGE 615 (2001) (introducing and presenting a social justice lawyering bibliography).

35. See, e.g., JANICE FINE, *WORKERS CENTERS: ORGANIZING COMMUNITIES AT THE EDGE OF THE DREAM* (2006); JENNIFER GORDON, *SUBURBAN SWEATSHOPS: THE FIGHT FOR IMMIGRANTS' RIGHTS* 185-236 (2004); Alan Hyde, *New Institutions for Worker Representation in the United States: Theoretical Issues*, 50 N.Y.L. SCH. L. REV. 385, 398-400 (2006); Michael J. Wishnie, *Immigrant Workers and the Domestic Enforcement of International*

Lawyering is hardly the only type of professional work that can be put in the service of movement building. Professionals, intellectuals, and artists of all kinds can find information and produce materials that help organizations and movements educate their own members about many things, including policy matters. They can also help organizations and movements develop materials that explain and defend their positions to the outside world. In all such activities, they will encounter important issues that they can help to resolve, such as which coalitions and bedfellows the group should pursue, what slogans and vocabularies it should adopt, and how it should frame and define its issues.<sup>36</sup> A person working creatively with an immigrants' rights organization, for instance, would be in a position to support framing the organization's issues in a way that clarified the importance of class-linked demands and policy proposals. Likewise the person could encourage the organization to conduct its business in a way that builds cross-race alliances.<sup>37</sup>

In my own career, I have written both for professional audiences and in the service of movements,<sup>38</sup> and the latter efforts have often struck me as the more important and rewarding. As mentioned above, I have recently had the good fortune to advise and accompany a film project that documents the dynamics of globalization as played out in particular communities in Tennessee and Mexico—dynamics that include: plant closings,

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*Labor Rights*, 4 U. PA. J. LAB. & EMP. L. 529 (2002); Sameer M. Ashar, Public Interest Lawyers and Resistance Movements (2006) (unpublished paper, on file with author).

36. For reflections on the role of "framing" in the development of social movements, see generally Fran Ansley, *Inclusive Boundaries and Other (Im)possible Paths Toward Community Development in a Global World*, 150 U. PA. L. REV. 353 (2001).

37. There are excellent examples of lawyers and others who do their work with these movement-building goals in mind. For instance, members of the Immigrant Justice Project (IJP) of the Southern Poverty Law Center have worked to promote cross-race and cross-ethnic cooperation between immigrant communities and the native-born population while collaborating with community organizers to pursue strategic litigation on behalf of immigrant workers cheated of their earnings in the aftermath of Hurricane Katrina. SPLC Seeks Justice for Katrina's Migrant Workers: Lawyers Challenge Government's Inadequate Response to Rampant Abuse, S. POVERTY L. CENTER, Feb. 2, 2006, [http://www.splcenter.org/legal/news/article.jsp?aid=160&site\\_area=1](http://www.splcenter.org/legal/news/article.jsp?aid=160&site_area=1). Similarly, when Julie Su tells the story of litigating for a group of Thai garment workers working in near slavery in a Los Angeles suburb, she emphasizes the legal team's pointed efforts to include a group of Mexican workers who had been employed and cheated (though not physically confined) by the same employer as co-plaintiffs in the case. See Julie A. Su, *Making the Invisible Visible: The Garment Industry's Dirty Laundry*, 1 J. GENDER RACE & JUST. 405 (1998).

38. See e.g., Memorandum from Jobs with Justice on Victory at Koch Foods for Immigrants' Rights and for Labor/Community Cooperation (Oct. 2005) (on file with author); Press Release, Fran Ansley, Jobs with Justice Morristown Project, New Opportunity to Support Human Rights of Immigrants in Tennessee (June 2005) (on file with author); Press Release, Fran Ansley, Jobs for Justice, Rally to Support Poultry Workers (July 2005) (on file with author); see also Fran Ansley, *Classifying Race, Racializing Class*, 68 U. COLO. L. REV. 1001 (1997); Fran Ansley, *Local Contact Points with Global Divides: Labor Rights and Immigrant Rights as Sites for Cosmopolitanism Legality*, in LAW AND GLOBALIZATION FROM BELOW: TOWARDS A COSMOPOLITAN LEGALITY 158, 158-80 (Boaventura de Sousa Santos & César A. Rodríguez eds., 2005); Ansley, *Putting the Pieces Together*, *supra* note 17; Ansley, *Rethinking Law*, *supra* note 17.

capital flight, low-road economic development strategies pursued by elites on both sides of the border, impacts of out-migration on sending communities in Mexico, and the new waves of Latina/Latino migration into the small-town and rural South.

The film presents these dynamics through interviews with workers, employers, and public officials in a form that is accessible to working class audiences in both the United States and Mexico. The film expresses allegiances but lets subjects speak for themselves. It invites questions more than it pushes answers,<sup>39</sup> but it also asks working-class viewers to think about class beyond the nation state. It invites them to imagine class as a transnational community that is available to them as a source of identity and possible action and to see it as another alternative, along with those other imagined communities of race, ethnicity, and nation that are more commonly offered up by the culture these days. After almost a decade of fascinating work, the film is now completed, and in the next few years, I hope to spend significant time helping to get it distributed and seen outside the academy and the film-festival circuit, in places where working-class audiences might more likely see and discuss it.

This kind of work takes time. It is difficult to be patient when the issues seem so urgent and the stakes are so extreme for immigrant families and others. At the time of the symposium, hopes were high that some form of "comprehensive immigration reform" might be on the near-term horizon.<sup>40</sup> Whatever else such reform might have meant, it was envisioned as bringing millions of undocumented people out of the shadows. As I write this essay, such hopes are gone, at least for now.<sup>41</sup> The coming period will likely be an ugly one for undocumented immigrants and their allies, although in the great marches of Spring 2006,<sup>42</sup> the immigrant community has certainly demonstrated its enormous potential to fight back. At any rate, many instances will undoubtedly arise in which patience is hardly the mood or option and when allies of immigrants will be pressed into emergency action in defense of human rights. Nevertheless, I believe that careful and long-term thought and outreach are still very much in order.

The forces at work in the global economy—forces that put hundreds of thousands of people on the road to migration<sup>43</sup>—are far too strong to be

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39. MORRISTOWN: IN THE AIR AND SUN, *supra* note 2.

40. See, e.g., John M. Broder, *Immigration, From a Simmer to a Scream*, N.Y. TIMES, May 21, 2006, § 4, at 1; Darryl Fears, *Immigration Reform Revisited: Bipartisan Bill in House Includes Guest-Worker Program*, WASH. POST, Mar. 23, 2007, at A2; Editorial, *Marching on: Comprehensive Immigration Reform Is the Best Way for Congress to Mark the Rally's One-Year Anniversary*, L.A. TIMES, Mar. 25, 2007, at M5.

41. See Kevin R. Johnson & Bill Ong Hing, *The Immigrants' Rights Marches of 2006 and the Prospects for a New Civil Rights Movement*, 42 HARV. C.R.-C.L. L. REV. 99 (2007); Rachel L. Swarns & Randal C. Archibold, *Immigration Movement Struggles to Regain Momentum Built in Spring Marches*, N.Y. TIMES, Sept. 11, 2006, at A11.

42. Robert D. McFadden, *Across the U.S., Protests for Immigrants Draw Thousands*, N.Y. TIMES, Apr. 10, 2006, at A14.

43. A discussion of the causes of international migration is, of course, beyond the scope of this essay, but the literature is vast and growing. See JORGE DURAND & DOUGLAS S. MASSEY, *BEYOND SMOKE AND MIRRORS: MEXICAN IMMIGRATION IN AN AGE OF ECONOMIC*

controlled by immigration policy alone. Thus, no matter what happens with immigration reform, much will still be unresolved. In any case, complex issues and realities will remain, such as: mass migration and capital flight,<sup>44</sup> stark disparities among differently situated groups of working class people within the global economy,<sup>45</sup> environmental threats like global warming that form a constant backdrop to the rest of the drama about the future of world development,<sup>46</sup> and the stubborn puzzle of how to align democratic political decision-making with the regulation of economic life when so much economic activity today has gone thoroughly global. Proposing viable solutions to these issues is difficult enough in the abstract, let alone doing so in concert with social movements and managing to reach and connect with a critical mass of working class people in the United States and elsewhere.

One academic I know, someone with a special interest in the relationships between Latina/Latino and black workers in the South, is a person with a particularly fine ear. She is planning to conduct a series of interviews with working people in areas of the South where immigrants and native-born workers compete for scarce jobs and where corporate restructuring of work in the interests of increased flexibility affects all workers. Her idea is in part to listen acutely to people and the values that they express. She wants to hear the vocabularies they use, the groups with which they identify, and the traditions that draw their loyalty and satisfy their notion of the good and right.<sup>47</sup> By listening, she hopes to discern how she and others can most effectively write and speak with workers about their opportunities to identify and act when it comes to lines of race, class, gender, and nation. It is not yet clear what the steps past listening might be, but her plan represents one kind of project, something that we might call deep preparatory research, that fits well with the long-haul effort by academics and professionals that I am recommending here.

In concluding this essay, it strikes me that I should concede that a reader might well ask whether my soupy call to movement building is nothing but an argument from desperation. When ejected from all formal channels of influence, where else does a person have to go? Looking to the

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INTEGRATION (2002) (providing a helpful entry point to migration generally and Mexico-U.S. migration in particular). For an eye-opening look at Mexico-U.S. migration from a critical Mexican perspective, see Raúl Delgado Wise, *Critical Dimensions of Mexico-U.S. Migration Under the Aegis of Neoliberalism and NAFTA*, 25 CAN. J. DEV. STUD. 591 (2004).

44. See Peter Dale Scott, *Capital Flight Fuels Illegal Immigration*, NAT'L CATH. REP. (Kansas City, Mo.), May 26, 2006, at 18.

45. See generally Thomas Clay Arnold, *Rethinking Moral Economy*, 95 AM. POL. SCI. REV. 85 (2001).

46. See Virginia Abernethy, *Environmental and Ethical Aspects of International Migration*, 30 INT'L MIGRATION REV. 132 (1996); Graeme Hugo, *Environmental Concerns and International Migration*, 30 INT'L MIGRATION REV. 105 (1996).

47. For earlier work that involved close listening by this scholar, see Barbara Ellen Smith, *Market Rivals or Class Allies?: Relations Between African American and Latino Immigrant Workers in Memphis*, in GLOBAL CONNECTIONS, LOCAL RECEPTIONS: LATINO MIGRATION TO THE SOUTHERN UNITED STATES (Fran Ansley & Jon Shefner eds., forthcoming 2008).

federal judiciary for immigration reform, for instance, would appear to be delusional in light of the Supreme Court's ugly decision in *Hoffman Plastic Compounds v. NLRB*<sup>48</sup> as well as in other cases.<sup>49</sup> In its turn, Congress has proven itself incapable of taking present action on the issue.<sup>50</sup> Meanwhile, at least among a seriously agitated minority of the citizenry, anti-immigrant sentiment is at a fever pitch,<sup>51</sup> discouraging progressive policy reform in most state and local arenas.

My argument, however, is not born only of the times. In my view, policy is always best imagined, won, and made real when those most affected by its terms are in motion and in full voice. Perhaps the current bleak landscape makes it unusually clear that winning decent political change will require "looking to the bottom." Even if the channels to power were more open to the massive policy changes that I believe are needed, I would still argue that more people like those of us who gathered at Ithaca for this symposium should do immigration policy not from above but from below.

Even if Congress were less paralyzed, immigration deliberations in that body would produce unacceptable results unless and until a stronger movement of low-wage immigrants and other working people can exert the political and ideological clout to change the terms of the debate. The movement that is needed—one that reaches beyond a class-purged civil rights frame to embrace a broad and combative vision of economic justice—is necessary both to achieve a decent version of immigration reform and to tackle the many other problems that flow from the development model currently dominating the world economy. We know from other popular movements, not least the African American freedom movement in our own country that touched and transformed so many lives, my own included, that seemingly invincible systems can indeed change, once people find each other and a way to stir.

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48. See generally *Hoffman Plastic Compounds, Inc. v. NLRB*, 535 U.S. 137 (2002).

49. See Christopher David Ruiz Cameron, *Borderline Decisions: Hoffman Plastic Compounds, The New Bracero Program, and the Supreme Court's Role in Making Federal Labor Policy*, 51 UCLA L. REV. 1 (2003).

50. See Editorial, *House of (Immigration) Blues*, L.A. TIMES, July 3, 2006, at B14.

51. See Pamela Constable, *Klan Leaflets Denounced in Manassas*, WASH. POST, Sept. 6, 2006, at B2.