

1 Immigration Policy Activism in U.S. States and Cities: Interdisciplinary Perspectives

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On November 8, 1994, the California electorate passed Proposition 187, also known as the Save our State initiative, by a two-to-one margin. The proposition was designed to prevent undocumented immigrants living in the state from accessing a variety of publicly funded social services, including health care and education (K–12 as well as postsecondary). It also required all local law enforcement agencies in the state to cooperate with federal authorities in the enforcement of federal immigration law. The campaign leading up to passage of the proposition was full of political rancor. It pitted supporters, who conjured images of illegal immigrants flooding across the U.S.-Mexico border to take advantage of California taxpayers, against opponents, who argued that the proposition would do little to stop illegal immigration and would instead drive a crucial sector of the state's workforce further underground, where they would pull their children out of school, be afraid to contact the police when victimized by crime, and avoid medical treatment for life-threatening conditions or potentially communicable diseases.

Campaign politics aside, the supporters of Prop. 187 were fighting an up-hill legal battle. Though states and cities in the United States are permitted to develop policies that affect *immigrants* living within their jurisdictions, for the most part they have been excluded from making *immigration* policy—policy that affects “the entry of noncitizens and their continued stay” (Motomura 1999, 1361)—since the late 1800s, when a series of Supreme Court cases established the federal government's sole authority, or “plenary power,” over immigration policy making and enforcement (Aleinikoff 2002; Varsanyi 2008a).

Indeed, in the case that ultimately invalidated much of Prop. 187, *League of United Latin American Citizens (LULAC) v. Wilson* (1995), U.S. District Court Judge Mariana Pfaelzer first reaffirmed the plenary power of the federal government over immigration and naturalization matters, and then invalidated much of the proposition, citing its reliance on a state-level “comprehensive scheme to detect and report the presence and effect the removal of illegal aliens” (769), even though “state agents are unqualified—and also unauthorized—to make independent determinations of immigration status” (770).

Although Judge Pfaelzer’s decision shut down California’s attempt to get into the immigration enforcement business, echoes of Proposition 187 were heard in Washington, DC. Two years later, as part of the “Republican Revolution,” the 104th Congress passed a suite of laws that, among other things, reflected the themes of the proposition. The Personal Responsibility and Work Opportunity Reconciliation Act, the act that (in)famously “[ended] welfare as we know it” (Clinton 1993), dramatically scaled back legal immigrants’ access to publicly funded social services, including Food Stamps, Medicaid, Supplemental Security Income, and Temporary Assistance to Needy Families,¹ and devolved authority over select social services to the states. The Antiterrorism and Effective Death Penalty Act gave local police the authority to arrest previously deported noncitizen felons, and the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) created a program whereby local and state police could be trained to enforce federal immigration laws. California voters had spoken and the U.S. Congress had listened.

Over the next few years, states grappled with their newfound authority over welfare programs, but in other realms it seemed that state and local attempts to create immigration policy had come to an end.

In 2002, however, state and local immigration policy activism returned. That year, Arizona state voters passed Proposition 200, “Protect Arizona Now,” with 56 percent of the vote. Proposition 200 was modeled after Prop. 187, but was drafted in such a way as to prevent legal challenges of the sort that invalidated the California effort: it required individuals to show proof of citizenship before voting and applying for state-funded public benefit programs. The same year, the Florida Department of Law Enforcement became the first state or local law enforcement agency to sign a memorandum of understanding (MOU) with federal immigration authorities under the 287(g) section of IIRIRA. The MOU agreement enabled thirty-five Florida state troopers to receive training and locally enforce certain aspects of civil immigration law.

1. Unauthorized residents were already barred from receiving these benefits.

Not all state and local policy activism was exclusionary: in 2002, the Austin, Texas, Police Department became the first local law enforcement agency to accept the Mexican government-issued *matrícula consular*, or consular ID card, as a valid form of identification for the city's undocumented residents, in response to growing concerns that these residents were fearful of contacting the police when victims of or witnesses to crime (Varsanyi 2007).

This trickle of state and local immigration policy activism soon turned into a flood. In 2005, according to the Immigration Policy Project of the National Conference of State Legislators, state legislatures considered approximately 300 immigration- and immigrant-related bills and passed around fifty. In 2006, 500 bills were considered, 84 of which became law. In 2007, 1,562 immigration- and immigrant-related pieces of legislation were introduced, and 240 became law. And most recently, in 2009, approximately 1,500 laws and resolutions were considered in all 50 state legislatures, and 353 were ultimately enacted.² These laws address a wide range of immigrant- and immigration-related issues. They include state-level employer sanctions laws that penalize employers who knowingly employ illegal immigrants, laws preventing undocumented residents from receiving driver's and business licenses, and laws excluding undocumented students from in-state tuition benefits at public colleges and universities. State legislatures have also actively sought to promote the integration of immigrants, and have passed laws increasing legal immigrant eligibility for state-funded health insurance and creating opportunities for immigrants to learn English.

Immigration policy activism has also increased exponentially in cities across the United States. Starting with the decision of the Austin Police Department in 2002, by late 2005 approximately four million *matrículas consulares* had been issued to Mexican nationals living in the United States, and the cards are now accepted by 1,204 police agencies as well as 393 city and 168 county governments.³ Sixty-four cities—including Los Angeles, Houston, Minneapolis, Seattle, Washington, DC, Philadelphia, and San Francisco—have passed “sanctuary” ordinances declaring their noncooperation with federal immigration authorities except in cases involving felony crimes.⁴ And

2. <http://www.ncsl.org/default.aspx?tabid=19232>.

3. Mexican consulate in San Diego, personal communication, December 14, 2005.

4. Sanctuary ordinances have their roots in the Central American refugee flows of the 1980s. The current increase in “limited cooperation” ordinances builds upon policies first developed at that time (Wells 2004; Ridgley 2008; National Immigration Law Center Web site, <http://www.nilc.org/immlawpolicy/LocalLaw/locallaw-limiting-tbl-2008-12-03.pdf>).

on the exclusionary end of the spectrum, 133 cities have passed or considered Illegal Immigration Relief Acts (IIRAs), ordinances that penalize local employers for hiring undocumented workers and local landlords for renting to undocumented residents,⁵ and 67 jurisdictions have signed 287(g) agreements with federal immigration authorities, authorizing over a thousand local law enforcement officers to enforce civil immigration laws (Immigration and Customs Enforcement 2009).

Given the federal government's long-standing plenary power over immigration and the relegation of state and local governments to the realm of immigrant policy making, the recent (re)emergence of state and local immigration policy activism raises interesting questions regarding not only the constitutionality of these policies but also the shifting and appropriate role of subnational governments in immigration policy formation. While some policies, such as the acceptance of *matriculas consulares*, can be interpreted as policies of local immigrant *integration*, other policies—such as IIRAs, state and local employer sanctions laws, and local-federal law enforcement cooperation emerging from 287(g) agreements—can more readily be interpreted as influencing immigration—not only into the nation-state, *but in states and localities*. Therefore, these policies, contentious as they are, can be interpreted as *local immigration policy*, something that since the late nineteenth century in the United States has been a constitutional impossibility. These policies blur and cross the line between a politics of immigrant integration—public policy—and a politics of immigration control—technically considered foreign policy in the United States (Coleman 2008), dealing, as they do, with relationships between the United States and foreign powers. And indeed, a number of these policies have been challenged in courts on these grounds.

Just as these emerging policies cross and blur long-held constitutional boundaries, the study of these policies necessitates a multidisciplinary perspective that crosses and blurs conventional disciplinary boundaries. There is a long and venerable tradition, particularly in sociology, of studies exploring the local integration (or assimilation) of immigrants, particularly in “traditional gateways” such as Chicago, Boston, and New York (Park and Burgess 1925; Gans 1962; Portes and Zhou 1993; Foner 2002; Kasinitz, Mollenkopf, and Waters 2006; Kasinitz et al. 2008).⁶ More recently, scholars

5. Puerto Rican Legal Defense and Education Fund database of cities considering local anti-immigrant ordinances, <http://www.prldef.org/Civil/LATINO%20JUSTICE%20CAMPAIGN.xls>.

6. See Rogers and Tillie 2001; Penninx et al. 2004; Alexander 2007; and García 2007 for discussions of urban immigrant integration policies in the European context; Tsuda

have turned their attention to the shifting settlement patterns and integration of immigrants into nontraditional “new destinations” in the American South and Midwest and in suburbs and rural towns throughout the United States (Zúñiga and Hernández-León 2005; Smith and Furuseth 2006; Massey 2008; Singer, Hardwick, and Brettell 2008; Nelson and Hiemstra 2008). Other studies have explored the political incorporation of immigrants as voters and active citizens in urban America (DeSipio 1996; Jones-Correa 1998; Varsanyi 2005). And political scientists and others who study immigration politics and policy (as opposed to immigrant integration) have, on the whole, studied a *national* “politics of control,” in other words, policies that influence the entry, exclusion, and expulsion of migrants into and out of the territory of the nation-state (Cornelius et al. 2004; Torpey 2000; Andreas 2000; Aleinikoff 2002; Tichenor 2002; Nevins 2002; Ngai 2003; Zolberg 2006; Hollifield 2008).

However, one of the unique and challenging characteristics of state and local immigration politics and policy is that they blur the conventional boundary between, for instance, political scientists’ focus on a politics of control—a focus on *immigration*, which is generally approached from the perspective of the nation-state and federal politics—and sociologists’ or anthropologists’ focus on (a politics of) *integration*, with a focus on *immigrants*, more often from a local or urban perspective. Therefore, this volume approaches the phenomenon from both multidisciplinary and interdisciplinary perspectives, including as it does chapters by an anthropologist, demographers, geographers, legal scholars, political scientists, and sociologists. Each author writes both from the perspective of her or his discipline and necessarily reaches beyond conventionally understood disciplinary boundaries to address this emerging phenomenon, blurring analyses of control with those of integration and engaging with the multiscale dynamics—local, state, and national—of these policies.

What explains the recent explosion in state and local immigration policy activism? What policies have been considered and passed, and what are the justifications given? What tensions have emerged as a result of these policies within communities and between different levels of government? Does this wave of grassroots policy activism point to cracks in the foundation of the federal government’s plenary power over immigration? What role are state and local governments playing in the creation and enforcement of immigration policy, and what role *should* they play? These are the questions, among

2006 for coverage of Japan; and Kemp and Raijman 2004 and Alexander 2007 for looks at similar policies in Israel.

others, that the contributors to this volume seek to answer. While state and local immigration policy activism in the United States has received widespread attention in the popular media, this phenomenon has yet to receive sustained coverage in the scholarly literature, and as such, detailed description, analysis, and explanation of this phenomenon are in short supply.⁷ This volume aims to fill this gap.

In this introductory chapter, I first present the historical context in which the federal government's plenary power developed and discuss the legal decisions that restricted the participation of states and localities in immigration policy making. I then discuss three types of factors—economic, demographic, and political—that have combined to create the context in which state and local immigration policy activism is currently emerging. Lastly, I provide an overview of the themes and chapters in the volume, concluding with some thoughts outlining possible, much-needed future research trajectories.

HISTORICAL CONTEXT

For the first hundred years of American history, during what legal scholar Gerald Neuman (1996) calls the “lost century of American immigration law,” states and cities—not the federal government—maintained a significant degree of power, in both law and practice, over immigration policy. As Neuman details, during this century cities and states formulated and enforced varying statutes that barred the immigration of convicts, paupers, and those with contagious or other diseases (1996, 19–43; see also Filindra and Tichenor 2008).

During the latter decades of the nineteenth century, however, the federal government's supreme authority, or “plenary power,” over immigration and naturalization policy was firmly established through a series of Supreme Court cases. The case that most clearly articulated the plenary power doctrine is *Chae Chan Ping v. United States* (1889), in which the justices upheld the exclusion of a long-term Chinese resident on the basis of the recently passed Chinese Exclusion Acts. In the case, the justices first emphasized the “inherent sovereign powers” of the federal government over determining membership, that is, the fact that the exclusion of noncitizens was

7. For some notable exceptions, see Body-Gendrot and Schain 1992; Skerry 1995; Lahav 1998; Spiro 2001; Wells 2004; Light 2006; Ellis 2006; Hayduk 2006; Coleman 2007; Varsanyi 2008a, 2008b; Newton and Adams 2009. There is also an expanding discussion of these policies in the legal literature: Spiro 1994; Johnson 1995; Wishnie 2001, 2004; Romero 2002; Pham 2004; Hethmon 2004; *Harvard Law Review* 2005; Olivias 2007; Schuck 2007; Motomura 2008; Rodríguez 2008.

a fundamental right of any sovereign government: “[The Chinese] laborers are not citizens of the United States; they are aliens. That the government of the United States, through the action of the legislative department, can exclude aliens from its territory is a proposition which we do not think is open to controversy” (603). Second, as control over immigration was defined as an element of foreign policy and in the interest of the federal government to control, the Court considered it a legislative and political concern, thus removing it from judicial review: “This court is not a censor of the morals of other departments of the government; it is not invested with any authority to pass judgment upon the motives of their conduct” (628). Finally, and crucially, the Court made clear that local governments did not have power over immigration: “[The federal government] is invested with power over all the foreign relations of the country, war, peace, and negotiations and intercourse with other nations; all of which are forbidden to the state governments.... For local interests the several states of the Union exist, but for national purposes, embracing our relations with foreign nations, we are but one people, one nation, one power” (629).

In the century since, the federal government’s plenary powers over immigration have been tested and upheld through a series of cases setting the limits of state and local governments’ abilities to create immigration policy. First, local policies regarding immigrants that mirror federal policies have generally been struck down in courts on “preemption” grounds: the basis that the federal government fully “occupies the field” of immigration and naturalization policy.⁸ For example, in *Hines v. Davidowitz* (1941), a Pennsylvania state law that included alien registration provisions was struck down as it was preempted by the Federal Alien Registration Act. And more recently, as discussed above, California’s Proposition 187 was invalidated on preemption grounds in *LULAC v. Wilson* (1995).

Second, with a few interesting exceptions, states and localities have generally been held to an “equal protection standard” when passing laws affecting their noncitizen residents (see particularly *Plyler v. Doe*, 1982). The federal government’s plenary power over immigration authorizes the treatment of “people as immigrants”—in other words, individuals as “aliens”—essentially “nonpersons” beyond the protections of the Constitution. In a famous statement, Supreme Court Justice John Paul Stevens admitted that plenary power effectively upholds a double standard: “in the exercise of

8. For a thorough discussion of this issue, see the chapter by Rodríguez, Chishti, and Nortman, this volume.

its broad power over naturalization and immigration, Congress regularly makes rules that would be unacceptable if applied to citizens" (*Mathews v. Diaz*, 1976, 1891; see also *De Canas v. Bica*, 1976). In stark contrast, until the mid-1990s local and state governments were almost wholly excluded from this policy realm and relegated instead to the formulation of immigrant policy: laws that govern the "treatment of noncitizens in the United States with respect to matters other than entry and expulsion" (Motomura 1999, 1361). As a result, state and local laws affecting noncitizens are judged against constitutional norms such as the Fifth Amendment's Due Process Clause and the Fourteenth Amendment's Equal Protection Clause. As such, state and local governments are held by the courts to a "personhood" standard: they are required to treat "immigrants as people," that is, as persons protected by the Constitution (Varsanyi 2008a).⁹

Despite this restriction, there has also been ad hoc and informal participation of local authorities in immigration enforcement at various times throughout the last hundred years (McDonald 1999; Filindra and Tichenor 2008). For example, during the Great Depression, over 400,000 Mexicans in the U.S. Southwest and Midwest (approximately 60 percent of whom were U.S. citizens by birth) were "repatriated" to Mexico by the federal Immigration and Naturalization Service (INS), with the cooperation of city and county welfare relief agencies (Ngai 2004, 71–73; see also Balderrama and Rodriguez 1995). Miriam Wells also details the way in which "effective enforcement [of immigration laws] depends on local actors" (2004, 1315). She explores three aspects of this local dynamic: how the disjuncture between government levels in the United States has enabled a proliferation of limited cooperation (sanctuary) ordinances, how the decentralized nature of the INS had provided regional and district administrators a great deal of autonomy in developing operating agreements with local governments, and how the disjuncture between government agencies (in her example, the Department of Labor and INS) has allowed for regional disparities in the enforcement of immigration laws.

9. Even with plenary power, there are several ways in which states and localities have been directly involved in immigration matters. For example, under the "political function exception," states and local governments are able to treat people-as-immigrants and discriminate on the basis of noncitizen status when the constitution of their political communities is in question. For example, in *Cabell v. Chavez-Salido* (1982), California was permitted to require citizenship as a qualification for state employment as a peace officer (see also *Sugarman v. Dougall*, 1973).

CONTEMPORARY CONTEXT

Given 120 years of plenary power, what is the context in which contemporary state and local immigration policy activism has exploded in recent years? As I discuss in this section, shifting economics, demographics, and politics have all played an important role. None of these factors is causal. They do not explain, for instance, why some states and cities have passed or considered laws while others have not,¹⁰ but they do provide an important backdrop against which these policies have emerged.

Economics and the Labor Market

Over the last several decades, the number of undocumented immigrants living and working in the United States has increased fourfold, from approximately three million in the early 1990s to approximately twelve million today (Passel and Cohn 2008). The reasons for this increase are complex but can be explained partially as a result of economic factors. In 1994 the governments of Mexico, Canada, and the United States signed the North American Free Trade Agreement (NAFTA), liberalizing trade between the signatory nations. Among other things, NAFTA and similar commodity-specific free trade agreements significantly decreased tariffs on agricultural goods such as corn and coffee. Being passed on the heels of a decade of neoliberal structural readjustment and economic crisis, these free trade agreements further fostered circumstances in which millions of rural farmers in Mexico and Latin America were no longer able to make a living on the land, and migration—either domestic (rural-to-urban) or international—quickly became one of their few viable livelihood options (Nevins 2007). Some supporters were aware that NAFTA would create (in their minds, a short- and medium term) pressure for migration from Mexico to the United States. As a consequence, continued expansion of border enforcement and militarization were made simultaneous priorities.¹¹

At the same time as migration “push” factors have increased in Mexico and elsewhere, “pull” factors have simultaneously increased in the United States. With the exception of periodic economic downturns (Papademetriou and Terrazas 2009) over the past decades, and building upon decades of sustained labor migration networks between the United States, Mexico, and elsewhere (Calavita 1992), there has been a continued and increasing demand by

10. For more on this question, see Ramakrishnan and Wong, this volume.

11. For more on the militarization of the U.S.-Mexico border, see Andreas 2000; Durn 1996; Nevins 2002.

business and corporate interests for low-wage, flexible, relatively unregulated labor in the United States (Cornelius 1998; Massey, Durand, and Malone 2002), particularly in the construction, hospitality, home care, and service industries. At the same time as the federal government has privileged border militarization and enforcement, there has been spotty and declining internal enforcement of employer sanctions throughout much of the decade (Brownell 2005),¹² creating a situation in which migrants are guaranteed access to a relatively free labor market *within* the United States as long as they can get past the increasingly deadly obstacle course at the border (Cornelius 2005; Nevins 2008).

Demographic Factors

As the numbers of undocumented immigrants living in the United States have increased, there has been a significant concomitant shift in the settlement patterns of contemporary migrants, particularly migrants from Mexico, who make up approximately 57 percent of the unauthorized population (Passel 2006). Migrants are increasingly settling away from traditional gateway destinations such as Los Angeles, Houston, and Chicago, choosing instead to settle in “new gateways” in rural, suburban, and urban areas throughout the U.S. South, Midwest, and Northeast (Zúñiga and Hernández-León 2005; Massey 2008; Singer, Hardwick, and Brettell 2008). Between 1990 and 2000, the Mexican-origin population in the states of New York, Pennsylvania, Washington, and Wisconsin increased by 200 to 400 percent, in Utah by 645 percent, in Arkansas and Minnesota by 1,000 percent, and in North Carolina, Tennessee, and Alabama by over 1,800 percent (Zúñiga and Hernández-León 2005, xiv). Importantly, however, because Mexican-origin populations in many of these states were very small in 1990, an increase of 1,800 percent does not reflect a large *absolute* increase in the number of migrants from Mexico. In North Carolina, for example, the Mexican-origin population in 2000 was 376,000 out of a total state population of eight million. Nonetheless, this settlement shift has brought the phenomenon of immigration—particularly undocumented immigration—to cities and states that have never before grappled to any significant extent with the challenges and costs—both real and perceived—of large-scale immigrant settlement.¹³

12. There has been a renewed emphasis on enforcing employer sanctions under the Obama administration (Meyer and Gorman 2009), though results of this directive are still unclear.

13. For a discussion of why this settlement shift has occurred, see Zúñiga and Hernández-León 2005.

Political Factors

Several political factors have also played an important role in the recent emergence of state and local immigration policy activism. First, it is important to note that the upswing began shortly after the events of September 11, 2001. The IIRIRA, passed in 1996, authorized state and local law enforcement agencies to partner with the federal government and enforce civil immigration laws, but before 9/11 there were no agencies that had signed 287(g) MOUs. Shortly after 9/11, however, Attorney General John Ashcroft issued a classified memo affirming the authority of state and local police to enforce civil immigration law, overturning a prior memo issued by former Attorney General Janet Reno stating exactly the opposite. Ashcroft's memo thus opened the door to the devolution of immigration policing powers, and as discussed above, there are now a growing number of sub-federal governments that have operating agreements with the federal government to enforce immigration law at the state and local level.

After 9/11, energy for policy activism was also generated at the grassroots. As national security trumped all other political priorities and "immigrant" and "noncitizen" were frequently understood as synonyms for "terrorist" (Cole 2003), many cities and states responded to the "War on Terror" with local initiatives with widely divergent strategies for enhancing national security at the local scale. Some took an enforcement path and sought ways to serve as a "multiplier force," while others sought to further integrate and develop connections with their immigrant communities (Thacher 2005).

Other political factors have also been key in the recent explosion of state and local immigration policy activism, most specifically Congress's failure to pass comprehensive immigration reform legislation in 2006 and 2007, as well as the politics surrounding the congressional midterm elections in 2006. Starting in 2005, the House and Senate laboriously crafted and ultimately passed immigration reform bills: the Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005 (H.R. 4437) and the Comprehensive Immigration Reform Act of 2006 (S. 2611), respectively. However, given glaring differences between the bills, as evidenced by their titles, the House and Senate were unable to pass compromise legislation, and efforts at immigration reform failed. In the competitive midterm elections, however, a number of candidates hitched their political wagons to the immigration reform train, and as congressional reform collapsed, state and local governments and candidates sought to "take matters into their own hands" and earn political capital on the issue of immigration reform.

THEMES AND ORGANIZATION OF THE VOLUME

The volume is divided into four sections. The chapters in the first section provide an overview of state and local immigration policy activism by exploring the phenomenon from a broadly thematic perspective. The second section includes three chapters, each of which explores a different facet of the state and local immigration policy phenomenon: policies arising from devolution, immigration-specific grassroots policies, and immigration policy making “through the back door.” The chapters in the third section delve more deeply into the evolution of anti-immigrant activism and policy making in particular localities: Hazleton, Pennsylvania; Charlotte, North Carolina; Prince William County, Virginia; Phoenix, Arizona; and Vancouver, British Columbia. And finally, the authors in section four provide a close reading of the politics and discourse of local immigration policy activism in a number of high-profile cases, including Vista, California; Hazleton, Pennsylvania; Prince William County, Virginia; Farmers Branch, Texas; and Escondido, California.

The contributing authors take as their primary focus the *what*, *how*, and *why* of contemporary state and local immigration politics and policy activism in the United States.¹⁴ Though the authors did not utilize a uniform set of questions to frame their investigations, their chapters make (at least) three important contributions to a broader understanding of the phenomenon. First, the chapters offer rich empirical description (the *what* and *how*) of the circumstances and contexts in which particular policies and strategies have arisen, as well as the content of these policies. Second, a number of the chapters seek to understand—both implicitly and explicitly—the reasons for which this policy activism has exploded onto the scene in recent years. In other words, these authors explore the *why* of state and local immigration policy activism. Finally, a number of the contributors explore the tensions arising out of this moment: between different groups within particular localities and between different levels of government, most specifically, between the federal government and states and cities.

Section 1: National Overview

The three chapters in section 1 approach the phenomenon of state and local immigration policy activism from a broadly thematic perspective. Rather

14. This volume does not focus on immigration outcomes of these policies. In other words, it does not document how they do or do not influence immigrant settlement at the local level. Though there is anecdotal evidence indicating that immigrants may leave or choose to settle away from states and localities with restrictive policies, reliable data are not yet available to substantiate this claim. For a preliminary analysis of the issue, however, see Papademetriou and Terrazas 2009, 11.

than delving into the way in which these policies have emerged in particular places (the task of later chapters), these introductory chapters explore the phenomenon itself, one examining the legality of measures falling on the exclusionary end of the spectrum, another detailing the wide range of measures falling on the integrationist end of the spectrum, and a third whose authors seek to explain why certain localities across the United States have passed exclusionary measures and others have not.

Legal uncertainty is at the core of growing tensions surrounding the explosion of state and local immigration policy activism. Though sub-federal jurisdictions are prohibited by plenary power from regulating immigration, legal ambiguity has arisen over what exactly it means to “regulate immigration.” Using this question as a starting point, the chapter by legal scholars Cristina Rodríguez, Muzaffar Chishti, and Kimberly Nortman offers a solid foundation for the volume by presenting a framework for assessing the constitutionality of these emerging policies. These coauthors offer a warning that certain state and local immigration measures have the potential to threaten individual rights and long-established constitutional protections, such as due process, free speech, and equal protection. More specifically, they explain how two of the most controversial policies—state and local employer sanctions laws and the growing involvement of state and local police in civil immigration enforcement (via 287(g) agreements)—may be preempted by federal law.

The lion’s share of popular media coverage of state and local immigration policy activism has focused on exclusionary—anti-immigrant—measures. Chapter 3, by sociologists Pablo A. Mitnik and Jessica Halpern-Finnerty, offers a welcome antidote to this popular media coverage as the authors systematically survey the wide range of policies designed to *integrate immigrants*—legal and undocumented—into local communities. The prevalence of these integrative policies is not insignificant. As noted in a recent report by the Progressive States Network (2008), integrative policies are far more common than exclusionary policies, and a large proportion of the immigrant population in the United States lives in states that have passed integrative policies (see also NCSL 2008). Mitnik and Halpern-Finnerty provide a comprehensive overview of these policies, including limited cooperation ordinances (sometimes called “sanctuary” ordinances) and measures that regulate employment, wages, and access to health care. Offering a clue as to the success of these measures, they note that many of these policies are not geared specifically toward immigrants, even though in some locales they disproportionately benefit immigrants.

As discussed above, while we may understand the broader social, political, and economic context in which this activism is occurring, we cannot yet predict why certain localities enter the fray while others do not. In chapter 4, political scientists S. Karthick Ramakrishnan and Tom Wong tackle this important question, as yet unexplored: why do some localities, but not others, consider, pass, or fail to pass immigration ordinances? While most analyses (indeed, many in this volume) place demographic change at the center of explanation, Ramakrishnan and Wong's national-scale quantitative analysis offers a compelling finding: that local political partisanship (the proportion of Republicans and Democrats in a given county), not demographic change, is the best predictor for local-level immigration policy activism. In building this analysis, they include both anti-immigrant ordinances, specifically IIRAs such as the local ordinance passed in Hazleton, Pennsylvania, and pro-immigrant measures, including limited cooperation and sanctuary ordinances.

Section 2: From Devolution to the Grassroots

The chapters in section 2 explore the full range of state and local immigration policy activism. First are those policies arising from the 1996 laws and the devolution of immigration enforcement authority. Second are the policies arising from the grassroots, such as the Hazleton IIRA. And third are those local ordinances that are not specifically focused on immigration or immigrants but disproportionately affect immigrants (Varsanyi 2008b and this volume).

In chapter 5, political scientist and immigration policy researcher Michele Waslin provides us with in-depth historical and contemporary coverage of the devolution of immigration policing powers from the federal government to state and local governments, and the growing involvement of state and local law enforcement agencies in civil immigration enforcement. Where Rodríguez and her coauthors present us with a careful legal analysis of 287(g) agreements, Waslin addresses a different facet of this phenomenon, exploring the impacts of local civil immigration enforcement on both the police and immigrant communities. In addition to providing a comprehensive overview of the issue, she concludes her chapter with brief case studies of 287(g) agreements in action: in Prince William County, Virginia, and Maricopa County, Arizona.

Though the devolution of immigration enforcement has generated a fair share of controversy, grassroots immigration policies have been at the center of legal and political firestorms given the long-standing plenary power of the federal government and questions as to the propriety of state- and local-level immigration enforcement. In chapter 6, political scientists Marc Rosenblum

and Leo Gorman examine one of the most controversial of these local policies: the development of state-level employer sanction and worksite enforcement laws. The passage of the Immigration Reform and Control Act of 1986 (IRCA) created the first system of employer sanctions in the United States, designed to penalize employers who knowingly hired undocumented immigrants. However, a tiny loophole in the bill, stating that sub-federal governments had control over the business licenses of their employers, has led to a wave of states and cities trying to use this mechanism to enforce employer sanctions at the state and local level. In their chapter, Rosenblum and Gorman provide an overview of state-level migration laws, then examine the politics and implementation of state worksite enforcement laws in Arizona, Mississippi, and Illinois, with particular focus on laws requiring employers to use the federal government's evolving employer verification database, E-Verify. They conclude by weighing the pros and cons of state immigration enforcement.

Localities have also developed ordinances that are not, at face value, about policing immigrants, but which *indirectly* impact the lives of (undocumented) immigrants in their jurisdictions, a strategy that I, as a geographer and migration scholar, call "immigration policing through the back door" or "immigration policing by proxy." In chapter 7, I provide an overview of these grassroots policies, focusing specifically on land use and public space ordinances designed to regulate and manage day labor markets and day laborers, who by the nature of their work are highly visible and have become the focus of anti-immigrant efforts throughout the United States. I conclude my chapter with a brief look at the strategies developed and employed by three city governments in the Phoenix metro area to appease community tensions and manage their growing day labor markets.

Section 3: Tracing the Evolution of Local Policy Activism

The chapters in section 3 open a window onto the evolution of immigration politics in four "new destination" locales: Prince William County, Virginia; Phoenix, Arizona; Hazleton, Pennsylvania; and Charlotte, North Carolina.¹⁵ Though the media frequently paint a simple "us versus them" portrait of local immigration policy activism, the authors in this section take pains to emphasize the varying roles of different actors in these debates. They stress the centrality of rapid demographic change in the evolution of local immigration policy activism and note that certain local actors, particularly the

15. North Carolina and Pennsylvania are the states in which the largest number of anti-immigrant local ordinances were passed in 2005 and 2006 (Nguyen n.d.).

business and government elite, benefit greatly from economic development and population growth, whereas other local actors are more readily threatened by rapid demographic change and stress the local costs—real and perceived—of immigration.

One of the most prominent recent cases of local anti-immigration policy activism can be found in Hazleton, Pennsylvania, where in the summer of 2006 the city government passed one of the first IIRAs designed to sanction local employers and landlords for hiring and renting to undocumented immigrants. Sociologists Ben Fleury-Steiner and Jamie Longazel do not explore the ordinance itself. Rather, the authors trace the political and economic reasons for which Latino immigrants have moved to Hazleton in increasing numbers over the past decades. Specifically, they follow the economic development strategies pursued by the city's community development organization, CAN DO, which has been more recently supported by pro-business state laws such as the Keystone Opportunity Zone Initiative. As Fleury-Steiner and Longazel recount, this economic development strategy has ultimately attracted large firms, such as Cargill Meat Solutions, with reputations for hiring low-wage and frequently undocumented labor. In their explanation, rapidly shifting demography may still be at the root of IIRAs, but these authors weave a careful political economic analysis that takes one step further back and explores the root causes of this demographic change.

In chapter 9, Owen Furueth and Heather Smith, both geographers, also track the evolution of immigration policy activism, this time in Charlotte, North Carolina, and its surrounding Mecklenburg County. They search out the origins of large-scale Latino migration to Charlotte back to the early 1980s and divide the ensuing years into four phases: early Latino immigration (early 1980s–early 1990s); early immigration maturity (mid-1990s–2000); mature and sustained immigration (post 2001); and the phase that brings us to the present day: Charlotte at an immigrant crossroads. As evidenced by their periodization, they draw direct connections between shifting demography and growing political tensions over immigrant settlement and integration. Furueth and Smith also highlight an important dynamic in the emergence of local immigration policy: the frequently contradictory pathways taken by central cities and their surrounding counties and towns, as evidenced in these authors' discussion of the divergent strategies pursued in Charlotte and surrounding Mecklenburg County.

The chapter by demographers Jill Wilson, Audrey Singer, and Brooke DeRenzis focuses on another locus of the "new destination" dynamic:

suburbs. Not only are immigrants increasingly settling outside of traditional immigration-receiving regions in the United States, they are also settling outside of central cities in suburban and exurban developments, where jobs may be plentiful and costs lower (Singer, Hardwick, and Brettell 2008). As with Hazleton, Pennsylvania, Prince William County, Virginia (a suburb of Washington, DC) has received considerable media attention for developing one of the most anti-immigrant, enforcement-oriented local strategies in the country. Wilson, Singer, and DeRenzi provide a careful analysis of rapid population growth, demographic shifts, and economic growth in the region, and make connections between these abrupt changes, involvement of local, regional, and national grassroots politics, and the evolution of anti-immigrant activism in the community.

As discussed by all the authors in this section, economic development policies play a central role in demographic change and population growth, which, in turn, have played a central role in the emergence of local immigration policy activism. However, how do immigration politics influence the “global city” aspirations of a local business and government elite? As political scientist and lawyer Doris Marie Provine discusses in her chapter, economic growth-oriented strategies in Phoenix and Vancouver have confronted markedly different political contexts. In Phoenix, local, state, and national politics are actively anti-immigrant, whereas the local, provincial, and federal governments of Vancouver, British Columbia, and Canada have long favored and promoted immigration and immigrant integration. Thus, undocumented immigration is relatively tolerated in Vancouver, while Phoenix city boosters face the challenges of one of the most anti-immigrant climates in the United States.

Section Four: Exploring Tensions at the Local Scale

Lastly, the chapters collected in section 4 offer fine-grained discursive and qualitative analyses of the politics surrounding the passage of anti-immigrant measures at the local level. As with the chapters in the preceding section, those in this closing section grapple with politics in several high-profile cases. Analysis of these cases is crucial for three reasons: they have received the majority of popular media coverage; they have been at the forefront of policy activism and have been emulated by localities across the nation; and in several instances they are the named defendants in legal cases currently making their way through the courts. Thus an understanding of these cases sheds valuable light on the broader phenomenon.