
In the Key of Aoki: Immigration Regionalism (*eco*)

John Shuford*

TABLE OF CONTENTS

INTRODUCTION — “INTRO”	1657
I. FIRST VERSE	1659
II. SECOND VERSE	1665
III. THIRD VERSE	1673

* Copyright ©2012 John Shuford. Director, Gonzaga University Institute for Hate Studies; Lecturer, Gonzaga University Department of Philosophy; Adjunct Professor, Gonzaga University School of Law. Thanks to my partner, Alex, for her keen editorial and intellectual contribution here and loving support always, our little daughter Juliana for her remarkable patience and good humor despite seeing only the back of my head much of this impossibly busy past year, and to my assistant SaeRom Konecky, for her excellent research and editorial support. I am forever grateful to the late Professor Keith Aoki, who passed away on April 26, 2011. I am a better person for having had opportunities to learn from and work with Keith as his student, mentee, colleague, co-author, and friend for more than a decade. I am also grateful to Dean Kevin Johnson, Keith's colleagues and students at the UC Davis School of Law (King Hall), and his many colleagues and friends elsewhere, especially Professors Steven W. Bender and Ibrahim Gassama, who collectively form a vibrant, caring, intellectual, and professional community committed to extending Keith's thought and advancing his unique contributions. I wish to thank the editorial staff at the UC Davis Law Review, as well as the administrative staff at King Hall, all of whom helped bring this Article to completion. Finally, I wish to thank Mona Aoki, for her gracious hospitality and encouraging efforts to help advance “immigration regionalism.” Mona helped gather, box, and ship books, articles, and papers that I used to complete this Article and two others in the past year that complete my work with Keith and extend his influence. The first is one I co-authored with Keith Aoki, Esmeralda Soria, and Emilio Camacho, titled *Pastures of Peonage: Tracing the Feedback Loop of Food through IP, GMOs, Trade, Immigration, and U.S. Agro-Maquilas*, 4 NORTHEASTERN U. L.J. (forthcoming 2012). The second is my article *The Tale of “the Tribe” and “the Company Town”: What We Can Learn About the Workings of Whiteness in the Pacific Northwest*, 90 OR. L. REV. (forthcoming 2012). *Tribe and Company Town*, which like the present Article is dedicated to Keith and influenced by our collaboration, was presented at *[Un]Bound by Law: The Keith Aoki Memorial Symposium and Celebration of Life* hosted by the University of Oregon's Wayne Morse Center for Law and Politics on October 1, 2011, and at the Gonzaga University School of Law's *Race and Criminal Justice in the West Conference* on September 24, 2011.

IV. FOURTH VERSE	1676
V. FIFTH VERSE.....	1685
MIDDLE EIGHT	1688
VI. SIXTH VERSE.....	1689
VII. SEVENTH VERSE.....	1692
CONCLUSION — “CODA/REPEAT AND FADE”	1697

INTRODUCTION — “INTRO”

In 2010, Keith Aoki and I coined the phrase “immigration regionalism” to describe a proposed innovation in immigration law and policy reform.¹ Not only was that article *our* first word on the topic of immigration regionalism, it was also, we believed, the first word on the topic within contemporary scholarship on immigration law and policy.² Our intention was that immigration regionalism would become *Immigration Regionalism* — a book-length articulation, argument, and analysis of the provocative idea — in hopes that others would take up, critique, expand, revise, and operationalize this notion, in other words: help to answer our query as to whether “immigration regionalism is an idea whose time has come.”³ Thus, without *Immigration Regionalism*, and without Keith, immigration regionalism necessarily remains incomplete.

Given Keith’s love of music, his talent and background as a musician, his distinctive collaborative style of riffing-and-jamming, and his prolific career forged by crossing genres and media,⁴ I regard

¹ See generally Keith Aoki & John Shuford, *Welcome to Amerizona — Immigrants Out!: Assessing “Dystopian Dreams” and “Usable Futures” of Immigration Reform, and Considering Whether “Immigration Regionalism” Is an Idea Whose Time Has Come*, 38 FORDHAM URB. L.J. 1 (2010) [hereinafter *Welcome to Amerizona*].

² *Id.*

³ *Id.*

⁴ See, e.g., KEITH AOKI ET AL., *BOUND BY LAW?: TALES FROM THE PUBLIC DOMAIN* (2006) [hereinafter *BOUND BY LAW?*]; KEITH AOKI, *SEED WARS: CASES AND MATERIALS ON INTELLECTUAL PROPERTY AND PLANT GENETIC RESOURCES* (2008) [hereinafter *SEED WARS*]; KEITH AOKI ET AL., *THEFT!: A HISTORY OF MUSIC FROM PLATO TO HIP HOP* (forthcoming 2012) [hereinafter *THEFT!*]; Keith Aoki, *Balancing Act: Reflections on Justice O’Connor’s Intellectual Property Jurisprudence*, 44 HOUS. L. REV. 965, 969 (2007) [hereinafter *Balancing Act*]; Keith Aoki, *Cities in (White) Flight: Space, Difference, and Complexity in LatCrit Theory*, 52 CLEV. ST. L. REV. 211, 211-12 (2005); Keith Aoki, *Distributive and Syncretic Motives in Intellectual Property Law (with Special Reference to Coercion, Agency, and Development)*, 40 UC DAVIS L. REV. 717, 719-25 (2007) [hereinafter *Distributive and Syncretic Motives*]; Keith Aoki, *Food Forethought: Intergenerational Equity and Global Food Supply — Past, Present and Future*, 2011 WISC. L. REV. 399, 401-03 (2011) [hereinafter *Food Forethought*]; Keith Aoki et al., *(In)visible Cities: Three Local Government Models and Immigration Regulation*, 10 OR. REV. INT’L L. 453, 456-61 (2008) [hereinafter *(In)visible Cities*]; Keith Aoki et al., *Pastures of Peonage: Tracing the Feedback Loop of Food through IP, GMOs, Trade, Immigration, and U.S. Agro-Maquilas*, 4 NORTHEASTERN U. L.J. (forthcoming May 2012) (manuscript at 3, on file with author) [hereinafter *Pastures of Peonage*]; Keith Aoki, *Pictures Within Pictures*, 36 OHIO N.U. L. REV. 805, 805 (2010) [hereinafter *Pictures Within Pictures*]; Keith Aoki, *Race, Space, and Place: The Relation Between Architectural Modernism, Post-Modernism, Urban Planning, and Gentrification*, 20 FORDHAM URB. L.J. 699, 700-03 (1993); Aoki & Shuford, *Welcome to Amerizona*, *supra* note 1, at 3-6; Keith Aoki, *The Yellow Pacific: Transnational Identities, Diasporic Racialization and the “Asian Century,”*

the status of our work on immigration regionalism like the first song of an unfinished album: *Immigration Regionalism*. Perhaps just as important as what we discussed is what we did *not* discuss before Keith passed away on April 26, 2011.⁵ Specifically, we had not written about these basic topics: *what is a region; how and why are regions defined and who defines them; what is regionalism; what is the connection between regions and regionalism; what meaning or influence might regionalism have in the context of immigration law and policy; and what might count as an immigration region*. I want to begin to address those topics here.

In paying my respects to the influence of Keith's work and thought, it feels right to continue with the focus of our collaboration and to reflect upon and share with others the distinctiveness of *how* Keith worked. How Keith thought through and worked out ideas with others was utterly refreshing, both professionally and personally speaking, and it is part of what so many of us dearly miss. With this Article, I mean to help bring our unfinished album nearer to completion. I do so here both by sharing the genesis and formation of immigration regionalism and by discussing and employing the methods by which we worked. Though I am not a musician, I am an enthusiast of one of Keith's instruments (bass guitar) and Keith's roles as a band member (as a bass player, among others). I use a song-structure framework as the organizational framework for this piece, both in homage to Keith and in keeping with our style of collaboration, and I utilize *eco* — the recalling of previously played notes, though softly and in a different octave⁶ — as I work to advance this half-written song toward a *coda* (repeat) and fade.⁷ While in this

44 UC DAVIS L. REV. 897, 900-02 (2011) [hereinafter *The Yellow Pacific*]; Kevin R. Johnson & Keith Aoki, *An Assessment of LatCrit Theory Ten Years After*, 83 IND. L.J. 1151, 1154-61 (2008) [hereinafter *An Assessment of LatCrit Theory*]; Kevin R. Johnson & Keith Aoki, *Reflections on Latinos and the Law: Cases and Materials: The Need for Focus in Critical Analysis*, 12 HARV. LATINO L. REV. 73, 73-77 (2009) (book review).

⁵ For a sample of the many moving announcements regarding Keith's passing on April 26, 2011, see, for example, Letter from Kevin R. Johnson, Dean, UC Davis School of Law, to the King Hall Community (Apr. 27, 2011), available at <http://www.law.ucdavis.edu/news/news.aspx?id=3263>; Alfred Brophy, *Keith Aoki, RIP*, FACULTY LOUNGE (Apr. 26, 2011), <http://www.thefacultyounge.org/2011/04/keith-aoki-rip.html>; *King Hall Community Mourns Professor Keith Aoki*, UC DAVIS SCH. L. (Apr. 27, 2011), <http://www.law.ucdavis.edu/news/news.aspx?id=3264>; *RIP, Keith Aoki*, PUB. DOMAIN (Apr. 27, 2011), <http://www.thepublicdomain.org/2011/04/27/rip-keith-aoki/>.

⁶ See *Glossary of Musical Terminology*, WIKIPEDIA, http://en.wikipedia.org/wiki/Glossary_of_musical_terminology (last visited Feb. 6, 2012) (defining "*eco*").

⁷ See *Conclusion (music)*, WIKIPEDIA, http://en.wikipedia.org/wiki/Conclusion_

Article I must move toward performing solo, my hope is that Keith's voice, as well as his thought, vision, and inspiration, remains resonant here and in any future work on immigration regionalism, whether as undertaken by this Author or any others.

I. FIRST VERSE

I had the good fortune to know Keith Aoki for twelve years, first as a mentor and professor, then as a colleague and coauthor. I always knew him to be a friend. Those who worked with Keith understood the joy of working with a rare genius — someone who was undeniably brilliant and prolific, yet utterly humble about it and just as happy to share the limelight or shine it on others. We also realized that any effort to match his scholarly productivity was futile. In the final year of his life, Keith co-authored a book and authored or co-authored five articles.⁸ Although I cannot speak to the topic of any other projects or plans Keith may have had in the works at the time of his passing, I can say that we had plans to co-author (along with Steven Bender) an article on the problem of hatred in the immigration debate and to move forward on *Immigration Regionalism*.

I began working with Keith by editing his casebook and commentary, *Seed Wars*,⁹ and several articles in intellectual property law and the wide realm of critical legal studies.¹⁰ On those projects, I observed first-hand his astounding breadth and depth of knowledge, his ability to see and make connections which others did not, and his unique knack for balancing creativity and critique. Later, I had the privilege of co-authoring three articles with him — each of which features a descriptive, provocative, and absurdly lengthy title — in the areas of U.S. immigration law and policy, state and local government, and economic globalization, respectively.¹¹ One of those articles, *Welcome to Amerizona*, has received some additional attention,¹² and I

⁸ AOKI ET AL., *THEFT!*, *supra* note 4; Aoki, *Food Forethought*, *supra* note 4; Aoki et al., *Pastures of Peonage*, *supra* note 4; Aoki, *Pictures Within Pictures*, *supra* note 4; Aoki & Shuford, *Welcome to Amerizona*, *supra* note 1; Aoki, *The Yellow Pacific*, *supra* note 4.

⁹ AOKI, *SEED WARS*, *supra* note 4.

¹⁰ Aoki, *Balancing Act*, *supra* note 4; Aoki, *Distributive and Syncretic Motives*, *supra* note 4; Johnson & Aoki, *An Assessment of LatCrit Theory*, *supra* note 4.

¹¹ See Aoki et al., *(In)visible Cities*, *supra* note 4; Aoki et al., *Pastures of Peonage*, *supra* note 4; Aoki & Shuford, *Welcome to Amerizona*, *supra* note 1.

¹² See Keith Aoki & John Shuford, *Welcome to Amerizona — Immigrants Out!*, 31 IMMIGR. NATIONALITY L. REV. 3 (2010), reprinting Aoki & Shuford, *Welcome to Amerizona*, *supra* note 1. Author has also been invited to publish a follow-up piece to

look upon that particular writing experience and result with special fondness, if not satisfaction.

Why not satisfaction? One reason why is that the very next summer, the state of Alabama tried to out-Amerizona Arizona when Alabama House Bill 56 took the place of Arizona Senate Bill 1070 as the new immigration law widely considered the toughest anti-immigration measure in the United States.¹³ Just like the previous summer, the legislation faced constitutional challenge from the Obama administration,¹⁴ and a host of civil rights challengers.¹⁵ Alabama did this even *after* federal courts granted a permanent injunction against the most constitutionally controversial aspects of Arizona S.B. 1070¹⁶

Welcome to Amerizona in City Square, a brand-new online publication of the *Fordham Urban Law Journal*. See FORDHAM URB. L.J. SIDEBAR, <http://urbanlawjournal.com/> (last visited May 10, 2012).

¹³ See Mark Guarino, *Anti-Illegal Immigration Bill Stokes Backlash in Alabama Fields*, CHRISTIAN SCI. MONITOR (Oct. 22, 2011), <http://www.csmonitor.com/USA/Politics/2011/1022/Anti-illegal-immigration-bill-stokes-backlash-in-Alabama-fields>; Patrik Jonsson, *Is Alabama Immigration Law Creating a "Humanitarian Crisis"?*, CHRISTIAN SCI. MONITOR (Oct. 6, 2011), <http://www.csmonitor.com/USA/2011/1006/Is-Alabama-immigration-law-creating-a-humanitarian-crisis>; Stacy Teicher Khadaroo, *Alabama Immigration Law Leaves Schools Gripped by Uncertainty*, CHRISTIAN SCI. MONITOR (Sept. 30, 2011), <http://www.csmonitor.com/USA/Education/2011/0930/Alabama-immigration-law-leaves-schools-gripped-by-uncertainty>; Maya, *Alabama Trying to Be Even More Anti-Immigrant than Arizona*, FEMINISTING (June 8, 2011), <http://feministing.com/2011/06/08/alabama-trying-to-be-even-more-anti-immigrant-than-arizona/>.

¹⁴ See Mark Guarino, *Immigration Law: Court Upholds Key Parts of Tough Alabama Law*, CHRISTIAN SCI. MONITOR (Sept. 28, 2011), <http://www.csmonitor.com/USA/Justice/2011/0928/Immigration-law-court-upholds-key-parts-of-tough-Alabama-law>; Patrik Jonsson, *Can the Obama Administration Stop Alabama's Immigration Law?*, CHRISTIAN SCI. MONITOR (Oct. 7, 2011), <http://www.csmonitor.com/USA/2011/1007/Can-the-Obama-administration-stop-Alabama-s-immigration-law>; Stacy Teicher Khadaroo, *Appeals Court Curtails Alabama Immigration Law, for Now*, CHRISTIAN SCI. MONITOR (Oct. 14, 2011), <http://www.csmonitor.com/USA/Justice/2011/1014/Appeals-court-curtails-Alabama-immigration-law-for-now>.

¹⁵ See Julianne Hing, *Profiling's Legal!: Court Upholds Alabama's Immigration Law*, COLORLINES (Sept. 29, 2011, 10:00 AM), http://colorlines.com/archives/2011/09/alabamas_anti-immigrant_hb_56_upheld.html [hereinafter *Profiling's Legal!*] (stating that the ACLU, the National Immigration Law Center, the Southern Poverty Law Center, the Hispanic Interest Coalition of Alabama, and others filed an emergency request with the 11th Circuit Court of Appeals to block those provisions of Alabama House Bill 56 that Judge Blackburn failed to enjoin from going into effect while the decision is appealed).

¹⁶ See Julianne Hing, *Federal Judge Blocks Portions of SB 1070*, COLORLINES (July 28, 2010, 2:03 PM), http://colorlines.com/archives/2010/07/breaking_arizona_judge_blocks_portions_of_sb_1070.html; Julianne Hing, *Ninth Circuit Upholds Lower Court's Ruling Against Arizona's SB 1070*, COLORLINES (Apr. 11, 2011, 6:14 PM), http://colorlines.com/archives/2011/04/ninth_circuit_upholds_lower_courts_ruling_ag

and issued preliminary injunctions against state-level immigration regulatory schemes in Georgia,¹⁷ Indiana,¹⁸ and Utah.¹⁹ Of course, Alabama was just one among many of the “Amerizona” copycats, which just keep coming even though most fail either in the state legislatures or in the courts.²⁰ Although the U.S. Department of Justice was granted its request for preliminary injunction on sections 11(a),

ainst_arizonas_sb_1070.html.

¹⁷ H.R. RES. 87, 151st Gen. Assemb., Reg. Sess. (Ga. 2011); see TOM BAXTER, CTR. FOR AM. PROGRESS, HOW GEORGIA’S ANTI-IMMIGRATION LAW COULD HURT THE STATE’S (AND THE NATION’S) ECONOMY 5 (2011), available at http://www.americanprogress.org/issues/2011/10/pdf/georgia_immigration.pdf; Daniel Altschuler, *Georgia’s HB 87 Goes into Effect on July 1*, AMS. Q. (June 30, 2011), <http://www.americasquarterly.org/node/2624>; *Judge Blocks Key Parts of Georgia Immigration Law*, CNN (June 27, 2011, 5:18 PM), http://articles.cnn.com/2011-06-27/us/georgia.immigration.lawsuit_1_judge-blocks-key-parts-illegal-immigration-immigration-status; Laura Sullivan & Scott Bernarde, *Federal Judge Blocks Parts of Georgia Immigration Law*, NORCROSSPATCH (June 27, 2011), <http://oconee.patch.com/articles/federal-judge-blocks-parts-of-georgia-immigration-law>.

¹⁸ S. 590, 117th Gen. Assemb., 1st Reg. Sess. (Ind. 2011); see Susan Guyett, *Judge Blocks Parts of Indiana Immigrations Law*, REUTERS (June 24, 2011, 11:13 PM EDT), <http://www.reuters.com/article/2011/06/25/us-indiana-immigration-idUSTRE75O09R20110625>; Press Release, ACLU, Court Blocks Implementation of Discriminatory Anti-Immigrant Law in Indiana (June 24, 2011), available at <http://www.aclu.org/immigrants-rights/court-blocks-implementation-discriminatory-anti-immigrant-law-indiana>.

¹⁹ H.R.B. 497, 59th Leg., Gen. Sess. (Utah 2011); see Marjorie Cortez, *Utah Compact Helped Turn Anti-Immigration Tide in Arizona*, DESERET NEWS (Nov. 10, 2011, 11:56 AM) <http://www.deseretnews.com/article/705394066/Utah-Compact-helped-turn-anti-immigration-tide-in-Arizona.html> (using the recall runoff defeat of Arizona SB architect Russell Pearce as signal of shift in Southwestern states); Julianne Hing, *Judge Blocks Utah’s Immigration Laws*, COLORLINES (May 11, 2011, 7:56 AM EST), http://colorlines.com/archives/2011/05/judge_blocks_utahs_immigration_laws.html; David Montero, *Utah Compact Hailed for Shaping, Changing Immigration Debate*, SALT LAKE TRIB. (Nov. 11, 2011, 11:41 AM), <http://www.sltrib.com/sltrib/politics/52897845-90/immigration-utah-compact-reform.html.csp> (noting shift in immigration debate attributed to leadership of Mark Shurtleff); Jillian Rayfield, *Federal Judge Blocks Utah’s Immigration Enforcement Law*, TPM MUCKRAKER (May 11, 2011, 11:41 AM), http://tpmmuckraker.talkingpointsmemo.com/2011/05/federal_judge_blocks_utahs_arizona-style_immigrati.php; Ana Santoyo, *Utah Passes Anti-Immigrant Racial Profiling Law*, LIBERATION (Mar. 9, 2011), <http://pslweb.org/liberationnews/news/utah-passes-anti-immigrant.html>; UTAH COMPACT, <http://www.theutahcompact.com/> (last visited Apr. 25, 2012).

²⁰ See, e.g., S.B. 20, 2011 Gen. Assemb., 119th Sess. (S.C. 2011); Terry Frieden, *U.S. Sues South Carolina over Immigration Law*, CNN (Oct. 31, 2011), http://articles.cnn.com/2011-10-31/politics/politics_south-carolina-immigration-suit_1_national-immigration-law-center-immigration-related-laws-karen-tumlin; see also, e.g., Seth Freed Wessler, *Arizona SB 1070 Copycats Fall Flat in Most State Legislatures*, COLORLINES (Mar. 31, 2011, 12:37 PM EST), http://colorlines.com/archives/2011/03/arizona_sb_1070_copycats_fall_flat_in_most_state_legislatures.html.

13, 16, and 17 of Alabama House Bill 56, its request for preliminary injunction on sections 10, 12(a), 18, 27, 28, and 30 were denied.²¹ Furthermore, Alabama succeeded where Arizona and three other states have previously failed: it crafted legislation that, thus far withstanding constitutional scrutiny, gives state, county, and local law enforcement officers the “right to question and detain anyone they suspect may be an undocumented immigrant.”²² Were Keith with us today, given his quick wit, sense of irony, love of a catchy title, and search-engine-like recall of popular culture and music history, I am sure that he would have a heyday with House Bill 56 and its conflation of immigration status and suspicion of criminality. I imagine him covering the Lynyrd Skynyrd classic with new words and naming it something like “Big House Alabama.”²³ Sometimes mockery — or at least unflattering mimicry — is the best response to absurdity.

Keith was an exceptionally creative, artistically gifted person, especially in the realm of music. He produced probing law review articles and vivid educational comic books on popular music and intellectual property, including intellectual property law issues in and influences on musical history.²⁴ He approached this work with a musician’s sensibilities: riffing, paying homage, and layering compositions with the counter-melodic texture of alternative voices lending ironic perspective. Indeed, many of Keith’s intellectual sensibilities seemed to come from his love of music, his keen sense for irony, and his great musical facility. Keith was adept in many genres and styles, including his work on guitar and violin as a member of Chameleons, the 1980s New York City-based rock band.²⁵ Much like Keith himself, other members of Chameleons were gifted artists across multiple media,²⁶ and much like Keith’s academic career, Chameleons’ style defied easy categorization.²⁷ Later, when University of Oregon

²¹ United States v. Alabama, No. 2:11-CV-2746-SLB (N.D. Ala. Sept. 28, 2011).

²² Hing, *Profiling’s Legal*, *supra* note 15.

²³ See AOKI ET AL., *THEFT!*, *supra* note 4.

²⁴ See, e.g., AOKI ET AL., *BOUND BY LAW?*, *supra* note 4; AOKI ET AL., *THEFT!*, *supra* note 4; Aoki, *Distributive and Syncretic Motives*, *supra* note 4, at 719.

²⁵ See *Chameleons*, ROBERT HUOT, <http://www.roberthuot.com/chameleons.htm> (last visited Feb. 6, 2011).

²⁶ For example, Chameleons vocalist Bob Huot (also trumpet and percussion) is a painter, writer, and independent filmmaker. See *Biography*, ROBERT HUOT, <http://www.roberthuot.com/bio/index.htm> (last visited Feb. 6, 2011).

²⁷ The group’s tracks like “Delorean” infuse elements of lyrical camp in glam rock and new wave settings to comment on then-current events and popular culture, while the absurd lyrics of “Betty Jean” send-up of lounge-lizard torch songs.

law faculty and alumni formed the Garden Weasels,²⁸ Keith played the bass guitar (and later resumed on the violin). “I think we had too many guitar players,” says Steven Bender, the group’s conga player, and so Keith being so gifted, so utterly free of egotism, and so keen to be part of something larger and make it better in any way he could, slid over to the bass and locked down the groove. Make no mistake: Keith was no journeyman. He was so talented, in fact, that one night he stood in as Chuck Berry’s bass player.²⁹ With no time for rehearsal, the King of Rock and Roll simply expected the band to know his music and keep up.³⁰

In musical and other creative endeavors, I love to listen to great talents “talk shop,” discuss their influences, and share how they see the world. It helps me to understand their particular brilliance as well as genius and connections across domains. Over the years, my appreciation for great bass players, in particular, has led me to read, listen, and learn quite a bit about matters of technique, style, and craft, as well as dispositions and virtue among the bass-minded. Keith’s band-mates and listeners over the years will confirm that Keith knew when and how to lock down the groove, lay down a memorable lick, hold down a twelve-bar blues walking bass line, and keep a band together both in the moment of performance and off-stage. I recognized these qualities of greatness in Keith, not only as a musician but also as these traits of his transcended domains and indeed shaped his approach to scholarly collaboration.

²⁸ Since their formation in the 1990s, the Garden Weasels have had an elastic and evolving lineup, including University of Oregon law faculty, former faculty, students, and alumni. Unlike many bands, the changes in personnel over two decades were not a result of ego clashes, differences in artistic style, or money feuds. Rather, they reflect the nature of legal education and the legal profession. Garden Weasel members include Carl Bjerre (tenor saxophone), Keith Aoki (bass guitar and electric violin), Steven Bender (congas and percussion), Tom Lininger (keyboards and bass guitar), Pat Melendy (drums), Mike Axline (guitar and background vocals), Devon Spickard (lead vocals and guitar), Tony Rosta (lead guitar), Garrett Epps (occasional vocals), and others. The Garden Weasels’ “eclectic music selection range(s) from covers of classic rock, soul, and blues to original tunes, some of them written and sung by Keith.” See Univ. of Or. Sch. of Law, Program for the Keith Aoki Memorial Symposium and Celebration of Life: (un)Bound by Law (Oct. 1, 2011) (on file with author) [hereinafter Memorial Symposium Program].

²⁹ The details of this performance have eluded confirmation, but the occurrence of the event has been confirmed by Steven Bender and Mona Aoki. See Email from Steven Bender, Professor of Law, Seattle Univ. Sch. of Law, to Author (Apr. 25, 2012, 11:20 AM) (on file with author).

³⁰ See *id.*

When I first started to get to know Keith, in a roundabout way over beers at a favorite Eugene pub, we talked about how and why we work with others creatively, and what each of us appreciates about the experience. For Keith, of course, music was one of those creative collaborative expressions. He told me how much he enjoyed being part of a band, communicating without talking, creating without stricture, and contributing in the moment to something larger than the sum of its parts. As I observed Keith's work with others, and then experienced it first-hand, I recognized and appreciated in him the talents and traits of a great bass player; one of which was his desire and ability to help and let others shine. For each of us who ever had the pleasure of working with him, we know that he made us sound, appear, and perform better than we were, and in the process helped us become better too.

Keith's musical orientation also shaped *his* scholarly collaboration in other ways. In working with Keith, the processes of coming up with the ideas for articles, or even a book, and hashing out the details, was like riffing off those whom we admired and who inspired us. Working through arguments and lines of analysis was like finding a unique melody or a groove with a hook, and then jamming together to work it into a composition layered with substance and surprise. Even the process of deciding to work together, and what we would work on, was a bit like going over to a friend's garage on a Friday night to jam over beers. Yet, in this seemingly impromptu approach to scholarly collaboration, fueled by Keith's incongruous humility,³¹ lay both methodology and norm: *Bring in other voices, help them to improve and let them shine. Respect and appreciate creativity, talent, and contribution. Treat part-players, soloists, session players, and longtime collaborators alike as vital both to piece and to performance. Trust, and enjoy, the creative process — let it be, let it emerge, and let it flow.*

(CHORUS)

The Congress shall have the power [t]o regulate
Commerce with foreign Nations . . .³²

³¹ I say "incongruous" here to note how unusual it is to encounter someone who is undeniably accomplished and obviously brilliant yet forever unassuming and unpretentious. Others routinely comment on this unique combination of character traits. See, e.g., Memorial Symposium Program, *supra* note 28 ("He is remembered as humble, brilliant, kind, thoughtful, profound, inspirational and energetic.").

³² U.S. CONST. art. I, § 8, cl. 1, 3.

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.³³

. . . nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.³⁴

II. SECOND VERSE

It was on a Friday night, after each of us had left Eugene — Keith for Davis and I for Spokane — that Keith called me and asked, seemingly out of nowhere, “Hey John, do you want to write a book together on immigration?”

Keith had this conversational way of dropping in life-altering questions and comments, almost as in passing. This had the interesting effect of making it *essential* to listen to Keith carefully — something always worth doing, by the way — precisely because he so often spoke as if what he had to say was of no greater significance than the contents of the breakfast menu at Brail’s, a favorite coffee shop and breakfast counter in Eugene. Though we were already co-authoring *(In)Visible Cities*, I was flattered — floored, really — by Keith’s invitation, especially because he approached it in the spirit of *asking* about working with *me* as well as *inviting* me to work with him. Yet, as I said before, an incongruous humility fueled Keith’s work-style, and so something as large as being invited to co-author a book with him could be presented so simply and engaged without pretense, just like picking up instruments, starting to play, and seeing what happens next. “Immigration regionalism” is the most significant result of our collaboration. It is significant in terms of the article in which we first presented the idea, approached it heuristically, and framed it as an innovative policy recommendation for immigration reform.³⁵ It is also significant in terms of its connective role across our three co-authored articles and the book project we outlined during a couple of in-person jam sessions in early April 2010.

³³ *Id.* art. VI, cl. 2.

³⁴ *Id.* amend. XIV, § 1.

³⁵ See Aoki & Shuford, *Welcome to Amerizona*, *supra* note 1, at 2.

A few words on the genesis and development of “immigration regionalism” are in order here. Just before we met that April, I had sent Keith a copy of Joel Kotkin’s book, *The Next Hundred Million: America in 2050*.³⁶ Keith, the expert in state and local government law with affinities for urbanism and urban planning, had previously expressed admiration for Kotkin’s book, *The City: A Global History*.³⁷ I expressed to Keith my appreciation for Kotkin’s newer work as conveying an important message to those not necessarily sympathetic to recent immigrants or inclined to view immigration as a positive economic, political, and cultural force. Beyond this, as someone who lives in what demographer Richard Benjamin calls a “whitopia”³⁸ (eastern Washington’s Spokane County) surrounded by what he calls “extreme whitopias”³⁹ (as located throughout the Inland Northwest) I appreciated Kotkin’s attention to small cities, suburbs, and entire regions. For example, Kotkin references the Inland Northwest’s Wenatchee Valley, which is located roughly equidistance between Washington’s two largest cities, Seattle and Spokane, in an area that most people do not immediately associate with social change due to the twin forces of immigration (much of which is tied to large-scale agribusiness)⁴⁰ and white amenity migration.⁴¹ Kotkin emphasized how new migration and settlement patterns were transforming many

³⁶ JOEL KOTKIN, *THE NEXT HUNDRED MILLION* (2010) [hereinafter *THE NEXT HUNDRED MILLION*].

³⁷ JOEL KOTKIN, *THE CITY: A GLOBAL HISTORY* (2005) [hereinafter *THE CITY*].

³⁸ RICHARD M. BENJAMIN, *SEARCHING FOR WHITOPIA: AN IMPROBABLE JOURNEY TO THE HEART OF WHITE AMERICA* 330 (2009). “Whitopian Counties” are defined as “at least 85% non-Hispanic white, with total population growth of at least 7% after 2000, and with more than two thirds (66%) of that growth coming from non-Hispanic whites.” *Id.*; see also *Whitopian County*, GOOGLE MAPS, <http://goo.gl/RNJ6w> (last visited Apr. 9, 2012).

³⁹ BENJAMIN, *supra* note 38, at 321-24. “Extreme Whitopias” are defined as “U.S. counties that are at least 90% non-Hispanic white; with total population growth of at least 10% after 2000; and with at least 75% of that growth coming from non-Hispanic whites.” *Id.*; see also *Extreme Whitopias*, GOOGLE MAPS, <http://goo.gl/rmznL> (last visited Apr. 9, 2012).

⁴⁰ Wenatchee is popularly known as “The Apple Capital of the World.” See *Wenatchee, Washington*, WIKIPEDIA, http://en.wikipedia.org/wiki/Wenatchee,_Washington (last visited Apr. 9, 2012). According to 2000 Census data, Wenatchee’s population is 21.5 percent Hispanic or Latino, nearly double the statewide Hispanic and Latino population in 2010 of 11.2 percent. According to 2010 Census data, the Hispanic or Latino population of Chelan County, where Wenatchee is located, is 25.8 percent. See *State & County QuickFacts: Chelan County, Washington*, U.S. CENSUS BUREAU, <http://quickfacts.census.gov/qfd/states/53/53007.html> (last visited Apr. 9, 2012).

⁴¹ KOTKIN, *THE NEXT HUNDRED MILLION*, *supra* note 36, at 122-23, 128.

areas, and transforming them for the better by contributing to economic, social, and cultural dynamism, civic and political participation, and revitalization.⁴²

As we talked, I noted that even within larger national and international geographic regions like the Pacific Northwest, there are smaller geographic regions, as well as nongeographic ones. Cascadia⁴³ (or Ecotopia,⁴⁴ in some circles) and the Inland Northwest⁴⁵ (or the Inland Empire,⁴⁶ as it is still sometimes called), for example, are sub-regions within a larger geographic region. Great variations exist both within and between those sub-regions — culturally, ideologically, politically, economically, imaginatively, ecologically, historically, industrially, religiously, and so on. Several large cities of these sub-regions (Vancouver, Seattle, and to a lesser extent Portland) have become increasingly, even intentionally, cosmopolitan⁴⁷ and comprise

⁴² *Id.* at 7-8.

⁴³ See *About Cascadia*, CASCADIA INDEPENDENCE PROJECT, <http://www.cascadianow.org/about-cascadia/> (last visited May 14, 2012); *Cascadia (Independence Movement)*, WIKIPEDIA, http://en.wikipedia.org/wiki/Cascadia_%28independence_movement%29 (last visited Apr. 9, 2012).

⁴⁴ See *Ecotopia*, WIKIPEDIA, http://en.wikipedia.org/wiki/Ecotopia#References_to_Ecotopia (last visited Apr. 9, 2012) (listing various references to Ecotopia).

⁴⁵ See *Inland Northwest*, WIKIPEDIA, http://en.wikipedia.org/wiki/Inland_northwest (last visited Apr. 9, 2012).

⁴⁶ *Id.*

⁴⁷ Some have argued that through the influences of urban planning, migration, economic development, political ideals, and cultural and lifestyle factors, the three major “Cascadian” cities are converging in self-conception and affiliation. *But see* Carl Abbot, *Crossing the Long Northern Border: Rhetoric and Reality in the Cascadian Region of Western North America*, in *PARALLEL DESTINIES: CANADIANS, AMERICANS, AND THE WESTERN FRONTIER* 213 (John M. Findlay & Ken Coates eds., 2002) (arguing that the three major cities, as east-west connectors, are economic competitors, rather than a north-south constellation).

[What remains is] a vision in which the three ‘Cascadian’ cities go their separate ways rather than converging into a regional supermetropolis. Vancouver is likely to continue its development as a cosmopolitan gateway city — a Miami of the West, or Sydney of the North. Seattle is realizing a future as a globally competitive production city — an Osaka or Houston for the twenty-first century. Portland is following with one foot in both the old and new economies as a service center for regional resource communities and a bit player on the global stage — Kansas City with container ships or San Jose with steelhead trout swimming in its suburban streams.

Id. at 213. For other useful accounts of Cascadian visions and the relations of its major metropolitan regions, see Carl Abbott, *Competing Cascadias: Imagining a Region over Four Decades*, (July 14, 2010) (unpublished manuscript), *available at* <http://theurbanwest.com/wp-content/uploads/2010/07/Competing-Cascadias.pdf>; *Cascadia Related Links*, MICROFREEDOM INDEX, <http://www.microfreedom.com/>

major metropolitan areas (Greater Vancouver, Seattle-Tacoma-Bellevue, and Portland-Vancouver-Beaverton-Salem). Seattle and Portland were considered rising or reemerging gateway cities for immigrants and refugees during the 1980s–2000s.⁴⁸ Meanwhile, other metropolitan areas, like Spokane, are not known as immigration gateways or immigrant destinations, and surrounding Inland Northwest areas include a mix of “whitopian” and “extreme whitopian” communities and metropolitan and rural areas, as well as entire counties, with larger than state-average Hispanic and Latina/o populations.⁴⁹ This is especially so where agricultural and livestock-based industries support communities, and vice versa.⁵⁰ All of those

cascadia.html (last visited December 20, 2011) (cataloguing historic and contemporary Cascadian nationalisms as separatist and secessionist activities); Hunter Wallace, *Northwest Homeland*, OCCIDENTAL DISSENT (March 8, 2010, 6:46 AM), <http://www.occidentaldissent.com/2010/03/08/northwest-homeland-2/> (discussing both the practical potential for, and the obstacles to, a contemporary white nationalist “Northwest Homeland” in the Cascadia region and the “Millions of White liberals [who] live in the Vancouver-Seattle-Portland corridor”).

⁴⁸ See Audrey Singer & Jill H. Wilson, *Refugee Resettlement in Metropolitan Areas*, MIGRATION INFO. SOURCE (Mar. 2007), <http://www.migrationinformation.org/Feature/display.cfm?id=585> (based on AUDREY SINGER & JILL H. WILSON, THE BROOKINGS INST., FROM “THERE” TO “HERE”: REFUGEE RESETTLEMENT IN METROPOLITAN AMERICA (2006), available at http://www.brookings.edu/metro/pubs/20060925_singer.pdf).

⁴⁹ There are 20 Washington counties in the Inland Northwest, including Spokane County, which has a Hispanic and Latino population that is smaller than the statewide percentage and a white population that is larger than the statewide percentage. Of the 19 other Central or Eastern Washington counties: five have Hispanic and Latino populations that exceed the statewide percentage and a white population smaller than the statewide percentage (Adams, Franklin, Grant, Okanogan, and Yakima); four have Hispanic and Latino populations that exceed the statewide percentage but white populations that are larger than the statewide percentage (Benton, Chelan, Douglas, Walla Walla); one has both an Hispanic and a non-Hispanic, white population that is smaller than the percentage statewide population; one has both a white population and a Hispanic and Latino population smaller than the statewide percentage (Ferry); and eight have Hispanic and Latino populations smaller than the statewide percentage and white populations that are larger than the statewide percentage (Asotin, Columbia, Garfield, Klickitat, Lincoln, Pend Oreille, Stevens, and Whitman). Meanwhile, all nine of Idaho’s Inland Northwest counties (Benewah, Bonner, Boundary, Clearwater, Kootenai, Latah, Lewis, Nez Perce, and Shoshone) have white populations that are larger than the statewide percentage and Hispanic and Latino populations that are significantly below the statewide percentage. See *State & County QuickFacts: Idaho County Selection Map*, U.S. CENSUS BUREAU, http://quickfacts.census.gov/qfd/maps/idaho_map.html (last visited Apr. 9, 2012); *State & County QuickFacts: Washington County Selection Map*, U.S. CENSUS BUREAU, http://quickfacts.census.gov/qfd/maps/washington_map.html (last visited Apr. 9, 2012).

⁵⁰ This includes Adams, Franklin, Grant, Okanogan, Yakima, Benton, Chelan,

varieties bear on migration and settlement patterns by citizens and noncitizens alike, on provision of public services and immigrant integration infrastructure, on needs and opportunities for immigrant labor, of experiences with and attitudes toward immigrants and immigration, and on views about state and local government roles in those contexts.⁵¹

As I spoke, I could almost see the gears turning behind Keith's eyes. I could also tell that he had come up with something exciting to him: "Why don't we focus the book on immigration regionalism?"

Again, one of those life-altering questions presented as plainly and without pretense as asking for more jam or a refill on coffee. Yet, of course, it made perfect sense. Beyond his aforementioned expertise and affinities, Keith was also widely read and respected for his critical contributions to the areas of critical race theory, Asian-American jurisprudence, real and intellectual property, natural resource conservation and management, globalization and transnationalism, cultural geography, and immigration and nationality law.⁵²

Douglas, and Walla Walla counties. Benton County, for example, has seen an 83.6% change in Hispanic population and a 23% overall population change since the 2000 census. See Aoki et. al, *Pastures of Peonage*, *supra* note 4 ("However, a new pattern has emerged over the past twenty years, whereby immigrants enter both through the traditional gateway cities and states and then head to secondary and rural areas such as Arkansas, Colorado, Georgia, Idaho, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Carolina, Oklahoma, Pennsylvania, South Carolina, and South Dakota.").

⁵¹ See Rick Su, *Immigration as Urban Policy*, 38 *FORDHAM URB. L.J.* 363, 367 (2010) (discussing the impact immigration has had on the formation of major urban centers, "as constituents and public servants, their [immigrants'] involvement in local democracy has also shaped the political foundations of urban governance"); see also Aoki et. al, *Pastures of Peonage*, *supra* note 4 (noting that new Latina/o immigrants coming to rural U.S. *agro-maquilas* suffer from social distance from larger cities and host communities because of language barriers, low income, and low education levels).

⁵² See sources cited *supra* note 4; see, e.g., LUKE COLE & KEITH AOKI, *CASUAL LEGAL STUDIES: ART DURING LAW SCHOOL* (1989); Keith Aoki, *All the King's Horses and All the King's Men: Hurdles to Putting the Fragmented Metropolis Back Together Again? Statewide Land Use Planning, Portland Metro and Measure 37*, 21 *J.L. & POL.* 397 (2005); Keith Aoki, *Authors, Inventors, and Trademark Owners: Private Intellectual Property and the Public Domain* (pts. 1 & 2), 18 *COLUM-VLA J.L. & ARTS* 1, 191 (1993–1994); Keith Aoki, *Cluster VIII: One Hundred Light Years of Solitude: The Alternate Futures of LatCrit Theory*, 54 *RUTGERS L. REV.* 1031 (2002); Keith Aoki, *Conference: Malthus, Mendel, and Monsanto: Intellectual Property and the Law and Politics of Global Food Supply: An Introduction*, 19 *J. ENVTL. L. & LITIG.* 397 (2004); Keith Aoki, *Considering Multiple and Overlapping Sovereignties: Liberalism, Libertarianism, National Sovereignty, "Global" Intellectual Property, and the Internet*, 5 *IND. J. GLOBAL LEGAL STUD.* 443 (1998); Keith Aoki, *Critical Legal Studies, Asian Americans in U.S. Law & Culture, Neil Gotanda, and Me*, 4 *ASIAN L.J.* 19 (1997); Keith Aoki & Garrett Epps,

Dead Lines, Break Downs, & Troubling the Legal Subject or "Anything You Can Do, I Can Do Meta," 73 OR. L. REV. 551 (1994); Keith Aoki, *Direct Democracy, Racial Group Agency, and Residential Racial Segregation: Some Reflections on Radical and Plural Democracy*, 33 CAL. W. L. REV. 185 (1997); Keith Aoki, *Does Nothing Ever Change; Is Everything New?: Comments on the To Do Feminist Legal Theory Symposium*, 9 CARDOZO WOMEN'S L.J. 415 (2003); Keith Aoki, "Foreign-ness" & Asian American Identities: *Yellowface, World War II Propaganda, and Bifurcated Racial Stereotypes*, 4 UCLA ASIAN PAC. AM. L.J. 1 (1996); Keith Aoki, *Foreword: Innovation and the Information Environment: Interrogating the Entrepreneur*, 75 OR. L. REV. 1 (1996); Keith Aoki, "Free Seeds, Not Free Beer": *Participatory Plant Breeding, Open Source Seeds, and Acknowledging User Innovation in Agriculture*, 77 FORDHAM L. REV. 2275 (2009); Keith Aoki & Robert S. Chang, *Half-Full, Half-Empty?: Asian American Electoral "Presence" in 2008*, 86 DENV. U. L. REV. 565 (2009); Keith Aoki, *How the World Dreams Itself to be American: Reflections on the Relationship Between the Expanding Scope of Trademark Protection and Free Speech Norms*, 17 LOY. L.A. ENT. L.J. 523 (1997); Keith Aoki, *(Intellectual) Property and Sovereignty*, 48 STAN. L. REV. 1293 (1996); Keith Aoki & Margaret Chon, *Introduction: Critical Race Praxis and Legal Scholarship*, 5 MICH. J. RACE & L. 35 (1999); Keith Aoki, *Introduction: Language Is a Virus*, 53 U. MIAMI L. REV. 961 (1999); Keith Aoki, *Is Chan Still Missing? An Essay about the Film Snow Falling on Cedars and Representations of Asian Americans in U.S. Films*, 7 UCLA ASIAN PAC. AM. L.J. 30 (2001); Keith Aoki, *Neocolonialism, Anticommons Property, and Biopiracy in the (Not-So-Brave) New World Order of International Intellectual Property Protection*, 6 IND. J. GLOBAL LEGAL STUD. 11 (1998); Keith Aoki, *No Right to Own?: The Early Twentieth-Century "Alien Land Laws" as a Prelude to Internment*, 40 B.C. L. REV. 37 (1998); Keith Aoki, *P.I.E.R.R.E. and the Agents of R.E.A.S.O.N.*, 57 U. MIAMI L. REV. 743 (2003); Keith Aoki & Kennedy Luvai, *Reclaiming "Common Heritage" Treatment in the International Plant Genetic Resources Regime Complex*, 2007 MICH. ST. U. L. REV. 35 (2007); Keith Aoki et al., *(Re)presenting Representation*, 2 HARV. LATINO L. REV. 247 (1997); Keith Aoki, *The Scholarship of Reconstruction and the Politics of Backlash*, 81 IOWA L. REV. 1467 (1996); Keith Aoki, *Seeds of Dispute: Intellectual Property Rights and Agricultural Biodiversity*, 3 GOLDEN GATE U. ENVTL. L.J. 79 (2009); Keith Aoki, *Space Invaders: Critical Geography, the "Third World" in International Law, and Critical Race Theory*, 45 VILL. L. REV. 913 (2000); Keith Aoki, *The Stakes of Intellectual Property Law*, in *THE POLITICS OF LAW* 259 (David Kairys ed., 3d ed. 1998); Keith Aoki, *A Tale of Three Cities: Thoughts on Asian American Electoral and Political Power After 2000*, 8 UCLA ASIAN PAC. AM. L.J. 1 (2002); Keith Aoki et al., *Trading Spaces: Measure 37, MacPherson v. Department of Administrative Services, and Transferable Development Rights as a Path Out of Deadlock*, 20 J. ENVTL. L. & LITIG. 273 (2005); Keith Aoki, *Weeds, Seeds, & Deeds: Recent Skirmishes in the Seed Wars*, 11 CARDOZO J. INT'L & COMP. L. 247, (2003); Steven Bender, Sylvia R. Lazos Vargas & Keith Aoki, *Race and the California Recall: A Top Ten List of Ironies*, 16 BERKELEY LA RAZA L.J. 11 (2005); Steven Bender & Keith Aoki, *Seekin' the Cause: Social Justice Movements and LatCrit Community*, 81 OR. L. REV. 595 (2002); Robert S. Chang & Keith Aoki, *Centering the Immigrant in the Inter/National Imagination* (pts. 1 & 2), 85 CAL. L. REV. 1395 (1997); Ibrahim J. Gassama, Robert S. Chang & Keith Aoki, 76 OR. L. REV. 207 (1997); Kathay Feng, Keith Aoki & Brian Ikegami, *Voting Matters: APIAs, Latina/os and Post-2000 Redistricting in California*, 81 OR. L. REV. 849, (2002); Keith Aoki, *Commentary, Adrift in the Intertext: Authorship and Audience "Recoding" Rights — Comment on Robert H. Rotstein*, *Beyond Metaphor: Copyright Infringement and the Fiction of the Work*, 68 CHI.-KENT. L. REV. 805 (1993) (book review); Keith Aoki, *Privacy & Encryption*

Furthermore, Keith and I agreed on the most basic points: that under our Constitution, immigration regulation is a federal power,⁵³ and that, if American federal legal history on immigration is spotty at best,⁵⁴ state and local legal histories regarding immigration and immigrant regulation are far worse.⁵⁵ We also agreed that the dynamics of migration, including immigration and in-migration, directly connect the global with the local.⁵⁶ For citizen and noncitizen residents alike, the rubber really meets the road in our daily lives — at

Export Controls: A Crypto Trilogy (Bernstein, Karn, & Junger) (Sept. 1999; update Aug. 2000) (teaching model developed for the University of Oregon School of Law), available at <http://www.cyberspacelaw.org/aoki/>; Keith Aoki, *Six Degrees of "Me"*, 2 JURIST BOOKS-ON-LAW (Dec. 1999), <http://jurist.law.pitt.edu/lawbooks/revdec99.htm#Aoki> (book review).

⁵³ See *DeCanas v. Bica*, 424 U.S. 351, 354 (1976) (upholding penalties on employers for employing undocumented immigrants, but nonetheless reaffirming that the federal power over immigration was exclusive; “[p]ower to regulate immigration is unquestionably exclusively a federal power”); see also KEVIN JOHNSON ET AL., UNDERSTANDING IMMIGRATION LAW 105 (2009) (“Since 1875, the federal government has comprehensively regulated immigration.”); Hiroshi Motomura, *The Rights of Others: Legal Claims and Immigration Outside the Law*, 59 DUKE L.J. 1723, 1729 (2010) (“[T]oday’s prevailing view of immigration federalism [is] that federal immigration regulation displaces any state laws on the admission and expulsion of noncitizens”); Cristina M. Rodríguez, *The Significance of the Local in Immigration Regulation*, 106 MICH. L. REV. 567, 570 (2008) (stating that immigration control is the exclusive responsibility of the federal government and that this “exclusivity principle has become deeply entrenched in constitutional and political rhetoric”). Further questions arise around whether the federal power is express or implied and, if it is merely an implied power, whether it applies to the entire field of immigration regulation or only to specific conflicts of laws. See Complaint at 12-19, *United States v. Arizona*, 703 F. Supp. 2d 980 (D. Ariz. 2010) (No. CV 10-1413-PHX-SRB); see also Gabriel J. Chin et al., *A Legal Labyrinth: Issues Raised by Arizona Senate Bill 1070*, 25 GEO. IMMIGR. L.J. 47 (2010) (identifying the central legal issues raised by Senate Bill 1070).

⁵⁴ See Aoki & Shuford, *Welcome to Amerizona*, *supra* note 1, at 49 (“Since at least the 1860s forward, the only real exceptions to these histories are found in the period between the 1960s (including the Immigration and Nationality Act of 1965) and the 1980s as well as in specific cosmopolitan cities.” (footnotes omitted)).

⁵⁵ See Aoki et al., *(In)Visible Cities*, *supra* note 4, at 496-503 (providing overview of recent “illegal immigration” ordinances); *id.* at 513-21 (providing overview of history of state-level Official English and English-only laws); Aoki & Shuford, *Welcome to Amerizona*, *supra* note 1, at 17-25 (utilizing the construct of “Amerizona” to draw attention to contemporary anti-immigrant legislation and government activity at state and local levels).

⁵⁶ See Aoki et al., *(In)Visible Cities*, *supra* note 4, at 456 (“Yet, ‘[i]mmigration highlights [the] convergence of the transnational and the local,’ as one recent commentator helpfully points out, suggesting a more direct link between the local and the transnational through global migration and subnational governmental responses, thereby fueling and necessitating shifts in U.S. immigration policy.” (citing Rodríguez, *Local Immigration Regulation*, *supra* note 53, at 567)).

regional, state, and local levels.⁵⁷ We agreed that, because of linkage between economic factors (including trade agreements, economic development programs, transnational corporate influence, and industry migration) and labor conditions,⁵⁸ the real causes behind most U.S. immigration over the past few decades are economic and employment-driven.⁵⁹ Thus, the efforts to criminalize the millions of undocumented immigrants, to exclude and permanently disempower persons who entered without authorization, and to brand them rhetorically as “illegal immigrants,” criminalizes poverty and economic desperation as identified with labor from particular racial, ethnic, linguistic, and national populations⁶⁰ pulled northward and into the United States by economic destabilizations and labor shifts.⁶¹ Finally, we agreed that while Kotkin’s recent⁶² work was providing a valuable service to counterbalance anti-immigrant mindsets and the legislative measures that produced them, his faith in localism on immigration seemed a bit too sanguine — at least without some guiding legal and justice principles as well as strong federal

⁵⁷ *Of Bedsheets and Bison Grass Vodka*, *ECONOMIST*, Jan. 3, 2008, at 7 (“It is in schools, public housing and [hospitals and doctor’s offices] that natives come face to face with migrants and it is often at the local or state level, where responsibility for such services usually lies, that hostility . . . seems strongest.”).

⁵⁸ See Aoki & Shuford, *Pastures of Peonage*, *supra* note 4.

⁵⁹ See Aoki & Shuford, *Welcome to Amerizona*, *supra* note 1, at 38 (citing Kevin R. Johnson, *Ten Guiding Principles for Truly Comprehensive Immigration Reform: A Blueprint*, 55 *WAYNE L. REV.* 1599, 1619 (2010) [hereinafter *Blueprint for Comprehensive Immigration Reform*]) (“Furthermore, for Johnson, immigration reform must begin with recognition of the fundamentally economic and labor-market forces behind immigration today.”).

⁶⁰ Chris Simcox’s Minuteman Project and prominent media commentators like Lou Dobbs have scapegoated “illegal immigrants” and blamed them, with little or no supporting evidence, for problems such as skyrocketing health care and insurance costs, increasing crime and incarceration rates, deteriorating natural environs, the spread of infectious disease, and the erosion of America’s middle class. See William Arrocha, *Arizona’s Senate Bill 1070: Targeting the Other and Generating Discourses and Practices of Discrimination and Hate*, 9 *J. HATE STUD.* 65, 77 (2011) (discussing the criminalization of undocumented immigrants, especially Latina/o laborers, and incarceration in the for-profit American private prison system, particularly the Corrections Corporation of America); see also, e.g., Lou Dobbs, *Enforce the Immigration Laws We’ve Got*, *CNN.COM* (July 16, 2004, 22:04 GMT), <http://www.cnn.com/2004/US/07/16/broken.borders/index.html> (stating that the “direct net cost of illegal immigration . . . is now roughly \$45 billion annually” and that the costs have more than doubled since 1996); *About Us*, *MINUTEMAN CIV. DEF. CORPS*, <http://www.minutemanhq.com/hq/aboutus.php> (last visited Jan. 31, 2012) (implying that immigrants are “drug dealers, criminals and potential terrorists”).

⁶¹ See Aoki & Shuford, *Pastures of Peonage*, *supra* note 4.

⁶² KOTKIN, *THE NEXT HUNDRED MILLION*, *supra* note 36, at 194.

oversight.⁶³ For all of his focus on economic dynamism, Kotkin paid scant attention to the fundamentally economic reasons for most U.S. immigration, especially undocumented immigration, as emphasized by UC Davis School of Law Dean Kevin Johnson.⁶⁴ Indeed, Kotkin paid no particular attention to undocumented immigration⁶⁵ and, thus, to the need for principled immigration policy reform to address the lived experiences of harsh realities,⁶⁶ above any immigration-fueled opportunity for advancing American *sokojikara*.⁶⁷ These features we ultimately found in Dean Johnson's "blueprint for truly comprehensive immigration reform."⁶⁸

(CHORUS)

III. THIRD VERSE

We were given the occasion to say all of this, and much more. We received an invitation to contribute to a special issue of the *Fordham Urban Law Journal*,⁶⁹ which sought to introduce ideas for single innovations or reforms that could alter the contours of the immigration debate, perhaps even release deadlocks, and make possible new solutions on pressing legal, economic, political, and social concerns.⁷⁰ In *Welcome to Amerizona*, we created the phrase immigration regionalism⁷¹ to describe our proposed innovation in immigration policy, with formulation and implementation to occur on regional bases with strong federal oversight.⁷² We proposed: acting pursuant to the Commerce Clause, the Supremacy Clause, and foreign policy objectives, the federal government should create immigration

⁶³ See generally Johnson, *Blueprint for Comprehensive Immigration Reform*, *supra* note 59 (discussing ten principles that government must follow for proper immigration reform).

⁶⁴ See *id.* at 1602.

⁶⁵ See Aoki & Shuford, *Welcome to Amerizona*, *supra* note 1, at 48.

⁶⁶ See *id.*

⁶⁷ See KOTKIN, *THE NEXT HUNDRED MILLION*, *supra* note 36, at 8, 11, 23, 211.

⁶⁸ Johnson, *Blueprint for Comprehensive Immigration Reform*, *supra* note 59, at 1604; see Aoki & Shuford, *Welcome to Amerizona*, *supra* note 1, at 50-51.

⁶⁹ Aoki & Shuford, *Welcome to Amerizona*, *supra* note 1.

⁷⁰ See *Articles*, *FORDHAM URB. L.J.*, <http://law.fordham.edu/fordham-urban-law-journal/11410.htm> (last visited May 10, 2012) (listing articles published in Issue 1, Vol. 38 of the *Fordham Urban Law Journal*); see also Johnson, *Blueprint for Comprehensive Immigration Reform*, *supra* note 59.

⁷¹ Aoki & Shuford, *Welcome to Amerizona*, *supra* note 1, at 2.

⁷² *Id.* at 63 & n.252.

regions and a governance structure that incorporates representatives of state and local governments, as well as private sector and civil society groups.⁷³ Regional units would gather and assess data and formulate policy recommendations to address specific needs and problems in the areas of labor and employment, environmental protection, resource management, public services, and immigrant integration.⁷⁴

We provided a brief sketch of “immigration regionalism,” including the context and need for it, some of the purposes it could serve and the kinds of problems it could be calibrated to resolve or dissolve.⁷⁵ We pointed to some analogues of regional planning and administrative entities, and to some forward-looking regionalist thinking, in other contexts.⁷⁶ We identified some contemporary subnational legislative activities that would fall under its ambit, and some anticipated challenges, including legal, political, and administrative ones.⁷⁷ We offered our own assessment of prevailing visions for immigration reform as running the gamut from “dystopian dreams” to “usable futures.”⁷⁸ We also sought to show how a future-oriented (that is, nonreactionary) immigration reform could benefit from a Tocquevillian regard for and faith in localism (as articulated by Joel Kotkin)⁷⁹ as carefully balanced by a Madisonian federalism and concern for the danger of anti-immigrant majoritarian tyrannies (as articulated by Kevin Johnson).⁸⁰ We hoped that this new vision could help make inroads against the congressional deadlock and ongoing struggle between levels of government over immigration reform and regulatory authority regarding immigration and immigrants.⁸¹ We also hoped that it adequately, if briefly, acknowledged that different regions have different experiences of immigration and social change over recent decades, as well as different material realities and needs regarding immigrants (e.g., labor and workforce, access to social capital, integration).⁸²

We intended to introduce the idea, and outline it in brief, in order to invite others into to help refine it, criticize it, and, as our subtitle

⁷³ *Id.* at 64.

⁷⁴ *See id.* at 61-74.

⁷⁵ *Id.*

⁷⁶ *Id.* at 65-66, 70, 71-73.

⁷⁷ *Id.* at 73-74.

⁷⁸ *Id.* at 6-30, 35-61.

⁷⁹ *Id.* at 35-37, 40.

⁸⁰ *Id.* at 36-37, 61.

⁸¹ *Id.* at 67-69.

⁸² *Id.* at 69-70.

indicated, to consider “whether ‘immigration regionalism’ is an idea whose time has come.”⁸³ We also envisioned that “immigration regionalism” would provide the galvanizing, organizing framework for our previous and subsequent writing on immigration reform. Specifically, on the broader scope of subnational activity to regulate both immigrants (which may be permissible)⁸⁴ and immigration (which is constitutionally impermissible),⁸⁵ the various regional conditions that recent immigrants (including undocumented immigrants) face,⁸⁶ the labor, trade, and industry-driven changes that have drawn immigrants from and to specific regions,⁸⁷ the ambivalence of regional responses to immigration trends,⁸⁸ and warranted concerns about regionalism and regional planning in the immigration context.⁸⁹

In the First Verse here, I mentioned that although I am fond of this particular writing experience, I was left ultimately dissatisfied by the persistence of *Amerizona*-style measures and mindsets.⁹⁰ More importantly, the biggest reason for dissatisfaction, which my readers have surely surmised, is that I will miss completing this project with my friend and spending more time in our raucous, inspiring collaborative groove. In our effort to offer a first word, we knew that the preliminary work of defining and clarifying terms; identifying ambiguities regarding regions and regionalism; as well as justifying regionalism as a particularly appropriate solution in immigration policy reform would have to be jammed and composed later. It is time to address these matters as part of encouraging others to take up immigration regionalism via legal argument, policy analysis, and implementation planning. I do so by turning to some historical influences and contemporary allies in regionalist thought and planning, and an accompanying vision of the academic intellectual as a critical planner.

(CHORUS)

⁸³ *Id.* at 73, 75.

⁸⁴ *Id.* at 71-73.

⁸⁵ *Id.* at 74 nn.293-95.

⁸⁶ *Id.* at 66-67, 74.

⁸⁷ *Id.* at 54 n.193 (citing Johnson, *Blueprint for Comprehensive Immigration Reform*, *supra* note 59, at 1610).

⁸⁸ *Id.* at 68, 70-72.

⁸⁹ *Id.* at 73.

⁹⁰ *See supra* Part I.

IV. FOURTH VERSE

To speak generically of *regions* and *regionalism* is to speak imprecisely and court ambiguity.⁹¹ This is no different from generic references made to *community* or *area*; these too lack single, fixed, or static meanings. However, to introduce *regions* and *regionalism* into discussions of immigration policy reform without offering further definition, clarification, and demarcation could result in very real problems such as unclear meaning or application of law, mission creep, and overreach in administrative activities. So, here I want to frame and start to address two basic questions — *What is a region?* and *What is regionalism?* — as they bear on the specific context of immigration policy reform. To do this, let me begin by recounting a visit to the Sacramento Valley region as it shapes my efforts to advance immigration regionalism.

A beautiful celebration of Keith's life and enduring influence took place at the UC Davis School of Law one month after Keith passed away.⁹² The lecture hall was filled with hundreds of Keith's colleagues, former students, friends, family, and loved ones.⁹³ Even such a large gathering of intimates and admirers was but a single drop in the deep pool of people whose lives Keith had touched and shaped. Keith's spouse, Mona, invited me to visit while I was in Davis and to gather books, articles, and papers Keith had set aside for me to continue working on immigration regionalism. Among the materials I encountered were Lewis Mumford's *The City in History*⁹⁴ and an edited volume of Mumford's thought⁹⁵ with significant portions of *The Urban Prospect*,⁹⁶ including extended excerpts from *The Regional Framework of Civilization*⁹⁷ and *The Foundations of Eutopia*.⁹⁸

⁹¹ DOUGLAS REICHERT POWELL, CRITICAL REGIONALISM 4-5 (2007) ("The idea of region is in many ways categorically different from other conceptualizations of place, like home, community, city, state, and nation, in that region must refer not to a specific site but to a larger network of sites; region is always a relational term (even when it appears not to be).").

⁹² *Memorial Honors Professor Aoki*, UC DAVIS SCH. L. (May 31, 2011), <http://www.law.ucdavis.edu/news/news.aspx?id=3305>.

⁹³ Video: Keith Aoki Memorial at King Hall (UC Davis School of Law 2011), available at <http://goo.gl/TFFQT>.

⁹⁴ LEWIS MUMFORD, *THE CITY IN HISTORY* (1961) [hereinafter *THE CITY IN HISTORY*].

⁹⁵ LEWIS MUMFORD, *THE LEWIS MUMFORD READER* (Donald L. Miller ed., 1986) [hereinafter *THE LEWIS MUMFORD READER*].

⁹⁶ LEWIS MUMFORD, *THE URBAN PROSPECT* (1968) [hereinafter *THE URBAN PROSPECT*], as reprinted in *THE LEWIS MUMFORD READER*, *supra* note 95, at 155.

⁹⁷ See LEWIS MUMFORD, *The Regional Framework of Civilization*, [hereinafter *The Regional Framework of Civilization*] in *THE LEWIS MUMFORD READER*, *supra* note 95, at

Finding these materials led me to recall one of our conversations some years before, when Keith had said, “John, you’ve gotta read Mumford.” He had said it in that familiar, almost-conspiratorial soft tone that approached a whisper; yet, this time, he was introducing me to an intellectual giant who perhaps had become underappreciated and less known, at least to members of my generation. It reminded me of the way a jazz aficionado might start to introduce a newbie to a wider scope of musicians and recordings as the newcomer developed fuller appreciations of history, influence, subtlety, and talent within the genre. Indeed, I had always thought that “Lewis Mumford,” if not already belonging to one of the twentieth century’s great American intellects, would fit equally well as the name of a great jazz musician. In some ways, reading Mumford is like listening to a great jazz artist — someone who draws upon so many influences and redraws their relations and boundaries to invent something utterly new. Listening to the greats not only increases one’s appreciation, but also helps one understand something important about the entire endeavor, as well as its larger context and significance.

Of course, it made sense that Keith, as an expert in state and local government law, an enthusiast of urban history, and a denizen of visions of *topos* and *polis*, would know Mumford’s thought in general and his regionalism in particular. In addition to his work as an urban theorist, cultural critic, and philosopher of history, Mumford was, after all, a founding member of the Regional Planning Association of America (“RPAA”).⁹⁹ As such, he had much to say about regions and regionalism. However, I wondered what, and if so, how these thoughts might contribute to the project of “immigration regionalism.” For example, though Mumford discussed the urban history of immigration and in-migration in the half-century after the Civil War,¹⁰⁰ and the

207 (reprinting excerpts from Lewis Mumford, *Regions — to Live in*, 54 SURVEY GRAPHIC 151 (1925) [hereinafter *Regions — To Live In*], and Lewis Mumford, Regional Planning, Address at the University of Virginia Institute of Public Affairs Round Table: Regionalism (July 8, 1931)).

⁹⁸ See LEWIS MUMFORD, *The Foundations of Eutopia*, [hereinafter *The Foundations of Eutopia*] in THE LEWIS MUMFORD READER, *supra* note 95, at 217 (reprinting excerpts from LEWIS MUMFORD, *THE STORY OF UTOPIAS* ch. 12 (1922) (manuscript available in Special Collections at the University of Virginia Library)).

⁹⁹ Andrew A. Meyers, *Invisible Cities: Lewis Mumford, Thomas Adams, and the Invention of the Regional City, 1925-1929*, 27 BUS. & ECON. HIST. 292, 292 n.1 (1998) (“The Regional Planning Association of America was a loosely knit association of like-minded individuals from a variety of disciplines. As a prominent critic and secretary of the organization, Lewis Mumford became the RPAA’s chief theorist and polemicist.”).

¹⁰⁰ See LEWIS MUMFORD, *The Choices Ahead*, [hereinafter *The Choices Ahead*] in THE LEWIS MUMFORD READER, *supra* note 95, at 230-31 (reprinting excerpts from LEWIS

social and cultural conditions in urban and suburban areas amid “white flight” during the second half of the twentieth century,¹⁰¹ might his regionalism as connected to these historical contexts be too marked by the influences of time and place? How might it connect, or possibly conflict, with our critiques of “dystopian dreams” of immigration reform and our call for a “useable future” approach? Might it seem unrealistic or naïve when brought into today’s immigration debate — for example, as insufficiently empiricist and technocratic or as too ideologically identified with utopianism and progressive politics?

As it turns out, Mumford’s romantic regionalism and practical example of academic intellectualism provide a distinctly American touchstone for “critical regionalism,” the contemporary cross-disciplinary project that is frequently identified with Continental and postmodernist thinkers like Gilles Deleuze,¹⁰² Michel Foucault,¹⁰³ Kenneth Frampton,¹⁰⁴ Frederic Jameson,¹⁰⁵ Gayatri Spivak,¹⁰⁶ and others.¹⁰⁷ The phrase critical regionalism, coined three decades ago,¹⁰⁸

MUMFORD, *Postscript: The Choices Ahead*, in *THE URBAN PROSPECT*, *supra* note 96, at 227).

¹⁰¹ *Id.* at 235, 239 (discussing comparative juvenile delinquency among “Negroes” and “Puerto Ricans” in urban areas and whites in suburban areas).

¹⁰² E.g., GILLES DELEUZE, *THE FOLD: LEIBNIZ AND THE BAROQUE* (Tom Conley trans., Univ. of Minn. Press 1993); GILLES DELEUZE & FÉLIX GUATTARI, *KAFKA: TOWARD A MINOR LITERATURE* (Dana Polan trans., Univ. of Minn. Press 1986); GILLES DELEUZE & FÉLIX GUATTARI, *A THOUSAND PLATEAUS: CAPITALISM AND SCHIZOPHRENIA* (Brian Massumi trans., Univ. of Minn. Press 1987); GILLES DELEUZE & FÉLIX GUATTARI, *WHAT IS PHILOSOPHY?* (Hugh Tomlinson & Graham Burchell trans., Columbia Univ. Press 1991).

¹⁰³ E.g., MICHEL FOUCAULT, *LANGUAGE, COUNTER-MEMORY, PRACTICE* (Donald F. Bouchard ed., Donald F. Bouchard & Sherry Simon trans., Cornell Univ. Press 1993).

¹⁰⁴ E.g., KENNETH FRAMPTON, *Critical Regionalism: Modern Architecture and Cultural Identity*, in *MODERN ARCHITECTURE: A CRITICAL HISTORY* 314 ch. 5, 314-27 (4th ed. 2007); Kenneth Frampton, *Towards a Critical Regionalism: Six Points for an Architecture of Resistance*, in *POSTMODERN CULTURE* 16, 16-30 (Hal Foster ed., 1985).

¹⁰⁵ E.g., FREDRIC JAMESON, *THE POLITICAL UNCONSCIOUS* (1981); Fredric Jameson, *Postmodernism, or the Cultural Logic of Late Capitalism*, *NEW LEFT REV.*, July–Aug. 1984, at 53, reprinted in FREDRIC JAMESON, *POSTMODERNISM OR, THE CULTURAL LOGIC OF LATE CAPITALISM* 1 ch. 1 (1991); FREDRIC JAMESON, *THE SEEDS OF TIME* (1994).

¹⁰⁶ E.g., JUDITH BUTLER & GAYATRI CHAKRAVORTY SPIVAK, *WHO SINGS THE NATION-STATE?* 86-87 (2007).

¹⁰⁷ See *Bibliography & Resources*, CRITICAL-REGIONALISM.COM, <http://critical-regionalism.com/resources/> (last visited Apr. 9, 2012).

¹⁰⁸ See Alexander Tzonis & Liane Lefaivre, *The Grid and the Pathway: The Work of D. and S. Antonakakis*, in *ARCHITECTURE IN GREECE* 15 (1981) (Frampton is said to have coined the phrase, but also to have borrowed the concept from Tzonis and Lefaivre); Alexander Tzonis & Liane Lefaivre, *Lewis Mumford’s Regionalism*, *DESIGN BOOK REV.*,

is inspired by “Mumford’s penetrating theory of regionalism, which made him successful in identifying, interpreting, and predicting so many problems of the urban and natural environment.”¹⁰⁹ Lefavre and Tzonis brought Mumford’s romantic yet critical sensibilities about regions and regionalism into conversation with postmodernist cultural studies by tracing its historical overlap and intellectual affinities with Continental philosophy of history, culture, architecture, and aesthetics.¹¹⁰ Yet a particularly Americanist (and in some ways North Americanist) Mumford-influenced strand of critical regionalism has emerged in recent years, as meaningfully developed by authors such as Douglas Reichart Powell,¹¹¹ Peter Calthorpe, and William Fulton.¹¹² Like Mumford, this latter group of critical regionalists frequently combines such roles as author, critic, designer, planner, and architect.

I believe critical regionalism, and Mumford’s influence upon it, have much to contribute to immigration regionalism and provide kinship to legal scholars and others who are concerned with the kinds of issues that Keith and I sought to raise and address. Powell notes that critical regionalism, starts from a view of “regions . . . not as specific places . . . but [as] ways of making arguments about relationships among places, with an eye toward what those relationships should be.”¹¹³ This includes the relationships among places located within and between regions. Mumford once called the “re-animation and re-building of regions, as deliberate works of collective art, . . . the [greatest] task of politics for the opening generation.”¹¹⁴ Some have suggested that ours might well be situated and minded to be this “opening generation”¹¹⁵ and have pointed to an important contemporary shift in visioning and planning from “metropolitan regions” to “regional cities” — from multicenter constellations encompassed by natural spaces to agrarian areas and natural environs as integral interruptions, indeed sanctuaries from sprawl. This more recent shift seems to be in keeping with “Mumford’s almost life-long preoccupation, briefly outlined here, with ‘place,’ ‘the earth,’ and ‘the

Winter 1991, at 20, 20-25 (1991) [hereinafter *Lewis Mumford’s Regionalism*]; see also Peio Aguirre, *The State of Spain: Nationalism, Critical Regionalism, and Biennialization*, E-FLUX J., Jan.–Feb. 2011, http://worker01.e-flux.com/pdf/article_197.pdf.

¹⁰⁹ Lefavre & Tzonis, *Lewis Mumford’s Regionalism*, *supra* note 108; see also sources cited *supra* note 108.

¹¹⁰ See sources cited *supra* note 108.

¹¹¹ POWELL, *supra* note 91.

¹¹² PETER CALTHORPE & WILLIAM B. FULTON, *THE REGIONAL CITY* (2001).

¹¹³ POWELL, *supra* note 91, at 23.

¹¹⁴ LEWIS MUMFORD, *THE CULTURE OF CITIES* 348 (1970) (original 1938).

¹¹⁵ Robert Fishman, *Foreword* to CALTHORPE & FULTON, *supra* note 112, at xv, xxi.

land' as a 'home' rather than a means of 'profitable speculation and exploitation.'¹¹⁶

Mumford and the other "scholar-planners of the RPAA" may have been "earnest, flawed, [and] progressive," Powell allows, but they anticipated a "more reflexive brand of contingency" around notions of regions and regionalism as "social invention" that allowed for dynamic visions and democratic activities of regional planning.¹¹⁷ Both Mumford's brand of regionalism and the successor movement of critical regionalism are "rhetorical rather than descriptive" and put forth "visions and versions of new kinds of regions rather than merely outlining or underlining the defining features of already existing ones."¹¹⁸ In this way, and many others, Mumford and his critical regionalist inheritors may provide valuable intellectual resources to those who would seek to envision, critique, revise, plan, and operationalize immigration regionalism, as well as kindred souls — the academic intellectual as a public intellectual engaging not only in authorship, but also normative activities of planning, policy recommendation, and design.

Mumford offers "a view of region that is governed by an impulse not to segment and control human activity on the landscape but to allow for the emergence of a more democratic culture that affords collective, productive relationships among different kinds of landscapes."¹¹⁹

Mumford defines a region as "any geographical area that possesses a certain unity of climate, soil, vegetation, industry and culture."¹²⁰ While this definition of "region" and what counts as one leaves a "wide space . . . for interpretative agency, for the construction of region at the conjunction of a variety of material, economic, and cultural concerns . . .,"¹²¹ it is also worth noting the descriptive and normative work that Mumford's emphasis on "unity" does here.

For starters, unity is a criterion of similarity and differentiation; where one region ends and another begins depends upon what is practically possible within a given place. Unity can also be thought of holistically, relationally, and sustainably, as a way of speaking of "'place,' 'the earth,' and 'the land' as a 'home' rather than a means of 'profitable speculation and exploitation.'"¹²² Perhaps most

¹¹⁶ Tzonis & Lefaivre, *Lewis Mumford's Regionalism*, *supra* note 108, at 20-25.

¹¹⁷ POWELL, *supra* note 91, at 23.

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ MUMFORD, *Regions — to Live in*, *supra* note 97, at 151-52.

¹²¹ POWELL, *supra* note 91, at 24.

¹²² Tzonis & Lefaivre, *Lewis Mumford's Regionalism*, *supra* note 108, at 20-25.

importantly, Mumford's account of a region as "unity" offers a means to criticize the transnational economic conditions and arrangements that propel and sustain sprawl-based living and drive undocumented immigration to the United States, and the legal and cultural conditions that many millions of immigrants face once they are here. Mumford's admittedly bucolic romanticism of natural environs and rural farming communities as sanctuaries from sprawl stands in stark contrast to the intranational and transnational realities of large-scale agribusiness industries within protein and produce food-chain clusters.¹²³ Recall that for Mumford, ideally people are connected to land, industries work with (directly or indirectly, but not against and not to exploit) an area's elements of soil, vegetation and climate, and regional cultures reflect and shape these relations. Yet in the large-scale agribusiness industries that drive undocumented immigration, what is grown generally is sourced for other markets.¹²⁴ Soil and vegetation, and perhaps climate, are altered by, and for the sake of, industry.¹²⁵ Agricultural areas are not natural environs, and to the extent that these areas are transformed by heavy chemical inputs and the introduction of non-indigenous and even genetically-modified monocrops, they harm natural environs. Culture is fractured, whether by on-the-ground industrial practices and economic conditions that uproot farming communities and force migration (into urban centers, across national boundaries, into distant rural areas)¹²⁶ or by high-turnover industries and punitive anti-immigrant laws within the United States that prevent many noncitizen populations from becoming part of the unity, part of the *region*.¹²⁷ Those who work in agribusiness jobs that are closest to "the land" and "the earth" experience this proximity not as sanctuary but rather as a climate of occupational health hazard.¹²⁸

Mumford's regionalism offers a normatively "interconnective model," with place defined "according to its relationships to larger landscapes" and not as a posited "single autonomous [site] with an essential character" or an "objective description of natural and demographic features."¹²⁹ Regional planning is "not a purely empiricist and technocratic endeavor," but instead "an effort to devise

¹²³ See Aoki et al., *Pastures of Peonage*, *supra* note 4.

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ *Id.*

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ POWELL, *supra* note 91, at 24.

descriptive, interpretive tools that can not only describe but engage with the indeterminacy of this complex and variable network of relationships.”¹³⁰ These tools include “a language of possibility and an argument for work toward that vision of the best (or at least a better) possible version of that place.”¹³¹

With regional planning able to be “reconsidered . . . as a rhetoric, a set of language practices,”¹³² Mumford’s own eutopianism “may be reclaimed and reconceived as a cultural and political critique.”¹³³ From his intellectual orientations of urban theory, cultural criticism, and philosophy of history, Mumford maintained a belief in eutopianism and identified a societal need for it as a form of practical ideological thought. Mumford’s articulation of eutopianism parses translational and intentional ambivalence of *utopia*, which includes *outopia* (“no place”) and *eutopia* (“good place”); the opposite of eutopianism is “nothingness.”¹³⁴ For Mumford, eutopianism leads us and helps us to recognize “deeper organic defects in our civilization,”¹³⁵ as well as those human defects reflected in the conditions and living arrangements of “congested Metropolis,” “sprawling Suburbia,” and “congested Suburbia.”¹³⁶ Eutopianism is an intentional, not just aspirational, vision for reconceiving and rebuilding community on the scale of the “region-as-a-whole” and repurposing infrastructure for the good of the whole (and across time and locale) among so many competing interests and countervailing factors.¹³⁷ As a particular eutopian practice, Mumford’s regionalist vision and planning was attentive to national and local influences and sought to form “the social foundations for urban rebuilding on a regional scale in both old cities and new communities, by stimulating the regenerative and constructive processes already active in our civilization.”¹³⁸ The motivating question behind regional planning, Mumford argued, is “not how wide an area can be brought under the aegis of the metropolis, but how the population and civic facilities can be distributed so as to promote and stimulate a vivid, creative life

¹³⁰ *Id.*

¹³¹ *Id.*

¹³² *Id.*

¹³³ *Id.*

¹³⁴ MUMFORD, *The Foundations of Eutopia*, *supra* note 98, at 217-18.

¹³⁵ MUMFORD, *The Choices Ahead*, *supra* note 100, at 231.

¹³⁶ MUMFORD, *THE CITY IN HISTORY*, *supra* note 94, at 511.

¹³⁷ MUMFORD, *The Regional Framework of Civilization*, *supra* note 97, at 215.

¹³⁸ MUMFORD, *The Choices Ahead*, *supra* note 100, at 232.

throughout a whole region.”¹³⁹ The fundamental aim of the regionalist is to “plan such an area so that all its sites and resources, from forest to city, from highland to water level, may be soundly developed, and so that the population will be distributed so as to utilize, rather than to nullify its natural advantages.”¹⁴⁰ Thus, regionalism seeks the planned opposite of such conditions and problems as congested metropolitan centers, urban sprawl, and extractive economies.¹⁴¹

Mumford conceived of regional planning as “a mode of thinking and a method of procedure,” with “the regional plan itself . . . only a minor technical instrument in carrying out its aims.”¹⁴² However, regional planning differentiates itself from metropolitan planning in many aspects, including the former’s interest to “preserve the balance between the agricultural and primeval background and the urban environment” as includes “cities, villages, and permanent rural areas, as part of the regional complex,” its “respect of balanced environment and a settled mode of life,” its concern for the appropriate size and complexity of “the regional city,” and “its respect for new and emergent elements in our civilization.”¹⁴³ Perhaps most importantly, regional planning rests on a vision of “people, industry, and the land as a single unit,” though variously configured and comprised in each region.¹⁴⁴ This is what Mumford meant when he said that “[t]he region, then, . . . has a natural basis, and is a social fact.”¹⁴⁵

Critical regionalism has taken up threads of Mumford’s thought to shape its purposes and practices, and its notions of the academic intellectual as a professional planner. It receives from Mumford “a language of possibility, rooted in the landscapes of particular communities viewed in terms of their vital connectedness to other places.”¹⁴⁶ Contained in this language is the possibility to [revive] a progressive intellectual project and [reclaim] it for democratic cultural practice” and the possibility of critical regionalist cultural scholarship “not only to criticize but also to plan, to envision . . . the construction of texts that can envision more just and equitable landscapes.”¹⁴⁷ Even as we are “housed in institutions that often discourage public

¹³⁹ MUMFORD, *The Regional Framework of Civilization*, *supra* note 97, at 207-08.

¹⁴⁰ *Id.* at 208.

¹⁴¹ See CALTHORPE & FULTON, *supra* note 112, at 6.

¹⁴² MUMFORD, *The Regional Framework of Civilization*, *supra* note 97, at 209.

¹⁴³ *Id.* at 212-15.

¹⁴⁴ *Id.* at 208.

¹⁴⁵ *Id.* at 211.

¹⁴⁶ POWELL, *supra* note 91, at 25.

¹⁴⁷ *Id.*

participation because of the premium placed on expertise,” the role of the academic intellectual is “to engage in projects that could have implications for broader populations.”¹⁴⁸

As to potential concerns of whether a Mumford-influenced regionalism is unrealistic or naïve, it is worth noting Mumford’s own sobriety as to the real limits of planned intervention and reconstruction in social and environmental conditions. Mumford rejected the possibility that even the best intended and carried-out regional planning and revitalization projects could provide a panacea for complex social problems, whether those problems appeared in major cities or suburban areas.¹⁴⁹ Indeed, Mumford noted that “juvenile delinquency” was not primarily the result of “poverty and alienation,” because it “[broke] out equally in spacious upper-class, white American suburbs.”¹⁵⁰ Rather, such problems are “not just [of] the city but the whole body politic,” and should be framed and addressed as such.¹⁵¹ Expecting that regional planning projects can address the depth of widespread societal interests, concerns, and problems misunderstands both what is needed and what is possible. Putting forth regional planning visions and systems as cure-all, Mumford said, is “quackery.”¹⁵²

Let us extend these basic recognitions to the immigration regionalism context. No amount of infrastructure building or kind of change via regional planning for wide-scale immigrant integration (e.g., access to housing, schools, health and social services, political participation and civic engagement) could possibly address all the challenges involved, even if integration could take place against a static backdrop and not within the dynamics of uncontrollable, if not entirely unpredictable, social change. This is not an admission of regionalism’s weakness or ineffectiveness; it is an expression of how eutopianism focuses on what is practically possible without ceding ground to pessimism.

(CHORUS)

¹⁴⁸ *Id.*

¹⁴⁹ MUMFORD, *The Choices Ahead*, *supra* note 100, at 235, 239.

¹⁵⁰ *Id.* at 235.

¹⁵¹ *Id.*

¹⁵² *Id.*

V. FIFTH VERSE

This rhetorical understanding of “region” allows for, but also decenters, descriptive focus upon “natural and demographic features of a particular site,” insofar as it reminds us that such demarcations are not “objective,” but are instead just one way of “making arguments about relationships among places, with an eye toward what those relationships should be.”¹⁵³ Reference to region invokes notions of place or networks, whether physical or otherwise.¹⁵⁴ Indeed, by referring to regions, it is possible to mean, critique, and engage in planning activity — anything and everything from cities and metropolitan areas, to suburbs and exurbs, to micropolitan and rural areas, to states and cross-border international spaces, to intra- and interstate areas, and myriad relations within and between these.¹⁵⁵ It is possible to mean any of these kinds of spaces not only as legal, administrative, and/or geographic places but also in other ways too — for example, culturally, ideologically, economically, ecologically, historically, temporally, politically, and religiously.¹⁵⁶ In many cases, places that are designated regions or identified regionally can carry multiples of these meanings.¹⁵⁷ Examples include the Great Plains, the Inland Northwest, the Twin Cities, the Bible Belt, the Rust Belt, the Bay Area, Portland Metro, the Tennessee Valley Authority, the Deep South, the Napa Valley, the Silicon Valley, and so on.¹⁵⁸ Thus, insofar as a region is a designation of place or networks, and perhaps a specifically designated place or set of networks, it may carry multiple, even contested and contradictory, meanings at the same time or across time.

Meanwhile, “regionalism” may be thought of in terms of commitments and ways of relating to spaces through practices of designating place for specific purposes.¹⁵⁹ Let us bring forward from the previous section the discussion of critical regionalism and Mumford’s account of regionalism. Generically, regionalism can be

¹⁵³ POWELL, *supra* note 91, at 24.

¹⁵⁴ *See id.*

¹⁵⁵ *See id.*; *see also* CALTHORPE & FULTON, *supra* note 112, at 105.

¹⁵⁶ *See* POWELL, *supra* note 91 (“The planner’s work is not a purely empiricist and technocratic endeavor, then, but an effort to devise descriptive, interpretive tools that can not only describe but engage with the interdeterminacy of this complex and variable network of relationships.”).

¹⁵⁷ *See* POWELL, *supra* note 91, at 25.

¹⁵⁸ *See generally* *List of regions of the United States*, WIKIPEDIA, http://en.wikipedia.org/wiki/List_of_regions_of_the_United_States (last visited Mar. 17, 2012).

¹⁵⁹ *See* POWELL, *supra* note 91, at 24-25.

meant *normatively* to refer to ideology, values, or customs associated with a place, or the spatially connected cultivation of these; *descriptively* to identify mindset or material conditions of place; or *instrumentally* as a form of administrative system, structure, or approach.¹⁶⁰ Civic engagement (or civic pride or community spirit), as one expression of regionalism, may span normative, descriptive, and instrumental meanings.¹⁶¹ Robert Ezra Park famously noted that,

The city is, rather, a state of mind, a body of customs and traditions, and of the organized attitudes and sentiments that inhere in these customs and are transmitted with this tradition. The city is not, in other words, merely a physical mechanism and an artificial construction. It is involved in the vital processes of the people who compose it; it is a product of nature, and particularly of human nature.¹⁶²

Working from these premises and extended metaphors, urban historians and futurists have argued that the vitality and success of urban areas over time, *as but one form of region*, depends upon the cultivation of regionally shared identity and unifying consciousness.¹⁶³ Yet, to bring Mumford's insights to the fore once again, *metropolis* is but one expression of the city, and but one expression of regionalism, not necessarily the *sine qua non* of that form or those relationships. Indeed, insofar as metropolis is conducive to sprawl, Mumford regarded the metropolitan region as an unhealthy expression of regionalism, at least with regard to a range of economic, environmental, social, political, cultural, and experiential consequences and problems.¹⁶⁴ Some of his critical regionalist successors express similar concerns.¹⁶⁵

Global cities such as New York and Paris, or geographic areas like the Canadian Rockies and Napa Valley, thrive by cultivating, preserving, and exporting regional mindsets and identities. In addition to the more material aspects of regionalism, such as products that promote or advertise a specific regional identification, there are also less material but nonetheless carefully cultivated forms of welcome,

¹⁶⁰ See *supra* Part IV.

¹⁶¹ See POWELL, *supra* note 91, at 24-25.

¹⁶² Robert E. Park, *The City: Suggestions for Investigation of Human Behavior in the City Environment*, in *THE CITY* 1, 1 (Robert E. Park ed., 1925).

¹⁶³ See KOTKIN, *THE CITY*, *supra* note 37, at 157-58.

¹⁶⁴ See MUMFORD, *The Regional Framework of Civilization*, *supra* note 97, at 209-16.

¹⁶⁵ See, e.g., CALTHORPE & FULTON, *supra* note 112 (expressing concerns).

receptivity, and hospitality.¹⁶⁶ On the flipside, regionalism can also slip into provincialism, isolationism, lack of curiosity, or closed-mindedness (“this is the way we do things around here”), signaling a resistance to change.¹⁶⁷

There can be a dark side to regionalism, as well. As in the case of groups like the Arizona Minutemen¹⁶⁸ or the Montana Militiamen,¹⁶⁹ the development and preservation of regional identities and mindsets may rest upon or be used to defend practices of discrimination, even domestic terrorism or terrorizing specific populations, and exclusion from the regional community and access to its cultural, social, and public goods.¹⁷⁰ Similarly, the ascription of regional identities and mindsets may be used to justify discrimination and exclusion; an Appalachian is not a New Yorker.

Finally, regionalism and regional identifications may be contested even from within. Here I am thinking of the summer 2011 street riots in Vancouver¹⁷¹ and London (and elsewhere in England).¹⁷² Although the circumstances differentiate these regional occurrences, the rioting in both involved primarily local persons acting out largely against the symbols and mechanisms of local authority. Thus, the terms “region” and “regionalism” may call to mind economic relations, trade agreements, administrative districts, managerial approaches, discrete environs (natural and otherwise), denominational affiliations, political dynamics, race relations, class tensions, transportation systems, unrest in municipalities, cultural influences, contested histories, and more.

The preceding discussion of regions and regionalism, including their complexities, imprecisions, and other hard-to-harness dynamics, may make it seem that the introduction of regionalism and regional planning into immigration policy reform could create or lead to more

¹⁶⁶ See POWELL, *supra* note 91, at 26; see also CALTHORPE & FULTON, *supra* note 112, at 31-33.

¹⁶⁷ See POWELL, *supra* note 91, at 18.

¹⁶⁸ See MINUTEMAN PROJECT, <http://www.minutemanproject.com/> (last visited Apr. 9, 2012); *State Chapters — Arizona*, MINUTEMANHQ.COM, <http://www.minutemanhq.com/state/index.php?chapter=AZ> (last visited Apr. 9, 2012).

¹⁶⁹ See MILITIA MONT., <http://www.militiaofmontana.com/> (last visited Apr. 9, 2012).

¹⁷⁰ See, e.g., John Shuford, *The Tale of “The Tribe” and “The Company Town”: What We Can Learn About the Workings of Whiteness in the Pacific Northwest*, 90 OR. L. REV. (forthcoming 2012) (discussing such historical and contemporary dynamics in the Inland Northwest, Cascadia, and Pacific Northwest regions).

¹⁷¹ *Vancouver: Riots after Canucks’ Stanley Cup Defeat*, BBC NEWS (June 16, 2011), <http://www.bbc.co.uk/news/world-us-canada-13788491>.

¹⁷² *England Riots*, BBC NEWS, <http://www.bbc.co.uk/news/uk-14452097> (last visited Apr. 9, 2012).

problems than it solves. To this, I say the following: these dynamics and modes of thought already exist within the immigration reform debate but have slipped in the backdoor. Various regions feature, even encourage, different approaches to immigration regulation and immigrant regulation, ranging from the *Amerizona*-style anti-immigrant legislation¹⁷³ to state and local measures to integrate noncitizen residents and attract industries that rely upon undocumented labor.

The answer, Keith and I argued, is not to ignore the role and dynamics of regions and regionalism in immigration policy reform. Instead, as part of working toward wise, forward-looking solutions we must take seriously the place of regions and regionalism in this context with all their complexities and multiplicities.¹⁷⁴ This will include drawing upon and maximizing the progressive aspects of thinking, acting, and planning according to regions and regionalism while also working to contain and minimize the regressive aspects.

(CHORUS)

MIDDLE EIGHT

... [I]mmigration policy formulation and implementation [should] occur on a regional basis, federally created with strong federal oversight and without constitutional disruption of immigration federalism. Acting pursuant to the Commerce Clause, the Supremacy Clause, and foreign policy objectives, the federal government would create immigration regions and a governance structure that incorporates representatives of state and local governments, as well as private sector and civil society groups. The regional units would gather and assess data and formulate policy recommendations. In this way, immigration regionalism would split the difference between a purely federal approach and a subnational one... wherein legislators take dangerous, overreaching self-help measures. An “immigration regionalism” would also feature core commitments and principles and promote salutary outcomes that bring together what is best in... “usable futures” and

¹⁷³ Aoki & Shuford, *Welcome to Amerizona*, *supra* note 1, at 68, 70-72.

¹⁷⁴ *Id.* at 67-73. *See generally* Aoki et al., *(In)visible Cities*, *supra* note 4, at 492-524.

that resonate with recent important work on equitable regionalism and rethinking immigration federalism.¹⁷⁵

VI. SIXTH VERSE

Perhaps an even more compelling reason to pay positive attention and make coordinated efforts in the name of “immigration regionalism” is that daily life in the United States has become continually regionalized, and regional concepts and approaches have become increasingly important.¹⁷⁶ As two prophets of living in “the regional world,”¹⁷⁷ urban planners Peter Calthorpe and William Fulton contend, “the concept of the region” has become “fundamental” because most of us in the United States now live, work, shop, participate ecologically, and identify socially in complex, expansive regional networks.¹⁷⁸ These networks, which may be long-standing or emerging, link the local, transnational, and global, even in ways that may minimize, circumvent, bypass, or supersede the national level.¹⁷⁹

In their book *The Regional City: Planning for the End of Sprawl*, Calthorpe and Fulton focus on the increasing importance of three particular conceptions of region: the *economic region*, the *ecological region*, and the *social region*. By “regional cities,” Calthorpe and Fulton mean a marriage of central cities with smaller cities, nearby suburbs, and exurbs, much as Mumford thought of regionalism when, some eight decades earlier, he and his RPAA colleagues invoked the concept of “the regional city.”¹⁸⁰ Also in keeping with that earlier, pluralistic sense of regionalism as Mumford proffered and critical regionalists have extended, Calthorpe and Fulton also recognize the existence of other kinds of regions and regionalism, including superregions,¹⁸¹ single-state regions,¹⁸² and local-led regionalism.¹⁸³

¹⁷⁵ Aoki & Shuford, *Welcome to Amerizona*, *supra* note 1, at 5-6.

¹⁷⁶ See CALTHORPE & FULTON, *supra* note 112, at 17.

¹⁷⁷ *Id.* at 16 (citing MICHAEL STORPER, *THE REGIONAL WORLD* (1997)).

¹⁷⁸ See generally CALTHORPE & FULTON, *supra* note 112, at 17-34 (presenting the idea that contemporary living and lifestyle in North America is neither urban concentrated nor suburban/exurban sprawl, but rather a connecting of metropolitan, micropolitan, suburban, exurban, and rural areas in terms of economics, ecology, and social conditions).

¹⁷⁹ See *id.* at 16-21, 25 (discussing the local, regional, and global interconnections of economics and of food supply).

¹⁸⁰ See *id.* at 10.

¹⁸¹ *Id.* at 172-84 (New York, Chicago, and San Francisco).

¹⁸² *Id.* at 183-93 (Florida, Maryland, Minnesota).

¹⁸³ *Id.* at 107-58 (Portland, Seattle, Salt Lake City).

Economically speaking, “In today’s global economy, it is regions, not nations, that vie for economic dominance throughout the world.”¹⁸⁴ While economies have never stopped at political boundaries (be they local, state, or national), throughout the world today we see metropolitan, geographic, and resource- or industry-identified regions, such as Silicon Valley, take on central roles as “cohesive economic units that operate as important players in the world economy.”¹⁸⁵ The global impact and participation of regions and regionally based companies and industries stands as evidence that “the global economy operates best at the regional scale,”¹⁸⁶ due to the continued importance of two factors: proximity of workforce to places of work, residence, recreation, commercial infrastructure; and networking “among a large number of highly specialized people and businesses.”¹⁸⁷ These realizations have propelled regional planning for economic development and sustainability, including measures to address “local” economic problems and withstand regional effects from global ones in such areas as housing, transportation, and employment.¹⁸⁸

Ecologically, Calthorpe and Fulton point out that, as human beings, “we have come to realize that the region is also the basic unit in environmental terms.”¹⁸⁹ In reality, “[m]ost natural systems do not operate at a local level,” but rather at larger regional levels which span “watersheds, agricultural territory, and ecosystems that may cover many communities.”¹⁹⁰ Everything from air quality to water resources, wildlife and habitat conservation functions on a regional level.¹⁹¹ Some managerial and protective efforts, such as bioregional preserves, specifically reflect this recognition and the further insight that “the ecological region and the economic region are woven together so tightly that they form the basic fabric of the metropolitan region.”¹⁹² However, too little is currently being done to address the complex effects of certain regionally and cross-regionally concentrated practices — for example, large-scale agribusiness’s use of heavy chemical inputs and production of toxins creates webs of environmental degradation

¹⁸⁴ *Id.* at 16-17.

¹⁸⁵ *Id.* at 18.

¹⁸⁶ *Id.*

¹⁸⁷ *Id.*

¹⁸⁸ *Id.* at 12.

¹⁸⁹ *Id.* at 17.

¹⁹⁰ *Id.* at 22.

¹⁹¹ *Id.*

¹⁹² *Id.* at 26.

and devastation that radiate from locale to region and beyond.¹⁹³ To solve or prevent these cascading effects, we need planning, design, policymaking, and renewal activities that focus on harnessing the advantages of regional living, both economically and ecologically.¹⁹⁴ This includes developing coordinated regional thought and action on upstream/downstream relationships, both literally and metaphorically, within and across the economic and ecological domains.¹⁹⁵

Socially “we are beginning to set aside our outdated view of independent towns and suburbs and coming to see that the region is also a cohesive social unit.”¹⁹⁶ In America, “[M]ost of us are citizens of a region — a large and multifaceted metropolitan area encompassing hundreds of places that we would traditionally think of as distinct and separate ‘communities.’”¹⁹⁷ Perhaps even more profoundly, Calthorpe and Fulton point out, all the residents of a region “are bound together in a social compact with one another” that “can be equitable or inequitable, depending on circumstances, but is nevertheless always present — even if, to the residents of the region, it is not always obvious.”¹⁹⁸ Jim Crow laws, de facto discrimination, income class divisions as reinforced through zoning ordinances and geographic segregation, all indicate the existence of an inequitable compact.¹⁹⁹ Even so, “the need to deal with hard infrastructure on a regional basis has not changed,” and “[t]he region could hardly function, either socially or economically, if matters of regional concern were not dealt with on a regional scale in a fairly equitable manner,” both within the region and across regions.²⁰⁰ Where this is not the case, regions fail economically, socially, or on both fronts, as has been the case for many metropolitan cities and connected areas in the Great Lakes region.²⁰¹

¹⁹³ See Aoki et al., *Pastures of Peonage*, *supra* note 4.

¹⁹⁴ CALTHORPE & FULTON, *supra* note 112, at 18.

¹⁹⁵ *Id.*

¹⁹⁶ CALTHORPE & FULTON, *supra* note 112, at 17.

¹⁹⁷ *Id.* at 14.

¹⁹⁸ *Id.* at 26.

¹⁹⁹ *Id.*

²⁰⁰ *Id.* at 28.

²⁰¹ See Katharine Q. Seelye, *Detroit Census Confirms a Desertion Like No Other*, N.Y. TIMES (March 22, 2011), <http://www.nytimes.com/2011/03/23/us/23detroit.html> (the 2010 census showed that Detroit lost 25% of its population between 2000 and 2010, in part due to a large migration of black families out of the city to the suburbs, further contributing to its economic decline). See generally CALTHORPE & FULTON, *supra* note 112, at 29-30.

Social regionalism cannot be subordinated because Calthorpe and Fulton contend that national identification and global economies connect with and depend upon the existence, creation, or maintenance of regions and regional mindsets as well as material dynamics.²⁰² The question, then, is: *Are social regionalism and its relationships to nationalism and economic globalism generally beneficial or harmful?* Put a different way: *What steps can be taken to maximize the benefits and minimize the harms of social regionalism, especially for millions of undocumented immigrants who are, in fact, treated inequitably or are especially susceptible to such treatment?*

The point, as it applies to immigration policy reform and law enforcement, is both descriptive and normative. We now live in “the regional world.”²⁰³ Immigration, and immigration law and policy, shapes our regions economically, culturally, and civically.²⁰⁴ Immigration has shaped and reshaped the marriage of “people, industry, and land as a single unit”²⁰⁵ in many regions, including those where labor is often seasonal or undocumented and agribusiness and *agro-maquila* industries do ecological damage and alter economic and social conditions.²⁰⁶ Thus, it is time to think in terms of immigration regionalism. Descriptively, this includes *regions* of immigration, immigrant experience (including integration), experience of immigration, and state and local activity in immigrant regulation and the constitutionally questionable area of subnational immigration regulation.²⁰⁷ Normatively, as Keith and I previously suggested, a federally created administrative system with continuing strong federal oversight meshed with regionalist foci, participation, and planning is needed to address regionally specific aspects of immigration policy, including integration and immigrant regulation.

(CHORUS)

VII. SEVENTH VERSE

Immigration regionalism raises several important questions. Perhaps key among these is: *in terms of level and scope, which regions would*

²⁰² See CALTHORPE & FULTON, *supra* note 112, at 16-17.

²⁰³ *Id.* at 16.

²⁰⁴ See Su, *supra* note 51, at 364.

²⁰⁵ MUMFORD, *The Regional Framework of Civilization*, *supra* note 97, at 208.

²⁰⁶ See Aoki et al., *Pastures of Peonage*, *supra* note 4.

²⁰⁷ See generally Aoki & Shuford, *Welcome to Amerizona*, *supra* note 1, at 4-5; Su, *supra* note 51, at 365-66.

participate in, or be administratively created for, an immigration regionalism? In *Welcome to Amerizona*, we offered some preliminary suggestions as to how “immigration regionalism” might function.²⁰⁸ Here I want to offer some additional vision and elaboration. Individual states, interstate areas, and sub-state districts might function as federal immigration regions (“FIRs”) in a manner and structure similar to the federal court system. The FIR system would address regional, as well as sub- and cross-regional, issues at appropriate levels and scales with attention to which regions are involved and interested, both directly and indirectly. A federal regional system, with meaningful participatory roles for local, state, intra- and interstate entities in the public, private, and nonprofit sectors could be especially effective in resolving needs, managing dynamics, engaging opportunities, and solving problems.²⁰⁹

Regionally led activities in immigrant recruitment and integration may also be appropriate. Ideas for such activities are not novel in the North American context, as Canada utilizes and permits some measure of regional immigration planning and administration, especially as regards the recruitment and integration of noncitizens for labor and economic purposes in the areas of high-skill and low-skill labor, investment, and entrepreneurship.²¹⁰ Similarly, some U.S. cities and states are more intentionally immigrant-friendly and concerned with noncitizen integration, as expressed administratively through permission of noncitizen voting in certain types of local elections and provision of local resident ID cards that allow users to access a variety of goods and services in the public, private, and nonprofit sectors.²¹¹

As we attempt to envision the potential manifold of “immigration regionalism,” it is helpful to call to mind the ubiquity and diversity both of regions and of the uses of that concept with respect to

²⁰⁸ See *id.* at 63-74.

²⁰⁹ See Aoki & Shuford, *Welcome to Amerizona*, *supra* note 1, at 67-72.

²¹⁰ See generally IRENE BLOEMRAAD, *BECOMING A CITIZEN: INCORPORATING IMMIGRANTS AND REFUGEES IN THE UNITED STATES AND CANADA* (2006) (providing comparative analysis of Canadian and American governmental efforts, as receiving nations, to encourage newcomer incorporation and citizenship acquisition; emphasizing the beneficial role of official multiculturalism and governmental settlement and integration programs and other resources in the Canadian context toward civic and political participation, and noting the lack of similar resources and programs in the American context, and popular resistances to these kinds of measures, as contributing to difficulties in immigrant integration and social cohesion).

²¹¹ See Aoki et al., *(In)Visible Cities*, *supra* note 4, at 494; Aoki & Shuford, *Welcome to Amerizona*, *supra* note 1, at 72.

immigration and the regional presence of immigrants.²¹² As previously discussed in the Fifth Verse, rural areas, both intra- and interstate, are locales for large agribusiness operations.²¹³ These areas are also the operational locations for *agro-maquila* conglomerates.²¹⁴ The industries involved in farming, picking, and harvesting produce, and those of packing and processing dairy and food animals, all depend extensively on immigrant labor.²¹⁵ These industries attract and rely heavily upon undocumented workers to provide seasonal labor and to fill high-turnover jobs.²¹⁶ In many rural areas, the immigrant population percentage, especially Latina/o immigrants, is larger than that of the surrounding state(s) and any nearby metropolitan or micropolitan areas.²¹⁷ Assuming that workers and their families are not necessarily living on-site in what might pass today as a “company town” or “work camp,” these persons need safe, reliable, lawful transportation (e.g., to and from work) and access to various goods and services.²¹⁸ Ability to access these and other resources, both publicly and privately provided, comprise the basics of life, if not minimal luxuries too. Additionally, there are governmental mandates to gather, assess, and coordinate data and to monitor occupational health and safety as well as public safety.²¹⁹ Beyond these concerns lay public-private opportunities to match resources to labor needs and employer demands.²²⁰

Of course, metropolitan areas continue to primarily attract and provide residence and workplace to immigrant populations, whether in the area’s metropolis(es) or connected suburbs and exurbs.²²¹ Thus, insofar as the metropolis is a regional city, it should be a primary site for planning under “immigration regionalism.” Today, major metropolitan cities continue to serve as both “gateway” and “destination” cities. Some of which, like San Francisco, Los Angeles, and New York, are traditional, while others, like Portland,

²¹² See *supra* Part V; see also Aoki & Shuford, *Welcome to Amerizona*, *supra* note 1, at 5; Su, *supra* note 51, at 380-81.

²¹³ See Aoki et al., *Pastures of Peonage*, *supra* note 4.

²¹⁴ *Id.*

²¹⁵ *Id.*

²¹⁶ *Id.*

²¹⁷ *Id.*

²¹⁸ *Id.*

²¹⁹ See Aoki & Shuford, *Welcome to Amerizona*, *supra* note 1, at 67-72.

²²⁰ *Id.*

²²¹ See NATHAN P. WALTERS & EDWARD N. TREVELYAN, U.S. CENSUS BUREAU, ACSBR/10-16, THE NEWLY ARRIVED FOREIGN-BORN POPULATION OF THE UNITED STATES: 2010, at 3 (2011), available at <http://www.census.gov/prod/2011pubs/acsbr10-16.pdf>.

Minneapolis, and Charlotte, are newer ones.²²² At the same time, more and more suburbs and exurbs serve as “destinations.”²²³ Calthorpe and Fulton also note that in some neighborhoods within central cities, immigration has “breathed new life into formerly moribund neighborhoods” and that although “[m]any of these neighborhoods remain poor . . . they are on the rise, as population and economic activity increase for the first time in decades.”²²⁴ Indeed, this is true not only of central cities, but of many suburbs, exurbs, and micropolitan areas, particularly in areas that for the first time in decades are attracting a significant immigrant population or migrants from specific countries or regions of origin.²²⁵

Any of these types of municipalities may serve as “sanctuary cities” or a city that, whether by law or by practice, refuses to allow the use of municipal funds or other resources for enforcing federal immigration laws.²²⁶ It is also worth noting that a handful of states have themselves adopted “sanctuary” policies.²²⁷ Other states and some municipalities have adopted various anti-immigrant and immigration regulation laws, and “sanctuary cities” and anti-immigrant laws may exist simultaneously within a given state, municipality, or even the same metropolitan area.²²⁸ Immigration regionalism would provide a multijurisdictional forum for working through such tensions without

²²² See AUDREY SINGER, THE BROOKINGS INST., *THE RISE OF NEW IMMIGRANT GATEWAYS* (2005), available at http://www.brookings.edu/~media/Files/rc/reports/2004/02demographics_singer/20040301_gateways.pdf (identifying six types of major U.S. immigrant “gateways”).

²²³ See Audrey Singer et al., *Twenty-First Century Gateways: Immigrants in Suburban America*, MIGRATION INFO. SOURCE (Apr. 2008), <http://www.migrationinformation.org/Feature/display.cfm?ID=680> (based on TWENTY-FIRST CENTURY GATEWAYS (Audrey Singer et al. eds., 2008)).

²²⁴ CALTHORPE & FULTON, *supra* note 112, at 29.

²²⁵ See generally Charles Hirschman & Douglas S. Massey, *Places and Peoples: The New American Mosaic*, in *NEW FACES IN NEW PLACES* 1-21 (Douglas S. Massey ed., 2008) (analyzing the factors influencing the rise in the number of immigrants settling in towns outside of the traditional gateway cities and the corresponding reactions of the predominately white communities); A.G. Sulzberger, *Hispanics Reviving Faded Towns on the Plains*, N.Y. TIMES (Nov. 13, 2011), <http://www.nytimes.com/2011/11/14/us/as-small-towns-wither-on-plains-hispanics-come-to-the-rescue.html?pagewanted=all> (noting immigration “has breathed new life into the region” as white flight threatened the existence of some small towns on the Great Plains); Sabrina Tavernise & Robert Gebeloff, *Immigrants Make Paths to Suburbia, Not Cities*, N.Y. TIMES (Dec. 14, 2010), <http://www.nytimes.com/2010/12/15/us/15census.html> (showing that as service industry jobs shifted to the suburbs, high numbers of immigrants followed).

²²⁶ Aoki et al., *(In)Visible Cities*, *supra* note 4, at 492-95.

²²⁷ *Id.*

²²⁸ *Id.* at 492-503.

disrupting our current system of immigration federalism.²²⁹ It would move debate beyond the state power versus federal power question that has taken center stage with the Rehnquist Court's so-called "New Federalism."²³⁰

Furthermore, most regional cities face problems of imbalance, both within the region and across regions.²³¹ These include income disparities, transportation and commuting problems, disparate tax and revenue bases for public services, uneven population distributions (on the whole and according to factors such as race, language, and nationality), imbalanced employment opportunities, inconsistent access to resources (natural, financial, and institutional), variable local voting participation, imbalanced private sector investment, and so on.²³² All of these problems affect immigrants, are shaped by patterns of immigration as well as the degree of integration among noncitizen populations, and the challenges and opportunities around them occur, and develop, in regional web-like patterns.²³³ In response, there is a need for regionally coordinated policymaking and planning efforts.²³⁴ Regional coordination would help match resources to needs, facilitate emergent or current strategic advantages both within and across regions, and promote social capital acquisition and other aspects of newcomer integration.²³⁵

Another advantage of regionalism is that it encourages integrationist activities and inclusive mindsets. This can lead to the transformation of exclusionary regionalist and nationalist attitudes and mindsets held among established populations.²³⁶ Even when newcomer populations are not regarded as threats or treated as outsiders, their presence may nonetheless occasion participation in newer forms of white flight.²³⁷ Less lofty, though no less important, aims involve cultivating inclusive regional identities, and associated attitudes, ideologies, civic and cultural activities, and community programs.²³⁸ Much more can be

²²⁹ See Aoki & Shuford, *Welcome to Amerizona*, *supra* note 1, at 63.

²³⁰ See *id.* at 62, 64.

²³¹ See CALTHORPE & FULTON, *supra* note 112, at 29.

²³² See *id.* at 26-28, 38-40.

²³³ For examples of state, local, and regional responses to immigration trends and problems, real or perceived, and related subnational legislative and law enforcement efforts, see Aoki & Shuford, *Welcome to Amerizona*, *supra* note 1, at 18-23.

²³⁴ *Id.* at 63, 66-67.

²³⁵ *Id.* at 69-70.

²³⁶ See *id.* at 3.

²³⁷ BENJAMIN, *supra* note 38, at 14, 184-85.

²³⁸ See generally HIROSHI MOTOMURA, *Race, Belonging, and Transition*, [hereinafter *Race, Belonging, and Transition*] in AMERICANS IN WAITING 168 ch. 9 (2006) (discussing

done toward these aims, irrespective of the effects of white residential self-segregation into “whitopias” and “extreme whitopias.”²³⁹ If immigration is a bulwark of economic dynamism, political revitalization, and civic renewal, as urban futurists and immigration law scholars have sought to argue and demonstrate,²⁴⁰ then combining a focus on immigration reform with the centrality of economic, ecological, and social regionalism in American life could contribute powerfully to the cultivation of more inclusive, just, and equitable social spaces.

(CHORUS)

CONCLUSION — “CODA/REPEAT AND FADE”

In the spring of 2011, President Barack Obama continued his call for comprehensive immigration reform.²⁴¹ Keith and I had criticized President Obama’s summer 2010 speech that sought to locate comprehensive immigration reform as a top priority of his administration and counteract “Amerizona,” as nonetheless too heavily influenced by “dystopian dreams,” both in its ideological homage to “the New Colossus” and its embrace of Amerizona-style immigrant emnification, militarized borders, and invasive policing and technologies.²⁴² Now, as federal action toward reform remains piecemeal and halting, and as the national and regional economies remain unstable, it is unclear whether major federal action toward comprehensive reform will take place during President Obama’s first (perhaps last?) term in office. Within this moment of ongoing uncertainty, there exists need and opportunity to continue to discuss, develop, critique, and refine “immigration regionalism.”

While Keith had countless admirers of his work, thought, and style,²⁴³ Keith was also unabashed in his admiration for many senior and junior scholars, as well as other researchers, theorists, and

the impact discrimination based on racial and ethnic stereotypes can have on the efforts of immigrants to assimilate into American society, especially in a post-9/11 setting).

²³⁹ BENJAMIN, *supra* note 38, at 190-92.

²⁴⁰ See KOTKIN, *THE NEXT HUNDRED MILLION*, *supra* note 36, at 7-8; MOTOMURA, *Race, Belonging, and Transition*, *supra* note 238, at 169-70.

²⁴¹ See Tim Padgett, *Obama, Now the Warrior, Wants to Revive Immigration Reform*, TIME GLOBAL SPIN BLOG (May 6, 2011), <http://globalspin.blogs.time.com/2011/05/06/obama-now-the-warrior-wants-to-revive-immigration-reform/>.

²⁴² See Aoki & Shuford, *Welcome to Amerizona*, *supra* note 1, at 8-9, 16, 28-30.

²⁴³ See *supra* notes 5, 28, 92-93.

policymakers whom he regarded as contributing to the possibility of a “usable future”-oriented immigration reform. I hope that those whom Keith admired, and those who will come to know Keith’s work, thought, and style, will engage immigration regionalism. I also hope to broker conversation between critical regionalists, legal scholars, and others who may contribute to the immigration regionalism conversation.

To continue the musical metaphors that have run throughout this piece, immigration regionalism was not intended to remain a duet, let alone to become a solo endeavor. Maybe a new band will form, or perhaps a new album will be recorded. Could immigration regionalism become a genre-spanning new form? There is plenty of room for solos, duos, even ensemble pieces to help shape what immigration regionalism will be and how it might shape immigration reform at the levels of regional attention, planning, and administration. In echo of the question we put forth some months before Keith’s passing, the time for others to help work out “immigration regionalism” has come.