

# Race, Space, and Place: The Geography of Economic Development

AUDREY G. McFARLANE\*

## TABLE OF CONTENTS

I.	INTRODUCTION .....	296
II.	THE DEVELOPMENT CONCEPT.....	299
	A. <i>Understanding Development Through the Lens of International Development Critiques</i> .....	299
	B. <i>The Domestic Trilogy of Economic, Community, and Community Economic Development</i> .....	304
	C. <i>Development as a Post-Civil-Rights-Era Strategy</i> .....	310
	D. <i>Dissecting the Empowerment Zones Program's Attempt to Split the Difference Between Economic and Community Development</i> .....	313
III.	THE EMPOWERMENT ZONE CONCEPT.....	317
	A. <i>Empowerment Zones and Lessons from the Past</i> .....	317
	B. <i>Empowerment Zones and Enterprise Zones: From Hong Kong to Washington</i> .....	321
IV.	THE GHETTO AND THE GLOBAL CITY .....	327
	A. <i>Post-Industrial Cities and Economic Distress</i> .....	327
	B. <i>Globalization and the Changing Nature of Cities</i> .....	330
	C. <i>Impact of External Forces on the Central City</i> .....	333

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D.	<i>The Significance of Racially Neutral Criteria for Inner City Boundaries and Racialized Space</i> .....	337
E.	<i>Images of the Places that are Empowerment Zones: Segregation and Marginalization</i> .....	339
V.	THE INTERNAL CRITIQUE OF THE EMPOWERMENT ZONES PROGRAM .....	343
A.	<i>Job Essentialism and the Rhetoric of the Empowerment Zones Approach</i> .....	343
B.	<i>The Empowerment Zones Program's Reflection of New Federal Economic Development Policy: No Business Relocation to the Inner Cities Allowed</i> .....	348
VI.	CONCLUSION: THE GEOGRAPHY OF ECONOMIC DEVELOPMENT: ADDRESSING THE STRUCTURAL MARGINALIZATION OF THE INNER CITY .....	350

*Development occupies the centre of an incredibly powerful semantic constellation. There is nothing in modern mentality comparable to it as a force guiding thought and behaviour. At the same time, very few words are as feeble, as fragile and as incapable of giving substance and meaning to thought and behaviour as this one.<sup>1</sup>*

## I. INTRODUCTION

In 1993, Congress authorized a community and economic development program called The Empowerment Zone and Enterprise Cities Demonstration Program (“Empowerment Zones Program”) to create geographic zones within certain selected cities that would be eligible for special federal attention to alleviate pervasive conditions of poverty and economic distress within the cities.<sup>2</sup> The program is self-described as a strategy “to create jobs and business opportunities in [the] most economically-distressed areas of inner cities”<sup>3</sup> by providing tax incentives and social service funds within the zone to stimulate business creation and expansion and attain, over the long-term, revitalization of

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1. Gustavo Esteva, *Development*, in THE DEVELOPMENT DICTIONARY 6, 8 (Wolfgang Sachs ed., 1996).

2. See Omnibus Budget Reconciliation Act of 1993, 26 U.S.C. §§ 1391-1397(d) (1994), amended by Taxpayer Relief Act of 1997, Pub. L. No. 105-34, §§ 951-952, 111 Stat. 788, 885.

3. OFFICE OF COMMUNITY PLANNING AND DEV., EMPOWERMENT ZONES INITIATIVE, EMPOWERMENT ZONES & ENTERPRISE COMMUNITIES FACT SHEET (1996) [hereinafter EMPOWERMENT ZONES INITIATIVE FACT SHEET].

the distressed community.<sup>4</sup> The Empowerment Zones Program promises a definitive counter to all rules of inner city existence<sup>5</sup> and targets federal financial resources to these distressed areas as a signal that the inner city should no longer be shunned by business and neglected by government. Rather, inner city communities are now to be *reunderstood* (i.e., reconfigured in our understanding) in terms of their underestimated or overlooked potential, assets, and resources. The Empowerment Zones Program also promises improved inter-agency coordination, to streamline potentially conflicting federal programs to work in favor of developing Empowerment Zone communities, and to establish a federal government-wide priority for funding programs that benefit the Empowerment Zones.<sup>6</sup> In concept, with the right configuration of local, state and federal government programmatic priorities, all of the necessary developmental processes will take place to facilitate a thriving inner city economy and, inevitably, an improved quality of life. In addition to the economic revitalization, the zones are also to be the site of democratic governance and community decision-making and participation.<sup>7</sup> To that end, the program envisions a holistic, inclusive process of planning, implementation, and development.

The Empowerment Zones Program is noteworthy because, apart from

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4. See 26 U.S.C. § 1392(a)(2) (1994); U.S. DEP'T OF HUD, BUILDING COMMUNITIES TOGETHER: URBAN EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES, HUD-1551-CPD (1995).

5. Many poor people live in rural areas. See DAVID T. ELLWOOD, POOR SUPPORT: POVERTY IN THE AMERICAN FAMILY 194 (1988) (reporting that 29% of the poor live in small towns and rural areas). Because of this fact, Congress also provided for the creation of three rural Empowerment Zones within three states: eastern Kentucky, the Mississippi Delta and the Rio Grande Valley in Texas. See BRUCE K. MULOCK, CONGRESSIONAL RESEARCH SERVICE, EMPOWERMENT ZONES/ENTERPRISE COMMUNITIES PROGRAM: BACKGROUND AND ANALYSIS OF ECONOMIC ISSUES 4 (1995). Because the majority of the poor live in urban areas and because of the protracted history of attempting to remedy poverty in poor urban areas, this Article focuses exclusively on urban Empowerment Zones.

6. See Memorandum Establishing the President's Community Enterprise Board, 29 WEEKLY COMP. PRES. DOC. 1716 (July 12, 1993) (creating a federal inter-agency coordination board).

7. See 26 U.S.C. § 1391(f)(2)(B) (1994). *But see* Mildred Wigfall Robinson, *Empowerment Zones and Enterprise Communities Under the Omnibus Budget and Reconciliation Act of 1993: A Promising Concept with Some Modifications*, 11 J.L. & POL. 345, 363 (1995) ("OBRA '93's requirement for broad-based community participation will prove difficult or impossible to administer, while benefiting enterprise communities and empowerment zones little, if at all. It should thus be eliminated as an independent goal.").

recent federal welfare reform legislation,<sup>8</sup> the geographic, self-help approach embodied in the program is currently the only explicitly urban federal policy initiative. Also, the term “empowerment”<sup>9</sup> suggests something new and exciting—the liberation of poor people. Specifically, the program encourages economically disadvantaged people to work effectively on their own behalf to eliminate their own economic suffering. The program is considered different from previous urban revitalization efforts because its emphasis is on business and job development rather than the mere provision of social services.<sup>10</sup> Also, local communities are intended to drive the decision-making. According to literature from the Department of Housing and Urban Development, “[r]esidents decide what happens in their neighborhoods, not federal officials in Washington.”<sup>11</sup> Therefore, the Empowerment Zones Program not only embraces economic development as the preferred approach to remedying poverty in the cities, but also promises to correct the deficiencies of prior urban revitalization programs that excluded community input from the development process. Essentially, the program is viewed as a new and improved urban development program, neutrally and rationally tailored to address the complexities of the causes of and solutions to inner city poverty.

This Article examines the extent to which the Empowerment Zones Program can be properly viewed as a neutral, rational, and beneficial program for poor, inner-city communities and their residents by exploring the limits and potential of its chief mechanism, economic development, as a tool to achieve social justice for the inner cities. This Article grounds its exploration within the contested terrain of the city, not simply as a legal or juridical concept, but in terms of its reality as a “lived place” on the eve of the 21st century.<sup>12</sup> By explicating some of

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8. See Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, 110 Stat. 2105 (current version at 42 U.S.C. § 1305 (1994 & Supp. III 1997)); see also Jennifer R. Wolch, *America's New Urban Policy: Welfare Reform and the Fate of American Cities*, J. AM. PLAN. ASS'N, Jan. 1, 1998, at 8 (arguing that welfare reform is the new national urban policy and that this policy will alter cities' fate by deepening economic marginalization and social isolation of residents).

9. See Patricia A. Wilson, *Empowerment: Community Economic Development from the Inside Out*, 33 URBAN STUDIES 617, 622 (1996). Wilson defines the goal of empowerment as “self-realization of each individual's own well-being and potential for changing themselves, their families and their community.”

10. See Nicholas Lemann, *The Myth of Community Development*, N.Y. TIMES MAG., Jan. 9, 1994, at 27, 28 (noting that efforts to improve slum conditions used to be called “social uplift” and included education, counseling, housing, and crime control).

11. EMPOWERMENT ZONES INITIATIVE FACT SHEET, *supra* note 3, at 2. See also U.S. DEP'T OF HUD, BUILDING COMMUNITIES TOGETHER: URBAN EMPOWERMENT ZONES & ENTERPRISE COMMUNITIES APPLICATION GUIDE, HUD-1552-CPD (1995) [hereinafter BUILDING COMMUNITIES].

12. See Gerald E. Frug, *The City as a Legal Concept*, 93 HARV. L. REV. 1057

the unwritten rules and processes of economic development in their proper context, this Article demonstrates that economic development is not a neutral policy that government can advance without addressing significant structural issues that externally impact inner-city communities. Probably one of the most significant issues is that the program is applied within many cities that are places laden with racialized meaning and are encumbered by the unstated, yet popular, consensus that the problems of the inner cities should be contained. In particular, this Article examines: 1) the legacy of historic programs that have led to current metropolitan configurations characterized by a disparity between declining inner cities and growing edge cities; 2) the impact of globalization and technology; and 3) the present "lived" urban context of racialized space that manifests itself not only in a chasm between city and suburb, but also as an intra-city chasm between elite business interests and poor people. Parts II and III of this Article examines the genesis of the Empowerment Zones concept from the rise in popularity of economic development, both internationally and domestically, as a tool to attain social justice. Part IV explores the context of the "lived" city as both an affluent place for the global elite and marginalized ghetto neighborhoods that have been racialized and "class"ified as black and poor. Part V analyzes the Empowerment Zones Program's emphasis on jobs and the promise of federal funding priority for designated zones. This Article concludes by recommending that we ought to begin to rethink inner city development as an instrument to further economic, social, and geographic justice.

## II. THE DEVELOPMENT CONCEPT

### *A. Understanding Development Through the Lens of International Development Critiques*

The Empowerment Zones Program utilizes development as the method of choice for responding to poverty and unemployment in the inner cities. The concept of development connotes favorable change or the moving from "inferior to the superior [and] from worse to better,"<sup>13</sup>

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(1980); Joan C. Williams, *The Constitutional Vulnerability of American Local Government: The Politics of City Status in American Law*, 1986 WIS. L. REV. 83 (1986).

13. Esteva, *supra* note 1, at 10.

and seems compatible with the common conviction that only by self-help can individual persons and geographic areas progress from their current plight. Development as a social ideal envisions people and communities actively determining their own condition and future, rather than passively being affected by others. Accordingly, development is a tofu-like principle—it is a neutral medium, capable of absorbing any flavor, view, or idea as to the appropriate or desirable method to improve currently unacceptable conditions in a particular geographic area. Therefore, in the abstract, development is a noncontroversial concept. It is considered as acceptable, if not desirable, by people of widely varying economic, social, and political backgrounds because it suggests improvement, progress, and even social justice. But in reality, development is a conservative principle. It seeks only that change which is in harmony with a set of existing rules and relationships, and assumes that new value and wealth can be created within these boundaries. Development also prioritizes or addresses social problems only to the extent the problem can be transformed into one with an exchange value and thereby exhibits the potential for private profit. For this reason, communities in critical need of conversion or revitalization remain largely neglected unless and until a private entity finds, or government creates, a profitable opportunity to exploit.<sup>14</sup>

When cities and communities embraced self-help through the process of development, they adopted a concept both accepted and contested.<sup>15</sup> Development, as a concept, has been soundly criticized both for its focus and for its methods. The most salient criticism concerns development's exclusively localized view, which focuses on the specific problems of the targeted poor or disadvantaged community rather than seeing these problems in the context of *a totality*.<sup>16</sup> This myopic approach effectively ensures that those who are poor or disadvantaged remain isolated from the problems of others who are similarly situated, thereby inhibiting, if

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14. See JOHN R. LOGAN & HARVEY L. MOLOTCH, *URBAN FORTUNES: THE POLITICAL ECONOMY OF PLACE* 3 (1987); MANUEL CASTELLS, *THE CITY AND THE GRASS ROOTS* 319, 331 (1983) (noting that cities are shaped by the struggles to promote use values, i.e., quality of life, against the dominating combination of multinational capital, the mass media, and the bureaucratic state which usually define urban living and services as merely a commodity with an exchange value). See *id.*

15. See generally *THE DEVELOPMENT DICTIONARY: A GUIDE TO KNOWLEDGE AS POWER* (Wolfgang Sachs ed., 1992) [hereinafter *THE DEVELOPMENT DICTIONARY*]; *DOMINATING KNOWLEDGE: DEVELOPMENT, CULTURE AND RESISTANCE* (Frederique Apffel Marglin & Stephen A. Marglin eds., 1990) [hereinafter *DOMINATING KNOWLEDGE*]; ARTURO ESCOBAR, *ENCOUNTERING DEVELOPMENT: THE MAKING AND UNMAKING OF THE THIRD WORLD* 39 (1995).

16. See PAULO FREIRE, *PEDAGOGY OF THE OPPRESSED* 137-38 (Myra Bergman Ramos trans., Seabury Press 1970).

not preventing, collective organizing.<sup>17</sup> Therefore, rather than an exclusively localized approach, a dialectical perspective, one that understands a local community both as a totality in itself and as part of a larger totality, is called for. Under this more comprehensive view, development of a local community cannot properly occur except in interaction with the other parts of the total context of which the local community is a part.<sup>18</sup> Moreover, such a dialectical perspective is relevant to a critical analysis of the Empowerment Zones Program. This perspective properly focuses the examination of development in the United States by training our sights not only on the communities targeted by the program but also on the greater context within which they exist. As used herein, the “totality” represents more than an emphasis on a larger physical area; rather, the “totality” also encompasses the concepts, history, and purposes associated with development and the specific targeted communities.

Development has also been criticized for being supported by a discourse that regards economic development as an unambiguously favorable process that must go forward at all times and, often, at any cost. This discourse is based on a system of relations among the economic, cultural and institutional elements of society, shaped by forms of power in terms of class, gender and race, that creates a space in which only certain things can be said or even imagined.<sup>19</sup> The development discourse, therefore, embodies a “top-down, ethnocentric, and technocratic approach, which treat[s] people and cultures as abstract concepts, statistical figures to be moved up and down in the charts of ‘progress.’”<sup>20</sup> When the “Third World” as a concept emerged following World War II and development emerged as a response to the then recent “problemization” of poverty, it was viewed as a scientific technique for economic and social improvement.<sup>21</sup> Colonial regions of the world were declared under-developed, culturally backwards, and in need of

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17. *See id.*

18. *See id.* at 138 n.17.

19. *See* ESCOBAR, *supra* note 15, at 39-44; David Wilson, *Metaphors, Growth Coalition Discourses and Black Poverty Neighborhoods in a U.S. City*, 28 ANTIPODE 72, 73 (1996) (analyzing the metaphors used in “growth” discourse in Indianapolis, Indiana).

20. ESCOBAR, *supra* note 15, at 44.

21. *See id.* at 31. *But see* Richard Peet & Michael Watts, *Introduction: Development Theory and Environment in an Age of Market Triumphalism*, 69 ECON. GEOGRAPHY 227, 232 (1993) (arguing that the development concept originated in 19th century “organicist notions of growth”).

“Westernizing.”<sup>22</sup> These regions and countries were uniformly defined in terms of what they lacked in relation to the West: they were not modern, they were not financially wealthy, and they were not industrial—i.e., they were not First World, they were Third World. Rural people who earned a subsistence living were routinely considered impoverished under Western economic standards such as “per capita income.” The standard approach promoted urbanization and industrialization while invariably disregarding any adverse impacts of this approach, including deterioration of community ties and deprivation of general “access to land, water, and other resources.”<sup>23</sup> Development became a seemingly methodical set of interventions carried out by batteries of Western experts who sponsored and supervised decades of experimental economic programs ranging from village-based community development projects in the 1940s and 1950s, to large-scale, elite-enhancing, industrialization projects in the 1960s and 1970s. More recently, these programs have returned to people-centered, village-based community development strategies.<sup>24</sup>

The retreat from the large-scale industrialization approach of the 1960s and 1970s was due to the now apparently flawed assumption that there is one ideal standard of economic production and self-sufficiency in the world applicable to both Third World and First World countries.<sup>25</sup> This approach also ignored the viable cultures and knowledge systems existing in Third World countries.<sup>26</sup> As a result, people-centered,

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22. See Wolfgang Sachs, *Introduction to THE DEVELOPMENT DICTIONARY*, *supra* note 15, at 2.

23. ESCOBAR, *supra* note 15, at 22 (observing that systemic poverty emerged “when the spread of the market economy broke down community ties and deprived millions of people from access to land, water, and other resources”).

24. See John Foster-Bey, *Bridging Communities: Making the Link Between Regional Economies and Local Community Development*, 8 STAN. L. & POL’Y REV. 25, 26 (1997) (providing an overview of the evolution of Third-World development programs, from ineffective village-based community development policies to large-scale, elite-enhancing, macro-economic projects and then towards more “people-centered” low-income strategies).

25. Large-scale industrialization development projects are also faulted for enriching the ruling elite to the detriment of the masses. *Id.*

26. See Tariq Banuri, *Modernization and its Discontents: A Cultural Perspective on the Theories of Development*, in DOMINATING KNOWLEDGE, *supra* note 15 at 59, 66. We usually think of culture as a set of tacit rules that structure our social interaction at one level. At another level, culture is the values that underlie these rules and give the rules and our actions—meaning. Culture is not only rules and values but ways of knowing. A culture is composed of many systems of knowledge. A knowledge system is defined by 4 characteristics: 1) Epistemology (theory of knowledge); 2) Transmission (rules for sharing knowledge); 3) Innovation (distinctive ways for changing content of what counts as knowledge); 4) Power (political rules for governing relationships among insiders and between insiders and outsiders). See DOMINATING KNOWLEDGE, *supra* note 15, at 24; see also Stephen A. Marglin, *Losing Touch: The Cultural Conditions of Worker Accommodation and Resistance*, in DOMINATING KNOWLEDGE, *supra* note 15, at

village-based community development programs now flourish in an effort to counteract the shortcomings and destructive tendencies of large-scale industrialization.<sup>27</sup> Nevertheless, even village-based development has been criticized for applying a uniform economic prescription to all countries regardless of cultural, historical, and economic context.<sup>28</sup> In particular, village-based programs fail to address structural causes of poverty.<sup>29</sup> Development fails to consider how the Western-dominated world economic system operates to subordinate Third World populations and to perpetuate conditions of poverty and economic instability within Third World countries.

Development in poor communities in the United States is closely related in principle and application to international development techniques. First, development techniques like the Empowerment Zones Program are designed to be applied in geographic areas within the United States that are the functional equivalent of the Third World—i.e., inner-city, low-income neighborhoods. These areas can be considered the functional equivalent of the Third World because they are dramatically out of sync with the standards of wealth in surrounding urban and suburban geographic areas that enjoy middle class or higher levels of status and affluence.<sup>30</sup> Considered underdeveloped rather than undeveloped, inner-city ghettos are described in terms of obsolescence and dysfunction, culturally perverted and not in keeping with Western, middle-class norms.<sup>31</sup> Therefore, development within the United States manifests itself under a slightly different rubric—the rubric of redevelopment, revitalization, and renewal—all of which are processes of adjustment to urban economic decline. Second, similar to the Third World development experience, domestic development techniques must be practiced by a range of experts who impart knowledge and provide

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217, 232-233.

27. See, e.g., HUBERT CAMFERNS, *COMMUNITY DEVELOPMENT AROUND THE WORLD: PRACTICE, THEORY, RESEARCH & TRAINING* (1997); see also *SUSTAINABLE COMMUNITY DEVELOPMENT: STUDIES IN ENVIRONMENTAL AND CULTURAL REVITALIZATION* (Marie D. Hoff ed., 1998) (discussing origins and case studies of the “new” approach to development).

28. See Banuri, *supra* note 26, at 66; ESCOBAR, *supra* note 15.

29. See Foster-Bey, *supra* note 24, at 26.

30. See generally MYRON ORFIELD, *METROPOLITICS* (1997) (noting the decline of inner-ring suburbs); DAVID RUSK, *CITIES WITHOUT SUBURBS* (1993) (noting the decline of inner-ring suburbs).

31. See DOUGLAS S. MASSEY & NANCY A. DENTON, *AMERICAN APARTHEID: SEGREGATION AND THE MAKING OF THE UNDERCLASS* (1993); *THE URBAN UNDERCLASS* (Christopher Jencks & Paul E. Peterson eds., 1991).

assistance to client communities who, without this assistance, would be unable to access or navigate the highly specialized bodies of knowledge required to obtain financing, organize projects, and traverse legal requirements. Third, economic development is supported by an appealingly can-do discourse: everyone is better off from the pursuit of economic development because citizens will be employed, state and local government will have an increased tax base with which to promote the general health, safety, and welfare, and local politicians can proudly claim credit for the number of jobs created at the next election. The discourse fails, however, to take into account the structural and relational constraints placed on certain geographic places, like low-income, inner-city communities, that are currently marginalized and increasingly disconnected from the mainstream of American society. Finally, development in the United States is focused inward, within low-income, inner-city communities, rather than outward, toward the structural forces that impact and contribute to the conditions within those communities.

### *B. The Domestic Trilogy of Economic, Community, and Community Economic Development*

The development concept is broken down into three somewhat distinct subconcepts that heavily overlap: economic development, community development, and community economic development. The American Economic Development Council defines economic development as the “process of creating wealth through the mobilization of human, financial, capital, physical and natural resources to generate marketable goods and services.”<sup>32</sup> Ideally, the process is one in which, over a long period of time, real per capita income of a country increases while, simultaneously, the number of people below a chosen poverty line and the distribution of income remains constant.<sup>33</sup> Economic development is, therefore, measured both linearly and distributionally, by the extent to which economic wealth among citizens is increased. While this measurement can take place on an international, national, regional, state, or city level, in the United States the rubric of economic development usually involves a unit of analysis at the state or local level and traditionally has involved the efforts of both the private and public sectors.<sup>34</sup>

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32. Richard D. Bingham & Robert Mier, *Preface* to THEORIES OF LOCAL ECONOMIC DEVELOPMENT: PERSPECTIVES FROM ACROSS THE DISCIPLINES at vii (Richard D. Bingham & Robert Mier eds., 1993).

33. See GERALD M. MEIER, LEADING ISSUES IN ECONOMIC DEVELOPMENT 6 (5th ed. 1989).

34. See generally PUBLIC-PRIVATE PARTNERSHIP: NEW OPPORTUNITIES FOR

At the local level, economic development (i.e., local economic development) is best understood as a set of state and local governmental practices designed to encourage the creation of new business or the relocation of existing businesses from one geographic area to another.<sup>35</sup> Because business firms provide employment and pay taxes, directing resources to business firms can, arguably, foster long-term economic self-sufficiency and well-being by ensuring conditions conducive to business strength. Economic development involves fashioning and directing state and local institutional structures and practices in a way that is supportive of and attractive to business firms.<sup>36</sup> It also typically involves consciously competitive tactics by geographic areas (states and localities) to position themselves as the most attractive sites for business firm relocations. These tactics include providing an infrastructure to support new developments and making available tax-exempt industrial development bond financing, low-interest loans, grants, land acquisition cost subsidies, tax reductions, and employment credits.<sup>37</sup>

Community development, by contrast, refers to social, human, and physical structure development activities at the neighborhood or community level.<sup>38</sup> As discussed above, international efforts to promote development in Third World countries have involved community development methods. Once disillusionment with large-scale international industrialization development projects set in because such projects failed to provide economic benefits to the vast majority of both urban and rural populations, non-governmental organizations began to advocate village-based projects designed to directly enhance local economic and living conditions.<sup>39</sup> In the domestic, local context, community development is a "place-based," self-help strategy undertaken by ordinary people in their communities.<sup>40</sup> The theory is that

MEETING SOCIAL NEEDS (Harvey Brooks et al. eds., 1984).

35. See Rochelle L. Stanfield, *City Slickers*, 29 NAT'L J. 1461, 1462-63 (1997) (using the metaphors of hunting and gardening to contrast older and newer methods of economic development). Hunting is the old way of smokestack chasing. Gardening is the new method of growing businesses. See *id.*

36. See LOGAN & MOLOTCH, *supra* note 14, at 57-62 (discussing elements of the modern-day "good business climate").

37. See PETER K. EISINGER, *THE RISE OF THE ENTREPRENEURIAL STATE: STATE AND LOCAL ECONOMIC DEVELOPMENT POLICY IN THE UNITED STATES 188-99* (1988).

38. See Avis C. Vidal, *Reintegrating Disadvantaged Communities into the Fabric of Urban Life: The Role of Community Development*, 6 HOUSING POL'Y DEBATE 169, 172-73 (1995).

39. See Foster-Bey, *supra* note 24, at 26.

40. See Shanti K. Khinduka, *Community Development: Potentials and Limitations*

by encouraging the social, physical, and human development of a neighborhood or community, overall quality of life (health, income, and safety) can be improved.<sup>41</sup> Ideally, local community residents assume the mantle of taking proactive steps to protect their community by engaging in various activities, including neighborhood patrols, neighborhood clean ups, and protests against liquor stores or billboards peddling cigarettes and liquor in residential areas.<sup>42</sup> These types of projects often serve to mobilize and inspire participants to tackle larger projects such as fixing up dilapidated buildings to provide affordable housing or community centers.<sup>43</sup> Ideally, community development allows ordinary citizens to come together to conceive of ways to address common problems, from something as simple as clean streets and sidewalks or recreational opportunities to health initiatives, housing development, crime prevention or neighborhood watches. By creating the opportunity for residents to have a say about what happens in their communities and neighborhoods, the underlying theory of community development is that the actual experience of personal involvement in leadership, organization, citizen mobilization, goal-setting, planning, decision-making, negotiation, and implementation leads to personal growth.<sup>44</sup> The reality is that most development projects are controlled by

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(1969), *reprinted in* NEW PERSPECTIVES ON THE AMERICAN COMMUNITY 396, 396 (Roland L. Warren & Larry Lyon eds., 5th ed. 1988). The author defined community development as

a composite of process and [substantive] program objectives [that] . . . aims to educate and motivate people for self-help; to develop responsible local leadership; to inculcate among . . . the residents of urban areas a spirit of civic consciousness; to introduce and strengthen democracy at the grass-roots level through the creation and/or revitalization of institutions designed to serve as instruments of local participation; to initiate a self-generative, self-sustaining and enduring process of growth; to enable people to establish and maintain cooperative and harmonious relationships; and to bring about gradual and self-chosen changes in the community's life with a minimum of stress and disruption.

*Id.*

41. See Vidal, *supra* note 38, at 205, 208-215.

42. See Hilary Abramson, *Sign Out: Following Baltimore's Lead, Cities Nationwide Are Getting Tough on Cigarette and Booze Billboards*, CITY PAPER (Baltimore), Feb. 4, 1998, at 17 (detailing the grass-roots effort that gave rise to a ban on billboards advertising cigarettes and alcohol although noting that the advertising continued after the ruling); *Penn Adver., Inc. v. Mayor of Baltimore*, 862 F. Supp. 1402 (D. Md. 1994), *aff'd*, 63 F.3d 1318 (4th Cir. 1995) (banning billboards advertising cigarettes in certain zones within the city); *Anheuser-Busch, Inc. v. Schmoke*, 855 F. Supp. 811 (D. Md. 1994), *aff'd*, 63 F.3d 1305 (4th Cir. 1995) (upholding ordinance banning billboards advertising alcoholic beverages).

43. See PETER MEDOFF & HOLLY SKLAR, *STREETS OF HOPE: THE FALL AND RISE OF AN URBAN NEIGHBORHOOD* 69-74 (1994) (describing the beginning of anti-garbage projects that eventually lead to housing rehabilitation projects).

44. See generally Vidal, *supra* note 38, at 207, 212-215 (discussing community building); Wilson, *supra* note 9, at 622 (analyzing the internally empowering aspects of

professional community development corporations that allow for varying degrees of community control or input.<sup>45</sup>

Locally-initiated community development has led to miraculous changes in communities where none could be expected, where conventional wisdom had written off entire communities as beyond hope.<sup>46</sup> Well-known examples include the Dudley Street Neighborhood Initiative in Roxbury, Massachusetts;<sup>47</sup> the Banana Kelly Community Improvement Association and the Mid-Bronx Desperadoes (MBD Community Housing Corporation) in the South Bronx, New York;<sup>48</sup> the New Community Corporation in Newark, New Jersey,<sup>49</sup> and the Tacolcy Economic Development Corporation in Miami, Florida.<sup>50</sup> Rather than bow to the inevitability that a neighborhood is doomed, community development is often a gutsy project of valuing the community based on its assets rather than its apparent deficits. Instead, the attitude towards community is reconfigured to recognize the assets in the community and to make a concerted effort to harness, promote, and enhance these assets through an array of complementary programs and activities designed to shore up the community against further economic and social devastation and to "develop" the community so as to enhance the quality of life therein. Owing to a number of unexpected and seemingly miraculous

community development); Marilyn Gittell et al., *Expanding Civic Opportunity: Urban Empowerment Zones*, 33 URB. AFF. REV. 530 (March 1998) (examining the extent to which the Empowerment Zones Program has contributed to the expansion of community capacity).

45. See Randy Stoecker, *The CDC Model of Urban Redevelopment: A Critique and an Alternative*, 19 J. URB. AFF. 1, 7-8 (1997) (discussing financial constraints, dependence on staff for leadership, and other structural constraints that can lead to illusory community control). See generally Rachel G. Bratt, *CDCs: Contributions Outweigh Contradictions, A Reply to Randy Stoecker*, 19 J. URB. AFF. 23 (1997); W. Dennis Keating, *The CDC Model of Urban Development: A Reply to Randy Stoecker*, 19 J. URB. AFF. 29 (1997); Randy Stoecker, *Should We . . . Could We . . . Change the CDC Model?, A Rejoinder*, 19 J. URB. AFF. 35 (1997).

46. See generally Rob Gurwitt, *Neighborhoods and the Urban Crisis*, GOVERNING MAGAZINE (Sept. 1992); Ron Stodghill II, *Bringing Back Hope to the Hood*, BUS. WK. (Aug. 19, 1996); Alexander Van Hoffman, *Good News! From Boston to San Francisco the Community-Based Movement Is Transforming Bad Neighborhoods*, 279 THE ATLANTIC MONTHLY 31 (Jan. 1997); but see Robert Worth, *Guess Who Saved the South Bronx? Big Government; Urban Renewal in New York, New York*, 4 WASH. MONTHLY 26 (arguing that CDCs could not have reversed urban decline in the South Bronx without federal government help).

47. See MEDOFF & SKLAR, *supra* note 43, at 251-71.

48. See Vidal, *supra* note 38, at 209.

49. See *id.* at 210-11.

50. See *id.* at 211-12.

successes in sprucing up or rejuvenating portions of physically devastated neighborhood space, community development has become quite popular and today receives widespread, nearly universal, support.

On the other hand, community development adopts a narrow view of the problems and issues facing a neighborhood or other community. It tacitly accepts that neither poverty nor racial segregation<sup>51</sup> can be eliminated. Instead, community development simply focuses on “place” as the locus of an individual’s rights and attempts to selectively endow that *place* with some of the privileges enjoyed by other more fortunate places.

The concept of economic development at the community level, or community economic development, has gained wide recognition and acceptance in recent years. Adding the term “economic” to community development is significant—it seems to get a wider range of people to take a community and its self-help efforts seriously because economic development seems to be concrete and rational.<sup>52</sup> It also bestows a certain pragmatic *panache* associated with the term “economic” on its practitioners (community development corporations), which legitimizes them in the eyes of citizens, foundations and corporate donors.<sup>53</sup> If we momentarily consider development as an absolute, fixed practice, then community economic development can be characterized as a hybrid process that promotes the overall quality of life in a neighborhood by viewing the neighborhood holistically and valuing its human assets. Community economic development also treats the neighborhood as a discrete and insular economic unit. The focus becomes one of encouraging the creation of new business and the relocation of existing business in the targeted neighborhood in order to improve the economic conditions for residents of that area. While community economic development borrows its approach, technique, and rhetoric from its cousin, economic development, the focus of community economic development is tuned down a notch or two to the level of the neighborhood, as opposed to the entire city or the state. The goal then becomes to move community development activities beyond housing rehabilitation and improved service delivery into activities that convert the target neighborhoods into full-service communities that meet both

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51. See Richard Thompson Ford, *The Boundaries of Race: Political Geography in Legal Analysis*, 107 HARV. L. REV. 1841, 1849-57 (1994) (arguing that affirmative steps must be taken to eliminate segregation, which has developed into a self-perpetuating condition).

52. See Escobar, *supra* note 15, at 85 (describing the typical identity and role of the development economist).

53. See Lemann, *supra* note 10, at 54 (criticizing community development and community economic development, in particular, as expedient myth).

housing needs and commercial needs.<sup>54</sup> Popular projects include supermarkets, small retail shopping centers,<sup>55</sup> as well as micro-enterprise business incubators.<sup>56</sup> Other techniques include small-business counseling and peer lending circles.<sup>57</sup> In this manner, community economic development assumes a significant burden: finding an economic niche for older residential neighborhoods by ostensibly re-creating them as self-sufficient economic units.

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54. See Michael E. Porter, *The Competitive Advantage of the Inner City*, HARV. BUS. REV., May-June 1995, at 55, 71. Porter argues in favor of rethinking the inner city in economic rather than social terms and that community-based organizations should restrict their activities to service delivery and not engage in economic development activities. Rather, these local groups should "help create a hospitable environment for business by working to change community and workforce attitudes and acting as a liaison with residents to quell unfounded opposition to new businesses." *Id.* at 70.

55. See Vidal, *supra* note 38, at 211-12.

56. See Michael H. Schill, *Assessing the Role of Community Development Corporations in Inner City Economic Development*, 22 N.Y.U. REV. L. & SOC. CHANGE 753, 771 (1997); see also Susan R. Jones, *Small Business and Community Economic Development: Transactional Lawyering for Social Change and Economic Justice*, 4 CLINICAL L. REV. 195 (1997).

57. See Schill, *supra* note 56, at 771; see also David Osborne, *Bootstrap Banking*, INC., Aug. 1, 1987, at 69, 70-71 (detailing the rise in popularity of the peer lending circles made popular by Bangladesh's Grameen Bank). *But see* Lawrence Solomon, *Micro-Credit's Dark Underside*, WORLD PRESS REV., Aug. 1998, at 33, 33 (describing the problems that befall impoverished borrowers who are unable to repay loans, including loans from moneylenders at ruinous rates, and also noting that membership in the bank had fallen from a high of 375,000 people a year in 1993, to fewer than 200,000 in 1994, and to 50,000 in 1995); John Buntin, *Bad Credit: Microcredit Yields Macroproblems*, THE NEW REPUBLIC, Mar. 31, 1997, at 10, 10 (noting that "[m]icrocredit programs have generally flourished in places where the majority of the workforce is self-employed, the economy 'informal' and credit shortages the primary obstacle to founding a business"). This is not the case in the United States, where the informal economy is generally regulated. See Regina Austin, "An Honest Living": *Street Vendors, Municipal Regulation and the Black Public Space*, 103 YALE L.J. 2119, 2121 n.4 (June 1994).

Following the same principle of peer-enforced, rotating credit arrangements, these lending circles have been practiced independently by immigrants to the United States under many different names: Mandarin Chinese and Vietnamese (hui), Haitian (sangué or min), Korean (keh), Japanese (tanomoshi), Mexican (tanda), Ethiopian (ekub) and West Indian (su-su). See Eva Pomice, *New Bootstraps for Today's Immigrant Entrepreneurs; The Ties That Bind—and Enrich*, U.S. NEWS & WORLD REP., Apr. 25, 1988, at 42, 43; see also Christine Gorman, *Do-It-Yourself Financing; Loan Clubs Offer Cash and Dreams*, TIME, July 25, 1988, at 62, 62, cited in Jane Kaufman Winn, *Banking and Finance in Taiwan: The Prospects for Internationalization in the 1990s*, 25 INT'L LAW. 907, 917 (1991); Michel S. Laguerre, *Rotating Credit Associations and the Diasporic Economy*, 3 J. DEVELOPMENTAL ENTREPRENEURSHIP 23, 23-24 (1998).

### C. *Development as a Post-Civil-Rights-Era Strategy*

The Empowerment Zones Program's embrace of economic development as the mechanism for achieving social justice<sup>58</sup> through economic prosperity and parity can in some ways be understood as a post-civil-rights-era approach appropriate for an era where systemic disparities of wealth, life opportunities, or plain discrimination are impossible to address.<sup>59</sup> The civil rights era was one in which the law's guarantee of certain inalienable rights regardless of identity or social consequence was reinvigorated and broadened.<sup>60</sup> During the 1960s and 1970s, the boundaries and outer limits of what substantive rights could be guaranteed by law were still being judicially explored. At that time, many more lawyers moved to the forefront as the defenders and protectors of the poor and downtrodden—the only limit seemingly was one's ability to conceive of compelling arguments about rights which one's clients were denied.<sup>61</sup> Gradually, the boundaries of substantive rights were channeled into guarantees of basic procedural rights within certain benefit programs, and the limits of expanding substantive rights protecting the interests of poor people were firmly set.<sup>62</sup>

Protection of civil rights in the 1960s and 1970s contrasts sharply with today's emphasis (beginning in the 1980s) on the protection of property rights. The Supreme Court commenced the current approach in a series of cases beginning in the late 1980s.<sup>63</sup> The law has been expanded in "takings" cases to guarantee the rights of property against incursions by

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58. See IRIS MARION YOUNG, *JUSTICE AND THE POLITICS OF DIFFERENCE* 15-25 (1990).

59. While economic issues became a part of the Civil Rights agenda when the movement focused its energy on the problems of black people in Northern cities, see DAVID J. GARROW, *BEARING THE CROSS: MARTIN LUTHER KING, JR. AND THE SOUTHERN CHRISTIAN LEADERSHIP CONFERENCE* 462 (1987) (describing the Southern Christian Leadership Conference's "Operation Breadbasket," an effort to negotiate increased black employment in targeted industries), the chief thrust and impact of the movement was in eliminating legalized Southern racial apartheid.

60. See Gordon Clark, *The Geography of Law*, in *NEW MODELS IN GEOGRAPHY: THE POLITICAL-ECONOMY PERSPECTIVE* 310, 312 (Richard Peet & Nigel Thrift eds., 1989) (arguing that Anglo-American laws "rest[] on [the] . . . supposition [that] there are inalienable rights which we as human beings deserve and have the right to claim regardless of social contingencies").

61. See generally MARTHA F. DAVIS, *BRUTAL NEED: LAWYERS AND THE WELFARE RIGHTS MOVEMENT, 1960-1973* (1993).

62. See, e.g., *Goldberg v. Kelly*, 397 U.S. 254 (1970); see also Joel F. Handler, "Constructing the Political Spectacle": *The Interpretation of Entitlements, Legalization and Obligations in Social Welfare History*, 56 *BROOK. L. REV.* 899 (1990).

63. See *Nollan v. California Coastal Comm'n*, 483 U.S. 825 (1987); *First English Evangelical Lutheran Church v. County of Los Angeles*, 482 U.S. 304 (1987); *Dolan v. City of Tigard*, 512 U.S. 374 (1994); *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003 (1992); see also *Suitum v. Tahoe Regional Planning Agency*, 520 U.S. 725 (1997).

the state that are deemed to diminish the value of property rights, even if this means conceptually severing a strand in the bundle of rights or requiring compensation for what are deemed to be investment-backed expectations.<sup>64</sup> At the same time, principles of states' rights and federalism have been reinvigorated to protect the sovereign rights of state government to resist incursions by the federal government into constitutionally protected spheres of authority.<sup>65</sup> These decisions have seemingly left those without very much property<sup>66</sup> or claim to autonomy<sup>67</sup> scrambling to find and claim their own sphere of property or autonomy to provide their own defensible space.<sup>68</sup> Accordingly, community-based self-help ideas became increasingly popular. Rather than looking externally or structurally for solutions, communities began to look within—to their own resources.

A second characteristic of the current era is the popular view that welfare and other income support programs have been widely discredited as a way to permanently supplement income for poor people (women and children in particular). As the economic necessity of two-wage-earner families converged with an increase in female-headed households, those who were forced to take second and third jobs to make ends meet became intolerant of the generations of families and children living on welfare.<sup>69</sup> As a result, the social compact that provided cash-

64. See cases cited *supra* note 63.

65. See *Printz v. United States*, 521 U.S. 898 (1997); *United States v. Lopez*, 514 U.S. 549 (1995); *New York v. United States*, 505 U.S. 144 (1992); *Garcia v. San Antonio Metro. Transit Auth.*, 469 U.S. 528 (1985). *But see* *National League of Cities v. Usery*, 426 U.S. 833 (1976), *overruled by Garcia v. San Antonio Metro. Transit Auth.*, 469 U.S. 528 (1985).

66. See Carol M. Rose, *The Several Futures of Property: Of Cyberspace and Folk Tales, Emission Trades and Ecosystems*, 83 MINN. L. REV. 129, 172-73 (1998) (discussing environmental justice as a problem of uneven or partial propertization between wealthier, white communities that enjoy a community-wide, property-like protection of their communities, and poor, black communities that suffer from an inadequate recognition or protection of their communities' property rights). Rose suggests that correcting the imbalance in property rights by recognizing more protectable property rights in poor, black communities is preferable to resorting to increased environmental regulatory controls. See *id.* at 173.

67. See generally Richard Briffault, *Our Localism: Part II-Localism and Legal Theory*, 90 COLUM. L. REV. 346 (1990).

68. A *defensible space* is a living residential environment that groups dwelling units so as to reinforce a sense of security by creating a "clear understanding of the function of a space, and who its users are and ought to be." OSCAR NEWMAN, DEFENSIBLE SPACE: CRIME PREVENTION THROUGH URBAN DESIGN 3-4 (1973).

69. See generally Dennis Farney, *Elite Theory: Have Liberals Ignored 'Have-Less' Whites at Their Own Peril?: Anger in a Tennessee Town Unmasks Deep Divisions*,

support payments to the poor eroded and lawmakers found it expedient to “offer up” the welfare dependent woman to appease working class people.<sup>70</sup> Welfare has now been limited to a lifetime cap and is administered in finite block grants from the federal government to the state government, this being justified as devolution of power from the federal to state government.<sup>71</sup> Accordingly, the political environment is such that the idea of adjusting the existing economic system to encourage redistribution of wealth to benefit the poor is unthinkable. Rather, an individualized “do what you can do to help yourself” approach is popularly embraced. Accordingly, both conservatives and progressives have converged in their support of self-help approaches to problems faced by poor communities.<sup>72</sup> Arguably, the conservative support of self-help strategies is based, in part, on a pervasive assumption that opportunities abound for improving one’s condition through hard work, struggle, and perseverance. The subtext of this assumption is that claims of discrimination, exclusion, and disability are claims for preferential treatment or privileged-victim status and should be disregarded.<sup>73</sup> Arguably, the progressive support of community development strategies is part of an ongoing process to refashion the rhetoric and methods of an effective post-civil rights agenda for social justice.

Economic development is also preferable to substantive legal or judicial processes that might extend the reach of the law beyond its proper sphere—into an area where legal rights to subsistence,<sup>74</sup> a living

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*Trouble for Democrats*, WALL ST. J., Dec. 14, 1994, at A1; CHRIS TILLY, *SHORT HOURS, SHORT SHRIFT: CAUSES AND CONSEQUENCES OF PART-TIME WORK* (1990); POLLY CALLAGHAN & HEIDI HARTMANN, *CONTINGENT WORK: A CHART BOOK ON PART-TIME AND TEMPORARY EMPLOYMENT* (1991).

70. See Janet E. Kodras, *The Changing Map of American Poverty in an Era of Economic Restructuring and Political Realignment*, 73 *ECON. GEOGRAPHY* 67, 73-74 (1997) (“As increasing numbers of Americans faced economic insecurity through rising unemployment, falling real wages, declining benefits, and dwindling savings, many bought the argument that the government lavished their hard-earned tax dollars on the undeserving and indolent, despite the fact that less than 4 percent of the federal budget was allocated to means-tested public assistance.”).

71. See 42 U.S.C. § 601-03 (1994 & Supp. III 1997).

72. See Luther K. Snow, *Economic Development Breaks the Mold: Community-Building, Place-Targeting, and Empowerment Zones*, 9 *ECON. DEV. Q.* 185, 188 (1995).

73. See, e.g., James Traub, *Floyd Flake’s Middle America*, N.Y. TIMES MAG., Oct. 19, 1997, at 60, 102 (describing former Congressman Floyd Flake’s church-based community development empire as fueled by a post-civil-rights, bootstrap philosophy practiced by congregants who do not seek redress as victims).

74. See Barbara Stark, *Urban Despair and Nietzsche’s “Eternal Return”: From the Municipal Rhetoric of Economic Justice to the International Law of Economic Rights*, 28 *VAND. J. TRANSNAT’L L.* 185, 227 (1995) (arguing that the United States has already agreed to the existence of economic rights by signing international treaties guaranteeing the recognition of such rights).

wage, employment, or minority set-asides in public contracting<sup>75</sup> (assuring a portion of the public marketplace) are popularly deemed a threat to the delicate balance between the free market and regulation. In other words, economic development is favored because it is consistent with the prevailing view that law should be limited to ensuring equal opportunity rather than equality of outcome. Therefore, law is relegated to what is viewed as the unambiguously neutral, impartial, and supportive position of quietly facilitating the urban development process.<sup>76</sup>

As a post-civil rights strategy, however, it is incumbent on the proponents of development, particularly lawyers and legal scholars, to ask how law and geography are linked. According to Edward Soja, "linking law and geography [involves] . . . asking . . . how law shapes geographies. . . . [L]egal understandings and knowledge of law [should be] applied to help in understanding the social production of space, how social spatiality is constructed and organized and expressed."<sup>77</sup> The first step should be understanding how legal structures ratify and support structural constraints on inner city communities.

#### *D. Dissecting the Empowerment Zones Program's Attempt to Split the Difference Between Economic and Community Development*

Rather than focusing on structural constraints faced by the communities the program is meant to benefit, the Empowerment Zones Program focuses on combining economic development with community development to address economic development's inability, standing alone, to address the range of problems facing impoverished urban

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75. See *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200 (1995) (holding that federal minority set-aside public contracting programs, like state programs, must withstand strict judicial scrutiny and be narrowly tailored to further compelling government interests); *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469 (1989) (holding that state minority set-aside public contracting programs must withstand strict scrutiny and be narrowly tailored to further compelling government interests).

76. See Rob Imrie & Huw Thomas, *Law, Legal Struggles and Urban Regeneration: Rethinking the Relationships*, 34 URB. STUD. 1401, 1402 (1997). For example, law provides the neutrally supportive tools of contract, rules of corporate organization, rules of property ownership, real estate transactions, eminent domain, and local government organization. The extent to which legal tools or doctrines support and are supported by the economic development discourse as a method of legitimating development processes that may or may not be favorable to particular types of social groups or geographic areas seems a relevant point of inquiry. See *id.*

77. Edward Soja, *Afterword*, 48 STAN. L. REV. 1421, 1426 (1996).

neighborhoods. The program, therefore, stands apart from other urban development programs in its utilization of two seemingly consistent, but ultimately divergent, approaches to development: economic development and community development. More particularly, this approach is reminiscent of a prior federally initiated community development program of the War on Poverty era—the Model Cities program—while also drawing from the economic development program of the 1980s—enterprise zones. As part of the economic development emphasis, the Empowerment Zones statute makes available wage tax credits to employers for each employee who resides within the zone and performs services in a trade or business of the employer located within the zone.<sup>78</sup> It also provides accelerated depreciation for certain business property and tax-exempt facility bonds for lower-cost financing to induce commercial investment and foster job creation within impoverished inner-city neighborhoods.<sup>79</sup> While a number of critics have argued that tax incentives rarely, if ever, are the chief determinant in a business firm's decision to relocate,<sup>80</sup> tax incentives have become such an accepted tool in a state or local government's arsenal of economic development incentives that companies have come to expect incentives as an indication of a state's or locality's *business-friendly* environment.<sup>81</sup> On the other hand, as compared to the potential tax incentives that could have been offered, the Empowerment Zones Program's tax incentives are quite modest and are almost symbolic rather than actual inducements for business relocation or expansion. One significant limitation on the tax incentives, which will be discussed later, is that they are available only to new companies that start operations in impoverished inner-city communities or to existing companies that expand their operations to these areas. Moreover, they are simply not available to companies that relocate their operations to the designated zone areas.<sup>82</sup> Therefore, the number of companies that could potentially take advantage of the incentives is strikingly reduced.

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78. See 26 U.S.C. § 1394 (1994 & Supp. III 1997).

79. See *id.*

80. See, e.g., JOHN P. BLAIR, LOCAL ECONOMIC DEVELOPMENT: ANALYSIS AND PRACTICE 179 (1995) (suggesting that economic development subsidies can be poorly targeted when a local community provides a service or infrastructure improvement that is costly to taxpayers and not highly valued by the locating firm).

81. See LOGAN & MOLOTCH, *supra* note 14, at 59.

82. See 26 U.S.C. § 1391(f)(2)(F) (1994); see also Audrey G. McFarlane, *Empowerment Zones: Urban Revitalization Through Collaborative Enterprise*, 5 J. AFFORDABLE HOUSING & COMMUNITY DEV. 35, 38-39 (1995). In fact, the Empowerment Zone statute requires oversight to ensure that no ill effects are suffered by the area where the business has been conducting its primary operations. See U.S. GENERAL ACCOUNTING OFFICE, COMMUNITY DEVELOPMENT: STATUS OF URBAN EMPOWERMENT ZONES, GAO/RCED 97-21 (1996) [hereinafter GAO REPORT].

As a complement to the economic development approach, Congress has provided for a community development component by authorizing the use of Social Security Block Grant ("SSBG") funds in the designated zones to prepare and enable residents to participate in the new employment opportunities and to further make the areas attractive to businesses. These programs include services such as job training, child care, transportation, financial management counseling, educational programs, and physical structure rehabilitation.<sup>83</sup> In concept, by improving the work-readiness of the individuals within the community, the community could be developed, its economic viability enhanced, and its revitalization anchored to secure foundations. As part of the revitalization, the statute further attempts to ensure that the development process involves community residents by: 1) requiring designated cities to follow a comprehensive strategic plan for revitalizing the target communities; and 2) requiring the affected community to be made a full partner in the process of developing and implementing the plan.<sup>84</sup> Department of Housing and Urban Development ("HUD") explanatory literature has expanded on the statutory language by interpreting these requirements to mean that the Empowerment Zones Program's brand of economic development is a bottom-up, community-controlled process. Under the statute, these requirements are a prerequisite for designation as an Empowerment Zone: cities must vie for designation in a competitive application process that requires each city to undergo an extensive community planning process to produce a community-designed application and strategic plan.<sup>85</sup> The result of this

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83. See 42 U.S.C. § 1397a (1994). SSBG funds are typically used by state governments to fund social service activities. "[OBRA] amended title XX of the Social Security Act to authorize the special use of SSBG funds for the EZ program . . . to cover a range of economic and social development activities." GAO REPORT, *supra* note 82, at 3.

84. See 26 U.S.C. § 1391(f)(2)(B) (1994). As a result of the community participation requirement each city has established a somewhat elaborate governance structure in order to ensure that the empowerment zone process is controlled by a partnership between ordinary residents, businesses, government, religious organizations, and non-profit entities. See *Who's Making the Decisions: Governance in the Empowerment Zone*, EZ EXCHANGE: A NAT'L EMPOWERMENT ZONE Q., Jan. 1996, at 1, 1 (describing the governance structures within each city awarded Empowerment Zone status).

85. In 1994, six cities were designated as Urban Empowerment Zones. In 1997, the number was expanded from six to eight when HUD administratively named Los Angeles and Cleveland as Supplemental Empowerment Zones eligible for \$125 million and \$90 million in HUD economic development grants, respectively, but ineligible for federal tax incentives. See 26 U.S.C. § 1391(b)(2) (1994 & Supp. III 1997). In 1997,

comprehensive planning process is a strategic plan for accomplishing the purposes of the legislation. As interpreted by HUD, the strategic plan is required to focus on the coordinated economic, human, community, and physical development plan, and the related activities planned for each proposed area,<sup>86</sup> according to four principles: 1) creating economic opportunity for an Empowerment Zone's residents; 2) creating sustainable community development; 3) building broad participation among community-based partners; and 4) describing a strategic vision for change in the community.<sup>87</sup> The strategic plan requirement is due, in part, to the Government Performance and Results Act, which requires federal agencies to clearly define their missions and to establish long-term strategic goals and shorter-term annual goals.<sup>88</sup> Strategic plans are a method of structured planning borrowed from the corporate sector that sets baselines and benchmarks for achieving specific goals and measuring progress and performance in attaining those goals.<sup>89</sup> Intended to limit the wasting of time, energy, and government money through unstructured, goal-less planning and activities at the community level, strategic plans require a community to set goals and standards (benchmarks) tailored to meet the needs of the community.

However, there is some debate about the applicability of corporate planning methods to cities.<sup>90</sup> In addition, there are serious, but common sense, questions about the strategic plan's evaluation methods.<sup>91</sup> The

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Congress authorized Los Angeles and Cleveland to become full-fledged Empowerment Zones, eligible for the federal tax incentives beginning in January of 2000. In addition, up to 20 other Empowerment Zones were authorized (15 urban and five rural), which will only have the federal tax incentives; SSBG funds will not be available. See Taxpayer Relief Act of 1997, 26 U.S.C. § 1391(g) (1994 & Supp. III 1997). While designations were made during 1998, these are effective January 1, 2000. See Taxpayer Relief Act of 1997, Pub. L. No. 105-34, reprinted in 1997 U.S.C.C.A.N. 678, 1314.

86. See 26 U.S.C. § 1391(f)(2)(A) (1994).

87. See HUD Regulations, 24 C.F.R. § 597.200(c) (1998). The strategic plan is also required to demonstrate how the affected community was made a full partner in the process of developing and implementing the plan and the extent to which local institutions and organizations contributed to the planning process. *Id.*

88. See GAO REPORT, *supra* note 82, at 14.

89. See June Manning Thomas, *Applying for Empowerment Zone Designation: A Tale of Woe and Triumph*, 9 ECON. DEV. Q. 212, 219 (1995); GAO REPORT, *supra* note 82, at 14-15.

90. See Todd Swanstrom, *The Limits of Strategic Planning for Cities*, 9 J. URB. AFF. 139, 150-52 (1987) (arguing that strategic planning by cities is not a neutral technique; rather, strategic planning biases the planning agenda in favor of economic growth over other goals such as redistribution of wealth or democratic participation).

91. See GAO REPORT, *supra* note 82, at 15. The report states that the measures being used generally describe the amount of work that will be produced (outputs) rather than the results that are anticipated (outcomes). For example, for the . . . benchmark . . . establishing a one-stop capital shop . . . the [Empowerment Zone] has not indicated how the outputs (the amount of money provided in commercial lending, the number of loans made, the number of

Empowerment Zones Program's strategic plan, like most if not all development projects, measures its success based on the completion of individual projects and ignores the question of whether any progress has been made towards the ultimate goal set for the program as a whole—economic wealth, parity, or even social justice. As the following discussion will demonstrate, the faith in development as a process comes not from what it has been proven to achieve but, rather, from what processes most people feel comfortable using to address aspects of poverty and oppression deemed problematic. In the context of Empowerment Zones, this begs the question, "Why this approach?"

### III. THE EMPOWERMENT ZONE CONCEPT

#### A. *Empowerment Zones and Lessons from the Past*

As indicated above, the structure and emphasis of the Empowerment Zones Program reflect not only a revival of the development project in the United States as the preferred way to address conditions of poverty and economic subordination,<sup>92</sup> but also a *reaction* to the lessons and experiences of past development programs. The period leading up to the Empowerment Zones Program had seen the domestic development project undergo various incarnations and versions throughout the twentieth century, subjecting inner-city slums to a series of projects promising to remedy unacceptable physical, economic, and social conditions. As early as the 1920s and 1930s, cities and the federal government sponsored slum clearance programs.<sup>93</sup> As communities

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consultations provided, and the number of people trained) will help to achieve the desired outcome (creating economic opportunity . . .). To link the outputs to the outcome, the [Empowerment Zone] could measure the extent to which accomplishing the benchmark increases the number of businesses located in the zone. Without identifying and measuring desired outcomes, HUD and the [Empowerment Zones] may have difficulty determining how much progress the [Empowerment Zones] are making toward accomplishing the program's overall mission.

*Id.*  
92. See, e.g., Thomas L. Friedman, *Cold War Agency Looks at Problems Back Home*, N.Y. TIMES, June 26, 1994, at A1 (stating that United States AID announced plans to explore the possibility of directing its international development expertise towards domestic social and economic problems of the inner cities.)

93. See United States Housing Act of 1937, Pub. L. No. 75-412, 50 Stat. 888 (current version at 42 U.S.C. §§ 1437-44 (1994 & Supp. III 1997)) (making federal public housing funds available for cities that undertook slum clearance).

pondered the continued problem of slums and turn-of-the century architecture began to be viewed as backwards and old-fashioned, the federal approach to remedying unacceptable living conditions in cities in the 1950s turned to a redevelopment approach, euphemistically called "urban renewal." The urban renewal approach attempted to transform old-fashioned neighborhoods and districts into modern, sanitary, and economically-exploitable places by applying the proper scientific planning tools, expertise, and knowledge.<sup>94</sup> Urban renewal's approach to development was to prevent as well as eliminate slums by effectively "subsidizing the gap between the market value for existing land uses and the re-use value of land if cleared and developed."<sup>95</sup> In reality, this approach to revitalization entailed replacing low-income neighborhoods, which were often black, with highways, sterile housing developments and municipal office complexes, an approach which became known as "Negro removal."<sup>96</sup>

Based on the belief that the causes of poverty were political as well as economic, the idea of "community action" took precedence as the way to remedy poverty during the 1960s.<sup>97</sup> The Model Cities and Community Action programs in the late 1960s and early 1970s came about partially in response to urban renewal's assault on black neighborhoods and partially in response to the Civil Rights Act of 1965.<sup>98</sup> These programs are most significant for their assumption that urban black poverty could be eliminated by targeting intervention solely within the ghettos.<sup>99</sup> Under the Economic Opportunity Act of 1964, the federal government sponsored the Community Action Program, a local, neighborhood-based strategy.<sup>100</sup> The purpose of the Act was threefold: to coordinate the many governmental anti-poverty programs (nutrition,

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94. See United States Housing Act of 1949, Pub. L. No. 81-171, §§ 101-110, 63 Stat. 413, 414-21 (replaced by Title I of the Housing and Community Act of 1974, Pub. L. No. 93-383, §§ 101-118, 88 Stat. 633, 633-653, current version at 42 U.S.C. §§ 5301-5320 (1994 & Supp. III 1997)); Keith Aoki, *Race, Space and Place: The Relation Between Architectural Modernism, Post-Modernism, Urban Planning and Gentrification*, 20 *FORDHAM URB. L. J.* 699 (1993).

95. CHARLES M. HAAR & MICHAEL ALLAN WOLF, *LAND USE PLANNING, A CASEBOOK ON THE USE, MISUSE AND RE-USE OF URBAN LAND* 784 (4th ed. 1989).

96. Sarah F. Liebschutz, *Empowerment Zones and Enterprise Communities: Reinventing Federalism for Distressed Communities*, *PUBLIUS*, Summer 1995, at 117, 125.

97. See Nicholas Lemann, *The Unfinished War*, *ATLANTIC*, Dec. 1988, at 37, 48.

98. See *id.*

99. See ROBERT HALPERN, *REBUILDING THE INNER CITY: A HISTORY OF NEIGHBORHOOD INITIATIVES TO ADDRESS POVERTY IN THE UNITED STATES* 124 (1995) ("[L]ocating the urban strategies of the War on Poverty almost exclusively in isolated and depleted neighborhoods was a fatally planned strategy, particular in that time and place.").

100. See *id.* at 107.

employment, and welfare programs),<sup>101</sup> to allow the poor to assume a direct role in designing and implementing responsive and effective anti-poverty programs,<sup>102</sup> and to provide jobs for the poor in program administration.<sup>103</sup> Hundreds of independent local organizations (community action agencies) were created to coordinate a variety of service programs including “neighborhood services, education, health, manpower, housing, social services, and economic development.”<sup>104</sup> The concept of community action was initially controversial and later evolved into what has been described as “the less controversial, more palatable concept of community development”: the Model Cities Program.<sup>105</sup> In response to disillusionment with U.S. federal urban renewal, housing, and anti-poverty programs, the Model Cities Program was designed to address the problems of physical infrastructure within ghetto neighborhoods while drawing upon the lessons of community action and demonstrating that urban development could be inclusive of the poor.<sup>106</sup> Throughout its life, however, the Model Cities Program was fraught with funding problems<sup>107</sup> and struggles over community participation and control.<sup>108</sup> The Model Cities Program also failed in its effort to redefine urban renewal which “tended to be controlled by large

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101. See Lemann, *supra* note 97, at 49.

102. See HALPERN, *supra* note 99, at 108.

103. See Foster-Bey, *supra* note 24, at 27; HALPERN, *supra* note 99, at 115; Lemann, *supra* note 97, at 49.

104. HALPERN, *supra* note 99, at 108.

105. See HALPERN, *supra* note 99, at 118 (“Model Cities was to be community development de-coupled from community action”), referring to the Demonstration Cities and Metropolitan Development (the Model Cities Program) Act, Pub. L. No. 89-754, 80 Stat. 1255 (repealed 1975)). The Model Cities Program was terminated and folded into the Community Development Block Grant program in 1974. See BERNARD J. FRIEDAN & MARSHALL KAPLAN, *THE POLITICS OF NEGLECT: URBAN AID FROM MODEL CITIES TO REVENUE SHARING* 47-49, 215-16 (1975).

106. See Peter B. Edelman, *Toward a Comprehensive Anti-Poverty Strategy: Getting Beyond the Silver Bullet*, 81 GEO. L.J. 1697, 1715-16 (1993).

107. The Model Cities Program was continuously underfunded because congressional appropriations, designed to provide funding for 75 cities, were never increased despite the fact that the number of cities awarded funds tripled to 225. See Otto J. Hetzel, *Some Historical Lessons for Implementing the Clinton Administration's Empowerment Zones and Enterprise Communities Program: Experiences from the Model Cities Program*, 26 URB. LAW. 63, 72 n.18 (1994).

108. See HALPERN, *supra* note 99, at 122 (“In most cities, plans were often prepared by City Hall before neighborhood residents could mobilize.”). See, e.g., *North City Area-Wide Council, Inc. v. Romney*, 456 F.2d 811 (3d Cir. 1972) (holding community organization was wrongfully excluded from participation in implementation of Philadelphia Model Cities Program).

real estate and construction interests.”<sup>109</sup> Notwithstanding the admitted failures of the Model City Program, some of the ideas about community participation are still considered fundamental principles of urban planning. Therefore, the Model Cities Program and programs similar to it continue to resonate for some as viable and worthwhile approaches to inner-city poverty—hence the community participation and comprehensive planning elements in the Empowerment Zones Program.

The Empowerment Zones approach was initially derided for simply reviving discredited strategies from the Community Action and Model Cities era.<sup>110</sup> It is true that many similarities exist. For example, both the Empowerment Zones and Model Cities approaches emphasize federal agency coordination and public-private partnerships.<sup>111</sup> In addition, both approaches require a comprehensive, community-wide planning process while retaining city control of funding and governance board composition.<sup>112</sup> However, the criticism is not entirely justified, as the Empowerment Zones Program clearly took some of the lessons from the Model Cities experience to heart. First, the Empowerment Zones Program was launched only as a demonstration program (i.e., on a trial basis) in order to avoid dilution of the programmatic and funding commitments among too many cities, thus allowing it to avoid some of the problems experienced by the Model Cities Program.<sup>113</sup> Second, the Empowerment Zones strategy consciously and purposefully adopted an economic development, free market approach to community development. Thus, the enterprise-zone component of the program and its laissez-faire, anti-governmental regulatory emphasis significantly distinguishes the Empowerment Zones Program from the Model Cities Program. While the enterprise-zone concept can be traced to earlier international development efforts, the emphasis had become completely devoid of any social justice or welfare concerns.<sup>114</sup>

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109. HALPERN, *supra* note 99, at 124.

110. See Lemann, *supra* note 10, at 30; Marilyn Marks Rubin, *Can Reorchestration of Historical Themes Reinvent Government? A Case Study of the Empowerment Zones and Enterprise Communities Act of 1993*, 54 PUB. ADMIN. REV. 161, 166 (1994).

111. See, e.g., Memorandum Establishing the President's Community Enterprise Board, 29 WEEKLY COMP. PRES. DOC. 1716 (Sept. 9, 1993).

112. See 24 C.F.R. § 597.200(a) (1999) (setting forth comprehensive planning principles to be incorporated in the strategic plan); HALPERN, *supra* note 99, at 121.

113. See Hetzel, *supra* note 107, at 71-72 (cautioning the EZ program to ensure that constituents of a majority of legislators will participate in order to maintain a funding stream).

114. See Vidal, *supra* note 38, at 175.

*B. Empowerment Zones and Enterprise Zones: From  
Hong Kong to Washington*

The enterprise zone is based on the theory that geographic areas or zones can be stimulated economically to the point of flourishing by removing economically stifling or deadening governmental regulation.<sup>115</sup> The “zone” idea has its origin in a “radical solution” by British geographer and urban planning expert, Peter Hall. Hall’s radical solution was to address urban decline by establishing “freeports” in small, selected industrial areas of inner cities and opening them to all kinds of free market initiatives with minimal regulatory control.<sup>116</sup> Each area would be completely open to immigration of entrepreneurs and capital while bureaucracy and regulation would be kept to a minimum.<sup>117</sup> Hall’s proposal was based on his observation that economic activity in Hong Kong had flourished with minimal governmental regulation, very low taxes, and minimal to nonexistent wage and labor legislation, factory safety regulation, restrictions on the import of materials used in manufacture, and restrictions on land use.<sup>118</sup> Notwithstanding Hall’s cautionary admonition that his idea was an extreme model for exploring possible approaches and, in particular, that he did not recommend it as a solution for urban ills, the “freeport” idea was embraced by Sir Geoffrey Howe, economic spokesman for the British Conservative Party, who became the leading proponent of adopting the enterprise zone approach as the method for renovating and revitalizing abandoned industrial areas in Britain. A commentator explains that Howe believed that the best way to remove the urban blight afflicting an area like the Docklands in London was to

remove as much government as possible from a number of small areas in the most derelict and depressed sections of Britain’s cities. Within these enterprise zones . . . taxes and government regulation would be virtually eliminated to create the most attractive possible environment for free enterprise to flourish.

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115. See LOGAN & MOLOTCH, *supra* note 14, at 290 (articulating the “philosophy of the enterprise zone: to reduce to a bare minimum the place constraints on the organization of capital”).

116. See Peter Hall, *The British Enterprise Zones*, in ENTERPRISE ZONES: NEW DIRECTIONS IN ECONOMIC DEVELOPMENT 179, 180-81 (Roy E. Green ed., 1991) [hereinafter ENTERPRISE ZONES].

117. See *id.*

118. See *id.*

Private enterprise would thereby be encouraged to reviv<sup>119</sup>e areas in which government development programs had so dismally failed.

One of the earliest critics of the enterprise zone approach, William Goldsmith, pointed out that reliance on Hong Kong and other free trade zones, such as Taiwan, Singapore, South Korea and even Puerto Rico, as the basis for the enterprise zone idea was disturbingly flawed.<sup>120</sup> To advocate the type of dramatic economic growth experienced by these defacto model enterprise zone countries was to advocate “recreating third world labour conditions in the midst of rich, industrialized countries, specifically Britain and the United States.”<sup>121</sup> While business would gain from the deregulated environment, “the citizenry [would lose] protection from regulations and also the benefits of some public services.”<sup>122</sup> Goldsmith also observed that the successful development of free-market economies in the enterprise zone countries was anomalous, these countries having prospered “for very particular reasons of history, location, and international politics.”<sup>123</sup>

When the enterprise zone, a geographically-targeted, de-regulatory approach to economic development, traveled across the Atlantic to the United States in the early 1980s, it was adapted from an experimental industrial park policy of converting abandoned and uninhabited industrial land from obsolete uses to new and more productive uses.<sup>124</sup>

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119. Stuart M. Butler, *The Conceptual Evolution of Enterprise Zones*, in ENTERPRISE ZONES, *supra* note 116, at 27, 27.

120. See William W. Goldsmith, *Enterprise Zones: If They Work, We're in Trouble*, 6 INT'L J. URB. & REGIONAL RES. 435, 435 (1982); see also Martin Hart-Landsberg & Paul Burkett, *Contradictions of Capitalist Industrialization in East Asia: A Critique of "Flying Geese" Theories of Development*, 74 ECON. GEOGRAPHY 87, 88 (1998) (questioning the East Asian “miracle” and examining its potential to “generat[e] new and wider competitive pressures on workers and their communities [that will] creat[e] the objective basis for new and wider forms of anticapitalist solidarity and struggle”).

121. Goldsmith, *supra* note 120, at 435.

122. *Id.* at 437.

123. *Id.* at 439-40. Goldsmith explains:

Hong Kong, as a financial centre, a gateway to China, and an outpost of British and other western interests, is the beneficiary of intensive commercial activity. . . . South Korea and Taiwan are different from their neighbours for many reasons. Perhaps most important, they were the beneficiaries of extended financial assistance and trade concessions from the United States during the long postwar era, and they were also deeply involved in the economic boom from America's almost continuous military involvement in east and southeast Asia.

*Id.* at 440; see also Ramón E. Daubón & José J. Villamil, *Puerto Rico as an Enterprise Zone*, in ENTERPRISE ZONES, *supra* note 116, at 207 (describing the less than successful Puerto Rican experience as an enterprise zone, predating Hall's “freeport” idea); Hall, *supra* note 116, at 181 (admitting that his reliance on Hong Kong failed to take into account “the huge scale of its subsidized public housing program, which . . . played a vital role in allowing employers to resist demands for higher wages”).

124. See Butler, *supra* note 119, at 31.

In the United States, enterprise zones became the preferred policy approach to poverty and unemployment in the inhabited and only partially abandoned inner city. The theory was, and continues to be, that the best and most efficient remedy for poverty and unemployment is to stimulate and attract business activity through deregulation, thereby reducing unemployment and providing a tax base for inner cities.<sup>125</sup> This was consistent with the influence of neo-liberal thought on national policy which favored “facilitating capital mobility and *cutting community programs that might distort private investment decisions.*”<sup>126</sup> The pure theory of enterprise zones is intrinsically appealing because it is based on the assumption that there is “enormous latent potential within even the most blighted neighborhoods.”<sup>127</sup> This appeal is especially significant because it promises to produce growth “without having to divert people and economic activity from elsewhere.”<sup>128</sup> Therefore, adoption of the enterprise zones approach represented the best of the American attitude towards the beneficial potential of initiative and creativity.

Despite repeated efforts, enterprise zones were never successfully incorporated into federal urban policy during the 1980s.<sup>129</sup> During that time, however, in the wake of cutbacks in federal funding to state and local governments, state officials embraced enterprise zones as a new tool in the local economic development arsenal.<sup>130</sup> While this was due,

125. See Porter, *supra* note 54, at 63, 71 (calling for the elimination of unnecessary municipal business and land use regulations that stifle untapped potential for inner city economic development).

126. Susan E. Clarke & Gary L. Gaile, *Local Politics in a Global Era: Thinking Locally, Acting Globally*, 551 ANNALS AM. ACAD. POL. & SOC. SCI. 28, 33 (1997) (emphasis added).

127. Butler, *supra* note 119, at 32.

128. *Id.* at 33.

129. See *id.* at 39. “Notwithstanding bipartisan support in Congress, enterprise zone legislative proposals failed repeatedly throughout the 1980s for a number of complex and disputed reasons.” *Id.* In 1987, a weak version of enterprise zone legislation was enacted. Enterprise Zone Development, Title VII of the Housing and Community Development Act of 1987, Pub. L. No. 100-242, 101 Stat. 1815 (1988). The law, which was never implemented, relied only on enhanced federal agency coordination and expedited handling of existing HUD or USDA programs within the established zones. See Rodney Erickson & Susan W. Friedman, *Comparative Dimensions of State Enterprise Zone Policies*, in ENTERPRISE ZONES, *supra* note 116, at 155, 155; Revenue Act of 1992, H.R. 11, 102d Cong.; see also H.R. REP. NO. 102-1034, at 690-725 (1992) (discussing the enterprise zone bill provisions).

130. See Enid Beaumont, *Enterprise Zones and Federalism*, in ENTERPRISE ZONES, *supra* note 116, at 41, 43.

in part, to the expectation that a federal program would eventually be adopted, it also coincided with a trend at the state level to expand its traditional role from merely supporting business through infra-structure development to attracting corporations and investment by making direct payments and providing subsidies to business.<sup>131</sup> Thus, the enterprise zone idea was enthusiastically adopted and incorporated into existing economic development programs by more than seventy-five percent of the states as a way to attract business or foster economic activity in specific geographic locations within the state.<sup>132</sup> State enterprise zones vary widely from state to state in terms of size, criteria, and benefits offered. One consistent attribute, however, is that the de-regulated quality of the original enterprise zone concept was never adopted. Aside from tax credits or abatement, de-regulation is “a minimal component of enterprise zone programs.”<sup>133</sup> Instead, many enterprise zones provide for a more active governmental presence by providing “loans and venture capital, land assembly to facilitate new uses of land, and public investment in physical infrastructure.”<sup>134</sup>

Oddly enough, however, a study of enterprise zone programs found that “[v]irtually all state enterprise zone programs include in their eligibility criteria for zone designation measures of the economic need of individuals or households residing in the zone.”<sup>135</sup> The study concluded that, while resident need is the implied justification for the programs, the other “stated goals and structure of most state programs are not strongly

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131. See *Department of Revenue of Or. v. ACF Indus.*, 510 U.S. 332, 347 (1994) (noting the common state practice of granting tax exemptions to private commercial entities for “beneficial purposes”); *Maready v. City of Winston-Salem*, 467 S.E.2d 615 (N.C. 1996) (rejecting challenge to the use of public tax dollars to promote private business development and discussing the evolution of state economic development practices).

132. See Beaumont, *supra* note 130, at 41, 43.

133. Richard Briffault, *The Rise of Sublocal Structures in Urban Governance*, 82 MINN. L. REV. 503, 510 (1997). Even the original deliberately created enterprise zone is not the “self-executing” zone of unregulated business activity. See Bob Colenutt, *The London Docklands Development Corporation: Has the Community Benefited?*, in *HOLLOW PROMISES: RHETORIC AND REALITY IN THE INNER CITY* 31 (Michael Keith & Alisdair Rogers eds., 1991) (offering a critical assessment of the London Docklands Development Corporation); see also Timothy Bates, *Political Economy of Urban Poverty in the 21st Century: How Progress and Public Policy Generate Rising Poverty*, in *THE INNER CITY: URBAN POVERTY AND ECONOMIC DEVELOPMENT IN THE NEXT CENTURY* 111 (Thomas D. Boston & Catherine L. Ross eds., 1997) (arguing that the Reagan administration’s initial conception of enterprise zones sought to adopt the laissez-faire practices of the informal economy).

134. Briffault, *supra* note 133, at 510; see also James A. Schriener, *Bottom-Line Governors: States Change Their Use of Incentives—and Firms Can Benefit*, *INDUSTRY WK.*, Nov. 4, 1996, at 74, 74 (suggesting that states are shifting their emphasis from incentives to encourage firm relocation to incentives intended to promote firm retention).

135. Vidal, *supra* note 38, at 179.

oriented toward helping needy residents or improving their neighborhoods. Rather, economic development, broadly understood, is the primary program objective.<sup>136</sup> The unproven assumption is that economic development is synonymous with "job creation" which will lead to an improved overall public welfare for zone residents. Other literature suggests, however, that state tax incentives provided to for-profit, private business firms are more likely to stimulate capital investment than job creation.<sup>137</sup> The federal investment tax credit evidence suggests that the "credit fostered the substitution by employers of physical capital for production workers, and may actually have reduced the supply of low-skilled blue collar work."<sup>138</sup> Moreover, "[d]espite the considerable attention given to the enterprise zone concept . . . remarkably little [data exists as to] what [it has actually] accomplished."<sup>139</sup> Most methods used to assess the Enterprise Zones Program tend to overstate the program's impact on economic growth.<sup>140</sup> For example, many studies are "before and after studies" and employer surveys which, in effect, report increases in the number of jobs without accounting for jobs lost or whether those jobs were simply moved from one area to another. Further, no conclusive, or even persuasive, link is ever made between the number of jobs and the program.<sup>141</sup>

The Empowerment Zones Program's embrace of enterprise zones reflects a troubling contradiction. The best of the Model Cities Program was its resulting emphasis on *use values*, such as community-based participation and programs that improve the quality of life. By contrast, the enterprise zones approach exclusively emphasizes *exchange values* and a commitment to furthering an ideological goal of proving that government over-regulation caused the decline of the inner city. Urban policy assertedly need only focus on eliminating regulation in order to reverse the decline by stimulating and promoting business activity. While ideology, law, and policy are never far from one another and,

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136. *Id.* at 179.

137. *See id.* at 180 (citing Rodney A. Erickson & Susan W. Friedman, *Comparative Dimensions of State Enterprise Zone Policies*, in ENTERPRISE ZONES, *supra* note 116, at 155).

138. Franklin J. James, *The Evaluation of Enterprise Zone Programs*, in ENTERPRISE ZONES, *supra* note 116, at 225, 232.

139. Vidal, *supra* note 38, at 180.

140. *See* Margaret G. Wilder & Barry M. Rubin, *Rhetoric Versus Reality: A Review of Studies on State Enterprise Zone Programs*, 62 J. AM. PLAN. ASS'N 473 (1996).

141. *See* James, *supra* note 138, at 233-34.

arguably, are in constant dialectical tension with one another,<sup>142</sup> the ideology promoted by the enterprise zones approach is that any latent creative potential is to be found within the private sector—not in the public sector or in the people who live within inner city communities. Thus, the goal is not to empower inner city residents or to focus wealth creation on inner city residents. It is unclear whether enterprise adherents overlooked the impact of applying these concepts to inhabited organic communities or whether it was simply that the people in those communities did not matter to such a degree that the communities were best viewed as vacant and devoid of resources.<sup>143</sup>

Even though enterprise zones originated from a theory based on a commitment to the precepts of the free market, enterprise zones in the American context have been converted to serve the pragmatic goals of local economic development—an ongoing project of local governments.<sup>144</sup> As discussed above, apart from tax breaks, enterprise zones in the United States rarely, if ever, involve the elimination of local governmental regulatory controls.<sup>145</sup> Presumably, enterprise zones can involve regulatory waivers as needed, particularly as demanded by specific agreements with particular business firms. Because enterprise zones provide a useful vehicle in which to package and market already existing economic development tools and incentives, the zone concept is nevertheless compelling to localities responding to the twin imperatives of the demands of capital and the failures of persistent urban decline and unemployment.

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142. See Robert Cover, *Nomos and Narrative*, in *NARRATIVE, VIOLENCE, AND THE LAW: THE ESSAYS OF ROBERT COVER* 101 (Martha Minow et al. eds., 1992) (“Law may be viewed as a system of tension or bridge linking a concept of a reality to an imagined alternative . . .”).

143. See Fred Siegel, *Don't Feed the Bureaucracies*, *NEW DEMOCRAT*, Nov. 1993, at 18, 18 (“Enterprise zones . . . confuse social isolation with geographic distance.”).

144. See LOGAN AND MOLOTCH, *supra* note 14, at 246-47. Iris Young has observed that,

[d]espite contemporary rhetoric to the contrary, the primary beneficiary of big government in advanced capitalism is private enterprise, which has become inextricably dependent on government for its continued welfare. Government creates institutions and develops policies explicitly aimed at promoting the long-term interests of capital accumulation. To this end federal and sometimes local government regulates the economic system through tax policy, monetary policy, tariffs and import-export trade policies, debt spending, farm and corporate subsidies, and regulation of its own spending levels.

YOUNG, *supra* note 58, at 68.

145. See Briffault, *supra* note 133.

## IV. THE GHETTO AND THE GLOBAL CITY

A. *Post-Industrial Cities and Economic Distress*

The foregoing discussion has extensively analyzed development programs as methods for attaining beneficial change. Unfortunately, these programs have yet to meet intended goals. This failure typically prompts little critical analysis other than to continue the quest for new development techniques that can avoid past failures. The quest for the perfect urban economic development technique cannot succeed, however, unless development, in particular as embodied in the Empowerment Zones Program, is fully contextualized within the lived reality of the city. The relevant lived reality of the city extends beyond the boundaries of impoverished inner-city communities—often the exclusive focus of attention—to the entire city and metropolitan region. A proper appreciation of the economic, legal, and social processes that determined our current metropolitan configuration—as well as a system of relations that is understood and practiced by all—is crucial for beginning to reimagine development.

Understanding the places where Empowerment Zones are located is important for understanding the challenges facing an economic development program. The international development literature demonstrates the importance of not universalizing the development concept without taking “place” and “space” into account.<sup>146</sup> This is because the relationships between people and places will impact how a program will function. As a “place-based” strategy,<sup>147</sup> rather than

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146. Although the concepts of “space” and “place” seem interchangeable, when I refer to place, I am referring to geographic place which is, admittedly, a spatial concept. When I refer to space, I am referring to space as a representation of ideas, beliefs, and relationships that is, by definition, ideological and contested. *See, e.g.*, HENRI LEFEBVRE, *THE PRODUCTION OF SPACE* (Donald Nicholson-Smith trans., Blackwell Publishers 1991) (1974). In attempting to construct a science of space through analysis of spatial practices, representations of space and representational spaces, Lefebvre has criticized the overuse of the term “space” and the frequent failure to define the term. *See id.* at 3-4.

147. *See* Donald A. Hicks, *Revitalizing Our Cities or Restoring Ties to Them? Redirecting the Debate*, 27 U. MICH. J.L. REFORM 813, 858 (1994) (criticizing place-based targeting of urban policy for failing to take into account how real economies perform and transform over time and noting that, “[p]laces, and people in places, are ever ‘in play’ as the development of larger economic systems proceeds”); Miguel de Oliver & Teresa Dawson-Munoz, “Place-Not-Race”?: *The Inadequacy of Geography to Address Racial Disparities*, 25 REV. BLACK POL. ECON. 37, 42 (Sept. 22, 1996) (arguing that geographically based development programs will disproportionately benefit

providing direct benefits to individuals in the form of direct transfer payments such as welfare or social security,<sup>148</sup> the Empowerment Zones Program focuses federal financial aid and regulatory priority on the communities in which the urban poor live—i.e., the place and space that they occupy.<sup>149</sup> In order to be eligible for designation, each city must select a carved-out geographic area within its boundaries that meets stringent maximum area and population limits, as well as minimum poverty, unemployment and general-distress standards.<sup>150</sup> The geographic and population criteria were intended to ensure that nominated zones were discrete areas within the city so that an entire city did not become a zone.<sup>151</sup> Accordingly, based on census tract data,<sup>152</sup> an eligible area must have a significant poverty rate that is widespread throughout the zone “has become entrenched or intractable over time.”<sup>153</sup>

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“Anglos”).”

148. See Clarke & Gaile, *supra* note 126, at 33. According to Clarke and Gaile, Place-based funding [has] increasingly [been] replaced by transfer payments to individuals, particularly the nonurban middle class and elderly. In 1996 [the Clinton Administration] proposed that 61 percent of federal aid to states and local governments go directly to individuals, compared to 35 percent in 1960; 16 percent in capital grants to state and local governments, compared to 47 percent in 1960; and 22 percent in other state and local grants, compared to 17 percent in 1960.

*Id.* The authors further noted that “the “Empowerment Zone program includes more social funding than [other recent] proposals, but stirs only modest local expectations.”  
*Id.*

149. See Liebschutz, *supra* note 96, at 122-23. The author writes, Although total federal aid to state and local governments increased by 33 percent during the 1980s—and even more dramatically between 1988 and 1994, by 88 percent—it was almost entirely driven by rises in aid for persons. In 1980, 35.7 percent of federal intergovernmental grants were dedicated for payments to individuals; by 1994, that proportion was estimated at 63.3 percent.

*Id.* (citing U.S. ADVISORY COMM’N ON INTERGOVERNMENTAL RELATIONS, SIGNIFICANT FEATURES OF FISCAL FEDERALISM 9 (1994)).

150. See 26 U.S.C. §§ 1392(a)(1), (a)(2), (a)(3)(A), 1391(b)(2) (1994 & Supp. III 1997).

151. The legislation requires that one zone designation span two states, including an area having a population under 50,000. Under these criteria, Philadelphia/Camden became assured of designation. See Thomas, *supra* note 89, at 216.

152. One criticism of the use of census tracts is that each city has a zone that is a “creature of federal EZ provisions” rather than of indigenously established neighborhood boundaries or planning department policy. This federally designated geographic area within a town or a city is set off as distinct from surrounding or adjoining areas in the city. Even though areas just on the other side of the boundary can exhibit identical, indistinguishable characteristics, they are not part of the zone. See John Gaventa et al., *Empowering People: Goals and Realities*, F. FOR APPLIED RES. & PUB. POL’Y, Winter 1995, at 116, 120; Thomas, *supra* note 89, at 218 (noting that the federal criteria led to a salamander-shaped zone of 101,000 people in Detroit).

153. 24 C.F.R. § 597.102(a) (1997). A general poverty rate of 20% is required throughout each census tract with at least 25% for 90% of the tract and 35% for 50% of the tract. See 26 U.S.C. § 1392(a)(4). A central business district could be included,

As an alternative, the city can demonstrate that no portions of the geographic area contain any component areas of an "affluent character."<sup>154</sup> The area must also be characterized by unemployment or severe economic conditions due to plant or military base closings,<sup>155</sup> and meet criteria of general distress, such as a "high incidence of crime, narcotics use, homelessness, abandoned housing, and deteriorated infrastructure or substantial population decline."<sup>156</sup>

While a number of applicant cities had territory that easily met the objective federal criteria, the original eight cities selected for Empowerment Zone status were selected on the strength of their proposed strategic plans: Atlanta, Baltimore, Chicago, Detroit, Philadelphia/Camden,<sup>157</sup> New York City, Cleveland and Los Angeles.<sup>158</sup> While all different, the cities bear a striking resemblance to one another. Each city has geographic areas that are home to significant numbers of economically impoverished people. Such areas are referred to by various names: the inner city, the center city, the barrio, the ghetto, or the "hood." Not only do they share a common impoverished present but also a common vibrant industrial or mercantile past. The majority of Empowerment Zone cities were formerly leading cities of America's Manufacturing Belt, more recently referred to as "the Rustbelt."<sup>159</sup> The decline of America's industry meant that these cities changed from "overcrowded manufacturing center[s] to partially abandoned, post-

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however, if it has a 35% or greater poverty rate. *See id.* § 1392(a)(3)(D).

154. 24 C.F.R. § 597.102(a).

155. *See id.* § 597.102(b).

156. *Id.* § 597.102(c).

157. The legislation explicitly provided for a joint Empowerment Zone to be established in two cities in two different states according to criteria that left Philadelphia and Camden as the only cities that fit the criteria. Camden's performance and participation in the Empowerment Zone process has been adjudged by all as a failure. *See Thomas, supra* note 89, at 216.

158. A number of cities that were likely candidates for Empowerment Zone status, including Miami, Los Angeles and Houston, were not originally chosen. *See* Dept. of HUD, Notice of Designation of Empowerment Zones and Enterprise Communities, 60 Fed. Reg. 10,018 (1995).

159. Atlanta and Los Angeles are relatively newer cities whose decentralized configuration not only has given rise to some of the worst traffic problems in the nation, but also has managed to duplicate the phenomenon of significant concentrated poverty without the degree of obsolescence experienced by Northeastern and Midwestern cities. *See generally* EDWARD SOJA, *THIRDSPEACE: JOURNEYS TO LOS ANGELES AND OTHER REAL-AND-IMAGINED PLACES* (1996) (describing and analyzing the indescribably varied landscape of Los Angeles).

industrial cit[ies] in the global economy.”<sup>160</sup>

### B. Globalization and the Changing Nature of Cities

Globalization is a relevant social and economic construct for understanding a much-discussed world-wide economic, social, and cultural phenomenon whose precise dimensions and exact definition are contested.<sup>161</sup> On a cultural level, globalization manifests itself as “[a] social process in which the constraints of geography on social and cultural arrangements recede and in which people become increasingly aware that they are receding.”<sup>162</sup> On an economic level, it is an international economic shift to a geographically dispersed but globally integrated economy. Accordingly, from the North American point of view, globalization has meant increased international economic competition that undercut high-priced, American-based manufacturing and caused manufacturing to shift first to the Southern and Western U.S. and then overseas to countries with very low wages.<sup>163</sup> Locally, globalization is considered to have impacted the ability of local places to make decisions addressing their economic needs in the face of hyper-mobile capital and fixed cities.<sup>164</sup> Whatever the explanation, important changes in the organization of labor and urban life have taken place throughout the world. While global trade and competition have existed for centuries, rapid changes in technology, and in particular communication, have contributed to the hyper-mobility of capital, resulting in a decentered relationship between capital and labor.<sup>165</sup> Under the current, service-dominated U.S. economy, cities’ major employers are now financial, educational, and health care institutions.<sup>166</sup> As

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160. David W. Bartlett, *Urban Housing in an Era of Global Capital*, 551 ANNALS AM. ACAD. POL. & SOC. SCI. 121, 123 (1997).

161. See Michael Peter Smith, *The Global City—Whose Social Construct Is It Anyway?*, 33 URB. AFF. REV. 482, 485 (1998) (“The global city is best thought of as a social construct, not as a place or an object consisting of essential properties that can be readily measured outside the process of making meaning.”).

162. MALCOLM WATERS, *GLOBALIZATION* 3 (1995) (emphasis omitted). See CASTELLS, *supra* note 14.

163. See Vilna I. Bashi & Mark Alan Hughes, *Globalization and Residential Segregation by Race*, 551 ANNALS AM. ACAD. POL. & SOC. SCI. 105, 112-14 (1997) (disputing the existence and significance of globalization).

164. See, e.g., Hazel Henderson, *Development Beyond Economism: Local Paths to Sustainable Development*, in PEOPLE, LAND & COMMUNITY 89, 96-97 (Hildegard Hannum ed., 1997) (arguing that liquidity of capital has moved currency to circulate the globe freely while starving localities for cash and currency).

165. See SASKIA SASSEN, *THE GLOBAL CITY: NEW YORK, LONDON, TOKYO* 22-34 (Princeton Univ. Press 1991).

166. See GREGORY D. SQUIRES, *CAPITAL AND COMMUNITIES IN BLACK AND WHITE* 103 (1994).

administrative arms of major corporations have remained in the U.S., the economy has reshaped itself to meet the service needs of the new global economic elite. Therefore, local urban economies that necessarily emphasize expensive information services, communications, personal services, restaurants, and advertising have given rise to an essentially bifurcated society and economy. This has led to cities characterized by a growing dualization between extreme wealth and extreme poverty.<sup>167</sup> Highly skilled, professional jobs fall into the primary sector, characterized by high wages and privileges. Secondary sector jobs are, more often than not, characterized by low wages, are often temporary, and do not offer benefits.<sup>168</sup>

In the face of a decentralizing world, cities have competed with one another to shore up their economic base in the form of local economic development, utilizing a variety of tactics designed to make local areas hospitable and attractive to private industry and business. This approach has evolved from focusing exclusively on "smokestack chasing" (i.e., trying to restore the eroded manufacturing base by enticing industry to relocate to a particular jurisdiction) to a current emphasis on attempting to identify and occupy a particular niche within the national and regional economy.<sup>169</sup> A significant part of the local economic development project involved expanding and reconfiguring the central business district or downtown using federal urban renewal funds, from the late 1940s until the early 1970s,<sup>170</sup> and Community Development Block Grant funds and Urban Development Action Grants, during the 1970s and early 1980s.<sup>171</sup> Urban renewal, in particular, provided federal funds to allow cities to condemn and acquire "slum" properties and assemble them into large parcels of land to be redeveloped into more suitable

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167. See John Accordino, *The Consequences of Welfare Reform for Central City Economies*, 64 J. AM. PLAN. ASS'N 11, 12 (1998) (describing the increasingly polarized job structure as an "hourglass economy"); SASSEN, *supra* note 165, at 300-07.

168. See Accordino, *supra* note 167, at 12.

169. See Clark & Gaile, *supra* note 126, at 31.

170. See BERNARD J. FRIEDEN & LYNNE B. SAGALYN, *DOWNTOWN, INC.: HOW AMERICA REBUILDS CITIES* 26 (1989); Benjamin B. Quinones, *Redevelopment Redefined: Revitalizing the Central City with Resident Control*, 27 U. MICH. J.L. REFORM 689, 700-03 (1994) (describing cities' use of federal urban renewal funds to finance new downtowns).

171. See generally PAUL R. DOMMEL ET AL., *DECENTRALIZING URBAN POLICY* (1982) (analyzing the CDBG program); *THE URBAN DEVELOPMENT ACTION GRANT PROGRAM* (Richard P. Nathan & Jerry A. Webman eds., 1980) (describing the UDAG program).

uses.<sup>172</sup> Cities were dramatically affected as ailing business districts or former warehouse districts were replaced with gleaming office towers, luxury hotels, convention centers, and other recreation facilities.<sup>173</sup> In fact, local economic development is specifically structured to meet the high-end service, entertainment, and shopping needs of the “global elite” as well as to promote tourism to attract suburban visitors. This emphasis has converged with the spectacular rebirth of formerly ailing central business districts in the form of newly gilded downtown areas organized around showcasing the entertainment, sports, and cultural resources of cities in the form of sports arenas, convention centers, and festival market places replicated throughout the country:<sup>174</sup> the Inner Harbor in Baltimore, surrounded by two new sports stadiums; the Riverwalk in San Antonio, with a promenade of upscale restaurants and shops; South Street Seaport in New York City, with an array of specialty food shops and novelty vendors in a converted fish market; Quincy Market in Boston; and Union Station in Washington D.C., with a gold-leaf trimmed, high-end shopping mall and an array of restaurants.

Nevertheless, many cities are increasingly characterized by an incredibly glaring duality—extreme wealth and extreme poverty.<sup>175</sup> The rise of the gilded downtown (subsidized and funded with public dollars, predicated on an unfulfilled promise that downtown revitalization would lead to economic benefits for the entire city) has failed to benefit the neighborhoods that are home to the poorest residents of the cities. While urban renewal certainly allowed cities to transform their economies in the light of the disappearance of manufacturing jobs, a great many of the newly created jobs benefitted primarily suburban commuters.<sup>176</sup> Moreover, urban renewal often eliminated poor and working class neighborhoods and replaced them with high-rise, luxury structures for the more affluent while concentrating public housing sites within black neighborhoods.<sup>177</sup> Often poor neighborhoods just outside the revitalized

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172. See MASSEY & DENTON, *supra* note 31, at 55.

173. See SQUIRES, *supra* note 166, at 95.

174. See Haya El Nasser, *New Approaches to Rebuilding Cities: Entertainment Centers a Big Draw*, USA TODAY, Dec. 27, 1996, at 1A (labeling the new boom in economic development as a boom in “downtown playgrounds”).

175. In many cities, the dualization phenomenon is disguised beneath wealth statistics that fail to reflect the poverty contained within the cities. For example, in Silicon Valley, the statistics disguise the fact that poverty, in the form of female immigrant workers, at minimum coexists with and has facilitated the economic boom. See Kodras, *supra* note 70, at 82.

176. See FRIEDEN & SAGALYN, *supra* note 170, at 265, 288-89; see also ROGER FRIEDLAND, *POWER AND CRISIS IN THE CITY: CORPORATIONS, UNIONS AND URBAN POLICY* 62-68 (1982) (detailing the postwar transformation of central cities).

177. See MASSEY & DENTON, *supra* note 31, at 56. As Massey explains, in order to satisfy urban renewal requirements that an adequate supply of replacement housing be

business districts benefit, if at all, only to the extent that the neighborhoods become attractive to young urban professionals. However, the gentrification usually results in displacement of the existing residents who are forced to seek affordable housing elsewhere.<sup>178</sup> Poor inner-city neighborhoods have not benefited from the economic development going on around them because economic development promotes capital accumulation and mobility that intentionally bypasses poor neighborhoods.<sup>179</sup> Redevelopment policies, historically geared at containing the ghetto, were so successful that, today, economic development activities need not be deliberately geared at bypassing the ghetto—they do so as a matter of practical common sense.<sup>180</sup>

### C. *Impact of External Forces on the Central City*

As globalization and technology have reorganized the nature and location of productive, financially rewarding work and have skewed the economy into dual sectors, the spatial consequences of globalization have been determined by decentralizing forces existing at the local level. Poverty in particular places generally begins not only with inequalities in global capitalist production but also in societal patterns and conventions of discrimination.<sup>181</sup> In different geographic contexts, this translates into striking geographic variations in life opportunities for different people.<sup>182</sup> Accordingly, the contours and conditions of inner city places cannot be understood solely as a function of the activities that have or have not taken place within the cities. Instead, the surrounding

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made available for families displaced by urban renewal, local planning agencies turn to public housing. Such projects are usually built on cleared land within or adjacent to existing black neighborhoods. Further, they often take the form of high density, multi-unit projects in order to save money, maximize patronage jobs, and squeeze as many black people in as possible. *See id.* at 55-56; *see also* JOHN F. BAUMAN, PUBLIC HOUSING, RACE, AND RENEWAL: URBAN PLANNING IN PHILADELPHIA, 1920-1974, at 144-82 (1987); ARNOLD R. HIRSCH, MAKING THE SECOND GHETTO: RACE AND HOUSING IN CHICAGO, 1940-1960, at 40-99, 171-217 (1983).

178. *See generally* WILLIAM GRISBY ET AL., THE DYNAMICS OF NEIGHBORHOOD CHANGE AND DECLINE (1987).

179. *See* SQUIRES, *supra* note 166, at 107.

180. *See* W. Dennis Keating & Norman Krumholz, *Downtown Plans of the 1980s: The Case for More Equity in the 1990s*, 57 J. AM. PLAN. ASS'N, 136, 136-52 (1991) (criticizing six downtown plans for inadequately addressing concerns of social equity).

181. *See* Kodras, *supra* note 70, at 73.

182. *See id.*

regional context, federal policy, and local government fragmentation, as well as the privatization of services, have each had a significant impact on the urban inner city's condition. The contours and conditions of urban inner cities have been shaped through a confluence of local decentralizing events, influenced by state and federal policies and generally promoting the movement of millions of people outwards to an ever-extending periphery of the metropolitan region.<sup>183</sup> As new production, transportation, and communication technologies have reduced or eliminated the physical need to be geographically close to one's place of work or business and have increased the distances that are part of daily life,<sup>184</sup> populations within central cities have begun to decline as people moved from the cities to the suburbs, subsidized by the mortgage interest tax deduction.<sup>185</sup> Bank redlining<sup>186</sup> and Federal Housing Administration policies perpetuated and skewed this out-migration for many years by devaluing neighborhoods that were racially mixed and by refusing to insure or make available mortgages for neighborhoods occupied by blacks.<sup>187</sup> Suburbanization<sup>188</sup> and urban

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183. See generally JOEL GARREAU, *EDGE CITY* (1991).

184. See Hicks, *supra* note 147, at 825. The author stated,

As industries continued to accommodate shifting technological regimes, manufacturers began to filter out of older, less efficient production settings and into newer ones. What steam-powered technologies had once tethered tightly to central city locations, electricity-based technologies began to pry loose. As successive transportation and communication innovations combined to diminish the significance of physical distance, the importance of geographical proximity—the once-powerful centralizing influence on residence and production—began to decline.

*Id.*

185. See Daniel R. Vining, Jr., *Migration Between the Core and the Periphery*, *SCI. AM.*, Dec. 1982, at 45, 45-53.

186. See MASSEY & DENTON, *supra* note 31, at 51; see also KENNETH T. JACKSON, *CRABGRASS FRONTIER: THE SUBURBANIZATION OF THE UNITED STATES 197-218* (1985). The practice of "redlining" grew out of practices initiated by the Home Owners' Loan Corporation (HOLC), the federal program that made long-term, self-amortizing mortgages widely available. HOLC used a loan-risk assessment rating system that established four categories of neighborhoods, the lowest of which was coded with the color red. The highest rated category included homes located in neighborhoods that were new and homogeneous, i.e., the suburbs. The lowest rated categories included homes in central cities in or near black neighborhoods. See JACKSON, *supra*, at 197.

187. See JACKSON, *supra* note 186, at 208; MASSEY & DENTON, *supra* note 31, at 53-54. FHA-insured home loans issued by private banks made home ownership available on a mass scale in the United States. In rating homes for eligibility under the program, inner-city dwellings were often found to be ineligible for the program because of minimum lot sizes, setbacks and separation requirements that favored suburban areas. Moreover, the FHA followed HOLC's neighborhood rating approach: the 1939 FHA Underwriting Manual recommended, "If a neighborhood is to retain stability, it is necessary that properties shall continue to be occupied by the same social and racial classes." JACKSON, *supra* note 186, at 208.

188. For a detailed discussion of suburbanization, see Peter Mieszkowski & Edwin S. Mills, *The Causes of Metropolitan Suburbanization*, 7 *J. ECON. PERSP.* 135, 135-47

sprawl<sup>189</sup>—movement from central cities and inner-ring suburbs to outer suburbs in decreasingly dense settlement patterns<sup>190</sup>—have been supported by federal highway and transportation policies and state and local government law that allow locally fragmented government to practice fiscal and racially exclusionary zoning.<sup>191</sup> Through large-lot rules and other regulations, land use controls promote high-end, single-family use and prevent less-costly, multifamily housing.<sup>192</sup> Local government law has facilitated the contours, race, and class makeup of the metropolitan region.<sup>193</sup> Notions of localism reinforce geographical inequalities with political power to the benefit of affluent localities and to the detriment of poorer communities.<sup>194</sup> By allowing suburbs to incorporate as autonomous municipalities regardless of the motivation or impact on surrounding communities,<sup>195</sup> by limiting cities' ability to

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(1993).

189. For a detailed discussion of urban sprawl, see L.S. Bourne, *Self-Fulfilling Prophecies? Decentralization, Inner City Decline, and the Quality of Urban Life*, 58 J. AMER. PLAN. ASS'N 509, 509-13 (1992); HENRY L. DIAMOND & PATRICK F. NOONAN, *LAND USE IN AMERICA* (1996); *ALTERNATIVES TO SPRAWL* (Dwight Young, ed., 1995).

190. See generally ANTHONY DOWNS, *NEW VISIONS FOR METROPOLITAN AMERICA* (1994).

191. See Peter D. Salins, *Metropolitan Visions*, 26 REASON 60 (Dec. 1994) (arguing that zoning has inhibited high-density development and mixed residential and commercial land uses).

192. See *Hills Dev. Co. v. Township of Bernards*, 510 A.2d 621 (N.J. 1986); *Southern Burlington County NAACP v. Township of Mount Laurel*, 456 A.2d 390 (N.J. 1983); *Southern Burlington County NAACP v. Township of Mount Laurel*, 336 A.2d 713 (N.J. 1975), cert. denied, 423 U.S. 808 (1975); see generally DAVID L. KIRP ET AL., *OUR TOWN: RACE, HOUSING, AND THE SOUL OF SUBURBIA* (1997) (drawing on letters, interviews, newspaper accounts and personal and professional correspondence from civil rights organizations to illustrate the impact that local activists who precipitated the Mt. Laurel litigation had on the region's cultural and physical landscape).

193. See *Hunter v. City of Pittsburgh*, 207 U.S. 161, 178-79 (1907) (holding that states have absolute discretion in creating, combining and eliminating local government); *Ford*, supra note 51, at 1860-78.

194. See Briffault, supra note 67, at 1.

195. See *id.* at 76-77. But see *In re Incorporation of Town of Pewaukee v. Wisconsin Dept. of Dev.*, 521 N.W.2d 453 (Wis. Ct. App. 1994) (upholding denial of incorporation petition because it would result in government fragmentation that would inhibit the provision of municipal services); *The Cortese-Knox Local Government Reorganization Act*, CAL. GOV'T CODE §§ 56375, 57103 (requiring municipal incorporation petitions to be reviewed and modified or denied depending on impact upon surrounding areas while nevertheless precluding county residents from voting in an election to confirm the petition unless they reside in the territory to be incorporated); see also *Board of Supervisors v. Local Agency Formation Comm'n of Sacramento County*, 838 P.2d 1198 (Cal. 1992) (upholding the distinction between county residents as consistent with Equal Protection).

annex surrounding suburbs,<sup>196</sup> by allowing suburban cities to utilize state-granted powers to control land use through zoning,<sup>197</sup> and by taxing suburbs and using the proceeds for the exclusive benefit of suburbs,<sup>198</sup> local government has been the facilitator of the decentralization of people and jobs to the suburbs—while leaving central cities, and increasingly older, inner ring suburbs, to cope with shrinking tax bases and higher concentrations of poverty, crime, and the need for services.<sup>199</sup> While many of the policies that gave rise to current metropolitan configurations were carried out specifically for racially discriminatory reasons or in a manner that was detrimental to black people, the race factor has been neutralized into policies that continue to have a racially segregative effect but are facially neutral.<sup>200</sup> Therefore, a shifting, yet enduring, context of fear of otherness defined by race and class continues to exist and operate.<sup>201</sup>

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196. Almost half of the states provide the power of annexation by general state law but limit its exercise either by only permitting the annexation of unincorporated territory or, in more than half of the states, by requiring consent of the annexed territory by referendum, an often impossible hurdle to overcome. Accordingly, most major Northeastern cities have not grown territorially since the early 20th century. See Briffault, *supra* note 67, at 79 nn.334-35. In light of growing inner-ring suburban decay, however, the ability of cities to use annexation in order to benefit from surrounding suburban growth may be of declining value. See MICHAEL DANIELSON, *THE POLITICS OF EXCLUSION 16-17* (1976) (analyzing the early 20th century resistance to annexation resulting from a desire for political containment of the city and a desire for suburban separation).

197. See *Village of Arlington Heights v. Metropolitan Hous. Dev. Corp.*, 429 U.S. 252, 271 (1977) (requiring proof of a racially discriminatory motive in Equal Protection challenges to exclusionary zoning).

198. See, e.g., *San Antonio Indep. Sch. Dist. v. Rodriguez*, 411 U.S. 1, 55 (1973) (rejecting a federal Equal Protection challenge to Texas educational funding and school quality disparities); *Buse v. Smith*, 247 N.W.2d 141 (Wis. 1976) (holding that school financing equalization program violates state equal protection guarantee). *But see Edgewood Indep. Sch. Dist. v. Kirby*, 777 S.W.2d 391, 397-98 (Tex. 1989) (holding that the Texas educational financing system violated state constitutional guarantees of the right to “an efficient system of public free schools”); *Claremont Sch. Dist. v. Governor of New Hampshire*, 703 A.2d 1353, 1354 (N.H. 1997) (finding the New Hampshire property-tax-based school financing system unconstitutional).

199. See Jerry Frug, *The Geography of Community*, 48 STAN. L. REV. 1047, 1070-71 (1996).

200. See Ford, *supra* note 51, at 1857 (arguing that even in the absence of racism, color-blind policies will not alter the racialized and racially-segregated nature of metropolitan regions).

201. See David R. James, *The Racial Ghetto as a Race-Making Situation: The Effects of Residential Segregation on Racial Inequalities and Racial Identity*, 19 LAW & SOC. INQUIRY 407, 413 (1994) (“The concentration of poor African Americans in high-poverty neighborhoods is not only an effect of racial prejudice and discrimination. It is a powerful referent in the minds of whites that defines how blacks are different from whites.”)

*D. The Significance of Racially Neutral Criteria for Inner City Boundaries and Racialized Space*

While the criteria used for Empowerment Zone designation is textually race-neutral, the eligible areas in cities happen to be racially and economically concentrated in startlingly consistent patterns from city to city throughout many cities in the U.S. and, as the discussion below will show, conveniently play the same spatial role in each city. Each eligible Empowerment Zone is located in a geographic area that is hyper-segregated, not only by poverty, but by race—comprised of concentrated populations of poor black people ranging from thirty-seven percent to ninety percent.<sup>202</sup>

	African-American	City	Latino	City	White	City	Other (including Asian)	City
Atlanta	90%	67%	2%	2%	7%	30%	.06%	1%
Baltimore	78%	59%	.07%	1%	20%	39%	1%	1%
Camden	53%	54%	35%	28%	11%	15%	1%	2%
Chicago	72%	39%	24%	19%	3%	38%	0.3%	4%
Cleveland	94%	46%	0.9%	4%	4%	48%	.07%	1%
Detroit	67%	75%	11%	3%	20%	21%	2%	1%
Los Angeles	37%	13%	57%	39%	3%	37%	2%	10%
New York	48%	26%	47%	26%	3%	43%	2%	7%
Philadelphia	63%	40%	26%	5%	9%	52%	2%	3%

Statistics compiled from census data file STF 3A by the Empowerment Zone Action Research Project, Egan Urban Center, DePaul University (1998).

By geographically targeting its efforts to address the poverty experienced in these neighborhoods, Empowerment Zones were created

202. Two cities, New York and Los Angeles, also reflect concentrations of black and Latino people. Thus, further analysis of racialization and ethnicization of space is required. See William H. Frey & Reynolds Farley, *Latino, Asian, and Black Segregation in Multi-Ethnic Metro Areas: Findings from the 1990 Census*, 9 RESEARCH REPORT NO. 93-278, Population Studies Center, University of Michigan (1993). During the 1980s, Latino and Asian segregation increased 52% and 74%, respectively. See *id.* at 2.

on the side of a boundary line with significant social and racial meaning. In the cities, a strict line of demarcation—between central business district and neighborhood, between affluence and poverty, between places to be sought out and places to be avoided, between optimism and frustration, or simply between black and white—clearly signals to all the difference between those who simply “live in the city” versus those who are “inner city.” As the discussion of the forces that gave shape to the ghetto demonstrates, the hyper-concentration of poverty along racial lines is not simply an accident of the market or individual choice. Studies illustrate the contrast between segregation of the black and impoverished versus the white and impoverished.<sup>203</sup> In a typical metropolitan area, most black and poor families are concentrated in ghetto neighborhoods while most white and poor families are scattered throughout suburban areas.<sup>204</sup> While the characterization of either race or class as the determining factor of concentrated poverty is debated,<sup>205</sup> the fact remains that Empowerment Zones are being offered to remedy conditions in particular places that have taken on a racialized character with significant spatial significance.<sup>206</sup> As Edward Soja has explained, analysis of space is important because it “[e]nables us to see more clearly the long-hidden instrumentality of human geographies, in particular, the encompassing and encaging spatializations of social life”<sup>207</sup> that occur in the city. In other words, space serves as the physical manifestation of relationships.<sup>208</sup> Contemplating the spatial role played

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203. See DAVID RUSK, *INSIDE GAME OUTSIDE GAME: WINNING STRATEGIES FOR SAVING URBAN AMERICA* 71 (1999).

204. See *id.* Rusk writes, “In a typical metro area . . . three out of four poor whites lived in middle-class, mostly urban neighborhoods. By contrast, three out of four poor blacks and one out of two poor Hispanics lived in inner-city ‘poverty neighborhoods’ where at least 20 percent of the residents were poor.” *Id.*

205. See MASSEY & DENTON, *supra* note 31, at 37 (discussing the impact of racial discrimination on segregation); WILLIAM JULIUS WILSON, *THE TRULY DISADVANTAGED: THE INNER CITY, THE UNDERCLASS, AND PUBLIC POLICY* 41-42, 126-132 (1987) (arguing that unemployment and social isolation rather than race are the most important determinants of urban black poverty).

206. See John O. Calmore, *Racialized Space and the Culture of Segregation: “Hewing a Stone of Hope from a Mountain of Despair,”* 143 U. PA. L. REV. 1233, 1236-38 (1995) (tracing the idea of racialization and racialized space in the context of delineating the residential segregation); Ford, *supra* note 51, at 1913 (arguing that society uses the law to invisibly create and perpetuate racially identified spaces). While we tend to understand racialized space as black space, racialized space can also be white space. As Alastair Bonnett has observed, we tend to view white space as socially transparent, normative, neutral, banal, dull, noncontroversial and normal. No debatable racial categories are involved. See Alastair Bonnett, *Geography, ‘Race’ and Whiteness: Invisible Traditions and Current Challenges*, 29 AREA 193, 199 (1997).

207. Edward W. Soja, *Postmodern Geographics: Taking Los Angeles Apart*, in ROGER FRIEDLAND AND DEIRDRE BODEN, *NOWHERE: SPACE, TIME AND MODERNITY* 139 (1994).

208. See Loic J.D. Wacquant, *Three Pernicious Premises in the Study of the*

by the geographic areas that are Empowerment Zones provides crucial insight into the relationships that take place in the city and the impact of those relationships on the Empowerment Zones Program's potential to meet its stated goals. Because the racially segregated city is "a racialized social structure [that] frames racialized experience and conditions racialized meaning,"<sup>209</sup> the black racialized space of the ghetto is a place that provides an identifiable and contained site where the "Other" is located.<sup>210</sup> A program that is predicated on helping the Other without really contemplating the relationship that the dominant society has with the Other is inadequate because it pretends away important barriers to the stated goal, barriers that are insurmountable as long as they remain unacknowledged or deliberately ignored.

*E. Images of the Places that are Empowerment Zones:  
Segregation and Marginalization*

The Empowerment Zones Program's goal is to attract businesses back to the city into places that are racialized black and classified poor. Black racialized space is regarded as extremely poor, overcrowded, dangerous, dilapidated, and threatening to property values unless contained.<sup>211</sup> This is the case regardless of whether a particular black neighborhood is in fact as bad as it is regarded. The process of racializing space is distinct from the fact that a neighborhood or area might be inhabited by people of one race. Racializing space effectively demarcates particular areas

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*American Ghetto*, 21 INT'L J. OF URB. & REGIONAL RES. 341, 344 (1997) ("[A]n institutionalist approach seeks to locate *underlying breaks* in the urban fabric and to trace the (re)drawing of the dividing lines of which the ghetto is the physical manifestation.").

209. Calmore, *supra* note 206, at 1242-43 n.49 (citing MICHAEL OMI & HOWARD WINANT, *RACIAL FORMATION IN THE UNITED STATES: FROM THE 1960S TO THE 1990S* 59 (2d ed. 1994)).

210. See Peter Marcuse, *The Enclave, the Citadel, and the Ghetto: What Has Changed in the Post-Fordist U.S. City*, 33 URB. AFF. REV. 228, 255 (1997) ("The isolation of the ghetto is seen as a benefit by much of the outside white society, quite contrary to the [historical] view of the isolation of the immigrant ghetto, which was seen as a danger by social leaders.").

211. See *Huntington Branch, NAACP v. Town of Huntington*, 844 F.2d 926 (2d Cir. 1988) (holding that the designation of urban renewal zones as the only places where low income housing could be built violated the Fair Housing Act by, in effect, creating black zones); Keith Aoki, *Direct Democracy, Racial Group Agency, Local Government Law, and Residential Racial Segregation: Some Reflections on Radical and Plural Democracy*, 33 CAL. W. L. REV. 185, 200 (1997) (discussing the real estate market in Monterey Park, Cal. which bestows tangible economic benefits by devaluing or valuing real estate based on the presence or absence of black people).

not only based on racial identity but also imposes popular stereotypes, anxieties, and concerns on these places.<sup>212</sup> The role of these places in the popular imagination justifies their subordination and oppression. The ghetto is a place that makes the places outside of it (whether affluent central-city neighborhoods, the suburbs, or exurbs) a desirable refuge and a safe haven. Racialized space also provides a stark point of reference that can make onlookers more content with where they are in their lives.<sup>213</sup> Black racialized space is also space that people usually leave as soon as they are able: moving up means moving out.<sup>214</sup> The irony of development programs designed to restore ghetto space back to its prior glory is that those who are successfully aided to obtain employment will usually be inclined to move out.<sup>215</sup> Nevertheless, those who leave often move to suburban neighborhoods that are predominantly black. Examples are neighborhoods like Baldwin Hills in

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212. See Margaret Weir, *From Equal Opportunity to 'The New Social Contract': Race and the Politics of the American 'Underclass,'* in RACISM, THE CITY AND THE STATE 93, 105 (Malcolm Cross & Michael Keith eds., 1993). Weir explains, "[The] geographic separation of blacks has important political consequences: it transforms the problems of living in cities into 'black' problems, making it easier for politicians to solve urban problems at the expense of poor black residents." *Id.* at 104. Weir also writes,

Isolation has made the lives of blacks in urban ghettos so remote that most white Americans have little direct knowledge which could promote either a sense of commonality or insight into the pattern of racial discrimination which has contributed to the plight of poor blacks. In this context, the policies which have been considered for addressing black economic problems during the past decade have stressed individual behaviour over racial disadvantage or economic location.

*Id.* at 105; see also Loic J.D. Wacquant, *Urban Outcasts: Stigma and Division in the Black American Ghetto and the French Urban Periphery*, 17 INT'L J. URB. REGIONAL RES. 366 (1993).

213. See Patricia J. Williams, *Alchemical Notes: Reconstructing Ideals from Deconstructed Rights*, 22 HARV. C.R.-C.L. L. REV. 401, 423-24 (1987). The author explains,

Some structures are the direct products of people and social forces who wanted them that way. If one assumes, as blacks must, not that the larger world wants to overcome alienation, but that many heartily embrace it, driven not just by fear but by hatred and taboo, then one is compelled to recognize the degree to which informal systems as well as formal systems are run by unconscious and/or irrational forces. "Human nature has an invincible dread of becoming more conscious of itself."

*Id.* (citations omitted); see also, e.g., Tom Gorman, *Riverside School to Be Named After King*, L.A. TIMES, Jan. 6, 1998, at A3 (reporting that many town residents protested the school board's decision to name a high school after Martin Luther King, Jr., arguing that it would identify the school as a black school and impact college admissions).

214. See Edward Gramlich et al., *Moving into and out of Poor Urban Areas*, 11 J. POL'Y ANALYSIS & MGMT. 273, 281-83 (1992).

215. See Lemann, *supra* note 10, at 30 (describing the role of the ghetto as a transitional point passed through by successive generations of ethnic groups); Marcuse, *supra* note 210, 228-29, 237 (describing the ghetto of today as the "outcast ghetto," as exemplified by Harlem, New York, which is no longer a magnet for the middle-class).

Los Angeles, California, Upper Marlboro, in Prince George's County Maryland, and Shaker Heights outside of Cleveland, Ohio—all of which reflect the results of affirmative action: increased purchasing power accompanied, ironically, by a growing suburbanization trend for middle class blacks over the past twenty-five years.<sup>216</sup> While black suburban neighborhoods are solidly middle class and, in many cases, quite affluent, they are nevertheless areas that are racialized black and are devalued as compared to similar predominantly white neighborhoods in terms of property values and business and retail services.<sup>217</sup>

Places that have been racialized black and classified poor suffer devaluation to such an extent that they are significantly marginalized. The life and the work of the city happens around these neighborhoods, often nearby but nevertheless outside. Communities receiving the most significant attention are those areas that have gentrification potential because they are located next to or close to the central business district.<sup>218</sup> Otherwise, they are disconnected from activities and social interactions that give life to the city. This marginalization is perhaps the most dangerous form of oppression because it subjects an entire category of people to severe material deprivation, or possibly extermination, because it banishes them from productive participation in social life.<sup>219</sup>

While it is indisputable that Empowerment Zone areas suffer from very high rates of unemployment and have experienced serious business disinvestment, economic development, in general, and the approach of Empowerment Zones, in particular, treats the economic and social conditions within these neighborhoods and their resulting

216. See REYNOLDS FARLEY & WALTER R. ALLEN, *THE COLOR LINE AND THE QUALITY OF LIFE IN AMERICA* 142 (1987).

217. See Rudolph A. Pyatt Jr., *Prince George's, Seeking More Stores, Takes Its Case to Retail Executives*, WASH. POST, Dec. 25, 1997, at D3 (reporting black suburbanite letter-writing campaign to educate retailers about disparities in chosen locations of upscale retail stores); see also *Judge Tells Florida Pizza Shop to Deliver to Black Community*, N.Y. TIMES, Feb. 15, 1998, at 20 (providing a further example of the dictates of racial geography). The article states that a federal district court issued a preliminary injunction to a pizza delivery franchise requiring it to provide home delivery to residents of a tiny black seaside resort. Residents had been required to go to a convenience store in town to pick up orders while deliveries were available for surrounding, more affluent white resorts. This phenomenon has also been described as a pattern of "unequal autonomy" among minority neighborhoods. See LOGAN & MOLOTCH, *supra* note 14, at 124.

218. See Robert Beauregard, *Politics, Ideology and Theories of Gentrification*, 7 J. Urb. Aff. 51, 51-62 (1985).

219. See Young, *supra* note 58, at 53-54.

marginalization as an internally driven condition. This necessarily leads to a focus on replacing missing jobs or bolstering social services such as job-skills training and day-care services. Promoting business expansion and economic growth logically follows as the most sensible way to alleviate the problems of the ghetto. This internally driven view of marginalization is defied by external realities. Because the Empowerment Zones Program fails to acknowledge the structural issues confronting ghetto communities—as well as the spatial and ideological biases of economic development, this program and others similar to it are unlikely to ever appropriately address the oppression and subordination experienced by these communities.

A critical theory of social justice is a useful starting point for adopting the dialectical perspective necessary to allow us to move past looking at the problems of impoverished inner city neighborhoods as simply an internally driven and internally remediable problem. A critical examination must include often-ignored social structures and institutional context that nevertheless often determine distributive patterns.<sup>220</sup> Because our dominant conception of justice currently exists within the limited confines of a *distributive paradigm of justice*, we tend to think exclusively about social justice based “on the allocation of material goods such as things, resources, income, and wealth, or on the distribution of social positions, especially jobs.”<sup>221</sup> This leads to “talk of justice that regards persons as primarily possessors and consumers of goods to a wider context that also includes action, decisions about action, and provision of the means to develop and exercise capacities.”<sup>222</sup> In particular, a critical theory of social justice allows us to look beyond issues of distribution directly at forms of oppression that are relevant to the lived urban reality of affluence and poverty in the city. While oppression has several dimensions,<sup>223</sup> the most illuminating aspects of oppression as applied to poor ghetto neighborhoods and the economic development remedies that are practiced there are marginalization, cultural imperialism, and exploitation.<sup>224</sup> Cultural imperialism universalizes a dominant group’s experience, culture, and meanings in a way that renders the perspective of another group invisible while, at the

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220. *See id.* at 33.

221. *Id.* at 15.

222. *Id.* at 16.

223. *See id.* at 40 (explicating five aspects of oppression: exploitation, marginalization, powerlessness, cultural imperialism, and violence).

224. *See Calmore, supra* note 206, at 1269. Calmore writes, “[A]s applied to the urban poor, [both] marginalization and cultural imperialism are the most insightful references. First, racial oppression in this country is more likely to take the form of marginalization rather than exploitation. . . . Second, the urban poor . . . experience a deep cultural imperialism.” *Id.* (citations omitted).

same time, marking them as the deviant and inferior Other.<sup>225</sup> The injustice of exploitation moves beyond a narrow Marxian vision of class exploitation and encompasses other aspects of exploitation based on race or even gender.<sup>226</sup> It “consists in social processes that bring about a transfer of energies from one group to another to produce unequal distributions, and in the way in which social institutions enable a few to accumulate while they constrain many more.”<sup>227</sup> Therefore, the oppression faced by ghetto communities that have been racialized black and classified poor is that they are regarded as deviant and inferior, often are subjected to programs that are beneficial to others and less beneficial to them, and, most seriously of all, abandoned to suffer from a marginalization that threatens to permanently cut them off from the rest of society.

## V. THE INTERNAL CRITIQUE OF THE EMPOWERMENT ZONES PROGRAM

### A. *Job Essentialism and the Rhetoric of the Empowerment Zones Approach*

The first issue critical theory raises with respect to the Empowerment Zones approach is the extent to which it adopts an essentializing rhetoric of “jobs” that reduces the problems of ghetto poverty to a unidimensional problem. This rhetoric exercises a hegemonic force to get inner-city residents to uncritically accept the program’s terms because very few are situated to critically assess the idea of jobs, regardless of the reality. Economic development in general, and in particular as envisioned by the Empowerment Zones Program, is primarily justified by the distributional promise of jobs. Because living in central city ghetto or high poverty neighborhoods restricts meaningful access to employment opportunities for black and Latino people in inner-city neighborhoods, due to hyper-segregation and business disinvestment, jobs seem to be the logical antidote.<sup>228</sup> Spatial-mismatch

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225. See Young, *supra* note 58, at 59.

226. See *id.* at 52. Under Young’s vision of racial exploitation, there are societal pressures and tendencies to fill service jobs with black and Latino people. See *id.* at 52. This author (and Webster’s Dictionary) regards exploitation as a term depicting practices that take advantage of people in a mean or unfair way. See WEBSTER’S NEW COLLEGIATE DICTIONARY 400 (150th ed. 1981).

227. Young, *supra* note 58, at 53.

228. See Vidal, *supra* note 38, at 176. See generally John D. Kasarda, *Urban*

theories generally attribute lack of proximity to jobs as a cause of unemployment, while other explanations focus more closely on the individual behavioral patterns of black inner-city residents.<sup>229</sup> For example, the lack of economic opportunities available to black inner-city residents has been connected to their social isolation which impacts both connections to work opportunities and readiness for or inclination to work.<sup>230</sup> Social connections to the mainstream individuals and institutions that provide information about job opportunities and model good working habits is more important than trying to reduce the spatial distance from work to home.<sup>231</sup> Skills-mismatch theories emphasize the increasing mismatch between the skills possessed by residents of low-income communities and the skills required by jobs that dominate the central city economy.<sup>232</sup>

Although it is beyond the scope of this Article to resolve this particular dispute, it is important to note that the Empowerment Zones Program addresses the “employment” problem by incorporating all three types of approaches: business development, skills training, and job-readiness training. Nevertheless, the overall approach to the maldistribution of employment opportunities is a static spatial approach: picking a narrow target beneficiary area and attempting to encourage potential employers to choose an Empowerment Zone as a location to operate a new company or a new branch of an existing company. The wisdom of this approach is questionable for a number of reasons. First, the reality of the relationship between jobs and economic development is somewhat counterintuitive: economic development is not synonymous with employment development.<sup>233</sup> Instead, economic development is a process designed primarily, if not exclusively, to meet the needs of business elites by encouraging capital investment in particular

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*Industrial Transition and the Underclass*, 501 ANNALS AM. ACAD. POL. & SOC. SCI. 26 (1989); John F. Kain, *The Spatial Mismatch Hypothesis: Three Decades Later*, 3 HOUSING POL’Y DEBATE 371 (1992); Hicks, *supra* note 147, at 827-28 (“As . . . central cities became centers of information processing and administration rather than goods production, . . . many kinds of entry-level production jobs previously available as the lower rungs on ladders of opportunity for central-city residents were as likely to evaporate as to emigrate to the suburbs.”).

229. See Vidal, *supra* note 38, at 176.

230. See, e.g., WILSON, *supra* note 205, at 60-62.

231. See *id.* at 60.

232. See E. Douglas Williams & Richard H. Sander, *The Prospects for “Putting America to Work” in the Inner City*, 81 GEO. L.J. 2003, 2016 (1993) (noting that mounting research has thrown skills mismatch theory into question as an explanation for unemployment).

233. See Robert A. Beauregard, *Constituting Economic Development: A Theoretical Perspective*, in THEORIES OF LOCAL ECONOMIC DEVELOPMENT: PERSPECTIVES FROM ACROSS THE DISCIPLINES 267, 270 (Richard D. Bingham & Robert Mier eds., 1993).

geographic areas through incentives.<sup>234</sup> Jobs of a particular type, quantity, or duration are not guaranteed and, in fact, are simply a possible secondary outcome and concern. The quality jobs produced in most economic development projects often come from firms that require highly skilled primary sector employees and are thus relevant to only highly educated or trained people. More typically, the jobs found in the typical convention center, sports stadium, or festival-marketplace are low-skilled, service jobs that pay relatively low wages, insufficient to support a family.<sup>235</sup>

Even at the level of community economic development, the overall job benefits have not been clearly demonstrated. For example, David Rusk's study of community economic development suggested that this approach did not have an economic impact on ghetto neighborhoods in the absence of gentrification from an influx of affluent young, urban, and mostly white professionals.<sup>236</sup> Rusk studied thirty-four community economic development programs in the United States and found that the average household income improved in only three—Jamaica Plain, Boston; Walnut Hills, Cincinnati; and Mission District, San Francisco—all driven mainly by gentrification.<sup>237</sup> How are we to reconcile Rusk's conclusions with the many inspiring examples of successfully completed community development projects?<sup>238</sup> One explanation: While the

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234. See LOGAN & MOLOTCH, *supra* note 14, at 62-65 (discussing the organization and imperatives of the "growth coalition" in every city).

235. See Robert A. Baade & Allen R. Sanderson, *The Employment Effect of Teams and Sports Facilities*, in SPORTS, JOBS, AND TAXES: THE ECONOMIC IMPACT OF SPORTS TEAMS AND STADIUMS 99 (Roger G. Noll & Andrew Zimbalist eds., 1997); Beauregard, *supra* note 233, at 270. Baade and Sanderson explain that jobs are created, but most of the revenues go to players, coaches, and executives who do not live in the community or spend their incomes there. Other jobs result when new stadiums are built, but these jobs last for relatively short periods and divert resources from other construction in the community. See Baade & Sanderson, *supra*, at 98.

236. See RUSK, *supra* note 203, at 59-62. Rusk characterizes community-based anti-poverty programs as "helping a crowd of people run up a down escalator." *Id.* at 59. Rusk argues that the goal should be to reprogram the direction of the escalator. See *id.*

237. See *id.*

238. A solely economic critique of community development and community economic development probably fails to grasp the point that each of these successfully completed projects has significant symbolic impact and means a great deal to people who are able to obtain goods and services, and sometimes jobs, that they were unable to obtain before. The struggle for those who are concerned about conditions in impoverished communities is how to meet these unfulfilled needs and support the small victories. Rusk's study suggests, however, that the small victories within poor communities prevent us from tackling the larger, seemingly intractable, issues. See *id.* at 59-62.

success of those projects tends to be measured on the successful completion of each individual project, there is relatively little critically analytical literature assessing the overall impact and efficacy of community development as a national project.<sup>239</sup>

The most significant criticism of the Empowerment Zones Program immediately followed the adoption of the program from one commentator who argued that community development is a myth that disserves ghetto communities which, instead, need service provision.<sup>240</sup> Because the Empowerment Zones approach conceives of the problems of the poor ghetto neighborhoods and residents as a problem of jobs, it does the communities a disservice by ignoring economic development's dubious job-creating capacity and it simply misunderstands the oppression of geographic space racialized black and classified poor. In other words, it disregards the real problem—the subordinating structure of relations between elite and marginalized communities within cities.

A second criticism of the Empowerment Zones Program's job emphasis is the fact that the benefits of the program are tied to particular places, thereby connoting that existing boundaries of ghetto neighborhoods should be respected and maintained. This aspect of the program, in effect, imposes a federal geography reinforcing existing spatial boundaries and demarcation lines between ghetto communities and the rest of the city. This is because federal funding establishes a development framework that acts as a disincentive to question these boundaries and an incentive to respect them as acceptably fixed and unchangeable. Also, the Empowerment Zones Program's benefits are tied to the zone residents' continued residence in and connection to marginalized neighborhoods.<sup>241</sup> Making benefits available based on place of residence threatens to further harden those boundaries. For example, an employee within an Empowerment Zone who was hired by a business because of the tax incentives designed to encourage the hiring of zone residents would no longer be eligible for those incentives if the employee were to move.<sup>242</sup>

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239. See Beauregard, *supra* note 233, at 267 (attributing the scant critical assessment of economic development to its "inherent sensibility, avowed pragmatism, and unflinching optimism [that] overwhelm[s] intensive probing of its theoretical tendencies and ideological biases").

240. See Lemann, *supra* note 10, at 60.

241. See Stephen Barlas, *Program May Help Fight Urban Decay*, 113 AM. CITY & COUNTY 10, 10 (1998). Barlas notes a small item in the SBA reauthorization bill creating HUBZones—inner city and rural census tracts that are designed to attract small businesses through a set aside pool of federal contracts representing one to three percent of all federal contracts. See *id.* Barlas also notes that under the bill companies must agree to hire a minimum of 35% of their employees from the HUBZone in which they are located or from surrounding HUBZones. See *id.*

242. See 26 U.S.C. § 1391(b) (1994 & Supp. III 1997).

A third criticism of the job emphasis is the underlying assumption that job creation efforts within an Empowerment Zone will not result in increased employment of ghetto residents.<sup>243</sup> A study conducted in the Red Hook section of Brooklyn, New York demonstrated that Red Hook residents were unable to obtain relatively low-skilled manufacturing jobs in their own neighborhoods because social networks, rather than employment proximity, were more crucial to employment.<sup>244</sup> The implication of the Red Hook study for the Empowerment Zones Program is that proximity will not necessarily lead to the desired goal of increased employment within the zones. While the Empowerment Zones Program does contain some flexibility to use program funds for building social networks, it and similar economic development programs continue to enjoy a troubling level of uncritical support simply by virtue of the persuasiveness and allure of the “jobs” promise. The exclusive focus on jobs as the essential factor missing from poor inner-city communities suggests that a lack of jobs is the only problem experienced by poor neighborhoods that should be addressed. When there is a hunger and unmet need for employment, all critical examination of economic development as a sensible investment of public resources becomes impossible.<sup>245</sup> In particular, the extent to which economic development meets the needs of private business firms for capital investment while, at the same time, imparting a less than satisfactory benefit to inner-city residents must be critically examined. Justifying the Empowerment Zones Program on the promise of jobs is based on the seemingly inevitable logic of promoting economic growth and development even though it will not inure to the benefit of the targeted communities. Rather, it obscures the true beneficiaries—established business and governmental elites—while unfairly and unjustly playing upon the desperation of those who have no other choice.

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243. See DANIEL IMMERGLUCK & TIMOTHY HILTON, *BREAKING DOWN BARRIERS: PROSPECTS AND POLICIES FOR LINKING JOBS AND RESIDENTS IN THE CHICAGO EMPOWERMENT ZONE 52* (Woodstock Inst. ed. 1996) (recommending the employment benefits be made available in an Employment Zone surrounding the Empowerment Zone to increase the number of potential employers).

244. See Philip Kasinitz, *The Real Jobs Problem*, WALL ST. J., Nov. 26, 1993, at A8.

245. See Marc DuBois, *The Governance of the Third World: A Foucauldian Perspective on Power Relations in Development*, 16 ALTERNATIVES 1, 2 (1991) (noting the “economistic essentialism of development thinking”).

*B. The Empowerment Zones Program's Reflection of New Federal Economic Development Policy: No Business Relocation to the Inner Cities Allowed*

The Empowerment Zones Program's eligibility requirements create a troubling condition. As mentioned earlier, Empowerment Zone funds and incentives are only available to newly created, startup businesses or to existing companies that have expanded to create a new branch or office within the Empowerment Zone. Moreover, as part of each city's application, the strategic plan is required to recite that the plan "does not include any action to assist any establishment in relocating from one area outside the [Empowerment Zone] to the [Zone], except that assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary is permitted."<sup>246</sup> Further, assistance to any such new entity is permitted only if establishment of the new entity will not result in a decrease in employment in the area of original location or in any other area where the existing business entity conducts business operations, and there is no reason to believe that the new [entity] is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where the existing business entity conducts business operation.<sup>247</sup>

The statute, in effect, requires a guarantee that the business firm has not relocated from another area to the Empowerment Zone. Thus, the Empowerment Zone incentives are only available to businesses that are new or expand to create a new office in the Zone. This relocation retardant was included to calm suburban representatives' fears that federal incentives would be used to lure businesses from suburban locations.

As a matter of economic development policy, this restrictive provision of funds and incentives contradicts the central basis of economic development, which is the accepted goal of luring businesses with competitive incentives to particular geographic areas that will be more advantageous and make the new location worthwhile to the company. With respect to the Empowerment Zones Program in particular, it means that the inner city economic development incentives, to the extent that they could have worked, are weakened further in their potential effect. Moreover, a study conducted by the General Accounting Office reported that three out of the eight federal economic development programs<sup>248</sup>

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246. 26 U.S.C. § 1391(f)(2)(F) (1994).

247. See 26 U.S.C. § 1391(f)(2)(F)(i)-(ii) (1994).

248. The three are as follows: (1) The Department of Commerce's Economic Development Administration's Public Works and Development Facilities Program; (2)

have outright prohibitions on the use of federal funds to relocate jobs.<sup>249</sup>

One possible justification is that the federal government is, as a matter of policy, acknowledging some of the potentially destructive effects of unfettered geographic competition for business relocation. As a matter of timing and historical sequence, however, the relocation retardant, as applied to the inner cities, is at the very least ironic because one of the causes of inner city decay was the relocation of jobs, often to suburban locations. As a result, two standards for economic development have been created: one for cities and one for suburbs. When jobs fled the cities facilitated by state and federal policies and subsidies, relocation was an accepted process of inevitable change. When the Empowerment Zones Program and other federal programs threaten to reverse some of what was lost, by encouraging relocation from suburb to city, economic development is transformed into a denuded process that cannot provide incentives to compete geographically. Clearly, inner-city marginalization is not aided by the relocation retardant. Instead, inner-city marginalization is reinforced by a federal policy that fortifies the decentralizing forces that benefited the suburbs to the detriment of the city. Moreover, the retardant suggests the exploitative nature of Empowerment Zones Program's promise that it is a program to provide jobs. To the extent that the existing tax and financial incentives could attract a company to relocate and, thereby, provide decent jobs, the relocation retardant means companies cannot relocate and take advantage of the business incentives. Therefore, the job promise becomes even more illusory.

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The Empowerment Zones Program; and (3) The Department of Labor's Employment and Training Assistance for Dislocated Workers. See GAO REPORT, *supra* note 82, at 12-14.

249. See William Fulton, *The Subsidized Job Shuffle*, GOVERNING, Feb. 1998, at 66, 66.

VI. CONCLUSION: THE GEOGRAPHY OF ECONOMIC DEVELOPMENT:  
ADDRESSING THE STRUCTURAL MARGINALIZATION OF THE INNER CITY

*[R]ather than being abandoned, as with most poststructural theory, development must be analyzed in terms of contradiction, indeed ransacked, to liberate its potentially emancipatory intentions, technologies, and practices.*<sup>250</sup>

Economic development has captured the popular imagination of the state as well as the community as a desirable policy for producing wealth and economic prosperity. As a policy for revitalization of black ghetto communities, economic development clearly will never deliver what it promises: economic transformation through self-help and hard work. There are three principle reasons. First, as the foregoing discussion has demonstrated, the problems experienced by ghetto communities are not all internally-driven. They are a product of external forces—metropolitan, technological, and global—that have all operated to eliminate the traditional job and population bases in the inner cities, transferring some of these jobs to other regions of the United States and the world, accompanied by a decentralization of population and jobs to the peripheries of metropolitan areas. Second, economic development is not a job development process, but, in truth, is a capital production process. Therefore, it always has worked, and probably always will work, primarily to benefit the interests of the business elite. While some benefits may accrue to non-business, non-elite people, the jury is out on whether economic development passes an “ends justifies the means” test. Third, it is unlikely that enough jobs will ever return to the inner cities to replace the ones that left. Absent personal or social network connections, employers are reluctant to hire inner-city residents. Thus, bringing the jobs to the cities is simply not enough.

The searing question, therefore, is whether economic development in general, or the Empowerment Zones approach in particular, can be made to work as a tool of social justice—in particular, in poor inner-city communities that are heavily segregated by race, ethnicity and poverty. By drawing together the different contextual dimensions of the problems facing poor inner city communities a correspondingly contextually sensitive remedy begins to become clearer. In particular, post-civil

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250. Richard Peet, *Power of Development*, 73 *ECON. GEOGRAPHY* 257 (1997).

rights paradigms must begin to conceive of ways of addressing the racially disadvantaging effects of race, space, and place: the geography of economic development. The current geography of economic development is one in which economic development is designed and intended to be carried out in particular ways in particular places: privately and exclusively in central business districts on the other side of the line demarcating the difference between the inner city and the rest of the city. By drawing upon existing geographic boundaries that reflect the divided relationship between the people who live on either side of the boundary, the Empowerment Zones Program recognizes and implicitly affirms existing configurations of poverty segregated by race or ethnicity. It threatens to harden these boundaries beyond all hope of remedy because the program ignores current structural and historical policies that have shaped and configured our racialized landscape. Even where it is clear that the status quo works to the absolute disadvantage of these communities, plans and policies persist in promoting them as the opposite: advantageous and essential. This narrow focus on the problems of impoverished geographic areas ignores the impact of their racialization and classification as Other within the city as well as the metropolitan area. It also ignores a certain level of contentment that the larger society has for the conditions because these neighborhoods provide somewhere to get away from.

Overcoming the severe shortcomings inherent in the geography of economic development requires moving beyond a way of thinking that trivializes the oppression of racially and ethnically segregated communities as a problem of mere distribution of jobs. Under this prevailing view, the only role for urban policy is to ensure an improved distribution of low wage service jobs through a process that validates business development as being the only hope left for poor communities. The individualized and privatized notion of economic development, which views obstacles solely as a matter of individual failure, views the persistence of poor economic and social conditions in segregated communities as an individual and private problem. Thus, individual residents within Empowerment Zone communities, by definition, have failed personally because of their own failure to keep up. Similarly, inner-city communities have failed because they have failed to keep up with the competition. Just as programs that address internal impediments to change or social justice are important, so too are external impediments to change. Therefore, in order to have an Empowerment

Zone program that is of benefit to poor urban communities, fundamental structural issues must be confronted.<sup>251</sup>

A simple way to confront the structural issues is to ask a critical question: Can the Empowerment Zones approach reduce inner-city neighborhood marginalization and return a whole category of place into the mainstream of social and economic life? Ironically, the Empowerment Zones Program's utilization of a geographically targeted economic development program does not reduce marginalization but, in fact, reinforces and exacerbates ghetto marginalization for a number of reasons. The chief reason is the program's failure to address the underlying structural reasons for the depressed economic and social conditions existing in the inner-city neighborhoods—the impact of decentralizing forces in the metropolitan region reinforced by federal policy, and the fragmented organizational structure of local government—both of which are tainted by racism. First, as urban sprawl relocates persons to the periphery of metropolitan areas, further and further away from the core, the core inevitably suffers from depleted financial, social, and human resources that have relocated to the suburbs.<sup>252</sup> Second, fragmented local government erects jurisdictional boundaries that insulate wealthier suburban areas from any responsibility for the communities and people within cities that are left behind.<sup>253</sup> Third, both historical and current policies further contribute to inner-city marginalization by insulating and benefitting suburban communities. These policies include FHA policies limiting public housing to the inner cities and certain neighborhoods in the inner city, exclusionary zoning, bank redlining, insurance redlining, public housing concentration, and transportation policies that continue to fund highway development into outlying areas. If we view neighborhoods not as autonomous, self-sufficient entities capable of self-sustaining economic development but as parts of metropolitan regions, it becomes clear that continuing growth of the metropolitan region through urban sprawl, facilitated by federal subsidies that make continued expansion possible, must be taken into account. So long as suburban dominance of our metropolitan regions in terms of population, business operations, and political clout is taken for granted as inevitable and immutable, an Empowerment Zones approach

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251. See, e.g., Janice K. Tulloss, *Citizen Participation in Boston's Development Policy: The Political Economy of Participation*, 30 URB. AFF. REV. 514, 521-522 (1995) (discussing the structure of participatory mechanisms in Boston in relation to the city's parcel-to-parcel linkage program, which attempts to redress inequitable development generated by normal market mechanisms by linking the development of desirable downtown parcels with less attractive parcels in low-income neighborhoods).

252. See *supra* notes 158-68 and accompanying text.

253. See *supra* notes 158-68 and accompanying text.

will never have incentives strong enough to counteract that acceptance.

Finally, the structural causes and reinforcement of concentrated inner city poverty can only be addressed by understanding that suburban advantage or privilege will be affected by any urban program truly designed to impact the problem of concentrated poverty.

Notwithstanding this seemingly bleak analysis, community-based development cannot be completely abandoned. The opportunity to help oneself is critical to human social development, if not to mere existence. Making available the tools to identify problems in one's community and to remedy them are crucial, mainly because small, unexpected miracles can be achieved by dint of human dedication and commitment. Nevertheless, the provision of these tools does not replace the need for critically assessing community-based development.

In its most favorable light, the Empowerment Zones Program is a federal attempt to provide the tools of community-based development to inner-city communities. This effort is valuable, especially given all of the attention and fanfare the program's launch and implementation brought to these communities. On the other hand, the fanfare and promises of economic transformation promised too much. The conditions in the inner cities came about through a slow progression and, likely, will require an equally long progression to fix. Moreover, while recognizing that people should have the opportunity to work to improve, at least incrementally, their living conditions, the Empowerment Zones Program unnecessarily limits permissible projects and activities to those that can be characterized as being in furtherance of economic development. Development should be held to a higher standard—one of actually allowing residents of impoverished neighborhoods the capacity to pursue self-development and self-determination according to projects they identify.<sup>254</sup>

The answer may lie simply in a willingness to understand that development needs to be reimagined in ways that it does not currently exist today—reimagined in ways that reflect the needs and desires of ordinary people and disregard the unspoken demarcation lines between affluent city and impoverished ghetto; reimagined in ways that do not continue to either isolate poor communities or effectively eliminate them

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254. *But see* Esteva, *supra* note 1, at 22 (suggesting that the pursuit of development in any form is illusory because it follows economic rules based on chronic scarcity in modern society, and if the assumption is chronic scarcity, the result will track the assumption).

through gentrification; and reimagined in ways that do not continue to allow the existing local governmental jurisdictional boundaries to block our abilities to think across those demarcation lines. One way to begin that reimagining is to begin to critically examine the accepted legal norms and legal processes of development. Critical analysis of development requires not simply assuming that its problems reflect faulty implementation strategies that can be fixed. Rather, critical analysis must address development as an inherently contradictory method of attaining social justice. As the quotation at the beginning of this section asserts, development cannot and should not be completely abandoned. Rather, it must be examined for its contradictions so that it can be redesigned and implemented to address both external and internal structures and forces that contribute to our segregated and racialized urban poverty.