

Annual Report 2017–18

New York University School of Law Journal of Legislation and Public Policy

Dear Friend,

On behalf of the 2017–18 Executive Board, it is my pleasure to report that the *Journal of Legislation and Public Policy* has had another productive and successful year here at the NYU School of Law. In keeping with tradition, this Annual Report provides an overview of all that the Journal has achieved in the past year, as well as a glimpse of the 2018–19 Executive Board’s plans for the months ahead.

This year, the Journal continued to publish high-quality and timely scholarship with the aim of assisting practitioners, policymakers, judges, and scholars with their work. The Journal frequently is cited in judicial opinions, litigation documents, treatises, and legal publications. These citations are summarized later in this Report and total 269 during the period from May 1, 2016 to April 30, 2017 – an increase from the last academic year.

This year’s articles highlighted an impressive variety of current legal and political issues, from judicial review of NFL arbitration decisions to the legal barriers hindering potential use of psychedelic drugs to treat mental illness and substance abuse. Notably, this year we published an essay by Donald Flexner, a founding partner of Boies Schiller & Flexner, LLP, which advocated a ban on the civilian purchase, use, and sale of assault and semi-automatic weapons. The piece--which was showcased both on our online platform, *Quorum*, and in our print edition--garnered attention from the American Bar Association. Additionally, the Journal was pleased to partner once again with Marsha Levick, a nationally-recognized expert on juvenile law, who served as a panelist at our 2017 Spring symposium commemorating the 50th anniversary of *Miranda v. Arizona*. Levick and her colleagues from the Juvenile Law Center, Naomi E.S. Goldstein, Emily Haney-Caron, and Danielle Whiteman, co-authored a thoughtful piece critiquing the current legal standard (and practice) of youths’ waiver of *Miranda* rights.

We also convened important intellectual events for the NYU community. In November 2017, we presented a panel discussion on how tax reform under the Trump administration could affect savings and retirement policies in the years to come. The event, titled “Certain Times for Old Age: Savings & Retirement Policy in the Trump Era,” was moderated by Professor David Kamin of the N.Y.U. Law tax faculty. We were excited to welcome as panelists Professor Ryan Bubb of N.Y.U. School of Law, Professor Teresa Ghilarducci of the New School, and J. Mark Iwry of the Brookings Institution. A recording of the event is available on the Journal’s website.

The Journal also underwent significant managerial and production changes. Our goals were threefold:

First, the Journal continued to streamline and revise our production process. On the production side, the Executive Board created easy-to-follow editorial guides for each new Staff Editor, incorporated a practice, step-by-step C&S assignment into the Journal’s orientation, and scheduled regular, optional “office hours” with the Executive Editors to allow Staff Editors to resolve any questions or issues as they worked on their assignments.

Second, the Journal invested more energy and personnel into our online companion journal, *Quorum*. As discussed in this report, *Quorum* underwent a significant rebirth. A greater number of 3L staff editors were slated as *Quorum* editors than ever before; and each editor was required to write their own essay, on a topic of their choosing, for online publication. Our heightened attention on the once-neglected online component is indicative of the Journal’s recognition of online publication as an ever-growing and important medium for legal discussion.

Third, the Journal sought to increase the sense of community among *Legislation* members. This effort included planning more social gatherings and encouraging journal members to provide feedback on their assignments, article selection, and general management structure.

It was my personal pleasure and privilege to lead the Journal as Editor-in-Chief during this past year. I would like to thank each member of the *Legislation* masthead, particularly the twelve other members of the Executive Board, for their hard work and unflagging commitment. I would also like to thank Professor Helen Hershkoff for her invaluable support and advice as our faculty advisor. I am sincerely excited for all that next year’s leadership has in store and have no doubt that the 2018–19 Annual Report will detail even greater plans and achievements as the new Executive Board guides the Journal into the future.

On Behalf of the Executive Board of 2017–18,

Katherine DuBois, Editor-in-Chief
New York City
September 2018

Governance & Membership

This year the Executive Board was comprised of thirteen members. The remaining third-year students assisted as Articles Editors, Notes Editors, and *Quorum* Editors. Thirty-eight second-year students joined *Legislation* as Staff Editors in August 2017 after completing NYU Law's Writing Competition and Transfer Writing Competition over the summer. Several LLMs also joined the journal, serving primarily as *Quorum* Editors.

Overall, the 2017 Journal admission cycle was a highly successful one. Managing Editor Cassandra Deskus served on the inter-journal Writing Competition committee and participated in choosing the topic – on accountability & transparency for algorithm-based legal decisions – for the Writing Competition. She provided many of the sources for the prompt packet that students were provided, ensuring the relevance of submissions to this Journal's commitment to legislation and policy considerations. Sources included enacted and model legislation, judicial opinions, news stories, and economic and environmental reports.

Print Publications

This year, *Legislation* published three full issues. This marks a departure from our usual four-issue academic year. By reducing the number of issues published each year, the Journal was able to improve the quality of the production process – for authors and editors alike – and the quality of our final work product. In all, *Legislation* published eleven academic articles and seven student notes. With a new governance and production structure in place, the Journal hopes to return to a four-issue volume in 2018–19. Below, we provide synopses of the issues and the content contained therein.

Volume 20, Issue 2

Issue 20.2 features four full-length scholarly articles and two student notes. It contains the following articles:

- *Tipping the Scales of Justice: The Role of the Nonprofit Sliding Scale Law Firm in the Delivery of Legal Services*
 - By Mitch, Associate Clinical Law Professor and Director of the Neighborhood Law Clinic, University of Wisconsin Law School.¹
 - This article provides a description of how nonprofit sliding-scale law firms ("SSLFs") function based on the author's personal experiences starting such a firm and interviews of people who work at such firms. The article also explains how the

¹ The author identifies by a mononym.

SSLF model can serve a segment of the population who do not qualify for free legal services and also cannot afford to hire an attorney at market rates.

- *Can NFL Players Obtain Judicial Review of Arbitration Decisions on the Merits When a Typical Hourly Union Worker Cannot Obtain This Unusual Court Access?*
 - Michael Z. Green, Professor of Law, Texas A&M University School of Law, & Kyle T. Carney, J.D. '17, Texas A&M University School of Law.
 - In their article, the authors examine how a number of suits brought by professional athletes have undermined the strong federal policy of deferring to arbitration decisions to encourage peaceful resolution of labor disputes. The authors argue that these suits, if successful, could harm poorer workers' access to justice.

- *Too Conflicted to be Transparent: Giving Affordable Financing Its "Good Name" Back*
 - Cassandra Jones Havard, Professor of Law, University of Baltimore School of Law.
 - This article draws from the legislative reforms in the financial services industry implemented by the Dodd-Frank Wall Street Reform and Consumer Protection Act to propose further reforms. The author advocates for enhanced requirements on the role credit rating agencies in the regulatory process, proposing that they adopt substantial new auditing mechanisms in evaluating the data they receive from loan issuers.

- *Coordinating Access to Justice for Low- and Moderate-Income People*
 - Ian Weinstein, Professor of Law, Fordham Law School.
 - Professor Weinstein's article applies game theory to our understanding of the "vast, complex, varied and dynamic" American justice system. The article evaluates proposals for reform in the light of this new framework.

Issue 20.2 also contains the following student notes.

- *The Failures of Federal Campaign Finance Preemption*
 - Sam Levor, J.D. '16.
 - This note examines Congress's decision to preempt state regulation of federal elections, which the author argues is an invitation to legislative self-dealing and entrenchment. The note argues that preemption is inappropriate for campaign finance doctrine and discusses the benefits of removing the "preemptive blanket." The note concludes by addressing potential concerns of a system of parallel federal-state regulation of campaign finance law.

- *Quasi State Actor: How the Application of State Action Doctrine Can Fill a Regulatory Gap in New York Charter School Legislation*
 - Ava Ferenci, J.D. '17.
 - This note discusses student constitutional rights in charter schools, which the author argues are under-enforced because statutory enforcement mechanisms focus only on academic standards. The note argues that charter revocation, which has become the primary legislative enforcement mechanism, is undesirable for schools that are academically successful and has therefore left certain provisions of charter law unenforced. The author suggests that state action doctrine, coupled with Section 1983 claims, present a potential solution to this problem of under-enforcement of statutory rights in charter schools.

Volume 20, Issue 3

Issue 20.3 featured four full-length scholarly articles and two student notes. It contains the following articles:

- *Why the Civilian Purchase, Use, and Sale of Assault Weapons and Semiautomatic Rifles and Pistols, Along with Large Capacity Magazines, Should Be Banned*
 - Donald L. Flexner, Managing Partner, Boies Schiller & Flexner LLP.
 - Flexner examines both the human tragedy of mass gun violence and Second Amendment case law after *D.C. v. Heller* to argue for tighter restrictions on civilian access to weaponry.

- *Choosing Privacy*
 - Irina D. Manta, Professor of Law and Founding Director of the Hofstra Center for Intellectual Property Law, Maurice A. Deane School of Law at Hofstra University.
 - Professor Manta applies cost-benefit analysis (CBA) to national security frameworks that potentially restrict civil liberties, concluding that many of them are not cost-justified. She advocates for solutions that would pass muster under the framework, such as privatization of the Transportation Security Agency and increased liability for government officials who act in violation of personal rights.

- *Segregative-Effect Claims Under the Fair Housing Act*
 - Robert G. Schwemm, Ashland-Spears Distinguished Research Professor, University of Kentucky College of Law.
 - Professor Schwemm examines “segregative-effects” claims under the Fair Housing Act, which were recognized by the Supreme Court in 2015 in *Texas Dept. of Housing and Community Affairs v. Inclusive Communities Project, Inc.* He argues that although segregative-effects claims hold promise in advancing the FHA’s goal

of reducing arbitrary barriers to minorities' housing choices, these claims need to be further refined.

- *The (Now Urgent) Case for State-Level Monitoring of Local Government Finances (Or, One Way to Protect Localities from Trump's "Potemkin Villages of Nothing")*
 - Darien Shanske, Professor of Law and Political Science, UC Davis School of Law.
 - This article explores some of the structural issues and constraints facing municipal borrowers in lending markets. After laying out some of the challenges they face, Professor Shanske proposes the creation of a state-level agency to provide guidance and oversight for municipal borrowing to facilitate better outcomes for all stakeholders.

Issue 20.3 also contains the following student notes:

- *Fulfilling the Full Promise of Liberty Made in Lawrence v. Texas: Using the Fundamental Right to Sexual Intimacy to Challenge the FDA's Policy Against Blood Donations from Men Who Have Sex with Men*
 - R.T. Winston Berkman, J.D. '17.
 - This note discusses the FDA's ban on blood donations from men who have sex with men. The author argues that this over-broad policy unconstitutionally infringes on the fundamental right to sexual intimacy articulated in *Lawrence v. Texas* by treating sex between men as categorically unsafe, stigmatizing men who have sex with men based solely on their expression of this right and disparaging their manner of expressing this right. This note also addresses the need for a restructuring of the due process violation analysis to include governmental action that would not trigger constitutional review but still infringes on individual liberty.
- *Consolidation After Crisis: How a Few Private Investors Bought Distressed, Federally-Insured Mortgages After the Financial Crisis*
 - Brad Greenburg, J.D. '17.
 - This note analyzes the "unwinding" of one of President Roosevelt's most lasting institutions—the federally-insured, thirty-year fixed-rate mortgage serving middle-income homeowners—and explains how organized money filled the void. The author concludes with policy recommendations for the Federal Housing Administration and Department of Housing & Urban Development on avoiding future residential securities crises.

Volume 21, Issue 1

Issue 21.1 featured three full-length scholarly articles and three student notes. Issue 21.1 contains the following articles:

- *Waving Good-bye to Waiver: A Developmental Argument Against Youths' Waiver of Miranda Rights*
 - By Emily Haney-Caron, Ph.D. Candidate, Drexel University; Danielle Whiteman, Zubrow Fellow, Juvenile Law Center; Naomi E. S. Goldstein, Professor of Psychology, Drexel University; and Marsha Levick, Deputy Director and Chief Counsel, Juvenile Law Center
 - This article synthesizes recent research in developmental neuroscience and explains how that research impacts prevailing understandings of voluntariness and consent, the two foundational elements of a valid waiver of *Miranda* rights. The article also provides policy recommendations to better align current criminal justice practices with the implications of this research.

- *Psychedelic Medicine for Mental Illness and Substance Use Disorders: Overcoming Social and Legal Obstacles*
 - Mason Marks, Visiting Fellow, Information Society Project, Yale Law School; J.D., Vanderbilt University Law School; M.D., Tufts University School of Medicine.
 - This article is the first comprehensive review of the social and legal obstacles to developing psychedelic medicines. It argues that the current mental health and opioid crises demand scientific exploration of the therapeutic potential of these drugs. The author advocates that, with subtle modifications to state and federal drug law, psychedelics could be thoroughly studied and made available to patients under carefully controlled conditions

- *“The Ability to Pay” in Tax Law: Clarifying the Concept’s Egalitarian and Utilitarian Justifications and the Interactions Between the Two*
 - Michael Pressman, J.D. ’10, Stanford Law School; Ph.D. Candidate ’18, Philosophy, University of Southern California.
 - The author thoroughly examines philosophical rationales supposedly undergirding American tax law. The article finds that orienting policy around the concept of “ability to pay” simultaneously advances both egalitarian and utilitarian ends when properly conceived.

Issue 21.1 also contains the following student notes:

- *FOIA in the Executive Office of the President*
 - By David Cohen, J.D. '17
 - In this note, the author describes the history of how the courts have determined the Freedom of Information Act status of each entity in the Executive Office of the President. The author argues that the test the courts have relied on does not accurately account for the complex nature of the EOP and suggests possible alternatives that should be explored.

- *Fifth Amendment Limitations on Criminal Algorithmic Decision-Making*
 - Cassie Deskus, J.D. '18
 - In this note, the author confronts the current use of criminal risk assessment algorithms in our criminal justice system. The author identifies a number of these algorithm's features that implicate the Fifth Amendment and proposes Miranda-like warnings tailored to the risk assessment process.

- *The Future of Autonomous Vehicles in American Cities*
 - Eric Phillips, J.D. '17
 - In this note, the author comprehensively examines the challenges that cities and municipalities will face when autonomous vehicles supplant human-operated vehicles as the dominant mode of transit. The note proposes potential policy solutions to the likely challenges autonomous vehicles will pose.

The Production Process

Legislation's production process saw substantial changes this year under the leadership of Editor-in-Chief Katie DuBois, Managing Editor Steven Strauss, and Senior Executive Editor Allyson Scher, with significant input from the journal's Executive Editors. For example, the 2017–18 Board further developed and refined the two-stage process that segmented source gathering and substantiation from Bluebooking, which was developed by the 2016–17 leadership team. The production process was also streamlined through the adoption of “Source Charts” to more easily maintain and ensure consistency of citations throughout a given article. Once created, these documents served as a reference key for Staff Editors completing their Bluebooking assignments and helped to achieve greater consistency in source citations.

Quorum: Legislation's Online Companion

In keeping with *Legislation*'s mission to provide timely and practical scholarship to inform public debate on important issues, *Quorum* aims to publish shorter articles than the print journal at a correspondingly accelerated production schedule. *Quorum* provides a valuable outlet for faculty, practitioners, and students to address present-day legal controversies as they unfold, while maintaining the rigor and substance of traditional legal scholarship.

In addition to publishing shorter, print-style articles on *Quorum*, the 2017–18 Executive Board piloted a student blog-writing program. The program featured the student writing of 3L *Quorum* editors on hot-button and timely topics, published in an HTML format.

On the 2017–18 Executive Board, Senior *Quorum* Editor JoAnna Suriani supervised content generation and production, working in conjunction with Managing Editor Cassandra Deskus, nine 3L *Quorum* editors, and a rotating cadre of staff editors.

Overseen by the 2017–18 Executive Board, *Quorum* published eleven new pieces:

- **Blog Post, *The Evolution of Insider Trading***
 - Daniel M. Wiesenfeld, J.D. '18, *Quorum* Editor.
 - <http://www.nyujlpp.org/quorum/wiesenfeld-salman-evolution-of-insider-trading/>
 - In *Salman v. United States*, 137 S. Ct. 420 (2016), the Supreme Court resolved a circuit split on a key insider trading issue. The Salman Court affirmed the Ninth Circuit's conviction of a tpee who traded on a relative's inside information, broadening the scope of insider trading. The Court's path to this decision has been long and bears review for those in white collar practice.

- **Note, *Why the Civilian Purchase, Use, and Sale of Assault Weapons and Semiautomatic Rifles and Pistols, Along with Large Capacity Magazines, Should Be Banned***
 - Donald L. Flexner, Managing Partner, Boies Schiller & Flexner LLP.
 - <http://www.nyujlpp.org/wp-content/uploads/2017/10/Flexner2017nyujlppquorum1-2.pdf>
 - In the United States, private citizens can purchase powerful semiautomatic assault weapons and large capacity magazines. In 1994, Congress imposed a ten-year ban on the civilian use of many such weapons. Upon its expiration in 2004, Congress refused to extend the ban despite repeated calls to do so. In the wake of the law's demise, these dangerous weapons have become widely available to disturbed civilians, gangs, criminals, hate groups, terrorists, and so-called lone wolves. This Article argues that nothing in the Second Amendment guarantees civilian access to

the most dangerous weapons, and that the ten-year ban should be renewed by Congress to stem the availability of these dangerous weapons which have caused countless tragedies.

- **Blog Post, *Will NYC's New Pre-trial Risk Assessment Be Race Neutral?***

- Sainath R. Iyer, J.D. '18, *Quorum* Editor.
- <http://www.nyujlpp.org/quorum/iyer-nyc-pretrial-risk-assessment-race/>
- Pre-trial risk assessment instruments (RAIs) – assessments that help judges make “smarter” bail decisions by quantifying a defendant’s risk of flight and/or threat to public safety – are a relatively new phenomenon. There is fierce debate regarding their role and utility; specifically, how they affect incarceration rates, racial disparities in the criminal justice system, and public safety. At the very least, in some jurisdictions, some have helped reduce the jail population, although others, arguably, at the risk of entrenching racial bias. Given the endemic racial bias in the criminal justice system, this is an important concern, and makes transparency in the development, design, and implementation of RAIs critical.

- **Blog Post, *Securing Equal Access to the Ballot for Native Americans***

- Kaitlyn Schaeffer, J.D. '18, *Quorum* Editor.
- <http://www.nyujlpp.org/quorum/schaeffer-equal-ballot-access-native-americans/>
- Native Americans, like other minority groups, face racially motivated disenfranchisement efforts. Watershed victories for equal access to the ballot – including the passage of the Fifteenth Amendment and the Nineteenth Amendment – did not affect Native Americans because they were not considered U.S. citizens until the enactment of the Indian Citizenship Act in 1924. While the Act nominally enfranchised Native Americans, disenfranchisement tactics remained pervasive at the state level. Early disenfranchisement techniques included staples such as literacy tests and laws that prohibited Natives from voting without saying so explicitly (i.e., denying the franchise to “Indians not taxed”). Modern disenfranchisement techniques include everything from gerrymandering to voter harassment and intimidation.

- **Note, *Politicization in the Federal Judiciary and Its Effect on the Federal Judicial Function***

- David Russell, Law Clerk to the Hon. Thomas L. Parker, W. D. Tenn.; J.D. '17, Cornell Law School.
- <http://www.nyujlpp.org/wp-content/uploads/2018/03/Russell-2017-nyujlpp-quorum-21.pdf>
- During federal judicial confirmation hearings the term “politicization” comes up as a frequent buzzword amongst political pundits and scholars. While the federal

judiciary's increasingly politicization, over the last few decades, is generally accepted this agreed-upon acknowledgment of judicial politicization does not imply agreement as to its value. There are clearly those who view politicization positively, accompanied by an almost equally loud chorus of those decrying it. But, regardless from where pro- or anti-politicization's arguments proceed both generally view politicization as a question of judicial legitimacy. It is thus the relationship between politicization and the judiciary that this paper seeks to understand. This paper attempts to define and measure the exact relationship between politicization and the judiciary. If politicization is really about judicial legitimacy, then what measurable effect does politicization have on it? If this connection fails (i.e., is not falsifiable) then what alternate connections can be found between the judiciary and politicization that can be backed up with falsifiable evidence?

- **Blog Post, *Autonomous Vehicles and Products Liability***

- Anastasia Kontaxi, L.L.M. '18, *Quorum* Editor
- <http://www.nyujlpp.org/quorum/kontaxi-autonomous-vehicles-products-liability/>
- Autonomous vehicles have gone rapidly from a theoretical future technological development to a reality, in which autonomous cars are set to quickly break into the mainstream. Their societal value, which consists, among others, of their increased safety, their ability to facilitate reduced-mobility persons and their environmental efficiency, is a factor which encourages their broad production and use. The Department of Transportation recently explored the legal questions raised by autonomous vehicles at an Autonomous Vehicles Summit Event on March 1, 2018, during which the Transportation Secretary Elaine Chao explored the possibility of an updated federal guidance being released by the end of this summer. In the wake of their increasing number, the question of the appropriate treatment of autonomous vehicles under law becomes harder to ignore. The present article reviews the current products liability legislative framework and its application to autonomous vehicles.

- **Blog Post, *Bail Reform in New York: Lessons from New Jersey***

- Jennifer Isaacman, J.D. '18, *Quorum* Editor
- <http://www.nyujlpp.org/quorum/isaacman-new-york-bail-reform-lessons-new-jersey/>
- Since New Jersey's Bail Reform and Speedy Trial Act took effect on January 1, 2017, New Jersey is now at the forefront of the bail reform movement. Under the Act, state judges must use an algorithm that accounts for flight risk and dangerousness before deciding if a defendant should be released before trial. The judge maintains discretion, however, to decide whether to consider other factors

that go unaccounted for in the algorithm, and to attach conditions to a defendant's pre-trial release to ensure his return to court. Judges in New Jersey are permitted to detain violent defendants without bail, but only after the court conducts a hearing that adheres to due process standards. Although a number of states like Colorado, Connecticut, and Rhode Island have instituted changes in their bail procedures through the use of similar pre-trial risk assessments, no state has gone to the same lengths as New Jersey to overhaul its bail system.

- **Blog Post, *A Match Made in Hell: The Dangers of Tech-Banking Union***
 - Ocasha Musah, J.D. '18, *Quorum* Editor
 - <http://www.nyujlpp.org/quorum/musah-dangers-of-tech-banking-union/>
 - Proponents of the regulatory state have seen very few causes for celebration in the past two years. Buried in the mountain of bad news was an underreported but alarming phenomenon: the entrance of tech giants into commercial banking. Recent reporting that Amazon and other tech companies are interested in entering the banking market should cause those concerned about market consolidation and stability to panic. More importantly, it should cause regulators to think long and hard before making any changes that would allow these companies to engage in commercial banking activities.

- **Comment, *The Fate of Carpenter v. United States and Government Access to Historical Cell Site Location Information***
 - Brooke G. Gottlieb, J.D. '19
 - <http://www.nyujlpp.org/wp-content/uploads/2013/03/gottlieb-2018-nyujlppquorum-41-1.pdf>
 - This article begins by discussing the historical and legal context preceding *Carpenter v. United States*, a case in which law enforcement acquired historical cell site location information from Timothy Carpenter's cell phone provider to connect Carpenter to a string of robberies. Then, this article recommends that the Court hold that the government's conduct violated the Fourth Amendment based on a combination of *Katz v. United States*' reasonable expectation of privacy test and the sequential approach to Fourth Amendment analysis. In doing so, the Court should focus on the information the government accesses, as opposed to the technology law enforcement uses, given how quickly technology advances. Ultimately, however, this article concludes that whether the government's investigative techniques qualify as a Fourth Amendment search is a question the legislature, not the Court, should answer.

- **Blog Post, *Balancing National Security with Digital Privacy: Concerns Posed by Section 702 Surveillance***
 - Ben Choi, J.D. '18, *Quorum* Editor.
 - <http://www.nyujlpp.org/quorum/choi-balancing-national-security-with-digital-privacy-concerns-posed-by-section-702-surveillance/>
 - In January 2018, Section 702 of the Foreign Intelligence Surveillance Act of 1978 (“FISA”) was reauthorized. Since 2008, Section 702, codified as 50 U.S.C. § 1881a, has allowed the Attorney General and the Director of National Intelligence to jointly authorize a warrantless electronic surveillance program without a court order, for the purposes of acquiring foreign intelligence information from non-U.S. persons reasonably believed to be outside of the U.S. The highly controversial Section 702 has drawn continued criticisms about the potential for its misuse. While Congress included some safeguards to prevent mishandling and misuse of the warrantless surveillance programs authorized by Section 702, there still exists cause for concern, as these programs (1) still authorize “incidental” collections, (2) establish a “backdoor” use of data collected by the programs that can be used against U.S. persons and those located in the U.S., and (3) fail to provide adequate judicial oversight.

- **Blog Post, *Operation Car Wash and Its Impact in Peru***
 - Natalia Mori, L.L.M. '18, *Quorum* Editor
 - <http://www.nyujlpp.org/quorum/operation-car-wash-and-its-impact-in-peru/>
 - Operation Car Wash, or Lava Jato as it is called in Portuguese, has become the largest bribery case in the history of Brazil and Latin America. In this article, we will describe the bribery scheme, outline the measures taken by the Peruvian government, and then evaluate their efficacy. Specifically, we will focus on the prohibition to include addendums to PPP contracts during the first three years of the contract for bankability purposes as a response to the corruption scheme that used such addendums as a mechanism to formalize the bribes.

Fall 2017 Symposium

On November 16, 2017, the Journal of Legislation and Public Policy presented a symposium entitled “Uncertain Times for Old Age: Savings and Retirement Policy in the Trump Era” at New York University School of Law. The topic for the panel discussion was prompted by the potential for major changes in the retirement field in light of Republican control of both Congress and the Presidency, which was expected to result in major revisions to the Tax Code and possibly even Social Security, as well as by recent efforts in several states to improve access to retirement savings

vehicles for workers whose employers do not offer workplace-sponsored plans. Over 60 people from the Law School and wider NYU community attended the lunch-time event.

The afternoon's discussion was led by Professor David Kamin, of NYU School of Law. Our panelists were J. Mark Iwry, Nonresident Senior Fellow in Economic Studies at the Brookings Institution and the former Deputy Assistant Secretary for Retirement and Health Policy at the Treasury Department; Professor Teresa Ghilarducci, who holds the Irene and Bernard L. Schwartz Chair in the Economics Department at The New School for Social Research and directs The New School's Schwartz Center for Economic Policy Analysis; and Professor Ryan Bubb, of NYU School of Law. The panelists addressed, among many issues, the role that Social Security has played in reducing elderly poverty, the origins and imperfections of the United States's workplace-based retirement savings model, experiments in improving retirement savings rates that have occurred at the employer-level, and the need for other interventions to improve workers' retirement security. A video of the symposium is available online, on the *Journal's* website.

Upcoming Symposia (Fall 2018 & Spring 2019)

During the 2018–19 Academic Year, *Legislation* plans to host two events engaging the intellectual and creative capacities of the Journal and the broader N.Y.U. Law community. Our goal is to reach beyond the traditional symposium format by inviting a broad range of legal and policy minds to address two major changes re-shaping American democracy and culture.

Our Fall 2018 event, to be held in Lipton Hall on November 15, will be a panel discussion on procedural and other deliberative changes within the United States Senate. *Legislation* will engage with scholars and practitioners alike to examine how “world's greatest deliberative body” has been reshaped over the past several decades.

For our Spring 2019 event, to be held in Greenberg Lounge on February 28, the Journal will follow the #MeToo movement's evolution from a rallying cry to a platform for policy reform. We will invite a wide spectrum of stakeholders to consider whether and how new legal and policy mechanisms might address the endemic sexual and gender-based harassment & violence in the modern American workplace – especially as the concept of a uniform “American workplace” becomes increasingly illusory.

Legislation also will engage the creativity of NYU Law's student body in addressing this problem by reviving our annual Legislation Competition. The Competition will invite students to research the problem, collaborate with peers, and propose their own solutions in the form of policy white papers and model bills for state and city governments.

More information on these events will become available as they approach. If you are interested in participating in or supporting any of our intellectual life events for the coming year, please reach out to the incoming Managing Editor of Development David Drew '19 at me02.legis@gmail.com.

Citation Statistics

Legislation was cited in 269 secondary sources during 2017–18. See below for some of the highlights of law journals in which we were cited.

Cornell Law Review	Harvard Law Review	Ohio State Law Review
Creighton Law Review	Harvard Journal of Law & Public Policy	Texas Law Review
DePaul Law Review	Harvard Journal on Legislation	University of Illinois Law Review
Drexel Law Review	Hastings Law Journal	University of Pennsylvania Law Review
Emory Law Journal	Indiana Law Journal	Vanderbilt Law Review
Fordham Law Review	Iowa Law Review	Wisconsin Law Review
Georgetown Law Journal	Minnesota Law Review	Yale Journal of Law and Technology
Harvard Law & Policy Review	New York University Law Review	Yale Law Journal

Legislation was also cited in three court cases: *National Football League Management Council v. National Football League Players Association*, 296 F. Supp. 3d 614 (S.D.N.Y. 2017), *Ajemian v. Yahoo!, Inc.*, 478 Mass. 169 (2017), and *Estes v. State*, 546 S.W. 3d 691 (2018). Finally, we are proud to report that the American Law Institute republished Kaitlyn Schaeffer’s blog post on American Indian voting rights, discussed on page 10, see <http://www.thealiadviser.org/american-indian-law/securing-equal-access-ballot-native-americans/> (Feb. 8, 2018).

Awards and Achievements

Each year, the Journal honors two members of its graduating class.

The Flora S. and Jacob L. Newman Prize is awarded to the graduating student who has written the most outstanding note for the Journal. This year's recipient was Cassandra Deskus, our Managing Editor of Development, for her note "Fifth Amendment Limitations on Criminal Algorithmic Decision-Making", published in Issue 21.1.

The Thomas Stoddard Award is awarded to the third-year editor who made the greatest contribution to the Journal. This year's recipient was Ashtyn Ka, one of our Executive Editors. Ashtyn was instrumental in welcoming, training, and managing the incoming Staff Editors and was praised for her commitment to providing meaningful feedback to her team.

Future Plans

We are pleased to report on the plans of several of our recent alumni:

- Katie DuBois, Editor-in-Chief, will join Cravath Swaine & Moore as an associate in the litigation department.
- Steven Strauss, Managing Editor of Production, will join Davis Polk as an associate in the litigation department.
- Cassandra Deskus, Managing Editor of Development, will be an Excelsior Fellow in the New York State Governor's Executive Chamber, Office of Public Safety and will clerk for Judge Nelson S. Roman (S.D.N.Y.) after her fellowship.
- Allyson R. Scher, Senior Executive Editor, will join O'Melveny & Myers in its Washington, D.C. office as a Law Clerk in the litigation department.

Final Note:

Greetings from Our 2018–19 Editor-in-Chief

Dear Reader:

This year marks the twenty-third anniversary of the founding of the Madison Society, the precursor to the *N.Y.U. Journal of Legislation and Public Policy*. To commemorate this occasion, we at the Journal hope to build upon the extraordinary work of our predecessors and to carry on our tradition of excellence, both in publication and in serving as a platform for relevant and timely legal discussion.

Already we have filled content for half of the issues to be published under the purview of the 2018-19 Executive Board. We are aggressively expanding our Notes Program, and we remain committed to developing *Quorum* as a platform on the front lines of legislative scholarship. Part of this will involve instituting a legislation tracking section on *Quorum*. On the events front, we have begun planning our fall symposium, an examination of bipartisanship and deliberative changes in the Senate, and we will be reinstating our annual Legislation Competition, a unique and much-needed opportunity for solution-oriented dialogue.

This year we also plan to embark on significant projects in institutional memory and development. We have begun gathering and reorganizing all documents from the Journal's history, including articles, student notes, and standard protocols, on a modern platform. In addition, we aim to complete a major update of our comprehensive alumni database and a revamp of the Journal website.

It is with great honor and enthusiasm that the 2018-19 Executive Board takes up the responsibility of leading the Journal into this year. As always, we thank Professor Helen Hershkoff for her unwavering support as our faculty advisor. We look forward to a year of fruitful contributions to the areas of legislation and public policy.

On behalf of the Executive Board of 2018-2019,

Zeinab Bailoun, Editor-in-Chief
New York City
September 2018