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Introduction: To Economic Justice

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INTRODUCTION

New York is in the midst of a long crisis of economic inequality. Over the past forty years, the gap between the rich and the poor has widened, and the working class and working poor people of New York are suffering and struggling to survive. Many aspects of working poor life present extreme challenges and barriers. People have been suffering from wage stagnation and diminished public benefits. The educational system prepares poor and working class children for a life of rote labor. The City's paltry public services are under constant threat. These services have undergone years of assaults, and there is a steady ideological drum beat that those who enter into these systems are somehow at fault. The narrative is that if you need help, there is something wrong with you. Everything is more difficult when you are living from paycheck to paycheck, and paycheck to paycheck living is the reality for the overwhelming majority of New Yorkers. When working class people are over-policed and forced to interact with the criminal justice or immigration detention system, their precarious situation is often plunged into crisis. Money greases the wheels of the criminal justice system, allowing those arrested who have greater financial resources to be let out on bail, enabling them to ameliorate any disruption in their daily lives.

While poverty itself is not the only cause of social injustice, it is the mechanism by which other forces are able to be perpetuated. But what does "economic inequality" really mean? Does referring to the idea in this simple and passive way merely touch the surface of its "societal discomforts"? Does it obscure the reality that an economic system of capitalism can only function if there is an unequal concentration of wealth and opportunity? In order to dig deeper and strive to understand economic inequality in a more nuanced way, we must realistically discuss the existing systems of oppression at play, how they impact individuals and communities, and how advocates, lawyers, organizers, and activists can begin to work together to challenge injustice and inequality in a meaningful way.

In the tradition of CUNY Law Review's mission of promoting "Law in the Service of Human Needs," we decided to focus this volume of work on this struggle. As a journal that has always strived to create a forum for social justice scholars and innovative public interest practitioners, we chose to use our unique position to push the conversation beyond what is typically presented in the media, which often focuses on symptoms of the problems, toward discussion of solutions. We are proud to present this volume of work, which we believe showcases writing by scholars and practitioners, to effectively inform and enhance this conversation.

Our Notes and Comments Section features the work of two CUNY School of Law students. Kara Wallis's (Class of 2015) Note *No Access, No Choice: Foster Care Youth, Abortion, and State Removal of Children* exposes the ways our nation's foster care system reinforces the cycle of poverty using the example of pregnant foster care youth. Under the current legal schema, these minors are unable to obtain parental consent for an abortion from parents with whom they have no legal relationship. They are forced to rely on judicial bypass to access abortion, and should their judicial bypass application be denied, these youth must carry their pregnancies to term. As wards of the system, foster care youth often lack the support and resources to achieve economic stability. Consequently, these women become vulnerable to state removal of their children through a child welfare system that disproportionately impacts the indigent. The cycle of poverty and economic disenfranchisement is perpetually reinforced as youth in the foster care system give birth to children who end up in the foster care system. Wallis calls for a number of reforms. She advocates, "Our system must recognize that poverty is the greatest risk to youth's health, that youth are sexually active, and that youth can be trusted to make autonomous decisions when provided with sufficient support and education."

Brett Dolin (Class of 2015), in his Note *One Condo, One Vote: The New York BID Act as a Threat to Equal Protection and Democratic Control*, examines the role of the Business Improvement District (BID) in the privatization of city services and restriction of district voting power to property owners by detailing what transpired with the proposed Hudson River Park Neighborhood Improvement District (HRP NID). Dolin articulates how the misuse of the BID form results in property owners retaining control of the allocation of BID funds, while non-owning residents and tenants have limited influence as to how funds are used. As BIDs proliferate across the United States, *One Condo, One Vote* stands as a warning of the potential for both increased and unchecked privatization of municipal government and a threat to democratic control of municipal services embedded in New York's Business Improvement District (BID) Act.

Raja Raghunath's *A Founding Failure of Enforcement: Freedmen, Day Laborers, and the Perils of an Ineffectual State*, argues for stricter enforcement of labor standards to protect undocumented workers, specifically day laborers, who are vulnerable to abuse and exploitation by their employers. The article provides a historical perspective on the issue by comparing the lack of enforcement of current labor laws to the federal government's failure to enforce the working rights of recently freed slaves during the Reconstruction era, and posits that we should learn from the failed goals of the past to ensure protection now. In *A Founding Failure of Enforcement*,

Raghunath points out that undocumented workers are forced to work for long hours, with little to no pay and no redress. To combat this, Raghunath argues that labor law enforcement must be targeted toward the most vulnerable workers, as they are most likely to work in fear of threats and retaliation for asserting their rights. We are compelled to stand with Raghunath in exposing this reality and these horrific conditions and to push our readers to combat the systemic exploitation of undocumented workers.

In *Elevating Substance Over Procedure: The Retroactivity of Miller v. Alabama Under Teague v. Lane*, authors Brandon Buskey and Daniel Korobkin of the American Civil Liberties Union tackle the issue of mandatory life-without-parole sentences for juvenile criminal defendants. Although the United States Supreme Court declared such sentences unconstitutional violations of the Eighth Amendment in *Miller v. Alabama*, lower courts have split on whether the ruling must be applied retroactively to the over 2,000 inmates currently serving mandatory life-without-parole sentences that were imposed on them when they were juveniles. The devastating effect that these sentences have on communities most impacted by the criminal justice system—poor communities of color—illuminates one pathway to correcting some of the devastation wrought by the justice system.

Our Public Interest Practitioner Section (PIPS) features the article *MFY Legal Services, Inc.'s Medical Legal Partnership with Bellevue Hospital Center: Providing Legal Care to Children with Psychiatric Disabilities* by Aleah Gathings. Gathings, a staff attorney with MFY Legal Services, presents the medical legal partnership as a useful model for addressing the legal needs of a particularly vulnerable group: low-income families of children living with psychiatric disabilities. Continuing the tradition of the section, which has always served to provide a platform for practitioners engaging in innovative legal strategies, Gathings provides a grounded overview of the struggle that these families face as a result of poverty and illness, and the legal complexities that result. She describes how legal services practitioners can successfully partner with public hospitals to meet potential clients where they are, and how, through the combined efforts of medical and legal professionals, patient-clients experience both improved health and economic circumstances.

In November of 2014, CUNY Law Review hosted a panel titled *The Long Crisis: Economic Inequality in New York*, bringing together scholars and practitioners to reflect on the how the system that we live in and reproduce generates immiseration. The result, transcribed here, was a spirited dialogue touching on the ways in which this immiseration is compounded by the surveillance and incarceration of black, brown and immigrant people, the policies that promote the displacement of people from their homes in once-

affordable neighborhoods, and the stratification and hierarchy of public schools in New York City.

The CUNYLR's mission is to publish work authored by cutting-edge social justice scholars and public interest practitioners. We strive to provide a forum for community advocates, organizers, and allies to influence and radicalize legal practice. Our social justice mission is deeply integrated into the Law Review, with a rigorous article selection process that emphasizes innovative legal scholarship with a practical impact in support of low-income communities, communities of color, and other historically marginalized and disenfranchised groups of people. Looking ahead, the Law Review remains dedicated to effecting its roles as a platform not only for critical legal scholarship, but also for critical legal practice.