Cooperative Federalism and Wind: A New Framework for Achieving Sustainability
Ashira Ostrow, Hofstra University - School of Law
Patricia E. Salkin, Albany Law School

Abandonment, Discontinuance and Amortization of Nonconforming Uses: Lessons for Drafters of Zoning Regulations
Patricia E. Salkin, Albany Law School

Commercializing War: Private Military and Security Companies, Mercenaries and International Law
James Thuo Gathii, Albany Law School

New York City OTB: Is the Model Broken?
Bennett Liebman, Albany Law School

This Article proposes a federal wind siting policy modeled on the cooperative federalism framework of the TCA’s Siting Policy. Part I describes some advantages of wind energy, focusing specifically on the environmental, economic, and social benefits. This Part also discusses several technical obstacles to wind energy development, including the need to supplement wind energy with conventional energy sources and the lack of adequate transmission infrastructure. Part II assesses the current regulatory regime for the siting of wind turbines, reviewing general practices across the United States at both the state and local levels. Although a number of states have been active in providing wind siting guidance to local governments or preempting local control for large-scale wind energy facilities, a majority leave primary siting responsibility in the hands of local zoning boards. Part II then evaluates some of the most commonly raised local objections to wind siting, including concerns over aesthetics, wildlife, noise, safety, and property values. Part III presents an overview of the federal policies that impact the development of wind energy. Although numerous federal grants and tax incentives promote wind energy development, federal policies in this arena are largely uncoordinated and inefficient. Moreover, projects supported by federal dollars and regulatory policies may be unreasonably delayed or entirely prohibited by the local permitting process. Part IV proposes a federal regulatory regime for the siting of wind turbines, modeled on the TCA’s Siting Policy. Specifically, this Part argues that a national wind siting regime that leaves primary siting authority in the hands of local zoning officials but places procedural and substantive constraints on the decision-making process would provide the regulatory uniformity necessary for this capital-intensive industry to fully develop, without sacrificing the benefits of local tailoring or experimentation. The Article, thus, concludes that such a national wind siting policy strikes an appropriate balance between local concerns regarding wind turbine siting and the national interest in developing wind as a renewable domestic energy source.
"Abandonment, Discontinuance and Amortization of Nonconforming Uses: Lessons for Drafters of Zoning Regulations"

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With a significant volume of litigation focused on the subject of nonconforming uses, this article offers practical strategies for drafters of local zoning ordinances and laws on the subject of abandonment, discontinuance and amortization of nonconforming uses.

"Commercializing War: Private Military and Security Companies, Mercenaries and International Law"

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This paper addresses the growing involvement of foreign and private military, defense and security firms and mercenaries, particularly in the countries with the least effective control of their often remote and dangerous resource rich territories. Private military and security companies pride themselves as responses to the failure of national, regional and international public governance structures to play effective roles in maintaining peace and security.

This paper shows that international law rules on regulating the use of violence of non-State actors is divided between those cases like terrorism, where the state responsibility has been laid down in mandatory terms by the Security Council. By contrast, the regulation of private military and security companies has not attracted the same kind of categorical obligations on the part of States. What we see then is how the commercialization of violence has created differing responses in international law and institutions to the violence meted out by non-State actors - between those defined as terrorists and are currently stringently regulated, on the one hand, and those which define themselves as providing security, order and other ancillary services, who are currently not as stringently regulated under international law.

In addition, this paper shows a divide between vigorously pursuing individuals responsible for commission of crimes against bodily integrity in the international criminal context, and much less of a focus on the economic actors who are often complicit as accessories to those crimes.

The paper argues in favor of tougher regulatory controls through new international legal framework and national standards backed up by a concurrent multilateral commitment to dealing with mercenaries as decisively as with other non-State actors who wield violence.

"New York City OTB: Is the Model Broken?"

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The memorandum argues that the bankruptcy of the New York City Off Track Betting Corporation is not due to the laws governing how the corporation pays part of its retention on wagers to the racing industry and the State. Rather, the problems have been caused by the inefficiencies within the corporation.

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