

DAVID M. TRUBEK

**Voss-Bascom Professor of Law Emeritus and Dean of International Studies, University of Wisconsin-Madison**  
**Senior Research Fellow, Harvard Law School, Program on the Legal Profession**

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Educational

University of Wisconsin 1953-57 B.A. (History)  
Yale Law School 1958-61 LL.B.  
Note and Comment Editor, Yale Law Journal; Order of the Coif

Languages

Portuguese (fluent); French, Spanish

Professional Employment

1961-62 Law Clerk, Judge Charles E. Clark, U.S. Court of Appeals, 2<sup>nd</sup> Circuit  
1962-64 Attorney-Advisor, U.S. Department of State, Agency for International Development, Washington, D.C.  
1964-66 Legal Advisor and Chief, Office of Housing and Urban Development  
U.S.A.I.D Mission to Brazil, Rio de Janeiro

University Appointments

1966-73 Associate Professor of Law, Yale Law School  
1973- Professor of Law, University of Wisconsin  
1977-84 Associate Dean for Research, UW Law School  
1984- Voss-Bascom Professor of Law  
1985-90 Director, Institute for Legal Studies, University of Wisconsin Law School  
1986-87 Visiting Professor, Harvard Law School  
1990-01 Dean of International Studies, University of Wisconsin-Madison  
1995-01 Director, International Institute  
1998-2004 Co-Director, European Union Center  
2001 Dean of International Studies Emeritus  
2001-04 Director, Center for World Affairs & the Global Economy  
2004--2012 Senior Fellow, Center for World Affairs & the Global Economy  
2005-- Voss-Bascom Professor of Law Emeritus  
2010 Senior Research Fellow, Harvard Law School Program on the Legal Profession

Other Current and Recent Professional Activities

Chair, International Activities Committee, Law and Society Association (2003-5)  
Co-chair, International Socio-Legal Studies Meeting, Berlin Germany 2007  
Senior Advisor, Law and Development Review (Berkeley Electronic Press) (2008-10)  
Genest Fellow, Osgoode Hall School, Toronto (2007)  
Member, Academic Council, Harvard Institute for Global Law and Policy (2008-)  
Visiting Professor, FGV Law School, São Paulo (2010)

Principal Investigator, Project on Law and the New Developmental State (LANDS) (2007-present)  
 Co-director, GLEE, the Project on Globalization, Lawyers, and Emerging Economies (Harvard Law School) (2011-)  
 Chair, Law and Society Association Committee on the 50<sup>th</sup> Anniversary (2012-13)

### Major Grants and Research Projects

Principal Investigator, UW-Madison ABDI Agreement for Technical Cooperation (2010-)  
 (Law and Development in the BRICs)

Co-director, European Union Center (grant from the European Commission)(1998-)

Principal Investigator, Ford Foundation, UW Crossing Borders project (1998-2002)

Principal Investigator for UW-Madison– Stanford/Minnesota/Wisconsin MacArthur Foundation Consortium on International Peace & Cooperation (1992- 2002)

Principal Investigator and Project Director, Civil Litigation Research Project,  
 U.S. Department of Justice (1980-83)  
 (Contract awarded to University of Wisconsin)

European University Institute, Florence, Italy  
 (grant for research on comparative aspects of federalism 1980-82)

Director, Yale Program in Law and Modernization, (1967-73)  
 (grant to Yale Law School from Agency for International Development)

### Major Honors

Harry Kalven Prize, Law and Society Association (2002)

*Chevalier dans l'Ordre des Palmes Academiques*, French Ministry of Education (2001)

### Other Professional Activities

1978-84 Director, U.W. Disputes Processing Research Program

1980-87 Trustee, Inter-American Legal Services Association

1987-88 Center for Public Resources, Council of Academic Advisors on ADR

1987-92 Affiliated Scholar, American Bar Foundation Program on  
 Professionalism, Ethics and Economic Change

1987-93 Advisory Committee, Canadian Institute for Advanced Research,  
 Law and Society Programme

1988-91 Trustee and Member of Executive Committee, Law and Society Association

1988-90 Steering Committee, A.E. Havens Center for the Study of  
 Social Structure and Social Change, UW-Madison

1989-90 Organizing Committee, Interuniversity Consortium on Poverty Law

1991 Member, Joint Planning Commission, 1991 US-European Legal  
 Sociology Congress

1991-2008 Member, Academic Council, European Law Research Center, Harvard

### University

- 1992-94 Consortium on Law, Globalization and Social Science (CONGLASS)  
(organized Consortium, served on Steering Committee, and  
Co-Chaired meeting in Onati, Spain, in 1994)
- 1992-95 Coordinator, Global Studies Program Research Circle on Legal Change
- 1997-2003 Board of Directors, Research Committee on the Sociology of Law, International  
Sociological Association (1997-2003)
- 1998 Planning Committee, Annual American Society of International Law Meeting
- 1998-2002 Editorial Advisory Board, Law and Social Inquiry (1998-2002)
- 1998-2000 Editorial Advisory Board, Law and Society Review
- 2001-01 Co-chair, Law and Society Association Labor Rights Research Network
- 2002-05 Senior Fellow, Law and Society Program, UC Santa Barbara (2002- 2005)
- 2002 Visiting Professor, International Institute for the Sociology of Law, Onati
- 2003 Fulbright Senior Scholar, Riga Graduate School of Law, Riga, Latvia

### Consultancies

- U.S. Department of State (1967--reorganization of U.S. Embassy in Rio)
- Ford Foundation (1967--reorganization of Brazilian legal education; research on  
urban problems in Brazil); (1976--alternative techniques of conflict resolution);  
(1977-80-public interest law and human rights in Latin America)
- United States Civil Rights Commission (1971--exclusionary land use controls)
- Taconic Foundation (1973--exclusionary land use controls)
- Wisconsin Legislative Council (1975--reform of landlord tenant law)
- Inter-American Foundation (1982--legal services in Latin America)
- U.S. Department of State (1982--human rights and legal development in Guinea-  
Bissau and Cape Verde; 1983--training for judges from Cape Verde)
- State Bar of Wisconsin (1984--lawyers' fees and medical malpractice litigation)
- Consultant to ARD/Checchi-USAID Rule of Law Project in Russia (1993-4)
- U.S. Department of State (2002 – social rights and legal education in Brazil)
- Sheffield University, Sheffield UK (2004—Review of Law Department)

### Visiting Scholar in Residence

Commission of the European Community (1980)  
European University Institute, Florence, Italy (1982)  
Cardozo Law School and New School for Social Research, New York (1984-85)  
University of Texas Law School (1985)  
Fundação Joaquim Nabuco, Recife, Brazil (1985)  
Maison des Sciences de l'Homme, Paris France (1998)  
Robert Schuman Center, European University Institute, Florence Italy (2000; 2001)  
Law Department, London School of Economics (2002)  
Minda de Gunzberg Center for European Studies & Law School, Harvard (2002-3)  
Osgoode Hall Law School, Toronto CA 2008

## LIST OF PUBLICATIONS

### A. Books

O Mercado de Capitais e os Incentivos Fiscais (with Sa and Gouvea Viera)  
(TN-APEC, Rio de Janeiro, 1971)

*Reissued under the title Direito, Planejamento, e Desenvolvimento do Mercado de Capitais Brasileiro (Law, Planning and the Development of the Brazilian Capital Market) --Saraiva, São Paulo (2011)*

Consumer Law, Common Markets and Federalism (with Thierry Bourgoignie)  
Berlin and New York; de Gruyter (1987)

Critical Legal Thought: A German-American Debate (co-editor with Christian Joerges) Baden-Baden: Nomos (1989)

Lawyers' Ideals and Lawyers' Practices (co-editor with Robert Nelson and Raymond Solomon) Cornell University Press (1992)

Governing Work and Welfare in a New Economy: European and American Experiments  
(co-editor with Jonathan Zeitlin) Oxford University Press (2003)

Max Weber's Economy and Society: A Companion (co-editor with Charles Camic and Phil Gorski) Stanford University Press (2005)

The New Law and Economic Development: A Critical Appraisal (co-editor with Alvaro Santos) Cambridge University Press (2006)

Direito e Desenvolvimento: Um Dialogo Entre os BRICS (co-editor with Mario Schapiro) Saraiva, São Paulo, (2012)

Law and the New Developmental State: the Brazilian Experience in Latin American Context  
(co-editor with Alviar, Coutinho, and Santos), Cambridge University Press (2013)

#### B. Monographs, Major Reports, Edited Symposia

Law, Planning and the Development of the Brazilian Capital Market (N.Y.U. Institute of Finance Bulletin Nos. 71-72, 1971)

Editor, Special Issue on Civil Litigation and Dispute Processing, 15 Law & Society Review 389-920 (1980-81)

Final Report of the Civil Litigation Research Project (3 vols.) (submitted to the U.S. Department of Justice, March 1983) (co-author)

Co-Editor, Special Issue on Law and New Approaches to Governance in Europe, European Law Journal, Volume 8, Issue 1 March 2002

#### C. Articles and Chapters of Books

- "The Creative Role of the Judge: Restraint and Freedom in the Common Law Tradition," 71 Yale Law Journal 255-76 (1961) (with Charles E. Clark)
- "Brazil: All Power to the Generals," 49 Foreign Affairs 464-79 (1971) (with Henry J. Steiner)
- "Max Weber on Law and the Rise of Capitalism," 1972 Wisconsin Law Review 720-53
- "Toward a Social Theory of Law: An Essay on the Study of Law and Development," 82 Yale Law Journal 1-50 (1972)
- "Measuring the Invisible Wall: Land Use Controls and the Residential Patterns of the Poor," 82 Yale Law Journal 483-508 (1972) (with Benjamin Cohen and Eric Branfman)
- "When is an Omelet, What is an Egg? Reflections on Human Rights and Development in Latin America," (1973) Proceedings of the American Society of International Law 483-508
- "Scholars in Self-Estrangement: Reflections on the Crisis in Law and Development Studies in the United States," (1974) Wisconsin Law Review 1062-1102 (with Marc Galanter)
- "Law and the Politics of Justice: Rethinking the Open Suburbs Movement," in Exclusionary Zoning Litigation (1977)
- "Complexity and Contradiction in the Legal Order: Balbus and the Challenge of Critical Social Thought About Law," 11 Law & Society Review 529-69 (1977)
- "Allocating the Burden of Environmental Uncertainty: The NRC Interprets NEPA's Substantive Mandate," (1977) Wisconsin Law Review 747-76
- "Environmental Defense: Interest Group Advocacy in Complex Disputes," in Weisbrod, Handler and Komesar, Public Interest Law 151-217 (Univ. of Calif. Press, 1978)
- "Unequal Protection: Thoughts on Legal Services, Social Welfare and Income Distribution in Latin America," 13 Texas International Law Review 243-62 (1978)
- "Scholars in the Fun House: A Reply to Professor Seidman," 1 Research in Law and Sociology 31-40 (1978) (with Marc Galanter)
- "Public Advocacy: Administrative Government and the Representation of Diffuse Interests," in Cappelletti and Garth, eds., Emerging Issues & Perspectives in the "Access to Justice Movement" 447-94 (1979)

- "Market Discrimination Against the Poor and the Impact of Consumer Disclosure Laws: The Used Car Industry," 13 Law & Society Review 695-720 (1979) (with Kenneth McNeil, John R. Nevin and Richard E. Miller)
- "Legal Services and the Administrative State: From Public Interest Law to Public Advocacy," (with Louise G. Trubek and Jonathan Becker) in E. Blankenburg, ed., Innovations in the Legal Services 131-160 (1980)
- "Civic Justice Through Civil Justice: A New Approach to Public Interest Advocacy in the United States," (with Louise G. Trubek) Access to Justice and the Welfare State. Mauro Cappelletti, ed., 119-44 (1981)
- "Comment on Francisco C. Weffort, 'A Cidadania dos Trabalhadores,'" in B. Lamounier et al., eds., Direito, Cidadania e Participacao (1981)
- "Studying Courts in Context," 15 Law & Society Review 485-504 (1981)
- "Afterword: The Construction and Denconstruction of a Disputes-Focused Approach," 15 Law & Society Review 727-47 (1981)
- "Gerichte in ihrem Kontext--Der Konfliktansatz in der Forschung zur Ziviljustiz," in Blankenburg, Gottwald and Stempel, eds., Alternativen in der Ziviljustiz 329-339 (Bundesanzeiger 1982)
- "Coordinating Consumer Law and Policy in the American Federal System," (with Louise G. Trubek and James E. Zorn) in Thierry Bourgoignie, ed., European Consumer Law 307-359 (1982)
- "The Costs of Ordinary Litigation," (co-author) 31 U.C.L.A. Law Review 72-127 (1983)
- "Where the Action Is: Critical Legal Studies and Empiricism," 36 Stanford Law Review 575-622 (1984)
- "A Strategy for Legal Studies: Getting Bok to Work," 33 Journal of Legal Education 586-593 (1983)
- "Economic, Social and Cultural Rights in the Third World: Human Rights Law and Human Needs Programs" in T. Meron, ed., International Protection of Human Rights 206-270 (Oxford University Press) (1984)
- "Courts and Litigation Investment: Why Do the Federal Courts Take More?" (co-author) 9 Justice System Journal 7-22 (1984)
- "Understanding the Costs of Litigation: The Case of the Hourly-Fee Lawyer" (co-author) 1984 American Bar Foundation Research Journal 559-604 (1984)
- "The Impact of Fee Arrangement on Lawyer Effort," (co-author) 19 Law and Society Review 251-278 (1985)

"The Place of Law and Social Science in the Structure of Legal Education," 35 Journal of Legal Education 483-488 (1985)

"Max Weber's Tragic Modernism and the Study of Law in Society" 20 Law and Society Review 573-598 (1986)

"Les periods dans L'histoire recente de la theorie de l'acces a la justice: Le sujet de droit a la quete de son autonomie," 29 Annales de Vaucresson 45-6 (1988)

"Critical Empiricism in American Legal Studies: Paradox, Program or Pandora's Box?" 14-1 Law and Social Inquiry 3-52 (1989)

"The Handmaiden's Revenge: On Reading and Using the Newer Sociology of Civil Procedure," 51 Law & Contemporary Problems 111-134 (1989)

"Programmatic Thought and the Critique of the Social Disciplines" in M. Perry (ed.), Critique and Construction (Cambridge: Cambridge U. Press 1990)

"Back to the Future: The Short and Happy Life of the Law and Society Movement", 18 Florida State University Law Review 1-55 (1990)

"From 'Scientism Without Determinism' to 'Interpretation Without Politics': A Reply to Sarat, Harrington and Yngvesson" (co-author) 15-1 Law and Social Inquiry 171-180 (1990)

"Critical Moments in Access to Justice Theory: The Quest for the Empowered Self" in Allan C. Hutchinson (ed.), Access to Justice 107-128 (1990)

"Protectionism and Development: Time for A New Dialogue?", Vol. 25, No. 2, Journal of International Law and Politics 345-366 (1993)

"Global Restructuring and the Law: Studies of the Internationalization of Legal Fields and the Creation of Transnational Arenas," (co-author) Vol. 44, No. 2, Case Western Reserve Law Review 407-498 (1994)

"Law and Development: Then and Now", Proceedings of the 90<sup>th</sup> Meeting of the American Society of International Law, 90 ASIL Proc. (1996)

"The Future of International Studies" in Proud Traditions and Future Challenges-The University of Wisconsin-Madison Celebrates 150 Years (Office of University Publications - University of Wisconsin 1999)

"Transnationalism in the Regulation of Labor Relations: International Regimes and Transnational Advocacy Networks" (with Jim Mosher and Jeffrey S. Rothstein) Law and Social Inquiry (1999)

"Law and Development" in N. J. Smelser and Paul B. Baltes (editors) 2001 International Encyclopedia of the Social & Behavioral Sciences. Pergamon, Oxford. p.

8443

“The Transatlantic Labor Dialogue: Minimal Action in a Weak Structure” in M. Pollack and G. Shaffer, eds. Transatlantic Governance in a Global Economy (Rowman & Littlefield 2001)

“Mind the Gap: Law and New Approaches to Governance in Europe (with Joanne Scott 8 European Law Journal 1 (2002)

Knowledge, Law and Democracy. A Comment on Christian Joerges' 'The Law in the Process of Constitutionalizing Europe' " in E. Eriksen, J. Fossum, A. Menéndez, eds., Constitution Making and Democratic Legitimacy ( Arena 2002)

“New Governance, EU Social Policy, and the European Social Model” (with Jim Mosher) in J. Zeitlin and D. Trubek, eds, Governing Work and Welfare in a New Economy: European and American Experiments (Oxford 2003)

“EU Social Policy and the European Employment Strategy”, 41 Journal of Common Market Studies 63 (2003) (with Jim Mosher)

"Cracking the 'Red, White, and Blue' Ceiling: Towards a New International Role for the Law and Society Association", Vol. 37, No. 2, Law & Society Review 205-303 (2003)

“The Rule of Law in Development Assistance: Past, Present and Future”, in M. Bauerle et.al, eds, Haben wir wirklich Recht? (Nomos, 2004)

“Hard and Soft Law in the Construction of Social Europe: The Open Method of Coordination” (with L. Trubek) European Law Journal (2005)

“Hard and Soft Law in European Integration” –with P. Cottrell & M.Nance) in Scott & de Burca, New Governance In the US and EU (Hart 2006)

“Trade Law, Labor, and Global Inequality” (with L. Compa), in Law and Class in America, P. Carrington & T.Jones eds.( 2006)

“The Emergence of Transnational Labor Law”, (Review Essay) 100 American Journal of International Law 2006

“The Owl and the Pussy Cat: Is There a Future for Law and Development?” Wisconsin International Law Journal (2007)

“New Governance and Legal Regulation: Complementarity, Rivalry, and Transformation” Columbia Journal of European Law (with L.Trubek) (2007)

“Transcending the Ostensible: Reflections on Robert Hudec as Friend and Scholar”, Minnesota Journal of International Law (2008)

“Robert Hudec and the theory of international economic law : the law of global space” (with Cottrell) in Developing countries in the WTO legal system edited by Chantal Thomas



and Joel P. Trachtman.(Oxford 2009)

“The World Turned Upside Down: Thoughts on New Governance and the Transformation of Law (with L. Trubek) Wisconsin Law Review (2010)

“Law as Problem Solving: Standards, Networks, and Experimentation in Global Space”, Transnational Law and Contemporary Problems V. 21, No. 2 (2012) (with Cottrell)

“From Humanitarian Assistance to Professional Education: Fifty Years of the Wisconsin Law School’s Engagement with the Global South”, 30 Wisc. Intl L.1, 2012

“Toward a New Law and Development: New State Activism in Brazil and the Challenge for Legal Institutions”, The World Bank Legal Review V. 4, 2013 (with Coutinho and Schapiro)

. Book Reviews and Review Essays

Schwartz, Sovereignty and Society in Colonial Brazil, in 19 American Journal of Legal History 89-94 (1975)

Council for Public Interest Law, Balancing the Scales of Justice, 1977 Wisconsin Law Review 303-315

M. Weber, Max Weber, A Biography, in American Journal of Sociology, Volume 84 Number 4, 1005-1008

Lindblom, Politics and Markets, in The Nation, (August 1978)

Abel, ed., The Politics of Informal Justice and Auerbach, Justice Without Law in 82 Michigan Law Review 824-835 (1984)

Kronman, Max Weber, in 37 Stanford Law Review 919-936 (1985)

Roberto Unger, Politics in " Review Essay: Radical Theory and Programmatic Thought," 95 American Journal of Sociology 44 (1989)

Cruz, Potobsky, Swepston, International Labor Organization: The International Standards System and Basic Human Rights and Compa, Diamond, Human Rights, Labor Rights, and International Trade: Law and Policy Perspectives in 91 American Journal of International Law 398 (1994)

Joseph Nye and John Donahue, eds. "Governance in a Globalizing World" 96 American Journal of International Law 748 (2003)

E. Working Papers and Research Reports

“Theories of Development as Barriers to Implementing Human Rights in the Third World: The Latin American Case" (1974)

"Selected Issues in Landlord-Tenant Reform" A Preliminary Study of Some Effects of Adoption of the Uniform Residential Landlord and Tenant Act in Wisconsin," Wisconsin Legislative Council Staff Paper RB-75-1 (May 1974)

- "Towards Fairer and More Responsive Administration: A Study of the Need for Publicly Supported Advocacy and Review in Administrative Proceedings in Wisconsin," Center for Public Representation Research Report (1975)
- "Law, Access and the Administration of Distribution," University of Wisconsin Center for Law and Behavioral Science Working Paper No. 18 (April 1976)
- "An Investigation of the Retail Used Motor Vehicle Market: An Evaluation of Disclosure and Regulation," Center for Public Representation Research Report (1977) (with J. Nevin)
- "Beyond Public Interest Law: Government Financing for Participation in the Administrative Process," paper presented at the OECD Conference on Innovations in the Public Services, Berlin, (June 12, 1978) (with L. Trubek and J. Becker)
- "Economic Theories of Regulation: Another Look," paper presented at the American Economic Association, Chicago (August 30, 1978)
- "Market Discrimination Against the Poor and the Impact of Consumer Disclosure Laws: The Used Car Industry," University of Wisconsin Institute for Research on Poverty Discussion Paper 486-78 (1978) (with McNeil, et al.)
- "Consumer Voice in Federal Agencies," Center for Public Representation Research Report (April 1980) (with Louise Trubek and Paul Kent)
- "Costs, Processes and Outcomes: Lawyers' Attitudes to Courts and Other Dispute Processing Options" (co-author), University of Wisconsin Disputes Processing Research Program Working Paper 1984-4
- "Law and Development: What We Know and Do Not Know," paper presented at the Sino-American Conference on Economic Law, Hawaii, June 1989 and the Polish - American Conference on Rights, Legality and Redemocratization, Warsaw (February 1990)
- "Law and Development: Then and Now" paper presented at the American Society of International Law 90<sup>th</sup> Annual Meeting, Washington, D.C. (March 28, 1996)
- "Social Justice 'After' Globalization: The Case of Social Europe," paper presented at European University Institute, Italy (November 1996), [University of Wisconsin Global Studies Program Working Paper (December 1996)]
- "Law Adrift in an Economy Let Loose: The Legal Imagination in the Struggle for Governance of a Post-National World" presented at Maison des Sciences de l'Homme, Paris France (May 1997)
- "Transnational Regimes and Advocacy in Industrial Relations: A 'Cure' For Globalization?" presented at the Conference on Conflicts and Rights in Transnational Society, Courmayeur Mont Blanc, Italy, [University of Wisconsin Global Studies Program Working Paper (September 1998)]
- "Social Rights in a Global Economy", paper presented at the Conference on Social Rights, Porto Alegre, Brazil 2002

"The European Employment Strategy and the Future of EU Governance: An Opportunity for the Baltics and a Challenge for Lawyers", Riga Graduate School of Law Working Papers No. 10, 2003

"Hard and Soft Law in the Construction of Social Europe: The Role of the Open Method of Coordination" UW-Madison Governance Project Working Paper (with Louise Trubek) (December 2003)

F. Other

"Will State Courts and Legislatures Eliminate Exclusionary Land Use Controls?" Statement, Hearing of the United States Commission on Civil Rights, Washington, D.C. (June 14-17, 1971) 828-885.

"Law and Development: The Future of Law and Development Research (Int. Legal Center and the Scandinavian Institute of African Studies; Uppsala, 1974) - report of the International Legal Center Research Advisory Committee (chair and principal draftsman)

"A Different Education for a Changing Profession: The Future of the UW Law School" (report of the Committee on the Future of the Law School) (1988)