

**JOHN N. DROBAK**

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School of Law  
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## **Employment**

Current

**George Alexander Madill Professor of Law**  
Washington University School of Law  
(Associate Professor 1979-1985)  
(Professor 1985-2002)

**Professor of Economics** (Courtesy Appointment since 1990)  
Washington University School of Arts and Science

**Grand Marshal for University Commencement** (2015-2021)

**Director, Whitney R. Harris Global Law Institute** (since 2021)

**Law School Faculty Liaison for Alumni Relations** (since 2010)

**Distinguished Faculty Award**, from Washington University for  
“outstanding commitment to the intellectual and personal development of  
students,” 2000. (The award is one of the most prestigious at Washington  
University. It is given only to 4 or 5 faculty members from throughout the  
university each year.)

**Law School Teacher of the Year**, 1985-86, 1991-92, 1995-96, 2006-07,  
and 2016-2017.

and courts

**Principal research interest:** economic regulation

**Subjects taught include:** Antitrust, Economic Regulation, Civil  
Procedure, Federal Courts, Law and Economics, Property, Theory of  
Property Rights, and Institutional Framework for Competitive Markets.

## **Education**

Doctor of Jurisprudence	Stanford University Stanford Law Review (Associate Managing Editor)	1973
Bachelor of Science in Electrical Engineering	Massachusetts Institute of Technology	1970
Bachelor of Science in Management Science	Massachusetts Institute of Technology	1970

## **Publications**

### Books

**Rethinking Market Regulation: Helping Labor by Overcoming Economic Myths**, Oxford University Press, 2021.

**Norms and the Law**, editor, Cambridge University Press, 2006 (translated into Chinese).

**Frontiers of the New Institutional Economics**, Drobak & Nye editors, Academic Press, 1997 (translated into Chinese).

### Book Chapters

“Coase on Property Rights,” **The Elgar Companion to Ronald C. Coase** 83 (Claude Menard & Elodie Bertrand eds, Edgar Elgar, 2016).

“Social Change and Law,” 3 **Encyclopedia of Law and Society: American and Global Perspectives** 1379 (David S. Clark ed., Sage Publications, 2007).

“Legal Change in Economic Analysis,” **Elgar Companion to Law and Economics** (Jurgen G. Backhaus ed., 2d ed., Edward Elgar, London 2005) (with Douglass C. North).

“Cognitive Science,” **Elgar Companion to Law and Economics** (Jurgen G. Backhaus ed., 2d ed., Edward Elgar, London 2005).

“A cognitive science perspective on legal incentives,” **Institutions, Contracts and Organizations**, pp. 279-90; Claude Menard ed. (Edward Elgar, London 2000).

“Cognition, Institutional Economics, and Technological Innovation,” Proceedings of the 1998 NSF Design and Manufacturing Grantees Conference.

“Credible Commitment in the United States: Substantive and Structural Limits on the Avoidance of Public Debt,” Chapter XI in **Frontiers of the New Institutional Economics**, Drobak & Nye editors, Academic Press (1997).

“The Courts and Slavery in the United States--Property Rights and Credible Commitments,” in **Political Economy: Institutions, Information, Competition and Representation** (Barnett, Hinich & Schofield, eds.; Cambridge U. Press, 1993). (Refereed chapter.)

### Journal Articles

“Populism and the Future of U.S. Labor Relation,” *Revue français d’administration publique*, Dec. 2019, available at <https://www.cairn.info/revue-francaise-d-administration-publique.htm>

“Beyond Stamp Collecting: Ronald Coase and ‘Scientific’ Legal Scholarship,” 54 **Washington University of Journal of Law & Policy** 21 (2017).

“The Alien Tort Statute from the Perspective of Federal Court Procedure,” 13 **Wash. U. Global Stud. L. Rev.** 421 (2014).

“Personal Jurisdiction in a Global World: The Impact of The Supreme Court’s Decisions in *Goodyear Dunlop Tires and Nicastro*,” 90 **Washington U. L. Rev.** 1707 (2013).

“Réguler à contretemps on les conséquences imprévues de la réponse des États à la crise,” **La Semaine Juridique, Enterprise et Affairs**, July 26, 2012, at 25 (“Reactionary Regulation: The Unintended Consequences of Government’s Response to Crises,” in French).

“Introduction to Law and the New Institutional Economics,” 26 **Washington U. J. Law & Policy** 1 (2008).

“Understanding Judicial Decision-Making: The Importance of Constraints on Non-Rational Deliberations,” 26 **Washington U. J. Law & Policy** 131 (2008) (with Douglass C. North).

“A Comment on Privatization and Democratization,” 50 **St. Louis U. L.J.** 783 (2006).

“Law Matters,” 76 **Washington University Law Quarterly** 97 (1998) (translated into Czech).

“Overview” to X **Public Utilities Law Anthology** (1988).

“Constitutional Limits on Price and Rent Controls: The Lessons of Utility Regulation,” 64 **Washington University Law Quarterly** 107 (1986), reprinted in 9 **Public Utilities Law Anthology** (1987).

“From Turnpike to Nuclear Power: The Constitutional Limits on Rate Regulation,” 65 **Boston University Law Review** 65 (1985), reprinted in 8 **Public Utilities Law Anthology** 163 (1986).

“The Federalism Theme in Personal Jurisdiction,” 68 **Iowa Law Review** 1015 (1983); reprinted in **Jurisdiction and Private International Law**, Patrick Borchers, ed., Edward Elgar Publishing, Ltd. (2014) as “one of the most important and influential previously published English language works in this particular field.”

### On-line Publications

“The Origins and Early Years of The International Society for New Institutional Economics,” [www.sioe.org](http://www.sioe.org) (with Claude Menard and Mary Shirley) (2017).

### Grant

Co-recipient of NSF grant (no. DMI 9612214, entitled “Cognition, Institutional Economics and Technological Innovation”) to use principles of cognitive science and institutional economics to study innovation in the magnetic storage industry, 1996-98.

### Lectures, Workshops, and Panels

“The Rationality Assumption and U.S. Competition Law” at a workshop in Saint Sauveur, France organized by the FORUM SUR LES INSTITUTIONS, LE DROIT, L’ECONOMIE ET LA SOCIETE ASSOCIATION, March 2019.

“The U.S. Economy: Declining Competition and Rising Inequality,” public lecture at the France-Americas Society, Paris, March 2019.

“The Failure of Economic Theory and the Rise of 21st Century Populism,” St. Mary’s University Law School, April 2018.

“An Application of Douglass North’s Notion of Belief System,” at the conference “The Life and Legacy of Douglass North: Celebrating the 25<sup>th</sup> Anniversary of North’s Nobel Prize in Economics,” George Mason University, March 2018.

“Judicial Legitimacy in Developing Countries: An Interdisciplinary Study of Legal Institutions,” Law and Economics Faculties, Goethe University, Frankfurt, Germany, Dec. 2013.

“The Alien Tort Statute from the Perspective of Federal Court Procedure,” at a conference on The Legal Challenges of Globalization: A View from the Heartland, sponsored by the Harris Institute at Washington University and the American Branch of the International Law Association, St. Louis, Missouri, September 2013.

“Culture and the Rule of Law,” Economics Faculty, University of Paris I (Sorbonne), April 2013.

“Courts, Cooperation, and Legitimacy,” Annual Meeting of Midwest Law and Economics Association, Washington University, October 2012.

“Courts, Cooperation, and Legitimacy,” Political Theory Workshop, Washington University, October 2012.

“Thrainn Eggertsson and the Problem of Knowledge: The Effectiveness of Conveying Information in the Electoral and Financial Markets,” Conference in Honor of Thrainn Eggertsson, University of Iceland, Reykjavik, Iceland, April 2012.

“Courts, Cooperation, and Legitimacy,” Law and Economics Workshop, University of Paris-1 (Sorbonne) and Law and Economics Workshop, University of Paris-10 (Nanterre), December 2011.

“A Cognitive Science Perspective on Judicial Decision Making,” Workshop for Law Faculty, University of Paris-10 (Nanterre), December 2011.

“Reactionary Regulation: The Unintended Consequences of Government’s Response to Crisis Regulation,” Conference on “When Law and Business Meet: Compliance and Performance,” held in conjunction with the annual opening of the Lyon Bar, Lyon, France, December 2011.

“Judicial Legitimacy: The Public Perception of the Courts as the Least Political Branch,” 2011 Annual Conference of the International Society for New Institutional Economics, held at Stanford University, June 2011.

Program Committee member, 2011 Annual Conference of the International Society for New Institutional Economics.

Member of Roundtable Discussion on “Douglass C. North and the Rise of the New Institutional Economics,” at a conference about “The Legacy of Douglass C. North: Understanding Institutions and Development Economics,” Washington University, St. Louis, Missouri, November 2010.

“The Limits of Rational Choice Theory for Both Law and Economics,” European School for New Institutional Economics, Cargese, Corsica, France, June 2010.

Organized a Symposium on Law and the New Institutional Economics, published in 26 Washington U. J. Law & Policy (2008).

Discussant for Opening Session of the Conference on “Law and Development: A Historical Perspective,” Global Economic History Network, Utrecht, Netherlands, September 2007.

“Understanding Judicial Decisionmaking: The Importance of Constraints and Beliefs in a Dynamic World,” 2007 Annual Conference of the International Society for New Institutional Economics, in Reykjavik, Iceland, June 2007.

Organized Panel on “Constraints on Decisionmakers: Lessons from Experimental Economics, Economic History, and Cognitive Science, 2007 Annual Conference of the International Society for New Institutional Economics, in Reykjavik, Iceland, June 2007.

“Creating an Environment for Interdisciplinary Scholarship and Teaching,” Faculty Workshop, University of Arkansas School of Law, March 2007.

Organized Panel on “Legal Aspects of the Economic Transformation in China,” 2006 Annual Conference of the International Society For New Institutional Economics, in Boulder, Colorado, September 2006.

“The Rule of Law and Market Exchange: The Role of the Judiciary,” 2005 Annual Conference of the International Society for New Institutional Economics, in Barcelona, Spain, September 2005 (with John O. Haley).

“The Choice of Civil Dispute Resolution: Court Trials vs. Mediation vs. Arbitration,” 2005 Annual Conference of the International Society for New Institutional Economics, in Barcelona, Spain, September 2005 (with Karen L. Tokarz).

Discussant, Childress Lecture, “Privatization: The Road to Democracy,” St. Louis University School of Law, September 2005.

Organized Panel on “Comparative Corporate Governance,” 2004 Annual Conference of the International Society For New Institutional Economics, in Tucson, Arizona, September 2004.

“The Globalization of Business and Law,” Washington University Eliot Society Seminar Series, October 2003.

“Norms, Culture, and the Rule of Law,” 2003 Annual Conference of the International Society For New Institutional Economics, in Budapest, Hungary, September 2003.

“Norms, Culture, and the Rule of Law,” Saint Louis University/Washington University International and Comparative Law Workshop, September 2003.

“The Constitutional Protection of Property Rights: Lessons from the United States and Germany,” Comparative and International Law Workshop, Whitney R. Harris Institute for Global Legal Studies, Washington University, December 2002.

“New Institutional Economics: What the Law Can Do To Promote Economic Growth,” Czech Economic Association and CERGE-EI, Prague, Czech Republic, May 2002.

“New Institutional Economics,” Prague School of Economics, May 2002.

“The Lessons of Bush v. Gore,” University of Illinois, October 2001.

“The Constitutional Protection of Property Rights,” 2001 Annual Meeting of the Western Economic Association, San Francisco, July 2001.

“The Constitutional Protection of Property Rights: Lessons From the United States and Germany,” 2000 Annual Conference of the International Society For New Institutional Economics, in Tuebingin, Germany, September 2000.

Keynote Address “Education of Managers: Its Legal and Economic Aspects,” given at the Award Ceremony for the “Manager of the Year 2000 in the Czech Republic, May 16, 2000, in Prague, Czech Republic (and printed in the newspaper “Lidove Noviny,” May 17, 2000).

“A Cognitive Science Perspective on Legal Incentives,” 1998 Annual Conference of the International Society For New Institutional Economics, Paris, September 1998.

“Cognition and Legal Incentives,” Faculty Workshop, St. Louis University School of Law, March 1998.

One of three members of a Roundtable Discussion concluding a two-day conference on law and social norms, sponsored by the Centers of International Business Education at the University of Chicago and the University of Illinois, held in Chicago in February 1998.

“Cognition, Institutional Economics and Innovation in the Magnetic Storage Industry,” 1997 NSF Design and Manufacturing Grantees Conference, Seattle, Washington, January 1997.

“Dilemmas at the Crossroads of Cognitive Science and Legal Theory,” Faculty Colloquium, Psychology Department, Washington University, April 1996.

“The Dilemma of Cognition and Contract Enforcement,” Conference on Mind, Society and Education: An Interdisciplinary Exploration, Washington University, January 1996.

“Credible Commitment in the United States,” for the Economic History Workshop and the School of Law, University of Illinois, September 1995.

“Credible Commitment in the United States: Substantive and Structural Limits on the Avoidance of Public Debt,” at the Conference on the Frontiers of the New Institutional Economics, Washington University, March 1995.

“Transaction Cost Economics and Antitrust Law,” for the School of Law and Department of Economics, University of Missouri, April 1995.

“The Use of Economics in Law Teaching,” Law Faculty of Charles University, Prague, Czech Republic, May 1994.

“The Political Economy of the Takings Clause,” Economic History Workshop, Washington University, November 1993.

“The Constitutional Requirement of ‘Government by Purchase’ in a Democratic State,” at the First Annual Conference of The Society for Social Choice and Welfare, held in Caen, France, June 1992.

“Privatization in Eastern Europe,” Center for the Study of American Business and Center in Political Economy, Washington University, September 1991.

“A Lawyer's Perspective on the Credible Commitments to Slavery,” at the Seventh International Symposium in Economic Theory and Econometrics, titled “Political Economy: Institutions, Information, Competition and Representation,” held at Washington University, May 1991.

Discussant, Panel on “Economics and Organization Theory: Recent Developments,” 2003 Annual Meeting of the Allied Social Sciences Association, Washington, D.C., January 2003.

Discussant, Panel on “Creating and Safeguarding Private Enterprise,” at the 62<sup>nd</sup> Annual Meeting of the Economic History Association, Saint Louis, October 2002.

Discussant, Panel on “Organization Theory,” at the 2002 Annual Meeting of the International Society For New Institutional Economics, Cambridge, Massachusetts, September 2002.

Discussant, Panel on Property Rights, 2001 Annual Meeting of the Western Economic Association, San Francisco, July 2001.

Discussant, Panel on “Law and Disorder,” 1999 Annual Conference of the International Society For New Institutional Economics, Washington, D.C., September 1999.

### **Other Academic Activities**

One of the Founders and the Incorporator of the International Society for New Institutional Economics (September 1997).

Corporate Secretary, Treasurer and Member of the Board of Directors and the Executive Committee (1997-2009).

Interview on Amicus Radio, Paris, 2018, about U.S. Economic Regulation

Review of Law and Economics casebook proposal for Wolters Kluwer/Aspen, 2010.

Review of Civil Procedure casebook proposal for Oxford University Press, 2007.

Review of new journal proposal for Oxford University Press, 2007.

Referee for submissions to the Journal of Institutional Economics, since 2006.

Referee for article submission for International Review of Law and Economics, 2014.



Referee for journal submission to The Independent Review, 2005.

Referee on Grant Application for Criminal Law Study Applying New Institutional Economics, Marsden Fund, New Zealand, Summer 2003.

One of three faculty members of a summer institute on Research Strategies in New Institutional Economics for young scholars from lesser developed countries, held at Washington University in August 1998.

Advisor to the Republic of Georgia in connection with the drafting of the new Georgian Constitution; emphasis on constitutional provisions dealing with property rights and a market economy (1994-95).

Co-Chair, Three-Day Conference, titled “Frontiers of the New Institutional Economics,” held at Washington University in March 1995 to Honor 1993 Nobel Laureate in Economics, Douglass C. North (March 1995).

Member of Conference Planning Committee, Two-Day Conference on “Auditor and Director & Officer Liability for Misstated Financial Statements: Is Tort Reform Necessary?” sponsored by the Business, Law and Economics Center of the Olin School of Business, Washington University (April 1995).

Participant in “Partnership for Progress: US-NIS Conference on Democracy and the Market Economy,” a conference for business and government leaders concerning economic reform in the States of the former Soviet Union (1993).

Pro bono consultant to the Czechoslovakian Finance Minister concerning the privatization of large state enterprises (1991).

Pro bono consultant to the Pennsylvania Office of the Consumer Advocate (the winning respondent) in connection with its brief to the United States Supreme Court in Duquesne Light Co. v. Barasch, 109 S. Ct. 609 (1989).

Member of numerous dissertation committees of Ph.D. candidates in the Economics and Political Science Departments and in the Business School and of J.S.D. candidates in the School of Law.

### **Antitrust and Regulatory Consulting**

Abbott Laboratories - Advice concerning antitrust aspects of a joint venture in a federal court appeal of an arbitration.

Plaintiff in unsolicited FAX class action - Affidavit to trial court regarding class definition.

Nissan North America, Inc.— Advice and moot court in connection with an appeal over class certification.

Schnuck Markets, Inc. - Advice concerning merger divestiture and arbitration.

Ford Motor Company - Expert witness in dealer termination litigation.

Local auto dealer - Advice concerning litigation about an alleged dealer cartel.

St. Louis Music Co. - Advice concerning national distribution of musical instruments.

State of Nebraska - Advice concerning constitutional requirements affecting natural gas rates.

### **Employment History**

**Israel Treiman Faculty Fellow, 2017-2018** (Washington University School of Law research fellowship)

**Professor of Political Economy** (Courtesy Appointment 2007-2015)  
Washington University School of Arts and Science

**Professor of Business** (Courtesy Appointment 1994-95)  
Olin School of Business, Washington University  
- Adjunct Professor in Executive M.B.A. Program  
(1996-2002)

**Director -- Center for Interdisciplinary Studies**, Washington University School of Law (2000-2012)

**Fellow -- Center in Political Economy**, Washington University  
(1988-2006)

**Fellow -- Business, Law and Economics Center**,  
Olin School of Business, Washington University (1993-2003)  
- Interim Co-Director of Center, 1994-95

**Professor -- United States Business School in Prague** (1991-2006)

**Visiting Professor** – Utrecht University, Utrecht, Netherlands, taught “Comparative Constitutional Law,” January 2016.

**Visiting Professor** -- Goethe University, Frankfurt, Germany, taught “Introduction to Law and Economics” in Law and Economics Ph.D. Program, August 2010 and December 2013.

**Visiting Professor** -- Utrecht University, Utrecht, Netherlands, taught “Comparative Courts: The United States, the Netherlands, and the European Union,” January 2013.

**Visiting Professor** -- University of Paris – 10 (Nanterre/La Defense), taught “Law and the New Institutional Economics” in Masters of Law and Economics program, December 2011 and April 2013.

**Visiting Professor** -- Catholic University of Portugal, Lisbon, Portugal, taught “Comparative U.S. Antitrust and E.U. Competition Law” March 2010.

**Visiting Professor** -- St. Louis University School of Law (spring 1999)

**Treasurer and one of the Founders -- International Society For New Institutional Economics** (since 1977)  
(Secretary/Treasurer 1977-2003)

**Chair of the Board of Directors -- Center For New Institutional Social Science**, Washington University (2000-2004)

1986-1990

**Associate Dean**  
Washington University School of Law  
St. Louis, MO 63130

Responsibilities were those of an academic dean, including such duties as: coordinate personnel with curricular needs, assist Dean on tenure and other faculty matters, liaison with visiting faculty, publicize faculty scholarship and activities, Dean's representative on University and Bar committees, and chair of Long Range Planning Committee.

For 1986-88, duties also included supervision of Registrar and Admissions Office, student academic counseling and various activities typical of a dean of students.

1974-1979

Associate with Tyler, Cooper, Grant, Bowerman & Keefe  
New Haven, Connecticut

Responsibilities included a general corporate law practice: representing utilities before courts and state agencies, representing banks and industries in major real estate transactions, counseling industries in connection with national and international sales of goods, representing corporations in

construction litigation and arbitration, and performing legal work in connection with the sale of corporate stocks and bonds and the sale of entire businesses.

1973-1974 Clerk to Judge Winslow Christian  
California Court of Appeal  
San Francisco, California

1973-1974 Legal Writing Instructor  
Hastings College of the Law  
University of California  
San Francisco, California

## **Academic Committees**

### University

Faculty Senate Council, 1990-93, 1996-99  
Chair 1992-93, 1997-99  
Executive Committee, 1990-93, 1997-99  
Senate Council Constitution Drafting Committee, 1990-92  
Chair, Senate Council Committee Concerning Confidential Claims of Sexual Harassment, 1996-97  
Chair, Commencement Committee, 2015-2020  
Chair, Advisory Committee for the Appointment of a Vice Chancellor for Human Resources, 1996-97  
Chair, Ad Hoc Advisory Committee to Chancellor, 2007  
Chair, University Judicial Board, 2001-03  
Faculty Representative to Board of Trustees 1992-93, 1997-99  
University Council 1997-99  
Dean Search Committee, School of Law 1997-99, 2013-2014  
Dean Search Committee, Olin School of Business, 1992-95  
Omnibus Hiring Committee of the Political Science Department, 2002-03  
Member of Honorary Degree Committee, since 2015  
Member, Faculty Advisory Board, University Teaching Center, 2019-2020  
Faculty Advisor for University Sexual Harassment Policy, since 2005  
Member of AAUP Advisory Board for Washington University, 2005-2012  
Travel Policy Advisory Committee, 2007  
Sesquicentennial Committees of the University and of the College of Arts and Science, 2001-02  
Ad Hoc Committee Advising Dean of Arts and Sciences on Grievances, 2003-04  
University Coordinating Committee, dealing with effects of September 11 tragedy, Fall 2001  
Faculty Achievement Award Committee, Co-Chair 1998-99; Member 2003-06  
Co-Chair, United Way Hilltop Faculty Committee 1995, 1996, 1999  
Commencement Committee, Subcommittee on Degree Requirements, 2000-01

Affirmative Action Committee, 1990-92  
Academic Calendar Committee, 1982-88  
Physical Facilities Committee, 1989-90  
Handicap Access Committee, 1989-90

### **School of Law**

Appointments Committee, 1990-95, 1996-97, 2010-12  
Curriculum Committee, 1983-84, 1986-90, 1995-96, 1997-98, 2007-08, 2013-2015  
(Chair, 1995-96, 2007-08, 2014-2016)  
Admissions Committee, 1980-84, 1986-90, 2009-2010  
(Chair, 1986-88, 2009-2010)  
Promotions & Tenure Committee, Law School, Chair, 2019-2021  
Student-Faculty Relations Committee, 1979-84, 2006-07  
(Chair, 1982-84, during revision of Honor Code)  
Director of the J.S.D. Program, 2012-2014  
Ad Hoc Committee on Mission/Community Planning Group, Fall 2012  
Chair of Long Range Planning Committee, 1986-90  
Strategic Planning Committee, 2003-04  
Chair of Rules and Petitions Committees, 2004-05  
Building Committee, 1988-92  
Chair of Study Abroad Committee, 2005-06  
Faculty Workshop and Conference Committee, 1998-99  
Ad Hoc Committee on Legal Research and Writing, 2000-01  
Law School Ombudsman, 2002-03  
Chair of Sesquicentennial Committee, 2001-03

### **Admitted to Practice**

Connecticut 1975  
California 1977