

DAVID M. RABBAN
The University of Texas School of Law
727 East Dean Keeton Street
Austin, Texas 78705-3299
drabban@law.utexas.edu
(512) 232-1308

Curriculum Vitae

EDUCATION

J.D., Stanford Law School, 1974
Article Editor, Stanford Law Review, 1973-1974

B.A., Wesleyan University, magna cum laude, 1971
Major: History and Religion
Phi Beta Kappa

LEGAL EXPERIENCE

The University of Texas School of Law. Chair, 1998-present; Professor, 1986-1998;
Assistant Professor, 1983-1986
Member, University of Texas Academy of Distinguished Teachers
Massey Teaching Excellence Award, 2004-2006
Texas Excellence Teaching Award, 1991-1992

Visiting Professor, Sciences Po Law School (Paris), 2013-14

College of William and Mary, Lee Distinguished Visiting Professor, 1989-1990

American Bar Foundation, Visiting Scholar, Spring 1987

The University of Michigan Law School, Visiting Professor, Fall 1986

American Association of University Professors, Counsel, 1980-1982; Associate Counsel,
1976-1980 (First Amendment, Academic Freedom and Tenure, Due Process,
Employment Discrimination, Collective Bargaining, Organizational Matters)

Murray A. Gordon, P.C., 1974-1976 (private practice of labor law in New York City)

FELLOWSHIPS

Program in Law and Public Affairs, Princeton University, Fellow, 2016-2017
John Simon Guggenheim Foundation, Fellow, 2016
Whitney Humanities Center, Yale University, Visiting Fellow, 2000-2001
The Woodrow Wilson International Center for Scholars, Washington, D.C., Fellow, 1994-1995
National Endowment for the Humanities, Fellowship for University Teachers, 1987-1988
American Bar Foundation, Fellowship in Legal History, 1981-1982
Project '87 (jointly sponsored by the American Historical Association and the American Political Science Association): four-month fellowship at the Brookings Institution in 1979

PUBLICATIONS

BOOKS

Academic Freedom: From Professional Norm to First Amendment Right (Harvard University Press, 2024)

Law's History: American Legal Thought and the Transatlantic Turn to History (Cambridge University Press, 2013)
A 2012 Notable Title in American Intellectual History, Society for U.S. Intellectual History

Free Speech in Its Forgotten Years (Cambridge University Press, 1997)
Co-winner, 1998 Morris D. Forkosch Prize presented by the Journal of the History of Ideas for "the best book in intellectual history published in 1997."
Winner, 1998 Eli M. Oboler Award of the American Library Association Intellectual Freedom Round Table for "the most significant work on intellectual freedom published in 1996 and 1997."

ARTICLES

Jhering's Influence on American Legal Thought, in Jhering Global 147-65 (V&R Unipress 2023) (Stephen Meder & Christoph-Eric Mecke, eds.)

From Impairment of Contracts to Institutional Academic Freedom: The Enduring Significance of the Dartmouth College Case, 18 University of New Hampshire Law Review 9-25 (2019).

The Variability of Political Influences on the History of Legal Thought: An Intellectual Autobiography, in L'histoire du Droit Entre Science et Politique 295-303 (Éditions de la Sorbonne 2019).

The State of Free Speech Doctrine in 1917, 50 Arizona State L.J. 911-18 (2018).

The Diversity of the Common Law Tradition, 70 Stanford Law Review 1665-72 (2018).

Hammond's Blackstone and the Historical School of American Jurisprudence, in Blackstone and His Critics 173-91 (Hart Publishing 2018) (Anthony Page & Wilfred Prest, eds.).

The Regrettable Underenforcement of Incompetence as Cause to Dismiss Tenured Faculty, 91 Indiana L.J. 39-56 (2015)

Pound's Sociological Jurisprudence: European Roots and American Applications, in Le "Moment 1900": Critique sociale et critique sociologique du droit en Europe et aux États-Unis 113-50 (Éditions Panthéon Assas, 2015).

Professors Beware: The Evolving Threat of Institutional Academic Freedom, in Academic Freedom in Conflict 23-48 (James Lorimer & Company LTD, Toronto, 2014) (James Turk, ed.).

American Responses to German Legal Scholarship: From the Civil War to World War I, 1 Comparative Legal History 13-44 (2013).

Methodology in Legal History: From the History of Free Speech to the Role of History in Transatlantic Legal Thought, in Making Legal History: Approaches and Methodology 88-107 (Cambridge University Press, 2012) (Anthony Musson and Chantal Stebbings, eds.).

Melville M. Bigelow: Boston University's Neglected Pioneer of Historical Legal Scholarship in America, 91 Boston University Law Review 1-42 (2011).

Reconsidering Law's History: A Response to the Symposium Comments, 1 Jerusalem Review of Legal Studies 106-136 (2010).

From Maine to Maitland via America, 68 Cambridge Law Journal 410-35 (2009).

The Historiography of The Common Law, 28 Law & Social Inquiry, 1161-1201 (2003).

The Historiography of Late Nineteenth-Century American Legal History, 4 Theoretical Inquiries in Law 541-78 (2003).

Gerald Gunther: Generous Mentor, 55 Stanford Law Review 669-72 (2002).

Academic Freedom, Individual or Institutional?, 87 Academe 17-20 (2001).

Free Speech: The Lost Years, 25 Journal of Supreme Court History 145-60 (2000).

Free Speech in Progressive Social Thought, 74 Texas Law Review 951-1038 (1996).

Arbitration of Disputes Over Professional Standards, in G. Gruenberg (ed.), Arbitration 1994: Controversy and Continuity, Proceedings of the Forty-Seventh Annual Meeting, National Academy of Arbitrators 194-213 (1994).

The IWW Free Speech Fights and Popular Conceptions of Free Expression Before World War I, 80 Virginia Law Review 1055-1158 (1994).

Academic Freedom, Professionalism, and Intramural Speech, in E. Benjamin and D. Wagner (eds), Academic Freedom: An Everyday Concern 77-88 (Josey-Bass 1994).

Does Professional Education Constrain Academic Freedom?, 43 Journal of Legal Education 358-70 (1993).

The Free Speech League, the ACLU, and Changing Conceptions of Free Speech in American History, 45 Stanford Law Review 47-114 (1992).

Is Unionization Compatible with Professionalism?, 45 Industrial and Labor Relations Review 97-112 (1991).

A Functional Analysis of "Individual" and "Institutional" Academic Freedom Under the First Amendment, 53 Law and Contemporary Problems 227-301 (1990).

Can American Labor Law Accommodate Collective Bargaining by Professional Employees?, 99 Yale Law Journal 689-757 (1990).

Distinguishing Excluded Managers from Covered Professionals Under the NLRA, 89 Columbia Law Review 1775-1860 (1989).

The Original Meaning of the Free Speech Clause of the First Amendment, in R.C. Simmons (ed.), The United States Constitution: The First 200 Years 36-50 (Manchester University Press 1989).

Does Academic Freedom Limit Faculty Autonomy?, 66 Texas Law Review 1405-1430 (1988).

The Ahistorical Historian: Leonard Levy on Freedom of Expression in Early American History, 37 Stanford Law Review 795-856 (1985).

The Emergence of Modern First Amendment Doctrine, 50 University of Chicago Law

Review 1205-1355 (1983).
The First Amendment in Its Forgotten Years, 90 Yale Law Journal 514-95 (1981).

Judicial Review of the University-Student Relationship: Expulsion and Governance, 26
Stanford Law Review 95-129 (1973) (student note).

REVIEW ESSAYS

Gordon, Taming the Past: Essays on Law in History and History in Law, 36 Law and History Review 421-28 (2018).

Challenging the “Worthy” Tradition: Revisionist Interpretations of Free Speech in American History (Review Essay of Lebovic, Free Speech and Unfree News: The Paradox of Press Freedom in America and Weinrib, The Taming of Free Speech: America’s Civil Liberties Compromise), 45 Reviews in American History 281-87 (June 2017).

Forward, Academic Freedom at the Dawn of a New Century ix-xiv (Stanford University Press 2006) (Evan Gerstmann & Matthew J. Streb eds.).

Stone, Perilous Times: Free Speech in Wartime from the Sedition Act of 1798 to the War on Terrorism, 56 Rutgers L. J. 947-51 (2005) (symposium issue on Stone book).

Can Academic Freedom Survive Postmodernism? (Review Essay of Menand ed., The Future of Academic Freedom), 86 California Law Review 1377-89 (1998).

Has the NLRA Hurt Labor? (Review Essay of Tomlins, The State and the Unions), 54 University of Chicago Law Review 407-31 (1987).

Radical Assumptions About American Labor Law (Review Essay of Atleson, Values and Assumptions in American Labor Law), 84 Columbia Law Review 1118-44 (1984).

ENCYCLOPEDIA ENTRIES

Gilbert E. Roe, 18 American National Biography 740-41 (Oxford 1999).

Theodore Schroeder, 19 American National Biography 430-31 (Oxford 1999).

Bad Tendency Test, in the Oxford Companion to the Supreme Court 54-55 (Oxford 1992).

Clear and Present Danger Test, in the Oxford Companion to the Supreme Court 158 (Oxford 1992).

Academic Freedom, in the Encyclopedia of the American Constitution (L. Levy, K. Karst & D. Mahoney eds.) 12-14 (Macmillan 1986).

BOOK REVIEWS

Easton, Defending the Masses: A Progressive Lawyer’s Battles for Free Speech, 124 American Historical Review 687-88 (2019).

Doumani (ed.), Academic Freedom after September 11, Academe 79-80 (Jan.-Feb. 2007).

Alschuler, Law Without Values: The Life, Work, and Legacy of Justice Holmes, 88 Journal of American History, 1118-19 (2001).

Shiell, Campus Hate Speech on Trial, 86 Journal of American History 338-39 (1999).

Parker, Purifying America: Women, Cultural Reform, and Pro-Censorship Activism, 1873-1933, 104 American Historical Review 937 (1999).

Preston, Aliens & Dissenters: Federal Suppression of Radicals, 1903-1933, 37 Labor History

127-28 (Winter 1995-96).

Gunther, Learned Hand, 82 Journal of American History 300-01 (1995).

Lewis, Make No Law, 79 Journal of American History 738-39 (1992).

Kleingartner and Hunt, Academic Unionism in British Universities, 41 Industrial and Labor Relations Review 628-29 (1988).

OTHER ACTIVITIES

Member, Academic Committee, Academic Freedom Alliance,
2021-Present

Chair, Committee A on Academic Freedom and Tenure, American Association of University
Professors, 2006-2012

Instructor, "Academic Freedom, Free Speech, and the First Amendment," Institute for
Constitutional History - Stanford Constitutional Law Center, Summer 2011

General Counsel, American Association of University Professors, 1998-2006

Program Chair, American Society for Legal History, 2002 Annual Meeting

Board of Directors, American Society for Legal History, 1998-2000

Chair, Wesleyan University Alumni Association, 1996-1998