

RESUME
DAVID SCHOENBROD
Trustee Professor, New York Law School
Visiting Scholar, American Enterprise Institute

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PROFESSIONAL EXPERIENCE

Breaking the Logjam (a project of NYLS and NYU School of Law)	2006-	Co-leader
American Enterprise Institute	2007-	Visiting Scholar
Cato Institute	1995-2007	Senior Fellow 2006-07, Adjunct Scholar 1995-2005
New York Law School	1984-	Trustee Professor from 2006 Professor, 1985-2006 Associate Professor, 1984-85
New York University School of Law	1979-83	Associate Professor
Yale Law School	Spring 1977	Visiting Lecturer
Natural Resources Defense Council, Inc.	1972-79	Senior Staff Attorney
Association of the Bar of the City of New York	1971-72	Staff Attorney, Special Committee on Electric Power and the Environment
Bedford-Stuyvesant Restoration Corporation	1969-71	Director of Program Development
Judge Spottswood Robinson, III US Court of Appeals, DC Circuit	1968-69	Law Clerk
Hubert H. Humphrey, Senator and Vice President	1962, 63, 65	Intern and then staff

EDUCATION

Yale College	1960-63	B.A., Mathematics (magna cum laude)
Oxford University (Oriental College, Nuffield College)	1963-65	Marshall Scholar B. Phil., Economics Tutor in economics (1964-65)
Yale Law School	1965-68	LL.B. Law Journal Board of Editors, Yale Law Journal

BOOKS

Electricity and the Environment: A Report of the Special Committee on Electric Power and the Environment, Association of the Bar of the City of New York (West Publishing Co. 1972) (with multiple authors)

A New Direction in Transit, (N.Y.C. Department of City Planning, 1978) (with Richard Chudd and Ross Sandler)

Remedies: Public and Private, (West Publishing Co., 1st ed. 1990, 2nd ed. 1996, 3rd ed. 2002, 4th ed. 2006) (with Angus Macbeth, David Levine, David Jung)

Power Without Responsibility: How Congress Abuses the People Through Delegation (Yale University Press, 1993, paperback 1995)

Democracy by Decree: What Happens When Courts Run Government (Yale University Press, 2003, paperback 2004) (with Ross Sandler)

Saving Our Environment from Washington: How Congress Grabs Power, Shirks Responsibility, and Shortchanges the People (Yale University Press, 2005, paperback 2006)

Breaking the Logjam: Environmental Protection That Will Work (Yale University Press, 2010) (with Richard B. Stewart & Katrina M. Wyman)

CHAPTERS IN BOOKS

“Why Regulation of Lead Has Failed,” in Low Levels Lead Exposure: The Clinical Implications of Current Research (Needleman, ed.) (Raven Press, 1980)

“Why States, Not EPA, Should Set Pollution Standards,” in Environmental Federalism (Terry L. Anderson and Peter J. Hill, eds.) (Rowman & Littlefield, 1997)

“Protecting the Environment in the Spirit of the Common Law,” in The Common Law and the Environment: Rethinking the Statutory Basis for Modern Environmental Law (Roger E. Meiners and Andrew P. Morriss, eds.) (Rowman & Littlefield, 1999)

LAW REVIEW AND OTHER SCHOLARLY PUBLICATIONS

Comment, “U.S. Steel Imports,” 56 American Economic Review 156 (1966) (with Angus Hone)

Note, “Jurisdictional Fetter on the FTC,” 76 Yale Law Journal 1688 (1967)

Note, “Large Lot Zoning,” 78 Yale Law Journal 1418 (1969)

“Electricity or the Environment: A Study of Public Regulation Without Public Control,” 61 California Law Review 961 (1973) (reprinted in 5 Land Use and Environmental Law Review 99 (1974)) (with Clifford Case, Jr.)

“Making Decisions about Transit,” 7 New York Affairs (No. 3, 1982) at 5

“Goals Statutes or Rules Statutes: The Case of the Clean Air Act.” 30 UCLA Law Review 740 (1983) (reprinted in 15 Land Use and Environmental Law Review 359 (1984))

“Limits and Dangers of Environmental Mediation: A Review Essay,” 58 New York University Law Review 1453 (1983) (reprinted in 16 Land Use and Environmental Law Review 1453 (1985))

“Subway Scofflaws,” 9 New York Affairs 61 (Sept., 1984) (with Steven Reiss and Ross Sandler)

“The Delegation Doctrine: Could the Court Give It Substance,” 83 Michigan Law Review 1223 (1985)

“Separation of Power and the Powers That Be,” in "Symposium on the Uneasy Constitutional Status of Administrative Agencies," 36 American University Law Review 355 (1987)

“The Measure of An Injunction,” 72 Minnesota Law Review 627 (1988)

“Environmental Law and Growing Up,” in “Environmental Law Symposium,” 6 Yale Journal of Regulation 357 (1989)

“How the Reagan Administration Trivialized Separation of Powers (and Shot Itself in the Foot),” in “Symposium: Separation of Powers and the Executive Branch: The Reagan Era in Retrospect,” 57 George Washington Law Review 459 (1989)

“Presidential Lawmaking Powers” in “Symposium on the Presidency and Congress,” 68 Washington University Law Quarterly 533 (1990)

“Civil Forfeiture Statutes Are Unconstitutionally Vague” in “Symposium: Civil Asset Forfeiture,” 39 New York Law School Law Review 285 (1994) (with Deborah Duseau)

“Why States, Not EPA, Should Set Pollution Standards,” 19 Regulation 18 (1996)

“Delegation and Democracy: A Reply to My Critics,” in “Symposium: The Phoenix Rises Again: The Nondelegation Doctrine from Constitutional and Policy Perspectives,” 20 Cardozo Law Review 731 (1999)

“Remarks to the Board of Trustees of the Natural Resources Defense Council,” in “Symposium: The Phoenix Rises Again: The Nondelegation Doctrine from Constitutional and Policy Perspectives,” 20 Cardozo Law Review 767 (1999)

“Putting the Law Back into Environmental Law,” 22 Regulation 17 (1999)

“An Elegant but Incomplete Analysis of Delegation,” (Book Review), 22 Regulation 64 (1999)

“The Reaffirmation of Proportionality Analysis Under Section 5 of the Fourteenth Amendment,” 21 Cardozo Law Review 469 (1999) (with Marci Hamilton)

“246 Glorious Cheeses or the Impact of Environmental Regulation on Small and Emerging Business,” in “6th Annual Lewis & Clark Law Forum: The Regulation of Small and Emerging Businesses,” 5 Journal of Small and Emerging Business Law 91 (2001)

“Politics and the Principle that Elected Legislators Should Make the Laws,” 26 Harvard Journal of Law and Public Policy 101 (2002)

“What Happened to the ‘Skeptical Environmentalist’” in “Symposium: New York Law School Faculty Presentation Day,” 46 New York Law School Law Review 211-244 (2002-2003) (with Christi Wilson)

“The Supreme Court, Democracy and Institutional Reform Litigation,” 49 New York Law School Law Review 915 (2004-2005) (with Ross Sandler)

Book Review, “Passing the Buck: Congress, the Budget, and Deficits,” by Jasmine Farrier, 120 Political Science Quarterly 513 (2005)

“The EPA’s Faustian Bargain,” 29 Regulation 36 (Fall, 2006)

“From Status to Contract and Back Again: Consent Decrees in Institutional Reform Litigation,” in “Symposium on Remedies: Justice and the Bottom Line,” 27 The Review of Litigation 115 (2007) (with Ross Sandler)

“Unsettled Expectations: Reflections On Four Views Of The Common Law And The Environment” in “Symposium on Common Law Environmental Protection,” 58 Case Western Law Review 863 (2008)

“The Breaking the Logjam Project,” in Symposium on “Breaking the Logjam: Environmental Reform for the New Congress and Administration,” 17 New York University Environmental Law Journal 1 (2008)(with Carol Casazza Herman, Richard B. Stewart, Katrina M. Wyman)

“Air Pollution: Building on the Successes,” in Symposium on “Breaking the Logjam: Environmental Reform for the New Congress and Administration,” 17 New York University Environmental Law Journal 284 (2008) (with Joel Schwartz and Ross Sandler)

“The Immortality of Equitable Balancing,” 96 Va. L. Rev. In Brief 17 (2010)

OPINION EDITORIALS

“New York as a Cough-In,” New York Times (August 28, 1975) (with Ross Sandler)

“Tunnel Vision Too,” New York Times (April 14, 1978) (with Ross Sandler)

“Subways: Cash & Carey,” New York Times (July 30, 1979) (with Ross Sandler)

“Congress Must Spell Out Where the Burdens of Clean Air Fall,” Wall Street Journal (July 5, 1983)

“Clinton and the Politics of Pork,” Legal Times (January 24, 1994)

“Environmental ‘Injustice’ Is About Politics, Not Racism,” Wall Street Journal (February 23, 1994)

“On Environmental Law, Congress Keeps Passing the Buck,” Wall Street Journal (March 29, 1995)

“Slaving Away, Pro Bono,” Legal Times (August 21, 1995) (with Alexandra Seward)

“Its Time Congress Took Back Its Power to Make Laws,” Wall Street Journal (December 6, 1995)

“State Regulators Have Had Enough of the EPA,” Wall Street Journal (May 8, 1997)

“The Constitution and the Line-Item Veto,” Wall Street Journal (May 21, 1997) (with Marci Hamilton)

“In New York City, the Jails Still Belong to the Judges,” Wall Street Journal (September 10, 1997) (with Ross Sandler)

“Congress Passes the Buck -- Your Tax Buck,” Wall Street Journal (June 12, 1998) (with Marci Hamilton)

“By What Right Do Judges Run Prisons?” Wall Street Journal (August 31, 1998) (with Ross Sandler)

“The Yellow Brick Beltway,” Wall Street Journal (November 27, 1998)

“Keeping Control of the Bureaucrats,” Financial Times (June 20, 2000)

“Congressional Review Act Gives Lawmakers a Much-needed Power,” Philadelphia Inquirer (March 11, 2001) (with Marci Hamilton)

“Smoke Signals,” Legal Times (March 19, 2001) (with Marci Hamilton)

“Governance by Lawyers,” National Law Journal (January 1, 2003) (with Ross Sandler)

“Schools in Handcuffs: How Courts (Mis)rule N.Y.C.,” New York Post (March 14, 2003) (with Ross.Sandler)

“N.Y. Unbound,” New York Post (March 15, 2003) (with Ross Sandler)

“New York in Handcuffs,” New York Post, (June 15, 2003) (with Ross Sandler)

“Defying DeGrasse,” New York Post (March 24, 2005) (with Ross Sandler)

“An Injudicious Intrusion into the Political Realm,” Financial Times (March 31, 2005) (with Ross Sandler)

“DeGrasse’s New Clothes,” New York Post (April 25, 2005) (with Ross Sandler)

“The Lawsuit That Sank New Orleans,” Wall Street Journal (September 23, 2005)

“Courts Flunk the Civics Test,” Wall Street Journal (April 8, 2006) (with Ross Sandler)

“Saving Our Environment from Washington,” Washingtonpost.com, (September 21, 2006)

“Saving Our City from D.C.,” New York Sun (December 12, 2006)

“What’s Next on Global Warming?,” Wall Street Journal (April 5, 2007)

“Free from Court Decrees,” National Law Journal (August 3, 2009) (with Ross Sandler)

“The Cap-and-Trade Bait and Switch,” Wall Street Journal (August 23, 2009) (with Richard B. Stewart)

“Why I Sculpt: A Law Professor Makes Peace With Dyslexia,” Huffington Post (June 8, 2010), http://www.huffingtonpost.com/david-schoenbrod/why-i-sculpt-a-law-profes_b_605070.html

“The Clean Air Act Is in No Shape to be Celebrated,” Huffington Post (Sept. 3, 2010), http://www.huffingtonpost.com/david-schoenbrod/the-clean-air-act-is-in-n_b_704631.html

“Budget policy talk in the dark” Politico (March 10, 2011) (with Jagadeesh Gokhale) <http://www.politico.com/news/stories/0311/50980.html>

“Rescuing the Clean Air Act from Old Age,” The American (March 16, 2011)(with Melissa Witte), <http://www.american.com/archive/2011/march/rescuing-the-clean-air-act-from-old-age>

“REINS Would Improve Environmental Protections,” Inside EPA, <http://insideepa.com/> (April 28, 2011)

MAGAZINE ARTICLES

“Government By Decree,” City Journal (Summer 1994) (with Ross Sandler)

“How to Put Lawmakers, Not Courts, Back in Charge,” City Journal (Autumn 1996) (with Ross Sandler)

“Environmental Controls Should Be Turned Over to the States,” USA Today Magazine, (May 1999) at 74

“Confessions of an Ex-Elitist,” Commentary (Nov. 1999) at 36

“The Mau-Mauing of Bjorn Lomborg,” Commentary (Sept. 2002) at 51

“Fishing for Cancer,” Commentary (Nov. 2002) at 44

“Toxic Regulation,” City Journal (Spring 2006)

OTHER PUBLICATIONS IN MAGAZINES AND PERIODICALS

“A Review of Decentralizing City Government by Walter Farr et al.,” Village Voice (April 25, 1974)

“Air Act Needs Rules, Not Goals,” The Environmental Forum (June 1983) at 3 (with Angus Macbeth)

Soundings, “Homeless Follies (Continued),” City Journal (Winter 1995) (with Ross Sandler)

Soundings, “Prison Break.” 6 City Journal 13 (Summer 1996) (with Ross Sandler)

Soundings, “Yes, New York Can Reform Welfare,” City Journal (Autumn 1996) (with Ross Sandler)

“Legislating Ideals,” PERC Reports (March, 1999)

“Innovative Agreement Ends *Marisol* Litigation,” 5 City Law 1 (1999) (with Ross Sandler)

“Clean Air, Congress and the Constitution: Why the Delegation Ruling Was Correct,” On Point, No. 38, May 26, 1999 (Competitive Enterprise Institute)

“Let the Locals Rule Their Home Environments,” In Brief (Fall/Winter, 1999) at 8

“After the Courts Ruling What Next for the Schools,” 7 City Law 1 (2001) (with Ross Sandler)

Soundings, “Hope on Consent Decrees,” City Journal, (Spring 2004) (with Ross Sandler)

“Polluting the Process,” World Magazine (Dec. 2005) at 34 (interview)

“Verbatim: The Shortcomings of the Clean Air Act,” Chronicle of Higher Education (March 2005) (interview)

“Appellate Division Sends Message to Court of Appeals in *CFE* Case,” 12 City Law 49 (2006) (with Ross Sandler)

“Environmental Quality Requires Congress to Make the Hard Choices,” Renewable Resources Journal, Winter, 2006-07, at 7.

Soundings, “Free from Decree,” City Journal, (Summer 2009) (with Ross Sandler)

MISCELLANEOUS PUBLICATIONS

“Statement of David Schoenbrod, joined by F.A.O. Schwartz, Jr. and Jean Silver, with concurrence of Fritz Alexander, II” in Walter Farr et al., Decentralizing City Government (Praeger 1972)

The Hudson River Power Plant Settlement, (New York University School of Law and the Natural Resources Defense Council, Inc. 1981) (edited with Ross Sandler)

“Subway Scofflaws: A Proposal to Improve Enforcement Against Farebeating and other Minor Offenses,” (Natural Resources Defense Council, Dec. 1983) (with Steven Reiss and Ross Sandler)

“The Delegation of Legislative Powers,” in Cato Handbook for Congress: 105th Congress (1997)

“Time for the Federal Environmental Aristocracy to Give Up Power,” Center for the Study of American Business (Washington University, Policy Study No. 144, February, 1998)

“The Common Law Approach to Pollution Prevent,” A Roundtable Discussion, Center for Private Conservation, March, 1998.

Essay in Eight Blocks Away: Memoirs of September 11, 2001 at 78-79 (New York Law School, 2002)

“CFE Ruling Does Not Bind Legislature,” Empire Center Policy Briefing, No. 2, 2005

“Delegation” in The Encyclopedia of Libertarianism 117-118 (Ronald Hamowy, ed., Sage Publications, 2008)

“Project Report,” (Breaking the Logjam: Environmental Reform for the New Congress and Administration, A Project of New York Law School and NYU School of Law, February, 2009) (with Richard B. Stewart and Katrina M. Wyman)

“Annex to the Project Report: Climate Change and Air Pollution: An Integrated Proposal,” (Breaking the Logjam: Environmental Reform for the New Congress and

Administration, A Project of New York Law School and NYU School of Law, February, 2009) (with Richard B. Stewart and Katrina M. Wyman)

“Rescuing the Clean Air Act from Obsolescence,” AEI Energy and Environment Outlook, March 2011 (with Melissa Witte), <http://www.aei.org/outlook/101029>

LITIGATION (SELECTED)

Lead counsel for environmental groups in campaign to force the United States Environmental Protection Agency to regulate lead in gasoline in order to protect health, culminating in Ethyl Corp. v. EPA, 541 F.2d 1 (D.C. Cir.) (en banc), certiorari denied 426 U.S. 941 (1976)

Lead counsel for environmental groups in campaign to force the United States Environmental Protection Agency to set an ambient air standard for lead, culminating in NRDC v. Train, 545 F.2d 320, 328 (2d Cir. 1976) and Lead Industries Ass’n v. EPA, 647 F.2d 1130 (D.C. Cir. 1980), certiorari denied 449 U.S. 1042 (1980)

Co-lead counsel for environmental groups in campaign to enforce clean air plan for New York City metropolitan area, culminating in Friends of the Earth v. Carey, 535 F.2d 165 (2d Cir. 1976), and Friends of the Earth v. Carey, 552 F.2d 25 (2d Cir. 1977), application denied by, Beame v. Friends of the Earth, 434 U.S. 1310 (1977), certiorari denied, Beame v. Friends of the Earth, 434 U.S. 902 (1977)

Amicus Brief in Loving v. United States, 517 U.S. 748 (1996), filed with the United States Supreme Court, 1995 (with Marci Hamilton)

Amicus Brief in Raines v. Byrd, 521 U.S. 811 (1997), filed with the United States Supreme Court, 1997 (with Marci Hamilton)

Amicus Brief in Clinton v. City of New York, 524 U.S. 417 (1998), filed with the United States Supreme Court, 1998 (with Marci Hamilton)

Amicus Brief in Whitman v. American Trucking Assoc., 531 U.S. 457 (2001), filed in United States Supreme Court, 2000 (with Marci Hamilton)

Amicus Brief in support of petition for certiorari in Horne v. Flores, filed in United States Supreme Court, 2008 (with many others)

Amicus Brief on merits in Horne v. Flores, filed in United States Supreme Court, 2009 (with many others)

LEGISLATIVE TESTIMONY

Automotive Lead Emissions, Part 1: Hearings before the Subcommittee on Environmental Pollution Panel on Environmental Science and Technology of the Senate Committee on Public Works, 93rd Cong., 2nd Sess. (May 8, 1974)

Future of the Highway Program, Part 2: Hearings before the Subcommittee on Transportation of the Senate Committee on Public Works, 94th Cong., 1st Sess. (July 29, 1975)

Urban Mass Transportation: Hearing before the Subcommittee on Transportation Appropriations of the House Committee on Appropriations, 95th Cong., 1st Sess. (January, 28, 1977)

Clean Air Act Amendments of 1977, Part 2: Hearings before the Subcommittee on Health and the Environment of the House Committee on Interstate and Foreign Commerce, 95th Cong., 1st Sess. (March 11, 1977)

Role of Congress in Monitoring Administrative Rulemaking: Hearing before the Subcommittee on Commercial and Administrative Law of the House Committee on the Judiciary, 104th Cong., 2nd Sess. (September 12, 1996)

Does Congress Delegate Too Much Power to Agencies and What Should be Done About It: Hearing before the Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs of the House Committee on Government Reform, 106th Cong., 2nd Sess. (June 14, 2000)

The Federal Consent Decree Fairness Act: Hearing before the Subcommittee on Courts, the Internet, and Intellectual Property of the House Committee on the Judiciary, 109th Cong., 1st Sess. (June 21, 2005)

Regulations from the Executive in Need of Scrutiny Act (REINS): Hearings before the Subcommittee on Courts, Commercial and Administrative Law of the House Committee on the Judiciary, 112th Cong., 1st Sess. (March 8, 2011).

TALKS (SELECTED)

Remarks to the Board of Trustees of the Natural Resources Defense Council, Inc, Washington, D.C., March 12, 1997.

“How Farmers Can Protect Themselves from Federal Regulators,” to the Council of Presidents, American Farm Federation Bureau, Washington, D.C., July 13, 1997.

“Resurrecting the Non-Delegation Doctrine,” National Convention, Federalist Society, Nov. 12, 1998

Panel on delegation, American Political Science Association annual convention, Atlanta, Sept. 4, 1999

Panel on delegation, Federalist Society Annual Convention, Washington, D.C. Nov. 11, 1999

Panelist, “Is Law Undermining Public Education?” Brookings Institution, Washington, D.C., Nov. 5, 2003

“Environmentalists and Left-of-Center Academics – Not on the Same Page,” Mont Pelerin Society Biennial International Meeting, Salt Lake City, April 14-19, 2004

“Saving Our Environment from Washington,” Environmental Law Institute, Washington, D.C., April 21, 2005

“EPA’s Faustian Bargain,” United States Environmental Protection Agency, Washington, DC (EPA Vision 2020 Lecture Series), Feb. 23, 2006

“Federal Consent Decree Fairness Act,,” National Association of County Officials, Chicago, Illinois, August 4-5, 2006

Panel on injunctions, American Association of Law Schools annual meeting, San Francisco, California, January 3, 2007

Panelist, “Has the Supreme Court Seen Green? The Ramifications of *Mass. v. EPA*,” American Enterprise Institute, Washington, D.C., May 7, 2007

Opening remarks, Symposium “Breaking the Logjam: An Environmental Law for the 21st Century,” New York University School of Law, March 28-29, 2008

Panelist, "The New Regulatory Climate: Greenhouse Gas Regulation in the Obama Administration" NYU Environmental Law Journal, March 13, 2009

Moderator, Symposium, “Rebuilding the Ark: New Perspectives on Endangered Species Act Reform,” American Enterprise Institute, Washington, D.C., Sept. 15, 2009

Panelist, Conference, “Can Government Be Green?”, Program on Law, Environment, and Economy, University of Pennsylvania School of Law, Philadelphia, P.A., Sept. 25, 2009

Participant, “The Clean Air Act and Climate Change: Considering Cost-Effective Approaches,” Nicholas Institute, Duke University, March 17, 2010

Keynote Speaker, Energy Technology Conference, Ardour Capital Investments, New York, N.Y., Sept. 16-2010, 2010

Panelist, “Are Our Environmental Laws Compatible with Sustainability?”, Committee on Science Technology and Law, National Academy of Sciences, Washington, D.C. Oct. 26, 2010

Panelist, “Who Is Accountable for Federal Regulations?”, American Enterprise Institute & George Washington University Regulatory Studies Center, Washington, D.C., Dec. 2, 2010

LAW SCHOOL SUBJECTS TAUGHT

Constitutional Law I
Energy and Natural Resources Regulation
Environmental Law
Environmental Practice Workshop
Legal Institutions/Administrative Law
Property
Remedies
Remedies in Public Law Litigation
State and Local Government Law

LAW SCHOOL ADMINISTRATIVE RESPONSIBILITIES

At various times, faculty chair of Dean Search Committee, Appointments Committee, First Year Curriculum, and Tenure Committees at New York Law School

MISCELANEOUS

American Law Institute

Editorial Board, Electronic Journal of Sustainable Development

New York Law School Distinguished Writing Award: 1986, 1994, 2003, 2006