

DEBORAH HELLMAN
University of Virginia School of Law
580 Massie Road
Charlottesville, VA 22903
dhellman@law.virginia.edu

ACADEMIC EMPLOYMENT

Professor **University of Virginia School of Law**
Robert E. Scott Distinguished Professor of Law
F. Palmer Weber Research Professor of Civil Liberties and Human Rights
Director, Center for Law & Philosophy

Visiting Professor **Harvard Law School**
(Fall, 2022) Robert Braucher Visiting Professor of Law

Visiting Professor **University of Virginia School of Law**
(Fall, 2011)

Visiting Professor **University of Pennsylvania Law School**
(2007-08)

Professor (2003-2012) **University of Maryland School of Law**
Associate (1998-2003), Jacob France Research Professor, (2009-2012)
Assistant (1996-98),
Visiting (1994-96)

EDUCATION

Harvard Law School, J.D., *cum laude*, 1991
Columbia University, M.A. in Philosophy, 1987
Dartmouth College, B.A., *magna cum laude*, 1985

BOOKS

PHILOSOPHICAL FOUNDATIONS OF DISCRIMINATION LAW, Oxford University Press, Deborah Hellman and Sophia Moreau, editors, 2013.

WHEN IS DISCRIMINATION WRONG?, Harvard University Press, 2008, (paperback edition, 2009)
Translated into Korean and Japanese.

ARTICLES

Defining Disparate Treatment: A Research Agenda For Our Times, 99 Indiana L. J. 205 (2023).

Big Data and Compounding Injustice, Journal of Moral Philosophy, 1-22, 2023.

The Algorithmic Leviathan: Arbitrariness, Fairness, and Opportunity in Algorithmic Decision-making Systems, with Kathleen Creel, 52 CANADIAN J. OF PHILOSOPHY 26-42 (2022). Available online at: <https://doi.org/10.1017/can.2022.3>.

Personal Responsibility in an Unjust World: A Reply to Eidelson, The American Journal of Law and Equality 277 (2021).

Rationing and Disability: The Civil Rights and Wrongs of State Triage Protocols, 78 Wash. & Lee L. Rev. 1207 (2021) with Kate M. Nicholson

Sex, Causation and Algorithms: Equal Protection in the Age of Machine Learning, 98 Wash. U. L. Rev. 481 (2020).

Opioid Prescribing and the Ethical Duty to Do No Harm, 46 American Journal of Law & Medicine 297 (2020), with Kate Nicholson.

Measuring Algorithmic Fairness, 106 VA. L. REV. 811 (2020). Selected as the best paper in Jurisprudence by the AALS section in Jurisprudence, 2020.

The Epistemic Function of Fusing Equal Protection and Due Process, 28 WM. & MARY BILL RTS. J. 383 (2019) (symposium issue).

A Theory of Bribery, 38 Cardozo L. Rev. 1947 (2017). Awarded the Fred Berger Memorial Prize by the American Philosophical Association for the best article in law and philosophy during 2-year period.

Two Concepts of Discrimination, 102 VA. L. REV. 895 (2016).

Equal Protection in the Key of Respect, 123 YALE L. J. 3036 (2014) (symposium issue).

Defining Corruption and Constitutionalizing Democracy, 111 MICH. L. REV. 1385 (2013).

Money and Rights, 35 N.Y.U. Rev. of Law & Soc. Change 527 (2011), (symposium issue), reprinted in shorter form in MONEY, POLITICS AND THE CONSTITUTION: BUILDING A NEW JURISPRUDENCE, Published by The Century Foundation and the Brennan Center for Justice.

Money Talks But It Isn't Speech, 95 Minn. L. Rev. 953 (2011).

Willfully Blind for Good Reason, Crim. Law and Philos. (2009) 3:301-316.

Prosecuting Doctors for Trusting Patients, 16 Geo. Mason L. Rev. 701 (2009).

What Makes Genetic Discrimination Exceptional?, 29 Am Journal of Law & Med 77 (2003). Reprinted in: Genetics and Gene Therapy, Sheila A.M. McLean, Editor, a volume in the series of the International Library of Medicine, Ethics and Law, Ashgate Publishing, March 2005.

Evidence, Belief and Action: The Failure of Equipoise to Resolve the Ethical Tension in the Randomized Clinical Trial, 30 Journal of Law, Medicine and Ethics 375 (2002).

Judging By Appearances: Professional Ethics, Expressive Government and the Moral Significance of How Things Seem, 60 Md. L. Rev. 653 (2001) (symposium issue).

The Expressive Dimension of Equal Protection, 85 Minn. L. Rev. 1 (2000).

Two Types of Discrimination: The Familiar and the Forgotten, 86 Cal. L. Rev. 315 (1998).

Is Actuarially Fair Insurance Pricing Actually Fair?: A Case Study in Insuring Battered Women, 32 Harv. C.R.-C.L. L. Rev. 355 (1997).

The Importance of Appearing Principled, 37 Ariz. L. Rev. 1107 (1995).

Of Mice But Not Men: Problems of the Randomized Clinical Trial, 324 New England Journal of Medicine (1991), with Samuel Hellman. This article has been reprinted in numerous bioethics anthologies. See e.g. Arras and Steinbock, *Ethical Issues in Modern Medicine*, 6th Ed. at 750.

BOOK CHAPTERS

Political Corruption, in OXFORD HANDBOOK OF AMERICAN ELECTION LAW, (Eugene Mazo, ed., Oxford University Press, forthcoming 2024) (with Michael Gilbert).

The Epistemic Commitments of Nondiscrimination, in Oxford Studies in the Philosophy of Law, (Leslie Green, Brian Leiter and John Gardner, editors, Oxford University Press, 2022)

Understanding Bribery, in THE ETHICS OF CRIMINAL LAW (Ferzan & Alexander eds., Palgrave MacMillan Press, 2019).

Liberty, Equality, Bribery, and Self-Government: Reframing the Campaign Finance Debate in DEMOCRACY BY THE PEOPLE: REFORMING CAMPAIGN FINANCE IN AMERICA (Kuhner & Mazo eds., Cambridge Univ. Press, 2018).

Indirect Discrimination and the Duty to Avoid Compounding Injustice, in FOUNDATIONS OF INDIRECT DISCRIMINATION LAW, (T. Khaitan, editor, Hart Publishing, 2018).

Discrimination and Social Meaning in THE ROUTLEDGE HANDBOOK OF THE ETHICS OF DISCRIMINATION, Kasper Lippert-Rasmussen, editor, Routledge Press, 2017.

Racial Profiling and the Meaning of Racial Categories, in CONTEMPORARY DEBATES IN APPLIED ETHICS, 2ND edition, Andrew Cohen and Christopher Wellman, editors, Wiley-Blackwell, 2014.

Equality and Unconstitutional Discrimination, in PHILOSOPHICAL FOUNDATIONS OF DISCRIMINATION LAW, edited by D. Hellman and S. Moreau, Oxford Univ. Press, 2013.

ESSAYS, BOOK REVIEWS, AND OTHER SHORT PIECES

The Zero-Sum Argument, Legacy Preferences and the Erosion of the Distinction Between Disparate Treatment and Disparate Impact, 109 VA. L. REV. ONLINE 185 (2003).

Three ways of failing to treat others as equals: comments on Sophia Moreau's Faces of Inequality, *Jurisprudence* 12(4): 562-570 (2022)

Brief for Amicus Curiae National Pain Advocacy Center, *Ruan v. U.S.* and *Kahn v. U.S.*, Nos. 20-1410 & 21-5261, co-authored, Dec. 24, 2021. https://www.supremecourt.gov/DocketPDF/20/20-1410/206470/20211227110519477_National%20Pain%20Adv%20Ctr%20Amicus%20Brief.pdf

Op-ed in *The Hill*, “We must not leave the vulnerable out if we have health care rations,” 12/01/20, with Kate Nicholson, (<https://thehill.com/opinion/healthcare/528099-we-must-not-leave-the-vulnerable-out-if-we-have-health-care-rations>).

Op-ed in *The Conversation*, “Doctors facing grim choice over ventilators told to put patients with disabilities at the back of the line,” April 20, 2020, with Kate Nicholson, (<https://theconversation.com/doctors-facing-grim-choice-over-ventilators-told-to-put-patients-with-disabilities-at-the-back-of-the-line-134884>).

Op-ed in *Ozy*, “In college admissions, like politics, the scandal is what’s legal,” with Stuart Green, March 14, 2019 (<https://www.ozy.com/opinion/in-college-admissions-like-politics-the-scandal-is-whats-legal/93212#.XIpx6xiqG0.twitter>)

Op-ed in *The Atlantic*, on line, “Bribery, Crowdfunding and the Strange case of Senator Susan Collins: When Money is Speech it is hard to distinguish legal from illegal political persuasion,” with Stuart Green, Sept. 14, 2018 (<https://www.theatlantic.com/ideas/archive/2018/09/bribery-crowdfunding-and-the-strange-case-of-senator-susan-collins/570355/>).

Review of Khaitan, Tarunabh. *A Theory of Discrimination Law*. Oxford: Oxford University Press, 2015, *Ethics*, Vol. 128, no. 2 (January, 2018)

Resurrecting the Neglected Liberty of Self-Government, 164 U. PA. L. REV. ONLINE 233 (2016), <http://www.pennlawreview.com/online/164-U-Pa-L-REV-Online-233.pdf>.

Unintended Implications, 101 VA. L. REV. 1105 (2015) (invited commentary on article by John Mikhail).

Political Participation: A Hybrid Sphere, 89 N.Y.U. L. Rev. Online (October 2014). Permalink: <http://www.nyulawreview.org/issues/volume-89-symposium/response-political-participation-hybrid-sphere>.

Review of Kasper Lippert-Rasmussen’s “Born Free and Equal: A Philosophical Inquiry into the Nature of Discrimination” for the *Notre Dame Philosophical Review*, see <http://ndpr.nd.edu/news/48535-born-free-and-equal-a-philosophical-inquiry-into-the-nature-of-discrimination/>. (2014)

Thinking about Equality: Comments on Michel Rosenfeld's "The Identity of the Constitutional Subject," 33 CARDOZO L. REV. 101 (2012).

"Discrimination, Concept of" in *The Encyclopedia of Applied Ethics*, 2nd Edition, edited by Ruth Chadwick, Elsevier Press (2012).

Pushing Drugs or Pushing the Envelope: The Prosecution of Doctors in Connection with Over-Prescribing of Opium-Based Drugs, *Philosophy & Public Policy Quarterly*, Vol. 28, Winter/Spring 2008, 7-12.

Wasserman, D., Hellman, D., and Wachbroit, R.S., *Physicians as Researchers: Difficulties with the 'Similarity Position'* *Journal of Bioethics* 6 (July/August 2006).

What Money Can and Cannot Buy, 14 *The Good Society* 26 (2005).

Trials on Trial, Report from the Institute for Philosophy and Public Policy, Vol. 18. No. 1-2 at 13 (1998). Reprinted in: *Philosophical Dimensions of Public Policy*, edited by V. Gehring and W. Galston. In series, *Policy Studies Review Annual*, Vol. 13 (New Brunswick, NJ: Transaction Publishers, 2002).

Trial and Error, *The New Republic*, April 27, 1998, at 14 (examining the ethical issues raised by clinical research on human subjects).

FELLOWSHIPS, SCHOLARSHIPS AND PRIZES

2021	Jurisprudence Section award, AALS , awarded best paper by the section on jurisprudence for <i>Measuring Algorithmic Fairness</i> .
2019	Elected to the American Law Institute
2018	2019 Fred Berger Memorial Prize, awarded by the American Philosophical Association (for best paper in law and philosophy during two-year period).
2005-06	Fellow, Woodrow Wilson International Center for Scholars, Smithsonian Institution , Washington, DC.
2004-05	Eugene P. Beard Faculty Fellow in Ethics at the Edmond J. Safra Foundation Center for Ethics at Harvard University .
Fall, 1999	National Endowment for the Humanities, Fellowship for University Teachers
1993-94	Keck Fellow in the The Program on the Legal Profession Harvard Law School
1992-93	Graduate Fellow in the Program in Ethics and the Professions Harvard University
1986-87	President's Fellow at Columbia University

Full merit scholarship for graduate study in philosophy.

1985-86

James B. Reynolds Fellowship (awarded by Dartmouth College to recent graduates for study abroad). Studied philosophy in Paris, France at La Sorbonne (Paris IV) and L'École Normale Supérieure.

1985

Francis W. Gramlich Philosophy Prize, Dartmouth College

RECENT PRESENTATIONS

USC, Legal Theory Conference, Oct. 13-14, Presented *Discrimination by Proxy: An Empty Idea*.

Yale Law School, Legal Theory Workshop, Sept. 28, 2023, presented *Discrimination by Proxy: An Empty Idea*.

University of Chicago, Constitutional Law Workshop series, May 1, 2023, presented *Proxies and their Significance*.

University of Florida, invited talk in **Philosophy and AI lecture series**, April 1, 2023.

Boston University School of Law, Faculty Workshop, Oct. 27, 2022, presented *Defining Disparate Treatment*

Northeastern University, Department of Philosophy, Oct. 7, 2022, presented *Defining Disparate Treatment*

Harvard Law School, Law & Philosophy Workshop, Oct. 5, 2022, presented *Defining Disparate Treatment*

Dartmouth College, mini-conference, Sept. 15, 2022, presented *Defining Disparate Treatment*.

Present *The Algorithmic Leviathan*, at conference *Opportunities and Risks of Digital Transformation in Finance and Beyond*, June 2-3, 2022, **Gästehaus Goethe University**, Frankfurt, Germany.

Present talk on Algorithmic Discrimination at the **United States Naval Academy**, April 29, 2022

Present *Defining Disparate Treatment*, **Analytic Legal Philosophy Conference**, U. Penn. April 8-9, 2022.

Panelist, Women in Data Science, **University of Virginia**, March 18, 2022.

The Wharton School of the University of Pennsylvania, Legal Studies and Business Ethics seminar series, January 27, 2022, presented paper *The Algorithmic Leviathan*.

University of Pennsylvania, Law and Philosophy graduate seminar, Jan. 20, 2022, presented paper *Rationing and Disability: The Civil Rights and Wrongs of State Triage Protocols*.

Presentation on Algorithmic Fairness to seminar at **Dartmouth College**, Nov. 1, 2021.

Presentation to working group on *Algorithms at Work*, **Oxford University**, Oct. 14, 2021.

Conference on Discrimination, **Supreme Court of Mexico**, Sept. 30, 2021.

Presentation on Algorithmic Discrimination at **Arizona State University**, Sept. 23, 2021.

Charm City Bioethics Colloquium, sponsored jointly by the **University of Maryland School of Law and the Berman Institute for Bioethics at Johns Hopkins**, presented “The Tampon Tax and the erosion of the distinction between disparate treatment and disparate impact,” Sept. 9-10, 2021

Keynote address, Center for the Experimental-Philosophical Study of Discrimination, **Aarhus University**, Denmark, August 20, 2021.

Presented lecture on Algorithmic Discrimination for the **Center for Constitutional Studies of the Supreme Court of Mexico**, June 14, 2021.

Presented *Rationing and Disability: The Civil Rights and Wrongs of State Triage Protocols* at the **Health Law Professors Conference**, June 9, 2021.

Presented *Rationing and Disability: The Civil Rights and Wrongs of State Triage Protocols* at the **Wisconsin, Health Law works-in-progress seminar**, March 12, 2021

Presented *The Algorithmic Leviathan* at the **FAcCT conference**, March 9, 2021.

Conference hosted by the **journal Politics, Philosophy & Economics**, February 26-28, via zoom. Presented *The Office of the Presidency and the Appearance of Corruption*.

University of Surrey Center for Law & Philosophy, Symposium on Ethics and Algorithms, Jan. 20, 2021, presented *The Algorithmic Leviathan*.

Oxford Jurisprudence Discussion Group, presented *The Algorithmic Leviathan*, Dec. 3, 2020.

Ethics of AI Conference at the Center for Analytics and Transformative Technologies, McCombs School of Business, **University of Texas, Austin**, Nov. 20, 2020. Presented *Big Data and Compounding Injustice*.

Keynote, Workshop on Algorithmic Fairness, **University of Copenhagen/University of Aarhus**, Nov. 12-13, 2020.

Schwartz Reisman Institute for Technology and Society, University of Toronto, presented *Big Data and Compounding Injustice*, Oct. 21, 2020.

Humanizing Machine Intelligence project at **The Australian National University**, presented talk on *Big Data and Compounding Injustice* in public online seminar series, Sept. 30/Oct. 1, 2020.

Presented *Opioid Prescribing and the Ethical Duty to Do No Harm* at the **American Journal of Law & Medicine 2020 Symposium at Boston University**, January 24, 2020.

Radcliffe Institute for Advanced Study at Harvard University, Seminar on “The Ethics of Technology: Beyond Privacy and Safety,” January 9-10, 2020.

Faculty Workshop, **Fordham Law School**, Dec. 4, 2019 (presented draft of *Sex, Causation and Algorithms*).

Princeton University, Center for Human Values, *The Ethics of Algorithmic Decision-Making in Democratic Institutions*, Nov. 22-23, 2019 (presented draft of *Sex, Causation and Algorithms*).

University of Toronto, Symposium on Discrimination and Subordination, Nov. 15-16, 2019 (presented draft of *Sex, Causation and Algorithms* and participated in *Author meets Critics* on Sophia Moreau’s new book).

Caltech Conference on Ethical Issues in Data Science and Machine Learning, presented *Measuring Algorithmic Fairness*, CalTech, June 10-12, 2019.

American Philosophical Association, Pacific Division, Symposium in honor of my Berger Prize winning article, *A Theory of Bribery*, Vancouver, British Columbia, April 17, 2019.

Presented *Measuring Algorithmic Fairness* at **Ohio State Center for Ethics and Human Values Program** on Data and Governance, March 22, 2019.

Presented *The Epistemic Function of Fusing Equal Protection and Due Process* at the **William and Mary Bill of Rights Journal Conference**, March 15-16, 2019.

10th Anniversary Conference of **Microsoft Research New England**, Participate in panel on Fairness, Accountability, Transparency, Ethics, Oct. 11, 2018.

Presented *Measuring Algorithmic Fairness* at **Dartmouth College conference on Law and Philosophy**, Sept. 21-22, 2018.

Discussed “The Future of Campaign Finance” at a conference on *The Constitution and Political Parties* at **Stanford Constitutional Law Center**, May 18-19 (2018).

Keynote Address for Conference on Fairness, Accountability and Transparency in Machine Learning and Artificial Intelligence, NYU, New York, NY, Feb 23-24, 2018.

University of British Columbia, Workshop on Moral and Pragmatic Encroachment on Epistemic Norms, January 20-21 (2018), presented paper *The Epistemic Commitments of Nondiscrimination*.

University of California, Irvine, Law and Philosophy Colloquium, December 7, 2017, presented paper *The Epistemic Commitments of Nondiscrimination*.

Columbia Legal Theory Workshop, Nov. 27, 2017, presented paper *The Epistemic Commitments of Nondiscrimination*.

Hebrew University, Minerva Center for Human Rights, Conference on Discrimination, December 14-16, 2016. Presented draft of *The Epistemic Commitments of Antidiscrimination Law*.

Hebrew University, doctoral workshop, presented a graduate seminar on discrimination to students from Hebrew University and from the Free University of Berlin (remotely), Dec. 13, 2016.

Brennan Center for Justice at New York University, presented *Resurrecting the Neglected Liberty of Self-Government*, June 2, 2016.

Demos Money in Politics Legal Convening, **University of Pennsylvania**, May 24-25, presented *Resurrecting the Neglected Liberty of Self-government*.

Conference on the Theory of Indirect Discrimination Law, **Oxford University**, March 17-18, 2016, presented paper *Indirect Discrimination and the Duty to Avoid Compounding Injustice*.

AALS Annual Meeting, Jurisprudence Section, Honoring the work of Alan Wertheimer, Jan. 7, 2016, discussed the influence of Wertheimer's book on coercion.

Money and Rights, **University of Vermont**, **Lecture in honor of Alan Wertheimer**, Oct, 13, 2015.

Money and Rights, **Chair Lecture**, **University of Virginia**, April 23, 2015.

Constitutional Law Workshop, **University of Chicago Law School**, March 26, 2015.

Harvard Law School, **Law and Philosophy Colloquium**, presented *Discrimination and Comparison*, Feb. 4, 2015.

EXTERNAL SERVICE (current)

Associate Editor, *Law and Philosophy*

Editorial Board Member, *Legal Theory*, Cambridge University Press.

American Law Institute, member (2019- present)

Board Member, Campaign Legal Center, Washington, DC. (2017-present)

Advisory Board Member, The Village School, Charlottesville, VA (independent middle school for girls), (2019-present)

Northeastern University, Ethics Institute, Summer Training Program to expand the AI and Data Ethics Community, external contributor.

Reviewer for various other journals and conferences

INTERNAL SERVICE (at UVA, selected)

Director, Center for Law and Philosophy

Faculty Advisor, Common Law Grounds (2017-present)

Appointments Committee (2014-15), Chair (2018-19)

Legal Theory Workshop series (2012-present)

Provost's Promotion and Tenure Committee (2013-2016)

LEGAL EXPERIENCE

Associate, 1991-92

Hughes Hubbard & Reed, New York, NY

Litigation department.