

**DEBORAH HELLMAN**

Professor and Jacob France Research Professor of Law  
University of Maryland School of Law  
500 West Baltimore St.  
Baltimore, MD 20201  
(410) 706-7727  
[dhellman@law.umaryland.edu](mailto:dhellman@law.umaryland.edu)

**ACADEMIC EMPLOYMENT**

<b>Visiting Professor</b> (Fall, 2011)	<b>University of Virginia School of Law</b>
<b>Professor</b> (2003-present) Associate (1998-2003) Assistant (1996-98) Visiting (1994-96)	<b>University of Maryland School of Law</b>  Teach Constitutional Law, Professional Responsibility, Contracts, Bioethics and Jurisprudence.
<b>Visiting Professor</b> (2007-08)	<b>University of Pennsylvania Law School</b> Taught contracts and constitutional law.

**EDUCATION**

**Harvard Law School**, J.D. *cum laude*, 1991  
Book Review Editor, *Harvard Civil Rights-Civil Liberties Law Review*

**Columbia University**, M.A. in Philosophy, 1987

**Dartmouth College**, B.A., *magna cum laude*, 1985  
**Honors:** High honors in Philosophy

**FELLOWSHIPS, SCHOLARSHIPS AND PRIZES**

2005-06	<b>Fellow, Woodrow Wilson International Center for Scholars, Smithsonian Institution</b> , Washington, DC.
2004-05	<b>Eugene P. Beard Faculty Fellow in Ethics</b> at the <b>Edmond J. Safra Foundation Center for Ethics</b> at Harvard University.
May, 2000	<b>Stanford/Yale Junior Faculty Forum</b> , Paper selected in the field of Constitutional law.
Fall, 1999	<b>National Endowment for the Humanities, Fellowship for University Teachers</b>

- 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**

## **BOOKS**

**WHEN IS DISCRIMINATION WRONG?, Harvard University Press, 2008**

We routinely draw distinctions among people. Some of these distinctions are morally wrong, some are morally permissible and some are controversial. The book develops a general account of when discrimination is wrong. It argues that drawing distinctions among people on the basis of having or lacking any trait is morally problematic when it is demeaning and not morally problematic when it is not.

## **ARTICLES**

***Money and Rights*, in MONEY, POLITICS AND THE CONSTITUTION: BUILDING A NEW JURISPRUDENCE, Published by The Century Foundation and the Brennan Center for Justice, 2011.** A longer version of this same article has been published in the **35 NYU Review of Law and Social Change (2011)**. This article looks at when constitutionally protected rights are interpreted by courts to include a concomitant right to spend money to effectuate the underlying right and when they are not. It concludes that there are two strands in our constitutional law: the Integral Strand, in which a right includes the right to spend money and the Blocked Strand, in which it does not.

***Money Talks But It Isn't Speech*, 95 Minn. L. Rev. 953 (2011).** This Article challenges the central premise of our campaign finance law, namely that restrictions on giving and spending money constitute restrictions on speech. This claim is often defended on the grounds that money is important or necessary for speech. While money surely facilitates speech, money also facilitates the exercise of many other constitutional rights. Sometimes constitutional rights generate a penumbral right to spend money and sometimes they do not. When a right does not depend on a market good for its exercise, the right does not include a penumbral right to spend money.

***Willfully Blind for Good Reason*, Crim Law and Philos (2009) 3:301-316.** Willful blindness is not an appropriate substitute for *knowledge* in crimes that require a *mens rea* of knowledge because an actor who contrives his own ignorance is only sometimes as culpable as a knowing actor. This article argues

that contrived ignorance constitutes culpable blindness when the decision to remain blind or to cultivate blindness is not itself justified.

***Prosecuting Doctors for Trusting Patients*, 16 Geo. Mason L. Rev. 701 (2009).** This article examines the recent cases in which doctors have been prosecuted in connection with their prescribing controlled substances. It argues that these prosecutions are often inappropriate uses of the criminal law as there are good professional reasons for doctors to trust their patients. This conclusion suggests that “willful blindness” ought not generally to be used as a substitute for knowledge because assessing the culpability for willful blindness requires a normative inquiry into the reasons a agent shields him or herself from knowledge.

***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.** This piece argues that the legal standard currently being used to convict doctors for drug-trafficking erroneously imposes criminal liability on conduct that is morally justified.

***What Money Can and Cannot Buy*, 14 The Good Society 26 (2005)** (arguing that restrictions on campaign spending do not constitute restrictions on speech).

***What Makes Genetic Discrimination Exceptional?*, 29 Am Journal of Law & Med 77 (2003).** An examination of the question whether genetic discrimination is meaningfully different from discrimination on the basis of health and thereby warrants special legislation that forbids it. **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 Equipose to Resolve the Ethical Tension in the Randomized Clinical Trial*, 30 Journal of Law, Medicine and Ethics 375 (2002).** This article argues that the concept of equipose fails to resolve the ethical tension inherent in randomized clinical trials. Equipose relates to what one has reason *to believe*. But the study-subject generally cares about what she should *do*. Because the criteria for belief and for action are different, equipose cannot dissolve the ethical conflict.

***Judging By Appearances: Professional Ethics, Expressive Government and the Moral Significance of How Things Seem*, 60 Md. L. Rev. 653 (2001).** This article contributes to a symposium I organized addressing the question whether the expressive dimension of governmental action is morally and legally important. The paper examines whether there are non-consequentialist reasons to be concerned about the appearance of impropriety.

***The Expressive Dimension of Equal Protection*, 85 Minn. L. Rev. 1 (2000).** This article argues that a state law or policy violates Equal Protection if it expresses a meaning in conflict with the government’s obligation to treat each person with equal concern and respect.

***Two Types of Discrimination: The Familiar and the Forgotten*, 86 Cal. L. Rev.315 (1998).** This article argues that current Equal Protection doctrine fails to perceive an important conceptual distinction between two types of discrimination: proxy-discrimination and non-proxy discrimination. Because each functions in a distinct way, a different moral and legal analysis is appropriate for each.

***Trials on Trial, Report from the Institute for Philosophy and Public Policy***, Vol. 18. No. 1-2 at 13 (1998) (evaluating the ethical permissibility of placebo-controlled trials of the efficacy of short course AZT therapies for reducing mother to infant transmissions of HIV in developing countries).

**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).

***Is Actuarially Fair Insurance Pricing Actually Fair?: A Case Study in Insuring Battered Women***, 32 **Harv. C.R.-C.L. L. Rev.** 355 (1997). An analysis of whether insurers ought to be permitted to underwrite on the basis of one's status as a victim of domestic abuse.

***The Importance of Appearing Principled***, 37 **Ariz. L. Rev.** 1107 (1995). An examination of whether judges have an obligation to insure that opinions not only *are* principled but also *appear* principled.

***Of Mice But Not Men: Problems of the Randomized Clinical Trial***, 324 **New England Journal of Medicine** (1991), co-authored (arguing that the clinical trial presents a conflict of interest for the doctor between the interests of the individual patient and the good of the society).

**This article has been reprinted in numerous bioethics anthologies. See e.g. Arras and Steinbock, *Ethical Issues in Modern Medicine*, 6<sup>th</sup> Ed. at 750.**

## OTHER WRITING

**“Discrimination, Concept of” in *The Encyclopedia of Applied Ethics*, 2<sup>nd</sup> Edition, edited by Ruth Chadwick, Elsevier Press (forthcoming).**

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

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

## RECENT PRESENTATIONS

AALS Annual Meeting, San Francisco, CA, January 7, 2011, Panelist for “Corporate Political Speech and Dueling Conceptions of the Corporation in Supreme Court Jurisprudence.”

Cardozo Law School, Symposium in honor of Michel Rosenfeld’s book, *The Identity of the Constitutional Subject*. Commentator on book. October 25, 2010.

University of Virginia Law School, Faculty Workshop, “Corruption as a Derivative Concept,” September 24<sup>th</sup>, 2010.

Loyola Chicago School of Law, Faculty Workshop on “Money Talks But It Isn’t Speech,” April 29, 2010.

Brennan Center for Justice, NYU School of Law, Invited speaker at an invitation only conference: “Money, Politics & the Constitution: Building A New Jurisprudence,” March 27, 2010.

Rice University, Mellon Research Seminar, “Intentions and Wrongful Discrimination,” February 26, 2010.

Georgetown University Law Center, Faculty Workshop series, Feb. 23, 2010 (Presented paper “Money Talks But It Isn’t Speech”).

University of Southern California Law School, Faculty Workshop series, March 13<sup>th</sup>, 2009, (Presented paper “Willfully Blind for Good Reason”).

Association of Practical and Professional Ethics Annual Meeting, March 6-7, 2009 (Cincinnati, OH).  
Participated in three sessions: a) Author Meets Critics session on my book, *WHEN IS DISCRIMINATION WRONG?* with critics Anita Allen (Professor of Law, U Penn); Elizabeth Kiss (President, Agnes Scott College, Atlanta GA); b) Lunch with Author (informal discussion of book); c) “Why Put Safety First”: presented paper outlining tension between defense of Phase I trials and critique of current legislation (ACCESS Act) that would increase access to drugs that have completed Phase I testing.

Syracuse University Law School, Faculty Colloquia Series, Feb. 16, 2009 (Presented talk on my book: *When is Discrimination Wrong?*)

University of Toronto Law School, Legal Theory Workshop, Jan 16, 2009 (Presented paper “Willfully Blind for Good Reason”).

Woodrow Wilson International Center for Scholars, Washington, DC, Sept. 16, 2008, Book launch: discussion of my recent book, *WHEN IS DISCRIMINATION WRONG?* (Harvard Univ. Press, 2008).

2008 Health Law Teachers Conference, Presented paper “Prosecuting Doctors for Trusting Patients” and moderate panel, June 2008.

Arizona State Law School, Center for Law and Philosophy, workshop, March 17, 2008 (presented paper “Prosecuting Doctors for Trusting Patients”).

Center for Bioethics, University of Pennsylvania, Feb. 4, 2008. Presented paper, “Prosecuting Doctors for Trusting Patients”

Rutgers-Camden School of Law, Faculty Workshop, “Prosecuting Doctors for Trusting Patients”, Nov., 2007

12<sup>th</sup> annual Analytic Legal Philosophy Conference, hosted by the Univ. of California, Berkeley, April 2007 – presented chapter of book on discrimination.

Vanderbilt Law School, Faculty Workshop, March 14, 2007, presented book chapter from “When is Discrimination Wrong?”

University of Oregon College of Law, Faculty Workshop, February 5, 2007, presented chapter from “When is Discrimination Wrong?”

## **APPOINTMENTS**

Maryland Insurance Administration, Workgroup on Genetic Testing, 2009-10

NIH Review Panel, The Ethical Legal Social Implications Review Committee, GEON-E (1998-2002).

## **LEGAL EXPERIENCE**

Associate, 1991-92

**Hughes Hubbard & Reed**, New York, NY  
Litigation department.

**Bar Admissions:** New York (1991), Massachusetts (1991).