

## ***CURRICULUM VITAE***

### ***MARK G. KELMAN***

Born: August 20, 1951  
New York City

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### **EDUCATION AND HONORS**

- Harvard College, B.A. 1972, *summa cum laude* in Social Studies, Phi Beta Kappa
- Harvard Law School, J.D. 1976, *magna cum laude*
- American Academy of Arts and Sciences: named Fellow in 2008

### **WORK EXPERIENCE**

- Fund for the City of New York (1972-76, sporadic; full time 1976-77); consultant; Director of Criminal Justice Projects
- Rowley & Scott (summer 1975); law clerk
- Stanford Law School; 1977-present (Professor since 1982; William Nelson Cromwell Professor 1996-2007, James C. Gaither Professor, 2007- present, Academic Coordinator 1994-96, Associate Academic Dean 1999-2001, Vice-Dean, 2004-11)

### **PUBLICATIONS: BOOKS**

- *A Guide to Critical Legal Studies* (Harvard University Press, 1987) [portions reprinted in *Foundations of the Economic Approach to Law*, A. Katz ed. 1997]
- *Jumping the Queue: An Inquiry into the Legal Treatment of Students with Learning Disabilities* (with Gillian Lester) (Harvard University Press, 1997) [revised portions reprinted in *Left Legalism*, J. Halley and W. Brown eds. 2002]
- *Strategy or Principle? The Choice between Regulation and Taxation* (University of Michigan Press, 1999)
- *American Criminal Law: Cases, Statutes, and Comments* (with Markus Dubber) (Foundation Press, 2005; 2d. edition 2009)
- *The Heuristics Debate* (Oxford University Press, 2011)
- *What Followed Was Pure Lesley* (fiction) (Saturday Review Press/Dutton, 1973)

## PUBLICATIONS: ARTICLES, BOOK CHAPTERS, ESSAYS

- "The social cost of inequality," in *The New Conservatives* (L. Coser and I. Howe, eds. 1974)
- "The ambiguities of tax reform," 6 Working Papers for a New Society 85 (1978)
- "The politics of explaining crime" (book review) 31 Stanford Law Review 527 (1979)
- "Consumption theory, production theory, and ideology in the Coase Theorem," 52 Southern California Law Review 669 (1979) [reprinted in *A Law and Economics Anthology* (K. Dau-Schmidt and T. Ulen eds. 1997)]
- "Choice and utility," 1979 Wisconsin Law Review 769
- "Personal deductions revisited: why they fit poorly in an ideal income tax and why they fit worse in a far from ideal world," 31 Stanford Law Review 831 (1979) [reprinted in the *International Library of Essays in Law and Legal Theory, Tax Law*, P. White ed. 1996; reprinted in *Federal Income Tax Anthology*, P. Caron, K. Burke and G. McCough eds. 1997]
- "Spitzer and Hoffman on Coase: A brief rejoinder," 53 Southern California Law Review 1215 (1980)
- "Interpretive construction in the substantive criminal law," 33 Stanford Law Review 591 (1981) [reprinted in *A Criminal Law Anthology*, A. Loewy ed. 1992; reprinted in *Philosophy of Law*, J. Feinberg and J. Coleman, eds. 1999; reprinted in *Criminal Law Conversations*, Paul Robinson ed. 2009]
- "The origins of crime and criminal violence," in *The Politics of Law* (D. Kairys ed. 1982)
- "Misunderstanding Social Life: A Critique of the Core Premises of Law and Economics," 33 Journal of Legal Education 274 (1983)
- "Strict Liability" in *Encyclopedia of Crime and Criminal Justice* (S. Kadish ed. 1983)
- "Time preference and tax equity," 34 Stanford Law Review 649 (1983), [reprinted in *International Library of Essays in Law and Legal Theory, Tax Law*, P. White ed. 1996]
- "The past and future of legal scholarship," 33 Journal of Legal Education 432 (1983)
- "Trashing," 36 Stanford Law Review 293 (1984) [reprinted in *Critical Legal Studies*, A. Hutchinson ed. 1989]
- "Comment on Hoffman and Spitzer's 'Experimental Law and Economics'" 85 Columbia Law Review 1037 (1985)
- "Taking Takings Seriously: An Essay for Centrists" (book review) 74 California Law Review 1829 (1986)
- "The necessary myth of objective causation judgments in liberal political theory," 63 Chicago-Kent Law Review 579 (1987) [reprinted in *The International Library of Essays in Law and Legal Theory, Tort Law*, E. Weinreb ed. 1991]
- "Three stages of economic libertarianism," 11 George Mason Law Review 35 (1988)
- "On democracy-bashing: A skeptical look at the theoretical and 'empirical' practice of the public choice movement" 74 Virginia Law Review 199 (1988)
- "The problem of false negatives," 27 Transaction: Social Science and Modern Society 21 (1990)
- "A critique of conservative legal thought," in *The Politics of Law* (D. Kairys ed., 2d ed. 1990)

- "A general framework for evaluating classification errors, with special reference to integrity testing," OTA Report
- "Concepts of discrimination in 'general ability' job testing," 104 Harvard Law Review 1157 (1991) [reprinted in *Foundations of Employment Discrimination Law*, J. Donohue ed. 1997]
- "Emerging centrist liberalism," 43 Florida Law Review 417 (1991)
- "Reasonable evidence of reasonableness," 17 Critical Inquiry 798 (1991) [reprinted in *Questions of Evidence* (J. Chandler, A. Davidson and H. Harootunian eds. 1994); portions reprinted in *Readings in Criminal Law*, (R. Weaver, J. Burkhoff, C. Hancock, A. Reed and P. Seago eds. 1997)]
- "Health care rights: distinct claims, distinct justifications," 3 Stanford Law & Policy Review 90 (1991)
- "Could lawyers stop recessions? Speculations on Law and Macroeconomics" 45 Stanford Law Review 1215 (1993)
- "Domestic partner benefits: a case study" (co-author, B. Fried principal author, 1993)
- "A Rejoinder to Cass Sunstein" in *Questions of Evidence* (J. Chandler, A. Davidson, and H. Harootunian eds. 1994)
- "Context-dependence in Legal Decision Making" (with Yuval Rottenstreich and Amos Tversky) 25 Journal of Legal Studies 287 (1996), [reprinted in *Behavioral Economics* (C. Sunstein ed. 2000)]
- "Progressive Vacuums", 48 Stanford Law Review 975 (1996) (review essay of Michael Piore's *Beyond Individualism*)
- "State Disparities in the Diagnosis and Placement of Pupils with Learning Disabilities" (with Gillian Lester) (30 Journal of Learning Disabilities 599, Issue No. 6, November/December 1997)
- Book Note (Cass Sunstein's *Free Markets and Social Justice*); 35 Journal of Economic Literature 2049 (1997)
- "(Why) Does Gender Equity in College Athletics Entail Gender Equality?" 7 Southern California Review of Law and Women's Studies 63 (1997)
- "Behavioral Economics as Part of a Rhetorical Duet: A Response to Jolls, Sunstein, and Thaler", 50 Stanford Law Review 1577 (1998)
- "Decomposing Hindsight Bias" (with David E. Fallas and Hilary Folger), 16 Journal of Risk and Uncertainty 251 (1998)
- "Does Disability Status Matter?" in *Americans with Disabilities: Exploring Implications of the Law for Individuals and Institutions* (Leslie Francis & Anita Silvers, eds. 2000)
- Book Note, (Margaret F. Brinig's *From Contract to Covenant: Beyond the Law and Economics of the Family*), 39 Journal of Economic Literature 153 (2001)
- "Market Discrimination and Groups", 53 Stanford Law Review 833 (2001)
- "The Moral Foundations of Special Education Law" in *Rethinking Special Education* (Thomas Fordham Foundation and Progressive Policy Institute, 2001)
- "Problematic Perhaps, but not Irrational", 54 Stanford Law Review 101 (2002)
- "Law and Behavioral Science: Conceptual Overviews" 97 Northwestern Law Review 1347 (2003).
- "Hedonic Psychology, Political Theory, and Law: Is Welfarism Possible?" 52 Buffalo

Law Review 1 (2004)

- “Hedonic Psychology and the Ambiguities of ‘Welfare’” 33 Philosophy & Public Affairs 391 (2005)
- “Thinking About Sexual Consent” (review essay of Alan Wertheimer’s *Consent to Sexual Relations*) 57 Stanford Law Review 101 (2005)
- “Defining the Antidiscrimination Norm to Defend It” 43 San Diego Law Review 735 (2006)
- “Interpretive Construction in the Substantive Criminal Law: Comment on Responses” in Paul Robinson ed. *Criminal Law Conversations* (2009)
- “Saving Lives, Saving from Death, Saving from Dying: Reflections on ‘Over-Valuing’ Identifiable Victims” 11 Yale Journal of Health Policy, Law and Ethics 51 (2011)

### **PUBLICATIONS (op ed, etc.)**

- “Nickel and diming the poor” In these Times (Nov. 16-24, 1981)
- “The shift in twentieth century legal theory” 3 Humanities 12 (August 1982)
- “Lessons of the Thomas Affair”, The New Leader, (Nov. 4-18,1991, p. 5)
- "Educated Choices" Stanford Lawyer, Spring 1996
- "Which Students Are 'Special'?" (with Gillian Lester) Legal Times (April 20, 1998, p. 27)
- “Symposium Introduction” (Educational reform) 11:1 Stanford Law & Policy Review 220 (1999)
- “Introduction to the Disability Rights Symposium” 14:2 Stanford Law & Policy Review 235 (2003)

### **AMICUS BRIEFS**

- Co-wrote amicus briefs in *Dolan v. City of Tigard*, *Yee v. City of Escondido*, and *Dukes v. Wal-Mart*

### **WORKS IN PROGRESS**

- “Playing with Trolleys” (at least two pieces, one focusing on demographic and ideological correlates of deontological and “utilitarian” responses to classic moral dilemmas and the other focusing on more carefully specifying both what initial intuitions are commonplace, and how unwavering these intuitions are, in relationship to a host of traditional moral dilemmas)
- “Expertise about Memory: Whom does it help?”

### **LECTURES AND INVITED PRESENTATIONS (excluding symposium and conference presentations)**

- Dunwoody Lecture (University of Florida, March 1991)
- Cooley Lectures (University of Michigan, October 1997)
- Yale Legal Theory Workshop (1986, 1996)
- Harvard Law School Legal Theory Workshop (1993)

- University of Toronto Legal Theory Workshop (1990)
- UCLA Faculty Workshop (1994, 2005, 2009)
- Santa Clara Faculty Workshop (1995)
- Columbia Legal Theory Workshop (1982, 2008)
- USC Faculty Workshop (1980, 1997)
- NYU Legal Theory Workshop (2007)
- Keynote Address: “Rethinking Special Education fir the 21<sup>st</sup> Century” (2000)
- Harvard Law School, “Book Trouble” (2003); Public Law Workshop (2005)
- Yale Law School American Constitution Society: The Constitution in 2020 (2005)
- Berkeley Law School, legal theory workshop (December 2008)
- Sibley Lecture (University of Georgia, March 2009)
- AALS Annual Meeting: Plenary Session Addresses (1983, 1985);  
Section Addresses (1987, 1992, 2001, 2003)