ROBERT A. KAGAN

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Born in Newark, New Jersey, June 13, 1938
Married: Susan Barron (2008), one child (Elsie, b.1977)

I. Education

Harvard College, A.B., 1959; Columbia Law School, LL.B., 1962; Yale University, Ph.D. 1974 (Sociology)

II. Academic Employment

Department of Political Science, University of California, Berkeley. Professor, 1982 --present; Associate Professor, 1978-1982; Assistant Professor, 1974-1978.
School of Law, University of California, Berkeley, Professor, 1988. Emanuel S. Heller Professor of Law, 2005-2012
College of Law, Ohio State University -- Drinko-Baker & Hostetler Distinguished Visiting Professor, 1992-93
New York University School of Law, Visiting Professor, 2006
Harvard University, Department of Government, Visiting Professor, 2008 and Visiting Scholar 2009-2011; School of Law, Visiting Scholar Fall 2012-2019

III. Previous Employment

Economic Stabilization Program, Washington, D.C., 1971 -- Office of General Counsel, Office of Emergency Preparedness; Assistant to Chairman, Federal Price Commission
Kagan-Dixon Wire Corp., Rahway, New Jersey, 1966- 1969, General counsel, sales manager
Shanley & Fisher, Esqs., Newark, New Jersey, 1962-66, General practice of law, litigation

IV. Professional Positions and Honors

Director, Center for the Study of Law and Society, University of California, Berkeley, 1993--2000
Chair, Working Group on Legal Process, Committee on Basic Research in Behavioral and Social Sciences, National Research Council, 1985
Advisory Review Panel, Law and Social Science Program, National Science Foundation, 1983-84
Committee on Law Enforcement and Administration of Justice, National Research Council, 1987 -1993
Trustee, Law and Society Association, 1979-81, 1988-90
Editorial Board, Law & Society Review; Senior Advisory Board, Law & Policy
Member, U.S. Delegation, Chinese-U.S. Workshop on Human Dimensions of Global Change, 1988
Visiting Scholar/Fellowships: Russell Sage Foundation, New York City, 1982; Oxford University Centre for Socio-Legal Research, July, 1983; Netherlands Institute for Advanced Study, Feb- July, 1987; Center for Advanced Study in the Behavioral Sciences, Stanford, CA, 1989-90
Fellow, American Academy of Arts and Sciences, 1994-
Harry Kalven Prize for Distinguished Contributions to Research, Law & Society Association 2006)
Stanton Wheeler Mentorship Prize, Law & Society Association (2009)
Mentorship and Teaching Award, American Political Science Association, Law & Courts Section (2009)
Lifetime Achievement Award, American Political Science Association, Law & Courts Section (2012)
Legacy Award, Law & Society Association (2019)
Co-Editor, *Regulation & Governance*, 2008--2012

V. Publications

A. Books

Regulatory Justice: Implementing A Wage-Price Freeze (New York: Russell Sage Foundation, 1978)
Going By The Book: The Problem of Regulatory Unreasonableness (with Eugene Bardach) A 20th Century Fund Study. Temple University Press, 1982, reprinted with new introduction, Transaction Books, 2002
Patterns of Port Development: Government, Intermodal Transportation, and Innovation in the United States, Hong Kong, and the People's Republic of China. Berkeley: Institute of Transportation Studies (1990)
Adversarial Legalism and American Government: The American Way of Law (Harvard University Press, 2001) (Second Edition, 2019)
Shades of Green: Business, Regulation, Environment (with Neil Gunningham & Dorothy Thornton) Stanford University Press (2003)

B. Edited Books and Special Issues of Journals

Social Regulation: Strategies for Reform (Edited by Eugene Bardach & Robert A. Kagan). San Francisco: Institute for Contemporary Studies, 1982)
*Social Science, Social Policy, and the Law (*Edited by Patricia Ewick, Robert A. Kagan, and Austin Sarat) Russell Sage Foundation, 1999
Regulatory Encounters: Multinational Corporations and Adversarial Legalism (University of California Press, 2000) (Co-edited with Lee Axelrad) http://www.ucpress.edu/books/pages/8862.html .
Legality and Community: On the Intellectual Legacy of Philip Selznick Rowman & Littlefield/Berkeley Public Policy Press, 2002) (co-edited with Martin Krygier & Kenneth Winston).
Looking Back at Law's Century (Cornell University Press, 2002) (co-edited with Austin Sarat & Bryant Garth
Dynamics of Regulatory Change: How Globalization Affects National Regulatory Policies. University of California Press, 2004 (co-edited with David Vogel).
Institutions and Public Law: Comparative Approaches. (Peter Lang, 2005) (co-edited with Tom Ginsburg).
Regulation and Regulatory Processes, in *The International Library of Essays on Law and Society* , Ashgate, 2007 (co-edited with Cary Coglianese)
*Consequential Courts: Judicial Roles in Global Perspective.*Cambridge University Press (2013) (co-edited with Diana Kapiszewski and Gordon Silverstein
Law and Regulation: Studies from Great Britain and The Netherlands, Law & Policy, vol 11, no.2 (April, 1989)
Regulation in Japan and the U.S. Law & Policy, Vol 22, nos, 3 &4 (October, 2000)
Regulation and Business Behavior, Law & Policy Vol. 27 (April,2005) (co-edited with Neil Gunningham)

C. Articles

1. Courts and Litigation

"What If Abe Fortas Had Been More Discreet?" in Nelson Polsby, ed., *What If? Explorations in Social Science Fiction* (Lewis Publishing, 1983)
"The Routinization of Debt Collection: An Essay on Social Change and Conflict in the Courts." 18 *Law & Society Review* 324 (1984)

"American State Supreme Court Justices, 1900-1970." *1984 American Bar Foundation Research Journal* 371 (with Bob Infelise and Robert Detlefsen)

"Constitutional Litigation in the United States." in Ralf Ragowski and Thoman Gawron, eds., *Constitutional Courts in Comparison*. Berghahn Books, 2002)

With Bliss Cartwright, Lawrence M. Friedman and Stanton Wheeler:

"The Business of State Supreme Courts, 1870-1970." 30 *Stanford Law Review* 121 (1977)

"The Evolution of State Supreme Courts." 76 *Michigan Law Review* 961 (1978)

"State Supreme Courts: A Century of Style and Citation" 33 *Stanford Law Review* 773 (1981)

"Do The 'Haves' Come Out Ahead? Winning and Losing in State Supreme Courts, 1870-1970", 21 *Law & Society Review* 403 (1987)

"Adversarial Legalism and American Government." 10 *J. of Public Policy Analysis and Management* 369-406 (1991), revised version in Marc Landy & Martin Levin, eds., *The New Politics of American Public Policy* (Johns Hopkins Press, 1995)

"The Political Construction of American Adversarial Legalism," in Austin Ranney, ed. *Courts and the Political Process* (Inst. of Governmental Studies Press, 1996) pp. 19-39

"Adversarial Legalism and American Criminal Justice," in Malcolm M. Feeley & Setsuo Miyazawa, eds., *The Japanese Adversary System in Context: Controversies and Comparisons* (Palgrave/Macmillan, 2002)

"On Surveying the Whole Legal Forest," 28 *Law & Social Inquiry* 833-72 (2003) (response in "Review Symposium on Kagan's *Adversarial Legalism*: *The American Way of Law*")

"American Courts and the Policy Dialogue: The Role of Adversarial Legalism," in Mark C. Miller & Jeb Barnes, eds., Making Policy, *Making Law: An Interbranch Perspective.* Washington, D.C.: Georgetown University Press (2004)

"A Consequential Court: The U.S. Supreme Court in the 20th Century," in D. Kapiszewski, G. Silverstein, & R.A. Kagan, eds, *Consequential Courts: Judicial Roles in Global Perspective.*Cambridge University Press (2013) pp.199-232

" Constitutional Litigation in the United States," in Ralf Rogowski & Thomas Gawron, eds., *Constitutional Courts in Comparison: The US Supreme Court and the German Federal Constitutional Court (2nd Ed)*. Berghahn Books ((2016) (with Gregory Elinson)

"New Judicial Roles in Governance" in Erin Delaney & Rosalind Dixon, eds, *Comparative Judicial Review*. Edward Elgar, 2018) (with Diana Kapiszewski & Gordon Silverstein)

2. Law Enforcement and Regulatory Processes

"The 'Criminology of The Corporation' and Regulatory Enforcement Strategies" (with John T. Scholz) *European Yearbook of Legal Sociology and Legal Theory*, Vol. 7 (1980), revised version in Hawkins and Thomas, *Enforcing Regulation* (1984)

"On Regulatory Inspectorates and The Police" in Keith Hawkins and John Thomas, eds., *Enforcing Regulation* (Kluwer-Nijhoff, 1984)

"Regulating Business and Regulating Schools", in David Kirp and Donald Jensen, eds., *School Days, Rule Days: The Legalization and Regulation of Schools* (Falmer Press, 1986)

"Visibility of Violations and Income Tax Law Noncompliance", in Jeffrey Roth & John Scholz, eds, *Taxpayer Compliance. Volume 2: Social Science Perspectives.* Univ.of Pennsylvania Press (1989)

"Editor's Introduction: Understanding Regulatory Enforcement," 11 *Law & Policy* 89-119 (1989)

"The Dredging Dilemma: Environmental Protection and Economic Development in Oakland Harbor." 19 *Coastal Management* 313-341 (1991)

"Banning Smoking: Compliance Without Coercion" (with Jerome Skolnick), in Robert Rabin & Stephen Sugarman, eds., *Smoking Policy: Law, Policy, and Politics*. Oxford University Press (1993)

"Regulatory Enforcement," in David Rosenbloom and Richard D. Schwartz, eds. *Handbook of Administrative Law and Regulation.* Marcel Dekker, 1994)

"Dredging Oakland Harbor: Implications for Ocean Governance." *Ocean and Coastal Management* 23: 49-63 (1994)

"The Political Roots of the Environmental Permitting Process." Paper presented at Annual Research Seminar, American Association of Port Authorities, Seattle, WA, June 2, 1994

"Political and Legal Obstacles to Collaborative Ecosystem Planning." 24 *Ecology Law Quarterly* 871 (1997)

"Trying to Have it Both Ways: Local Discretion, Central Control, and Adversarial Legalism in American Environmental Legislation," 25 *Ecology Law Quarterly* 718-32 (1999)

"Adversarial Legalism: Tamed or Still Wild?" 2 *N.Y.U. Journal of Legislation and Policy* 217-245 (1999)

"Adversarial Legalism and Transaction Costs: The Industrial Flight Hypothesis Revisited" *International Review of Law & Economics*, 20: 1-19 (2000) (with Leigh Anderson)

"Explaining Corporate Environmental Performance: How Does Regulation Matter?" (with Neil Gunningham & Dorothy Thornton) *Law & Society Review* 37: 51-89 (2003)

"Sources of Corporate Environmental Performance" (with Thornton & Gunningham) *California Management Review* (Fall, 2003)

"Regulators and Regulatory Processes" in *The Blackwell Companion to Law and Society*. Austin Sarat, ed. (Blackwell, 2004)

"Social License and Environmental Protection: Why Businesses Go Beyond Compliance" (with Neil Gunningham & Dorothy Thornton) *Law & Social Inquiry* 29:307-341 (2004)

"General Deterrence and Corporate Environmental Behavior" (with Dorothy Thornton & Neil Gunningham) *Law & Policy* 27: 262-288 (2005)

"Motivating Management: Corporate Compliance in Environmental Protection" *Law & Policy* 27: 289-316 (2005)

"*Marshall v. Barlow's, Inc.:* Legitimating Regulatory Enforcement" (with Rachel VanSickle-Ward), in Peter Strauss, Ed., *Administrative Law Stories* (Foundation Press, 2006)

"Environmental Management Style and Corporate Environmental Performance," in Cary Coglianese & Jennifer Nash, eds., *Leveraging the Private Sector: Management-Based Strategies for Improving Environmental Performance* (Resources for the Future, 2006)

"Compliance Costs, Regulation, and Environmental Performance: Controlling Truck Emissions in the US" *Regulation & Governance* 2: 1-18 (2008) (with Dorothy Thornton & Neil Gunningham)

"When Social Norms and Pressures Are Not Enough: Environmental Performance in the Trucking Industry," *Law & Society Review* 41: 405-435 (2009) (with Dorothy Thornton & Neil Gunningham)

"Fear, Duty, and Regulatory Compliance: Lessons from Three Research Projects' in Christine Parker & Vibeke Nielsen, eds., *Explaining Compliance: Business Responses to Regulation* (Edward Elgar, 2012) pp 37-58

3. Legal Profession

"On The Social Significance of Large Law Firm Practice"(with Robert Eli Rosen) 37 *Stanford Law Review* 399 (1985)

Volunteer Attorneys and Legal Services for the Poor: New York's CLO Program (with Douglas Rosenthal and Debra Quatrone) (New York: Russell Sage Foundation, 1971)

"Do Lawyers Cause Adversarial Legalism?" 19 *Law & Social Inquiry* 1-62 (1994), revised version published as "American Lawyers, Legal Cultures, and Adversarial Legalism," in Lawrence M. Friedman & Harry N. Scheiber, eds. *Legal Culture and the Legal Profession* (Westview Press, 1996) pp. 7-51

4. Comparative Law and Politics

"How Much Does Law Matter? Labor Law, Competition and Waterfront Labor Relations in Rotterdam and U.S. Ports" 24 *Law & Society Review* 35-69 (1990)

"Market-Oriented Regulation of Environmental Problems in The Netherlands " (with Gjalt Huppes) 11 *Law & Policy* 215-239 (1989)

"Between Communism and Capitalism: International Cargo Transportation in China, 1980-1989' (Working Paper, Center for the Study of Law and Society, 1991)

"The Politics of Smoking Regulation: The United States, Canada, and France" (with David Vogel) in Robert Rabin & Stephen Sugarman, eds., *Smoking Policy: Law, Policy, and Politics*. Oxford University Press (1993).

"Workshop on Doing Business in Contrasting Legal Systems: A Report". Center for the Study of Law and Society Working Paper, June, 1994

"Should Europe Worry About Adversarial Legalism?" 17 *Oxford Journal of Legal Studies* 165-183 (1997), translated and reprinted in *Droit & Societe* , vol 48:471-93 (2001)

"Adversarial Legalism: An International Perspective" (with Lee Axelrad) in Pietro S. Nivola, ed., *Comparative Disadvantages?: Social Regulations and the Global Economy* (Brookings Institution, 1997), pp. 146-181

"A Matter of Style: Environmental Regulation in Japan and the United States" *Yearbook of Dutch Journal of Regulation* (1998) (with John Cioffi and Kazumasu Aoki).

"Comparing National Styles of Regulation in Japan and the United States." *Law & Policy* 22:225-44 (2000)

" On the Routinization of Tort Claims: Takao Tanase's "The Management of Disputes," Institute for Legal Research, Boalt Hall School of Law, University of California (2005) http://www.law.berkeley.edu/centers/ilr/pub_sho_sato_2005/

"American and European Ways of Law: Six Entrenched Differences" in Volkmar Gessner and David Nelkin, eds, *European Ways of Law* (Hart Publishing,2007)

"Globalization and Legal Change: The "Americanization" of European Law?" *Regulation & Governance* 1: 99-120 (2007)

"The 'Non-Americanisation" of European Law," *European Political Science* 7: 21-31 (2008)

"Fragmented Political Structures and Fragmented Law" *Jus Politicum*, no. 4, Legal Science and Democracy (2010) http://www.juspoliticum.com/IMG/pdf/Kagan-3.pdf

5. Administrative Justice

"Robert Kagan and *Regulatory Justice*," in Simon Halliday & Patrick Schmidt, eds, *Conducting Law and Society Research: Reflections on Methods and Practices.* Cambridge Univ. Press (2009) pp.26-38

"The Organization of Administrative Justice Systems: The Role of Political Mistrust," in Michael Adler, Ed., *Administrative Justice in Context* (Hart Publishing, 2010) pp. 161-180

"Varieties of Bureaucratic Justice: Building on Mashaw's Typology." In Nicholas Parillo, ed, *Administrative Law from the Inside Out: Essays on Themes in the Work of Jerry L. Mashaw.* New York: Cambridge University Press. 2017

"Administrative Justice and Cultures of Rule-Application." In Marc Hertogh et al, ed (2022), *The Oxford Handbook of Administrative Justice.* New York: Oxford University Press. 2022

" The Political Vulnerability of the American Administrative State." In Sharon Cowan & Simon Halliday, eds, *Socio-Legal Generation: Essays in Honour of Michael Adler* (2024)

6. Miscellaneous

"What Socio-Legal Scholars Should Do When There is Too Much Law to Study," 22 *J. of Law & Society* 140-148 (1995)

"On Responsive Law" in Robert A. Kagan, Martin Krygier & Kenneth Winston, eds., *Legality and Community: On the Intellectual Legacy of Philip Selznick* (Institute of Governmental Studies Press/Rowman & Littlefield, 2001), also printed as "Introduction" to Philippe Nonet and Philip Selznick, *Law and Society in Transition: Toward Responsive Law* (second printing) (Transaction Books, 2001)

"The Politics of Tobacco Regulation in the United States" (with William Nelson) in Robert Rabin & Stephen Sugarman, eds. *Regulating Tobacco* (Oxford University Press, 2001)

"Rules in the Legal Process" in *International Encyclopedia of the Social Sciences* (Elsevier, 2002)

"Introduction, The Legal Sphere: Egalitarian Changes in Tort Law, Civil Liberties, and Nomination Criteria," in Aaron Wildavsky, *Cultural Analysis: Politics, Public Law, and Administration* (Brendon Swedlow, ed., Transaction Publishers, 2006)

"Environmental Law, Sociology of," *Sage Encyclopedia of Law and Society.* David Clark, ed. (2007)

"Regulatory Unreasonableness," *Sage Encyclopedia of Law and Society.* David Clark, ed. (2007)

"Center for the Study of Law and Society" in *Sage Encyclopedia of Law and Society.* D. Clark, ed. (2007)

"Total Justice and Political Conservatism," in Robert W. Gordon & Morton J. Horwitz, eds, *Law, Society, and History: Themes in the Legal Sociology and Legal History of Lawrence M. Friedman*. Cambridge University Press, 2011, pp.118-136

"A 'Humanist Science' and Sociolegal Studies," *Issues in Legal Scholarship* 10:54-62 (2012-12-08)

"Scenes from a Sociolegal Career: An Informal Memoir." *Regulation & Governance* (2024) https://doi.org/10.1111/rego.12638

D. Review Essays and Book Reviews

"Inside Administrative Law", essay on Jerry L. Mashaw, *Bureaucratic Justice*, 84 *Columbia Law Review* 816-832 (1984)

"What Makes Uncle Sammy Sue?" essay on David Vogel, *National Styles of Regulation*. 21 *Law and Society Review* 717-742 (1988)

"How Much Do Conservative Tort Tales Matter?" essay on William Haltom & Michael McCann, *Distorting the Law: Politics, Media, and the Litigation Crisis*. 31 *Law & Social Inquiry* 711-37 (2006)

Reviews of: Steven Croley, *Regulation and Public Interests, Law & Politics Book Review*, Vol. 18 No. 7 (July, 2008) pp.640-644; Susan Hadden, Read The Label: Reducing Risk By Providing Information in *Science*, Sept 5, 1986; Robert D. Cuff, The War Industries Board: Business Government Relations During World War I 68 *American Political Science Review* 1325 (1974); Robert Lanzilotti et al, Phase II in Review: The Price Commission Experience in *American Political Science Review* (1976)

VI. COURSES TAUGHT

American Constitutional Law; Law, Society, and Politics; The American Legal System; Legal Institutions (a Field Seminar in Public Law); Environmental Law Enforcement ; Legal Decisionmaking: Typologies and Models; American Politics and Policy; Environmental Politics, Policy and Law; Responses to Injustice: Legal Claims and Regulation; The Administrative and Regulatory State.