

KATHARINE B. SILBAUGH
PROFESSOR OF LAW
LAW ALUMNI SCHOLAR
Boston University School of Law
765 Commonwealth Ave.
Boston, MA 02215
617/353-3208
silbaugh@bu.edu

February 2012

EDUCATION:

The University of Chicago Law School

J.D. 1992 with High Honors, Order of the Coif
Articles Editor, *The University of Chicago Law Review*
Illinois Women's Bar Association Scholarship for the
outstanding woman law student at each Illinois law school

Amherst College, Amherst, Massachusetts

B.A. 1985, *magna cum laude* in English Literature

EMPLOYMENT:

Boston University School of Law

Professor of Law, 1999 – present
Associate Dean for Academic Affairs, July 2004 – July 2006
Associate Professor, 1993 – 1999
Law Alumni Scholar, 2007-present

Chuo University, Tokyo, Japan

Visiting Professor, November 2007

Harvard Law School, Cambridge, Massachusetts

Visiting Professor of Law, 2006-07 academic year
Visiting Professor of Law, F2009

Honorable Richard A. Posner, U.S. Court of Appeals for the Seventh
Circuit, Chicago, Illinois, Law Clerk, 1992-1993

Williams & Connolly, Washington, D.C.

Summer Associate, 1991

The National Women's Law Center, Washington, D.C.

Summer Law Clerk, 1991

Miller, Shakman, Hamilton & Kurtzon, Chicago, Illinois

Summer Associate, 1990

PUBLICATIONS

Forthcoming

1. An Overview of State Anti-Bullying Legislation and other Related Laws, (with Dena T. Sacco, Felipe Corredor, June Casey, and Davis Doherty) for the Youth Meanness & Cruelty Project, Berkman Center for Internet & Society, Harvard University (*forthcoming* 2012)

In Print

Books

1. ESSENTIALS OF FAMILY LAW, (Aspen 2009) 198 pp., with Katharine K. Baker.
2. A GUIDE TO AMERICA'S SEX LAWS (Chicago 1996) 243 pp., with Richard A. Posner (paperback 1998)

Articles, Book Chapters, Essays

1. Unsex the End of Men, in *Unsex Mothering: Online Colloquium*, **Harvard Journal of Law and Gender** (2012) <http://harvardjlg.com/2012/02/unsex-mothering-online-colloquium/>
2. Architecture of Legal Feminism, **Issues in Legal Scholarship**: Vol. 9 Iss. 2 (Article), Article 6 (2011) <http://www.degruyter.com/view/j/ils.2011.9.issue-2/1539-8323.1139/1539-8323.1139.xml>
3. Testing as Commodification, 35 **Wash. U. J. L. & Pol'y** 309 (2011).
4. Deliverable Male, 34 **Seattle University L. Rev.** 733 (2011).
5. Sprawl, Family Rhythms, and the Four-Day Work Week, 42 **Conn. L. Rev.** 1267 (2010).
6. Cleveland v. LaFleur, **ENCYCLOPEDIA OF THE SUPREME COURT OF THE UNITED STATES** (Macmillan 2008).
7. Califano v. Westcott, **ENCYCLOPEDIA OF THE SUPREME COURT OF THE UNITED STATES** (Macmillan 2008).
8. Katharine B. Silbaugh, Developments in U.S. Products Liability Law: Defining a Defect in Product Design (trans. by Megumi Takahashi), Vol XLII **Comparative Law Review** No. 2, 117-148 (2008).
9. Women's Place: Urban Planning, Housing Design, and Work-Family Balance, 76 **Fordham L. Rev.** 1797 (2007)

10. WalMart's other Woman Problem: Sprawl and Work-Family Balance, 39 **Conn. L. Rev.** 1715 (2007)
11. *Money as Emotion in the Distribution of Wealth at Divorce*, chapter in Robin Fretwell Wilson, ed., RECONCEIVING THE FAMILY: CRITIQUE ON THE AMERICAN LAW INSTITUTE'S PRINCIPLES OF THE LAW OF FAMILY DISSOLUTION 234 (Cambridge 2006)
12. *The Practice of Marriage*, 20 **Wisconsin Women's Law Journal** 189 (2005)
13. *Is The Work-Family Conflict Pathological or Normal under the FMLA? The Potential of the FMLA to Cover Ordinary Work-Family Conflicts*, 15 **Wash. U. J.L. & Pol'y** 193 (2004)
14. *After Goodridge: Will Civil Unions Do?* **Jurist** <http://jurist.law.pitt.edu/forum/silbaugh1.php> (February 11, 2004)
15. *Proliferation*, 12 **Columbia Journal of Gender and Law** 462 (2003)
16. *Sex Offenses: Consensual*, encyclopedia entry, **ENCYCLOPEDIA OF CRIME AND JUSTICE**, 2d ed., Vol. 4, pp 1465-75 (MacMillan 2002)
17. Guest-editor of Symposium, CONCEPTIONS OF CARE WORK, Volume 76, No. 3, Chicago-Kent Law Review 2001 (selected topic and participants)
18. Foreword, *The Structures of Care Work*, 76 **Chi-Kent L. Rev.** 1389 (2001)
19. *Gender and Non-financial Matters in the ALI Principles of the Law of Family Dissolution*, 8 **Duke J. of Gender L. & Pol'y** 203 (2001)
20. *Accounting for Family Change*, (review of "From Parents to Partners" by June Carbone), 89 **Georgetown L. J.** 923 (2001)
21. *One Plus One Makes Two*, review of "Alone Together" by Milton Regan, 4 **The Green Bag 2d**, 109 (Autumn 2000)
22. Conference transcript, "New Directions in Feminist Legal Theory," at conference entitled "Unbending Gender, Why Work and Family Conflict and What to Do About It," 49 **American University L. Rev.** 943-985 (2000)
23. *Miller v. Albright: Problems of Constitutionalization in Family Law*, 79 **B.U. L. Rev.** 1139 – 1160 (1999)
24. *Marriage Contracts and the Family Economy*, 93 **Northwestern L. Rev.** 65-143 (1998)
 Edited version reprinted in Fineman, et al, eds., FEMINISM MEETS ECONOMIC MAN (2005)

25. *Grounded Applications: Feminism and Law at the Millennium*, 50 **Maine L. Rev.** 201-209 (1998)
26. *The Polygamous Heart?*, a review of Arlie Hochschild's *The Time Bind*, 1 **Green Bag 2d** 97-100 (1997)
27. *Commodification and Women's Household Labor*, 9 **Yale J. Law & Fem.** 81-121 (1997)
Edited version reprinted in Fineman, ed., *FEMINISM MEETS ECONOMIC MAN* (2005)
28. Foreword, *Symposium on Transracial Adoption*, 6 **B.U. Pub. Int. L. J.** 381-383 (1997)
29. *Turning Labor Into Love: Housework and the Law*, 91 **Northwestern L. Rev.** 1-86 (1996)
30. *Intrusive Law Reform?*, 76 **Boston University Law Rev.** 193-99 (Feb./Apr. 1996)
31. Comment, *Sticks and Stones Can Break My Name: Nondefamatory Negligent Injury to Reputation*, 59 **U. Chicago L. Rev.** 865-95 (1992)

SELECT LECTURES/PRESENTATIONS/PANELS (reverse chronological):

1. (scheduled) **Northeastern University Law School**, presenter, Symposium on School Bullying, March 30, 2012
2. (scheduled) **Harvard University's Berkman Center for Internet & Society** Presenting research of the Law and Policy working group, "An Overview of State Anti-Bullying Legislation and other Related Laws," at the Symposium on Youth Meanness and Cruelty (with the support of The Born This Way Foundation and the MacArthur Foundation), February 29, 2012.
3. **Harvard Law School**: Unsexing Mothering Conference, February 13, 2012 (online colloquium respondent)
4. **Boston University School of Law**: panel, Bully No More?, April 12, 2011
5. **Boston University School of Law**: panel, Surrogacy and Assisted Reproductive Technology, OUTLAW, February 24, 2011
6. **Harvard Law School**: commentator on Jeannie Suk's, "The Look in His Eyes: The Story of State v. Rusk and Rape Reform," HLS Institute for Global Law and Policy and HLS Program on Law and Social Thought, February 23, 2011

7. **Adolescent Consultative Services:** “Antibullying Legislation in Massachusetts” at Forum, , The Real Work Against Kids Bullying Kids: New Legislation, Ongoing Research, and ACS Interventions, Union Club Boston, November 16, 2010
8. **Boston University School of Law:** panel discussion, Same Sex Marriage and Prop 8: Making a Federal Case out of Marriage, September 20, 2010
9. **Harvard Law School:** panel discussion, “Questions of Conscience? Religious Exemptions to Same Sex Marriage Laws,” April 15, 2010
10. **Washington University School of Law:** presented paper, “Testing as Commodification,” at symposium conference, “For Love or Money?”, March 26, 2010
11. **University of Connecticut:** presented paper, “Sprawl, Family Rhythms, and the Four-Day Work Week,” at conference “Redefining Work: Implication of the Four-Day Work Week,” October 30, 2009
12. **Bar Ilan University (Ramat Gan, Tel Aviv, Israel):** Faculty workshop, March 4, 2008
13. **Chuo University (Tokyo, Japan):** Employment At-Will in the United States, Lecture, November 16, 2007
14. **Chuo University (Tokyo, Japan):** Developments in Products Liability Law: Ideas and Interests, Faculty Workshop, November 13, 2007
15. **University of Wisconsin:** “Women’s Place: Urban Planning, Housing Design, and Work-Family Balance,” New Legal Realism meets Feminism & Legal Theory II: Empirical Perspectives on the Place of Law in Women's Work and Family Lives, October 6, 2007
16. **University of Colorado:** “Women’s Place: Urban Planning, Housing Design, and Work-Family Balance” Second Annual Colloquium on Current Scholarship in Labor and Employment, September 28, 2007
17. **Harvard Law School:** panel, “Race, Gender, and Sexuality in the Military,” GALLA Conference on Don’t Ask Don’t Tell, March 3, 2007
18. **Harvard Law School:** panel, “Rewriting the Rules,” Women’s Law Association conference on Rewriting the Rules, February 16, 2007
19. **Harvard Law School:** debate, “Is same-sex marriage good for the country?” versus Maggie Gallagher, President, Institute for Marriage and Public Policy, November 6, 2006

20. **Hofstra University School of Law:** “the Architecture of Equality”, conference on Dimensions of Women’s Equal Citizenship, November 3, 2006
21. **University of Connecticut Law School:** “Walmart’s other Woman Problem”, WalMart Matters Conference, October 21, 2006
22. **Boston University School of Law:** “The role of Marriage in the Schiavo case”, Conference on Terri Schiavo—One Year Later, March 31, 2006
23. **Wisconsin School of Law:** “The Practice of Marriage”, keynote address for a symposium on the 20th anniversary of a law journal, December 5, 2005
24. **Boston University School of Law:** “*Lawrence v. Texas* and Constitutional Historicism: A Comment on Jack Balkin”, Lochner Centennial Conference (October 15, 2004)
25. **Harvard Law School:** “Nonfinancial Aspects of Marriage: The Property Illustration,” Conference on the ALI’s Principles of the Law of Family Dissolution (October 14, 2004)
26. **Boston Bar Association,** Continuing Legal Education Series on the practical implications of the *Goodridge* same-sex marriage decision, presentation on the Defense of Marriage Act and federal-state marital status disparity (May 25, 2004)
27. **Wisconsin Public Radio:** Sole guest for a one-hour public radio broadcast throughout Wisconsin, Minnesota, Michigan and Illinois offering legal analysis on the first day Massachusetts issued marriage licenses to same sex couples, May 17, 2004, re-broadcast available at <http://www.wpr.org/merens/index.cfm?strDirection=Prev&dteShowDate=2004%2D05%2D17%2016%3A00%3A00>
28. **Washington University School of Law:** Presented Paper, “Women’s Place: Urban Planning and Work-Family Balance”, Faculty Workshop, April 27, 2004
29. **Washington University Interdisciplinary Public Policy Workshop:** Presented Paper, “Women’s Place: Urban Planning and Work-Family Balance”, Olin Center, Department of Economics, April 26, 2004
30. **Northeastern University School of Law:** delivered talk on Globalization of Caregiving Labor at Conference on Progressive Lawyering, Globalization, and Markets, November 7, 2003
31. **Harvard Law School:** Invited Closed Working Group on “Taking a Break from Feminism,” November conference, November 14, 2003

32. **Expert Testimony before the Joint Committee on the Judiciary, Massachusetts Statehouse**, on H. 3677, a bill to extend marriage benefits without regard to gender, October 23, 2003
33. **University of California, Berkeley School of Law, Boalt Hall:** Commodification and Women's Household Labor, Legal Theory Workshop, October 10, 2002
34. **University of Maine Law School:** Care Work and Equality, Conference on Law, Labor and Gender, September 14, 2002
35. **Harvard Law School:** Pro-Marriage Initiatives, Harvard Law School, conference, "25 Years of Feminism & Legal Theory," March 9, 2002
36. **New England School of Law:** presenter and organizer of panel entitled "Redefining Family" at a Conference in Memory of Mary Joe Frug, March 30-31, 2001
37. **University of Toronto:** Canadian Law and Economics Association Annual Meeting, commentator, panel entitled, "Women, Work, and Family," September 22, 2000
38. **American University Law School:** Facilitator of Workshop, *Identities, Intimacies, and Cash: Re-Theorizing Commodification*, American University, Washington College of Law, Washington, DC, June 23-24, 2000 (selected readings and lead discussion of Intimacies and Commodification)
39. **Yale Law School:** Invited Participant in Working Group, "Work, Family, and Citizenship," at a working conference by invitation only, entitled, "Women, Justice & Authority," April 28-20, 2000
40. **Harvard Law School:** Invited participant in all-day Roundtable Discussion, "Child Care, Women's Work and Development Policy," April 21, 2000
41. **American University Law School:** Presented Family Labor as Work, in "New Directions in Feminist Legal Theory," at conference entitled "Unbending Gender, Why Work and Family Conflict and What to Do About It," November 19, 1999
42. **Yale Law School:** Presented paper, "Marriage Contract and the Family Economy," Workplace Theory and Policy Seminar of Professor Vicki Schultz, April 5, 1999
43. **Cornell Law School:** Presentation, "Family Work," at conference entitled New Directions in Family Law, February 28, 1999

44. **The Association of American Law Schools Annual Meeting:** Presentation, “Domestic Workers,” Workshop on Work, Workers and Law in the 21st Century, New Orleans, Louisiana, January 7, 1999
45. **University of Maine School of Law:** Delivered paper, “Grounded Applications: Feminism and Law at the Millenium” at Conference: Feminism, Law, and the Twenty-first Century: Priorities and Practicalities, Saturday, April 4, 1998
46. **Harvard Law School:** Panel presentation, “Contemporary Challenges to Gender Equality,” at Conference entitled Reason, Passion and the Progress of Law: Remembering and Advancing the Constitutional Vision of Justice William J. Brennan, March 14, 1998
47. **Columbia University Law School:** Delivered paper, “Marriage Contracts and the Family Economy,” Feminism and Legal Theory Colloquium, March 13, 1998
48. **Harvard Law School:** Lecture to LLM students, “An Introduction to Feminist Jurisprudence,” October 24, 1997
49. **National Public Radio:** Guest with Laurence Tribe for one hour of Talk of the Nation, June 10, 1997
50. **Columbia University Law School:** Delivered paper, “Commodifying Women’s Household Labor,” Feminism and Legal Theory Colloquium, March 15, 1997
51. **Yale Law School:** Delivered paper, “Commodifying Women’s Household Labor,” Challenging Boundaries Conference, November 10, 1996
52. **Boston University School of Law:** Moderator of panel, “Is Welfare Reform Working?” April 11, 1996
53. **The University of Connecticut School of Law:** Panelist, “Women at Home in New Market Economies,” Conference on the Status of Women in New Market Economies, April 14, 1996
54. **The University of Chicago Law School:** Lecture, “Taxation and the Legal Treatment of Homemakers’ Domestic Labor,” Chicago, Illinois, January 18, 1996
55. **The Law and Society Annual Conference:** Chair of panel, “The Boundaries of the Law,” Toronto, Ontario, June 4, 1995
56. **The Law and Society Annual Conference:** Delivered paper: *Turning Labor into Love: The Legal Treatment of Housework*, Toronto, Ontario, June 3, 1995

57. **Boston University School of Law:** Faculty Workshop, *The Law of Housework*, work-in-progress, May 4, 1995
58. **Boston University School of Law:** Commentator on Anita Bernstein's, *Better Living through Crime and Tort*, The Conference on the Crime/Tort Distinction, April 1, 1995
59. **Harvard School of Public Health:** Lecture, *Theories of Equal Treatment Under Law: The Case of Gender*, December 7, 1994

TEACHING:

Torts, Fall 1993, 1994, 1995, 1997, 1998, 2000, 2003, 2004, S2007, F2008
 Family Law, Spring 1994, 1995, 1996, 1997, 1998, 1999, S2003, S2004, F2010
 Women and the Law, S1995, F1995, S1997, S1998, F1998, F2000
 Education Law, S2009
 Education Law and Policy F2009, F2010
 Employment Law, S2001, F2006
 Employment Discrimination, F2001, F2002
 Women, Work and Families, F2001, S2003, S2005
 Gender, Law and Policy Colloquium, S2009
 Legislation, S2010, S2011

AMICUS BRIEFS

1. **2011 Amicus** in *Nancy Gill et al v. Office of Personnel Management, et al*, Amici Curiae Katharine Silbaugh and Professors of Family Law, U.S. Court of Appeals for the First Circuit addressing a Constitutional challenge to the federal Defense of Marriage Act (DOMA) as applied to married Massachusetts couples of the same sex and as applied to the State of Massachusetts. <http://www.glad.org/uploads/docs/cases/gill-v-office-of-personnel-management/2011-11-03-gill-v-opm-amici-family-child-welfare.pdf>
2. **2007 Amicus** in *Margaret Chambers v. Cassandra Ormiston*, Silbaugh, Katharine, et al., On a Certified Question from the Supreme Court, Brief Amici Curiae of Professors of Conflict of Laws and Family Law, State of Rhode Island Supreme Court, addressing whether a Rhode Island family court has jurisdiction in the matter of a divorce filing by a same sex Rhode Island couple who were married in Massachusetts, 2007
3. **2007 Amicus** in *Long Island Care at Home, Ltd. and Mary Osborne v. Evelyn Coke*, Brief of Law Professors and Historians on writ of Certiorari to the U.S. Court of Appeals for the Second Circuit, March 2007, addressing the history of domestic service under the Fair Labor Standards Act

4. **2006 Amicus** in *Elizabeth Kerrigan, et al. Commission of Public Health*, before the Supreme Court of the State of Connecticut, Brief of The Family Law Practitioners and Professors of Family Law, December 11, 2006
5. **2005 Amicus** in *Cote-Whitacre, et al v. Department of Health, et al*, before the Massachusetts Supreme Judicial Court, Brief of Amicus Curiae Professors of Conflict of Laws and Family Law, addressing the use of a 1913 law to prevent out of state residents from marrying in Massachusetts, 2005
6. **2004 Signatory** to Law Professors brief to the Massachusetts Supreme Judicial Court on whether Civil Unions comply with the *Goodridge* opinion, January 2004, authored by Laurence Tribe
7. **2002 Drafted amicus brief in same sex marriage case**, *Brief for Monroe Inker and Charles Kinregan, Amici Curiae, Goodridge et al v. DPH, Commonwealth of Massachusetts*, Supreme Judicial Court, No. SJC 08860 (November 8, 2002), before the Massachusetts Supreme Judicial Court, 2002

HONORS

- **Named *Law Alumni Scholar***, 2007
- **Recipient, Dean's Award for Service to the Law School**, 2006
- **Recipient, Michael Melton Award for Teaching Excellence**, 2004

SELECT MISCELLANEOUS ACTIVITIES:

- **Antibullying Compliance Task Force**, Fall 2010, drafted plan for submission to DESE as required by recently passed Massachusetts Antibullying legislation
- **MomsRising.org**, Advisory Committee drafting model state legislation on Family Responsibility Discrimination, 2007
- Advisory Board Member, **Harvard Journal of Law and Gender**, 2007 – present
- Organized student research on behalf of the **Save the Court Project** for the Democratic Party in the Presidential election, 2004
- Prepublication **Peer Reviews** for the Oxford University Press, 1994, 1998, 2007
- **Tenure reviews/ad hoc** for other universities, 1998, 2000, 2003, 2004, 2005, 2010, 2011
- Board of Directors, Executive Committee, **The Brookline Education Foundation**, raises funds and provides grants to support innovative teaching and professional development in the public schools, 2007-present
- **Yes! Brookline** Campaign Steering Committee, 2008 (successful Proposition 2 ½ override)
- Board of Overseers, **The Epiphany School**, a tuition-free middle school serving children of low-income families in Dorchester 2005-present
- School Council, co-chair, Amos A. Lawrence School, Brookline, Massachusetts, 2008 – 2011 significant input on compliance with mandates of the No Child Left Behind Law and on anti-bullying legislation)

- Brookline Extension and Challenge Support Committee, co-chair, 2008-2011 (significant input on development of education policy, e.g. grouping practices)
- Co-Chair, Issues and Advocacy Committee, Women's Statewide Legislative Network, 1996-1997
- Cited and quoted in numerous mainstream media including the New York Times, the Christian Science Monitor, and The Boston Globe, and several appearances on radio and television broadcasts including the O'Reilly Report, the CBS morning show, The Huffington Post, and regional and national radio programs
- Admitted to the Illinois Bar, 1992