
Mailing Address: American University Washington College of Law
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Faculty appointments

American University Washington College of Law

Professor Emerita (2019-present); Professor (1993—2018); Associate Professor (1990-1993); Assistant Professor (1987-1990)

Courses: Family Law, Children of LGBT Parents seminar, Civil Procedure. Previous courses: Sexuality and the Law seminar, Family Law Theory and Policy seminar, externship seminar, public interest law clinic, clinical seminar

Georgetown University Law Center

Visiting Professor of Law (Spring 2015)

Courses: Family Law I: Marriage and Divorce, Family Law Seminar: Children of LGBT Parents

UCLA School of Law

Visiting McDonald/Wright Chair of Law and Faculty Chair of the Williams Institute (Fall 2011- Fall 2012); Visiting Professor of Law (Spring 2017); Affiliated Scholar, the Williams Institute (2019-present)

Courses: Family Law, Children of LGBT Parents, Women and the Law, Law and Sexuality

University of Arizona James E. Rogers College of Law

Visiting Professor (2004-2005)

Publications

Book

BEYOND (STRAIGHT AND GAY) MARRIAGE: VALUING ALL FAMILIES UNDER THE LAW (Beacon Press 2008).

Articles, essays and book chapters (selected)

"Foreword: Strengthened Bonds: Abolishing the Child Welfare System and Re-Envisioning Child Well-Being," 11 COLUMBIA J. RACE AND L. 427 (2021)(with Jane M. Spinak)

"Neglected Lesbian Mothers," 52 FAM. L. Q. 87 (2018).

"Marriage as Blindspot: What Children of LGBT Parents Need Now," in Carlos Ball, ed., AFTER MARRIAGE EQUALITY: THE FUTURE OF LGBT RIGHTS (2016)

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"Concord with which Other Families? Marriage Equality, Family Demographics, and Race," 164 U. PENN. L. REV. ONLINE 99 (2016)

"From Third Parties to Parents: The Case of Lesbian Couples and their Children," 77 L. & Contemp. Probs. 195 (2014).

"What Marriage Equality Arguments Portend for Domestic Partner Employee Benefits," 37 N.Y.U. REV. L. & SOC. CHANGE 49 (2013).

"Two Parts of the Landscape of Family in America": Maintaining Both Spousal and Domestic Partner Employee Benefits for Both Same-Sex and Different-Sex Couples, 81 FORDHAM L. REV. 735 (2012).

And Baby Makes...How Many? Using In re M.C. to Consider Parentage of a Child Conceived Through Sexual Intercourse and Born to a Lesbian Couple, 100 GEO. L. J. 2015 (2012).

The New "Illegitimacy": Winning Backward in the Protection of the Children of Lesbian Couples, 20 AM. U. J. GENDER, SOC. POL'Y & L 721 (2012).

A Mother Should Not Have to Adopt Her Own Child: Parentage Laws for Children of Lesbian Couples in the Twenty-First Century, 5 STANFORD J. CIV. RTS. & CIV. LIB. 201 (2009).

Equality and Justice for Lesbian and Gay Families and Relationships, 61 RUTGERS L. REV. 529 (2009).

Valuing All Families: An Introduction to the 2008 Santa Clara Law Review Symposium, 48 SANTA CLARA L. REV. 741 (2008).

For the Sake of All Children: Opponents and Supporters of Same-Sex Marriage Both Miss the Mark, 8 N.Y. CITY L. REV. 901 (2005).

Making Marriage Matter Less: The ALI Domestic Partner Principles are a Step in the Right Direction, 2004 U. CHI. LEGAL FORUM 353.

Ending Marriage as We Know It, 32 HOFSTRA L. REV. 201 (2003).

Lesbian and Gay Couples Raising Children: The Law in the United States, in R. Wintemute, M. Andenaes, eds., RECOGNITION OF SAME-SEX PARTNERSHIPS: A STUDY OF NATIONAL, EUROPEAN, AND INTERNATIONAL LAW (2001).

The Impact of Troxel v. Granville on Lesbian and Gay Parents, 32 RUTGERS L. J. 825 (2001).

Recognizing Partners but Not Parents / Recognizing Parents but Not Partners: Gay and Lesbian Family Law in Europe and the United States, 17 N.Y.L. SCH. J. HUM. RTS. 711 (2000).

Breaking the Link between Biology and Parental Rights in Planned Lesbian Families: When Semen Donors

are Not Fathers, 2 GEO. J. GENDER & L. 57 (2000).

Why Lesbians and Gay Men Should Read Martha Fineman, 8 AM. U. J. GENDER, SOC. POL'Y & L. 167 (2000).

Raising Children: Lesbian and Gay Parents Face the Public and the Courts, in J. D'Emilio, W. Turner, U. Vaid, eds., CREATING CHANGE: PUBLIC POLICY, CIVIL RIGHTS AND SEXUALITY (2000).

Family Law and Gay and Lesbian Family Issues in the Twentieth Century, 33 FAM. L. Q. 523 (1999) (with David Chambers).

Resisting "Don't Ask, Don't Tell" in the Licensing of Lesbian and Gay Foster Parents: Why Openness Will Benefit Lesbian and Gay Youth, 48 HASTINGS L. J. 1183 (1997).

Context and Common Sense: The Family Law Jurisprudence of Julia Cooper Mack, 40 HOWARD L. J. 443 (1997).

Am I My Client? The Role Confusion of a Lawyer Activist, 31 HARV. CIV. RTS.-CIV. LIB. L. REV. 443 (1996).

The Deliberate Construction of Families Without Fathers: Is It an Option for Lesbian and Heterosexual Mothers? 36 SANTA CLARA L. REV. 375 (1996).

The Social Construction of Parenthood in One Planned Lesbian Family (and accompanying brief *amicus curiae* in *Thomas S. v. Robin Y.*), 22 N.Y.U. REV. L. SOC. CHANGE 203 (1996).

We Will Get What We Ask For: Why Legalizing Gay and Lesbian Marriage Will Not "Dismantle the Legal Structure of Gender in Every Marriage", 79 VA. L. REV. 1535 (1993).

This Child Does Have Two Mothers: Redefining Parenthood to Meet the Needs of Children in Lesbian-Mother and Other Nontraditional Families, 78 GEO. L.J. 459 (1990).

Gender and Child Custody: Exploding the Myths, in FAMILIES, POLITICS AND PUBLIC POLICY: A FEMINIST DIALOGUE ON WOMEN AND THE STATE, Irene Diamond, ed., (Longman 1983).

Custody Rights of Lesbian Mothers: Legal Theory and Litigation Strategy, 25 BUFFALO L. REV. 691 (1976) (with Nan D. Hunter).

Other (selected)

Rewritten opinion, *Daly v. Daly*, in Rachel Rebouche, ed., FEMINIST JUDGMENTS: FAMILY LAW OPINIONS REWRITTEN (2020)

Comment, *K.M. v. E.G.*, in Kimberly M. Mutcherson, ed., FEMINIST JUDGMENTS: REPRODUCTIVE JUSTICE REWRITTEN (2020)

Cameo, *Why the Law Shouldn't Value Marriage More than Other Relationships...and Why I Choose It Anyway*, in Elizabeth F. Schwartz, BEFORE I DO (2016)

Op-ed: *A New Family Form but an Old Question*, WASHINGTON POST (4/1/2016).

Comment, *Stanley v. Illinois*, in Linda Berger, Bridget Crawford & Kathy Stanchi, eds, *FEMINIST JUDGMENTS: REWRITTEN OPINIONS OF THE UNITED STATES SUPREME COURT* (2016)

Contributor, *OUT AND ABOUT: THE LGBT EXPERIENCE IN THE LEGAL PROFESSION* (American Bar Association 2015)

Book review, *The Supportive State: Families, Governments, and America's Political Ideals* by Maxine Eichner, 46 L. & SOC. REV. 447 (2012).

Op-ed: *Another Way for Catholic Charities to Live with Same-Sex Marriage*, WASH. POST (12/13/09).

Op-ed: *Children of No One*, LOS ANGELES TIMES (5/20/08).

Op-ed: *Marriage Isn't the Half of It*, LOS ANGELES TIMES (3/3/08).

Book Review, *Making Babies, Making Families: What Matters Most in an Age of Reproductive Technologies, Surrogacy, Adoption, and Same-Sex Couples* by Mary Shanley, WOMEN'S REVIEW OF BOOKS (September 2001).

Book Review, *What is Marriage For? The Strange History of Our Most Intimate Institution*, WOMEN'S REVIEW OF BOOKS (October 1999).

Academic and conference presentations (selected)

Chair, Author Meets Reader, *Torn Apart: How the Child Welfare System Destroys Black Families and How Abolition Can Build a Better World* and *Prosecuting Poverty, Criminalizing Care*, Law and Society Annual Meeting, San Juan, 2023.

Co-chair, Strengthened Bonds: Abolishing the Child Welfare System and Re-Envisioning Child Well-Being Symposium, Columbia Journal of Race and Law, June 2021.

Presenter, "The Changing Face of Parentage," National LGBT Bar Association Career Fair and Conference, New York City, August 2018.

"Invisible and Ignored: LGBT Parents in the Child Welfare System," Law and Society Association Annual Meeting, Toronto, June 2018.

Presenter, "The Changing Face of the American Family," AALS Annual Meeting, San Diego, CA, January 2018.

Panelist, "Beyond Same-Sex Marriage: Ten Years Later," After Marriage: The Future of LGBTQ Politics and Scholarship, City University of New York, New York, October 2016.

Panelist, "After Marriage Equality: What is Next for the LGBT Movement," Law and Society Association

Annual Meeting, New Orleans, LA, June 2016.

Luncheon Speaker, "The Role of the Legal Scholar in a Changing World," AALS Workshop for New Law Teachers, Washington DC, June 2016.

Plenary speaker, "Children," Family Law Institute, Chicago, IL, August 2015.

Plenary speaker, "Family Matters," Woodhull Sexual Freedom Alliance Summit, Alexandria, VA, August 2015.

Panelist, "After Marriage," American Constitution Society National Convention 2015, Washington, DC, June 2015.

Presenter, "Progressives Critiques of Family Law," Rebellious Lawyering Conference 2015, Yale Law School, New Haven, CT, February 2015.

Plenary speaker, "The Times They Are a'Changin'," National Child Support Enforcement Association 2015 Policy Forum, Washington, DC, February 2015.

Plenary speaker, "Beyond Marriage Equality: A Social Justice, Public Interest Perspective for Students and New Lawyers," SALT Teaching Conference: Legal Education in a Time of Change: Challenges and Opportunities, UNLV William S. Boyd School of Law, Las Vegas, Nevada, October 2014.

"Derailing Parentage Gains for Same-Sex Couples by Focusing on Marriage: *DeBoer v. Snyder* and Beyond," Plenary Session: New Frontiers, AALS Mid-Year Workshop on Sexual Orientation and Gender Identity Issues, Washington, DC, June 2014.

"Marriage as Blind Spot: What Same-Sex Marriage Advocacy Doesn't Say about LGBT Parents," 14th Annual Stonewall Lecture, Dartmouth College, Hanover, NH, April 2014.

"LGBT Parentage After Marriage Equality: Challenges for the Future," After *Windsor*: Changing Marriage Laws in the USA, University of Virginia Law School, Charlottesville, VA, February 2014.

"Brilliance and Blindspots: Past and Future Challenges in Protecting LGBT Parents," Courting Justices: LGBT Law Advances in the 21st Century, AALS Section on Sexual Orientation and Gender Identity Issues, AALS Annual Meeting, New York, NY, January 2014.

Keynote speaker, Frontiers in LGBT Family Law, Philadelphia Bar Association et al, Philadelphia, PA, October 2013.

Panelist, "Crossing Borders, Shifting Rights: Securing Legal Parenthood for Children Conceived via Assisted Reproduction," National LGBT Bar Association Career Fair and Conference, San Francisco, CA, August 2013.

Plenary Speaker, "Visiting Today's Modern Family," National Child Support Enforcement Association Annual Meeting, Baltimore, MD, August 2013.

"From Third Parties to Parents: The Case of Same-Sex Couples," Law and Contemporary Problems Symposium, Duke Law School, Durham, NC, April 2013.

"Educating Judges about LGBT Parents," National Consortium on Racial and Ethnic Fairness in the Courts Annual Conference, Washington, DC, March 2013.

Panelist, "Families," Liberty/Equality: The View from *Roe's* 40th and *Lawrence's* 10th Anniversaries, UCLA School of Law, Los Angeles, January 2013.

"Equality and Justice for Lesbian and Gay Families and Relationships," McDowell Conference on Philosophy and the Family, American University, Washington, DC, October 2012.

Panelist, "Family Formation: Parentage," and Faculty, Family Law Institute, National LGBT Bar Association Career Fair and Conference, Washington, DC, August 2012.

Panelist, "Contemporary LGBT Sexualities and Social Justice," American Sociological Association Annual Meeting, Denver, CO, August 2012.

Chair, "Author Meets Reader: 'Invisible Families: Gay Identities, Relationships, and Motherhood Among Black Women';" Discussant, "Challenges to the Normative Marital Family;" Reader, "Author Meets Reader: 'Transforming Law's Family: The Legal Regulation of Planned Lesbian Motherhood,'" Law and Society Association Annual Meeting, Honolulu, June 2012.

Keynote speaker, "Family Matters," Midwest LGBT Law Conference, Washington University School of Law, St. Louis, MO, March 2012.

Panelist, "Relationship Recognition and the Future of LGBT Rights," Defense of Marriage Act: Law, Policy and the Future of Marriage, Fordham Law Review Symposium, New York, March 2012.

Speaker, Global Project for LGBT Rights and Feminism, Chapman Law School, Orange, CA, January 2012.

Panelist, "State Strategies on Creating Positive Change in Laws and Policies Affecting LGBT Families," National Conference on LGBT Equality: Creating Change, Baltimore, MD, January 2012.

"And Baby Makes....How Many?" Georgetown Law Journal Symposium, Georgetown Law Center, Washington, DC, November 2011.

Panelist, "LGBT Families," LGBT Identity and the Law, Loyola Law School, Los Angeles, October 2011.

Panelist, "The Struggle for LGBT Equality: A Conversation about Ends, Means, and the Path Ahead," American Constitution Society Convention, Washington, DC, June 2011.

"Recognition of Same-Sex Relationships," Reproductive Rights, Sexuality, and Public Policy, The Obama Administration and Human Rights, American University, Washington, DC, April 2011.

“Evaluating Advocacy Options for Protecting the Children of Lesbian and Gay Parents: Winning Backward or Incremental Gain?” The “New Illegitimacy”: Revisiting What Parentage Should Not Depend on Marriage, American University Washington College of Law, Washington, DC, March 2011. (I was also the primary organizer of this conference).

Panelist, “Debating the Future of Marriage,” *Boston Review* Ideas Matter Series, MIT, Cambridge, MA, March 2011.

“Beyond Marriage,” AALS Workshop on Changing Society, Changing Law: Conflicts over Sexuality and the Evolving American Family, AALS Annual Meeting, San Francisco, January 2011.

Reader, “Author Meets Reader: ‘From the Closet to the Courtroom: Five LGBT Lawsuits That Have Changed Our Nation’,” Law and Society Association Annual Meeting, Chicago, June 2010.
Commentator, “Theories Behind Multidimensional Advocacy,” Sexuality and Gender Law: Assessing the Field, Envisioning the Future, UCLA Law Review Symposium, February 2010.

Keynote Address, Family Law Institute, and “Great LGBT Books: Author and Commentators” (*Beyond (Straight and Gay) Marriage* selected as focus), National LGBT Bar Association Career Fair and Conference, Brooklyn, New York, September 2009.

“‘I Should Not Have to Adopt My Own Child’: Parentage Laws for Lesbian Couples in the 21st Century,” International Society of Family Law Regional Conference, Tel Aviv, Israel, June 2009.

“Beyond Straight and Gay Marriage,” An Other Sex: 9th Annual Queer Studies Conference, Tel Aviv University, May 2009.

“Beyond (Straight and Gay) Marriage: Valuing All Families under the Law,” Roger S. Aaron ’64 Lecture, Rockefeller Center, Dartmouth College, April 2009.

“Parentage Statutes for Children of Lesbian Couples,” Stanford Journal of Civil Rights and Civil Liberties Symposium, February 2009.

“Democracy’s Dilemma: The Case of Proposition 8,” AALS Executive Committee Program, AALS Annual Meeting, San Diego, CA, January 2009.

“Beyond Straight and Gay Marriage,” State of the Union: Marriage in the Shadow of Electoral Politics, UCLA Center for the Study of Women, October 2008.

“Author Meets Reader: ‘Beyond Straight and Gay Marriage: Valuing All Families Under the Law,’” and Discussant, “Law, Sexuality, and Dependence,” LSA Annual Meeting, Montreal, Canada, May 2008.

“Beyond Straight and Gay Marriage,” Gates Public Interest Law Speaker, University of Washington Law School, April 2008.

“Beyond Marriage,” Equality and Beyond: Envisioning the Future of LGBT Rights, UCLA Williams Institute 7th Annual Update on Sexual Orientation and Gender Identity Law and Public Policy, February 2008.

"Alternative Reproductive Technologies and Lesbian, Gay, Bisexual and Transgender People," Joint plenary session of the AALS Workshop on Family Law and AALS/American Society of Reproductive Medicine Workshop on Reproductive Medicine and the Law, Vancouver, Canada, June 2007.

"Marriage, Conjuality, and the Role of the State: Lesbian Strategies," International Conference on LGBT Human Rights, Montreal, Canada, July 2006.

"Valuing All Families: What is a Comprehensive LGBT Family Policy and Which American Arguments for Same-Sex Marriage Move us Farther Away From It?," International Lesbian and Gay Law Conference 3, University of Toronto, Toronto, Canada, June 2005.

"*Lawrence, Goodridge* and Beyond: The End of Marriage As We Know It?" AALS Annual Meeting, San Francisco, CA, January 2005.

"Lesbian and Gay Parents: Thirty Years of Legal Issues," James R. Browning Symposium on Children and the Law, Montana Law Review, September 2004.

"Ending Marriage as We Know It: Does the Movement for Same-Sex Marriage Divert Attention from a More Just Reform of the Law of Families?" 2004 Family Law Distinguished Scholar Lecture, University of Wisconsin Law School, March 2004.

"Why the ALI Domestic Partners Principles Get it Right," AALS Annual Meeting, Atlanta, January 2004.

"Making Marriage Matter Less: The ALI Domestic Partners Principles are a Step in the Right Direction," University of Chicago Law School, October 2003.

"Ending Marriage as We Know It," International Society of Family Law North American Regional Conference, University of Oregon School of Law, June 2003.

"Lessons Beyond U.S. Borders," Symposium on Marriage, Democracy, and Families, Hofstra Law School, March 2003.

"Parenting by Same-Sex Partners," Conference of the Center for Research and Comparative Legal Studies on Sexual Orientation and Gender Identity, University of Turin, June 2002.

"Same-Sex Marriage, Courts, and Social Change," LSA Annual Meeting, Budapest, July 2001.

"Lesbian and Gay Parents: The Last Thirty Years," Family Law Symposium, University of Pennsylvania Law School, 2000.

"Recognizing Parents but not Partners; Recognizing Partners but not Parents: A Comparison between Europe and the United States," New York Law School, and International Society of Family Law Tenth World Conference, Brisbane, Australia, 2000.

"Breaking the Link between Biology and Parental Rights in Planned Lesbian and Gay Families," Third

Annual Gender, Sexuality, and the Law Symposium, Georgetown University Law Center, 2000.

"A Quarter Century of Lesbian and Gay Parenting Disputes," The Evolving Family: Rights and Duties in Modern Relationships, Cornell Law School, 1999.

"Private Ordering of Parental Relationships in Lesbian and Gay Families," International Society of Family Law Ninth World Conference, Durban, South Africa, 1997.

"The Role of Lesbian and Gay Foster Parents in Responding to the Problems of Queer Youth," Hastings Law School symposium, 1997.

"Private Ordering in Lesbian and Gay Families: Will the Law Recognize What the Parties Create?" Margaret Halpenny Lecture, Faculty of Law, McGill University, Montreal, Canada, 1997.

"Breaking the Link Between Biology and Parental Rights in Planned Lesbian and Gay Families," Feminism and Law Workshop Series, Faculty of Law, University of Toronto, 1997, and International Society of Family Law North American Regional Conference, Quebec, Canada 1996.

"The Deliberate Construction of Families Without Fathers: Is It an Option for Lesbian and Heterosexual Mothers?" Santa Clara University School of Law, 1995.

"Gay and Lesbian Families," Stonewall at 25 Conference, Harvard Law School, 1994.

"Am I My Client? The Role Confusion of a Lawyer-Activist", Theoretics of Practice Conference, Hastings Law School, 1992 and Critical Networks Conference, Northeastern Law School, 1992.

"Ideological Opposition to Lesbian and Gay Parenting," Frontiers of Legal Thought Conference, Duke Law School, 1992.

Employment

Women's Legal Defense Fund
Staff Attorney (1982-1987)

Hunter, Polikoff, Bodley & Bottum, P.C.
(The Washington D.C. Feminist Law Collective)
Attorney and Founding Partner (1976-1981)

Catholic University Columbus School of Law
Instructor (1975-1976)

Education

J.D., Georgetown University Law Center, 1975
M.A., George Washington University, 1980, in Women's Studies

B.A., *magna cum laude*, University of Pennsylvania, 1972, in English

Selected awards and *pro bono* activities

Counsel for *Amici Curiae* Family Law Professors in *Conover v. Conover*, 2016 Md. LEXIS 433, urging recognition of the parental status of a nonbiological mother who planned with her partner for the partner's alternative insemination and functioned as a parent to the child born from that insemination.

Counsel for *Amici Curiae* Lambda Legal and ACLU of Illinois in *Blumenthal v. Brewer*, 2014 IL App (1st) 132250 (2014), *review granted* by Illinois Supreme Court, oral argument held September 23, 2015 (author of *amicus* briefs in Illinois Court of Appeals and Illinois Supreme Court urging overturning 35-year-old precedent that a person may not bring a cause of action against a former nonmarital partner for claims arising from the nonmarital relationship) (2013-2015)

Observer, Uniform Law Commission Drafting Committee to Amend the Uniform Parentage Act and Uniform Law Commission Drafting Committee on Non-Parental Rights to Child Custody and Visitation (2016)

Consultant, Maine Family Law Advisory Commission (advised on groundbreaking parentage legislation) (2013-2015)

National LGBT Bar Association, Dan Bradley Award (the association's highest honor) (2011)

Washington College of Law Innovation in Pedagogy Award (2011)

Washington College of Law Emalee C. Godsey Scholar Award (2010)

Fulbright Specialist Grant, University of Technology Sydney and University of Melbourne (Feb-Apr 2009)

Legislative drafting & testimony on groundbreaking District of Columbia parentage legislation (2007-09)

Successful litigation: *Boswell v. Boswell*, 721 A.2d 662 (Md. 1998) (court may not restrict a gay father's visitation rights with his children absent proof of adverse impact) and *In re M.M.D.*, 662 A.2d 837 (DC 1995) (approving joint & second-parent adoption for same-sex and unmarried different-sex couples)

National Family Law Advisory Council, National Center for Lesbian Rights, 1989-present

Executive Committee Member, Association of American Law Schools Section on Gay and Lesbian Legal Issues (1990-1993); Chair, 1992

District of Columbia Superior Court Child Support Guidelines Committee, appointed by Chief Judge H. Carl Moultrie (1985-1990)