The two newest members of the School of Law faculty, Samuel Bagenstos and Margo Schlanger, have a lot in common. This husband and wife share professional interests and have followed similar career paths. Before coming to Washington University on July 1, 2004, both were assistant professors at Harvard Law School, clerked at different times for Justice Ruth Bader Ginsburg on the Supreme Court of the United States, and worked in the United States Department of Justice’s Civil Rights Division.

Bagenstos returns to St. Louis, where he was born and lived until he was six; he also has ties to Washington University through his mother, Naida Tushnet, PhD ’75, who was working on her doctorate in educational policy at the time. Schlanger grew up in New York and is new to the Midwest. The two are parents of four-year-old twins, Leila and Harry. Completing the family’s sense of homecoming is the children’s going to New City School, which their father attended when he was their age.

### Samuel Bagenstos

Focus on his research in civil rights law, Samuel Bagenstos further specializes in the disability movement and its effect on the law. He is writing a book on this topic, which he has addressed through various papers and articles. These include “Rational Discrimination, Accommodation, and the Politics of (Disability) Civil Rights,” published last year in the Virginia Law Review, and “The Future of Disability Law,” to be published this fall in the Yale Law Journal.

As professor of law at Washington University, he will be teaching Civil Rights Litigation and Labor Law, but his primary teaching focus will be Constitutional Law and a seminar on disability rights law.

Bagenstos started working on cases related to the Americans with Disabilities Act (ADA), passed in 1990, when this legislation was still relatively new. “I found that the ADA raises interesting questions about the goals of civil rights law and, more generally, ways social movements can affect the law,” he says. “I have tried to show that civil rights law should prohibit rational, as well as irrational, discrimination.”

### Samuel Bagenstos

**Education**

- BA ’90, University of North Carolina
- JD ’93, Harvard University

**Professional Experience**

- 1993–94 Law Clerk, Judge Stephen Reinhardt, United States Court of Appeals for the Ninth Circuit
- 1994–97 Attorney, Civil Rights Division, United States Department of Justice
- 1997–98 Law Clerk, Justice Ruth Bader Ginsburg, Supreme Court of the United States
- 1999–2000 Research Fellow and Lecturer in Law, Harvard University
- 2000–04 Assistant Professor of Law, Harvard University

"I have tried to show that civil rights law should prohibit rational, as well as irrational, discrimination."  
Samuel Bagenstos
Margo Schlanger

An authority on jails, prisons, and prisoners' litigation, Margo Schlanger conducts legal and systematic quantitative analyses of the trends and effects of this type of litigation. For example, when she recently examined the effects of congressional litigation reform on civil rights suits brought in federal court, she found that a 1996 statute has made even meritorious suits harder for inmates to both bring and win. Her article, “Inmate Litigation,” published in the Harvard Law Review last spring, is widely considered to be the leading academic treatment of this topic.

Her interest in empirical studies is one of the reasons she joined Washington University as professor of law: “It’s a big plus for me that faculty in the law school collaborate with those in other disciplines on these kinds of studies,” she says.

Schlanger’s empirical studies fit under the “overarching” theme of her research: “how we as a polity use litigation as a regulatory method for major social systems—prisons, schools, housing authorities, and corporations.”

Her teaching and research are directly linked, she adds. “Torts is all about the use of litigation to encourage people and firms to take the appropriate amount of care in activities. Constitutional Law looks at the kinds of interests we use litigation to protect. Prisons & Prison Reform covers notable instances where litigation plays a regulatory role.”

In her seminar on empirical inquiry into civil litigation, Schlanger encourages students to write about “how civil litigation really works—the law in action.” The students produce “cutting-edge research that is useful to others in the academy and in the profession.”

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An experienced appellate advocate, Bagenstos has been involved in a number of ADA cases decided by the Supreme Court. Most recently, he wrote the successful brief for the plaintiffs in Tennessee v. Lane. In the May 17, 2004 ruling, the court held that Congress had constitutional power to require that states make judicial proceedings accessible to people with disabilities.

“In the last few years, the court has considered a number of challenges to Congress’ authority to enact civil rights laws,” he says. “And it has, in all but one case before this one, held that Congress exceeded its authority. The court has, on the whole, been extremely skeptical about broad interpretations of the ADA. So on both fronts, this was a big win.”

Schlanger also was drawn to Washington University because women comprise nearly 43 percent of the tenure-track faculty. With such a large community of women, gender issues are not isolated in one or two “women and law” courses. She says, “The School recognizes that the issues of gender and sexual equality are important enough to be integrated into mainstream classes.”

What ultimately drew Bagenstos and Schlanger to the School of Law, says Bagenstos, is “its terrific intellectual culture, its exciting clinical program, and its good atmosphere. This is a place where things are happening. We got a sense of buzz about Washington University when we talked to our friends in the legal academy.”

**Margo Schlanger**

Education
BA ’89, Yale University
JD ’93, Yale University

Professional Experience
1993–95 Law Clerk, Justice Ruth Bader Ginsburg, Supreme Court of the United States
1995–98 Attorney, Special Litigation Section, Civil Rights Division, United States Department of Justice
1998–2004 Assistant Professor of Law, Harvard University

Schlanger’s empirical studies fit under the “overarching” theme of her research: “how we as a polity use litigation as a regulatory method for major social systems—prisons, schools, housing authorities, and corporations.”

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