

# Kate Shaw

## Experience

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- Benjamin N. Cardozo School of Law** New York, NY August 2011 – present  
*Professor of Law, August 2018-present.*  
*Associate Professor of Law, September 2016-August 2018.*  
*Assistant Professor of Law, August 2013-September 2016.*  
*Visiting Assistant Professor of Law, August 2011-August 2013.*  
**Courses:** Legislation; Administrative Law; The Supreme Court; Elements of Law; Antitrust Law.  
**Service:** Co-Director, Floersheimer Center for Constitutional Democracy, 2015-present; Faculty Advisor, Cardozo Law Review, 2018-present. Previous service includes: Appointments Committee; Faculty Development Committee; Clerkship Committee; Dean’s Distinguished Scholars Committee; Awards Committee; Adjunct Committee; Academic Standards Committee. Help lead annual inter-session trip: “January Seminar: Lawyering in Washington, DC.”
- ABC News** New York, NY January 2015 – present  
*Supreme Court Contributor.*  
Provide commentary and analysis, both on-air and off-air, on the Supreme Court and other legal matters.
- Administrative Conference of the United States** Washington, DC December 2018 – present  
*Public Member.*
- White House Counsel’s Office** Washington, DC January 2009 – July 2011  
*Special Assistant to the President and Associate Counsel to the President.*  
Provided legal advice to the President and senior White House officials on executive orders and presidential memoranda, legislation, vetting and nominations, and agency actions. Focused on national security litigation and congressional investigations, LGBT law and policy, and executive nominations. Served as designated liaison with the Departments of Defense, State, Commerce, Veterans Affairs, and the Intelligence Community.
- Presidential Transition Team** Washington, DC November 2008 – January 2009  
*Associate General Counsel.*  
Helped coordinate the vetting, background investigations, and onboarding of senior presidential appointees; provided ethics advice and general legal guidance to transition staff and incoming White House staff.
- Obama for America** Philadelphia, PA; Washington, DC August 2008 – November 2008  
*Deputy Voter Protection Director, Pennsylvania Campaign for Change; Staff Member, Obama Transition Project.*  
Member of the Obama presidential campaign’s Pennsylvania voter protection operation; beginning in September 2008, assisted with preparations for the 2008 presidential transition, particularly personnel, staffing, and security clearance needs.
- The Honorable John Paul Stevens** Washington, DC July 2007 – July 2008  
**Supreme Court of the United States**  
*Law Clerk.*  
Reviewed cert petitions and prepared recommendation memos; assisted in the drafting of numerous opinions.
- The Honorable Richard A. Posner** Chicago, IL August 2006 – July 2007  
**United States Court of Appeals for the Seventh Circuit**  
*Law Clerk.*  
Assisted in the drafting of numerous opinions and with preparation for oral argument.
- Mayer Brown** Chicago, IL Summers 2005 & 2006  
*Summer Associate.*  
Drafted memos and contributed to multiple briefs and other filings; co-authored pro bono Sixth Circuit *amicus* brief on behalf of the Innocence Network.
- Sargent Shriver National Center on Poverty Law** Chicago, IL Summer 2004  
*Summer Law Clerk.*  
Prepared memos on welfare benefits, domestic violence, and employment discrimination.

## Education

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<b>Northwestern University School of Law</b>	Chicago, IL	May 2006
<i>Juris Doctor, magna cum laude, Order of the Coif</i>		
John Paul Stevens Award for Academic Excellence (awarded for graduating first in class)		
Northwestern University Law Review, <i>Editor-in-Chief</i> , 2005–2006		
Wigmore Prize for Student Scholarship, 2006 (awarded annually to outstanding student comment)		
Public Interest Law Group, <i>Co-President</i> , 2005–2006		
Teaching and Research Assistant to Professor Cynthia Grant Bowman		
Illinois Women’s Bar Foundation Fellow		
<b>Brown University</b>	Providence, RI	May 2001
<i>Bachelor of Arts in Religious Studies and Gender Studies with Honors, magna cum laude</i>		
Honors Thesis: “Bodies, Genders, Borders: Hijras in Banares”		
Joan W. Scott Award for an Outstanding Thesis in Gender Studies		
<b>Banares Hindu University</b>	Varanasi, India	August 1999 – May 2000
<i>Study Abroad</i>		
Coursework included Hinduism, advanced Hindi, introductory Urdu		

## Publications—Books

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REPRODUCTIVE RIGHTS AND JUSTICE STORIES (Melissa Murray, Katherine Shaw & Reva B. Siegel, eds.) (Foundation Press 2019)

## Publications—Articles

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*Speech, Intent, and the President*, 104 CORNELL L. REV. \_\_ (forthcoming 2019)

*Beyond the Bully Pulpit: Presidential Speech in the Courts*, 96 TEX. L. REV. 71 (2017)

- Winner of the American Constitution Society’s 2018 Cudahy Award
- Subject of Academic Highlight—Amanda Frost, *Shaw on Presidential Speech and the Courts* (July 17, 2017), <http://www.scotusblog.com/2017/07/academic-highlight-shaw-presidential-speech-courts/>
- Subject of column, Marcia Coyle, *The Justices Don’t Have Much Guidance in Handling Trump’s Tweets*, THE NATIONAL LAW JOURNAL (June 14, 2017), <http://www.nationallawjournal.com/id=1202789759613/The-Justices-Dont-Have-Much-Guidance-for-Handling-Trumps-Tweets>
- Discussed in Dahlia Lithwick, *Trump’s Tweets Must Now Be Taken Seriously*, SLATE.COM (June 12, 2017), [http://www.slate.com/articles/news\\_and\\_politics/jurisprudence/2017/06/the\\_9th\\_circuit\\_just\\_decreed\\_that\\_trump\\_s\\_twitter\\_feed\\_must\\_be\\_taken\\_seriously.html](http://www.slate.com/articles/news_and_politics/jurisprudence/2017/06/the_9th_circuit_just_decreed_that_trump_s_twitter_feed_must_be_taken_seriously.html)
- Discussed in Garrett Epps, *With the Travel Ban, Federal Courts Face a New Legal Issue*, THE ATLANTIC.COM (March 21, 2017), <https://www.theatlantic.com/politics/archive/2017/03/with-the-travel-ban-federal-courts-face-a-new-legal-issue/520200/>
- Discussed in Jeffrey Toobin, *The Courts and President Trump’s Words*, THE NEW YORKER.COM (March 17, 2017), <http://www.newyorker.com/news/daily-comment/the-courts-and-president-trumps-words>

*The Lost History of the Millionaire’s Amendment*, 16 ELECTION L.J. 172 (2017)

*Friends of the Court: Evaluating the Supreme Court’s Amicus Invitations*, 101 CORNELL L. REV. 1533 (2016)

- Subject of column, Adam Liptak, *Sidebar: When Appointing Friends of the Court, Justices are Friendliest Toward White Men*, N.Y. TIMES (May 16, 2016)
- Subject of article, Dani Meyer, *Invitees to High Court Amici Party Aren’t A Diverse Bunch*, LAW360.COM (May 4, 2016)
- Discussed in Kimberly Robinson, *A Supreme Court First: Justices Call on Attorney, Again*, Bloomberg BNA (March 2, 2017)

*Abortion, Informed Consent, and Regulatory Spillover*, 92 INDIANA L.J. 1 (2016) (with Alex Stein)

*Constitutional Nondefense in the States*, 114 COLUM. L. REV. 213 (2014)

- Cited in *City of Greensboro v. Guilford County Board of Elections*, 2017 WL 1229736 (M.D. N.C. April 4, 2017)

*Through a Glass, Darkly: The Rhetoric and Reality of Campaign Finance Disclosure*, 102 GEO. L.J. 1443 (2014) (with Jennifer A. Heerwig)

- Subject of response essay, Bob Bauer, *The FEC, The Big Issues, and Getting Right a Few Basics—Like Disclosure* (May 21, 2015) <http://www.moresoftmoneyhardlaw.com/2015/05/fec-big-issues-getting-right-basics-like-disclosure/>

## **Publications—Shorter Works**

Chapter—*Guns, Interpretation, and Executive Branch Constitutionalism*, in GUNS IN THE LAW (Austin Sarat, ed.) (forthcoming 2019, University of Massachusetts Press)

Chapter—*Similar in their Ability or Inability to Work: Young v. UPS and the Meaning of Pregnancy Discrimination*, in REPRODUCTIVE RIGHTS AND JUSTICE STORIES (Melissa Murray, Katherine Shaw & Reva B. Siegel, eds.) (Foundation Press 2019)

Chapter—*Reorienting Disclosure Debates in a Post-Citizens United World*, in DEMOCRACY BY THE PEOPLE: REFORMING CAMPAIGN FINANCE IN AMERICA TODAY (Cambridge University Press 2018)

*State Administrative Constitutionalism*, 69 ARK. L. REV. 527 (2016) (symposium essay)

*Taking Disclosure Seriously*, YALE L. & POL'Y REV. INTER ALIA (2016) (symposium essay)

*Reflections on OT07*, 106 NW U. L. REV. 833 (2012) (symposium essay)

*Access to Justice: Challenges, Models, and the Participation of Non-Lawyers in Justice Delivery*, in ACCESS TO JUSTICE IN AFRICA AND BEYOND: MAKING THE RULE OF LAW A REALITY (with Thomas F. Geraghty et al.) (2007)

Comment, *Invoking the Penalty*, 100 NW. U. L. REV. 1439 (2006)

## **Publications—Select Op-Eds and Blog Posts**

Op-Ed, *The White House and Congress are Heading for a Collision. Who Will Win?* N.Y. TIMES (March 6, 2019), <https://www.nytimes.com/2019/03/06/opinion/executive-privilege.html>

Op-Ed, *How Strong Does the Evidence Against Kavanaugh Need to Be?* N.Y. TIMES (Sept. 20, 2018), <https://www.nytimes.com/2018/09/20/opinion/kavanaugh-blasey-allegation-disqualify.html>

*Statements and Standards in Trump v. Hawaii*, HARV. L. REV. BLOG (June 28, 2018), <https://blog.harvardlawreview.org/statements-and-standards-in-trump-v-hawaii/>

*Impeachment and Presidential Rhetoric*, TAKE CARE BLOG (June 14, 2018), <https://takecareblog.com/blog/impeachment-and-presidential-rhetoric>

*Why Did Liberals Join the Majority in the Masterpiece Cake Case?* N.Y. TIMES (June 5, 2018), <https://www.nytimes.com/2018/06/05/opinion/liberal-justices-concurrence-masterpiece.html?smid=tw-nytopinion&smtyp=cur>

*The Travel Ban Argument and the President's Words*, HARV. L. REV. BLOG (April 27, 2018), <https://blog.harvardlawreview.org/the-travel-ban-arguments-and-the-presidents-words/>

*All is Not Clear—What John Kelly's New Security Clearance Policy Actually Means in Practice*, SLATE.COM (March 6, 2018), <https://slate.com/news-and-politics/2018/03/what-john-kellys-new-security-clearance-policy-actually-means-in-practice.html>

*Privatization's Other Frontiers* (symposium on Jon Michaels's *Constitutional Coup*), TAKE CARE BLOG (Jan. 12, 2018), <https://takecareblog.com/blog/privatization-s-other-frontiers>

*Congress's Rhetoric* (symposium on Josh Chafetz's *Congress's Constitution*), TAKE CARE BLOG (August 23, 2017), <https://takecareblog.com/blog/congress-s-rhetoric>

Op-Ed, *Should the President's Words Matter in Court?* N.Y. TIMES (May 31, 2017), [https://www.nytimes.com/2017/05/31/opinion/trump-travel-ban-appeals-court.html?smid=tw-nytopinion&smtyp=cur&\\_r=0](https://www.nytimes.com/2017/05/31/opinion/trump-travel-ban-appeals-court.html?smid=tw-nytopinion&smtyp=cur&_r=0)

## **Works in Progress**

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Article—*The State Bully Pulpit*

Article—*Impeachment and Presidential Rhetoric in Historical Context*

Article—*Presidential Transitions* (with Michael Herz)

## **Select Presentations, Panels, Meetings, and Conferences**

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Panelist, “The President’s Tax Returns,” Columbia Law School (April 2019)

Panelist, “Ethics in Government Lawyering,” NYU Law School (April 2019)

Moderator, “Lawyers, Guns & Money,” Cardozo Law School (April 2019)

Presenter, “Speech, Intent, and the President,” Georgetown Law School (March 2019)

Lunchtime Address, “Presidential Speech and Presidential Lawmaking,” *Administrative Law Review* (March 2019)

Panelist, “Fix the Court: Evaluating the Nonpartisan Movement for Supreme Court Reform,” Cardozo Law School (February 2019)

Moderator, “Protecting American Democracy from Foreign Interference,” AALS Annual Meeting, New Orleans (January 2019)

Moderator, “Reforming the Supreme Court,” ACS / SALT Roundtable, New Orleans (January 2019)

Keynote Speaker, ACS Supreme Court Term Preview, Nashville, Tennessee (November 2018)

Panelist, “Democratic Distortions,” NYU School of Law (November 2018)

Panelist, “Are Those (Presidential) Tweets Part of the Record?,” ABA Adlaw Section Annual Meeting, Washington, DC (October 2018)

Panelist, “How the Supreme Court Rules,” Chicago Ideas Festival (October 2018)

Commenter, “How to Save a Constitutional Democracy,” Brennan Center for Justice (October 2018)

Presenter, “Speech, Intent, and the President,” Administrative Law Works-in-Progress Roundtable, University of Michigan Law School (June 2018)

Moderator, “Roundtable: Making Reproductive Rights Law from *Griswold* to *Whole Woman’s Health*,” American Society for Legal History Annual Conference, Las Vegas, Nevada (October 2017)

Presenter, “Speech, Intent, and the Executive,” Northwestern University Pritzker School of Law Faculty Workshop (October 2017)

Presenter, “Twitter and Presidential Intent,” Symposium, The Supreme Court and American Politics, Chicago-Kent School of Law (October 2017)

Presenter, “Speech, Intent, and the Executive,” San Diego Law School Faculty Workshop (September 2017)

Moderator, “Hate Speech and the Culture Wars,” Floersheimer Center for Constitutional Democracy, Cardozo School of Law (September 2017)

Presenter, “Beyond the Bully Pulpit,” Cornell Law School Faculty Workshop (March 2017)

Panelist, Federalist Society Supreme Court Term Round-up, Cardozo School of Law (March 2017)

Moderator, “Staying on the Rails: Direct Constitutional Checks on the President,” Floersheimer Center for Constitutional Democracy, Cardozo School of Law (March 2017)

Presenter, “Beyond the Bully Pulpit,” University of Chicago Constitutional Law Colloquium (February 2017)

Moderator/Presenter, “New Frontiers in Reproductive Rights and Justice,” AALS Annual Meeting, San Francisco (January 2017)

Presenter, “Beyond the Bully Pulpit,” University of Pennsylvania Law School Advanced Legislation Seminar (December 2016)

Presenter, “Beyond the Bully Pulpit,” Yale Law School Statutory Interpretation Seminar (November 2016)

Presenter, “Beyond the Bully Pulpit,” Pace Law School Faculty Workshop (November 2016)

Panelist, Supreme Court Clerks Panel, Northwestern University School of Law (October 2016)

Panelist, “Common Threads: A New Era for Constitutional Jurisprudence,” Columbia Law School (October 2016)

Moderator, “*Notorious RBG*: A Conversation with Irin Carmon,” American Constitution Society and Floersheimer Center for Constitutional Democracy, Cardozo School of Law (September 2016)

Panelist, “SCOTUS Conversation: the 2015 and 2016 Supreme Court Terms,” Floersheimer Center for Constitutional Democracy, Cardozo School of Law (September 2016)

Panelist, ACS 2015 Supreme Court Term Review, WilmerHale (July 2016)

Moderator, “Deference in Doubt? The Future of *Chevron* and the Administrative State,” American Constitution Society, Annual Convention, Washington, D.C. (June 2016)

Participant, Demos—Money in Politics Legal Convening, University of Pennsylvania Law School (May 2016)

Participant, Center for American Progress—Anti-Corruption and Fair Representation Policy Workshop, Washington D.C. (May 2016)

Panelist, “*Sisters in Law*: A Conversation with Linda Hirshman,” Floersheimer Center for Constitutional Democracy, Cardozo School of Law (April 2016)

Panelist, “*Zubik* and *Hellerstedt*,” Students for Reproductive Justice, Cardozo School of Law (April 2016)

Panelist, “Democracy by the People: Reforming Campaign Finance in America Today,” Seton Hall Law School (April 2016)

Moderator, “Second Amendment Theory and Doctrine,” Conference—The Second Generation of Second Amendment Law and Policy, NYU Law School (April 2016)

Panelist, “The President, the Senate, and the Supreme Court Vacancy,” Floersheimer Center for Constitutional Democracy, Cardozo School of Law (March 2016)

Convener and Presenter, Legislation Roundtable (gathering of 25 scholars of Legislation at Cardozo Law School) (March 2016)

Presenter, “State Administrative Constitutionalism,” Conference—State Constitutional Change: Traditions, Trends, and Theory, Arkansas Law School (January 2016)

Presenter, “Friends of the Court: Evaluating the Supreme Court’s Amicus Invitations,” NYU Law School Constitutional Theory Colloquium (October 2015)

Moderator, “John Roberts and Constitutional Interpretation,” Conference—Ten Years the Chief: Evaluating a Decade of John Roberts on the Supreme Court, Cardozo School of Law (October 2015)

Panelist, “Constitutional Conversation: The Supreme Court’s 2015 Term,” Floersheimer Center for Constitutional Democracy, Cardozo School of Law (September 2015)

Moderator, “Conscientious Objection in a Constitutional Democracy: Theoretical Perspectives,” Conference—The Conscience Wars, Cardozo School of Law (September 2015)

Moderator, “Congressional Force Authorization: Constitutional Necessity or Nicety?,” SEALS Conference (July 2015)

“Comment on *Harris v. McRae*,” ACS Junior Scholars Schmooze (June 2015)

Panelist, “Fiction in the Space Between: The Future of Disclosure Requirements,” Conference—The New Normal in Election and Political Law, Yale Law School (April 2015)

“The South Dakota Effect: Abortion, Informed Consent, and Federalism,” Vanderbilt Law School Faculty Workshop (March 2015)

Participant, Presidential Transitions Roundtable, Brookings Institute, Washington DC (February 2015)

“The South Dakota Effect: Abortion, Informed Consent, and Federalism,” UCLA Law School Faculty Workshop (December 2014)

Panelist, “Gridlock and Executive Action: A Path Forward or Grounds for Impeachment?” Brookings Governance Studies Council Meeting (October 2014)

Moderator, “*The Second Amendment: A Biography*—A Conversation with author Michael Waldman,” Cardozo School of Law (October 2014)

Panelist, “Supreme Court Term Review,” Northwestern University School of Law (September 2014)

Presenter, “Through a Glass, Darkly: The Rhetoric and Reality of Campaign Finance Disclosure,” ACS Junior Scholars’ Schmooze (June 2014)

Moderator, “Supreme Court Conversation” (with Jeff Toobin, Miguel Estrada, and Paul Smith), Cardozo School of Law (March 2014)

Presenter, “Patronage at the Supreme Court,” Junior Federal Courts Conference, Brooklyn Law School (October 2013)

Panelist, “Constitutional Conversation: The Supreme Court’s 2013 Term,” Cardozo School of Law (October 2013)

Panelist, “Constitutional Conversation: *Windsor* and *Perry*,” Cardozo School of Law (April 2013)

Panelist, “Constitutional Conversation: *Shelby County*,” Cardozo School of Law (February 2013)

Panelist, “Constitutional Conversation: The Supreme Court’s 2012 Term,” Cardozo School of Law (October 2012)

Panelist, “Health Care and the Election,” Cardozo School of Law (October 2012)

Presenter, “Constitutional Nondefense in the States,” Southeastern Law Conference, Charleston School of Law (September 2012)

Panelist, “Constitutional Conversation: The Supreme Court’s 2011 Term,” Cardozo School of Law (October 2011)

Moderator, “A Conversation with Justice Stevens,” Northwestern University School of Law (co-moderated with Carter Phillips) (April 2011)

## Select Media Appearances

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ABC News, Good Morning America, <https://abcnews.go.com/GMA/News/video/trump-names-supreme-court-nominee-56475985> (July 10, 2018)

ABC News, Good Morning America, <https://abcnews.go.com/GMA/News/video/reaction-justice-kennedys-supreme-court-retirement-56226318> (June 26, 2018)

NBC's "Why Is This Happening?" Podcast with Chris Hayes, *The Rule of Law in the Era of Trump*, <https://www.nbcnews.com/think/opinion/analyzing-trump-s-assault-rule-law-kate-shaw-podcast-transcript-ncna876056> (June 2018)

Oral Argument Podcast with Joe Miller and Christian Turner, *Presidential Utterance*, <http://oralargument.org/155> (December 17, 2017)

Slate's Amicus Podcast with Dahlia Lithwick, *Should Judges Pay Attention to Trump's Twitter Feed?*, [http://www.slate.com/articles/podcasts/amicus/2017/06/the\\_meaning\\_of\\_obstruction\\_of\\_justice.html](http://www.slate.com/articles/podcasts/amicus/2017/06/the_meaning_of_obstruction_of_justice.html) (June 10, 2017)

NPR, Marketplace, *What Happens When Government Breaks the Rules?*, <https://www.marketplace.org/2017/04/28/world/what-happens-when-government-breaks-rules> (April 28, 2017)

ABC News, Good Morning America, <https://www.yahoo.com/gma/more-details-emerge-tense-relationship-122546065.html> (March 17, 2017)

ABC News, Good Morning America <http://abcnews.go.com/GMA/video/source-trump-wiretap-allegation-remains-unclear-45921826> (March 5, 2017)

ABC News, World News Tonight, <http://abcnews.go.com/WNT/video/trump-furious-federal-judge-halts-travel-ban-45275316> (February 5, 2017)

ABC News, Good Morning America, <http://abcnews.go.com/GMA/video/donald-trump-defends-refugee-immigration-policy-45123770> (Jan. 28, 2017)

Podcast with Brian Beutler, Primary Concerns, <https://newrepublic.com/article/131605/primary-concerns-episode-6-super-tuesday-supreme-wednesday> (March 18, 2016)

ABC News, This Week, <http://abcnews.go.com/ThisWeek/video/shaw-scalia-courts-intellectual-leader-conservative-wing-36933569> (February 14, 2016)

Quoted in Sam Stein, *Trump's First 100 Days Were So Wild, A Law School Built an Entire Class Around Them*, HUFFINGTON POST, [http://www.huffingtonpost.com/entry/trump-100-days-law-school\\_us\\_5911cfcbe4b05e1ca201da54](http://www.huffingtonpost.com/entry/trump-100-days-law-school_us_5911cfcbe4b05e1ca201da54) (May 9, 2017)

## Additional Information

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**Bar admissions:** State of Illinois, State of New York, United States Court of Appeals for the Seventh Circuit, Supreme Court of the United States.

**Languages:** Proficient in French, Spanish, Hindi; some knowledge of Urdu.