

# Kate Shaw

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## 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: Administrative Law; Constitutional Law; Legislation; The Supreme Court; Elements of Law; Antitrust Law; Presidential Power & Constraint.

Service: Appointments Committee Chair, 2020-2021. Previous service includes: Faculty Development Committee; Clerkship Committee; Dean's Distinguished Scholars Committee; Awards Committee; Adjunct Committee; Academic Standards Committee; Co-Director, Floersheimer Center for Constitutional Democracy.

**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.

**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  
Supreme Court of the United States** Washington, DC July 2007 – July 2008

*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		

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## Publications—Forthcoming Works

- Transition Administration*, 106 MINN. L. REV. \_\_ (forthcoming 2021) (with Michael Herz)
- A Podcast of One’s Own*, \_\_ MICH. J. L. & G \_\_ (forthcoming 2021) (with Leah Litman & Melissa Murray)
- Book Review—Let the People Pick the President*, \_\_ MICH. L. REV. \_\_ (forthcoming 2022)
- Response Essay—The Government’s Speech and the Constitution* \_\_ U. ILL. L. REV. (forthcoming 2022) (symposium essay)

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## Publications—Books

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

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## Publications—Articles & Essays

- Conventions in the Trenches*, 108 CAL. L. REV. 1955 (2020) (Jorde symposium response essay)
- Impeachable Speech*, 70 EMORY L. J. 1 (2020)
- Justice Stevens and the Project of Perfecting the Constitution*, 114 NW. U. L. REV. 1749 (2020) (symposium essay)
- Speech, Intent, and the President*, 104 CORNELL L. REV. 1337 (2019)
- Subject of Smita Ghosh, *Jotwell—Presidential Speech in the Courts*, <https://conlaw.jotwell.com/presidential-speech-in-court/>
- 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 column, Marcia Coyle, *The Justices Don’t Have Much Guidance in Handling Trump’s Tweets*, NATIONAL LAW JOURNAL (June 14, 2017)
  - Discussed in Dahlia Lithwick, *Trump’s Tweets Must Now Be Taken Seriously*, SLATE.COM (June 12, 2017),
  - Discussed in Garrett Epps, *With the Travel Ban, Federal Courts Face a New Legal Issue*, THE ATLANTIC.COM (March 21, 2017)
  - Discussed in Jeffrey Toobin, *The Courts and President Trump’s Words*, THE NEW YORKER.COM (March 17, 2017)
- The Lost History of the Millionaire’s Amendment*, 16 ELECTION L.J. 172 (2017) (symposium essay)
- State Administrative Constitutionalism*, 69 ARK. L. REV. 527 (2016) (symposium essay)
- 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)

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

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

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

*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)

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

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

### **Publications—Book Chapters**

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

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)

Introduction, 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)

*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)

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

Op-Ed, *The Transition is Already Happening (and it's Going Fine So Far)*, THE ATLANTIC (Oct. 28, 2020), <https://www.theatlantic.com/ideas/archive/2020/10/trump-cant-single-handedly-wreck-transition/616876/> (with Michael Herz)

Op-Ed, *A 6-3 Supreme Court Could Allow the Government to Openly Discriminate in its Policies*, WASH. POST (Oct. 21, 2020), <https://www.washingtonpost.com/outlook/2020/10/21/court-census-challenge-trump-barrett/> (with Leah Litman)

Op-Ed, *How to Counter the Bully Pulpit*, THE ATLANTIC (Aug. 2, 2020), <https://www.theatlantic.com/ideas/archive/2020/08/how-count-bully-pulpit/614728/>

Op-Ed, *Why President Trump's Lawyers Should Talk Like Lawyers*, N.Y. TIMES (Jan. 28, 2020), <https://www.nytimes.com/2020/01/28/opinion/trump-impeachment-trial.html>

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>

Book Review Essay, *Twitter and the Political Community*, TAKE CARE BLOG (Oct. 26, 2018), <https://takecareblog.com/blog/twitter-and-the-political-community>

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>

Book Review Essay, *Privatization's Other Frontiers*, TAKE CARE BLOG (Jan. 12, 2018), <https://takecareblog.com/blog/privatization-s-other-frontiers>

Book Review Essay, *Congress's Rhetoric*, 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)

Blog post, “Rethinking Disclosure in the Wake of *McCutcheon v. FEC*,” REG BLOG (June 30, 2014), <http://www.regblog.org/2014/06/30/30-heerwig-shaw-campaign-finance-disclosure/>

## Works in Progress

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Article—*The State Bully Pulpit*

Article—*The President's Speech Inside the Executive Branch*

Article—*Impeachment in the States*

## Select Media Appearances

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On Point, NPR, *What's at Stake in Trump's Second Impeachment Trial?*, (Feb. 8, 2021), <https://dcs.megaphone.fm/BUR8965610794.mp3?key=9bd7cae552c6b277e15e1c21c6cf8107>

ABC News, This Week with George Stephanopoulos (October 25, 2020), <https://abcnews.go.com/Politics/sunday-week-10-25-20/story?id=73792791>

WNYC, Brian Lehrer Show, Amy Coney Barrett Hearings (Oct. 14, 2020), <https://www.wnyc.org/story/the-brian-lehrer-show-2020-10-14/>

ABC News, This Week with George Stephanopoulos (September 27, 2020), <https://abcnews.go.com/Politics/week-transcript-27-20-sen-mike-lee-sen/story?id=73273335>

Slate's “Amicus” Podcast with Dahlia Lithwick, *Impeaching Other Presidents*, <https://slate.com/podcasts/amicus/2019/12/house-judiciary-committee-impeachment-witnesses> (December 2019)

NBC's “Why Is This Happening?” Podcast with Chris Hayes, *The Meaning of Impeachment*, <https://www.stitcher.com/podcast/msnbc/why-is-this-happening/e/65744951> (December 2019)

ABC News, This Week with George Stephanopoulos, <https://abc.com/shows/this-week-with-george-stephanopoulos/video/most-recent/vdka13469586> (October 10, 2019)

“We the People” Podcast with Jeff Rosen, *Remembering Justice John Paul Stevens*, <https://www.stitcher.com/podcast/national-constitution-center/we-the-people/e/62662029> (July 20, 2019)

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)

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; some knowledge of Hindi and Urdu.

**Additional activities:** Co-host, *Strict Scrutiny* podcast; Public Member, Administrative Conference of the United States; Recently represented pro bono asylum recipient seeking to adjust status; Legal consultant on documentary film “The Fight;” Member, “National Task Force on Election Crises;” Board Member, John Paul Stevens Foundation.