

BIJAL SHAH

Arizona State University, Sandra Day O'Connor College of Law
(480) 965-4151, bijal.shah@asu.edu

ACADEMIC APPOINTMENTS

UNIVERSITY OF CALIFORNIA, BERKELEY LAW SCHOOL

Visiting Professor, Spring 2022 (forthcoming)

ARIZONA STATE UNIVERSITY (ASU), SANDRA DAY O'CONNOR COLLEGE OF LAW

Associate Professor, August 2016 – present; *Affiliated Faculty, ASU Center on the Future of War*, March 2019 – present

Courses: Administrative Law, Advanced Administrative Law Seminar, Criminal Law

Univ. Service: Co-Chair, ASU Law Junior Faculty Development Comm. (2020-present); ASU Queer Faculty Assoc. (2016-present); ASU Law Colloquium Comm. (2016-2018)

Prof. Service: Academic Consultant to the Administrative Conference of the United States (ACUS) Council on Federal Agency Adjudication (2020-present); Chair, Chair-Elect & Member, Assoc. of American Law Schools (AALS) Executive Comm. on Legislation & Law of the Political Process (2019-present); Co-Managing Editor, ADMINISTRATIVE & REGULATORY LAW NEWS, published quarterly by the American Bar Assoc. (ABA) (2018-2021); Contributing Editor, JOTWELL (Section on Administrative Law) (2017-present); Peer reviewer (including flagship law reviews at Yale, Harvard, Stanford & Columbia) (2016-present)

Recognition: Interview in AALS News (2021); AALS Administrative Law Section “Meet a Member” (2020); “Excellent Faculty Mentor,” ASU International Students & Scholars Center (2017)

Media: Interviews include TIME Magazine, NPR, AP, American Prospect, REUTERS, BLOOMBERG, ABC, PBS

NEW YORK UNIVERSITY (NYU) SCHOOL OF LAW

Acting Assistant Professor, June 2013 – May 2016

EDUCATION

YALE LAW SCHOOL

Juris Doctor, June 2007

HARVARD UNIVERSITY, JOHN F. KENNEDY SCHOOL OF GOVERNMENT

Master of Public Administration, A-Level courses (highest tier of core requirements), June 2007

BRANDEIS UNIVERSITY

B.A., Philosophy and Psychology with honors, May 2001, Justice Brandeis Scholar (merit-based four-year scholarship)

LAW REVIEW PUBLICATIONS

The President's Fourth Branch, GEORGE WASHINGTON LAW REVIEW (forthcoming) (invited contribution to the *Annual Review of Administrative Law*)

Selected for The C. Boyden Gray Center for the Study of the Administrative State (CSAS) honorarium (2021)

Deploying the Internal Separation of Powers Against Racial Tyranny, NORTHWESTERN LAW REVIEW ONLINE (forthcoming)

(invited symposium on *Racial Subordination and Structural Marginalization*)

Judicial Administration, 11 UC IRVINE LAW REVIEW 1119 (2021)

Selected for National Conference of Constitutional Law Scholars (2020), American Constitution Society (ACS) Junior Scholars Public Law Workshop (2020), CSAS honorarium (2019-2020)

Executive Agency Administration, 72 STANFORD LAW REVIEW 641 (2020)

Reviewed by Margaret Kwoka, *When Agencies Sue Each Other*, JOTWELL (January 2020)

Selected for Admin Law New Scholarship Roundtable (2019), ACS Junior Scholars Public Law Workshop (2019)

Congress's Agency Coordination, 103 MINNESOTA LAW REVIEW 1961 (2019)

Selected for ACS Junior Scholars Public Law Workshop (2018), Admin Law New Scholarship Roundtable (2017)

Civil Servant Alarm, 94 CHICAGO-KENT LAW REVIEW 101 (2019) (invited response to Professor Jennifer Nou)

Interagency Transfers of Adjudication Authority, 34 YALE JOURNAL ON REGULATION (JREG) 279 (2017)
Featured by Larry Solum on the LEGAL THEORY BLOG (May 2017))

Toward an Intra-Agency Separation of Powers, 92 NYU LAW REVIEW 101 (2017) (invited response to Professor Jon D. Michaels)

The Attorney General's Disruptive Immigration Power, 102 IOWA LAW REVIEW 129 (2017) (invited response to former Attorney General Alberto Gonzales)

Uncovering Coordinated Interagency Adjudication, 128 HARVARD LAW REVIEW 805 (2015)

LGBT Identity in Immigration, 45 COLUMBIA HUMAN RIGHTS LAW REVIEW 100 (2013)

Gay American "Deviance," 26 WISCONSIN INTERNATIONAL LAW JOURNAL 1 (2008)

Blood, Land, and Sex, 7 YALE HUMAN RIGHTS AND DEVELOPMENT LAW JOURNAL 192 (2004) (book review)

BOOK CHAPTERS / OTHER WORK

Executive Branch Oversight and Coordination of Agency Adjudication, in A GUIDE TO FEDERAL AGENCY ADJUDICATION (ABA Section of Administrative Law and Regulatory Practice, 3rd ed.) (forthcoming 2022)

Expanding Presidential Influence on Agency Adjudication, PENN REGULATORY REVIEW (July 2021) (invited series)

A Definitive Work on Temporary Political Leadership, JOTWELL (July 2021)

Investigating a Unitary Executive Model of Immigration, BALKINIZATION (December 2020) (invited symposium)

Racism in Administrative Law, ADMINISTRATIVE LAW REVIEW / A HARD LOOK (Dec. 2020) (invited podcast)

Could Pipeline and Non-Residential Fellowships Increase the Diversity of the Academy?, PRAWFSBLAWG (September 2020) (with Matthew B. Lawrence)

Toward a Critical Theory of Administrative Law, YALE JREG, NOTICE & COMMENT (July 2020)
Featured by Larry Solum on the LEGAL THEORY BLOG (Oct. 2020))

Toward a Critical Theory of Administrative Law, 45 ADMINISTRATIVE & REGULATORY LAW NEWS (Summer 2020) (invited)

Presidential Administration via Litigation, YALE JREG, NOTICE & COMMENT (June 2019) (invited)

Heckler v. Chaney, in LEADING CASES IN ADMINISTRATIVE LAW (ABA Section of Administrative Law and Regulatory Practice, ed.) (submitted 2018) (invited)

Putting Public Administration Back into Administrative Law, JOTWELL (June 2018)

Reliance Interests & the DACA Rescission, AMERICAN CONSTITUTION SOCIETY (April 2018) (invited)

Can Backlogged Immigration Courts Handle Trump's Policy Change?, NATIONAL PUBLIC RADIO (NPR) (August 2017) (invited)

Encouraging Legislative Expertise-Forcing, TAKE CARE (August 2017) (invited symposium)

Arizona's Problems with Immigration Federalism, TAKE CARE (August 2017) (invited)

Domestic Adherence to the Gender Binary, TAKE CARE (July 2017) (invited)

Passing the Buck in Agency Adjudication, YALE JREG, NOTICE & COMMENT (June 2017) (invited)

Vagueness in “Aggravated Felony,” TAKE CARE (June 2017) (invited)

Limiting Citizenship Inequality, TAKE CARE (June 2017) (invited)

Agency Power in Immigration, YALE JREG, NOTICE & COMMENT (February 2016) (invited symposium)

Brand X Developments in the Ninth Circuit and Beyond, 3 IMMIGRATION LAW ADVISOR 7 (September 2009) (invited)

SELECTED PRESENTATIONS

A Critical Analysis of the Political Separation of Powers

Berkeley Law School / Faculty Colloquium (forthcoming)

ASU College of Law / Faculty Colloquium (forthcoming)

AALS Annual Meeting / Critical Perspectives on Congress (forthcoming) (moderator/speaker)

George Washington University Law School / Constitutional Law Colloquium (forthcoming)

University of Chicago Law School / Culp Colloquium (forthcoming) (invited)

Penn State Law / Workshop for AAPI Women in the Legal Academy (Aug. 2021)

The President’s Fourth Branch

George Washington University Law School, co-sponsored by the ABA Annual Administrative Law Conference/
Annual Review of Administrative Law (forthcoming) (invited)

George Mason University Antonin Scalia Law School / CSAS Roundtable and Policy Conference on “Presidential
Administration in a Polarized Era” (forthcoming) (invited)

Law & Society Assoc. (LSA) Annual Meeting / Theoretical Perspectives on Regulators' Accountability (May 2021)

Increasing Diversity Among Administrative Law Scholars

ABA / Entry to the Legal Academy in Admin Law & Regulatory Practice (forthcoming) (invited)

Agency Independence in Seila Law and Collins v. Mnuchin

University of Virginia School of Law / CSAS (forthcoming) (invited commentator)

Commentary on Adam Cox and Cristina M. Rodríguez, The President’s Immigration Law (2020)

LSA Annual Meeting / Author Meets Reader (May 2021) (invited)

The Public Administration Claim Against Anti-Administrativism

ASU College of Law / Federalist Society Panel on “‘Undelegating’ the Administrative State” (April 2021) (invited)

“Chevron Theory and Politics”

Duke Univ. School of Law / Admin. Law Symposium, “The Future of *Chevron*” (Feb. 2021) (invited moderator)

Faithful Execution in Presidential Administration

Texas A&M University School of Law / ACS Constitutional Law Scholars Forum (March 2021)

University of Michigan Law School / Faculty Colloquium (Jan. 2021) (invited)

Univ. of Pennsylvania, The Wharton School / Power in the Administrative State Workshop (Jan. 2021) (invited)

AALS Annual Meeting / New Voices in Administrative Law & Legislation (Jan. 2021)

Toward a Separation of Powers Based in Racial Tyranny

Duke University School of Law / Symposium on Reckoning and Reformation: Reflections and Legal Responses
to Racial Subordination and Structural Marginalization (Dec. 2020) (invited)

The President’s Impact on Agencies’ Faithful Execution

Loyola University Chicago School of Law / Constitutional Law Colloquium (Nov. 2020)

University of Utah, Quinney College of Law / Rocky Mountain Junior Scholars Forum (Nov. 2020)

Reforming Agency Head Review in Immigration and Beyond

ACUS, CSAS and the Center for Progressive Reform / Federal Agency Adjudication (Aug. 2020) (invited)

Judicial Administration

Stanford Law School / Culp Colloquium (June 2020) (invited)
LSA Annual Meeting / Third Party Regulatory Participation, Oversight & Influence (May 2020)
George Mason University Antonin Scalia Law School / CSAS Roundtable and Policy Conference on
“Bureaucracy and Presidential Administration” (Sept. 2019 & Feb. 2020) (invited)
ACS Junior Scholars Public Law Workshop (Jan. 2020)
AALS Annual Meeting / New Voices in Administrative Law & Legislation (Jan. 2020)
AALS Annual Meeting / New Voices on Legal Interpretation (Jan. 2020)

George Washington University Law School / Administrative Law Scholarship Roundtable (Nov. 2019)
Brooklyn Law School / Faculty Colloquium (Oct. 2019) (invited)
University of Arizona College of Law / Faculty Colloquium (Sept. 2019) (invited)

Implications of Unilateralism in Immigration Law

Georgetown University Law Center / ACS Conference on Unilateral Presidencies & Complicit Legislatures:
Rebalancing our Separation of Powers (Feb. 2020) (invited)

Executive Administration

University of Pennsylvania Law School / Regulatory Law and Policy Seminar (March 2020) (invited)
University of Wisconsin Law School / Administrative Law New Scholarship Roundtable (June 2019)
Duke University School of Law / Culp Colloquium (May 2019) (invited)
ASU College of Law / Faculty Colloquium (April 2019)
Boston College Law School / Regulation and Markets Faculty Colloquium (Jan. 2019) (invited)
AALS Annual Meeting / New Voices in Administrative Law (Jan. 2019)
ACS Junior Scholars Public Law Workshop (Jan. 2019)

Litigation as a Mechanism of Presidential Administration

Yale Law School / Regulatory Change & the Trump Administrative State (March 2019) (invited)

Bureaucratic Disobedience in Immigration

UCLA Center for the Study of International Migration / Emerging Immigration Scholars Conference (Feb. 2019)
Chicago-Kent College of Law / Symposium on the Trump Administration & Admin. Law (Nov. 2018) (invited)

Emancipating Immigration Judges

ACS / Reimagining Regulatory Reform (Dec. 2018) (invited)

Executive Litigation Against the Fourth Branch

University of Utah, Quinney College of Law / Rocky Mountain Junior Scholars Forum (Oct. 2018)
Loyola Law School Los Angeles / Faculty Colloquium (Sept. 2018) (invited)

Department of Justice v. The Administrative State

LSA Annual Meeting / Junior Scholars Conference (June 2018)
Drexel Univ., Kline School of Law / Immigration Law Scholars and Teachers Workshop (May 2018)

Interagency Disruption of the Executive Hierarchy

ACS Junior Scholars Public Law Workshop (Jan. 2018)
AALS Annual Meeting / New Voices in Legislation (Jan. 2018)
University of Utah, Quinney College of Law / Rocky Mountain Junior Scholars Forum (Nov. 2017)

Immigration Adjudication by Enforcement

ABA Annual Administrative Law Conference / Agency Adjudication Outside of the Administrative Procedure
Act (Oct. 2017) (invited)

Non-Delegation, Chevron and the “Dangers” of the Administrative State

ASU College of Law / Federalist Society Panel on The Administrative State (Sep. 2017) (invited)

Independent Executive Agencies

Ohio State, Moritz College of Law / Administrative Law New Scholarship Roundtable (June 2017)

The New Legislative Fortification of Agency Independence

Texas A&M University School of Law / Emerging Immigration Scholars Conference (May 2017)

University of Richmond School of Law / Mid-Atlantic Junior Faculty Forum (May 2017)

Future of American Immigration

ASU / Bipartisan Policy Center Panel (Nov. 2016) (invited)

Administrative Process and the Attorney General's Immigration Review

NYU Lawyering Scholarship Colloquium (April 2016)

AALS Annual Meeting / Is Immigration Law Administrative Law? (Jan. 2016) (invited)

Interagency Transfers of Adjudication Authority

Northeastern University School of Law / Faculty Colloquium (April 2016) (invited)

AALS Annual Meeting / New Voices in Administrative Law (Jan. 2016)

AALS Annual Meeting / Legislation: Works in Progress (Jan. 2016)

NYU Lawyering Scholarship Colloquium (Sept. 2015)

Coordinated Interagency Adjudication

University of Miami School of Law / Emerging Immigration Scholars Conference (June 2015)

AALS Annual Meeting / Congressional Dysfunction and Executive Lawmaking (Jan. 2015) (invited)

NYU Lawyering Scholarship Colloquium (March 2014)

New England School of Law / Regional Law Faculty Scholarship Forum (Feb. 2014)

AALS Annual Meeting / New Voices in Administrative Law (Jan. 2014)

LGBT Identity in Immigration

AALS Annual Meeting / Panel on Family and Immigration Law (Jan. 2014) (invited)

Columbia Law School / Society for Immigrant Rights Symposium (Oct. 2013) (invited)

LGBTQ Communities in International Development

Peace Corps Headquarters (May 2013) (invited)

LGBT Refugee Adjudication and Resettlement: Legal and Socio-Political Considerations

Dept. of State / Bureau of Population, Refugees and Migration (Nov. 2011, Nov. 2010)

Dept. of Homeland Security / U.S. Citizenship and Immigration Services (June 2010, April 2009)

Developments in LGBT Law and Agency Priorities

Dept. of Justice, with Att'y Gen. Eric Holder and EEOC Comm. Chai Feldblum (June 2012) (invited)

Dept. of Homeland Security, with Deputy Secretary Alejandro Mayorkas (June 2010) (invited)

EXPERIENCE

DEPT. OF JUSTICE / Executive Office for Immigration Review / Office of General Counsel

Washington, D.C.

Associate General Counsel, 2011 – 2013

Worked with the General Counsel, the Director's Office, and Congress on legal and policy matters. Wrote immigration regulations, legislation, materials for litigation and national policies. Areas of expertise include protections for unaccompanied minors, due process safeguards for detainees, noncitizen survivors of domestic violence, access to counsel for mentally incompetent individuals, the effects of the national prosecutorial discretion initiative, and the impact of the Defense of Marriage Act. Litigated cases under the Federal Tort Claims Act.

DEPT. OF HOMELAND SECURITY / U.S. Citizenship and Immigration Services

Washington, D.C.

Headquarters Quality Assurance Officer, 2010 – 2011

Oversaw asylum adjudications of unusual asylum cases nationwide, including those pertaining to Congressional/other highly publicized matters, national security, unaccompanied minors and particular social groups such as LGBT communities, domestic violence survivors, and gang members. Wrote official LGBT asylum training. Served on Director's LGBT immigration working group and drafted new transgender guidance.

PRESIDENTIAL MANAGEMENT FELLOWSHIP / U.S. Government

Washington, D.C.

Nominated by Harvard University, 2008 – 2010

Based in Dept. of Homeland Security / U.S. Citizenship and Immigration Services

Adjudicated asylum cases domestically across all substantive areas of protection. Duties included gathering evidence, conducting interviews and making decisions on approximately 10-20 cases per week. Communicated with immigration judges and high-level officials. Adjudicated Iraqi refugee cases in Syria.

Detailed to Dept. of Justice / Civil Division / Office of Immigration Litigation

Litigated criminal and other immigration matters in federal courts of appeal.

Detailed to Dept. of Justice / Executive Office for Immigration Review / Board of Immigration Appeals

Drafted Comprehensive Immigration Reform legislation. Worked with Assistant Attorney General on high-profile matters, including the development of particular social group regulations. Wrote Board decisions on criminal law, administrative deference, due process, asylum, and voluntary departure. Wrote lessons for national Immigration Judge trainings.

Detailed to Dept. of State / Office to Monitor and Combat Trafficking in Persons

Oversaw U.S.-sponsored anti-trafficking programs in the Middle East and South Asia.

Detailed to the Dept. of Homeland Security / Office of the Chief Financial Officer / Program Analysis and Execution

Guided Dept. of Homeland Security components through Congressional appropriations process.

HARVARD UNIVERSITY SINCLAIR KENNEDY FELLOWSHIP

Port Louis, Mauritius

Government of Mauritius / Ministry of Finance and Development, 2007 – 2008

Transferred agency to outcome-based budget that increased benefits for women covered under national social services and education plans. Created women's civic education and political empowerment curriculum for national distribution.

UBS PAINWEBBER

New York, NY

Investment Banker: Municipal Securities Group, 2001 – 2002

Structured and underwrote unique assets/equity/liabilities for student loans and municipal projects for over one hundred corporations and authorities. Helped increase market share to 60% of total industry.

BAR ADMISSIONS:

State: Commonwealth of Massachusetts

Circuit: U.S. Court of Appeals for the Second Circuit, U.S. Court of Appeals for the Sixth Circuit, U.S. Court of Appeals for the Ninth Circuit