

**SAIKRISHNA BANGALORE PRAKASH**  
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EMPLOYMENT

UNIVERSITY OF VIRGINIA SCHOOL OF LAW, Charlottesville, VA  
David Lurton Massie, Jr., Professor of Law & Sullivan & Cromwell Professor of Law, 2009

UNIVERSITY OF SAN DIEGO SCHOOL OF LAW, San Diego, CA  
Herzog Research Professor of Law, 2004 to 2009; Professor of Law, 2002 to 2009  
Associate Professor of Law, 1999-2002

PRINCETON UNIVERSITY, Princeton, NJ, Fall 2008  
James Madison Fellow, James Madison Program in American Ideals and Institutions.

VIRGINIA LAW SCHOOL, University of Virginia, Charlottesville, VA, Spring 2008  
Visiting Professor of Law

HOOVER INSTITUTION, Stanford University, Palo Alto, CA, March 2007  
Visiting Research Fellow

NORTHWESTERN UNIVERSITY LAW SCHOOL, Northwestern University, Chicago, IL, Spring 2004  
Visiting Professor of Law

OFFICE OF MANAGEMENT AND BUDGET, Executive Office of the President, Washington, D.C., 2001  
Associate General Counsel

BOSTON UNIVERSITY SCHOOL OF LAW, Boston University, Boston, MA, 1998-1999  
Associate Professor of Law

UNIVERSITY OF ILLINOIS COLLEGE OF LAW, University of Illinois, Champaign, IL, 1997-1998  
Visiting Assistant Professor

SIMPSON THACHER & BARTLETT, New York, NY, 1995-1997  
Associate

UNITED STATES SUPREME COURT, Washington, D.C., 1994-1995  
Law Clerk to the Honorable Justice Clarence Thomas

U.S. COURT OF APPEALS FOR THE D.C. CIRCUIT, Washington, D.C., 1993-1994  
Law Clerk to the Honorable Judge Laurence H. Silberman

EDUCATION

YALE LAW SCHOOL, J.D. 1993

- Awards: Finalist in Thurman Arnold Moot Court Competition  
John M. Olin Fellow in Law, Economics, and Public Policy
- Activities: Research Assistant and Teaching Assistant for Professor Harold H. Koh  
Senior Editor, YALE LAW JOURNAL

STANFORD UNIVERSITY, B.A. Economics and Political Science 1990

- Honors: *Phi Beta Kappa*, departmental honors in Economics and Political Science
- Activities: Research Assistant for Senior Fellows Alex Inkeles & John Cogan, Hoover Institution.

AWARDS & HONORS

Paul M. Bator Award, awarded annually by the Federalist Society to a young scholar (under 40) for excellence in legal scholarship and teaching. February, 2008.

James Gould Cutler Lecture on Constitutional Law at the William & Mary School of Law.  
March, 2008.

LAW REVIEW PUBLICATIONS

*Why the Incompatibility Clause Applies to the Office of the President*, 4 DUKE J. OF CONST. L. & PUB. POL. 107 (2009)

*Some Fragmented Features of the Constitution's Unitary Executive*, 45 WILLAMETTE L. REV. 701 (2009)

*The President's Duty to Disregard Unconstitutional Laws*, 95 *Geo. L. J.* 1613 (2008)

*Imperial or Imperiled: The Curious State of the Executive*, 50 WM. & MARY L. REV. 1021 (2008) (originally delivered as the James Gould Cutler Lecture on Constitutional Law at William and Mary School of Law)

*The Separation and Overlap of War and Military Powers*, 87 TEX. L. REV. 299 (2008)

*Exhuming the Seemingly Moribund Declaration of War*, 77 GEO. WASH. L. REV. 89 (2008)

*Tempest in an Empty Teapot: Why the Constitution has Nothing to Say About Gerrymandering*, 50 WM. & MARY L. REV. 1 (2008)

*A Taxonomy of Presidential Powers*, 88 B.U. L. REV. 372 (2008)

*The Misunderstood Relationship between Originalism and Popular Sovereignty*, 31 HARV. J. OF L. & PUB. POL. 485 (2008)

PUBLICATIONS (continued)

*Unleashing the Dogs of War: What the Constitution Means by “Declare War,”* 93 CORNELL L. REV. 45 (2007)

*A Two Front War*, 93 CORNELL L. REV. 197 (2007) (sur-reply to Robert Delahunty & John Yoo, *Making War* by 93 CORNELL L. REV. 123 (2007) and Michael Ramsey, *The President’s Power to Respond to Attacks*, 93 CORNELL L. REV. 169 (2007))

*Why the President Must Veto Unconstitutional Bills*, 16 W. & M. Bill of Rights J. 81 (2007)

*Delegation Really Running Riot*, 93 VA. L. REV. 1035 (2007) (with Larry Alexander)

*More Democracy, Less Constitution*, 55 DRAKE L. REV. 899 (2007) (symposium issue on SANFORD LEVINSON, *OUR UNDEMOCRATIC CONSTITUTION* (2006))

*How to Remove a Federal Judge*, 116 YALE L. J. 72 (2006) (with Steve Smith)

*(Mis)Understanding “Good Behavior” Tenure*, 116 YALE L. J. 139 (2006) (with Steve Smith) (sur-reply to Professor Martin Redish, *Good Behavior, Judicial Independence, and the Foundations of American Constitutionalism*, 116 YALE L.J. 139 (2006))

*Radicals in Tweed Jackets: Why Extreme Left-Wing Professors are Wrong for America*, 106 COLUM. L. REV. 2207 (2006) (book review of CASS SUNSTEIN, *RADICALS IN ROBES: WHY EXTREME RIGHT-WING COURTS ARE WRONG FOR AMERICA* (2006))

*Removal and Tenure in Office*, 92 VA. L. REV. 1779 (2006)

*How the Constitution Makes Subtraction Easy*, 92 VA. L. REV. 1871 (2006) (sur-reply to John Harrison, *Addition by Subtraction*, 92 VA. L. REV. 1853 (2006))

*New Light on the Decision of 1789*, 91 CORNELL L. REV. 1021 (2006)

*The Constitutional Status of Customary International Law*, 30 HARV. J. OF L. & PUB. POL. 65 (2006)

*Against Interpretive Supremacy*, 103 MICH. L. REV. 1539 (2005) (with John Yoo) (review of Larry Kramer’s *THE PEOPLE THEMSELVES: POPULAR CONSTITUTIONALISM AND JUDICIAL REVIEW*)

*The Chief Prosecutor*, 73 GEO. WASH. L. REV. 521 (2005)

*Regulating Presidential Power*, 91 CORNELL L. REV. 215 (2005) (review of HAROLD KRENT, *PRESIDENTIAL POWERS* (2005))

*Foreign Affairs and the Jeffersonian Executive: A Defense*, 69 MINN. L. REV. 1591 (2005)

*“Is that English You’re Speaking?” Why Intention-Free Interpretation is an Impossibility*, 41 U.S.D. L. REV. 967 (2004) (with Larry Alexander) (50th anniversary issue)

PUBLICATIONS (continued)

*Against Tribal Fungibility*, 89 CORNELL L. REV. 1069 (2004)

*The Constitution as Suicide Pact*, 79 NOTRE DAME L. REV. 1299 (2004)

*Mother May I: Imposing Mandatory, Prospective Rules of Statutory Interpretation*, 20 CONST. COMM. 97 (2004) (with Larry Alexander)

*Questions for the Critics of Judicial Review*, 72 GEO. WASH. L. REV. 354 (2003) (with John Yoo)

*Reports of the Delegation Doctrine's Death are Greatly Exaggerated*, 70 U. CHI. L. REV. 1297 (2003) (with Larry Alexander)

*Branches Behaving Badly: The Predictable and often Desirable Consequences of the Separation of Powers*, 12 CORNELL J. L. & PUB. POL. 543 (2003)

*The Origins of Judicial Review*, 70 U. CHI. L. REV. 887 (2003) (with John Yoo)

*Overcoming the Constitution*, 91 GEO. L. J. 407 (2003) (review of RICHARD FALLON, IMPLEMENTING THE CONSTITUTION (2003))

*Our Three Commerce Clauses and the Presumption of Intrasentence Uniformity*, 55 ARK. L. REV. 1149 (2003)

*The Essential Meaning of Executive Power*, 2003 U. ILL. L. REV. 701

*Are the Judicial Safeguards of Federalism the Ultimate Form of Conservative Judicial Activism?* 55 U. COLO. L. REV. 1363 (2002)

*The Executive Power over Foreign Affairs*, 111 YALE L. J. 231 (2001) (with Michael Ramsey)

*The Puzzling Persistence of Process-Based Federalism Theories*, 79 TEX. L. REV. 1459 (2001) (with John Yoo)

*America's Aristocracy*, 109 YALE L. J. 541 (1999) (review of MARK TUSHNET, TAKING THE CONSTITUTION AWAY FROM THE COURTS (1999))

*Our Dysfunctional Insider Trading Regime*, 99 COLUM. L. REV. 1491 (1999)

*A Critical Comment on the Constitutionality of Executive Privilege*, 83 MINN. L. REV. 1143 (1999)

*Deviant Executive Lawmaking*, 67 GEO. WASH. L. REV. 1 (1998)

*A Comment on Congressional Enforcement*, 32 IND. L. REV. 193 (1998)

PUBLICATIONS (continued)

*Unoriginalism's Law Without Meaning*, 15 CONST. COMM. 329 (1998) (review of JACK RAKOVE, ORIGINAL MEANINGS (1998))

\**The President's Power To Execute the Laws*, 104 YALE L.J. 541 (1994) (with Steven Calabresi)

\**Field Office Federalism*, 79 VA. L. REV. 1957 (1993)

*Hail to the Chief Administrator: The Framers and the President's Administrative Powers*, 102 YALE L.J. 991 (1993) (Note)

\*Favorably cited in *United States v. Printz*, 521 U.S. 898 (1997)

CONTRIBUTIONS TO BOOKS

"The Story of Myers and its Wayward Successors: Going Postal on the Removal Power" in PRESIDENTIAL POWER STORIES (Curtis Bradley & Christopher Schroeder, eds., 2008)

"Executive Vesting Clause" in THE HERITAGE GUIDE TO THE CONSTITUTION 179 (David Forte, ed., 2005)

"Take Care Clause" in THE HERITAGE GUIDE TO THE CONSTITUTION 222 (David Forte, ed., 2005)

*General United States Tax Considerations Pertaining to the Creation, Acquisition and Disposition of Trademarks* in ADVANCED SEMINAR ON TRADEMARK LAW 403 (Practicing Law Institute 1996) (with Peter Riley)

INTERNET PUBLICATIONS

*Removing Federal Judges Without Impeachment*, 116 YALE L.J. POCKET PART 95 (2006) (with Steve Smith), found at <http://thepocketpart.org/2006/10/18/prakashsmith.html>

*The Domestic War*, YALE L. J. (The Pocket Part), March 2006, found at <http://www.thepocketpart.org/2006/03/prakash.html>

Should the Attorney General be Independent? Debate Club, Legal Affairs (2/13/06) (debating William P. Marshall) found at [http://www.legalaffairs.org/webexclusive/debateclub\\_indieAG0206.msp](http://www.legalaffairs.org/webexclusive/debateclub_indieAG0206.msp)

When Can Congress Remove Judges, Debate Club, Legal Affairs (12/26/05) (debating Todd D. Peterson) found at [http://www.legalaffairs.org/webexclusive/debateclub\\_goodbehavior1205.msp](http://www.legalaffairs.org/webexclusive/debateclub_goodbehavior1205.msp)

PRESENTATIONS and PANELS

Albany Government Law Review Conference on Lincoln's Legacy: Enduring Lessons of Executive Power, Albany Law School. Paper on Lincoln's suspensions of the habeas corpus. Oct. 2009.

Albany Law School Federalist Chapter. Gave talk on "Who holds the sword? The Initiation and Conduct of Warfare." Oct. 2009

Princeton University, James Madison Program. Gave talk on whether the President enjoys any immunities from suit or process and whether he enjoys any emergency powers. March 2009

Yale Law School Federalist Society Chapter. Gave talk on whether the President enjoys Emergency Powers. Feb. 2009

University of Pennsylvania Law School, Penn. J. Const. L. Conference on Presidential Power in Historical Perspective: Reflections on Calabresi & Yoo's Unitary Executive. Gave talk on presidential control of prosecutions. Feb. 2009

Willamette Law Review Conference on Executive Authority in the 21st Century. Gave paper on Fragmented Features of the Constitution's Unitary Executive. Sept. 2008

Federalist Society Chapters at Lewis & Clark, Oregon, and Willamette Law Schools. Talks on Presidential and Congressional Power over War and Military Affairs. Sept. 2008

AALS Conference, Mid-Year Constitutional Law Meeting, Cleveland Ohio. Panelist on Executive Power under the Bush Administration. May 2008.

Federalist Society, University of North Carolina Chapter. Talk on Four Justifications for Originalism. April 2008.

Texas Law School Constitutional Colloquium. Presented paper on the Separation and Overlap of War and Military Powers. April 2008.

James Gould Cutler Lecture on Constitutional Law at the William & Mary School of Law. Presented paper on a "Tale of Two Executives." March 2008.

Federalist Society, Georgetown Law Center Chapter. Discussed President's war powers with Professor Martin Lederman. March 2008

Virginia Law School Faculty Workshop. Presented paper on the Separation and Overlap of War and Military Powers. February 2008.

AALS Conference, Workshop on the Federal Courts: Independence and Accountability. Panelist on topic "Federal Courts: Separation of Powers." January 2008.

PRESENTATIONS and PANELS (continued)

Boston University Law School Conference on the Presidency in the 21<sup>st</sup> Century. Presented paper on the grants of “executive power” in the revolutionary state constitutions. October 2007.

Federalist Society Conference on Robert Bork. Presented talk on the misunderstood relationship between Originalism and the Constitution. August 2007.

University of San Diego Faculty Workshop. Presented paper on the Separation of War Powers. June 2007.

Federalist Society Las Vegas Chapter. Part of panel on Misbehaving Nevada judges. May 2007.

Cardozo Law School on the Domestic Commander in Chief. Presented paper on the limits of the Commander in Chief power. April 2007.

Drake Law School Symposium on Sanford Levinson’s OUR UNDEMOCRATIC CONSTITUTION. Presented talk on “More Democracy, Less Constitution.” April 2007.

Federalist Society Northwestern Law School Student Chapter. Presented talk on meaning of “Declare War.” April 2007.

Georgetown University Constitutional Law Colloquium. Presented paper entitled “The Executive’s Duty to Disregard Unconstitutional Laws.” April 2007.

University of San Diego Faculty Workshop. Presented paper entitled “The Executive’s Duty to Disregard Unconstitutional Laws.” Jan. 2007.

Ohio State University, Moritz College of Law. Debate on Congressional and Presidential Powers in Foreign Affairs (with Peter Shane). Oct. 2006.

University of Notre Dame Federalist Society Chapter. Presented Paper on Minimalism. Oct. 2006.

University of San Diego Faculty Workshop. Presented paper on meaning of “Declare War.” San Diego, CA. July 2006.

Yale Law Journal Symposium on Executive Power. Moderated Panel on “Rewriting Article II for the Modern Presidency.” New Haven, CT. May 2006.

Yale Law School Federalist Society Chapter. Discussed current issues regarding the scope of presidential power. New Haven, CT. May 2006.

Cornell Law School Faculty Workshop. Presented paper on meaning of good behavior tenure. Ithaca, NY. October 2005.

PRESENTATIONS and PANELS (continued)

University of San Diego Faculty Workshop. Presented paper on meaning of good behavior tenure. San Diego, CA. October 2005.

American Constitution Society and University of Indiana-Bloomington conference on Terrorism, Presented paper on President's Commander in Chief power. Bloomington, IN. October 2005.

University of Pennsylvania Law School Federalist Society chapter. Presented talk on meaning of good behavior tenure. Philadelphia, PA. October 2005.

University of California, Berkeley, Boalt Hall School of Law Faculty Workshop. Presented paper on removal of federal officers. Berkeley, CA. September 2005.

Appellate Judges Education Institute. Presented paper on intentionalism. San Francisco, CA. September 2005.

Appellate Judges Education Institute. Presented paper on intentionalism. Chicago, IL. August 2005.

University of San Diego Faculty Workshop. Presented paper on executive control of prosecution. San Diego, CA. July 2004.

Northwestern University Faculty Workshop. Presented paper on federal power over Indian tribes. Chicago, IL. March 2004.

Notre Dame Law Review Conference on the "Changing Laws of War." Presented paper on the Constitution as suicide pact. South Bend, IN. December 2003.

Northwestern University Faculty Workshop. Presented paper on the origins of judicial review. Chicago, IL. April 2003

George Washington University Law Review Conference on Judicial Review. Presented paper on the academic critics of judicial review, Washington, D.C. April 2003

AALS Conference, Administrative Law Section. Gave speech on executive power and congressional delegation. Washington, D.C. January 5, 2003.

Cornell Journal of Law and Public Policy Conference on the "Intersection of Law and Politics." Gave paper on interbranch checks. Ithaca, New York. November 2002.

University of Arkansas Conference on the Commerce Clause. Presented paper on "Our Three Commerce Clauses." Fayetteville, AK. March 2002.

Byron White Center for the Study of American Constitutional Law Conference on "Conservative Judicial Activism." Presented paper on judicial review. Boulder, CO. October 2001.

PRESENTATIONS and PANELS (continued)

USD Faculty Workshop. Presented paper on President's power over foreign affairs.  
San Diego, CA. January 2001.

USD Annual Faculty Retreat. Commented on Chris Wonnell's paper on Lochner.  
San Diego, CA. January 2001.

ABA Administrative Law Conference. Gave speech on the executive power during the  
Clinton years. Washington, D.C. October 2000.

USD Annual Faculty Retreat. Presented paper on the meaning of executive power.  
San Diego, CA. January 2000.

Yale Law School Federalist Society Chapter. Spoke on executive privilege.  
Comment by Akhil Amar. New Haven, CT. April 1999.

Boston University Faculty Workshop Series. Presented paper on executive  
privilege. Boston, MA. February 1999.

USD Law School Faculty Workshop Series. Presented paper "Deviant Executive Lawmaking" about  
the constitutionality of the Line Item Veto Act. San Diego, CA. November 1998.

University of Minnesota School of Law's Symposium on "United States v Nixon".  
Presented paper on Executive Privilege. Minneapolis, MN. October 1998.

Rutgers Law School faculty workshop. Presented paper entitled "Deviant Executive Lawmaking"  
about the constitutionality of the Line Item Veto Act. Newark, NJ. October 1998.

Indiana University School of Law's Conference on "National Power and State  
Autonomy: Calibrating the New, New Federalism." Presented Paper  
"A Comment on Congressional Enforcement" Indianapolis, IN. April 1998.

SERVICE

Member of Clerkship Placement Committee, University of Virginia 2009

Member of Dean Search Committee, University of San Diego. 2006

Member of Tenure Committee, University of San Diego. 2007

Member of Tenure Committee, University of San Diego. 2005

Member of Student Discliplinary Committee. 2006

BAR MEMBERSHIP

New York (1997)