

GUHA KRISHNAMURTHI

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Academic Positions

University of Maryland Francis King Carey School of Law, Baltimore, MD

Associate Professor of Law, July 2023–present

Teaching: Constitutional Law II: Individual Rights, Constitutional Law I: Governance,
Criminal Procedure - Investigation

University of Oklahoma College of Law, Norman, OK

Associate Professor of Law, August 2021–July 2023

Teaching: Constitutional Law, Criminal Procedure, Sentencing & Habeas Corpus

South Texas College of Law, Houston, TX

Assistant Professor of Law, August 2020–August 2021

Teaching: Criminal Law, Criminal Procedure

Harvard Law School, Cambridge, MA

Climenko Fellow and Lecturer in Law, August 2018–July 2020

Teaching: Legal Research and Writing, Intersections of Criminal Law and Tort

Education

The University of Texas School of Law, J.D., May 2010, with *High Honors*

2010 Chancellors; Order of the Coif

TEXAS LAW REVIEW, Book Review Editor, Volume 88

AMERICAN JOURNAL OF CRIMINAL LAW, Manuscript Editor, Volume 36

Teaching Assistant for Criminal Law; Contracts; Legal Research and Legal Writing

Dean's Achievement Awards in Criminal Law and Torts

Supreme Court Clinic; National Security Clinic

Student–Faculty Appointments Committee, Student Representative

The University of Texas, Dept. of Philosophy, M.A. Philosophy, May 2007

Teaching Assistant Fellowship, August 2005–May 2007

Training in Sanskrit at Kuppuswami Sastri Research Institute (Chennai, TN, India)

The University of Michigan, Dept. of Mathematics, M.S. Mathematics, May 2005

2005 Angell Scholar

Teaching Assistant Fellowship in Dept. of Philosophy, January 2005–May 2005

The University of Michigan, B.S. Mathematics, May 2004, with *High Distinction*

2004 Angell Scholar

Clerkships

Honorable Goodwin H. Liu, Supreme Court of California, San Francisco, CA

August 2017–August 2018

Honorable Andrea R. Wood, U.S. District Court for N.D. Illinois, Chicago, IL

September 2016–August 2017

Honorable Diane P. Wood, U.S. Court of Appeals for the Seventh Circuit, Chicago, IL

August 2010–August 2011

Practice Experience

Munger, Tolles & Olson, LLP, Los Angeles, CA

Associate, Litigation Practice Group, January 2014–August 2016

Trial and appellate practice focused on antitrust, white collar, and general commercial litigation

Irell & Manella, LLP, Newport Beach, CA

Associate, Litigation Practice Group, October 2011–December 2013

Summer Associate, June 2009–August 2009

Trial and appellate practice focused on intellectual property, white collar, and general commercial litigation

Working Papers

- Legal Intention: Between Text and Purpose* (working paper 2020–2024) (coauthored with Mitchell N. Berman & Jonah B. Gelbach) (~23,800 words)
- The Virtues of Optional Legislation* (working paper 2024) (coauthored with Jacob Bronsther) (~22,000 words)
- A True Vision of Algorithmic Criminal Justice* (working paper) (~19,700 words)
- A Hartian Account of Genuine Theoretical Disagreement* (Harvard Law School working paper 2019) (~12,000 words)

Selected Print Publications

- [*A Wolf in Sheep's Attire: How Consent Enfeebles Our Fourth Amendment*](#), 84 OHIO ST. L. J. 33 (2024) (coauthored with Stephen E. Henderson)
- [*Against the Recidivist Premium*](#), 98 TULANE L. REV. 411 (2024)
Highlighted in [Sentencing Law & Policy](#)
- [*The Goose and the Gander: How Conservative Antidiscrimination Rulings Will Save Affirmative Action on Campus*](#), 102 TEXAS L. REV. 123 (2023) (coauthored with Peter N. Salib)
Highlighted in [The Regulatory Review](#) ([twice](#)), [Opening Arguments Podcast](#), and Reason Magazine
- [*Optional Legislation*](#), 107 MINN. L. REV. 297 (2022) (coauthored with Jacob Bronsther)
- [*Equity and Covid-19 Treatment Allocation: A Questionable Criterion*](#), 37 BIOETHICS 226 (2023) (coauthored with Eric Vogelstein)
- [*The Constitutional Right to Bench Trial*](#), 100 N.C. L. REV. 1621 (2022)
- [*The Case for the Abolition of Criminal Confessions*](#), 75 S.M.U. L. REV. 15 (2022)
[2021 AALS Scholarly Paper Competition](#), Honorable Mention (1 of 4 papers recognized)
Highlighted in [The Crime Report](#) and [CrimProf Blog](#)
- [*Bostock Was Bogus: Textualism, Pluralism, and Title VII*](#), 97 NOTRE DAME L. REV. 67 (2021) (coauthored with Mitchell N. Berman)
Highlighted in [How Appealing](#) ([twice](#)), [The Originalism Blog](#), [Balkinization](#), and [National Review](#)
- [*False Positivism: The Failure of the Newest Originalism*](#), 46 B.Y.U. L. REV. 401 (2021)
- [*The Oath Doesn't Require Originalist Judges*](#), 15 HARV. L. & POL'Y REV. 571 (2022) (coauthored with Erik Encarnacion)
Discussed at [The Originalism Blog](#)
- [*For Judicial Majoritarianism*](#), 22 U. PA. J. CONST. L. 1201 (2020)
Cited by The President's Commission on the Supreme Court of the United States, [The Court's Role in the Constitutional System](#)

Selected Symposium & Special Issue Publications

- [*Making a Legal Academic*](#), 100 TEXAS L. REV. Online 100 (2022) (Texas Law Review Centenary)
- [*Foreword: Ending Mass Incarceration*](#), 75 OKLA. L. REV. 1 (2022)
- [*Reparations, Constitutionality, and the Model of Civil Damages*](#), 57 TULSA L. REV. 303 (2022) (coauthored with Peter Salib) (Symposium on 100th Anniversary of Tulsa Race Massacre)
- [*The Iron Rule*](#), 42 CARDOZO L. REV. 2889 (2022) (coauthored with Jacob Bronsther) (Special Issue on Supreme Court nomination of then-Judge Amy Coney Barrett)

Selected Online Publications

- [*Justices On Yachts: A Value Over Replacement Theory*](#), 97 SO. CAL. L. REV. Postscript 26 (2024) (coauthored with Peter N. Salib)
Highlighted in [How Appealing](#)
- [*Qualified Immunity as Gun Control*](#), 99 NOTRE DAME L. REV. Reflection 93 (2023) (coauthored with Peter N. Salib)
Highlighted in [Duke Center for Firearms Law, Second Thoughts Blog](#)
- [*The Constitutionality of Prohibiting Caste Discrimination*](#), U. CHI. L. REV. Online (2023)
- [*Are S.B. 8's Fines Criminal?*](#), 101 TEXAS L. REV. Online 141 (2023)
[*SB 8's Fines Are Criminal*](#), YALE J. REG. Notice & Comment (Sept. 11, 2022)
- [*Interpreting Textualist Slogans*](#), 109 IOWA L. REV. Online 15 (2023)
- [*Federalist No. 78 1/2*](#), U. CHI. L. REV. Online (2023) (paired with Robert N. Hochman, [On the Manner of the Appointment of Justices to the Supreme Court: Revising Federalist No. 78](#), U. CHI. L. REV. Online (2023); both signed as *Publius*)
- [*Jury Nullification in Abortion Prosecutions: An Equilibrium Theory*](#), 72 DUKE L.J. Online 41 (2022) (coauthored with Peter N. Salib)
- [*Term Limits and Embracing the Political Supreme Court*](#), 107 MINN. L. REV. Headnotes 26 (2022)
- [*Small Arms Races*](#), U. CHI. L. REV. Online (2022) (coauthored with Peter N. Salib)
Highlighted in [The Crime Report](#) and [CrimProf Blog](#)
- [*Not the Standard You're Looking For: But-For Causation in Anti-Discrimination Law*](#), 108 U. VA. L. REV. Online 1 (2022)
- [*Principal Officers and the Function of Section 4 of the 25th Amendment*](#), 54 U.C. DAVIS L. REV. Online 89 (2021) (coauthored with Peter Salib)
- [*Post-Election Litigation and the Paradox of Voting*](#), U. CHI. L. REV. Online (2021) (coauthored with Peter N. Salib)
Highlighted in [Election Law Blog](#)
- [*Title VII and Caste Discrimination*](#), 134 HARV. L. REV. Forum 456 (2021) (coauthored with Charanya Krishnaswami)
Discussed by C. Christine Fair, [Caste Apartheid: India's Other Export to the United States](#), FIRSTPOST. (Feb. 9, 2022)

Selected Online Publications

- [*Bostock and Conceptual Causation*](#), YALE J. REG. Notice & Comment (July 22, 2020)
(coauthored with Peter N. Salib)
Highlighted in [How Appealing](#)
- [*Sitting One Out: Strategic Recusal on the Supreme Court*](#), 11 CALIF. L. REV. Online 387 (2020)
- An Elementary Defense of Judicial Majoritarianism*, 88 TEX. L. REV. See Also 33 (2009)
(coauthored with Shane Pennington, Michael J. Stephan & Jon N. Reidy)
Discussed by Jeremy Waldron, [Five to Four: Why Do Bare Majorities Rule on Courts?](#),
123 YALE L.J. 1692 (2014)
- [*He Went Back, Jack, and Did It Again: Thoughts on Retributivism, Recidivism as Omission, and Notice*](#), 88 TEXAS L. REV. See Also 91 (2009)
Cited by [Criminal History Enhancement Sourcebook](#)

Selected Shorter & Popular Publications

- [*Charting the Indicted Crimes in Trump's New York Criminal Trial*](#), posted on [Election Law Blog](#) (May 14, 2024)
- [*University Presidents Calling in the Police: A Tort Liability CTA?*](#), DORF ON LAW (May 3, 2024)
- [*What's Actually Wrong with Justices on Yachts?*](#), DORF ON LAW (Jan. 12, 2024) (coauthored with Peter Salib)
- [*Congress is dysfunctional. History shows it won't change anytime soon.*](#), WASH. POST: MADE BY HISTORY (Feb. 9, 2023) (coauthored with Jacob Bronshter)
- [*Pluralism, the Common Law, and Substantive Due Process*](#), BALKINIZATION (Oct. 26, 2022)
(reviewing JAMES E. FLEMING, CONSTRUCTING BASIC LIBERTIES: A DEFENSE OF SUBSTANTIVE DUE PROCESS (2022))
- [*Nullifying Dobbs*](#), INQUEST (Sept. 7, 2022) (coauthored with Peter Salib)
Highlighted in [Reason Magazine](#)
- [*Nullifications in Abortion Prosecutions*](#), DORF ON LAW (May 23, 2022) (coauthored with Peter Salib)
- [*Gun Rights \(Still\) Aren't Trumps*](#), SECOND THOUGHTS BLOG, Duke Center for Firearms Law (July 21, 2022) (coauthored with Peter N. Salib)
- [*Fourth Amendment Subjectivity and Its Undetermined Utility*](#), JOTWELL (May 24, 2021)
(reviewing Orin S. Kerr, *The Questionable Objectivity of Fourth Amendment Law*, 99 TEX. L. REV. 447 (2021))
- [*Is Retributivist Corporate Punishment Possible?*](#), JOTWELL (Dec. 8, 2020) (reviewing Samuel W. Buell, *Retiring Corporate Retribution*, 83 LAW & CONTEMP. PROBS. 25 (2020))
- [*The Court's Friends*](#), 19 SCRIBES J. LEG. WRITING 187 (2020)
- [*How the Supreme Court's Progressive Minority Could Prevent a Stolen Election*](#), SLATE (Apr. 24, 2020)

<u>Selected Presentations</u>
<p><i>Comments on Chapter 4, Punishment, Penalty, and Prevention in a Liberal State by Alec Walen</i> Criminal Books Workshop, Villanova University Charles Widger School of Law (May 2024)</p>
<p><i>Fundamentals of Constitutional Law</i> Fundamentals of Law Lecture Series, University of Maryland, College Park (April 2024)</p>
<p><i>Caste Discrimination and U.S. Law</i> Religious News Association, 75th Annual Conference, Covering Caste in America: Tools for Journalists (April 2024)</p>
<p><i>Justices on Yachts: A Value Over Replacement Theory</i> Supreme Court & Environmental Law Seminar, University of Maryland Francis King Carey School of Law (March 2024) University of Maryland Francis King Carey School of Law (February 2024) (internal) Maryland Carey Law Constitutional Law & Economics Conference (February 2024) AALS Annual Meeting, Political Crime (January 2024)</p>
<p><i>A True Vision of Algorithmic Criminal Justice/Criminal Justice In The Data State</i> University of Maryland Carey Law–University of Baltimore Law Junior Scholars Workshop (April 2024) Michigan Junior Scholars Conference (April 2024) Ethical Machines Podcast with Reid Blackman (November 2023) ABA Criminal Justice Section Academics Committee: 2023 Criminal Justice Roundtables Workshop (November 2023)</p>
<p><i>The Goose and the Gander: How Conservative Antidiscrimination Rulings Will Save Affirmative Action on Campus</i> DISCOVERY, University of Washington School of Law Podcast, Operating in the Shadows (October 2023) University of Washington School of Law Faculty Workshop (October 2023) American Constitution Society and Black Law Students Association, University of Oklahoma College of Law (October 2023) Opening Arguments Podcast, Episode No. 778 (July 2023) University of Maryland Francis King Carey School of Law (August 2023) (internal)</p>
<p><i>Equity and Covid-19 Treatment Allocation: A Questionable Criterion</i> Association for Practical and Professional Ethics Annual Conference, Virtual Sessions (March 2023)</p>

<u>Selected Presentations</u>
<p><i>The Constitutionality of Prohibiting Caste Discrimination</i></p> <p>Law, Caste, and the Pursuit of Justice, CASTE: A Global Journal on Social Exclusion, Brandeis University (October 2023)</p> <p>Office of the Governor of California, Gavin Newsom (September 2023)</p> <p>ABA Senior Lawyers Division, International Committee (July 2023)</p> <p>Junior Faculty Forum at University of Richmond School of Law (May 2023)</p> <p>AALS South Asia Section – Panel on Caste and the United States (April 2023)</p> <p>Maryland Carey Law Constitutional Law Colloquium (February 2023)</p> <p>Office of the Mayor of Jersey City, New Jersey – Immigrant Affairs Committee (April 2023)</p>
<p><i>SB 8's Fines Are Criminal</i></p> <p>Junior Scholars Legal Research Workshop (October 2022)</p> <p>University of Oklahoma College of Law (January 2023) (internal)</p>
<p><i>The Futility of the Recidivist Premium</i></p> <p>Law & Society Association Global Meeting (June 2023)</p> <p>Maryland Carey Law Constitutional Law and Economics Workshop (November 2022)</p> <p>University of Maryland Francis King Carey School of Law (November 2022)</p> <p>University of Houston Law Center (October 2022)</p> <p>Midwestern Law & Economics Association Meeting (October 2022)</p> <p>Chicagoland Junior Scholars Conference (October 2022)</p> <p>Cardozo Law School Faculty Workshop (September 2022)</p> <p>Southeastern Association of Law Schools Annual Meeting New Scholars Presentation (July 2022)</p> <p>Junior Scholars Legal Research Workshop (July 2022)</p> <p>CrimFest at Cardozo Law School (July 2022)</p> <p>Junior Faculty Forum at University of Richmond School of Law (May 2022)</p> <p>The Political Turn(s) in Criminal Law (September 2021)</p>
<p><i>Optional Legislation</i></p> <p>National Conference of Constitutional Law Scholars (February 2022)</p> <p>Maryland Carey Law Constitutional Law and Economics Workshop (January 2022)</p> <p>Chicagoland Junior Scholars Conference (October 2021)</p>

<u>Selected Presentations</u>
<p><i>Small Arms Races</i></p> <p>Criminal Justice Law Review and Criminal Justice Program Annual Symposium: Guns Everywhere: Individual Rights and Communal Harms after <i>NTSRPA v. Bruen</i> (October 2022)</p> <p>Firearms Law Workshop at Duke Center for Firearms Law (June 2022)</p> <p>University of Houston Law Center Faculty Workshop (January 2022)</p>
<p><i>Caste Discrimination & U.S. Federal Law</i></p> <p>Business Scholarship Podcast, with Professor Andrew K. Jennings (July 2023)</p> <p>Rightslink and South Asian Law Students Association, Columbia Law School (November 2022)</p> <p>Davis Wright Tremaine LLP – DEI Education Series (September 2022)</p> <p>Caste in the United States, U.C. Berkeley Center on Comparative Equality and Anti-Discrimination Law (September 2022)</p> <p>Law & Society Association Global Meeting (July 2022)</p> <p>University of Texas at Austin, Listening Session (May 2022)</p> <p>Southern California South Asian Bar Association, Caste, The Diaspora, and The South Asian Legal Community (January 2022)</p> <p>EEOC, OFCCP, and DOJ Listening Session on Caste-Based Discrimination (September 2021)</p> <p>Jasol Dialogue Series at Manipal University–Jaipur School of Law (December 2020)</p>
<p><i>The Constitutional Right to Bench Trial</i></p> <p>Loyola Law School – Los Angeles Faculty Workshop (October 2021)</p> <p>Junior Faculty Forum at University of Richmond School of Law (September 2021)</p> <p>Central States Law Schools 2021 Scholarship Conference (September 2021)</p> <p>CrimFest (July 2021)</p>
<p><i>The Case for the Abolition of Criminal Confessions</i></p> <p>SMU Deason Criminal Justice Reform Center (July 2021)</p> <p>On Confessions, Ipse Dixit Podcast (presenting the paper <i>The Case for the Abolition of Criminal Confessions</i>) (December 2020)</p> <p>University of Oklahoma College of Law (February 2021)</p> <p>South Texas College of Law (October 2020) (internal)</p>
<p><i>Ideal Theory, Notice, and the Criminal Law</i></p> <p>Ideal Theory in Criminal Law, The Political Turn(s) in Criminal Law (July 2021)</p>
<p><i>Reparations, Constitutionality, and the Model of Civil Damages</i></p> <p>University of Tulsa Law Review, Symposium Commemorating the 100th Anniversary of the Tulsa Race Massacre (May 2021)</p>

<u>Selected Presentations</u>
<p><i>Bostock was Bogus: Textualism, Pluralism, and Title VII</i> UCLA Law Faculty Colloquium (April 2021) University of Pennsylvania Carey Law School Faculty Ad Hoc Workshop (March 2021)</p>
<p><i>Sovereignty, Jeopardy, and Gamble</i> Texas Tech Law Review Criminal Law Symposium (April 2021)</p>
<p><i>Seinfeld Criminal Law, Yada Yada Law School</i> (providing online lectures on legal subjects on the backdrop of the TV show Seinfeld) (July 2020)</p>
<p><i>For Judicial Majoritarianism</i> Berkeley Law Courts and Judicial Process Colloquium (February 2020) Junior Faculty Forum at University of Richmond School of Law (June 2019) Climenko Fellowship Reunion (March 2019) Rutgers Law School, Penn State Dickinson Law, Penn State Law, South Texas College of Law, Villanova University Charles Widger School of Law, Wake Forest University School of Law, Fordham University School of Law, New York Law School, Widener University Delaware Law School</p>
<p><i>A Hartian Account of Genuine Theoretical Disagreement</i> AALS Annual Meeting, New Jurisprudence Scholars Panel (January 2020)</p>

Academic Service

Associate Reporter, Uniform Law Commission, Drafting Committee on Cybercrime
(October 2023–April 2024)
Moderator, Maryland Constitutional Law Schmooze (March 2024)
Chair, South Asia Section, American Association of Law Schools (January 2024–present)
Chair-Elect (January 2023–present)
Coordinator (Fall 2022), [JUNIOR SCHOLARS LEGAL RESEARCH WORKSHOP](#)
Symposium Faculty Advisor (Volume 75), OKLAHOMA LAW REVIEW
Faculty Advisor (September 2020–July 2021), SOUTH TEXAS LAW REVIEW
Reviewer, INTERNATIONAL JOURNAL OF CONSTITUTIONAL LAW
Reviewer, INTERNATIONAL JOURNAL OF DISCRIMINATION AND THE LAW
Reviewer, BIOETHICS
Reviewer, STANFORD LAW REVIEW (Notes)
Reviewer (x2), CRIMINAL LAW & PHILOSOPHY
Reviewer, COLUMBIA LAW REVIEW
Reviewer, HARVARD LAW REVIEW
Reviewer, HARVARD CIVIL RIGHTS-CIVIL LIBERTIES LAW REVIEW
Tenure Review (x2)

Certifications & Skills

Member of the California Bar (No. 276984); U.S. Court of Appeals for the Seventh Circuit;
U.S. Court of Appeals for the Ninth Circuit; U.S. District Court for the Central District of
California; U.S. District Court for the Northern District of California; U.S. District Court
for the Northern District of Illinois
Fellow, American Bar Foundation
Proficiency in Tamil/தமிழ் (speaking, reading, writing) and Sanskrit/संस्कृतम् (reading)

Nonprofit Service

[The Arc](https://thearc.org/) (<https://thearc.org/>)
Board of Directors (January 2021–November 2022)
Legal Advocacy Committee (April 2023–present)

Research Assistants

Zachary Smith (Harvard Law School)

Paras Shah (Harvard Law School)

Alexandre Diniz de Oliveira (Harvard Law School)

Kareem Carryl (Harvard Law School)

Devraat Awasthi (University of Oklahoma College of Law)

Shawnda Henderson (Southern Methodist University)

Aaditya Ganesan (Westwood High School, Austin, TX)

Teaching Assistants

Kyle Tramonte (Harvard Law School)

Alice Guo (Harvard Law School)

Gabriel Levin (Harvard Law School)

Brian Beaton (Harvard Law School)

Jung Min Jasmine Shin (Harvard Law School)

Julie McClintock (South Texas College of Law)

Jared Vann (South Texas College of Law)