

## Syllabus and Description for Poli. Sci. V53.0994 The Constitution in the Age of Terror

This course will examine in depth the legal, moral, social and political context for counter-terrorism. It will attempt to frame issues of strategy and policy within the moral tradition of just war doctrine and the constitutional values embraced by the Supreme Court of the United States and the international courts in the Nuremberg tradition. We will read widely in journalism, philosophy, policy and law, with a number of classes devoted to court decisions.

The aim of the course will be to familiarize students with the difficult and complex arguments of law, policy and morality in counter-terrorism. You will be required to attend class and participate in discussion. There will be assigned seats and roll will be taken. You will have to read the materials carefully for each class, approaching the readings with a critical attitude and noting questions and concerns for discussion. I will ask you to write cogently on many if not all of the prominent issues. There will be short writing exercises in class as well as a final exam.

Please consult the Blackboard site for this class from time to time for changes in this syllabus as well as additional postings of readings.

Required books and materials, some available free on the web:

1. Legal Responses to Terrorism, Wayne McCormack (2005) (LexisNexis Casebook). (Supplementary materials for the casebook are at Professor McCormack's website: <[http://old.law.utah.edu/faculty/bios/mccormackw/website/Terrorism/book\\_update/index.htm](http://old.law.utah.edu/faculty/bios/mccormackw/website/Terrorism/book_update/index.htm)>[http://old.law.utah.edu/faculty/bios/mccormackw/website/Terrorism/book\\_update/index.htm](http://old.law.utah.edu/faculty/bios/mccormackw/website/Terrorism/book_update/index.htm) )
2. The Report of the 9/11 Commission.
3. Just and Unjust Wars: A Moral Argument with Historical Illustrations, Michael Walzer (2000) (Basic Books).
4. The Looming Tower: Al-Qaeda and the Road to 9/11, Lawrence Wright (2006) (Knopf).

Shorter writings and essays will include: Thomas Aquinas, <<http://faculty.cua.edu/pennington/Law111/AquinasJustWar.htm>><http://faculty.cua.edu/pennington/Law111/AquinasJustWar.htm> and Francisco de Vitoria on War, on the Blackboard site; Thucydides, History, The Melian Dialogue, <<http://www.mtholyoke.edu/acad/intrel/melian.htm>><http://www.mtholyoke.edu/acad/intrel/melian.htm> ; Nagel, "War and Massacre," (from JSTOR with NYU passcode:) <[http://links.jstor.org/sici?sici=0048-3915\(197224\)1%3A2%3C123%3AWAM%3E2.0.CO;2-F](http://links.jstor.org/sici?sici=0048-3915(197224)1%3A2%3C123%3AWAM%3E2.0.CO;2-F)>[http://links.jstor.org/sici?sici=0048-3915\(197224\)1%3A2%3C123%3AWAM%3E2.0.CO;2-F](http://links.jstor.org/sici?sici=0048-3915(197224)1%3A2%3C123%3AWAM%3E2.0.CO;2-F); Posner, NYT op-ed on intell czar, <<http://select.nytimes.com/search/restricted/article?res=FB0F1EF6345F0C7A8CDDAB0>

[894DD404482>http://select.nytimes.com/search/restricted/article?res=FB0F1EF6345F0C7A8CDDAB0894DD404482](http://select.nytimes.com/search/restricted/article?res=FB0F1EF6345F0C7A8CDDAB0894DD404482)

as well as Posner, 9/11 Report Dissent (NYT Book Review Essay),

<<http://query.nytimes.com/gst/fullpage.html?res=9C07E6D81E3FF93AA1575BC0A9629C8B63>><http://query.nytimes.com/gst/fullpage.html?res=9C07E6D81E3FF93AA1575BC0A9629C8B63> ; FBI Review of 9/11 Intel (and Moussaoui),

<<http://www.usdoj.gov/oig/special/s0606/final.pdf>><http://www.usdoj.gov/oig/special/s0606/final.pdf>; Gary Wills on Just War in NYRB,

<<http://www.vtcucc.org/mission/DOM/JPA/What%20Is%20a%20Just%20War.pdf>><http://www.vtcucc.org/mission/DOM/JPA/What%20Is%20a%20Just%20War.pdf>

## SYLLABUS

### The New World of Terror

1. "Some Planes," 9/11 Comm'n 1-70.
2. Terrorism and the counterterrorism, 9/11 Comm'n 71-144 and McCormack 1-22.
3. Charisma, Wright, 1-98.
4. And organization, Wright, 99-201 and Comm'n 145-214.
5. Some cases (and some law), McC. 22-63.
6. Following the thread, Comm'n 215-253 and Wright 202-300.
8. Exiles, misfits, and the attack itself, Wright to end, Comm'n 254-324.
9. A plan for the next time, Comm'n to end. Posner rebuttal.

### Justice in and at War.

10. A moral context, Aquinas and Vitoria.
11. Walzer, 1-124 and Thucydides, Melian Dialogue.
12. Rules and conventions, 127-222.
13. Quandaries, 225 to end.
14. International 'law' and international crime, McC. 67-106.
15. The new dispensation, 106-141.
16. Torture and abuse, McC. 571-598 and the Dershowitz proposal.
17. Liberties and emergencies, 598-615 and the Ackerman proposal.

### Courts and Procedures

18. Taking jurisdiction, McC. 143-175.
19. Secrets and lies, 223-244.
20. Working FISA, 244-267.
21. Going after Moussaoui, FBI Review of 9/11 Intel.
22. CIPA's workings in court, McC. 267-301.

## Rights and Freedoms

23. Public trials, 301-312.
24. Guilt by association? 301-385.
25. Patriots and 'others', 387-446.
26. Military judges, 457-491.
27. Brigs, 491-533.
28. Pows? 533-570.