



# The Constitution in Wartime: Beyond Alarmism and Complacency (Constitutional Conflicts)

*Richard Pildes*

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Most recent discussion of the United States Constitution and war—both the war on terrorism and the war in Iraq—has been dominated by two diametrically opposed views: the alarmism of those who see many current policies as portending gross restrictions on American civil liberties, and the complacency of those who see these same policies as entirely reasonable accommodations to the new realities of national security.

Whatever their contributions to the public discussion and policy-making processes, these voices contribute little to an understanding of the real constitutional issues raised by war. Providing the historical and legal context needed to assess competing claims, *The Constitution in Wartime* identifies and explains the complexities of the important constitutional issues brought to the fore by wartime actions and policies. Twelve prominent legal scholars and political scientists combine broad overviews of U.S. history and contemporary policy with detailed yet accessible analyses of legal issues of pressing concern today.

Some of the essays are broad in scope, reflecting on national character, patriotism, and political theory; exploring whether war and republican government are compatible; and considering in what sense we can be said to be in wartime circumstances today. Others are more specific, examining the roles of Congress, the presidency, the courts, and the international legal community. Throughout the collection, balanced, unbiased analysis leads to some surprising conclusions, one of which is that wartime conditions have sometimes increased, rather than curtailed, civil rights and civil liberties. For instance, during the cold war, government officials regarded measures aimed at expanding African Americans' freedom at home as crucial to improving America's image abroad.

*Contributors.* Sotirios Barber, Mark Brandon, James E. Fleming, Mark Graber, Samuel Issacharoff, David Luban, Richard H. Pildes, Eric Posner, Peter Spiro, William Michael Treanor, Mark Tushnet, Adrian Vermeule

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