

## WAYNE McCORMACK

E.W. Thode Professor of Law  
University of Utah  
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Salt Lake City, UT 84112  
801-581-8494

### EDUCATION

1966 B.A. Stanford University  
1969 J.D. University of Texas

### EMPLOYMENT

1969-70 Law Clerk to Hon. Walter Ely, United States Court of Appeals, 9th Circuit  
1970-71 Instructor and Bigelow Fellow, University of Chicago School of Law  
1971-74 Assistant Professor, University of Georgia School of Law  
1974-75 Associate Professor, University of Georgia School of Law  
1975-78 Associate Director, Association of American Law Schools  
1978- Professor, University of Utah College of Law  
Associate Dean (1978-82, 1984-87, 1993-94)  
Subjects: Constitutional Law, Civil Procedure, Torts, International Criminal Law  
1997-2002 Director of Olympic Coordination, University of Utah

### PUBLICATIONS

#### Books & Monographs

JUDICIAL PROCESS (with Louisa Heiny, Foundation Press 2017)  
LAW OF TERRORISM (with Erik Luna, Carolina Academic Press 2017)  
CULTURE OF JUDICIAL INDEPENDENCE IN A GLOBALISED WORLD (with Shimon Shetreet, Brill/Nijhoff 2016)  
INTERNATIONAL CRIMINAL LAW: CASES AND MATERIALS (West 2015)  
UNDERSTANDING THE LAW OF TERRORISM (Lexis/Nexis 2008, 2d ed. w/ Erik Luna 2015)  
LEGAL RESPONSES TO TERRORISM (Lexis/Nexis 2005, 2d ed. 2008)  
CONSTITUTIONAL LAW: PRINCIPLES AND POLICY (with Barron, Dienes, Redish) (3d ed. 1987, 4th ed. 1992, 5th ed. 1996, 6th ed. 2002, 7th ed. 2006, 8th ed. 2012) (with annual supplements)  
VALUES AND VIOLENCE: INTANGIBLE ASPECTS OF TERRORISM (Springer 2008) (principal editor and author of Introduction)  
FEDERAL COURTS (Matthew Bender 1984)  
THE BAKKE DECISION: IMPLICATIONS FOR HIGHER EDUCATION ADMISSIONS (ACE and AALS 1978)

#### Book Chapters

*Judicial Independence Without Power: Norms in Search of Law*, in CULTURE OF JUDICIAL INDEPENDENCE IN A GLOBALIZED WORLD 129-147 (Brill Nijhoff 2016)  
*To Ignore or Not To Ignore: A Silly Debate in the U.S. Supreme Court?*, in CULTURE OF JUDICIAL INDEPENDENCE IN A GLOBALIZED WORLD 195-218 (Brill Nijhoff 2016)

*Citizens and Aliens in U.S. Courts*, in *CULTURE OF JUDICIAL INDEPENDENCE IN A GLOBALIZED WORLD* 319-333 (Brill Nijhoff 2016)

*Judicial Impartiality in International Courts: Of Law and Corruption* in *CULTURE OF JUDICIAL INDEPENDENCE: RULE OF LAW AND WORLD PEACE* 318-339 (Brill Nijhoff 2014)

*Models of War and Crime in Confronting Organized Violence*, in *INTERNATIONAL PROSECUTORIAL DISCRETION* (Oxford University Press 2012)

*Judicial Independence and Violence*, in *CULTURE OF JUDICIAL INDEPENDENCE: CONCEPTUAL FOUNDATIONS* 169-176 (Martinus Nijhoff 2011)

*The Rights of Aliens: Legal Regimes and Historical Perspectives*, with Tony Anghie, in *MIGRATION IN THE 21ST CENTURY* 23-53 (Routledge 2010)

*Value Choices in the Struggle with Terrorism*, in *VALUES AND VIOLENCE: INTANGIBLE ASPECTS OF TERRORISM* 257-277 (Springer 2008)

## Articles

*International Crime and Punishment: The Gap Through Which To Drive a Mafia*, 31 *ARIZ. J. INT'L & COMP. L.* 623-701 (2014).

*U.S. Judicial Independence: Victim in the "War on Terror,"* 71 *WASH & LEE L. REV.* 305-402 (2014).

*Judicial Independence in Times of Crisis: Introduction*, 2011 *UTAH L. REV.* 1-8 (2011)

*Targeted Killing at a Distance: Robotics and Self-Defense*, *MCGEORGE GLOBE LAW JOURNAL* (2011)

*Detention of Mega-Terrorists – It's About Crime*, 29 *CRIMINAL JUSTICE ETHICS* 82 (2011)

*War on the Rule of Law*, published as "Answers to Ten Questions for the National Security Law Forum," 36 *WM. MITCHELL L. REV.* 5095-5115 (2010)

*Defining Terrorism: Perfection as Enemy of the Possible*, International Assessment and Strategy Center, [http://www.strategycenter.net/research/pubID.141/pub\\_detail.asp](http://www.strategycenter.net/research/pubID.141/pub_detail.asp) (Jan. 17, 2007) (with Jeff Breinholt)

*Inchoate Terrorism: Liberalism Meets Fundamentalism*, 37 *GEO. J. INT'L L.* 1 (2005)

*Emergency Powers and Terrorism*, 185 *MILITARY L. REV.* 69 (2005)

*Lochner, Liberty, Property and Human Rights*, 1 *N.Y.U.J. LAW & LIBERTY* 432 (2005)

*Military Detentions and the Judiciary: al-Qaida, the KKK, and Supra-State Law*, 5 *SAN DIEGO J. INT'L LAW* 7 (2004)

*Patriot, Privacy and Politics*, *HOUSTON LAWYER* (Jan/Feb 2004)

*Property and Liberty -- Institutional Competence and the Functions of Rights*, 51 *WASH. & LEE L. REV.* 1 (1994)

*The Political Question Doctrine – Jurisprudentially*, 70 *U. DET. L. REV.* 793 (1993)

*Economic Substantive Due Process and the Right of Livelihood*, 82 *KY. L.J.* 397 (1993)

*Subsidies for Expression and the Future of Free Exercise*, 1993 B.Y.U.L. REV. 327

*The Justiciability Myth*, 14 HAST. CON. L.Q. 201 (1987)

*Land Use Planning and Management of State School Lands*, 1983 UTAH L. REV. 525

*Regulatory Problems in the Modern University Setting*, 1980 UTAH L. REV. 461

*Race and Politics in the Supreme Court: Bakke to Basics*, 1979 UTAH L. REV. 491

*Immunities of State Officials Under Section 1983*, 8 RUT.-CAM. L. REV. 63 (1976) (with Kirkpatrick)

*Expansion of Federal Question Jurisdiction and the Prisoner Complaint Caseload*, 1975 WIS. L. REV. 523

*Developments in the Availability of Federal Remedies Against State Activities*, 16 WM. & MARY L. REV. 1 (1974)

*The Purpose of Due Process: Fair Hearing or Vehicle for Judicial Review?*, 52 TEXAS L. REV. 1257 (1974)

*Federalism and Section 1983: Limitations Upon Judicial Enforcement of Constitutional Protections*

    Part I, 60 VA. L. REV. 1 (1974)

    Part II, 60 VA. L. REV. 250 (1974)

*Intergovernmental Immunities and the Eleventh Amendment*, 51 N. CAR. L. REV. 485 (1973)

*Federal Court Intervention in Military Courts -- Interrelationship of Defenses and Comity*, 6 GA. L. REV. 532 (1972)

*Justiciability of Legal Objections to the American Military Effort in Vietnam*, 46 TEXAS L. REV. 1033 (1968) (with Schwartz)

## Op-Eds & Blogs

GlobalJusticeBlog <http://today.law.utah.edu/blogs/globaljustice> [examples: *Is There an Alternative to "Peacekeeping" Failures?*; *Human Dignity and Global Federalism*; *Repairing the U.S. Ship of State Matters to the World*; *NSA in Utah: Is Privacy an Illusion Worth Pursuing?*]

*'Armed conflict' and war (re targeted killings)*,  
<http://www.sltrib.com/sltrib/opinion/55817445-82/armed-conflict-war-law.html.csp>  
(2/16/13)

*Judicial Review of Targeted Killing: A Bad Idea by a Good Person*,  
<http://jurist.org/forum/2013/03/wayne-mccormack-targeted-killing.php> (3/21/13)

*Presidents, constitutions, and economic systems*,  
<http://archive.sltrib.com/article.php?id=20351349&itype=storyID> (3/31/12)

*Prosecuting Terrorism Without the Language of War*,  
G8/G20 Summit 82 (2010).

## **SERVICE ACTIVITIES**

### American Bar Association

- Accreditation Committee (1981-92)
- Chair (1990-92)

### Association of American Law Schools

- Government Relations Committee (1979-82)
- Library Committee (1984-87)
- Ad Hoc Committee on Long-Range Planning (1985-86)
- Joint Committee on AALS-LSAC Relations (1978-80)

### Law School Admission Council

- Board of Trustees (1981-85, 1989-90)
- Legal Affairs Committee (1978-84)
- Chair (1982-84)
- Test Development & Research Committee (1984-86)
- Chair (1985-86)
- Internal Affairs Committee (1986-88)
- Ad Hoc Committee on Financial Aid (1978-80)
- Ad Hoc Committee on Organization & Structure (1979-81)
- Chair (1980-81)

### University of Utah

- Graduate Council (1981-87)
- University Senate (1982-83; 1987-92)
- Executive Committee (1990-91)
- Publications Council (1983-86)
- Chair (1984-85)
- Equal Opportunity Council (1983-87)
- Chair, Ad Hoc Committee on Structure of Colleges of Engineering and Mines
- Academic Freedom & Tenure Committee (1989-92, 2003-06)
- Budget & Planning Committee (1994-96)
- Olympic Oversight Committee (1995-97)
- Chair, Campus Health & Safety Committee (2002-04)
- Athletic Advisory Council (2004-07)
- Information Technology Council (2003-06, Chair 2004-06)
- RPT Standards Review (2005-06)
- Consolidated Hearing Committee (2006-15)
- Disaster Resistant University Planning (Chair, 2006-08)
- President's Media Task Force (2006-08)
- IPIA Terrorism Study Group (2005-08)
- Advisory Committee on Internationalization (2006)
- President's Task Force on Campus Security (Chair, 2007)
- Emergency Policy Group (Chair 2008) & Emergency Advisory Council (Chair 2008)

### Utah Governor's Commissions

- Commission on Law & Citizenship Education (1983-85)
- State Land Law Review Commission (1984-85)

Utah State Bar Association  
Committee on Delivery of Legal Services (1984-87)

Salt Lake County Bar Association  
Executive Committee (1992-94)

Utah Wilderness Association  
Board of Directors (1980-85)  
General Counsel (1980-96)

American Civil Liberties Union of Utah  
President (1981-82)  
Board of Directors (1980-82)  
Legal Panel (1980-88)

Community Co-op Nursery School  
President (1991-94)

Park City Ski Patrol  
Volunteer (1981-88; 1992-99)

Pro Bono Litigation  
Utah Wilderness Association (app. 12 cases)  
American Civil Liberties Union (3 cases)  
Planned Parenthood Association of Utah (4 cases)

**BAR ADMISSIONS**

1969	Texas (inactive)	1970	California (inactive)
1971	Georgia (resigned to avoid dues)	1978	District of Columbia (inactive)
1981	Utah		