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Mary L. Dudziak  
*Emory University*

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## War and Peace in Time and Space

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Mary L. Dudziak\*

Ideas about peace and war are contested in American history. They are often thought to be temporal concepts, with wartime and peacetime alternating in history. But when we consider the broad range of American wars, big and small, ongoing military conflict seems to blot out any time that is truly free of war. In spite of this, peace is the felt experience of many Americans. This symposium issue is premised on the idea that peace is realistically possible, and it celebrates peace as a positive value. This presents a conundrum: how to reconcile peace as a felt reality with war as ever-present. How does peace work in an era of ongoing war?

Looking to geographies of war and peace may provide an answer, for the experience of American war is largely exported, with military action carried out in other nations. Since the “Indian Wars” between the US government and Native American tribes, US war has been distant.<sup>1</sup> The impact of war is also concentrated in particular American communities. Even the memorialization of war death is separated from daily life.<sup>2</sup> The persistence of war and the simultaneous separation of killing, dying, and the dead from the center of American life illustrate the way war and peace are spatial. In

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\* Asa Griggs Candler Professor of Law, Emory University School of Law; Andrew W. Mellon CASBS Fellow, Center for Advanced Study in the Behavioral Sciences, Stanford University. I am profoundly grateful to Yxta Maya Murray, whose ideas inspired this essay. Warm thanks to Jade Gaudet and Parker Guthrie for helpful research assistance. This essay builds upon the analysis of ongoing war in my recent book *WAR TIME: AN IDEA, ITS HISTORY, ITS CONSEQUENCES* (2012).

<sup>1</sup> See Mary L. Dudziak, *Distant War and the Politics of Catastrophe*, BALKINIZATION (Feb. 9, 2015), <http://balkin.blogspot.com/2015/02/distant-war-and-politics-of-catastrophe.html>. See generally ROBERT M. UTLEY & WILCOMB E. WASHBURN, *INDIAN WARS* (2002). US war as distant war, and the implications of this for political limits on war powers, is the focus of my work in progress, *GOING TO WAR: AN AMERICAN HISTORY* (forthcoming from Oxford University Press).

<sup>2</sup> See Thomas W. Laqueur, *Spaces of the Dead*, 8 *IDEAS*, no. 2, 2001, at 1.

contrast, widespread domestic militarization might seem to bring intimacy with war into American communities. The crisis in Ferguson, Missouri, in August 2014 illustrated the diffusion of war materiel into domestic policing. But Ferguson also showed the way domestic militarization has its own geography. It mattered deeply that the officers pointing the weapons were white, and that the demonstrators were largely African American, making clear the racial geography of militarized policing. In this way, war is simultaneously infused and segregated in the context of militarization.

In the end, this essay raises the question of whether peace should be sought or celebrated. Perhaps the space of peace during persistent conflict can only be a space of privilege.

#### THE POLITICS OF PEACETIME

According to some accounts, we are on our way to peacetime. Jeh C. Johnson, Secretary of the Department of Homeland Security, gave a widely covered address suggesting that peace is on the way shortly before he stepped down as General Counsel of the Defense Department in late 2012.<sup>3</sup> Congress had authorized the use of military force against “those nations, organizations, or persons” involved in the terrorist attacks on September 11, 2001.<sup>4</sup> For some American leaders, the ending of this conflict was finally on the horizon. Johnson explained:

I do believe that on the present course, there will come a tipping point—a tipping point at which so many of the leaders and operatives of Al Qaeda and its affiliates have been killed or captured . . . such that Al Qaeda as we know it, the organization

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<sup>3</sup> Jeh Charles Johnson, Speech at Oxford Union, Oxford University: The Conflict Against Al Qaeda and Its Affiliates: How Will It End? (Nov. 30, 2012) *available at* LAWFARE BLOG, <http://www.lawfareblog.com/2012/11/jeh-johnson-speech-at-the-oxford-union/> (last visited July 27, 2014).

<sup>4</sup> See Authorization for Use of Military Force § 2(a), 115 Stat. 224, 224 (codified at 50 U.S.C.) § 1541 (2001).

that our Congress authorized the military to pursue in 2001, has been effectively destroyed.<sup>5</sup>

This could have far-reaching importance, for, as Johnson explained: “‘War’ must be regarded as a finite, extraordinary and unnatural state of affairs . . . . Peace must be regarded as the norm toward which the human race continually strives.”<sup>6</sup> President Barack Obama has echoed this idea in speeches of his own.<sup>7</sup>

Johnson’s speech was taken as a sign that a long war was ending, or that an end was finally in sight.<sup>8</sup> Under the conventional formulation of wartimes and their impacts, the end of war would be the moment when an imagined pendulum begins to swing in a new direction—away from wartime and the prioritization of security over rights. Peacetime, and the normal rule of law, would then return.<sup>9</sup>

If a tipping point is going to do so much work, altering the very state of the world away from war and wartime, then Johnson’s speech was pretty important. But it wasn’t accompanied by a lot of pomp and circumstance. Unlike the announcement of an end to World War II, there were no ticker-tape parades or photographs of soldiers kissing nurses in public squares.<sup>10</sup>

Perhaps this is because we had been here before. President George W. Bush prematurely announced that the war in Iraq was finished beneath a

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<sup>5</sup> Johnson, *supra* note 3.

<sup>6</sup> *Id.*

<sup>7</sup> See President Barack Obama, Remarks by the President at the National Defense University (May 23, 2013), *available at* <http://www.whitehouse.gov/the-press-office/2013/05/23/remarks-president-national-defense-university> (last visited July 27, 2014).

<sup>8</sup> See, e.g., Spencer Ackerman, *For the First Time, Obama Official Sketches Out End to War on Terror*, WIRED (Nov. 30, 2013), <http://www.wired.com/2012/11/jeh-johnson-terrorism/>.

<sup>9</sup> See generally MARY L. DUDZIAK, *WAR TIME: AN IDEA, ITS HISTORY, ITS CONSEQUENCES* (2012).

<sup>10</sup> DAVID HACKETT FISCHER, *LIBERTY AND FREEDOM: A VISUAL HISTORY OF AMERICA’S FOUNDING IDEAS* 561–63 (2005); DUDZIAK, *supra* note 9, at 6.

banner that read: “Mission Accomplished.”<sup>11</sup> And there was another, less memorable “end” to the Iraq conflict when, late in the summer of 2010, NBC news covered the alleged ending, as an embedded reporter rode with American troops across the border from Iraq to Kuwait.<sup>12</sup> President Obama followed up with an address to the nation two weeks later. Although he did not arrive on the flight deck of an aircraft carrier in a flight suit, it was nevertheless this president’s “Mission Accomplished” moment. Obama called the events “historic,” and praised American troops.<sup>13</sup> The history-making quality of this episode required some explaining, however, for 50,000 American troops would remain in Iraq, fully armed, and reports of American casualties in Iraq would continue.<sup>14</sup>

With the pullout announced by Obama, Operation Iraqi Freedom was replaced by Operation New Dawn.<sup>15</sup> Just how different the mission would be was clarified when practical questions surfaced. If combat was over, would American troops still be eligible for hostile fire pay and for combat service medals? The Army responded with a message to all troops: the “end to combat operations in Iraq” was effective September 1, “however, combat conditions are still prevalent. Due to the nature of combat conditions,

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<sup>11</sup> See President George W. Bush, Remarks by the President from the USS Abraham Lincoln at Sea Off the Coast of San Diego, California (May 1, 2003), *transcript available at* <http://georgewbush-whitehouse.archives.gov/news/releases/2003/05/20030501-15.html>; BOB WOODWARD, STATE OF DENIAL: BUSH AT WAR, PART III 186–87 (2006).

<sup>12</sup> *Ending the Mission that Defined a Generation*, NBC NIGHTLY NEWS (Aug. 16, 2010), <http://www.nbcnews.com/video/nightly-news/38730266#38730266>.

<sup>13</sup> President Barack Obama, Remarks by the President in Address to the Nation on the End of Combat Operations in Iraq from the Oval Office (Aug. 31, 2010), *transcript available at* <http://www.whitehouse.gov/the-press-office/2010/08/31/remarks-president-address-nation-end-combat-operations-iraq>.

<sup>14</sup> See DUDZIAK, *supra* note 9 at 127–28; Hannah Fischer, CONG. RESEARCH SERV., A GUIDE TO U.S. MILITARY CASUALTY STATISTICS: OPERATION NEW DAWN, OPERATION IRAQI FREEDOM, AND OPERATION ENDURING FREEDOM (2014), *available at* <http://fas.org/sgp/crs/natsec/RS22452.pdf> (providing information on “war dates” and military casualty statistics for military operations including Operation: New Dawn).

<sup>15</sup> See Fischer, *supra* note 14.

wartime awards will continue to be issued in theater until a date to be determined.”<sup>16</sup> Other combat service benefits would also be available. “It is unusual for the Army to come right out and say the emperor has no clothes,” said reporter Thomas E. Ricks, “but I think it had to in this case, because soldiers take medals seriously.”<sup>17</sup>

The paradoxical nature of this ending that was not an ending was echoed in the president’s address. He called this wartime era “an age without surrender ceremonies.”<sup>18</sup> It is an age when conflict can end, even as it remains ongoing.

These episodes show the importance to political leaders of bringing the country from a conceptualization of wartime to peacetime. For President Obama, President Bush, and for many previous American leaders, the character of war defied their political objectives. Conflict keeps escaping the boundaries of wartimes.<sup>19</sup>

#### THE CONCEPT OF WARTIME

In spite of ongoing conflict, the categories of wartime and peacetime persist. “Peace” is believed to be something real and attainable—a state we can get to—even though it appears that peace is a concept that lacks its own definition, most often described as a negation of something else: the absence of war.<sup>20</sup> Because peace is thought to be war’s opposite, in order to know what “peacetime” is, we have to know what “wartime” is.

The concepts of wartime and peacetime do a lot of work in American thought. On their face, they are temporal concepts. In scholarship on law

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<sup>16</sup> Thomas E. Ricks, *Army: Ignore Obama’s Statement, of Course, Combat Continues in Iraq*, FOREIGN POLICY, Oct. 7, 2010, [http://ricks.foreignpolicy.com/posts/2010/10/07/army\\_ignore\\_obamas\\_statement\\_of\\_course\\_combat\\_continues\\_in\\_iraq](http://ricks.foreignpolicy.com/posts/2010/10/07/army_ignore_obamas_statement_of_course_combat_continues_in_iraq).

<sup>17</sup> *Id.*

<sup>18</sup> See Obama, *supra* note 13.

<sup>19</sup> See generally DUDZIAK, *supra* note 9.

<sup>20</sup> See generally *id.*

and war, there are two different kinds of time: wartime and peacetime. Wartime and peacetime are sequential, so that time is viewed as linear and episodic, moving from one kind of time to another (from wartime to peacetime to wartime, etc.). Law is thought to be affected by what time it is—with strong protection of rights and weaker government power in peace, and with weaker protection of rights and stronger government power in war. The relationship between citizen and state, the scope of rights, and the extent of government power are thought to depend on whether it is wartime or peacetime. In this conceptualization, peace essentially functions as the reset button, bringing us back to what we imagine to be the “normal,” non-war state of affairs.<sup>21</sup>

“Wartime” seems to obviously exist in our world. But ideas about time, including “wartime,” are cultural concepts. Anthropologist Carol Greenhouse argues that we tend to think of “our” time—linear time—as natural time, and everything else as socially constructed. She demonstrates, however, that even the linear time we think of as natural is given meaning in social life.<sup>22</sup> Sociological theorist Emile Durkheim recognizes that it can be difficult to see the cultural nature of time:

Try to represent what the notion of time would be without the processes by which we divide it, measure it or express it with objective signs, a time which is not a succession of years, months, weeks, days and hours! This is something nearly unthinkable. We cannot conceive of time except on condition of distinguishing its different moments.<sup>23</sup>

But Durkheim asks where these ideas about time come from—what the *origin* is of the categories into which we divide time. They do not derive

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<sup>21</sup> See generally *id.*

<sup>22</sup> CAROL J. GREENHOUSE, A MOMENT’S NOTICE: TIME POLITICS ACROSS CULTURES 78 (1996).

<sup>23</sup> EMILE DURKHEIM, THE ELEMENTARY FORMS OF THE RELIGIOUS LIFE 10 (Joseph Ward Swain trans., 2008) (1915).

from nature, he argues, but from social life.<sup>24</sup> As Greenhouse puts it, these “categories of thought are born in social, or collective, experience.”<sup>25</sup> Scholarship on the history and anthropology of time helps us to see that, as Thomas Allen writes, time is not “a transhistorical phenomenon, an aspect of nature or product of technology existing outside of human society,” but is a “historical artifact produced by human beings acting within specific historical circumstances.”<sup>26</sup>

Just like other kinds of time, the idea of wartime is a historically contingent idea that is not based on the essential nature of either war or of time. We need to view wartime, like linear time, as social time.

Wartime matters to American law and politics because of the idea that law is silent during war and individual rights are more robust during peacetime. For this formulation to work, war must have temporal limits. But how do we determine the beginnings and endings of war? A ready database is American military campaign service medals which are awarded to those who serve in military conflicts. Eligibility is determined by specified dates of each conflict. The dates for medal eligibility cover nearly the entire twentieth century, leaving little if any peace.<sup>27</sup> This is confirmed by other measures of US wartimes, including membership criteria for veterans’ organizations, which are based in part on dates of eligible conflicts, and a 2004 Congressional Research Service report detailing American military conflicts over time.<sup>28</sup> These measures of wartime show that peace cannot be

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<sup>24</sup> *Id.*

<sup>25</sup> GREENHOUSE, *supra* note 22, at 26–27.

<sup>26</sup> THOMAS M. ALLEN, A REPUBLIC IN TIME: TEMPORALITY AND SOCIAL IMAGINATION IN NINETEENTH CENTURY AMERICA 11 (2008).

<sup>27</sup> See DUDZIAK, *supra* note 9, at 29–32. See also Mary L. Dudziak, *What 20th Century Wars Did Soldiers Get Medals For?* WAR TIME, <http://wartimebook.blogspot.com/2013/10/what-20th-century-wars-did-soldiers-get.html> (last visited Aug. 15, 2014) (including an online chart of twentieth century US military campaign service medals).

<sup>28</sup> Richard F. Grimmett, CONG. RESEARCH SERV., INSTANCES OF USE OF UNITED STATES ARMED FORCES ABROAD, 1798–2004, RL30172, (2004), <http://www.au.af.mil/au/awc/awcgate/crs/rl30172.htm> (last visited Aug. 15, 2014).



defined as a time without war. If peace exists, it must be in a different dimension than time.

#### THE GEOGRAPHIES OF WAR AND PEACE

If American war is ongoing, how do we take into account the fact that both wartime and peacetime are the lived experiences of many Americans? Those engaged in the work of American war (soldiers, reservists, military contractors, their families, and their communities) directly experience wartime, while the rest of us go about our daily lives minimally affected by American military engagement.

The divide between those engaged in war and those insulated from it is enabled by changes in military service, and changes in warfare itself. In the United States, soldiers are no longer drafted, and the use of military contractors enables the United States to project force with fewer American military personnel.<sup>29</sup> Technological developments, especially the use of armed drones, mean that deadly force can be deployed without putting American personnel in harm's way.<sup>30</sup>

According to a 2011 Pew Research Center Report, “[a] smaller share of Americans currently serve in the U.S. Armed Forces than at any time since the peace-time era between World Wars I and II.”<sup>31</sup> During the twenty-first

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<sup>29</sup> See generally BETH BAILEY, *AMERICA'S ARMY: MAKING THE ALL-VOLUNTEER FORCE* (2009); P.W. SINGER, *CORPORATE WARRIORS: THE RISE OF THE PRIVATIZED MILITARY INDUSTRY* (rev. ed. 2007); DEBORAH D. AVANT, *THE MARKET FOR FORCE: THE CONSEQUENCES OF PRIVATIZING SECURITY* (2005); Moshe Schwartz & Jennifer Church, *Summary*, CONG. RESEARCH SERV., DEPARTMENT OF DEFENSE'S USE OF CONTRACTORS TO SUPPORT MILITARY OPERATIONS: BACKGROUND, ANALYSIS, AND ISSUES FOR CONGRESS, (2013), available at <http://fas.org/spp/crs/natsec/R43074.pdf> (“Over the last decade . . . contractors accounted for 50% or more of the total military force.”).

<sup>30</sup> See generally TARGETED KILLINGS: LAW AND MORALITY IN AN ASYMMETRICAL WORLD (Claire Finkelstein, Jens David Ohlin, & Andrew Altman eds., 2012).

<sup>31</sup> PEW RESEARCH CENTER, *THE MILITARY-CIVILIAN GAP: FEWER FAMILY CONNECTIONS* (Nov. 21, 2011), available at <http://www.pewsocialtrends.org/2011/11/23/the-military-civilian-gap-fewer-family-connections/>.

century, “just one-half of one percent of American adults has served on active duty at any given time. As the size of the military shrinks, the connections between military personnel and the broader civilian population appear to be growing more distant.”<sup>32</sup>

Military service is now more concentrated in certain families: “Veterans are more than twice as likely as members of the general public to say they have a son or daughter who has served (21% vs. 9%).”<sup>33</sup> Overall, this “military-civilian gap” is more pronounced among younger people.<sup>34</sup>

The Pew report suggests that various political opinions are correlated with connections to family members who have served in the military.<sup>35</sup> The more distant and isolated Americans are from their nation’s wars, the less politically engaged they are with American war policy.

Isolating military service to a small segment of the population is reinforced by the physical geography of military bases and their surrounding communities. For example, Anthropologist Catherine Lutz shows that in Fayetteville, North Carolina, the home of Fort Bragg, war is infused into community life.<sup>36</sup> Planes fly within 15 hundred feet of homes near an Air Force runway; pictures on walls and even tombstones in the cemetery are continually restraightened after they are shaken by the impact of artillery rounds.<sup>37</sup> Even for a civilian without a spouse or child serving in the military or reserves, war’s constancy in Fayetteville cannot be avoided. The city doesn’t seek to avoid it: as Lutz writes, war is the city’s leading

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<sup>32</sup> *Id.* The data reveals “a large generation gap.” According to the report, “more than three-quarters (77 %) of adults ages 50 and older said they had an immediate family member—a spouse, parent, sibling or child—who had served in the military.” In contrast, for people under 50, “57% of those ages 30–49 say they have an immediate family member who served. And among those ages 18–29, the share is only one-third.” *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> See generally CATHERINE LUTZ, *HOMEFRONT: A MILITARY CITY AND THE AMERICAN TWENTIETH CENTURY* (2001).

<sup>37</sup> *Id.* at 195, 199.

industry. It drives the economy. Peace would have a negative impact on local businesses, schools enrollment would decline, and social life would be affected by a rise in unemployment.<sup>38</sup>

Military basing is not the only geography of American war. The most fundamental of all is that the very work of war itself—the killing of the enemy—happens far away. In contrast, during the Civil War, Drew Gilpin Faust writes, proximity to the dead, dying, and injured transformed the United States, creating “a veritable ‘republic of suffering’ in the words [of] Frederick Law Olmsted.”<sup>39</sup> Shared experience with death helped constitute American identity. Nowadays, nearly all Americans are far from the killing and dying.<sup>40</sup>

Even World War II, thought of as a “total war” with deep public engagement, was fought far from the continental United States.<sup>41</sup> The December 7, 1941, attack on Hawai’i, which triggered the US declaration of war against Japan, targeted a little known harbor in a faraway territory. Historian Emily Rosenberg shows the way Pearl Harbor came to be seen as an iconic American space (in what did not become the 50th state until 1959).<sup>42</sup> President Franklin D. Roosevelt initiated this by focusing especially on Pearl Harbor in his iconic speech about the attack, even though the Japanese struck many areas across the Pacific in a coordinated

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<sup>38</sup> *Id.* at 171–213.

<sup>39</sup> DREW GILPIN FAUST, *THIS REPUBLIC OF SUFFERING: DEATH AND THE AMERICAN CIVIL WAR* viii (2009).

<sup>40</sup> See MARY FAVRET, *WAR AT A DISTANCE: ROMANTICISM AND THE MAKING OF MODERN WARTIME* (2009); Mary L. Dudziak, *This Empire of Suffering*, OUP BLOG (June 17, 2014), [http://blog.oup.com/2014/06/empire-suffering-d-day-70-america-war/?utm\\_source=twitter&utm\\_medium=oupacademic&utm\\_campaign=oupblog&utm\\_source=twitter&utm\\_medium=oupamhistory&utm\\_campaign=oupamhistory](http://blog.oup.com/2014/06/empire-suffering-d-day-70-america-war/?utm_source=twitter&utm_medium=oupacademic&utm_campaign=oupblog&utm_source=twitter&utm_medium=oupamhistory&utm_campaign=oupamhistory).

<sup>41</sup> See generally JAMES T. SPARROW, *WARFARE STATE: WORLD WAR II AMERICANS AND THE AGE OF BIG GOVERNMENT* (2011).

<sup>42</sup> See generally EMILY ROSENBERG, *A DATE WHICH WILL LIVE: PEARL HARBOR IN AMERICAN MEMORY* (2003).

series of surprise attacks.<sup>43</sup> Roosevelt's effort to narrate Pearl Harbor as a central American space is just one example of the way the government sought to engage the public with a faraway war. Americans were deeply affected by the war and its losses because of the draft and widespread domestic participation in war-related work.<sup>44</sup> Still, the very "work of death" itself did not so deeply permeate the national experience simply because the dying happened far away.

Since World War II, war's carnage has become more distant. The Korean War did not generate a republic of suffering in the United States. Instead, as Susan Brewer has shown, Americans had to be persuaded that Korea should matter to them.<sup>45</sup> During the Vietnam War, division and conflict were central to American culture and politics. A shared experience of death and dying was not.<sup>46</sup>

If war and suffering played a role in constituting American identity during the Civil War, it has moved to the margins of American life in the twenty-first century. War losses are a defining experience for the families and communities of those deployed.<sup>47</sup> Much effort is placed on minimizing even that direct experience with war deaths through the use of high-tech warfare, like drones piloted far from the battlefield.<sup>48</sup> Over time, the United States has exported its suffering, enabling the nation to kill with less risk of American casualties.<sup>49</sup> It is surely a good thing to protect the lives of

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<sup>43</sup> *Id.*

<sup>44</sup> *See generally* SPARROW, *supra* note 41.

<sup>45</sup> *See* SUSAN A. BREWER, *WHY AMERICA FIGHTS: PATRIOTISM AND WAR PROPAGANDA FROM THE PHILIPPINES TO IRAQ 141–78* (2009).

<sup>46</sup> *See id.* at 179–229.

<sup>47</sup> *See* LUTZ, *supra* note 36; *see generally* STEVEN CASEY, *WHEN SOLDIERS FALL: HOW AMERICANS HAVE CONFRONTED COMBAT LOSSES FROM WORLD WAR I TO AFGHANISTAN* (2014).

<sup>48</sup> *See generally* Finkelstein, Ohlin, & Altman, *supra* note 30.

<sup>49</sup> *See generally* CASEY, *supra* note 47.

soldiers, but the consequences of these changes for American culture must be examined.

Just as national identity was constituted through the proximity of death in the Civil War, we must consider how national identity is affected when war is persistent, but there is no broad-based engagement with its carnage.

#### SEGREGATING THE DEAD

There is another geographic layer that affects our encounters with the work of war death: the dead themselves are segregated from the living. Until the late eighteenth and early nineteenth centuries, the dead were often buried in crowded churchyards and other urban burial places. In an essay “Spaces of the Dead,” Thomas Laqueur writes about changes in the way death was commemorated, with the turn to landscaped memorial parks outside of cities. This separation from daily life was “[t]he most remarkable change wrought in the cultural geography of burial.”<sup>50</sup> The resulting “necropolis” was a city of the dead, with “a sort of new democracy of the dead in a space far away from the living.”<sup>51</sup> Cemeteries were justified for public health reasons, but this doesn’t explain it, Laqueur argues. The rise of the cemetery must be found in the cultural work the dead do for the living.<sup>52</sup>

The cultural work of the dead is apparent in the treatment of war dead. Rudyard Kipling explained that, following World War I, “some sort of central idea was needed that should symbolize our common sacrifice wherever our dead might be laid and it was realized, above all, that each cemetery and individual grave should be made as permanent as man’s art could devise.”<sup>53</sup> A central element of British memorialization of the war,

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<sup>50</sup> Laqueur, *supra*, note 2, at 14.

<sup>51</sup> *Id.* at 5–7.

<sup>52</sup> *Id.* See also ERIKA DOSS, *MEMORIAL MANIA: PUBLIC FEELING IN AMERICA* (2010).

<sup>53</sup> Rudyard Kipling, *The Graves of the Fallen* IMPERIAL WAR GRAVES COMM’N 5 (1919), noted in Joanna Scutts, *Battlefield Cemeteries, Pilgrimage, and Literature after*

promoted by Kipling, was “the uniformity of their appearance and the equal treatment of all ranks of the dead.”<sup>54</sup> In the “new kind of war” that had wrecked countries as well as lives of civilians and soldiers, Joanna Scutts argues that the focus of British memorialization was “on the individual: meticulously naming and recording every lost life and imposing with absolute rigidity the concept of equality in death between working-class soldiers and aristocratic officers.”<sup>55</sup>

This kind of uniformity marks American military graves at Arlington National Cemetery and elsewhere. Unbroken rows of nearly identical headstones stretching for miles reveal the immense costs of war.<sup>56</sup> The commonalities render the individual beneath the marker as an abstract element of a broader national purpose. Unseen human remains, gathered together, become a collective symbol. They are invoked on Memorial Day and other such occasions, but otherwise are outside our everyday experience. Their separation makes them a community of the dead, in a space outside the polity. They work in our imaginations through their collective absence.

#### HOMEFRONT WAR ZONES

War sometimes finds its way into community life. Law enforcement has been militarized as surplus war materiel has been sold or simply given to

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*the First World War: The Burial of the Dead*, 52 ENGLISH LITERATURE IN TRANSITION, 1880–1920, no. 4, 2009, at 387.

<sup>54</sup> *Id.* at 388.

<sup>55</sup> *Id.* at 389.

<sup>56</sup> See Mark C. Mollan, *Honoring Our War Dead: The Evolution of the Government Policy on Headstones for Fallen Soldiers and Sailors*, 35 PROLOGUE MAGAZINE, no. 1 (2013), <http://www.archives.gov/publications/prologue/2003/spring/headstones.html> (last visited Aug. 15, 2015). See generally ROBERT M. POOLE, ON HALLOWED GROUND: THE STORY OF ARLINGTON NATIONAL CEMETERY (2009); Micki McElya, *Remembering 9/11's Pentagon Victims and Reframing History in Arlington National Cemetery*, 111 RADICAL HISTORY REV. 51 (2011).

police departments. This leads to another spatial aspect of war and peace, as some communities, but not others, are targets of militarized police forces.<sup>57</sup> This division turns most heavily on race.<sup>58</sup> This was illustrated recently in Ferguson, Missouri, when police officers outfitted with military equipment trained their weapons on people protesting the killing of an unarmed African American man by a white police officer.<sup>59</sup> “Is this a war zone or a US city?” asked Michigan Congressman Justin Amash.<sup>60</sup> One reason the Ferguson police were so heavily armed is that unused military equipment had found its way into domestic law enforcement.<sup>61</sup> The *New York Times* reported that “[d]uring the Obama administration, according to Pentagon data, police departments have received tens of thousands of machine guns; nearly 200,000 ammunition magazines; thousands of pieces of camouflage and night-vision equipment; and hundreds of silencers, armored cars and aircraft.”<sup>62</sup>

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<sup>57</sup> *War Comes Home: The Excessive Militarization of American Policing*, AM. CIV. LIBERTIES UNION (June 23, 2014), <https://www.aclu.org/war-comes-home-excessive-militarization-american-policing>.

<sup>58</sup> See generally RACE AND ETHNICITY: ACROSS TIME, SPACE AND DISCIPLINE (Rodney D. Coates ed., 2004).

<sup>59</sup> See Juliana Jiménez Jaramillo, *Photos of the Protests in Ferguson*, SLATE (Aug. 13, 2014), [http://www.slate.com/articles/news\\_and\\_politics/photography/2014/08/photos\\_of\\_the\\_protests\\_in\\_ferguson\\_missouri\\_tear\\_gas\\_rubber\\_bullets\\_and.html](http://www.slate.com/articles/news_and_politics/photography/2014/08/photos_of_the_protests_in_ferguson_missouri_tear_gas_rubber_bullets_and.html).

<sup>60</sup> Justin Amash, @repjustinamash, TWITTER (Aug. 13, 2014, 7:12 PM EDT), <https://twitter.com/repjustinamash/status/4997402>.

<sup>61</sup> See Valerie Bailey Grasso, CONG. RESEARCH SER., DEFENSE SURPLUS EQUIPMENT DISPOSAL, INCLUDING THE LAW ENFORCEMENT 1033 PROGRAM, 5–6 (2014), available at <http://fas.org/sgp/crs/natsec/RS20549.pdf>? (discussing the “1033 Program” in the National Defense Authorization Act of 1997, which provided six .45 caliber weapons, 12 M16 assault rifles, and seven “High Mobility Multipurpose Vehicles” to Ferguson since July 2013).

<sup>62</sup> Matt Apuzzo, *War Gear Flows to Police Departments*, N.Y. TIMES, June 8, 2014, <http://www.nytimes.com/2014/06/09/us/war-gear-flows-to-police-departments.html>. See also Dara Lind, *Why the Feds Are Putting Grenade Launchers in the Hands of Local Cops*, VOX, Aug. 14, 2014, [http://www.vox.com/2014/6/9/5793204/why-the-feds-are-putting-grenade-launchers-in-the-hands-of-local-cops?utm\\_medium=social&utm\\_source=twitter&utm\\_campaign=mattyglesias&utm\\_content=thursday](http://www.vox.com/2014/6/9/5793204/why-the-feds-are-putting-grenade-launchers-in-the-hands-of-local-cops?utm_medium=social&utm_source=twitter&utm_campaign=mattyglesias&utm_content=thursday) (internal quotations omitted).

Militarization of American police has a longer history, unfolding over several decades, Radley Balko writes. “Today in America SWAT teams violently smash into private homes more than one hundred times per day,” and many police departments have given up their traditional uniforms for “‘battle dress uniforms’ modeled after soldier attire.”<sup>63</sup> Police departments “now sport armored personnel carriers designed for use on a battlefield.” Some departments receive training from military Special Forces units.<sup>64</sup> Yet, as Jamelle Bouie writes about the crisis in Ferguson, “it’s hard to imagine a situation in which American police would need a mine-resistant vehicle.”<sup>65</sup>

Shocking images of police pointing high-powered weapons at demonstrators with their hands up appeared to have awakened the nation, at least momentarily. Reports of journalists told to turn off their cameras, and of arrests of journalists, heightened awareness of bedrock First Amendment rights.<sup>66</sup> Georgia Congressman Hank Johnson acted on this new national concern about police militarization with plans to introduce a “Stop Militarizing Law Enforcement Act,” which would “end the free transfers of certain aggressive military equipment to local law enforcement and ensure that all equipment can be accounted for.”<sup>67</sup> Johnson wrote to his House colleagues: “Before another small town’s police force gets a \$700,000 gift

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<sup>63</sup> See RADLEY BALKO, *RISE OF THE WARRIOR COP: THE MILITARIZATION OF AMERICA’S POLICE FORCES* xi, xi–xiii (2013).

<sup>64</sup> See *id.*

<sup>65</sup> Jamelle Bouie, *The Militarization of the Police*, SLATE, Aug. 14, 2014, [http://www.slate.com/articles/news\\_and\\_politics/politics/2014/08/police\\_in\\_ferguson\\_military\\_weapons\\_threaten\\_protesters.html](http://www.slate.com/articles/news_and_politics/politics/2014/08/police_in_ferguson_military_weapons_threaten_protesters.html) (italics omitted).

<sup>66</sup> See Kristen Hare, *Which Journalists Have Been Arrested in Ferguson?*, POYNTER, <http://www.poynter.org/latest-news/mediawire/264273/which-journalists-have-been-arrested-in-ferguson/>.

<sup>67</sup> Evan McMorris-Santoro, *Democratic Congressman Will Introduce Police Demilitarization Bill*, BUZZFEED, Aug. 14, 2014, [http://www.buzzfeed.com/evanmcsan/democratic-congressman-will-introduce-police-demilitarization?utm\\_term=rbaj8n#1sneuwj](http://www.buzzfeed.com/evanmcsan/democratic-congressman-will-introduce-police-demilitarization?utm_term=rbaj8n#1sneuwj).



from the Defense Department that it can't maintain or manage, it behooves us to reign in" the Pentagon program transferring unused military equipment to domestic police, "and revisit the merits of a militarized America."<sup>68</sup>

As national attention focused on Ferguson, Kentucky Senator Rand Paul, a prospective 2016 presidential candidate, published an op-ed in *Time* magazine calling for an end to police militarization,<sup>69</sup> and Attorney General Eric Holder released a statement that he was "deeply concerned" about "the deployment of military equipment and vehicles" in Ferguson.<sup>70</sup> It is too soon, of course, to know how the events in Ferguson will play out, but Kara Dansky, lead author of an American Civil Liberties Union study of the use of military tactics by police forces, was "encouraged to see that people are willing to engage in a conversation about this topic."<sup>71</sup> After all, "we want the police to protect and serve communities, not wage war on the people who live in them."<sup>72</sup>

The events in Ferguson serve as a reminder that a geography of race and class matters to American militarization.<sup>73</sup> This places militarization within a broader history of race and criminal justice. It also shows us something about the character of peace. Military-style force was deployed in the name of keeping peace, but its very deployment was experienced as war by the community. The Ferguson police chief's "peace" was widely seen as

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<sup>68</sup> *Id.* (internal quotation marks omitted).

<sup>69</sup> Rand Paul, *We Must Demilitarize the Police*, TIME, Aug. 14, 2014, <http://time.com/3111474/rand-paul-ferguson-police/>.

<sup>70</sup> Lucy McCalmont, *Eric Holder 'Concerned' over Ferguson*, POLITICO, Aug. 14, 2014, <http://www.politico.com/story/2014/08/eric-holder-ferguson-law-enforcement-110020.html#ixzz3ATcDaptE>.

<sup>71</sup> McMorris-Santoro, *supra* note 67 (internal quotation marks omitted).

<sup>72</sup> *Id.* (internal quotation marks omitted).

<sup>73</sup> For an earlier history of race and militarization, see generally JOHN HOPE FRANKLIN, *THE MILITANT SOUTH* (new ed., 2002).

aggressive and war-like. This does not conflate peace and war, but it shows that the experience of peace can come not from justice but from power.

#### CONCLUSION

The examples of the isolation of war-related work, the segregation of the dead, and the racial geography of militarization illustrate that peace is not a collective experience. The experience of peace depends on who you are and where you live. It is because war and militarization are experienced geographically that much of the US population can experience peace, while war's violence is exported, and a militarized police presence is focused on poor and minority communities. This affects the time and space of American politics. During our current war era, members of Congress will campaign in "peacetime" districts. The more the American war experience is concentrated and isolated, the smaller the constituency for a political agenda related to war. Although there are new initiatives to curb military deployments, and to roll back domestic militarization, it is hard to see how political effort will be sustainable when war's costs are isolated, and peacetime is the dominant experience of citizens of a nation engaging in ongoing war.

This is why we must consider whether it is time to give up on the idea of peace.