



Peevers, C. (2017) A deathless story: the ANZAC memorial, memory and international law. *London Review of International Law*, 5(1), pp. 153-184. (doi: [10.1093/lril/lrx004](https://doi.org/10.1093/lril/lrx004))

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Deposited on: 17 May 2017

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**A deathless story: the ANZAC Memorial, memory and international law**  
**Charlotte Peevers\***

In this contribution I set the stage for law's materialisation in and through a war memorial. I argue that encountering this material artefact is an opportunity to impose, resist, and rethink law's constitutive violence. While the memorial manifests a claim to 'right order' by commemorating, and thereby embedding, some remembrances over others; its very materiality holds out the prospect for reimagining 'right order', calling attention to international law's war-likeness.

Remembering or forgetting is doing gardener's work...flourishing plants have in some way forgotten themselves in order to transform: between the seeds or the cutting from which they were born and what they have become there is hardly any apparent relationship anymore. In that sense, the flower is the seed's oblivion.<sup>1</sup>

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<sup>1</sup> M Augé, *Oblivion* (University of Minnesota Press, 2004) 17.



Figure 1. American Colony. Photo Dept, photographer. [*Egypt. Port Said & canal zone. Port Said, ships coming through the canal seen from roof of Palace Casino Hotel, showing war memorial, Australian & New Zealand*]. [Between 1934 and 1939] Image. Retrieved from the Library of Congress, <https://www.loc.gov/item/mpc2010007937/PP/>. (Accessed 5 November 2016.)

Acts

*Birth, Casino Palace Hotel Gardens, Port Said, Egypt, 23 November 1932*



AUSTRALIAN WAR MEMORIAL

A02755

Figure 2. [An unidentified member of the Royal Australian Navy (RAN) with back to camera, standing in front of the flag covered memorial which was erected at Port Said to commemorate the Australian and New Zealand Light Horse units, which arrived at Port Said in 1915, prior to unveiling on 23 November 1932.], Australian War Memorial, A02755

Former wartime Prime Minister Billy Hughes, on his way from a meeting of the League of Nations back home through the Suez Canal, spoke directly to the Australian nation via a newly-laid radio cable through the Canal. Before him stood a figuration of triumphant combat: two horsemen preparing for battle, dismounting and driving forward with their bayonets. Australian and New Zealand brothers-in-arms they embodied the victories of the mounted desert campaigns in Egypt, Syria and Palestine between 1916 and 1918: Romani, Magdhaba, Gaza, Beersheba and Jericho. They were modelled on the Australian Light Horse but the engravings along the stone semi-circle around the granite plinth and bronze figures also commemorated the New Zealand Mounted Rifles, the Imperial Camel Corps and the Australian Flying Corps. All were divisions of the Australian Imperial Force,<sup>2</sup> volunteers from Britain's Dominions who fought for nation and Empire. On 27 December 1932 the *Sydney Morning Herald* carried a detailed report of the unveiling. Their eye-witness reporter explained that the war in Egypt was not a weary war of trenches as at Flanders, but was instead one 'of adventurous soldiering, rapid marches, and an epic that descends directly from the Crusades'.<sup>3</sup> In Billy Hughes's words:

To all who pass along this great waterway this Monument must make an irresistible appeal. For on this site it tells a story no less enthralling, romantic and wonderful than the Odyssey itself ... The most sluggish imagination must be fired by the recital of the journeyings of young warriors from their far off home to this ancient land. From lands which throughout the ages had lain enshrouded in the mists of immense distance – these young soldiers, who had never heard a shot fired in anger in all their lives, came to the most ancient of lands, whose history, stretching back to the grey dawn of time is inseparably interwoven with that of civilisation itself, to fight in the greatest war in history ... In valour, daring and endurance none surpassed them ...

...

Bred in remote countries in an environment of perfect peace, they faced hardships and rigours of a stern campaign. Their belief in the ultimate victory never weakened. Theirs indeed is a deathless story.

...

The men we commemorate to-day, made and changed history. Though their bones are bleached by the desert sands and their bodies covered by foreign soil, their spirits live and their memories will remain fragrant throughout the ages.<sup>4</sup>

According to *The Times* of London, the British High Commissioner, Sir Percy Loraine, after inspecting a guard of honour provided by the Northamptonshire Regiment 'probably expressed the feelings of most people present when he said the memory of the courage and endurance of

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<sup>2</sup> The New Zealand Expeditionary Force was subsumed within the AIF for the duration of the Great War.

<sup>3</sup> *Sydney Morning Herald*, 27 December 1932, available at <http://trove.nla.gov.au/ndp/del/article/16941224> (last visited 15 December 2016).

<sup>4</sup> Former Australian Prime Minister W M Hughes at the unveiling of the ANZAC Memorial at Port Said, Egypt (Hughes was Prime Minister from 1915-1923).

those who fell “should inspire us in our turn to hang on and not lose heart in organizing peace which their sacrifice made possible”.<sup>5</sup>



Figure 3. ANZAC Memorial, 1943 (© Ken Bowell)

***Death, Casino Palace Hotel Gardens, Port Said, Egypt, 24 December 1956***

In early November 1956, British forces occupied Port Said after a prolonged aerial bombardment at the climax of the Suez Crisis (“Operation Musketeer”). They took over the Casino Palace Hotel turning it into the Operation’s headquarters. Much of the city was destroyed and its

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<sup>5</sup>‘Port Said Memorial’, *The Times*, 24 November 1932.

infrastructure disabled by the invading army. In the absence of Egyptian armed forces, the city was defended by an underground resistance only able to communicate to Nasser's government in Cairo through a hidden wireless. A United Nations-brokered ceasefire days later was followed by UN troops arriving in Port Said on 21 November. On 23 December, British and French troops withdrew from Egypt.

On 24 December, *Al Ahrām* reported that the colossal statue of Ferdinand de Lesseps, which stood at the harbour entrance to the Suez Canal, had been attacked. The ANZAC Memorial was also destroyed. Yahia Al Shaer, a member of the Port Said resistance, recalls that the idea for blowing up the de Lesseps statue came from a journalist who suggested that its destruction would be a powerful symbol against the Anglo–French occupation and any attempt at future foreign occupation. The journalist approached the official head of the resistance who had been sent from Cairo, General Samir, with the idea just as the British began their withdrawal in the days leading up to 23 December. Samir refused the request but on the day of the withdrawal he instructed First Lieutenant Farag to message Cairo seeking authorisation. The response from Cairo was not received until the afternoon of 24 December. The message prohibited the destruction of any European monuments or possessions in the city and sought to ensure that no harm came to any foreign citizens who remained in the city.<sup>6</sup>

Al Shaer records that General Samir made the decision to authorise demolition of the de Lesseps statue before receiving Cairo's response because, had he not done so, it would have been destroyed in any case given the number of weapons and the amount of dynamite hidden throughout the city and the crowds gathering to demand its destruction. While Al Shaer coordinated the dynamiting of the de Lesseps statue he records only that the ANZAC Memorial was demolished by Port Said's residents after they had watched the destruction of the de Lesseps statue. The remnants, including the ANZAC Memorial's granite plinth, appear to have been gathered together and removed from public sight. There are few other archival traces of those who were in revolt.

***Resurrection I, Mount St Clarence, Albany, Western Australia, 31 October 1964***

Sir Robert Menzies, Prime Minister of Australia:

[I]n 1932 there [the ANZAC Memorial] was at the mouth of the northern entrance to the Suez Canal; there it was looking out towards Palestine, Syria, towards the very centre of the Old World. A very remarkable piece of symbolism that was that on an errand of war, men should have come from two countries to find their way into one country which was the home of Christendom, and a group of countries which in a true sense were the home of European civilisation, we don't always remember that the civilisations of Europe came from originally the vicinity of the Caucasus and that the Phoenician moves across Europe first of all produced the great civilisation of Greece and then of Rome and then of the Romance countries and then of Great Britain herself.

Therefore, here was a country which, however desert it might look, was the very cradle of religion and of civilisation, and men came to it from the far corners of the earth, from our

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<sup>6</sup> Ibid.

two countries which had comparatively little history of their own and very little long-derived history, although they were old in point of years. Now this was, of course, a matter of enormous significance. It meant that people who might have been thought to have no particular interest in that part of the world went there in order to resist aggression, in order to right wrongs, in order to give let it be remembered, a practical demonstration of Christian faith in the very home of Christianity, and therefore it was a most appropriate and symbolic thing that this monument, as it then was should have pointed the way to this remarkable series of countries, this remarkable cradle as I have called it, of civilisation and religion.

Then in 1956, it was attacked in the most vandal-like fashion. There was no reason in it, there was no sense in it. Indeed, when I heard about this, I couldn't help remembering that in 1941 and 1942, Egypt had been protected against being over-run, by forces from Great Britain and Australia and New Zealand at the Battle of Alamein, and this therefore was a wanton act. However, it had one result and that is that by great skill and artistry, the memorial has been re-established, and now it has been re-established in a place which I venture to describe as equally symbolic in its own fashion. If it couldn't stand to point the way to what was then the future at Port Said, it is a good thing that it should stand here to point the farewell to those who left here to go to Egypt, to go to the Middle East, the last point of departure, the last lovely glimpse that some of them were ever to have of their own country.

...  
There are those who think that [memorials] are merely commemorative of war, that in some way they glorify war. I would like to think they do far more than that. I would like to believe, and I know you believe, that they are symbolic of something enduring in human nature, something enduring in the human spirit, because it is after all, human nature the human spirit that is the enduring element in all history. It may be turned aside from its normal occupations, it may be called upon to perform great sacrifices it may have its moments of anger and even its moments of hatred, but when these things have settled down into their place, it is the human spirit which is the continuing element in our civilisation. It is a wonderful thing, isn't it, that we should occasionally be able to stand in a place like this and think about the human spirit, think about indomitable human nature and be proud of it and be refreshed by it.<sup>7</sup>

***Resurrection II, ANZAC Parade, Australian War Memorial, Canberra, Australian Capital Territory, 19 April 1968***

Australian Prime Minister Gorton recalled first how on this anniversary of the second battle of Gaza there were many there in Canberra who could cast their minds back to riding together, thinking in a very special way about the sands across which they rode, the battles they fought and the achievements that they brought to Australian arms. But, he said, it was not just a special day for them because:

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<sup>7</sup> R Menzies, 'Unveiling and re-dedication of Desert Mounted Corps Memorial at Albany, Western Australia', 11 October 1964, transcript available at <http://pmtranscripts.dpmc.gov.au/sites/default/files/original/00001002.pdf> (last visited 15 December 2016). Upon remaking in Australia it became known as the 'Desert Mounted Corps Memorial'.



while they will look back at what they did, while they may see the achievements that came from what they did, for those of us who were not there, who are here, and those who will be here in the future, this monument is not only to particular men in a particular Corps but to the achievements of Australian soldiers in war ... [so that] through those achievements Australians can live the way it wants to live in peace.

Then Jack Marshall, New Zealand Deputy Prime Minister spoke:

This memorial fixed a fleeting incident in time into the permanence of bronze and stone. But this moment in our history 50 years ago is typical of many others recorded not in monuments but in the memories of our fighting men told and retold with great relish and a little embellishment until they have passed into the folklore of our people and the tradition of our countries. And so in this memorial we who have eyes to see, we who are of those people and in that tradition see not only this memorial of stone and bronze but the embodiment of the deep relationship between Australia and New Zealand... This ANZAC group could be repeated with sons of these men in the second world war and with grandsons today in Vietnam with different uniforms and weapons with the horses replaced by armoured vehicles but with the same spirit of these comrades in arms. And though this monument is in a setting of war, its message is no less true for the peaceful pursuits which happily predominate in our mutual relations.

...

In this memorial which records in timeless terms the confidence, the courage the determination and in a just cause the defiance of our people we too can in the same spirit face the future together.<sup>8</sup>

## Remembering and forgetting international law and the Great War

‘The end of the First World War is almost unanimously considered by historians of international law as constituting the end of an epoch...with the end of the First World War, the ‘classical’ system...gave way to a ‘new’ law of nations...‘modern international law’.<sup>9</sup> This periodisation of international law – with the Great War acting as a hinge – aligns with an alluring progress narrative engrained in the rationalisation of international law as both academic discipline and professional practice. Such periodisation makes sense of where we are today: ‘The UN Charter stands at the end of an evolution by which the rights of states to use force was progressively limited’.<sup>10</sup> Coupled with this evolutionary account is one that centres upon a necessity because ‘international law *facilitates* the functioning of the international law community, of which we are all a part and on which we all depend’.<sup>11</sup> ‘[I]nternational law is needed in order to ensure a stable and orderly international society’.<sup>12</sup>

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<sup>8</sup> The unveiling and dedication ceremony of the Desert Mounted Corps memorial at ANZAC Parade in April 1968 is available as an audio recording (AWM S00266) and silent images on the Australian War Memorial website <https://www.awm.gov.au/collection/S00266/> (last visited 15 December 2016).

<sup>9</sup> WG Grewe, *The Epochs of International Law* [originally published 1984] (Walter de Gruyter, 2000) 575. See also MN Shaw, *International Law*, 7<sup>th</sup> ed. (Cambridge UP, 2014) 22.

<sup>10</sup> R Lesaffer ‘Too much history: from war as sanction to the sanctioning of war’ in M Weller (ed.) *The Oxford Handbook of the Use of Force in International Law* (Oxford UP, 2015) 35-56 at 35.

<sup>11</sup> M Dixon, *Textbook on International Law*, 7<sup>th</sup> ed. (Oxford UP, 2013) 3.

<sup>12</sup> *Ibid* 11.

War, in this periodisation, and in the ordering-oriented account of international law, is bracketed as a spectacular, brutal and horrific interruption of international law's promissory progress towards peace and stability. In this account, law's momentary absence in war is made up for by the evolutionary march towards institutionalisation, systematisation and (re)constitution of an imagined international community founded anew upon law. The work of bracketing is familiar 'boundary work', with distinctions drawn everywhere primarily and most forcefully between law and war, war and peace, legality and illegality, combatants and noncombatants, *ad infinitum*.<sup>13</sup> Violence and suffering continue to predominate in a world that is at once stable and peaceful and radically unstable and warlike.

Rewriting this periodisation, Isabel Hull argues for a 'restoration of international law's rightful place' in the Great War.<sup>14</sup> The 'erasure' of this place - framed as 'what we have forgotten' - that 'continues to this day in both academic writing and popular culture...has robbed the war of meaning'. The Great War means only 'tragic senselessness' and 'pointless mass death'. Hull diagnoses this active forgetting as a result of two forces. The first was a 'threefold disillusionment' with international law that included pacifist frustration at law's inability to prevent war, the failure of law to prevent mass carnage, and the confusing claim and counterclaim over violations. The second boiled down to propaganda: during the war and especially in drafting the Versailles Treaty, international law was the centrepiece of British policy; after the war German revisionists engaged in multiple activities centred on a rejection of 'war guilt' and the corollary 'innocence campaign'.<sup>15</sup>

Hull's work aims to 'correct' the manipulation of collective memory about the Great War with archival immersion and a commitment to 'getting to the bottom of things and making a reasonable judgment'.<sup>16</sup> Such adjudication over these archives of international law end up providing 'a powerful defense of the role of law in international crises'<sup>17</sup>. Correcting the falseness of collective memory (expressed as forgetting) leads to a diagnosis of the contemporary problem of 'lawlessness' as one that can be traced back to the approach of the Germans to 'sound' international law.<sup>18</sup>

The boundary work distinguishing archival history and false witness - memory and its manipulation - re-entrenches a questionable distinction between history and memory.<sup>19</sup> Without

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<sup>13</sup> D Kennedy, *A World of Struggle: How Power, Law, and Expertise Shape Global Political Economy* (Princeton UP, 2016) 256-60. See also H Charlesworth & C Chinkin, *The Boundaries of International Law: A Feminist Analysis* (Manchester UP, 2000); and TF Gieryn, 'Boundary-work and the demarcation of science from non-science: Strains and interests in professional ideologies of scientists' *American Sociological Review* (1983) 781.

<sup>14</sup> I Hull, *A Scrap of Paper: Breaking and Making International Law During the Great War* (Cornell UP, 2014)

<sup>15</sup> *Ibid* 9.

<sup>16</sup> *Ibid* 13.

<sup>17</sup> dust jacket of hardback Hull (2014).

<sup>18</sup> This approach Hull adjudges as wrong both because it takes a cavalier attitude to law and at other times is super-formalist.

<sup>19</sup> The immersion in the archives at once provides a level of rich detail that to readers is almost unfathomable, so precious is the knowledge produced from that long and arduous encounter. (On which see A Farge, *The Allure of the Archives*, trans. Scott-Railton (Yale UP, 2013)). At the same time this immersion in the sheer 'staggering numbers of files dealing directly with issues of international law during the war' (Hull, Preface ix) seems to have been absorbed as material proof of international law's importance as constraint.

rehearsing the sustained and nuanced debates on this distinction,<sup>20</sup> many theorists have pointed to the constructedness, selectivity, and interpretation necessary in historiography.<sup>21</sup> By questioning the orthodox account of history, memory might also become part and parcel of historiography itself:

History is written by people in the present for particular purposes, and the selection and interpretation of “sources” is always arbitrary. If “experience”, moreover, is always embedded in and occurs through narrative frames, then there is no primal, unmediated experience that can be uncovered. The distinction between history and memory in such accounts is a matter of disciplinary power rather than epistemological privilege.<sup>22</sup>

Whether we call something ‘memory’ or ‘history’, we are articulating different ways of ordering knowledge and making facts: both continuously produce knowledge about the world. The stakes are high when it comes to the authority to pronounce upon how to understand the past, the present and the future resulting in powerful distributive effects and the disciplining of ‘other’ knowledge. Instead of according ‘forgetting’ with an inherently negative aspect, could we take it as also forging meaning, a meaning that rethinks international law’s place in the world? Such an approach asks us to consider how intimately interwoven are law and collective memory. This might take seriously the ways in which the Great War has been remembered in an international legal order defined by its ability to restate and renew its potential. Forgetting allowed for the rise of international institutionalism and the reassertion of international law in a refashioned guise. Or it might take Paul Fussell’s searing critique of the Great War as a disavowal of law’s enlightenment’ promise. The Great War was ‘a hideous embarrassment to the prevailing Meliorist myth...it reversed the Idea of Progress’<sup>23</sup>, it was the *end* of civilization. No more could one think of a ‘seamless, purposeful “history” involving a coherent stream of time’ where abstractions such as Honour and Glory were permanent and reliable.<sup>24</sup> Taking Fussell’s lead, I argue that the legal justifications or arguments about ‘constraint’ might have been considered worthy of forgetting in light of modernity’s warlikeness.

## Law’s Memory

Collective memory has been defined as ‘knowledge about the past that is shared, mutually acknowledged, and reinforced by collectivities such as small informal groups, formal organizations, or nation states and global communities’.<sup>25</sup> This definition is clearly indebted to

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<sup>20</sup> Reviewing the literature see JK Olick & J Robbins ‘Social memory studies: From “collective memory” to the historical sociology of mnemonic practices’ 24 *Annual Review of Sociology* (1998) 105, esp. 110-12.

<sup>21</sup> For example H White, *Metahistory: The Historical Imagination in Nineteenth-Century Europe* (The Johns Hopkins UP, 1975); P Novick, *That Noble Dream: The “Objectivity Question” and the American Historical Profession* (Cambridge UP, 1988); GG Iggers *Historiography in the Twentieth Century: From Scientific Objectivity to the Postmodern Challenge* (Wesleyan UP, [1997] 2012).

<sup>22</sup> Olick & Robbins (1998) 110.

<sup>23</sup> P Fussell, *The Great War and Modern Memory* (Oxford UP, 2000) 8.

<sup>24</sup> *Ibid* 21.

<sup>25</sup> M Halbwachs, *On Collective Memory* (Lewis A Coser tr, University of Chicago Press, 1992) 38. Barry Schwarz points out that collective memory is itself a cultural system and to that extent ought not to be cast as a kind of universal. Nevertheless, I relate the story of the ANZAC Memorial to memory because I perceive the universalising tendency of commemorating the Great War as something that becomes a point of engagement, challenge, and

the Durkheimian insight that ‘the categories from which we see the world are themselves social constructions’.<sup>26</sup> Because collective memory is socially constructed, it is intimately connected to previous ways of remembering history, and here law plays a constitutive role. Take for instance the way in which the legal trial might act as the ‘bookkeeper of history’. In finally agreeing to support the Nuremberg Tribunal, US President Franklin Roosevelt could see the power of closing any future debate on Hitler’s guilt. His support for the creation of a permanent record of witnesses and written documents reflected Roosevelt’s belief that ‘revisionist interpretations of World War I, challenging the doctrine of Germany’s primary guilt, had contributed to isolationist tendencies...that Roosevelt strongly opposed’.<sup>27</sup> Court proceedings and the documentation they produced would generate a particular collective memory of the Nazi regime, one that could affect future-present political and strategic decision-making.

This example of law producing collective memory has been described as a ‘direct effect’. Memory is produced through legal rituals such as the trial, evidence, testimony. Such ritualised memory requires dissemination through media, through ‘memory activists’ or, as the Nuremberg example illustrates, through government policy justification and reasoning (ie *contra* isolationism). What has been termed an ‘indirect effect’ of law producing collective memory has included laws controlling the access to archives and laws regulating the dissemination of knowledge –for example, libel law or incitement to race hate prohibitions. Seen from the other direction, when we come to consider how collective memory shapes and produces law, writers have suggested that collective memory acts in at least two ways. First, as an analogical device whereby ‘symbolic depictions of certain atrocities provide a cognitive and moral framework that can impel legal action’. And, second, as a form of historical consciousness that evaluates the past in light of the present, and becomes objectified in institutions.<sup>28</sup>

The drawing of analogies and rationalisations of the past and present are familiar techniques to lawyers. The work on collective memory demonstrates that these techniques are not peculiar to law: they are reflective of broader understanding about how to rationalise, categorise and produce knowledge about the world in various contexts, times and places. The effects of collective memory can be traced through such familiar formal texts as the United States Constitution and the Second Amendment (reflecting the war against the British Crown); the Preamble to the UN Charter and the Second World War’s total destruction, or the ‘crime without a name’<sup>29</sup> – the Holocaust – and the Genocide Convention.<sup>30</sup>

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resistance. See further B Schwartz, *Abraham Lincoln and the Forge of National Memory* (University of Chicago Press, 2000). I am grateful to the anonymous reviewer for this reference.

<sup>26</sup> JJ Savelsberg and RD King ‘Law and Collective Memory’ 3(1) *Annual Review of Law and Social Science* (2007) 189, 191. Such a definition has been labelled ‘presentist’ because it is undergirded by the sense that understandings of the past are influenced by present interests. This ‘crime of historiography’, like its partner ‘anachronism’, is one familiar to critical scholars of international law’s history. See A Orford, ‘The past as law or history? The relevance of imperialism for modern international law’ in E Jouannet, H Ruiz-Fabri & M Toufayan (eds), *Tiers Monde: Bilan et Perspectives* (Société de Législation Comparée, 2013).

<sup>27</sup> Savelsberg & King (2007)193.

<sup>28</sup> Ibid 200.

<sup>29</sup> W Churchill, radio broadcast of 24 August 1941, quoted in M Gilbert, *Churchill and the Jews: A Lifelong Friendship* (Henry Holt and Company, 2007) 186.

<sup>30</sup> See also R Lemkin ‘Genocide’ 15(2) *American Scholar* (1946) 227-30.

Here, then, we see the powerful constitutive relationship between law and community in which collective memory plays a critical foundational role. My suggestion is to look at memorials as one site – among many others – at which a community is imagined through the work of collective memory-formation. Such a site is a place of disciplining, therefore – to see as the ‘state’ and the ‘global legal order’ desire – but also as a site for reception – to become part of a community which shares not only a sense of the bounded past but, co-constitutively, a vision of the desired future to come.

### **Law’s materialisation at a war memorial**

International law repeatedly restates its novelty, promising renewal in the face of catastrophe. Most ‘places’ where scholars have seen this restatement and renewal performed are in documents, in treaties, in textbooks, in academic journals. In my account of the ANZAC memorial I acknowledge that we could also ‘see’ this artefact ‘materialise’ in legal documents.<sup>31</sup> There is the Suez Canal Company’s written donation of land for the purpose of commemoration that brings the memorial to a site in Port Said; there are the minutes documenting the Australian Battle Memorials Committee’s decisions to authorise government part-funding of the memorial; the tender to the Thames Ditton foundry to cast the bronze figures; the bills of lading attached to the shipment of parts and then the whole monument back and forth from ports in Australia, England and Egypt; the exchange of correspondence between the United Arab Republic and Australia arranging the return of the remnants of the memorial in 1959; the statutory authority of the Australian War Memorial as custodian of Australia’s war archives and placement of monuments along ANZAC parade.

Few objects exist outside or beyond networks of legal documentation and their system of archival filing. I suggest, however, we orient ourselves to public sites of memorials as archival sites of law. This is both as a normative orientation – a way of opening up the heavily guarded archives – and as an empirical one – important work gets done at these sites where legal ordering materialises. That work matters for the production of knowledge and law in the contemporary world order. I explore several epistemological questions: how do we come to *know* things about the past – international law’s past – in and through a memorial? How might law be symbolised, figured, modelled? And, in turn, how might the meaning of a material object manifesting law be re-interpreted, contested and challenged, demanding legal re-ordering or calling attention to law’s disorder? Instead of a microhistory of the twists and turns of the ANZAC Memorial’s movements I offer an account of its objectness and the need for continual reinvestments in meaning-making and collective memory-forging. And so, before returning to scenes described earlier that bring the ANZAC memorial to life, I consider further the question of materiality, collective memory and memorials.

Memorials claim temporal permanence and monumental spatiality. Materials of bronze and stone last. They are fixed in place by the weight of their objectness. They are, in this form, highly vulnerable and in repeated need of attention. Memorials can also become invisible parts of the furniture of everyday life, a giver of shade from the blazing sun (Figure 1) that remakes meaning.

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<sup>31</sup> Painter draws on and enriches interdisciplinary scholarship to think documents through materiality. Painter (this volume) XX.

They might ‘repel the very thing they are supposed to attract’.<sup>32</sup> The symbolic represented by a memorial is also technological –not merely in its techniques of construction but also of law (regimes of property, exercises of jurisdiction) and of place-making.

Artefacts-as-objects can be seen as expressing particular ‘forms of life’ embodying political choices of profound significance for world ordering.<sup>33</sup> In understanding how an artefact such as the ANZAC Memorial has a politics, we need to recognise that a memorial is a particular kind of artefact. It invites its audience to remember and it needs agents to forge memories. It is not an object that makes sense without the deployment of some kind of imagination of a relationship between collective and individual memory. And the memorial tends to force a bodily encounter with its claim to permanence in time and space. Addressing a memorial manifests in multiple forms providing a place where new and old memories are interwoven.

Acknowledging social agency prevents memorials and the commemorations that are enacted at them from being viewed as solely dictated by the state.<sup>34</sup> Winter calls attention to the private need to mourn, a kind of psychological universal that he claims drives the desire to grieve at these sites. Memorials come in radically different forms – as plaques, lists of the fallen, figurative sculptors, architecture or walls – and are situated in crucibles of power but also in small market squares, crossroads, churchyards and near public buildings. Winter warns against homologising these radically other spaces and moments of mourning with the ‘exceptional’ national sites of remembrance such as Cenotaphs and War Memorial parades.

Winter is reacting to what he believes is a misunderstanding of the ‘pull’ of war memorials: that they are reflections only of state-sanctioned remembrance and nation-endorsed scripts of collective memory. Yet in distinguishing the private, individual, universal need to mourn from the state-imposed choreography of mourning and commemoration, Winter makes too much of a demarcation between the realms of individual and collective memory-making. His is a cultural history approach to understanding how memory and identity are formed through acts of remembrance and it is one that paradoxically relies upon Benedict Anderson’s *Imagined Communities* even as Winter reacts against a perceived state-biased account of collective memory- and community-making in Anderson’s rendering.

Anderson’s reference to memorials as ‘ghostly *national* imaginings’<sup>35</sup> holds particular value to an analysis of the forging of memory, identity and community. ‘No more arresting emblems of the modern culture of nationalism exist’ than these cenotaphs and tombs of Unknown Soldiers and it is nationalism’s strong affinity with religious imaginings that prevents such tombs from sounding as absurd as a cenotaph for fallen Liberals or the Tomb of the Unknown Marxist. These memorials evoke ‘both the sacrifice that may be required from the citizen as the cost of belonging, and the means by which the nation-state persuades its citizens to die for it’.<sup>36</sup>

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<sup>32</sup> R Musil “On Monuments. (from Posthumous Papers of a Living Author).” 276 (1657) *Harper’s Magazine* (1988) 35.

<sup>33</sup> L Winner, ‘Technologies as Forms of Life’, in *The Whale and the Reactor* (University of Chicago Press, 1986).

<sup>34</sup> J Winter, *Sites of Memory, Sites of Mourning: The Great War in European Cultural History* (Cambridge UP, 2014).

<sup>35</sup> B Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (Verso, 1991) 9.

<sup>36</sup> TG Ashplant, G Dawson, & M Roper, *The Politics of War Memory and Commemoration* (Psychology Press, 2000) 8.

But nationalism can't be 'understood unless also analyzed from below, that is, in terms of the assumptions, hopes, needs, longings and interests of ordinary people, which are not necessarily national'.<sup>37</sup> Lloyd's focus on the pilgrimages to the London Cenotaph between 1919 and 1920 points out how a memorial – temporary and celebratory in its intention as a saluting point – could be rewritten and later rematerialised as a site of mourning for 'the common people'. Despite the government's best efforts, these pilgrimages remade the remembrance and commemoration of the Great War, at that time, one that could not glory in triumphant celebration at being victorious<sup>38</sup> or indeed legally justified. Instead of being remembered as a great, epic war it was remembered as a great mass suffering.

### **Gendered – women and materialization of law**

What Anderson leaves unexplored is how it is through this material encounter that the state's ideology and the viewer-citizen's individual memory get bound up together. For Anderson, the memorial exerts its force just by being: it represents in univocal matter a symbol of national imagining that brings forth the nation as community. But the possibility that the materiality of memorials – these durable, solid things – constitute law's landscape and are participating and sustaining legal order and its legitimacy is left unexplored. The *performances* at memorials therefore matter, whether spectacular commemorations or everyday ways of encountering, remembering or forgetting, not least because a material object has no meaning until it can be gazed upon:

As they circulate through our lives, we look through objects (to see what they disclose about history, society, nature, or culture – above all, what they disclose about us), but we only catch a glimpse of things. We look through objects because there are codes by which our interpretive attention makes them meaningful, because there is a discourse of objectivity that allows us to use them as facts.<sup>39</sup>

Brown, here, pays attention to the co-construction of subjectivities that occurs in the encounter with objects. We, the viewer, see an object through pre-existing 'codes' that translate their meaning, while at the same time we look at objects to find a reflection of ourselves. In other words, it is in our encounter with the material world of objects that we understand and (re)constitute ourselves. This defies the 'modern' distinction between 'inanimate objects' and 'human subjects' that Bruno Latour diagnoses as a central characteristic of modernity.<sup>40</sup> Latour's attention to ways in which objects draw humans and things together in networks that exert power throughout society is an important addition to Anderson's (lack of an) account of materiality.

Part of their power lies, also, in what Brown identifies as pre-existing discourses of objectivity that treat objects as facts. This power of objects has critical implications for rethinking the Great War and international law through an artefact such as the ANZAC Memorial. Brown suggests,

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<sup>37</sup> E Hobsbawm, *Nations and Nationalism since 1780* (Cambridge UP, 1992) 11.

<sup>38</sup> DW Lloyd, *Battlefield Tourism: Pilgrimage and the Commemoration of the Great War in Britain, Australia, and Canada, 1919-1939* (Berg, 1998) 49.

<sup>39</sup> B Brown 'Thing Theory' 28(1) *Critical Inquiry* (2001) 1, 4.

<sup>40</sup> B Latour, *We Have Never Been Modern*, trans. Catherine Porter (Cambridge UP, 1993) 10-11.

here, that a belief in a ‘real world’ ‘out there’ vests objects as crucial ‘vessels’ of and for factual representations of this world. The ANZAC Memorial exists; it came into being in 1932. It was a real tangible thing in time and space. One reading of its unveiling might say that it proved that war’s violence had come to an end: it marked a bounded event – 1916–1918 – in a bounded theatre of war – Egypt, Syria and Palestine – by now-dead combatants – ANZAC mounted divisions of the Australian Imperial Force. And yet, again an alternative reading might suggest that its very existence marked the ‘fact’ that war’s violence continued unabated. It was only with its destruction in 1956 that its claim to tangibility was transformed out of time and space: to remain as a memory to those who had encountered it before, and to be rematerialised anew on Australian soil.

The discussion so far has established that sites like that of the ANZAC Memorial ought first to be considered as sites of law-making and unmaking. Even if they are also sites of mourning, these sites of collective memory-making are emblems of ‘right order’ and they, in turn, shape how the order of things is known. For international lawyers, these sites provide a glimpse of how collective memory might be expressed to imagine an international community that is both shaped by and reshapes international law and the global order. I present, below, several speculative narratives expressed in the ‘Acts’ of birth, death and resurrection. Narrative accounts are always essentially ‘irresolvable’: the ‘truth’ of an artefact’s politics is always just out of reach, tantalisingly close to complete knowing and yet always shifting and unstable.<sup>41</sup> Giving voice to contested narratives, however, is one way to recover multivocal enactments of collective memory, memory-making that might redefine membership and responsibility in an imagined international community.

### **Instituting international legal order through memorialisation**

Let us return to Billy Hughes standing Canalside at Port Said in November 1932. In his panegyric, the victors of the Great War are valorised and their sacrifice interpreted as a sacrifice for all mankind. The war becomes truly great. Here, we see, paradoxically perhaps, nationalism in the service of the international community.<sup>42</sup> In Hughes’s rendering, the nationalism of a new, settler society has provided the bodies to fight a war of global, epic proportions. The Allied victory, built upon the bones of once-distant soldiers, will ensure the peace and progress of the whole world. This performance of collective memory has direct relation to international law.

We could instead see the Great War as the *outcome* of Enlightenment logics of civilizational progress. So while Hughes reconceives war’s violence as sacrificial, epic heroism recalling antiquity’s Eurocentric history, this way of remembering necessarily entails a forgetting of the barbarity of mechanised, industrial carnage at the heart of the project of progress. Hughes’s narrative recasts the Great War as a necessary interruption on the path to perfected peace, a peace that can only be reached, and guaranteed, by the legitimate, authorised inheritors of ancient civilization through their programme of international legal institutionalism.

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<sup>41</sup> S Woolgar & G Cooper ‘Do Artefacts Have Ambivalence? Moses’ Bridges, Winner’s Bridges and Other Urban Legends in S&TS’, 29(3) *Social Studies of Science* (1999) 433.

<sup>42</sup> I say paradoxically because for international lawyers the challenge of nationalism and reconfiguring international law in the Great War’s wake is something that Nathaniel Berman details at length. See N Berman, ‘But the Alternative Is Despair’: European Nationalism and the Modernist Renewal of International Law’, in *Passion and Ambivalence: Colonialism, Nationalism, and International Law* (Brill, 2011) 115-242.



In addition, it is important that Hughes is speaking to a distant audience as well as one standing physically before the memorial. In this dual space – a virtual, disembodied world of sound waves and cable and the Casino Palace Hotel Gardens – he is able to speak for the individual and for the collective memory of war’s meaning from an ‘international plane’. There is no challenge to his univocal narrative of voluntary, happy sacrifice of willing adventurousness and glory in death. He speaks *for* the nation and in so doing he brings forth that imagined community bound by death. Simultaneously, he erases collective memories of resistance to conscription, pacifism in the wake of traumatic survival of mechanised violence, and mourning at the senselessness of the war.<sup>43</sup>

Further, he speaks *for* another, Egypt, which in Hughes’s performance, becomes an empty vessel (or vassal<sup>44</sup>) for the accumulation of experiences that form the foundation of Australian national identity and a newly-imagined international community. Its space only matters as a blank slate of memory-making: an object of knowledge. ‘We’ won the greatest war in history is not a ‘we’ that includes Egypt or its peoples. There is no partnership, no joint experience, no mutual suffering, no recognition of the deaths of thousands, no equally dignified citizenship of this newly-emergent community. Such memory-making casts out questions such as how did men stay fed in the desert or how were their horses watered? How were supplies transported back and forth across battle frontiers and across territory? The logistics of war are secondary to the gloriousness of its violence. The conscription of the Egyptian Labour Corps facilitated each and every victory of the AIF and the larger Egypt Expeditionary Force under General Allenby’s overall command. That conscription can be read as contrary to the promised protection from sacrifice issued by the British when it declared Egypt a Protectorate in December 1914. These deaths and this service do not matter, they are not recorded, they are not bones upon which the new international legal system can be founded. Such a legal system calls forth a collective memory that absolves the new international community of guilt, closets barbarity in an interruptive form of legally recognised violence – war – and continues to deny the validity of any alternative to this narration.

In an unnervingly disciplinary sense, in *not* speaking to an Egyptian audience, Hughes nevertheless addresses Egypt: ‘you’ will suffer war’s violence and you will be spoken for by law. We will glory in war’s violence and we will speak the law. Hughes’s glorification of the violence of the war erases many dubious legacies of the Australian contribution to the Great War in Egypt. Some of these stories surfaced through oral histories of former soldiers, and challenged the myth of ANZAC virtue and purity. Some (such as a massacre of men, women and children at Surafend) were so horrific that General Allenby apparently felt the AIF beyond redemption.<sup>45</sup> Other stories were bound up with suppression of struggles for equal sovereignty in particular the AIF’s crucial role in smothering the Egyptian Uprising between March and June 1919.<sup>46</sup> Hughes’s imagined community excluded Egyptians and *their* collective memory of the Great War and, in so doing, perpetuated Egypt’s exclusion from the community of nations. That

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<sup>43</sup> On resistance to ‘one’ ANZAC spirit see A Thompson, *Anzac Memories: Living with the Legend* (Oxford UP, 1994). On the battle against conscription that invites remembrance of class see Chiam, this issue XX.

<sup>44</sup> C Weeramantry & N Berman, ‘The Grotus Lecture Series’ 14 *American University International Law Review* (1998) 1515, 1539-40.

<sup>45</sup> See P Daley, *Beersheba: A Journey Through Australia’s Forgotten War* (Melbourne UP, 2009).

<sup>46</sup> See for example S Brugger, *Australians and Egypt 1914–1919* (Melbourne UP, 1980).

exclusion, from the Paris Peace Conference, had been one of the catalysts for the 1919 uprising in the first place (that and the arrest and subsequent exile to Malta of four leading nationalists of the *Wafd* movement). Egyptians' collective memory of the war was made *other* to the imagined community forming around shared narratives of glorious sacrifice and redemptive violence. An Egyptian perspective on war posed too great a challenge to a discourse of civilizational progress that required the war to have ended in 1918 in order for the international community to renew and restate its Enlightenment promise through legal institutionalism.

### **Collective memory in law-full revolt**

Return now to December 1956 and the apparent death of the ANZAC memorial. Occupying a space immediately vacated by departing British and French troops, the memorial stood on legal property of the Suez Canal Company. Records do not say whether remembrance services were held by Anglo-French forces to mark Armistice Day (11 November) but their period of occupation at least coincided with such commemoration. As with the Second World War, there may have been soldiers who found a familiar sight in the ANZAC Memorial that made them feel 'at home' in a foreign land.

Piecing together motivations and intentions from fragments and archival silences is familiar to the work of subaltern studies. There is much ongoing work on the recovery of oral testimony and memory transmission in Egypt's modern history, inviting reflection on the complex relations between power, authority, identity and community that ebbed and flowed under semi-colonial administration, military occupation, interwar modernisation, and postcolonial national rule.<sup>47</sup> My account relies on fragments presenting a trace of how the ANZAC Memorial might have been perceived in its place without the ritualised performance of commemoration choreographed by foreign powers. I suggest we piece together these shards as a call for recognition, dignified respect and rejection of the legal ordering being constituted through international institutions that were/are underpinned by violence and war-likeness.

One fragment is an 'eyewitness' report carried in the *St Petersburg Times* and *Baltimore Sun* that attests to the 1947 attacks made by Port Said residents on the ANZAC Memorial, a smaller statue of Lesseps, and the Queen Victoria Fountain erected in 1897 to mark her diamond jubilee, which stood on the promenade along the Canal. The agitation of 1947 had erupted, according to the report, in protest at the British army's continued presence throughout the Nile Valley and Canal Zone following the Second World War. Repeated protest had been made to the Security Council<sup>48</sup> and, in the absence of action to remove troops, protests took place attacking the US Embassy, the

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<sup>47</sup> See A Mossallam 'Hekāyāt Sha'b – Stories of Peoplehood': *Nasserism, Popular Politics and Songs in Egypt, 1956-1974* PhD thesis, The London School of Economics and Political Science (LSE, 2012) for a wonderful accounting for an alter-archive of revolution and resistance. See also MN Belli *An Incurable Past: Nasser's Egypt Then and Now* (University Press of Florida, 2013).

<sup>48</sup> Egypt's Prime Minister, Nokrashy Pasha lodged protest with the Secretary General in July 1947 following the breakdown of bilateral renegotiation of the Anglo-Egyptian Treaty 1936 (see UN S/410 11 July 1947, citing A/RES/41(I) (14 December 1946) calling for removal of foreign troops to ensure sovereign equality. The Security Council considered the 'Egypt question' through August 1947 but failed to reach agreement. It might be worth remembering that Australia was opposed to the UN responding to Egypt's call for upholding the principles of the UN Charter. (See for eg. UN SC Meeting Records S/PV/198 22 August 1947).

French Consulate, the Britannia Club and the British army's camp on Kitchener Street.<sup>49</sup> While *The Times* and other British media outlets failed to report the 1947 protests directly, they did bemoan the 'puerile politics' and incendiary effects of an 'unbridled Egyptian press'. On 5 November 1947 *The Times* reported that an Egyptian newspaper had suggested the removal of both the Anzac memorial at Port Said and the monument to British soldiers who died defending Egypt in 1914-18'.<sup>50</sup>

One of the few foreign reports to surface contemporaneous with the 1956 destruction of the memorial came from the *Christian Science Monitor*. The British, it reported, were not satisfied that UN forces had established sufficient control given that both the Lesseps statue and ANZAC Memorial had been blown up.<sup>51</sup> Al Shaer's account suggests that the UN forces adopted a posture of pulling back lest they become a target: demonstrating a policy of not seeing, not hearing, not saying anything in response. He suggests, however, that Cairo was not sure how the UN troops would react, and wanted to avoid repercussions.

The point of these fragments is to speculate on how, despite the forceful performance at the ANZAC Memorial's unveiling, its meaning in collective memory could be re-articulated and contested. In so doing, collective memories expressed through destruction called attention to the continuities and analogies with colonial oppression, and the continued denial of equal sovereignty and international recognition of Egyptian independence. While such a reading is always also in danger of 'speaking for', reading such traces suggests at least the possibility that alternative imagined international communities with radically other collective memories demanded to be heard and remembered at the moment of reclamation in December 1956. This reclamation not only involved tending to an occupied garden; it was itself an archival practice: speaking the law and guarding home.<sup>52</sup>

I speculate that the destruction of this monument could be read as a revolt against its 'materiality as an instrument and vector of power'.<sup>53</sup> In its immortalising figuration, its gaze towards Europe and the gaze invited from those transiting through the Canal, and its enclosure of war's violence in temporal glory, the Memorial expressed a certain kind of disciplinary power embodied in a sacrifice recognized as *for* the world, and for peaceful stability. While this particular memorial did not entomb an unknown citizen-soldier as such, it nevertheless immortalised the national internment of the imagined soldier, the 'inmate' being 'national man'.<sup>54</sup> Its destruction, therefore,

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<sup>49</sup> *St Petersburg Times*, 12 September 1947 (the title changed to *The Tampa Bay Times* in 2011); *Baltimore Sun*, 12 September 1947. Botman argues that the failure of the Egyptian Delegation to the UN galvanised the National Popular Front, and not the mainstream of the Wafd party, and it took a leading role in the protests against continuing British occupation. This is another example of how interaction in international institutions reoriented national politics. See S Botman, *Egypt from Independence to Revolution, 1919-1952* (Syracuse UP, 1991) 63-65.

<sup>50</sup> 'Recriminations in Cairo: An Unbridled Press', *The Times of London*, 5 November 1947. The reference to the British monument is likely a reference to the Port Said War Memorial Cemetery on the western outskirts of the city as there is no other 'monument' to British forces in any of the War Memorial Committee records. REF Nat Archives

<sup>51</sup> British See UN on Trial at Suez as Arab Moves Heat Hostility', *Christian Science Monitor*, 27 December 1956,.

<sup>52</sup> J Derrida *Archive Fever: A Freudian Impression* (University of Chicago Press, 1998) 1-3.

<sup>53</sup> M Foucault, *Discipline and Punish* (1977) 30.

<sup>54</sup> This suggestion emerges out of Foucault's interview with the editors of the journal *Herodote* on 'Questions of Geography' reprinted in C Gordon (ed.) *Power/Knowledge: Selected Interviews and Other Writings, 1972-1977* (Pantheon, 1980) This is not to substitute the complex disciplinary architecture of Foucault's panoptic prison with

could also be read as an existential challenge to the immortal claims of the imperial powers' ability to inter and to choreograph commemoration. Whilst this might have been present at the spectacular moment of destruction, it might also have manifested in the everyday: the Memorial's elliptical stone wall providing a rare space to occupy shade along an otherwise gated, enclosed garden that refused to offer shelter or use to those that called Port Said home. In that way a form of mundane, bodily remembering defied the political intentionality of the monumentality of the memorial and instead reduced it to a utility, remaking its place in the fabric of routine life.<sup>55</sup>

Coupled with the performance of unveiling, the Memorial could be understood, for those whose home was Port Said, as an exclusionary materialisation of selective memory of the Great War and its meaning for them. Their experience was spoken for and, in the process, not only silenced but erased. Inclusion in an imagined international community would require submission to the disciplinary power of the state, Empire, and the organisation of the international plane. It was these institutions' ability to deploy bodies in warfare, to emerge victorious and to make the peace that would be remembered and lauded. This commemoration of the Great War at Port Said bounded war's violence in 1914-1918, consigning the continued violence and occupation in Egypt as irrelevant to the progress of international institutionalism. The only community members worthy of remembrance would be those who willingly died in glorious battle, and 'willingness' was to be interpreted as that of volunteer horsemen. Port Said's residents were not addressed, not mentioned and not part of the future of international legality.

As a material manifestation of the foundational role—and justification therefore—of war's violence, the ANZAC Memorial had been the focus of a selective citizenship and ritualisation. The performance of commemoration – of nationalism in the service of international peace guaranteed by legal institutionalism – served to train and retain loyalty of citizens.<sup>56</sup> In the absence of repeated disciplined remembering through acts of commemoration, and in the immediate aftermath of yet more violence waged upon Egyptian minds and bodies in this place, an alternative citizenship demanded to be seen and heard. If the ANZAC Memorial embodied material aspects of order, its destruction entailed the constitution of new forms of social life and an alternative rendering of community.

In the wake of its destruction, Port Said was remade and renamed 'Martyr City'. The ANZAC Memorial was replaced by a 'History Garden' no longer gated as the Casino Palace Gardens had been (Figures 1 and 2). A Military Museum along 23 July Street was built to commemorate the resistance during the Suez War, and 23 December marked as 'Victory Day'. Long-standing carnivals such as the ritual burning of General Allenby<sup>57</sup> (Al-Limby) took on renewed vigour, and Nasser – on repeated visits to Port Said in the years that followed – appropriated the collective memory of the Suez War and performed sovereign independence through reclaimed

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the materiality of the ANZAC Memorial but to suggest that 'the symbolic' might also be read as embodying certain disciplinary object(ive)s.

<sup>55</sup> Connerton emphasises the importance of 'bodily remembering'. See P Connerton, *How Societies Remember* (Cambridge UP, 1989).

<sup>56</sup> S Jasanoff, *Dreamscapes of Modernity: Sociotechnical Imaginaries and the Fabrication of Power* (University of Chicago Press, 2015) 12. For a detailed account of the ritual performances of US citizenship see Y Ezrahi, *The Descent of Icarus: Science and the Transformation of Contemporary Democracy* (Harvard UP, 1990).

<sup>57</sup> Belli (2013).

territory. But this tending of remembrances was not only a Nasser-driven selection of places and things to commemorate. Residents of Port Said continued to engage in memory-making by debating, years later, the sites of resistance and the heroes to be acknowledged.<sup>58</sup> This struggle over memory was, therefore, highly localised and, at the same time, national and global.

### **Commemoration through the resurrection of war**

I return now to Albany, and then Canberra, in a time marked by Australia's contribution to the Vietnam War.<sup>59</sup> Here, I translate the commemorative speeches of political leaders as evocations relating Australia to the world and thereby constituting an imagination of international community and its attendant laws and memories. What is so striking is the 'casting out' of Egypt from an imagined community of civilized, lawful, rational states. This is performed by Menzies through at least three moves: the drawing of a continuous line, or lineage, from Greece to Rome to the Romance countries to Great Britain; an orientation of the future towards Europe; and the characterisation of 'vandal' destruction as senseless and lacking reason.

Menzies's lineage of civilization demarcates Egypt as an empty space bounded out of the inheritance of Civilization's past. Egypt as 'home to European civilization' can be owned and occupied, domesticated by its apparent master. As inheritor to past greatness, Great Britain, the progenitor of the Australian nation and once unbridled imperial power, is reinvested as the proper guardian of civilization. Its authority stems from its authentic inheritance of knowledge and power. The role of the Australian fighter was – is – to teach this knowledge – as Christian faith, as sacrifice in a greater cause, as submission to the will of a greater force – to the now barbarous occupants of a once holy land. This kind of master narrative of history remakes the world as one long march of white European advancement to which the 'other' either learns from practical demonstration, passive accommodation, or simply ceases to exist. 'They' do not matter.

Where they materialise, however, this Other is vandal-like, profane and irrational. The Egyptian revolt against the ANZAC Memorial becomes incomprehensible, unintelligible and thereby cast out of a world guided by objective reason and rational action. Revolt is inscribed as pure deviance. If 'they' enter the world stage at all it is as non-actors, non-contributors: a lawless manifestation of the anarchy simmering beneath the surface of civilized international community. It is this Other that is the enduring, latent, suppressed threat to world order rather than the logics of Enlightenment modernity itself, or the international legal system through which its violent disorder is enshrined.

Menzies's speech refers, also, to past commemoration in a way that recasts and reconstructs official memory for his time and place. This he does explicitly. Whereas Hughes could enjoin his audience—in Egypt and in Australia—to glory in the triumph of war sacrifice, Menzies takes a more 'humanist' tone. He does not reject past commemoration but he nevertheless captures a sense of his milieu by appealing to an even more transcendent meditation: remembering at *this*

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<sup>58</sup> Mossallam (2012).

<sup>59</sup> For more on the ANZAC 'myth' see P Daley, *Beersheba: A Journey Through Australia's Forgotten War* (Melbourne UP, 2009), KS Inglis & J Brazier, *Sacred Places: War Memorials in the Australian Landscape* (The Miegunyah Press, 2008), TG Ashplant, et al. (2000); and A Curthoys & J Docker, *Passionate Histories: Myth, Memory and Indigenous Australia* (Australian National U E Press, 2010).

site allows the viewer to envision the very essence of what it is to be human. He remakes what it means to be human by tying it to a spirit – embodied in ANZAC, in courage under fire, in sacrifice for the greater good. His is a demonstration of how knowledge, its material embodiments and performance, are ‘at once products of social work and constitutive of forms of social life.’<sup>60</sup>

Again, this official enactment of collective memory is a disciplining, ordering one. Not only does it seek to homogenise and dictate the ways of seeing, it also delegitimises opposition to war. If war is a sanctified time-place in which the very greatest aspects of humanity surface and break free, war itself becomes sanctified as a necessary site for forging what it means to be human. Service to the Australian nation likewise becomes sanctified. As a corollary, those that would destroy such a memorial are cast as beyond understanding, ignorant of, or an obstacle to, the divine revelation of the human spirit and its material manifestation in war, and in bronze and stone. Tellingly, perhaps, just one month after the ANZAC Memorial was unveiled in Albany, Western Australia, conscription into the army began with the passing of the National Service Act 1964. The long battle to overcome the perceived limitations of volunteerism had finally been won, paradoxically (or perhaps consequentially) at the very moment that apparent volunteer sacrifice was hailed and sanctified.

Similar language permeates the commemoration at ANZAC parade four years later in which the ‘triumph’ lauded and emphasised in 1932 gives way to the recognition of the ‘achievements’. That is an ongoing feature of the Australian and New Zealand efforts in war, this time the war in Vietnam. Unlike Menzies, both Gorton and Marshall centre their commemorative performance on the comradeship between their two countries and on the individual memories that contribute, harmoniously and in friendly partnership, to a collective sense of the past and its meaning for their imagined future. Their identity as settler nations and Allied contributors places them in an international community as guarantors of peace and tragi-heroic victims of war’s brutal necessity.

Like Menzies, Marshall emphasises the geographic isolation of these two brother nations yet draws them back to the ‘Old World’ through envisioning a common future together that is tied to the necessity of war – manifesting comradeship – but also the predominance of a contemporary peace. It is a rather odd articulation but one that echoes the construction of the international legal order: ANZACs were at war in Vietnam whilst simultaneously being at peace; war was bracketed off elsewhere bounded in time and place, while ‘normal life’ continued ‘happily’. Part of the emphasis on comradeship points to the influence of movement in material encounter. Over time, out of its original place, interpreted by a different artist following a different script (shaped by and shaping collective memory), the figuration was reconceived as involving an Australian horseman coming to the aid of a fallen, injured comrade. This interpretation continues to find expression in the official information surrounding both replicas and this exhibits how material, in its movement as well as in its encountered performance, shifts meaning and thereby remakes memories, identities and communities.

None of the official performances recounted is as certain and powerful as it might, at first glance, appear, nor as univocal. For instance, the 1968 appeals to the personal, individual experiences of

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<sup>60</sup> S Jasanoff *States of Knowledge : The Co-Production of Science and Social Order* (Routledge, 2004) 2-3.

the Great War symbolised in the ANZAC Memorial may well have been a consequence of the intense and highly politicised battle that had been waged to cast a second replica of the statue and place it in the newly-enshrined Australian War Memorial in the nation's capital. Key figures of the 'Desert Mounted Corps' in Parliament who had decried the site at Albany as isolated and peripheral – men such as William Kent Hughes – not only sat in the audience at ANZAC Parade, they also spoke, emphasising the importance of placement 'here', in the nation's sacred heart. The site at Albany had its own claim to importance as the 'last sight of home'. The memorial had been agitated for by former soldiers through their Returned Services Legions<sup>61</sup> and became a crucial site in the national imaginary as the centenary of the Gallipoli landings approached.

Past commemorations give a sense of how identities and communities are reimagined and remembered through the baptismal fires of war *in the name of* peace. And acts of commemoration are ongoing and seemingly everywhere in this, the calendared centenary 2014–2018. The resurrection of the ANZAC Memorial did not end in 1968: it is repeatedly reborn, put to work in difference guises; training the next generation in learning about war, the past and the present; remembering the place of Australia in imaginings of the 'right' international legal order.<sup>62</sup> Albany had, by the start of the centenary commemorations in 2014, entrenched itself as 'one of Australia and New Zealand's most significant pilgrimage destinations to experience the legend that shaped a nation'.<sup>63</sup> In 2014 a federally-funded 'ANZAC Centre' opened near the site of the ANZAC Memorial in Albany. The new complex promised an 'immersive experience' in which visitors could gain a 'deeply personal connection with the Anzac legend'.<sup>64</sup> They were invited to 'assume the identity of one of 32 Anzac-related characters, and follow their personal experience of the Great War...The experience concludes with the discovery of each Anzac character's fate and a Tribute Wall where visitors may document their own feelings and messages to the Anzacs'.<sup>65</sup> Here, the bordered past is opened up through performative and imaginative activities but it is one that simultaneously is utterly removed from the site and corporeal threat of war. This kind of collective memory – fuelled by the authenticity claims of hearing from and listening to personal experiences – in a sense requires and entrenches the radical separation from the past. Memories are not collected within kin transmission or familial inheritances; the nation becomes the provider, the mediator, the 'giver' of knowledge about the past, while visitors are nonetheless offered the semblance of touching the past through material encounters in a way that recognises the power of self-identification of community members.

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<sup>61</sup> In 1965 the Returned Sailors and Soldiers Imperial League of Australia (RSSILA) was renamed the Returned Services League of Australia (RSL). Albany RSL has recorded its efforts to "bring home" the monument available at [http://albany-rsl.org.au/stories/Desert\\_Mounted\\_Corps\\_Memorial.pdf](http://albany-rsl.org.au/stories/Desert_Mounted_Corps_Memorial.pdf) (last visited 15 December 2016). The memorial is described by RSL members as symbolically remembering the charge of Beersheba. In their newsletter circulated ahead of the 2014 commemorations at the memorial, Albany RSL explained that the selection of commemoration date – the Saturday closest to 31 October – was to reflect the date of the charge.

<sup>62</sup> For instance, in 2008 the battered head of one of the horses was redesigned as a standalone memorial to the sacrifice of 'animals in war' and became the centrepiece to an exhibition of the same name at the AWM. The horse's winding path home was told on an informative plaque and, at the opening of the ceremony the AWM even displayed the taxidermic head of the 'original' horse 'Sandy' upon whom one of the figures was modelled. The event was made "family-friendly" by the presence of Light Horse men on horses and soldiers who had seen active service in Afghanistan with their IED detecting sniffer dogs. Apparently it was a minor detail that the Australian Light Horse is now a tank-mounted division, horses having long along lost their usefulness in war.

<sup>63</sup> See <http://anzacalbany.com.au> (last visited 15 December 2016).

<sup>64</sup> About section <http://www.nationalanzaccentre.com.au> (last visited 15 December 2016).

<sup>65</sup> Ibid.

The Australian War Memorial informs us that '[f]rom 2014 the world will commemorate' the Great War, remembering and learning from those who sacrificed their lives in a conflict that touched the lives of nearly every Australian and whose effects are still evident today.<sup>66</sup> The First World War Centenary, led by the Imperial War Museum in London, promises to connect the world through a network of 'global partners', a 'vibrant programme' and 'online resources' to remember its impact 'on the world we live in today'. If we scrape just a little at this virtual-surface we learn that the partners list produces a highly selective map of 'global commemoration' with all-too familiar absences from the 'colonial world'. Needless to say Egypt does not figure, nor do contemporary sites of war and law's privileging of violence in Syria, Palestine, Iraq, Israel, Lebanon, Turkey (the latter—lest we forget—a rather central belligerent in the Great War).

The selective spatial organisation of partners in memory-making does not have to be condemned as 'propaganda' or intentional obfuscation: knowledge and its materialisation are always processes of ordering the world, categorising experience and rationalising memories. What matters is that the selectivity perpetuates the exclusion—whether purposely or not—of vast swathes of human experience and memory. In doing so, 'Centenary' commemoration helps reconstitute an imagined globality—an imagined international community—that cannot possibly do any justice to the multiplicity and multivocality of global life. This has important implications for how a contemporary 'we' takes responsibility for the Great War and its ever-resurfacing effects across the globe. The risk in the Centenary's suffusion of remembering is that 'we' forget our own role in erasing the violence of war and law in our present. The surrender to heroic tragedy is also a surrender to the necessity of war, a justification continually expressed ever more forcefully and repeatedly on our supposed institutionalised march towards peaceful progress.

### **Tending to the struggles over remembering and forgetting in law's materialisation**

This story of the ANZAC Memorial represents an intriguing artefact of international law. The Memorial is at once just a memory, a no-longer-existent object that can only be traced through photographs, written records, oral histories, metal fragments, radio waves, and digital archives; a place transformed into something else; a replicated symbol part-authentic, part-synthetic; and a materialisation of the Great War and of ways of knowing about it. The ways in which we harness 'history' by remembering some things and forgetting others is critical to understanding the ways in which we live in, and relate to, the present world, and the ways in which we envision the future. Memorials and memorialisation quite transparently seek to overturn the finality and closure of death. In their efforts at immortalisation, the messy complexity of contingent lives is rendered logical and knowable, simplified into a pure narrative that evokes the heroism of sacrifice and the tragedy of war. I have drawn attention to the need for continual reinvestment in memorials as sites that are actively remembered and reinscribed with meaning. At moments of commemoration and unveiling, the efforts at channelling and disciplining the reception of memorials are made more visible.

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<sup>66</sup> See <https://www.awm.gov.au/1914-1918/> and the weblink provided on the partners page of the IWM-led Centenary <http://www.1914.org/partner/?id=AM478902> (last visited 15 December 2016).



Memory is ‘not simply a recollection of times past, it is also anchored in places past and visualized in masonry and bronze’.<sup>67</sup> The choice of bronze and stone is, of course, a gesture to a particular inheritance of civilization, recalling in materials and figuration the monuments of Europe’s antiquity. The choice of such materials is also a demonstration of the financial capacities of war memorial commissioning states. Power manifests itself in and through the networks of association that are drawn together by the conception, creation, destruction and replication of this material artefact. Official acts of commemoration that I have detailed here are performances that seek to determine the meaning of the ANZAC memorial and, in the process, discipline its viewers as managed and loyal citizens. At the same time, unofficial personal acts of remembering no doubt take place and constitute, through mourning, new meanings, new identities and new imaginations of community.<sup>68</sup>

### **Danger of public/private split – gendered rememberings**

In the moment of unveiling there is a gendered, triumphalist glorifying of conquest and war, even if this entails male heroic sacrifice. But in the moment of re-unveiling, whether in 1964 or 1968, acts of remembrance are also? cast as deeply sorrowful and commemorate the tragic heroism of war. I argue that in this materialisation, we see international law’s origins in war. The force of this ‘deathless story’, whether triumphant or tragic, celebratory or sorrowful, is that it signals the *need* for war. War is foundational to the prospects for peace and we see the recurrence of this (false) necessity in contemporary justifications for war. The emergence of peace out of the flames of war, like that of Phoenix-like international law, is now so taken-for-granted that it is this, perhaps, that has become the deathless story. The ‘drive to overcome warfare – to institutionalize peace – seems, if not a continuation of violence...at least a continual reference to and respect for violence’.<sup>69</sup> To flourish, international law’s workers forget this originating ‘seed’ and wars become ‘embedded in the structure of international life’.<sup>70</sup> This can be seen in the ‘right order’ that materialises through encounters like that with the ANZAC Memorial. Placement—Canalside, at Albany or at the Australia’s capital shrine to war—likewise seeks to impose a dominating logic attached to the state and to the national construction of identity and memory in global legal ordering. Events at Port Said in 1956, read apart from their caricaturing in the records of Empire, attest to the ways in which such a material site can become gathered into the performance and imagination of distinct law and politics, remaking the fabric of international legal order. Destruction of a memorial that constitutes ‘right order’ can thereby be taken as having a ‘legislative’ meaning.<sup>71</sup>

We can see at these material sites of remembering the stakes of materialising knowledge about the world—the constitution of identities and communities through lawful memory. By suggesting we open up the archive of international law to include material artefacts, the construction and guarding of that archive is revealed as a site for the adjudication of truth. If we choose to know the story of the ANZAC Memorial as a piece of commemoration and contest, we choose to see

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<sup>67</sup> NC Johnson ‘Public Memory’ in J Duncan, NC Johnson, & RH Schein (eds) *A Companion to Cultural Geography* (John Wiley & Sons, 2008) 316-328, 321-2.

<sup>68</sup> Winter (2014).

<sup>69</sup> D Kennedy ‘Violence in International Law’ *Proceedings of the American Society of International Law*, (1986).

<sup>70</sup> Kennedy (2013) 257.

<sup>71</sup> I am grateful to Ben Hurlbut for his comments to this effect in conversations on the Memorial’s ‘constitutional’ materialisation of law and legitimacy.

and hear different bodies, voices and stories. The deathless story might become a series of multivocal, timeless contests over the distribution of power and authority in and through memory and law. But, while the struggle against power is a struggle over memory, it is an unequal one: particular memories at the centre of an imagined community are so often installed at the expense of others.<sup>72</sup> The Great War could be remembered differently, as the roots that give sustenance to an international institutionalism that perpetually excludes, speaks for, and offers mere 'protection'. For Egypt, the war marked yet another phase of foreign interference, denial of independence, and refusal to recognise sovereignty. That Egyptians sacrificed and died for the war is also, very obviously, wiped away. The destruction of the ANZAC Memorial performs an erasure that remakes the experience of occupation: a reclamation of place and, with it, a rejection of the dominating narrative that the Great War should mark a turning point. Just as war is not the outside of law, materiality is not some mere 'cultural' other. If we choose to see law materialise at sites of memorialisation, we might reflect on how people struggle to live with law, and live law-fully.

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<sup>72</sup> Ashplant et al (2000) *Preface xi*.