War-Time: An Idea, its History, Its Consequences

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CONTENTS

Introduction

WHAT KIND OF TIME IS a "wartime?" In war, regular time is thought to be interrupted, and time is out of order. During World War I, soldiers synchronized their watches before heading into combat. Yet battle became an extended present, as considerations of past and future were suspended by the violence of the moment. In the trenches, the historian Eric J. Leed has written, "the roaring chaos of the barrage effected a kind of hypnotic condition that shattered any rational pattern of cause and effect," so that time had no sequence. And so one meaning of "wartime" is the idea that battle suspends time itself.[1]

War also breaks time into pieces, slicing human experience into eras, creating a before and an after. It marks the beginning of one historical period, and the end of another, so that the historian Cheryl A. Wells writes that the American Civil War "split nineteenth-century American time into two discrete units," antebellum and postbellum.[2] Once historical time is divided, war is thought to occupy a certain kind of time. Wartime.

Yet wartime is more than a historical signpost, a passive periodizer, and therefore is not only the province of historians. It is thought to function as an abstract historical actor, moving and changing society and creating particular conditions of governance. The Roman philosopher and statesman Cicero's ancient saying, "In time of war, law is silent" (*inter arma silent leges*), is regularly invoked for the proposition that law and politics differ during wartime.[3] Wartime

becomes a justification for a rule of law that bends in favor of the security of the state. Traditionally, this distortion has been tolerated because wars end. In the twenty-first century, however, we find ourselves in an era in which wartime—the war on terror—seems to have no endpoint. This generates an urgent problem in American law and politics: how can we end a wartime when war doesn't come to an end?

This book takes up the idea of wartime and its effects, showing that a set of ideas about time are embedded in the way we think about war. In particular, we tend to assume that wartime is always followed by peacetime, and therefore that an essential aspect of wartime is that it is temporary. The assumption of temporariness becomes an argument for exceptional policies, such as torture. And those who cross the line during war sometimes argue that circumstances deprive them of agency; their acts are driven or determined by time.

Assumptions about the temporality of war are embedded in American legal and political thought. It is as if time were a natural phenomenon with an essential nature, shaping human action and thought. But our ideas about wartime clash with our experience of twenty-first-century war, revealing that a confusion about *time* obscures our understanding of contemporary war.

Much attention has been paid in recent years to wartime as a "state of exception," but not to wartime as a form of time. For the Italian political philosopher Giorgio Agamben, a state of exception "is a suspension of the legal order itself," marking law's boundaries.[4] Viewing war as an exception to normal life, however, leads us to ignore the persistence of war. If wartime is actually normal rather than exceptional time, then law during war must be seen as the

form of law we usually practice, rather than a suspension of an idealized understanding of law.

This book takes up the different ways that ideas about time affect our understanding of war. The chapters do not follow a conventional narrative history of war, but instead examine how war and time are imagined. The focus is on the concept of wartime and its consequences.

This is not a merely academic enterprise, however. My aim is to illuminate a conundrum: we imagine wars to be bound in time, but the American experience is to the contrary. Since 9/11, war has been framed in a boundless way, extending anywhere in the world that the specter of terrorism resides, even as some of the country's political leaders—on the left and right—denounce its seeming endlessness. This book cannot explain how to bring war to an end, of course, but it can help to illuminate the way confusion about war and time helps to enable our politics of war.

Chapter 1 examines ideas about time itself. We tend to think of time as a feature of the natural world, but our understanding of time is part of the culture of our age. Wartime, like other kinds of time, does not have an essential nature, but is a product of culture and history. We tend to believe that there are two kinds of time, wartime and peacetime, and history consists of moving from one kind of time to the next. Built into the very essence of our idea of wartime is the assumption that war is temporary. The beginning of a war is the opening of an era that will, by definition, come to an end. When we look at the full time line of American military conflicts, however, including the "small wars" and the so-called forgotten wars, there are not many years of peacetime. This shows us that war is not an exception to normal peacetime, but instead an enduring condition.

Chapter 2 takes up a major war of the twentieth century, World War II. We assume we know when this war "happened," from the shock of Pearl Harbor—a "date which will live in infamy," as President Roosevelt called it—to the excitement of V-J day captured in an iconic photograph of a sailor kissing a nurse in New York's Times Square. But this war is harder to place in time than we think, as the legal consequences bled out beyond these iconic moments, and there were not one but many endings to the war, spanning a period of years. Still, our memory of World War II remains encapsulated between certain dates, and this informs our ideas about what real war is.

The Cold War, the focus of chapter 3, is an era of ambiguity when the foundation was laid for the American national security state. Even the title "Cold War" is contradictory, suggesting an era of war-but-not-war. Military engagement during this period did not fit the model of American wartime, as the United States faced off in a decades-long conflict with the Soviet Union, and American leaders debated whether the country was in a permanent state of war. In retrospect, however, many have worked to fit the era into preexisting conceptual categories of wartime and peacetime. In this way, an era that foreshadows the current experience of ongoing war is instead seen as an example of an old-fashioned, time-limited wartime.

As war spills across the time line of American history, attempts to confine it have emerged in memory and narrative, through the war stories that are passed down from one generation to the next, and that are performed in feature films and documentaries. Yet war narratives come not only from personal experiences but also from the public relations side of American national security. Public diplomacy has

been a feature of all important twentieth-century American military conflicts. The American government's need to rally support for military action and to encourage public support for military engagements in faraway lands that appear to have little impact on daily life at home has been central since at least the Korean War. During the "war on terror," as chapter 4 discusses, the role of war-related public relations was especially important as the Bush administration largely succeeded in framing the post–September 11 era as a wartime. At the same time, the narrative cohesion of American wartime was eroding. In cases relating to Guantánamo detainees, Supreme Court justices first attempted to fit the era into the traditional and confined understanding of wartime. But ultimately, anxiety about ongoing war led them to question executive branch policies more closely.

My aim throughout is to critique the way that the concept of wartime affects thinking about law and politics, but not to argue that *war itself* has no impact. One reason that wartime has so much power in framing history is that the outbreak of war is often perceived as ushering in a new era. The onset of war is seen, however, not as a discrete event, but as the beginning of a particular era that has temporal boundaries on both sides. I do not wish to question the power of catalytic moments like the Japanese attack on Pearl Harbor, but rather to call attention to the way such events produce a set of assumptions about their endings.[5]

This book focuses on American thinking about war and time. This is not because the American experience is "exceptional" or more significant than the histories of other regions of the world, but instead because it is simply a reasonable starting place for a historian of the United States. A more global and comparative account would benefit from

collaboration with others. And Americans have a particular need to understand their role in this history. It is American drones, after all, that hover in the airspace of nations we are not formally "at war" with. The U.S. role in worldwide conflict makes it essential to unpack American thinking about wartime, and the way it affects the politics of war.

This history enables us to see that there is a disconnect between the way we imagine wartime, and the practice of American wars. Military conflict has been ongoing for decades, yet public policy rests on the false assumption that it is an aberration. This enables a culture of irresponsibility, as "wartime" serves as an argument and an excuse for national security–related ruptures of the usual legal order. If we abandon the idea that war is confined in time we can see more clearly that our law and politics are not suspended by an exception to the regular order of things. Instead, wartime has become normal time in America. Because of this, the politics we have during this time are our normal politics. The American people cannot wait for a new peacetime to end detentions at Guantánamo or to rein in expanded presidential war power. Time itself will not wash them away. Wartime has become the only kind of time we have, and therefore is a time within which American politics must function.

President Barack Obama has called our own day "an age without surrender ceremonies," and yet we continue to believe that wartime comes to an end.[6] We are routinely asked to support our troops, but otherwise war requires no sacrifices of most Americans, and as conflict goes on, Americans pay increasingly less attention to it. Troops may be deployed to an unfamiliar corner of the world, and we see occasional headlines about drone attacks or civilian casualties, but war has drifted to the margins of American politics. Even the

killing of Osama bin Laden brought the war in Afghanistan only briefly into focus. Demystifying the idea of wartime, and revealing how it works in American culture, will not end any wars or even get Americans to care more about them. But it might offer a path toward a more satisfactory understanding of the relationship between war and American democracy.