

## Death and the War Power

Mary L. Dudziak

In scholarship on the war powers, the practice of war usually happens in the background. Presidents, Congress and courts are in the foreground. Killing in war is thereby a background phenomenon – an aspect of the social context within which the war powers are exercised. This essay instead puts war's carnage and death at the center of the story. I draw upon the insights of important recent scholarly works on death to argue that the dead body has a political life. The political history of American war dead recasts an important problem in the history of American war powers: the atrophy of political restraints. Ultimately, I will argue, a crucial factor underlying the contemporary military-civilian divide and the atrophy of political restraints on presidential decisions about the use of military force is the distance between American civilians and the carnage their wars has produced.

Mary L. Dudziak is the Asa Griggs Candler Professor of Law at Emory University School of Law, and is Vice President/President-elect of the Society for Historians of American Foreign Relations. She writes and teaches about the history of war's impact on American law and politics, foreign relations law, civil rights history and constitutional law. Her books include *War Time: An Idea, Its History, Its Consequences* (Oxford University Press, 2012); *Exporting American Dreams: Thurgood Marshall's African Journey* (Oxford University Press, 2008); *Cold War Civil Rights: Race and the Image of American Democracy* (Princeton University Press, 2000, 2<sup>nd</sup> ed. 2011); and two edited collections: *Legal Borderlands: Law and the Construction of American Borders*, co-edited with Leti Volpp (Johns Hopkins University Press, 2006); and *September 11 in History: A Watershed Moment?* (Duke University Press, 2003). Her research has been supported by fellowships from the Guggenheim Foundation; the School of Social Science, Institute for Advanced Studies, Princeton; Kluge Center, Library of Congress, and others. She serves on the Historical Advisory Committee, U.S. Department of State. She received her A.B. from the University of California, Berkeley, and her J.D. and Ph.D. from Yale University.