That Brutal Uncivilizer of Nations

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Abstract

> *Civil Wars: A History in Ideas* by David Armitage is a pioneering inquiry into the intellectual history of the concept of civil war from the Romans to the present day. It makes a great point in showing how civil war has been redefined for different strategic purposes across the ages, and how such instrumentalization has influenced the outcomes of battles and the content of historical narratives. Yet however mutable the divide between civil and international war is made to appear in this account, I argue that the drawing and redrawing of this divide would merit more attention if we want to come to terms with those conflicts in the past when it had not yet been articulated, and those conflicts in our present when it is in the process of being dissolved.

I. Introduction

If indeed words are mightier than the sword, some words are certainly mightier than others. And among those latter the words used to categorize the different usages of the sword occupy a place of preeminence. Although ways of naming war matter as much to the waging of war as the waging of war matters to the naming of war, few have bothered to study this puzzling connection between words and swords in any detail. *Civil Wars: A History in Ideas* is a notable exception in this regard. In this book, David Armitage starts out by pointing to the fact that while international wars have become increasingly rare over the past decades, civil wars have proliferated and have become the most characteristic form of armed conflict worldwide. Yet in refreshing contrast to the common tendency to regard civil war as a timeless concept and perennial problem, Armitage shows how the phenomenon of civil war is inseparable from the ways in which it has been conceptualized and described from its Roman origins to the present day.

Although profoundly destructive to domestic political order, civil war has also been conceptually generative insofar as we owe some of our most cherished political ideals—like democracy and humanitarianism—to the recurrent challenges civil war has posed to political and legal order over the ages. But civil wars are curious beasts insofar as they compel belligerents to recognize a modicum of commonality even in the midst of the most intense confrontation, thereby facilitating a stretching of the sense of community to its utmost limit. Much of this generative power of civil war stems from the exploitation of its inherent ambiguities by belligerents and bystanders alike. The notion of civil war is an essentially contested concept whose meaning has been endlessly disputed since its Roman beginnings, often with profound and lasting political consequences for all involved. Civil war is thus a political concept that has been reinterpreted by different actors for a host of

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different purposes throughout the centuries. Most importantly, the notion of civil war has often been successfully weaponized by those involved in armed struggle in order to garner support for their cause, or to assert its political and legal legitimacy even after it has ended. As Armitage notes, "the use of the term is itself often one source of strife among the combatants" (13). Thus it sometimes matters greatly to its outcome whether a given conflict is viewed as a civil war or a foreign war, or whether an armed conflict is understood as a civil war rather than as a rebellion or a revolution.

II. Weaponizing Civil War

To make these points, Armitage traces the genealogy of the idea of civil war from its Roman origins to its late modern manifestations. For the Romans, war had traditionally been fought against external enemies for a cause deemed just. That war could also be fought against or between fellow citizens stretched their definition of war to the point of *bellum civile* becoming a paradoxical notion. What made this paradox possible in the first place was the fact that the Romans had a rather elaborate notion of political community—the city—and thus also of citizenship and belonging that made such war a threat to their very foundations. By recognizing this tension between conflict and communal belonging, the Romans provided the foundation of most subsequent conceptualizations of civil war. They also handed down historical narratives of civil war that portrayed all civilization as being prone to, and to a large extent also shaped by, the experience of successive civil wars. Roman historians and poets almost invariably depicted Roman history in terms of its repeated descent into civil war from Sulla to Caesar, pondering the prospect that history would repeat itself indefinitely while civil wars no longer respected the boundaries of the commonwealth but became more destructive and universal in scope.

Such narratives of civil war would reverberate during the centuries to come, often with unexpected and disturbing consequences for their many promoters. Civil war came to look both inevitable and undesirable, and spurred a quest for causes and possible remedies that exercised a lasting influence on early modern political thought. Handed down through tradition and education, Roman stories of civil war would inspire Machiavelli and Montaigne in their search for lessons applicable to their own troubled times. But the Roman legacy of civil war would soon split into two different recipes for preventing or overcoming civil strife. On the one hand, the perpetual threat of civil war could easily be turned into a potent justification of sovereign authority. Both Grotius and Hobbes invoked the dangers of civil war to this end, the latter most explicitly so. If civil wars arise when sovereign authority is weakened or divided, the obvious remedy becomes to render it as strong and uncontestable as possible. On the other, it was equally possible to reach the opposite conclusion, namely that strong sovereign authority constituted the very apple of discord that made civil wars tempting to embark on in the first place. From this latter point of view, the causes of the Roman civil wars were not to be found in its republican constitution, but in the deviations from it. Such contentions were to form the backbone of early modern republicanism, with Locke and Sidney among the most well-known ex-

ponents: Popular governments are less prone to civil disorder than are monarchies, since the latter invite destructive disputes over inheritance or succession.

The modern habit of distinguishing between civil war and revolution dates back to debates during the eighteenth century. While civil wars have been thought to bring little but human suffering and disaster, revolutions have been seen as sources of sociopolitical progress. Yet modern revolutionaries often based their recipes for change on narratives of civil war handed down from Roman sources: "[C]ivil war was the inconvenient ancestor that had to be suppressed but never quite seemed to go away" (125). This legacy made it possible to re-describe revolutions as civil wars as well as conversely in order to characterize events past and present in ways favorable to the interests at hand. Thus, what we have come to know as the American Revolution was described as a civil war by those who were opposing independence in the interest of empire, or who later wanted to contest its legitimacy, whereas those who wanted to legitimize the pursuit of independence found the language of revolution more resourceful. By the same token, those who opposed the French Revolution were inclined to characterize it as a civil war more than anything else: Burke depicted revolutionary France as being divided into two separate entities, claiming sovereignty on behalf of king and people respectively.

In the hope of making sense of the many tumultuous events that comprise the Age of Revolutions, some authors began to distinguish among different kinds of civil war. While successionist civil wars were those that long had plagued monarchies that now were out of fashion, supersessionist wars were those in which different parties struggled for sovereignty over the same political community or territory. Secessionist civil wars, finally, were those in which one part of a political community attempted to break away from sovereign authority by declaring independence. In the Age of Revolutions, emphasis was naturally placed on distinguishing the latter two, and accounting for the transmutations that might occur between them. In this regard Emer de Vattel stands out as the great innovator. When a nation is divided into two opposing factions that consider each other enemies and acknowledge no common legal authority, they are in the same legal predicament as two nations engaged in war with each other, their dispute falling within the purview of the law of nations rather than domestic law. Legitimizing claims to independence by redefining civil wars as international ones was facilitated by the adoption of his definition of civil war and the transformative logic it entailed.

The many global conflicts of the nineteenth century brought new possibilities to weaponize civil war along similar lines. Being susceptible to ceaseless semantic renegotiation, the true character of what posterity eventually agreed to describe as the American Civil War was long up for grabs, spurring controversies about its nature long after hostilities had ceased. Whereas Confederates were predisposed to construe the conflict as one between distinct sovereign entities—an international war—Unionists saw it as a conflict over legitimate authority within the same political community. But this was neither the first nor the last case of attempted secession leading to civil war. Given the carnage of that and other wars during this period, international lawyers were increasingly keen to regulate the use of force. The legalist spirit of that century also brought many at-

tempts to civilize that brutal uncivilizer of nations. But it gradually became obvious that the juridical framework necessary to do the job was lacking. Attempts to assimilate the notion of civil war to that of international war had brought it halfway into the framework of international law, but that was hardly sufficient to codify whatever principles were thought to apply to its conduct, as indicated by the reluctance of the 1864 Geneva Convention to extend the laws of war to cover civil war. Again the way in which the conflict in question was described mattered greatly to its conduct: although it was the first systematic attempt to regulate the conduct of civil wars, the Lieber Code made the American Civil War appear as little but a rebellion against a legitimate government.

The twentieth century marks the revival of Enlightenment cosmopolitan visions, and hence another stretching of the limits within which civil war can be said to occur. If humankind as a whole constitutes the ultimate limit of political community, all wars will by definition be civil ones, since "as the world came closer to the cosmopolitan ideal of universal humanity, the more intimate would international and even global wars become" (198). Reflecting such concerns, the ambition to civilize civil war continued unabated for much of that century, as reflected in the 1949 Geneva Convention and its revisions in the following decades, intended to cover instances of civil war. Yet since naming an armed conflict a civil war for the sake of humanizing its conduct entailed committing oneself to a partisan definition of the situation at hand, this also constrained international actors in so doing. This paradoxical situation arose from how civil war had been conceptualized and studied in the social sciences. In contrast to international war, civil war lacked a clear definition and had received little systematic attention until the Correlates of War project was expanded to include internal wars. Yet the way in which civil war was defined entailed that civil wars could only occur within modern nation-states, which meant that many conflicts that were understood as civil wars by the belligerents themselves were omitted from the study. Vain attempts at a precise definition would resurface in the context of the Iraqi war for equally partisan purposes, reminding us that civil war is "an essentially contested concept about the essential elements of contestation" (226). But to the same extent that the twentieth century gave rise to various conceptions of supranational political community, it also made it possible to transpose fears of civil war to a corresponding scale. Thus it was possible to construe the Second World War as a European civil war, and to conceptualize the Cold War or the War on Terror as global civil wars.

To conclude, then, the ability to weaponize the concept of civil war depends on who you are, where you stand, and what is at stake in the conflict at hand. The ways outbursts of organized violence are categorized and named have profound moral and political consequences, and will be a matter of life and death not only for the belligerent parties, but also for all those involuntarily subjected to the hardship and trauma such conflicts invariably entail. Whether a given conflict is judged to be a civil war or not will determine which laws can be applied, as well as what will happen to combatants after hostilities have ceased. This semantic versatility is the result of accumulated meanings that have sedimented into the concept of civil war over the course of centuries. If we cannot seem to escape civil war, it is not because of the violent predispositions of men or its

structural preconditions, but rather because the term itself and the corresponding concept have become part of our political vocabulary and an indispensable tool for making sense of a political experience that has been conditioned by our indebtedness to the political institutions and historical narratives of the Romans.

III. Naturalizing the Divide

Let me begin by stating the obvious. This is a truly path-breaking and transformative book. The meaning of war has long been presumed to be timeless so as to preclude any historical inquiry into its change across time. The main point of *Civil Wars*, that the idea of civil war needs to be carefully contextualized and historicized in order to make proper sense of the corresponding phenomena, is very innovative and yields substantial insights into the function of civil war in history. While international war has long been regarded as the paradigmatic form of violent conflict, *Civil Wars* has the additional advantage of taking civil war to be a *sui generis* category of thought and action without assimilating it to the category of international war. Rather, *Civil Wars* makes a point of demonstrating that since the fine line separating civil from international war is open to redrawing, the weaponization of civil war becomes a mighty strategic resource in the hands of secessionists of all stripes. It also shows how proxy wars can be re-described as civil wars in order to avoid responsibility for intervening in the affairs of another state. Among the most valuable insights that transpire from this account are that whether a given conflict will be understood as a civil or an international war ultimately depends on the success with which the parties negotiate this distinction, and that this success will be decided by their skill in handling the pen as well as the sword.

Although *Civil Wars* does an excellent job in problematizing the concept of civil war, it does so by assuming that civil and international wars are categorically distinct in the first place. So quite regardless of how elastic and susceptible to rhetorical manipulation the line separating civil and international war is made to appear, *Civil Wars* presupposes that such a distinction is always already present in some form. Yet I think it is possible to argue that there are contexts in which such a distinction did not make much sense to the actors involved in warfare or in its justification. For example, before the revival of Roman sources by humanist lawyers during the seventeenth century, some scholastics found such a distinction to be legally void. If the ultimate normative frame of reference is taken to be humankind as a whole rather than the individual political community, distinguishing civil from foreign war becomes legally inconsequential. For example, as Vitoria stated in his *De Iure Belli* (1539), "the sole and only just cause for waging war is when harm has been inflicted," adding that "not every or any injury gives sufficient grounds for waging war." This being so, since a "prince cannot have greater authority over foreigners than he has over his own subjects; [and] he may not draw the sword against his own subjects unless they have done some wrong; therefore he cannot do so against foreigners except in the same circumstances."[1] Thus the distinction between civil and international war will only

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[1] Francisco de Vitoria, On the Law of War, in Francisco de Vitoria: Political Writings 293, 303-04 (Anthony Pagden & Jeremy Lawrance eds. & trans., 1991).

make sense when we accept that humankind is differentiated into distinct political communities by default. To those who found such compartmentalization irrelevant to the task of enforcing of universal law, the distinction between civil and foreign war lacked normative relevance, since the grounds on which war against foreign evildoers could be justified were not that different from those that applied to warfare against inner enemies.

The transition from war as law enforcement to war as a contest between legal equals becomes difficult to understand if we do not consider the invention of international war to be a significant achievement of early modern legal theory. The re-appropriation of the Roman distinction between civil and foreign war represented an innovation insofar as it shifted the normative focus from humankind as a whole to the self-preservation of particular communities. It took humanist authors like Gentili and Grotius considerable intellectual effort to reinsert such a distinction into the heart of early modern legal theory, by transposing that distinction from the context of Roman Law to that of nascent sovereign states. When Grotius heaped scorn on the scholastic notion that war among Christians constitutes civil war, he did so by denying that Christendom constituted a single state because it lacked the marks of sovereignty, not because it lacked the characteristics of a community. By distinguishing war between sovereigns from other forms of warfare—of which civil war was but one—Gentili and Grotius made the use of force between sovereigns amenable to regulation by means of law while leaving the inner life of political communities at the discretion of sovereign authority. Much of this was undertaken in response to the religious turmoil and epistemic doubt that beset much of sixteenth-century Europe, which had effectively undermined the legitimacy of prior universalistic frameworks. Unless we chose to see the re-introduction of the Roman distinction between civil and foreign war in this context, not only will the first steps towards a world of states appear enigmatic, but so will the Reformation and the wars of religion that followed in its wake. So although *Civil Wars* does an excellent job in showing how the concept of civil war has been weaponized by different actors in different contexts, it does not tell us how the underlying distinction that has made such weaponization possible has been drawn and redrawn across the ages.

IV. Civil War as a Productive Force

Naturalizing the distinction between civil and international war also makes it difficult for *Civil Wars* to deliver on its promise to explore in detail the many ways in which civil war has been conceptually generative, apart from how the threat of civil discord has been invoked to legitimize centralized political authority, most famously by Hobbes. But as Armitage notes, the notion of civil war also contains a productive tension between conflict and communal belonging, in which the former sometimes puts the latter into relief. Civil discord might thus be exploited for the purpose of gluing a community together, as much as the stretching of political community is likely to turn what otherwise would be understood as international conflicts into domestic ones. Yet I think that the many ensuing paradoxes—with which most republican and cosmopolitan thinkers have had to wrestle—would merit more attention. For example, as Kapust has argued in his study of

Roman rhetoric, the republican "community is the site of conflict and contestation between distinct individuals and groups, conflict and contestation that can be channeled through rhetoric and checked by civic virtue."[2] Since conflict and contestation always can get out of hand, the republican challenge par excellence has been to ensure that actors remain focused on interests compatible with the common good. And as Connolly has emphasized in her study of Cicero, "the notion of politics itself is founded on division; antagonism is as essential to the survival of the republic as the peace making that cures it."[3] More concern with the productive aspects of social antagonism would also invite a closer look at the sixteenth-century revival of Roman sources. For example, at the very outset of *Discorsi*, Machiavelli argued that it was the disunion and strife between nobles and people that made the republic free and powerful, by leading up to the creation of the tribunes as an intermediary of between them: "Thus one should blame the Roman government more sparingly and consider that so many good effects would not have emerged from that republic if not caused by the best causes. And if the tumults were the cause of the creation of the tribunes, they deserve highest praise; for besides giving popular administration its part, they were constituted as a guard of Roman freedom."[4] While *Civil Wars* takes the conflict between the nobility and the plebs to be a precursor to the civil wars to follow, other interpretations have emphasized the constitutive role attributed to antagonism by republican writers in creating and maintaining the preconditions of liberty and popular sovereignty. As famously argued by Pocock, that civil discord was a condition of possible liberty became a core assumption of the republican tradition of political thought, and would continue to resonate among republicans across the centuries until it eventually found its way into the American constitution.[5]

By the same token, the twentieth-century revival of cosmopolitan ideals becomes hard to comprehend unless we historicize the distinction between civil and international war and trace its roots back to early modern notions of universal humankind. While it is true that many modern attempts to revive such notions have been accompanied by the realization that this means that all wars are civil ones, one might twist this argument further by arguing that it was the experience of the two world wars that made such revival look compelling in the first place. Hence the idea of a global civil war implies an affirmation of universal humanity by invoking internal strife as its condition of possibility. It is thus possible to understand the many modern invocations of a global civil war as a slightly perverse way of cultivating a sense of community on a planetary scale. But it is also worth recalling that modern cosmopolitan visions are especially prey to paradox. Although they are based on a promise to transcend the international system of states in the name of

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[2] Daniel J. Kapust, Republicanism, Rhetoric, and Roman Political Thought: Sallust, Livy, and Tacitus 28-29 (2011).

[3] Joy Connolly, The State of Speech: Rhetoric and Political Thought in Ancient Rome 73 (2009).

[4] Niccolò Machiavelli, Discourses on Livy 16 (Harvey C. Mansfield & Nathan Tarcov eds., 1996).

[5] J.G.A. Pocock, The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition 194-98 (1957).

world peace, they also offer ample justifications for war in order to bring this transcendence about in the name of humankind.

V. Conclusion

The fine points raised above may seem academic, but they do have implications for our ability to understand and to pass legal and moral judgment on contemporary conflicts. To take the distinction between civil and international wars for granted and focus on how the concept of civil war has been weaponized for different purposes certainly makes it possible to understand how this distinction has been negotiated, but it does not help us to make better sense of those conflicts in the present in which it is disregarded, no more than it helps us understand those instances of violent conflict in the past when it had not been fully articulated. Since the end of the Cold War, it has been common for students of international relations to argue that international wars are a thing of the past, and that they have been superseded by domestic conflicts as the dominant form of organized violence. It is also common to acknowledge that many of these conflicts have an international dimension, by virtue of foreign involvement and their transnational reverberations. As a consequence, many wars today cannot be clearly characterized as either international or civil simply because they are both simultaneously, and are widely recognized to be so by the parties involved. Such a blurring is the result of previous overselling of military interventions in cosmopolitan terms, as well as of the changes that the patterns of warfare have undergone in response to weakened state boundaries and authority structures in some parts of the world. But to the same extent that international and civil war have become increasingly indistinct both in theory and practice, belligerents and bystanders are also left with fewer possibilities of exploiting the notion of civil war in ways favorable to them. Indeed, the boundless nature of much contemporary warfare has gradually undermined the rhetorical bite and strategic value of such attempts, but has also given way to new forms of strategic instrumentalization. As Kennedy has recently argued, in a context in which conventional legal distinctions no longer make much sense, "the articulation and enforcement of legal boundaries also expresses and continues the project of war" and "places legal distinction in strategic play as a part of war itself, further proliferating and fragmenting the sites of its doctrinal and institutional operation."[6] In this regard, our contemporary global predicament bears some tragic resemblance to the situation in sixteenth-century Europe, before the crucial line of demarcation between civil and international war had been drawn on paper by means of the pen and on the ground by means of the sword. Yet none of the above omissions—some of which I am guilty of myself—should be allowed to taint the impression of a marvelous book that is likely to engage readers far beyond the community of professional historians for many years to come.

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[6] David Kennedy, A World of Struggle: How Power, Law, and Expertise Shape Global Political Economy 258-59 (2016).