



# Three Narratives of Civil War: Recurrence, Remembrance and Reform from Sulla to Syria

*David Armitage*

For most of their history, from the ancient world until the nineteenth century, civil wars were a subject primarily for orators, poets, historians and novelists. They have been of pressing concern to lawyers for barely a hundred and fifty years, for social scientists only since the 1960s and for literary scholars mostly during the twenty-first century. Civil wars have accordingly been absent from social theory and from interdisciplinary study more generally: there is as yet no great treatise on civil war to sit alongside Clausewitz's *On War* or Arendt's *On Revolution*, for example.<sup>1</sup> *Civil War and Narrative* is therefore especially welcome for joining fields that have been put asunder and for bringing practitioners and scholars together to examine the centrality of narratives to the experience of civil

---

This essay has benefited from the comments of audiences in London, Berlin, New Haven and Athens. Translations are my own, unless otherwise specified.

---

D. Armitage (✉)

Department of History, Harvard University, Robinson Hall,  
35 Quincy St, Cambridge, MA 02138, USA  
e-mail: armitage@fas.harvard.edu

© The Author(s) 2018  
K. Deslandes et al. (eds.), *Civil War and Narrative*,  
DOI 10.1007/978-3-319-61179-2\_1



17 war from the mid-seventeenth century to contemporary Rwanda and  
18 South Sudan, among other locales torn by civil war.

19 I have argued elsewhere that the experiences of civil war—the efforts  
20 to understand it, to mitigate it and even to prevent it—have shaped con-  
21 ceptions of community, authority and sovereignty and continue to inform  
22 them to this day. Without the challenge of civil war, I contend, our concep-  
23 tions of politics, sovereignty, revolution, international law, cosmopolitanism  
24 and globalization would have been very different, even poorer.<sup>2</sup> Indeed,  
25 civil war may have done more than interstate war to shape our conceptions  
26 of politics—“the continuation of civil war”, in Foucault’s teasing revision of  
27 Clausewitz—than war itself.<sup>3</sup> And, *pace* the arguments of Arendt and oth-  
28 ers, civil war may have contributed more to the making of our world than  
29 revolution, that species of which civil war was the longer-lasting genus.<sup>4</sup>

30 To illustrate these contentions, I here trace briefly three narratives of  
31 civil war told sequentially from republican Rome to the present. I have  
32 called these three narratives, in shorthand form, “recurrence”, “remem-  
33 brance” and “reform”. The first narrative, “recurrence”, tells of the seem-  
34 ingly eternal return of civil war, a narrative first elaborated by Roman  
35 historians and poets, then transmitted and transmuted by early-modern  
36 political thinkers and more recently transformed into a paradigm within  
37 the modern social sciences. The second narrative, “remembrance”, arises  
38 from the first and relates the role of historical memory, but also of his-  
39 torical amnesia, in shaping the expectation and the experience of civil war  
40 up to the present. And the third narrative, “reform”, imagines ways of  
41 breaking out of the first two narratives by “civilizing” civil war through  
42 the application of legal norms, especially the laws of war and international  
43 humanitarian law. Taken together, these three narratives can help to illu-  
44 minate the contribution of civil war to the making of the modern world  
45 and to understand deeper patterns in the history of civil war that might  
46 otherwise be invisible.

#### 47 FIRST NARRATIVE: RECURRENCE

48 Let me begin at the beginning: with the Roman invention of civil war  
49 and the enduring narrative of *recurrence* it generated. The Romans were  
50 not, of course, the first to experience what we now call civil war but they  
51 were the first to experience it *as* civil war. “The Athenians had great dis-  
52 cords,” wrote Cicero, “but in our commonwealth there were not only  
53 seditions but accursed civil wars [*pestifera bella civilia*].”<sup>5</sup> Cicero provided



54 the earliest Latin attestation of the term civil war—*bellum civile*—but  
55 he was not its inventor and it was clearly already in circulation when he  
56 dropped it without any fanfare into a political speech in 66 BCE.<sup>6</sup> Two  
57 features of the idea were novel: that it was *civil* and that it was a *war*.  
58 “Civil”—*civile*—meant literally among fellow citizens, or *cives*; that it was  
59 a war—*bellum*—indicated that it had the features different from those of  
60 other, less-organised or smaller-scale, kinds of violence: armies headed by  
61 generals, ranged in martial formations, and accompanied by the signs typ-  
62 ical of regular forces, such as drums and trumpets.<sup>7</sup> The Romans intro-  
63 duced two elements of civil war that would create a family resemblance  
64 among later conceptions. The first was the idea that the war takes place  
65 within the boundaries of a single political community. In the Roman  
66 case, this community was ever expanding, from the city of Rome itself,  
67 to the Italian peninsula, and then outward into the Mediterranean basin  
68 as Roman citizenship itself encompassed more and more peoples. The  
69 Romans also knew that there should be at least two contending parties in  
70 a civil war, one of which could claim legitimate authority over that com-  
71 munity. These elements would be transmitted through the multiple narra-  
72 tives of civil war the Roman historians, both in Latin and in Greek, spun  
73 to explain and to understand their commonwealth’s serial calamities.<sup>8</sup>

74 The Romans were the first to try to understand civil war through nar-  
75 rative. They saw the links between occurrences of civil conflict and likened  
76 them to natural phenomena such as volcanoes: they could fall dormant  
77 after an eruption but that did not mean they would not explode again.  
78 Seen in this light, Rome’s history came to appear as nothing less than a  
79 history of civil wars and the brief moments of calm between them. This  
80 created a narrative—in fact, a set of narratives—of civilization as prone to  
81 civil war, even cursed by it, that would last for centuries and inform later  
82 understandings of civil war across early-modern and modern Europe.

83 By general agreement, the narrative sequence of Rome’s civil wars  
84 began when the consul Lucius Cornelius Sulla marched on the city at the  
85 head of an army in 88 BCE and thereby broke the ultimate taboo for any  
86 Roman magistrate or military commander, as Julius Caesar would do, yet  
87 more famously, when he crossed the river Rubicon forty years later in 49  
88 BCE. Civil war erupted repeatedly over more than a century of Roman  
89 history from the 80s BCE to the 60s CE and beyond. Sulla’s first civil  
90 war against Marius in 88–87 BCE led to a second series of contentions  
91 between them five years later in 82–81 BCE. Two decades later, impover-  
92 ished veterans of Sulla’s wars supported the Senator Catiline’s conspir-  
93 acy to take control of the city in 63 BCE.



94 Almost twenty years later still, Caesar started a civil war that inaugurated  
95 a cycle of intermittent armed violence that engulfed first Rome, then the  
96 Italian peninsula, and ultimately much of the Mediterranean world as far as  
97 Egypt. In this cycle, the followers and descendants of Caesar and Pompey  
98 continued to fight out their differences in a series of wars that culminated  
99 with the victory of Octavian over Mark Antony and Cleopatra at the bat-  
100 tle of Actium in 31 BCE. With Octavian's elevation to the emperorship  
101 as Augustus in 27 BCE, one sequence of civil wars ended but the seeds  
102 for another were laid in the dynamics of succession to imperial authority.  
103 The fires of civil war stirred back to life in 69 BCE, the "Year of the Four  
104 Emperors" (Galba, Otho, Vitellius and Vespasian). As Tacitus put it at the  
105 start of his account of these bitter disputes, "The history on which I am  
106 entering is full of disasters, terrible with battles, torn by seditions, savage  
107 even in peace. Four emperors fell by the sword; there were three civil wars,  
108 more foreign wars, and often both at the same time."<sup>9</sup> The wars over the  
109 succession to imperial authority would not be the last Roman civil wars—  
110 which, by some accounts, lasted into the fourth century CE—but they  
111 did bring to a climax the historical narratives of Rome as a commonwealth  
112 peculiarly prone to civil war.

113 Civil war came to define the history of Roman civilization itself,  
114 as a curse the commonwealth could not shake off or even as a purgative  
115 that cured the republic of its popular ills and allowed the restoration  
116 of monarchy. It became as inescapable as it was unspeakable and it  
117 seemed Romans could talk of almost nothing else for centuries because  
118 civil war would never disappear. "These sufferings await, again to be  
119 endured," laments a character in Lucan's anti-epic poem *The Civil War*  
120 (60–65 CE): "this will be the sequence /of the warfare, this will be  
121 the outcome fixed for civil strife."<sup>10</sup> Rome's heirs in the Latin West  
122 then perceived their own internal troubles with the help of the reper-  
123 toire of examples and images drawn from the Roman corpus of writing  
124 on civil war.

125 Three major narratives emerged from that canon. The first was what  
126 might be called the republican story, told by Sallust and Tacitus, among  
127 others. This narrative was sympathetic to the supposedly selfless civic val-  
128 ues of the Roman republic, which portrayed the endlessly repeated civil  
129 wars that sprang from the very roots of Rome itself. On this account  
130 of Roman history, to be "civilized" at all was to be prone to civil war:  
131 to suffer only one civil war seemed impossible, as others would inevita-  
132 bly follow so long as Roman civilization itself lasted. Then there was an



133 imperial narrative which followed much the same trajectory but towards  
134 a very different conclusion. Civil war was a persistent disease of the body  
135 politic and it had only one cure: the restoration of monarchy or the exal-  
136 tation of an emperor. This was a story that culminated in the creation  
137 of the Roman Empire under Augustus Caesar: “In this way,” wrote the  
138 Greek-speaking historian Appian, “the Roman polity survived all kinds of  
139 civil disturbances to reach unity and monarchy”; “an evident demonstra-  
140 tion,” agreed his late sixteenth-century English translator, “That peoples  
141 rule must give place, and Princes power prevayle.”<sup>11</sup>

142 Finally, there was a Christian narrative in which civil war was the  
143 besetting sin of a city or commonwealth dedicated to the things of this  
144 world rather than to the glory of God, a narrative that provided the  
145 backbone of Augustine’s monumental—and monumentally influential—  
146 *City of God*. Augustine’s account of Rome’s pagan history was a cata-  
147 logue of “those evils which were more infernal because internal,” a series  
148 of “civil, or rather uncivilized, discords.” This worldliness was the source  
149 of its self-destruction and ensured it could not be an appropriate vehicle  
150 for salvation: “How much Roman blood was shed, and how much of  
151 Italy was destroyed and devastated,” Augustine lamented, “by the Social  
152 War, Servile Wars and Civil Wars!” The first civil wars, of Marius and  
153 Sulla, led inexorably to all Rome’s other internal wars until the advent of  
154 Augustus, the civil warrior (according to Augustine) in whose reign Jesus  
155 was born: “But those wars began long before the advent of Christ, and a  
156 chain of causes linked one crime to another.”<sup>12</sup>

157 The Romans and their heirs discovered what contemporary political  
158 scientists have more recently rediscovered: that civil wars are much more  
159 prone to recur than any others. As the development economist Sir Paul  
160 Collier has put it, “the most likely legacy of a civil war is further civil  
161 war.”<sup>13</sup> From the beginning of the twentieth century until the Syrian  
162 conflict in 2011, almost every civil war was the resumption of an ear-  
163 lier conflict. The emotional and physical wounds of civil war heal slowly  
164 and can easily be re-opened.<sup>14</sup> The result is that wars within states tend  
165 to last longer—some four times longer—than wars between states, and  
166 that in the second half of the twentieth century they have generally lasted  
167 three times longer than they did in the first half.<sup>15</sup> The inescapability and  
168 interminability of civil war may seem like contemporary problems. In  
169 fact, they form one of the most enduring narratives of civil war, as the  
170 narrative of recurrence became a narrative of remembrance and a story of  
171 forgetting, even the repression, of civil war.



## SECOND NARRATIVE: REMEMBRANCE (AND FORGETTING)

172  
173 “Forgetting is the best defence against civil war.” So thought the Roman  
174 orator and historian Titus Labienus, according to the philosopher Seneca  
175 the Elder who preserved his words.<sup>16</sup> Yet civil war would not—could  
176 not—be forgotten for as long as its writers, from Cicero and Caesar to  
177 Lucan and Augustine, continued to be read and imitated. Rome’s ora-  
178 tors, poets and historians aided the *remembrance* of civil war, for their  
179 own people and for centuries to come. They struggled to make sense of  
180 the collapse of the commonwealth, not only by narrating the destruc-  
181 tive cascade of events but also by trying to account for them. They  
182 chewed over the question of blame for the civil wars, because surely they  
183 explained something about Rome’s moral health or debility. They were  
184 transfixed by the possibility that civil war would repeat itself after periods  
185 of apparent calm.

186 The Romans bequeathed to later readers a vision of history structured  
187 around an ethically challenging, appallingly recurrent narrative of civil  
188 war as the paradoxical mark of civility, even (to take a much later term  
189 for it) of civilization itself. The European inheritors of Rome’s traditions  
190 would see their own internal troubles as the culmination, or the repeti-  
191 tion, of a narrative cycle that followed the pattern of the Roman civil wars  
192 and that played out across Europe since the fall of the Roman Empire.  
193 Italy had had its civil wars in the fifteenth century, followed by the French  
194 Wars of Religion and the Dutch Revolt against the Spanish Monarchy in  
195 the late sixteenth century. England alone had been through the Barons’  
196 Wars of the thirteenth century, the Wars of the Roses in the fifteenth cen-  
197 tury and then the civil wars of the mid-seventeenth century.<sup>17</sup>

198 If the Roman writers on civil war had taught anything, it was that the  
199 cycles of civil war, once begun, were likely to remain unbroken. “‘Tis in  
200 vain to seek a Government in all points free from a possibility of Civil  
201 Wars, Tumults, and Seditions,” warned the seventeenth-century aristo-  
202 cratic English republican, Algernon Sidney: “that is a Blessing denied  
203 to this life, and reserved to complete the Felicity of the next.” Sidney  
204 showed this distinction by a detailed breakdown of all the violent distur-  
205 bances across history: in Israel under its kings, in the Persian monarchy,  
206 in Rome, France and Spain, and concluded with a litany of the civil wars  
207 that had ravaged England since the Norman Conquest: “the Miseries of  
208 *England* on like occasions,” he wrote, “surpass all.” From the contested  
209 succession after the death of William the Conqueror to the troubles of



210 the Tudors, English history appeared to have been an almost continuous  
211 time of troubles for five centuries.<sup>18</sup>

212 The most famous version of this narrative appeared in Thomas Paine's  
213 *Common Sense* (1776), a pivotal pamphlet in the American Revolution.  
214 Paine tried to shake the colonists out of their complacent attachment to  
215 the British monarchy by reminding them that it had not brought peace  
216 and stability, as its defenders claimed, but only civil wars over the suc-  
217 cession to the throne: "Thirty kings and two minors have reigned in  
218 that distracted kingdom since the [Norman] conquest, in which time  
219 there have been ... no less than eight civil wars and nineteen Rebellions.  
220 Wherefore instead of making for peace, it makes against it, and destroys  
221 the very foundation it seems to stand on... In short, monarchy and suc-  
222 cession have laid (not this or that kingdom only) but the world in blood  
223 and ashes." Paine used this narrative to argue positively in favour of non-  
224 monarchical government, or republicanism in an early version of the  
225 democratic peace argument later expressed classically by Immanuel Kant  
226 in his "Toward Perpetual Peace."<sup>19</sup>

227 The Romans and their descendants had joined specific internal strug-  
228 gles into collective narratives that, for the most part, assumed that civil  
229 wars would form a destructive sequence of events; only monarchists and  
230 writers in favour of empire could put a positive face on that cumulative  
231 horror by depicting it as the disease for which autocratic rule would be  
232 the cure. Yet the historical story of a series of violent upheavals leading to  
233 fundamental changes in authority and sovereignty was never abandoned;  
234 it was only transformed. It endured as a history of revolutions stretching  
235 across the centuries while leaving behind a past marked by civil wars.

236 Starting in the late eighteenth century, a new narrative began to  
237 emerge, also composed of a succession of political upheavals, also link-  
238 ing past and future, yet now ripe with utopian possibilities. This would  
239 be the vision of history in which a sequence of revolutions rather than a  
240 series of civil wars formed the central story of modern liberation, starting  
241 with the American and French Revolutions and unfolding throughout  
242 history. The nascent category of revolution was designed, in part, to sup-  
243 press previous narratives of civil war and to replace them with something  
244 more positive, more hopeful, and more oriented towards the future.<sup>20</sup>

245 The accumulating prestige of narratives of revolution helped to sup-  
246 press, even repress, older narratives of civil war, lending very different  
247 evaluations to each. Civil wars have generally been assumed to be ster-  
248 ile, bringing only misery and disaster, while revolutions have often been





249 seen as fertile with innovation and transformative possibilities. Civil wars  
250 hearken back to ancient grievances and deep-dyed divisions, while rev-  
251 olutions point the way toward an open and expansive future. Likewise,  
252 civil wars are local and time bound, taking place within particular, usu-  
253 ally, national communities. By contrast, revolutions occurred across the  
254 world—at least, across the modern world, defined as “modern” along  
255 the very timeline of revolutions—in an unfolding sequence of human lib-  
256 eration. Civil wars, the conventional understanding might imply, reveal  
257 the blighting and collapse of the human spirit, while revolutions display  
258 its revelation and self-realization. Revolutions were definitively modern,  
259 novel, and forward looking; civil wars were archaic, traditional and back-  
260 ward facing, as Arendt and others would argue.<sup>21</sup>

261 These preconceptions, prejudices even, about civil war would render  
262 it abnormal, even an abuse of the noble name of war itself. In this  
263 regard, it is notable that Clausewitz, like every other major modern  
264 theorist of war, hardly mentions civil war, even in his writings on “small  
265 war” (*kleiner Krieg*).<sup>22</sup> His contemporary and rival, the Belgian baron  
266 Antoine Henri Jomini, wrote of civil wars, that “[t]o want to give max-  
267 imums for these sorts of war would be absurd.”<sup>23</sup> Such attitudes prevented  
268 the extension of the original Geneva Convention (1864) to civil wars:  
269 “international laws are not applicable to them,” asserted one of the  
270 Convention’s original drafters, Gustave Moynier in 1870.<sup>24</sup> And yet,  
271 as the narrative in which revolution replaced civil war among human-  
272 ity’s serial political transformation gradually unfolded, another started  
273 to emerge. This was a progressive narrative in which civil war could be  
274 gradually ameliorated by the restraining force of law.

275

### THIRD NARRATIVE: REFORM

276 Narratives of recurrence and remembrance had brought with them the  
277 apprehension that it was impossible ever to escape civil war and that  
278 its horrors would always be unlimited. For example, in his “Perpetual  
279 Peace”, Kant wryly observed that a Dutch innkeeper had painted just  
280 those words on his tavern-sign alongside a picture of a graveyard: this  
281 implied that the only truly lasting peace would be the eternal sleep of  
282 death. Yet Kant was more optimistic that peace among states was not  
283 “just an empty idea” but “a task that, gradually solved, comes steadily  
284 closer to its goal.” Cosmopolitan law (the *ius cosmopolitanum*) would be  
285 one means Kant recommended for taming war, and the dream of using





286 law to *reform* civil war has endured in the history of the laws of war and  
287 international humanitarian law.<sup>25</sup>

288 The reform narrative of civil war has its roots in the mid-eighteenth  
289 century but flourished a century later, during the US Civil War. The  
290 modern tradition of natural law, beginning with the writings of Hugo  
291 Grotius in the early seventeenth century, paid only intermittent atten-  
292 tion to civil war as an object of legal definition and regulation rather than  
293 as a specifically *political* problem to be overcome or diminished. It was  
294 only in the work of the Swiss jurist Emer de Vattel, writing in the 1750s,  
295 that civil war became the subject of specifically legal attention. Vattel  
296 wrote of the state as splitting into two distinct bodies, each with a claim  
297 to autonomy and sovereignty, even if they occupied or claimed the same  
298 territorial space. The distinguishing feature of this conception of civil war  
299 was the elevated status of both sides in a civil war—the former sover-  
300 eign, whether a monarch or a republican assembly, for instance, and the  
301 former rebels—“constitut[ed], at least for a time, two separate bodies,  
302 two distinct societies”—or, as Vattel put it, two distinct “nations.”<sup>26</sup> This  
303 conception was a matter of law, not fact.

304 Vattel’s construction of civil war in this fashion was original and  
305 would shape arguments about civil war in the context of international  
306 law well into the nineteenth century. His great breakthrough in the  
307 juridification of civil war was his argument that it fell under the law  
308 of nations rather than domestic law, and that its prosecution could be  
309 regulated by international law rather than simply suppressed by inter-  
310 nal police action. The applicable rules were those of the law of nations,  
311 including the laws of war. This raised the possibility of civilizing civil war  
312 by treating both parties as equally possessing belligerent rights and each  
313 equally entitled to legal protections as well as liable for infractions of the  
314 laws of war.

315 Even a century after Vattel broke new ground in this way, his account  
316 of civil war as the functional equivalent to interstate conflict met with  
317 resistance. For example, Henry Wager Halleck, an American interna-  
318 tional lawyer and general in the Union Army, agreed that both parties  
319 in a civil war should be subject to the laws of war but not that this fact  
320 allowed external powers to recognize or aid both parties as if they were  
321 independent states. Halleck also sought to distinguish mere “rebellions”  
322 from civil wars, in order that they would be subject to municipal rather  
323 than international law. To accord every rebel group the full panoply of  
324 protections guaranteed by international law to legitimate sovereigns



325 “would be both unjust and insulting to the government of the state  
326 against which the rebellion or revolution is attempted.” Writing in 1861,  
327 the belligerent status of the secessionist states of the Confederacy was  
328 clearly very much on his mind as he refuted Vattel in the context of what  
329 Abraham Lincoln would later call “a great civil war”.<sup>27</sup>

330 That conflict—the US Civil War—would be a forcing-house of innova-  
331 tion in the laws of war and Halleck would be the agent of the reformist  
332 impulse to bring the conduct of the conflict firmly under the laws of war.  
333 It was Halleck who formally commissioned the Prussian-born lawyer and  
334 American political science professor Francis Lieber to produce the first code  
335 of the laws of war in 1863 for the Union Army. *General Orders no. 100*,  
336 better known as the Lieber Code, which became the lineal ancestor of the  
337 Hague and Geneva Conventions and therefore the foundation of the mod-  
338 ern laws of war. The Code systematically specified for the first time such  
339 matters as the treatment of prisoners and the measures that could be used  
340 against guerrilla warfare. That it did so in the context of a civil war that was  
341 also a rebellion helped to mainstream civil war as war while also sharpening  
342 a line between the two kinds of warfare that would become bright[er] line  
343 across the course of the nineteenth and twentieth centuries.

344 Lieber attempted to define civil war at the very end of his Code and  
345 came up with a definition that was at once traditional and novel. Civil  
346 war is war between two or more portions of a country or state, each  
347 contending for the mastery of the whole, and each claiming to be the  
348 legitimate government. The term is also sometimes applied to war of  
349 rebellion, when the rebellious provinces or portions of the state are con-  
350 tiguous to those containing the seat of government.<sup>28</sup> The first—“war  
351 between two or more portions of a country or state, each contending for  
352 mastery of the whole”—could be traced back to the Roman tradition.  
353 The second conception—“sometimes applied to war of rebellion, when  
354 the rebellious provinces or portions of the state are contiguous to those  
355 containing the seat of government”—was unprecedented, both legally  
356 and historically. Lieber had made it up out of whole cloth tailored to the  
357 circumstances of the North American conflict, in which the “rebellious  
358 provinces” were indeed contiguous with the seat of sovereignty. In fact,  
359 by Lieber’s own reckoning, the American Civil War was not a civil war at  
360 all; it was in fact a rebellion. This accorded with the wording of the US  
361 Constitution, which provided for the means to “suppress Insurrections”  
362 and permitted the suspension of habeas corpus “in Cases of Rebellion,”  
363 as Lincoln had done in 1861.<sup>29</sup> Lieber’s conception of civil war nonethe-  
364 less had an afterlife. Later US Army field manuals made no attempt to



365 replace Lieber's definition of civil war and only updated their approach  
366 after the Geneva Conventions of 1949 to cover "armed conflicts not of  
367 an international character".<sup>30</sup>

368 The 1949 discussions led to Common Article 3, built on propos-  
369 als set forth by the International Committee of the Red Cross in 1948  
370 in Stockholm to make application of the existing Geneva Conventions  
371 "obligatory on each of the adversaries" in "cases of an armed con-  
372 flict which is not of an international character, especially cases of civil  
373 war, colonial conflicts, or wars of religion." After much discussion,  
374 the revised draft presented in Geneva in 1949 omitted the last qualify-  
375 ing clause, and specified only "armed conflict not of an international  
376 character." That became the preferred form of words thereafter among  
377 international lawyers and international organizations, despite early  
378 objections that it could cover too wide a range of violent acts within  
379 the frontiers of a single state: not just "civil" wars, but the deeds of  
380 any enemies of the state, whether legitimate freedom fighters, brigands,  
381 or even common criminals—in fact anyone engaged in riots or coups  
382 d'état rather than actions recognizable as "wars". Did they all deserve  
383 the protection of the Geneva Conventions, even if their actions were  
384 illegal according to domestic law? All civil wars were wars "not of an  
385 international character" but only some wars "not of an international  
386 character" were civil wars.<sup>31</sup>

387 When Common Article 3 was drafted and approved in 1949, much of  
388 its work was retrospective, responding to concerns raised by the inade-  
389 quacy of the existing Geneva Conventions to conflicts such as the Spanish  
390 Civil War (1936–1939). In the decades after World War Two, the pro-  
391 liferation of "non-international" conflicts demanded greater precision  
392 in the application of the Conventions. Amid the proxy wars of the Cold  
393 War, and the wreckage of dissolving empires around the globe, interven-  
394 tion into internal conflicts became more common and tarnished the lustre  
395 of the Long Peace then emerging in Europe. Between 1974 and 1977,  
396 the Geneva Conventions were further updated. The outcome was a set  
397 of additional protocols, of which the second—Additional Protocol II  
398 (1977)—applied to conflicts of a non-international character. Additional  
399 Protocol II excluded riots and also wars of decolonization, which were  
400 covered instead by Additional Protocol I, which brought international  
401 humanitarian law to bear directly on anti-imperial struggles for the first  
402 time. This second Additional Protocol expanded the range of protections  
403 and prohibitions relevant to civil wars and remains in force today as the  
404 major component of humanitarian law relevant to such struggles.<sup>32</sup>



405 The application of those protections depends on the judgment that  
406 a conflict “not of an international character” is in progress. If the con-  
407 flict is held to be “international”—that is, between two independent  
408 sovereign communities—then the full force of the Geneva Conventions  
409 applies. If it is “non-international” then it will be covered by Common  
410 Article 3 and Additional Protocol II. But if the violence has not been  
411 deemed a conflict of either kind—perhaps because it is a riot or an insur-  
412 gency—it remains within the scope of the domestic jurisdiction of the  
413 state concerned. In these cases, a great deal hangs on the determination  
414 of whether or not a conflict is “not of an international character”; or, in  
415 general speech, whether it is a civil war or not.

416 Take the recent case of the Syrian civil war. Ordinary Syrians knew  
417 very well throughout 2011 and the first half of 2012 that what they were  
418 experiencing amid contention with the regime of Bashar al-Assad was  
419 civil war. Outside Syria, interested parties across the globe were debating  
420 whether or not Syria has descended into civil war. In December 2011,  
421 US White House deputy spokesperson Mark Toner demurred when  
422 asked if he agreed with a UN official that Syria was experiencing civil  
423 war: “We think violence needs to end in Syria. And that includes among  
424 the opposition elements,” he said. “But there’s no way to equate the  
425 two, which, in my view, is implied in using the term ‘civil war.’”<sup>33</sup> The  
426 Syrian regime saw only rebellion. The opposition said they were engaged  
427 in resistance. And powers like Russia and the USA held the threat of civil  
428 war over each other’s heads as they jostled over intervention and non-  
429 intervention.<sup>34</sup>

430 It took the International Committee of the Red Cross until July  
431 2012—more than a year into the conflict, and after as many as 17,000  
432 people may have already perished—to confirm that what was taking place  
433 in Syria was, in fact, an “armed conflict not of an international charac-  
434 ter.”<sup>35</sup> Only when it had made that determination would it be possible  
435 for the parties to be covered by the relevant provisions of the Geneva  
436 Conventions.<sup>36</sup> The reluctance to call the conflict a civil war has become  
437 typical of international organizations in the twenty-first century because  
438 so much—politically, militarily, legally, and ethically—now hangs on  
439 the use or withholding of the term. A set of legal protocols designed to  
440 humanize the conduct of civil war—to bring to bear humanitarian con-  
441 straints on its practice, and to humanize some of the terrible human cost  
442 of civil conflict—served only to constrain international actors in their  
443 attitudes towards the conflict in Syria.



444 Controversy over the meaning of civil war could be illustrated from  
 445 other recent conflicts, most notably the Second Gulf War and its after-  
 446 math in Iraq.<sup>37</sup> Our present discontents are, as always, the produce of  
 447 many contested histories. Layered into contemporary conceptions of civil  
 448 war are narratives from the past as well as the surrounding discourses—  
 449 of history and politics, law and literature, for example—that laid down  
 450 its various strata of significance. From history and from literature, espe-  
 451 cially from the Roman canon, came a narrative of civil war as recurrent  
 452 and sequential. From history politics, sprang narratives of civil war’s links  
 453 with civilization and sovereignty, rebellion and revolution. From law  
 454 arose a new reformist narrative designed to overcome the effects of the  
 455 first two through the effort to regulate civil war according to legal pro-  
 456 tocols. Narrative gave shape to each of these understandings and carried  
 457 them forward into the present. Accounts based on recurrence, remem-  
 458 brance and reform continue to shape contemporary conceptions of civil  
 459 war as enduring evidence of its arduously accumulated and ultimately  
 460 competing narratives.

## NOTES

461

- 462 1. As noted by, among others, Giorgio Agamben, *Stasis: Civil War as a*  
 463 *Political Paradigm*, trans. Nicholas Heron (Stanford, 2015), p. 2; Bill  
 464 Kissane, *Nations Torn Asunder: The Challenge of Civil War* (Oxford,  
 465 2016), p. 3.
- 466 2. David Armitage, *Civil Wars: A History in Ideas* (New York, 2017). This  
 467 essay draws on my book, to which I refer readers for more documenta-  
 468 tion and argumentation.
- 469 3. Michel Foucault, *La Société punitive. Cours au Collège de France 1972–*  
 470 *1973*, eds. François Ewald, Alessandro Fontana and Bernard Harcourt  
 471 (Paris, 2013), p. 34.
- 472 4. Hannah Arendt, *On Revolution* (1963) (London, 1990), p. 12; Harry  
 473 Eckstein, “On the Etiology of Internal Wars,” *History and Theory* 4  
 474 (1965), 133.
- 475 5. Cicero, *On Duties* (I. 85–86), trans. Walter Miller (Cambridge, Mass.,  
 476 1913), pp. 86–87 (translation adapted).
- 477 6. Cicero, *De imperio Cn. Pompei* (28), in Cicero, *Political Speeches*, trans.  
 478 D. H. Berry (Oxford, 2006), p. 119.
- 479 7. Appian, *The Civil Wars* (I. 59–60), trans. John Carter (London, 1993),  
 480 pp. 32–33.
- 481 8. Brian W. Breed, Cynthia Damon and Andreola Rossi, eds., *Citizens of*  
 482 *Discord: Rome and Its Civil Wars* (Oxford, 2010).



- 483 9. Tacitus, *Histories* (I. 2), in Tacitus, *Histories, Books I–III*, trans. Clifford  
484 H. Moore (Cambridge, Mass., 1925), p. 5 (translation adapted).
- 485 10. Lucan, *Bellum Civile* (I, 223–224), in Lucan, *Civil War*, trans. Susan H.  
486 Braund (Oxford, 1992), p. 27.
- 487 11. Appian, *The Civil Wars* (I. 6), trans. Carter, 4; [Appian,] *An Auncient*  
488 *Historie and exquisite Chronicle of the Romane warres, both Civile and*  
489 *Foren* (London, 1578), title-page.
- 490 12. Augustine, *The City of God against the Pagans*, ed. R. W. Dyson  
491 (Cambridge, 1998), pp. 132 (III. 23), 137 (III. 28), 139 (III. 30).
- 492 13. Paul Collier, *Wars, Guns, and Votes: Democracy in Dangerous Places* (New  
493 York, 2009), p. 139.
- 494 14. David Armitage, et al., “AHR Roundtable: Ending Civil Wars,” *American*  
495 *Historical Review* 120 (2015), 1682–1837.
- 496 15. Paul Collier, Anke Hoeffler, and Måns Söderbom, “On the Duration of  
497 Civil War,” *Journal of Peace Research* 41 (2004), 253–273; James D.  
498 Fearon, “Why Do Some Civil Wars Last So Much Longer Than Others?,”  
499 *Journal of Peace Research* 41 (2004), 275–301; Barbara F. Walter, “Does  
500 Conflict Beget Conflict? Explaining Recurring Civil War,” *Journal of*  
501 *Peace Research* 41 (2004), 371–388.
- 502 16. “Optima civilis belli defensio oblivio est”: Seneca, *Controversiae* (10. 3. 5),  
503 quoted in Alain M. Gowing, *Empire and Memory: The Representation of*  
504 *the Roman Republic in Imperial Culture* (Cambridge, 2005), p. 82.
- 505 17. Paul Seaward, “Clarendon, Tacitism, and the Civil Wars of Europe,”  
506 *Huntington Library Quarterly* 68 (2005), 298–311.
- 507 18. Algernon Sidney, *Discourses Concerning Government* (London, 1698),  
508 pp. 187–189, 193, 196–199.
- 509 19. Thomas Paine, *Common Sense* (1776), in Paine, *Collected Writings*, ed.  
510 Eric Foner (New York, 1995), pp. 18–19.
- 511 20. David Armitage, “Every Great Revolution Is a Civil War,” in Keith Michael  
512 Baker and Dan Edelstein, eds., *Scripting Revolution: A Historical Approach*  
513 *to the Comparative Study of Revolutions* (Stanford, 2015), pp. 57–68.
- 514 21. Reinhart Koselleck, “Historical Criteria of the Modern Concept of  
515 Revolution,” in Koselleck, *Futures Past: On the Semantics of Historical*  
516 *Time*, trans. Keith Tribe (New York, 2004), pp. 47, 49.
- 517 22. Carl von Clausewitz, *On War* (1832), ed. and trans. Michael Howard  
518 and Peter Paret (Princeton, N.J., 1984); Clausewitz, *Clausewitz on*  
519 *Small War*, trans. Christopher Daase and James W. Davis (Oxford,  
520 2015), pp. 121, 131, 163.
- 521 23. Antoine Henri Jomini, *Précis de l’art de la guerre, ou Nouveau tableau*  
522 *analytique des principales combinaisons de la stratégie, de la grande tac-*  
523 *tique et de la politique militaire*, 2 vols. (Paris, 1838), I, p. 85.





- 524 24. Gustave Moynier, *Étude sur la Convention de Genève pour l'amélioration*  
525 *du sort des militaires blessés dans les armées en campagne (1864 et 1868)*  
526 (Paris, 1870), p. 304.
- 527 25. Immanuel Kant, "Toward Perpetual Peace" (1795), in Kant, *Practical*  
528 *Philosophy*, ed. and trans. Mary J. Gregor (Cambridge, 1996), pp. 317, 351.
- 529 26. Emer de Vattel, *The Law of Nations* (1758), ed. Béla Kapossy and Richard  
530 Whatmore (Indianapolis, 2008), p. 645 (III. 18. 293).
- 531 27. H. W. Halleck, *International Law; or, Rules Regulating the Intercourse*  
532 *of States in Peace and War* (San Francisco, 1861), pp. 73–75; Abraham  
533 Lincoln, "Address Delivered at the Dedication of the Cemetery at  
534 Gettysburg" (19 November 1863), in *The Collected Works of Abraham*  
535 *Lincoln*, ed. Roy P. Basler, 11 vols. (New Brunswick, NJ, 1953–1955),  
536 VII, p. 23.
- 537 28. [Francis Lieber,] *Instructions for the Government of Armies of the United*  
538 *States in the Field* (New York, 1863), p. 34.
- 539 29. US Constitution, article I, Secs. 8–9; Fourteenth Amendment (1866),  
540 sec. 3.
- 541 30. See, for example, George B. Davis, ed., *The Military Laws of the*  
542 *United States* (Washington, D.C., 1897), p. 798; United States. War  
543 Department. General Staff, *Rules of Land Warfare* (Washington, D.C.,  
544 1914); United States. War Department, *Basic Field Manual: Rules of*  
545 *Land Warfare* (Washington, D.C., 1940); United States. Department of  
546 the Army, *The Law of Land Warfare/Department of the Army, July 1956*  
547 (Washington, D.C., 1976), p. 9.
- 548 31. International Committee of the Red Cross, *Seventeenth International*  
549 *Red Cross Conference, Stockholm August 1948: Report* (Stockholm,  
550 1948), p. 71; Jean S. Pictet, *Geneva Convention for the Amelioration*  
551 *of the Condition of the Wounded and Sick in Armed Forces in the Field:*  
552 *Commentary* (Geneva, 1952), pp. 39–48.
- 553 32. Lindsay Moir, *The Law of Internal Armed Conflict* (Cambridge, 2002),  
554 pp. 89–132; Sandesh Sivakumaran, *The Law of Non-International Armed*  
555 *Conflict* (Oxford, 2012), pp. 49–92, 182–192.
- 556 33. U. S. Department Of State, The Office of Electronic Information, Bureau  
557 of Public Affairs, "Daily Press Briefing—December 2, 2011": [[http://](http://www.state.gov/r/pa/prs/dpb/2011/12/178090.htm)  
558 [www.state.gov/r/pa/prs/dpb/2011/12/178090.htm](http://www.state.gov/r/pa/prs/dpb/2011/12/178090.htm)]; Jeremy Pressman,  
559 "Why Deny Syria Is in a Civil War?," *Mideast Matrix* (16 January 2012):  
560 [[http://](http://mideastmatrix.wordpress.com/2012/01/16/syria-civil-war)  
561 [mideastmatrix.wordpress.com/2012/01/16/syria-civil-war](http://mideastmatrix.wordpress.com/2012/01/16/syria-civil-war)].
- 562 34. Erica Chenoweth, "The Syrian Conflict Is Already a Civil War," *The*  
563 *American Prospect* (15 January 2012): [[http://](http://prospect.org/article/syrian-conflict-already-civil-war)  
564 [prospect.org/article/syrian-conflict-already-civil-war](http://prospect.org/article/syrian-conflict-already-civil-war)]. Dan Murphy, "Why It's Time to Call Syria  
a Civil War," *The Christian Science Monitor* (5 June 2012): [<http://www>.





- 565 [csmonitor.com/World/Backchannels/2012/0605/Why-it-s-time-to-call-Syria-a-civil-war](http://csmonitor.com/World/Backchannels/2012/0605/Why-it-s-time-to-call-Syria-a-civil-war)].
- 566
- 567 35. “Syria Crisis: Death Toll Tops 17,000, Says Opposition Group,”
- 568 *The Huffington Post* (9 July 2012): [[http://www.huffingtonpost.com/2012/07/09/syria-crisis-death-toll-17000\\_n\\_1658708.html](http://www.huffingtonpost.com/2012/07/09/syria-crisis-death-toll-17000_n_1658708.html)]
- 569 “Syria in Civil War, Red Cross Says,” *BBC News, Middle East*, (15 July
- 570 2012): [<http://www.bbc.com/news/world-middle-east-18849362>].
- 571
- 572 36. “Internal Conflicts or Other Situations of Violence—What is the
- 573 Difference for Victims?,” International Committee of the Red Cross,
- 574 Resource Centre (12 December 2012): [<http://www.icrc.org/eng/resources/documents/interview/2012/12-10-niac-non-international-armed-conflict.htm>].
- 575
- 576
- 577 37. Armitage, *Civil Wars*, pp. 219–226.

## REFERENCES

- 578
- 579 Agamben, Giorgio, *Stasis: Civil War as a Political Paradigm*, trans. Nicholas
- 580 Heron (Stanford, 2015).
- 581 Appian, *An Auncient Historie and exquisite Chronicle of the Romane warres, both*
- 582 *Civile and Foren* (London, 1578).
- 583 Appian, *The Civil Wars*, trans. John Carter (London, 1993).
- 584 Arendt, Hannah, *On Revolution* (1963) (London, 1990).
- 585 Armitage, David, *Civil Wars: A History in Ideas* (New York, 2017).
- 586 Armitage, David, “Every Great Revolution Is a Civil War,” in Keith Michael
- 587 Baker and Dan Edelstein, eds., *Scripting Revolution: A Historical Approach to*
- 588 *the Comparative Study of Revolutions* (Stanford, 2015), pp. 57–68.
- 589 Armitage, David, et al., “AHR Roundtable: Ending Civil Wars,” *American*
- 590 *Historical Review* 120 (2015), 1682–1837.
- 591 Augustine, *The City of God against the Pagans*, ed. R. W. Dyson (Cambridge,
- 592 1998).
- 593 Breed, Brian W., Cynthia Damon, and Andreola Rossi, eds., *Citizens of Discord:*
- 594 *Rome and Its Civil Wars* (Oxford, 2010).
- 595 Chenoweth, Erica, “The Syrian Conflict Is Already a Civil War,” *The American*
- 596 *Prospect* (15 January 2012): [<http://prospect.org/article/syrian-conflict-already-civil-war>].
- 597
- 598 Cicero, *On Duties* (I. 85–86) trans. Walter Miller (Cambridge, Mass., 1913).
- 599 Cicero, *Political Speeches*, trans. D. H. Berry (Oxford, 2006).
- 600 Clausewitz, Carl von, *Clausewitz on Small War*, trans. Christopher Daase and
- 601 James W. Davis (Oxford, 2015).
- 602 Clausewitz, Carl von, *On War* (1832), ed. and trans. Michael Howard and Peter
- 603 Paret (Princeton, N.J., 1984).
- 604 Collier, Paul, *Wars, Guns, and Votes: Democracy in Dangerous Places* (New York,
- 605 2009).



- 606 Collier, Paul, Anke Hoeffler, and Måns Söderbom, "On the Duration of Civil  
607 War," *Journal of Peace Research* 41 (2004), 253–273.
- 608 Davis, George B., ed., *The Military Laws of the United States* (Washington, D.C.,  
609 1897).
- 610 Eckstein, Harry, "On the Etiology of Internal Wars," *History and Theory* 4  
611 (1965), 000–000.
- 612 Fearon, James D., "Why Do Some Civil Wars Last So Much Longer Than  
613 Others?," *Journal of Peace Research* 41 (2004), 275–301.
- 614 Foucault, Michel, *La Société punitive. Cours au Collège de France 1972–1973*,  
615 François Ewald, Alessandro Fontana and Bernard Harcourt eds. (Paris, 2013).
- 616 Gowing, Alain M., *Empire and Memory: The Representation of the Roman  
617 Republic in Imperial Culture* (Cambridge, 2005).
- 618 Halleck, H. W., *International Law; or, Rules Regulating the Intercourse of States  
619 in Peace and War* (San Francisco, 1861).
- 620 International Committee of the Red Cross, *Seventeenth International Red Cross  
621 Conference, Stockholm August 1948: Report* (Stockholm, 1948).
- 622 International Committee of the Red Cross, "Internal Conflicts or Other  
623 Situations of Violence—What is the Difference for Victims?," (12  
624 December 2012): [http://www.icrc.org/eng/resources/documents/  
625 interview/2012/12-10-niac-non-international-armed-conflict.htm](http://www.icrc.org/eng/resources/documents/interview/2012/12-10-niac-non-international-armed-conflict.htm)].
- 626 Jomini, Antoine Henri, *Précis de l'art de la guerre, ou Nouveau tableau analyt-  
627 que des principales combinaisons de la stratégie, de la grande tactique et de la  
628 politique militaire*, 2 vols. (Paris, 1838).
- 629 Kant, Immanuel, *Practical Philosophy*, ed. and trans. Mary J. Gregor (Cambridge,  
630 1996).
- 631 Kissane, Bill, *Nations Torn Asunder: The Challenge of Civil War* (Oxford, 2016).
- 632 Koselleck, Reinhart, *Futures Past: On the Semantics of Historical Time*, trans.  
633 Keith Tribe (New York, 2004).
- 634 Lieber, Francis, *Instructions for the Government of Armies of the United States in  
635 the Field* (New York, 1863).
- 636 Lincoln, Abraham, *The Collected Works of Abraham Lincoln*, ed. Roy P. Basler, 11  
637 vols. (New Brunswick, NJ, 1953–1955).
- 638 Lucan, *Civil War*, trans. Susan H. Braund (Oxford, 1992).
- 639 Moir, Lindsay, *The Law of Internal Armed Conflict* (Cambridge, 2002).
- 640 Moynier, Gustave, *Étude sur la Convention de Genève pour l'amélioration du sort  
641 des militaires blessés dans les armées en campagne (1864 et 1868)* (Paris, 1870).
- 642 Murphy, Dan, "Why It's Time to Call Syria a Civil War," *The Christian  
643 Science Monitor* (5 June 2012): [[http://www.csmonitor.com/World/  
644 Backchannels/2012/0605/Why-it-s-time-to-call-Syria-civil-war](http://www.csmonitor.com/World/Backchannels/2012/0605/Why-it-s-time-to-call-Syria-civil-war)].
- 645 Paine, Thomas, *Collected Writings*, ed. Eric Foner (New York, 1995).
- 646 Pictet, Jean S., *Geneva Convention for the Amelioration of the Condition of the  
647 Wounded and Sick in Armed Forces in the Field: Commentary* (Geneva, 1952).



- 648 Pressman, Jeremy, “Why Deny Syria Is in a Civil War?,” *Mideast Matrix* (16  
649 January 2012): [[http://mideastmatrix.wordpress.com/2012/01/16/syria-](http://mideastmatrix.wordpress.com/2012/01/16/syria-civil-war)  
650 [civil-war](http://mideastmatrix.wordpress.com/2012/01/16/syria-civil-war)].
- 651 Seaward, Paul, “Clarendon, Tacitism, and the Civil Wars of Europe,”  
652 *Huntington Library Quarterly* 68 (2005), 298–311.
- 653 Sidney, Algernon, *Discourses Concerning Government* (London, 1698).
- 654 Sivakumaran, Sandesh, *The Law of Non-International Armed Conflict* (Oxford,  
655 2012).
- 656 “Syria Crisis: Death Toll Tops 17,000, Says Opposition Group,” *The Huffington*  
657 *Post* (9 July 2012): [[http://www.huffingtonpost.com/2012/07/09/syria-](http://www.huffingtonpost.com/2012/07/09/syria-crisis-death-toll-17000_n_1658708.html)  
658 [crisis-death-toll-17000\\_n\\_1658708.html](http://www.huffingtonpost.com/2012/07/09/syria-crisis-death-toll-17000_n_1658708.html)].
- 659 “Syria in Civil War, Red Cross Says,” *BBC News, Middle East*, (15 July 2012):  
660 [<http://www.bbc.com/news/world-middle-east-18849362>].
- 661 Tacitus, *Histories, Books I–III*, trans. Clifford H. Moore (Cambridge, Mass.,  
662 1925).
- 663 United States. Department of the Army, *The Law of Land Warfare/Department*  
664 *of the Army, July 1956* (Washington, D.C., 1976).
- 665 U. S. Department Of State, The Office of Electronic Information, Bureau of  
666 Public Affairs, “Daily Press Briefing—December 2, 2011”: [[http://www.](http://www.state.gov/r/pa/prs/dpb/2011/12/178090.htm)  
667 [state.gov/r/pa/prs/dpb/2011/12/178090.htm](http://www.state.gov/r/pa/prs/dpb/2011/12/178090.htm)].
- 668 United States. War Department. General Staff, *Rules of Land Warfare*  
669 (Washington, D.C., 1914).
- 670 United States. War Department, *Basic Field Manual: Rules of Land Warfare*  
671 (Washington, D.C., 1940).
- 672 Vattel, Emer de *The Law of Nations* (1758), ed. Béla Kaposy and Richard  
673 Whatmore (Indianapolis, 2008).
- 674 Walter, Barbara F., “Does Conflict Beget Conflict? Explaining Recurring,”  
675 *Journal of Peace Research* 41 (2004), 371–388.