

# On the Genealogy of Quarrels

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## Abstract

This essay responds to the suggestions and critiques made by contributors to the forum on my recent book, *Civil Wars: A History in Ideas* (2017). In particular, I reply to claims that the book too sharply distinguished Greek and Roman conceptions of civil conflict and that I was insufficiently attentive to the emerging boundaries between civil war and other kinds of conflict; I also consider suggestions that would have expanded my consideration of “global civil war”; the role of inclusion and exclusion in conceptions of civil war; the relation between civil war and conceptions of statehood; and the applicability of my analysis to conflicts I did not consider, such as the Spanish Civil War.

Нравится ли вам термин «Гражданская война»?  
Мне очень.<sup>1</sup>

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To trace the genealogy of any concept across more than two thousand years demands *Sitzfleisch* and chutzpah in equal measure. When I embarked on *Civil Wars: A History in Ideas* at the height of the Second Gulf War, I had no idea it would take me almost a decade to complete or that it would require immersion in scholarship by classicists, political theorists, social scientists and international lawyers as well as in the work of my own tribe of intellectual historians and historians of political thought. At times, I wondered whether synthesizing so many disparate literatures would doom the project to death by a thousand cuts when the experts saw how I had trampled on their various fields. The generous and penetrating reactions in this distinguished forum—from two classicists, a political scientist, an international relations theorist and a fellow historian—convince me that the effort was well spent. I am deeply grateful to Jens Bartelson, Julián Casanova, Carsten Hjort Lange, Patricia Owens and Benjamin Straumann for forgiving my trespasses and, above all, for extending my arguments in so many productive directions. At the very least, their rich responses reassure me my foolhardiness was not entirely misplaced. More to the point, they show why it is sometimes worth breaking disciplinary boundaries, in order to bring disparate groups of scholars into a conversation about a complex, multidimensional subject with a tangled past, a fraught present and a still uncertain future.

My motivation for writing *Civil Wars* was unabashedly presentist. I wanted to understand why the meaning and application of the term “civil war” to contemporary conflicts had become so contentious. I was also curious to see how current confusions

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<sup>1</sup> “Do you like the term ‘Civil War’? I like it very much.” Eduard Limonov, *Дневник неудачника/ Diary of a Loser* 22 (2002).

paralleled past perplexities and to discover whether they were to any degree a product of civil war's long conceptual history. As I mention in the afterword to *Civil Wars* (241-43), my quest began with two moments "rhyming" across time: the debate in 2006-07 over whether or not to call the violence in Iraq a "civil war" (rather than, say, an insurgency or terrorism) and the difficulty the Prussian-American lawyer Francis Lieber experienced in defining civil war during the U.S. conflict of 1861-65.<sup>2</sup> I had to fill in the century between the 1860s and the 1960s to find how definitions of civil war had changed within the languages of jurisprudence and the social sciences, but it quickly became clear that this was more than just a modern story. Like the hapless graduate student in one of David Lodge's novels whose thesis on sanitation in Victorian fiction is rumored to have started with a chapter on Neanderthal hygiene,<sup>3</sup> I had to uncover layers of argument over civil war across the centuries until I found what I believe was its origin in the late Roman Republic. From there, I could more confidently construct a narrative forward up to our own time, marching across the millennia from Sulla to Syria. That history, and the argument it underpins, might prove vulnerable if I had misunderstood sources, missed vital scholarship or omitted crucial episodes. My critics raise important points along these lines: it remains, then, to assess the seaworthiness of my thesis that a *longue-durée* history in ideas is an effective means to comprehend our present discontents.<sup>4</sup>

### I. "Inventing" Civil War?

Fundamental to my argument is the claim that the Romans "invented" civil war. My point was not ontological but epistemological. The Romans "were not the first to suffer internal conflict but they were the first to experience it as civil war" (31): that is, they experienced it as a large-scale conflict or war (*bellum*), fought according to formal norms among recognized military combatants who were members or citizens (*cives*) of the same politico-legal community. They knew very well that internal violence had cleft Greek city-states and, as Carsten Hjort Lange shows in his response, Roman historians drew inspiration for their own conceptions of similar violence from Greek precedents, most notably from Thucydides's account of the Peloponnesian War. It would be absurd to deny the Romans' debt to their Greek predecessors and I did not do so (32 ff.). Yet Lange urges us to consider "an even more inclusive understanding of civil war" based on what he terms an integrated "Greco-Roman approach" that would re-join analytically what I had put asunder historically.<sup>5</sup> The effect of this rapprochement would be to make the boundaries between (Greek) faction and (Roman) civil war, *stasis* and *polemos*, internal and external conflict, fuzzier and

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<sup>2</sup> David Armitage, *Civil Wars: A History in Ideas* (2017). All references in brackets within the text are to page numbers in the book.

<sup>3</sup> David Lodge, *The British Museum Is Falling Down* 45-46 (1965).

<sup>4</sup> For more on the methodological groundwork of the book, see David Armitage, *What's the Big Idea? Intellectual History and the Longue Durée*, 38 *Hist. Eur. Ideas* 493 (2012); Jo Guldi & David Armitage, *The History Manifesto* (2014).

<sup>5</sup> See now also *Civil War in Ancient Greece and Rome* (Henning Börn et al. eds., 2016).

more fluid. It would deny Roman responsibility for inventing civil war which might, in turn, make it still harder to comprehend why Roman—or, at least, Romanesque—conceptions dominated later conceptions of civil war down to the twentieth century.

As Lange rightly notes, Thucydides described a hybrid horror of internal-cum-external violence in his account of the *stasis* at Corcyra. By contrast, Plato was keen to distinguish sedition or faction (*stasis*) among the Hellenes from war (*polemos*) fought against non-Greeks (37-40); so, seven centuries later, was Cassius Dio when he separated seditions (*staseis*) from civil wars (*polemoi . . . emphylioi*) in his history of Rome.<sup>6</sup> The Romans, whether Latin- or Greek-speaking, could discriminate types of conflict conceptually even as they saw them bleed into each other historically. The difference was one of framing and naming: drawing the line between *stasis* and *polemos*, *bellum civile* and other kinds of *bellum*, was essential to determine the nature of the conflict and the identity of the combatants. I therefore quite agree with Lange that scale alone does not divide *stasis* from *polemos*, but I would still emphasize that civil war has to be “civil”: that is, perceived to be fought among fellow-citizens who are acknowledged as such. There can be no civil war without legal or political commonality within the *civitas*. To quote the nineteenth-century English essayist Thomas De Quincey—no mean classicist himself—on Greek *stasis* (44): “‘Civil!’—it might have been such, had the Grecian states had a central organ which claimed a common obedience,” but they did not. When such essential concepts are at stake, epistemology trumps ontology.

Lange’s approach to the overlapping perceptions of civil and interstate conflict models a distinctively post-modern way to view pre-modern phenomena. Indeed, we may be in a better position than any generation since the seventeenth century to appreciate how ill-suited the term war is to describe or analyze a whole spectrum of organized violence, in our own time and in the classical past. As he rightly notes, civil war is only one subset of war *tout court*—a phenomenon which has now almost vanished, not because “the better angels of our nature” have finally triumphed,<sup>7</sup> but rather because states do all they can not to call their military activities “war” and non-state actors now increasingly pursue what would once have been termed war.<sup>8</sup> The boundaries between internal and external conflict blur, as the bulk of the world’s wars are not just civil wars but *internationalized* civil wars, drawing in outside powers or spilling over the host country’s borders, as in Syria. In this world of war, where almost all states are formally at peace but where about fifty armed conflicts are currently in progress, from Afghanistan to Yemen,<sup>9</sup> we are particularly

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<sup>6</sup> Cassius Dio, Roman History 52.27.3 (Earnest Cary & Herbert B. Foster trans., 2014); on whom see now Cassius Dio: Greek Intellectual and Roman Politician (Carsten Hjort Lange & Jesper Majborn Madsen eds., 2016).

<sup>7</sup> *Pace* Steven Pinker, *The Better Angels of Our Nature: Why Violence Has Declined* (2011), on which see, e.g., Gregory Hanlon, *The Decline of Violence in the West: From Cultural to Post-Cultural History*, 128 *Eng. Hist. Rev.* 367 (2013).

<sup>8</sup> See, e.g., Christopher Greenwood, *The Concept of War in Modern International Law*, 36 *Int’l & Comp. L.Q.* 83 (1987); Tanisha Fazal, *Wars of Law: Unintended Consequences in the Regulation of Armed Conflict* (2018).

<sup>9</sup> Marie Allanson et al., *Organized Violence, 1989-2016*, 54 *J. Peace Res.* 574 (2017).

well placed to discern the interconnectedness of internal and external conflict in a world long before “Weberian” states held—or claimed to hold—a monopoly of violence over their territory.

## II. *Bellum Civile*: A Concept Beyond Context

“Every civil war is necessarily a *stasis*,” Benjamin Straumann argues, “but not every *stasis* amounts to a civil war.” That seems to me exactly right, and captures the ambivalence of those Roman historians, such as Appian and Cassius Dio, who wrote in Greek and systematically used *stasis* where Latin would demand *bellum civile*. This is an important reminder that vocabularies are not fixed but expansive, that the *stasis* of the fifth century BCE was semantically more capacious than the *stasis* of the second century CE, in large part due to the Roman experience of civil wars in the intervening centuries. As Straumann also points out, that experience was reflective, cumulative and directed towards constitutional conclusions: my own account stressed how the Romans had looked *back*, to understand the causes of their civil wars, but Straumann stresses how they also looked *forward*, not simply to diagnose civil war but to propose “a normative account of constitutional order designed to avoid civil war altogether.”

The aim of much Greek and Roman political thought was to describe the best state of a commonwealth; civil war was surely the worst state of the *res publica*, and one for which legal and political prophylactics would have to be found. Like Straumann, I would stress “legal and political” over ethical remedies in identifying the most robust heritage of Roman reflection on civil war over the *longue durée*. In this perspective, politics was not civil war by other means (*pace* Foucault) but rather the antidote to, or the antithesis of, civil war. The Euro-American constitutional tradition would have been unimaginably different, and certainly poorer, without the Roman legacy to sustain such reflection. Here again I would concur with Straumann that tracing post-Roman considerations of civil war opens up traditions and arguments inconceivable within the narrower framework of Greek meditations on *stasis*.

Long-range intellectual history, which Straumann himself has pursued in his own recent work on crisis and constitutionalism “from the fall of the Republic to the age of revolution,” empowers such conclusions.<sup>10</sup> He and I are in agreement that “concepts must be allowed to escape from context”—at least, if I understand him correctly, to the extent that while a concept like civil war must be understood serially in its various contexts—as I attempted to do in reconstructing the string of episodes that comprise my history in ideas—their meaning is not exhausted by the kind of synchronic contextualization associated with the early programmatic statements issued from the so-called “Cambridge School,” most notably by the young Quentin Skinner. That concepts outlive their contexts; that their users can direct them to posterity; and that their meaning accumulates in the course of their reception and interpretation are all lessons well learned from post-Skinnerian in-

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<sup>10</sup> Benjamin Straumann, *Crisis and Constitutionalism: Roman Political Thought from the Fall of the Republic to the Age of Revolution* (2016).

tellectual historians such as Reinhart Koselleck, Martin Jay and Peter Gordon.<sup>11</sup> Beneath these debates is a more fundamental agreement that language constitutes reality. This seems to be especially true of political language, in part because it is instrumental: there can be no politics without the agonistic and competitive use of political speech. For this reason, I would endorse Straumann's view that "any kind of historiography," but specifically *political* historiography, "is . . . inescapably intellectual history." And, because so much of our politics relies on a relatively circumscribed normative vocabulary with identifiably Greco-Roman roots—politics, democracy, liberty, rights, civil war—such intellectual history will necessarily be *longue-durée* and most properly conducted through a serial contextualism attentive to the plurality of signification and to the fruits culled by *Rezeptionsgeschichte*.

What, though, is the purpose of such historical reconstruction? It may be satisfying in itself to produce the first account of a contested concept like civil war from its presumed beginning to its most recent iterations, but is that sufficient? I submit that one major justification for such an arduous exercise—arduous for the author and, no doubt, for any reader—is to destabilize the concept, to show that "what humans have invented, they may yet dismantle" (11). Straumann may be right that this assumption set up a tension in the book that I could not fully resolve. I was arguing against those anthropologists and vulgar students of human behavior who assumed that civil war was an eternal feature of human interaction, based on our aggressive nature, propensity for competitive violence, attachment to atavistic conceptions of community and a historical record stretching back (as these commentators often remind us) to Thucydides. By suggesting that civil war was an invention instead of a discovery, "not a fact of nature" but "an artifact of human culture" (31), I wanted to reassure readers that a knowledge of the conceptual history of civil war might help to unsettle the dark determinism of those who assume that humanity is doomed to repeat earlier conflicts *ad nauseam* and *ad infinitum*.

It does seem that the incidence and deadliness of civil war has been slowly but surely declining in the past decade, in contrast to the sickening rise in onsets and casualty rates after 1989: that trend offers some hope. Yet this may not be a sign that civil war is like smallpox, against which one can be vaccinated (as Straumann implies). I would suggest instead that it is perhaps more like the transient illness of "hysterical fuguing"—a pathology of compulsive wandering that emerged suddenly in the late nineteenth century and disappeared just as quickly in the early twentieth, as Ian Hacking has classically described it.<sup>12</sup> The "ecological niche" within which that pathology grew up abruptly disappeared: hysterical fuguing went with it, never to return. Perhaps one day we will be able to destroy the niches that nourish civil war: maybe not now, but in the asymptotic

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<sup>11</sup> Reinhart Koselleck, *Futures Past: On the Semantics of Historical Time* (Keith Tribe trans., 2004); Martin Jay, *Historical Explanation and the Event: Reflections on the Limits of Contextualization*, 42 *New Lit. Hist.* 557 (2012); Peter E. Gordon, *Contextualism and Criticism in the History of Ideas*, in *Rethinking Modern European Intellectual History* 32 (Darrin M. McMahon & Samuel Moyn eds., 2014).

<sup>12</sup> Ian Hacking, *Mad Travelers: Reflections on the Reality of Transient Illnesses* (1998).

fashion Immanuel Kant envisaged for the disappearance of war of all kinds and the advent of perpetual peace.

### III. The Boundary Work of Civil Wars

Jens Bartelson makes it clear that civil war will not disappear any time soon. He notes that “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.” Yet awareness can be the first stage of enlightenment. To be reminded of these burdens, and to be conscious of our indebtedness, may be the initial step towards freeing ourselves from them. However, when a concept has been successfully “weaponized” (as Bartelson memorably puts it), the chances of disarming it are lower than they might otherwise be.

Civil war may be too handy a concept to be hastily abandoned. As I tried to show throughout *Civil Wars*, and as Straumann’s response particularly affirms, the challenge of civil war has spurred conceptual and institutional innovation by legal theorists and political philosophers since Roman times. In the decades since the Second World War, and the revision of the Geneva Conventions, the label of civil war—or, in more precisely juridical language, of “non-international armed conflict”—has also accrued perverse prestige for rebels and insurgents who wish to be recognized as equivalent to the established authorities they are battling. And the metaphorical language of civil war, within political parties, between them, and as a description for increasingly polarized, conflictual social divides across the Western world and beyond, is burgeoning in our turbulent era of ascendant populism. All of these factors—long-term, middle-range, and immediate—tighten the grip of civil war on political imaginations. For as long as this remains the case, we will need critical genealogies to help us to understand the conceptual work civil war is doing, both nationally and internationally.

By invoking the boundary between the national and the international so casually, I am, of course, opening myself to the major objection Bartelson raises: that *Civil Wars* sidesteps the all-important issue of where, how, by whom, and for what purposes the lines between the intra-state and the inter-state, the domestic and the international, were inscribed historically.<sup>13</sup> In this regard, as Bartelson remarks, the book “does not tell us how the underlying distinction that made . . . weaponization possible has been drawn and redrawn across the ages.” It was hardly my intention to naturalize that distinction or to take it for granted: indeed, my last monograph before *Civil Wars* was devoted precisely to probing the conditions of its emergence between the early seventeenth and early nineteenth centuries.<sup>14</sup> From the Roman historian Florus, who complained that the conflict between Pompey and Caesar “cannot rightly be called a civil war, nor even a social or ex-

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<sup>13</sup> Jens Bartelson, *A Genealogy of Sovereignty* (1995); Jens Bartelson, *The Critique of the State* (2001).

<sup>14</sup> David Armitage, *Foundations of Modern International Thought* (2013); on which see Jens Bartelson, *International Theory Meets Intellectual History*, 13 *Contemp. Pol. Theory* 391 (2014).

ternal war, but it was a war with something of all of these” (77), to contemporary social scientists who coined the term “internationalized civil war,” there has been consensus only that there can be no consensus on drawing any bright lines between two (or more) kinds of conflict.

My main aim in *Civil Wars* was to expose the changing languages of civil war to examination, and to ask what various actors implied about both community and conflict by presenting civil war as their most clear and present challenge. In this sense, my genealogy of civil war was more diagnostic than prescriptive. To take that genealogy one step further, and to use civil war as a marker for the shifting and negotiable divide between the international and the internal, would require articulating my findings with a still more ambitious genealogy of war as a whole. Unfortunately, no such study existed when I was completing my own, far more modest, work; fortunately, however, Bartelson himself has recently answered my prayers with his latest book, *War in International Thought*, on the historical ontology of modern conflict.<sup>15</sup>

Cross-fertilizing the genealogies of war and civil war would likely confirm Bartelson’s suggestion that “the idea of global civil war implies an affirmation of universal humanity by invoking internal strife as its condition of possibility.” This reproduces on a planetary scale what I only surmised at the level of more earthbound *civitates*: that the apprehension that a conflict was “civil” acknowledged commonality at the moment of the breakdown of community into conflict. I am not sure I would follow Bartelson in calling global civil war a “slightly perverse” instance of this procedure: it strikes me as quite exemplary. Nonetheless, I would agree with him that this invocation of global civil war does expose one of the paradoxes typical of contemporary cosmopolitanism. There is no necessary conjunction—though there was at times a strong elective affinity—between cosmopolitanism and pacifism. Conflictual cosmopolitanism has its own history, reaching back through the European Enlightenment as far as the Stoics, which is now being recovered;<sup>16</sup> global civil war has yet to find its genealogist.<sup>17</sup> When it does, she will likely discover that to think globally at all about civil war is to affirm a shared humanity alongside the imminence of its combustion.

#### IV. Civil War and Civil Society

And yet, as Patricia Owens asks, “which vectors of hierarchy and power underpin recognition of common humanity?” The next wave of civil war genealogy will have to be more attentive than I was to what Owen calls its “constitutive exclusions and inclusions” and to its “fundamentally gendered, raced, and classed” development.<sup>18</sup> By diverting attention

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<sup>15</sup> Jens Bartelson, *War in International Thought* (2018).

<sup>16</sup> David Armitage, *Cosmopolitanism and Civil War*, in *Cosmopolitanism and the Enlightenment* (Joan-Pau Rubiés & Neil Safier eds., 2018); *Cosmopolitanism in Conflict: Imperial Encounters from the Seven Years’ War to the Cold War* (Dina Gusejnova ed., 2018).

<sup>17</sup> Though see now Nasser Mufti, *Civilizing War: Imperial Politics and the Poetics of National Rupture* (2017).

<sup>18</sup> See also Patricia Owens, *Economy of Force: Counterinsurgency and the Rise of the Social* (2016).

from Greece to Rome, my own argument may have had the unintended consequence of closing off further consideration of the familial imagery of internal conflict evident in Greek constructions of *emphylos polemos* (war within the *phyllos*, clan, or bloodline) and *oikeois polemos* (war within the *oikos* or household). It may be reasonable to infer from my own account—largely blind to gender as it was—that the competing Roman construction of civil war was gendered male, but that is hardly the whole story: civil wars have long been seen as “battles of the sexes” as well as fratricidal conflicts; like women in later civil wars, Roman women certainly suffered their effects, as grieving mothers, widows, and daughters as well as in their roles as embattled estate-managers and combatants in urban violence, for instance.<sup>19</sup> More broadly, citizenship itself, whether in the Greek city-states, in the city of Rome or in the more expansive Roman empire after the Caracallan decrees (mentioned by Lange in his response) determined inclusion by means of exclusion: if only citizens, or *cives*, fought civil wars, then those outside the social contract—women, foreigners, the enslaved—were doubly denied an identity within the community.

As Algernon Sidney penetratingly remarked in the 1680s, “Civil Wars can be made only by those who are Members of the Civil Society” (118): discerning who gets dignified (or not) with the label of civil warrior is thus a sensitive index of the limits of civil society. The ontology of inclusion and exclusion revealed by the language of civil war or its absence has a winding history which pivots, I suspect, around what Atlantic historians have called the Age of Revolution(s). With this in mind, it is clear that one great desideratum in the conceptual genealogy of war is a longitudinal study of “servile war,” war against (much less often among) the enslaved. Until the late eighteenth century, Western observers might also attribute civil wars to the “civilized” societies of East Asia or Mughal India but rarely to the conflicts of Indigenous peoples in the Americas or Africa, for instance. It is now well established that this period was an age of civil wars within empires but that conclusion, beginning with historians of Spanish America and spreading to students of the perhaps doubly misnamed “American Revolution,” faces resistance in the case of Haiti, as Owens notes. So long as the enslaved were not deemed fellow-citizens by free, white French *citoyens*—indeed, when they rose up in arms precisely to secure the benefits of citizenship promised by the Revolution in metropolitan France—they would not be seen as belligerents in a *French* civil war, though it was possible for contemporaries to see them as engaged in intra-communal *guerres civiles* as well as revolution.<sup>20</sup> The obvious contrast here, of course, is with another anti-colonial revolt within the French empire almost two centuries later. Algeria suffered civil war not just because of conflicts among indigenous Algerians, French *colons* and forces from mainland France, but because the assimilation of Algeria to the metropolitan rendered any war there by definition “civil,” fought among

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<sup>19</sup> Margaret R. Higonnet, *Civil Wars and Sexual Territories*, in *Arms and the Woman: War, Gender, and Literary Representation* 80 (Helen M. Cooper et al. eds., 1989); Josiah Osgood, *Turia: A Roman Woman’s Civil War* (2014).

<sup>20</sup> E.g., [Pompée-Valentin, baron de Vastey,] *Essai sur les causes de la révolution et des guerres civiles d’Hayti* (1819).



fellow-citizens, indeed a “double civil war, at once Algero-Algerian and Franco-French.”<sup>21</sup> An integrated France, divided only by the Mediterranean, was one construction of the civil society within which civil war took place.

Blinkered and prejudicial accounts of civil societies in history long erased the roles played by Indigenous peoples in civil wars. That changed some time ago in studies of the American Revolution in Indian country,<sup>22</sup> but, as Owens remarks, that realization needs to be taken further in our examination of the U.S. Civil War. As historians are now beginning to show more clearly, the Civil War was entangled with the Indian Wars, in chronology, personnel, tactics and legal regulation (or the lack thereof).<sup>23</sup> The two have been kept separate not least because of the more thorough-going *cordon sanitaire* long maintained by social scientists between a horizontally organized world of mutually recognizing sovereign states, deemed “civilized,” and the hierarchically distributed, unequal and exclusionary world of colonial empires and their subalterns: the two co-existed, like the two cities in the Marxist international lawyer turned speculative fiction-writer China Miéville’s dystopian detective novel, *The City & the City*.<sup>24</sup> With this in mind, I would make a friendly amendment to Owens’s inspiring conclusion that the self-included and the unreasonably excluded be brought together in the effort to recover “the historical discourse of civil war.” Bringing the included and the excluded into a single frame will not, in itself, generate the true genealogy of civil war: only a study of their interpenetration and mutual constitution could produce that. This will be an effort for other hands than mine, but Owens’s inspiring recommendations should find their genealogist in due course.

## V. The State(s) of Civil War

After almost a decade spent working on *Civil Wars*, I can warn any future genealogist how demanding her task will be. The theme, as Julián Casanova remarks, is indeed “full of myths and multiple explanations”—as well as myths that have functioned as explanations (like the story of Romulus and Remus) and explanations that have become myths (such as our allegedly innate propensity for internecine violence). To explode such myths, we will need alongside diachronic, genealogical studies of civil war more focused, synchronic treatments of particular conflicts, to discover their relations with the larger patterns I tried to highlight. One among many conspicuous absences from my book was the Spanish Civil War: we are lucky to have Casanova, one of its leading historians, to test my hypotheses

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<sup>21</sup> Benjamin Stora, *La gangrène et l’oubli: La mémoire de la guerre d’Algérie 187 (1991)* (“une double guerre civile, à la fois algéro-algérienne et franco-française”).

<sup>22</sup> Colin G. Calloway, *The American Revolution in Indian Country: Crisis and Diversity in Native American Communities* (1995).

<sup>23</sup> E.g., Mary Dudziak, *Death and the War Power*, 30 *Yale J. L. & Human.* (2018).

<sup>24</sup> Edward Keene, *The Anarchical Society: Grotius, Colonialism and World Order* (2002); China Miéville, *The City & the City* (2009).

against that war's history.<sup>25</sup> As he reminds us, the Spanish Civil War was a conflict in many dimensions, both sequentially and simultaneously—a coup d'état, a "supersessionist" civil war, an internationalized civil war, a social revolution, a war of religion and a class war, to name a few. At its heart, it involved a challenge to an established authority within a single territorial state, and thereby an assault on a "Westphalian" order whose key features (a permanent population; defined territory; a settled government; the capacity to enter into engagement with other states) had been defined only three years before the outbreak of the Spanish Civil War in the Montevideo Convention of 1933. This is not to say that entities—let us call them states—bearing those features had not existed before 1933, only that the enumeration of these state-like characteristics remained controversial, and therefore in need of specification, well into the twentieth century. Civil war only heightened the stakes for that specification.

The sempiternity of statehood is itself a myth that has multiple explanations.<sup>26</sup> I would be therefore be slightly skeptical about Casanova's claim that "one can trace a clear division between civil wars in Antiquity and the Middle Ages, and those that took place in modern states" (defined in classically Weberian, if not precisely Montevidean, terms). Yes, representatives of those modern states were perhaps more keen to police their prerogatives and to represent their political identity in increasingly hard-edged ways and, yes, those states had greater powers—for example, powers of coercion—than their ancient predecessors had. A better reason to distinguish them would, I think, be to argue that the definition of civil war Casanova cites from Stathis Kalyvas—"armed combat within the boundaries of a recognized sovereign entity between parties subject to a common authority at the outset of the hostilities"—is as contingent and contestable as any other definition of civil war, because it depends upon modern conceptions of recognition, sovereignty and authority that are not transhistorical.<sup>27</sup> I would likewise be uncertain about the clear distinction Casanova makes, again inspired by Kalyvas, between "conventional civil wars" (fought by regular armies) and "irregular civil wars" (pursued by guerrillas, partisans and other asymmetrical forces). As Casanova shows, the Spanish Civil War had elements of both: in this regard, it continued a sequence of Hispanic civil wars from the early nineteenth century, in both peninsular Spain and Spanish America, through the Carlist Wars and onward to the "European" civil war of the mid-twentieth century.<sup>28</sup> Across more than a century, internal conflict sharpened claims to sovereignty, authority and territoriality that may otherwise

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<sup>25</sup> Julián Casanova, *The Spanish Republic and Civil War* (Martin Douch trans., 2010); Julián Casanova, *A Short History of the Spanish Civil War* (2013).

<sup>26</sup> Andreas Osiander, *Sovereignty, International Relations, and the Westphalian Myth*, 55 *Int'l Org.* 251 (2001); Benno Teschke, *The Myth of 1648: Class, Geopolitics, and the Making of Modern International Relations* (2003); Pärtel Piirimäe, *The Westphalian Myth of Sovereignty and the Idea of External Sovereignty*, in *Sovereignty in Fragments: The Past, Present and Future of a Contested Concept* 64 (Hent Kalmo & Quentin Skinner eds., 2010).

<sup>27</sup> Stathis N. Kalyvas, *The Logic of Violence in Civil War* 17 (2006) (Kalyvas's emphasis).

<sup>28</sup> Julián Casanova, *Europa contra Europa, 1914-1945* (2011); Juan Francisco Fuentes, *Belle époque: Mito y concepto de guerra civil en España (1898-1939)*, 389 *Revista de Occidente* 84 (2013).

have been more layered and negotiable. We might adapt a famous line from Charles Tilly to propose that civil wars made states just as states made civil war. That was true of the modern Spanish world but versions of that truism would apply to fractured political communities all the way back to the Roman Republic, at the very least.

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I cannot end these remarks without thanking my critics again for their engaged and provocative reactions to my book or without expressing my gratitude to *Critical Analysis of Law* for convening this stimulating forum. I wrapped up *Civil Wars* by predicting that struggles over the meaning of civil war “will ensure that its multiple futures will be as controversial and as transformative as its contentious past.” Happily for me, this particular exchange has been more about elaborating my ideas than about controversy or contention. I shall be lucky indeed if others in future treat the book with similar care and attention, to stress-test its arguments while also supplementing its conclusions.