

## It's Official: Syria is in a State of Civil War. Or is it?

Written by Jacob Mundy

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JACOB MUNDY, JUN 15 2012

On 12 June, the head of UN peacekeeping, Hervé Ladsous, was asked by reporters if he thought the violence in Syria could be described as a civil war. "Yes, I think we can say that," was his response. In response, France's Foreign Minister, Laurent Fabius, was less cautious: "if you can't call it a civil war, then there are no words to describe it."

Leading up to the recent large-scale civilian massacres in Syria, ambivalence has surrounded the application of the term civil war to that conflict. In the past week, Syria's violence has been described as "imminent" by UN Secretary-General Ban Ki-Moon. Following the horrific Houla and Quebir massacres, Syria is, warned the Economist, "on the brink of civil war," and possibly "slid[ing] towards civil war." The New York Times just warned that the weapons flooding into Syria risked transforming the situation from one of "crisis" to one of "civil war" — that is, "a full-fledged civil war." Hillary Clinton recently warned that Russia's position on the conflict was driving Syria towards civil war.

For others, however, Ladsous' comment simply provoked head scratching. Juan Cole filed the news under a headline "You always knew it, but now...". A BBC reporter, citing the nature and scale of the violence as well as the increasing territorial divisions within Syria, quipped, "if it looks and sounds like a civil war, then it is one." Even Ladsous was being careful, hedging his opinion vis-à-vis Syria with the all-important qualification "I think." France's great humanitarian, Bernard Kouchner, who had little to say about Algeria when similar massacres were unfolding there in 1997-98, recently summed up the current ambivalent discourse on Syria: "We are told that we should avoid civil war in Syria, even as it unfolds before our eyes."

Like Libya before it, dominant voices within international media and politics seem reticent to use the term *civil war*. This hesitancy stands in sharp contrast with the academic literature on wars, which deploys a far less stringent set of criteria to distinguish civil wars from other forms of mass armed violence. More important than that, however, is the question of whether or not calling the violence in Syria a civil war makes the international community more or less likely to intervene. Does the putative transformation of the violence from asymmetric to symmetric undermine or reinforce calls for humanitarian intervention in Syria? For some, the answer is a resounding yes. For others, a civil war is exactly the kind of conflict you want to avoid.

It is clear why the Syrian Foreign Ministry would respond by saying that the conflict is not a civil war and is, in fact, a war against terrorism. While global politics makes a consensus definition of terrorism impossible to reach (i.e., for the purposes of an international treaty), terrorism in the abstract is understood to be illegitimate violence no matter what form it takes and no matter who perpetrates it. Can anyone think of any group or actor that has proudly described their violence as terrorism?

As the Syrian Foreign Minister implies, a possible consequence of framing an episode of mass violence as a civil war is to attribute a degree of legitimacy to an armed opposition group it might not have. It seems that the most important (for some) or dangerous (for others) connotation of civil war is equivalence: equivalence in international sovereign recognition of both sides, equivalence in their military capacity, equivalence in their popular support and territorial purchase, etc. Naming all internal armed conflicts civil wars can be obviously problematic if the rebels are in fact a small band of marginal guerrillas whose ability to suffer casualties and inflict damage is incommensurate with their limited domestic or international support.

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That does not seem to be the case in Syria though. Ladsous' reasoning for calling the conflict a civil war was simple: "Clearly what is happening is that the government of Syria lost some large chunks of territory, several cities to the opposition, and wants to retake control." For Ladsous, it seems that a civil war is a form of mass violence where the national territory, if not sovereignty itself, is divided. This definition comports with at least one prominent scholarly definition of civil war.

In most of the academic literature on civil wars, however, symmetry or divided sovereignty are often not assumed to be salient "correlates of war." The most widely recognized definition of civil war within Political Science and International Relations simply asserts that a civil war is a military conflict within a single internationally recognized sovereign state where at least 1,000 war-related deaths have been recorded. Where there has been academic debate is mainly on two points: One, should it be 1,000 deaths each year of the conflict or simply 1,000 deaths total over the entire life of the conflict (some definitions go as low as 200 deaths per conflict); and, two, what percentage of those deaths have to be inflicted by the opposition so that war can be distinguished from simple mass murder or genocide. According to all these academic definitions, the conflict in Syria became a civil war months ago.

What these academic definitions always miss, however, is crucial: context. How we think about the term civil war is first conditioned by a number of factors, above all the political, historical, and pedagogical milieu that has produced us. Civil war can be quite a different thing to Spaniards as it is to Salvadorians, English to Guatemalans, French to Chinese, Russians to Lebanese, Greeks to Iraqis. Even for people in the United States, images of its civil war — still known as the "War of Northern Aggression" to some — are manifold. For many, the US civil war is the first Total War of the industrial age; for others, it was simply a guerrilla war fought in the Ozarks. In France, the French-Algerian war is the "war without a name"; in Algeria, it is the war of independence; in Palo Alto, it is a civil war within the French empire.

What we have in Syria is just as difficult to read. It is a war at least in the sense that Syria is has become a space of exception where civil morality has been suspended in the name of survival by any means necessary. But it is also a "war" whose violence appears to be less constituted by battles between identifiable armed actors. Instead, the violence in Syria is increasingly taking a different form. That is, a war of reciprocal civilian massacres by state, para-state, anti-state, and non-state actors whose motives and identities are as inaccessible to outside observers as the conflict itself. Picturing the violence in Syria in these terms leads one to a different conception of war, one closer to the notion of "new wars" advocated by Mary Kaldor. Kaldor's other main assertion, that late warfare is now significantly abetted by new transnational flows of goods and services, both legal and illegal, is also likely behind the durability of this conflict.

In addition to the question of whether or not Syria descriptively merits the term civil war, there is also the question of whether or not the term civil war has any prescriptive entailments. Attempting to explain the international reticence to call the conflict a civil war, one journalist speculated that "the world has been shy to declare it as such, as if wanting to save the final red card for a leverage at some point down the road." The problem with this argument is that the term civil war, from the perspective of international law and action, is not even a yellow card.

Fawaz Gerges makes this point in a recent interview with the BBC. Why would anyone bother to make such a statement when "designating the conflict as a civil war has no legal bearing"? For example, contrast Ladsous' civil war comment and Colin Powell's 2004 declaration of genocide in Darfur. Powell's declaration put the United States in the position of being obligated by the terms of the 1948 Genocide Convention to do something about it. Not only does the Genocide Convention oblige its signatories to act, it contains a clear — if contestable — definition of the act itself that makes identifying, preventing, and interrupting certain kinds of genocide possible. Ladsous' comment entails no such obligation. Indeed, as observers have suggested, designating the conflict a civil war actually undermines the case for multilateral or UN intervention because all sides are now equally guilty of atrocious behavior.

Mass atrocities, like those unfolding in Syria, can be easily prosecuted (albeit, after the fact) through international human rights law, which is indifferent to the politics of naming a conflict an uprising, repression, revolution, state terrorism, rebellion, or civil war. And as far as the laws of war are concerned, those terms have little pragmatic import as well. Civil war is not illegal; in fact, it is well within the right of any UN recognized sovereign state to use its security

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forces to defend itself against an armed rebellion of its citizens irrespective of the rebels' grievances, so long as the laws of war and international human rights law are respected. The Syrian regime, which long ago transgressed those laws, is clearly guilty of crimes against humanity, as are its security forces, civilian militias, and the rebels too. Just do not expect the ICC to mete out justice impartially in Syria when all is said and done. The court's main function in the international system — from Kony in Uganda to the debate about what to do with Saif Al-Islam Gaddafi in Libya — has been to reinforce the kind of victor's justice it was supposedly created to prevent.

The only distinction that matters to the laws of war is how many states are involved. If the war is international, then a broader palette of humanitarian laws can be applied. If the war is internal, then the laws of war are more restricted. While one might note that the Syrian regime and the rebels both receive significant diplomatic and material support from other states and non-state actors, this is not the meaning of "external" that matters. It is a simple question of how many sovereign governments are directly participating in the fighting. Rumors of covert intervention by NATO and allied special forces aside, Syria is a civil war in the eyes of international humanitarian law by default.

In one important way, the internalization of the Syrian conflict *qua* civil war (or, at least, repeated attempts to represent it as such) does have important legal implications. So long as the violence is represented as internal, it will be more difficult for the Euro-American interventionists on UN Security Council to make the case to Russia and China that the conflict represents "a threat to international peace and security," the only situation under which the United Nations can authorize the use of military force. When compared with the swift, almost preemptive humanitarian intervention in Libya, it is worth noting that Syria today, much more than Libya of last March, poses an actual threat to international peace and security given its stockpile of weapons of mass destruction. Yet it is precisely because NATO so quickly overstepped its mandate in Libya — from passive civilian protection to active regime change — that the Security Council is moribund in the face of today's atrocities in Syria. NATO's refusal to hold itself accountable to the United Nations after the intervention in Libya only reinforces the international impression that Euro-American powers cannot be trusted with the responsibility to protect.

Irrespective of the law, does naming a conflict a civil war make the Security Council more or less prone to intervene? Is naming violence a civil war the kind of speech act whose effects are as detectable as naming violence terrorism or genocide? A good academic question, but one that matters little to the people who have died and are about to die horrific deaths in Syria. At this point, the possibility of achieving an effective international consensus to stop the killing in Syria has little to do with calling the violence a civil war. It has much more to do with the squandered legacy of the Responsibility to Protect. Instead of desperate triumphalism, Liberal interventionists need to come to grips with their pyrrhic victory in Libya.

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