

THE NOTION OF *BELLUM CIVILE* IN THE LAST CENTURY OF THE REPUBLIC*

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I

‘Not all roads,’ David Armitage tells us, ‘lead from Rome in the formation of modern political vocabulary, but a great many do. Among them are some of the most enduring ideas in the contemporary lexicon, including liberty, empire, property, rights – and civil war.’¹

In Armitage’s reconstruction of the history of the notion of civil war, it was indeed the Romans of the late Republic who invented the idea of civil war. ‘The Romans were not the first to suffer internal conflict but they were the first to experience it as civil war.’²

Suggesting that the term *bellum civile* might have been coined on the model of the term *ius civile*, he identifies three peculiar traits that distinguish civil war from other forms of internal conflicts, such as *tumultus*, *dissensio*, or *seditio*. These are the possession of arms and the adoption of the rules of war, of which trumpets and standards were visible signs; the adoption of conventional warfare that was the means; and the political control over the commonwealth that was the end.³ The two main Roman ideas of civil war that persisted throughout the centuries, or, one may say, that created a family resemblance with later conceptions of civil war were, Armitage argues, first, the idea that a civil war is a war that takes place within the boundaries of a single political community; second, that there should be at least two competing parties in a civil war, one of which could put forward a legitimate claim to authority over that community.

David Armitage’s book is just one of the most recent contributions to the discussion of civil war(s), in Rome as well as in other periods. Recent years have seen a flourishing of scholarly works on the subject both within the historical and political sciences. While some works focus on various definitional aspects, such as, for example, the nature of the conflict itself, measured, amongst other factors, by the styles of military operation, the length of the war, and the number of those killed, others centre their attention on the effects of civil war, the issues of disintegration and reintegration.⁴ Within the context of Roman Republican studies, on the one hand, they are numerous contributions on military triumphs, the treatment of losers in civil wars, the historiography of civil wars in Greek and Roman authors, and, on the other, various studies on the impact of the civil wars and their wider historical significance. It is sufficient here to think about two noteworthy contributions that have acted

*I would like to thank Francisco Pina Polo for organising the most stimulating and enjoyable conference. Clifford Ando, Hannah Cornwell, Frederik Vervaet, and Carsten H. Lange for further interesting exchanges on the topic as well as the participants in the roundtable on David Armitage’s book at Queen Mary, University of London, for having first prompted me to think about *bellum civile*.

¹ Armitage 2017: 21.

² Armitage 2017: 31.

³ Armitage 2017: 57. On the issues concerning the definition of civil war see Börm, Mattheis, and Wienand 2015: 18

⁴ Börm, Mattheis, and Wienand 2015 with review by Lange 2016. See also Osgood 2015.

as catalysts for scholarly attention: the works by Josiah Osgood and by Kathryn Welch, which, amongst other things, had both the merit to give prominence to a period that for long time seemed to be transitional between Caesar and Augustus and highlighted the legacy of civil wars on Roman society also on later periods.⁵

This essay focuses on the idea of *bellum civile*, first attested in the preserved texts around the mid-first century BC and common currency of Roman political language from the 40s onwards. Its aims are twofold: first, it hopes to shed light on the historical agents that prompted the changes in use of the term *bellum civile*, that is, its increased frequency, and determined its affirmation over other terms of political dissensions and strives; second, it aims at showing what this change in the frequency of this term and overall shift in the language of domestic conflicts reveals about the ways in which the Romans conceived their own civic and political community.

The insurgence of the term *bellum civile* in the first century has long been noted by scholars, who, investigating the language of war in Rome, have established a hierarchy of idioms concerning civil strife based on their descriptive negative force, and in which *bellum civile* takes place of pride.⁶ Most interestingly, however, the reason for the relatively late coinage of the term and its function in the political discourse of the time has not attracted sustained attention. Those scholars who have attempted to give an answer to this question have cited the absence of Roman wars that would fit this description and ‘the undeveloped state of Roman political theory and historiography’ as possible explanations for this later innovation in Latin language.⁷ Most recently, studies focusing on the use of this term in the first century BC have highlighted its flexibility, which allows the term to function as analytical tool or partisan slogan, in response to immediate circumstances and contingent political and rhetorical strategies, engendering the carving out of one’s own position in the political struggle of the time.⁸

However, what these answers do not seem to address is the reason why previous internecine conflicts that afflicted the Roman Republic had not propelled the creation and use of the term *bellum civile* and it remains rather unclear in what way, if indeed any, the allegedly late flourishing of Roman historiography and political thought might have had an impact on the elaboration of this term, as opposed to terms such as *dissensio*, *discordia*, or *seditio*.⁹ Most of all, none of the previous studies, having a different focus, seems to be interested in asking what the insurgence of this new term and, even more importantly, its successful affirmation in the political language of the early 40s and the Triumviral period tell us about the nature of the Roman political world of the time.

Whilst, I argue, by describing their internal conflicts as acts of *dissensio*, *discordia*, *seditio* the Romans indicate an understanding of their civic community as a unitary entity where an individual or a group has developed a different sentiment from the rest of the community and whose elimination, thereby, will lead to the re-composition of the

⁵ Osgood 2006 and Welch 2012.

⁶ Jal 1962; 1963, 27-32; 1964; Rosenberger 1992.

⁷ Brown 2003, 94-5.

⁸ Brown 2003, 120; Cornwell 2018 as a tool to position oneself in the struggle for power; Van der Blom 2019 focusing specifically on Cicero.

⁹ A cursory look at the recent edition of the *Fragments of the Roman Historians* 2013 may easily disprove this argument.

harmonious state of the primary community, by adopting the term *bellum civile* as a descriptive term of normative value applied to their political reality, the Romans emphasise a conceptualisation of their community as a severely divided body into two entities, where one section of society has the aim to prevail over the other and annihilate it. The sole possible conclusion of a civil war is *pax*. But in the 40s peace does not mean the restoration of the previous internal cohesion, but rather the affirmation of one group over another, that is the victory of one section of the community and the defeat of the other. A pivotal moment for this conceptual shift and one which inflicted a powerful blow on an already fractured community took place on November 27th 43BC with the enactment of the *lex Titia*, which provided the power of Anthony, Lepidus, and Octavian with legal legitimacy.¹⁰

The progressive loss of political legitimacy on the part of the senate and, conversely, its acquisition on the part of the Triumvirs, combined with the transformation of the army and the inability to find adequate institutional solutions to manage conflicts and appropriate means to foster consensus, led, I argue, to the conceptual transformation of internecine struggles from acts of *discordia* to a fully acclaimed *bellum civile*. This description of the conflicts, which showed a different conception of the commonwealth from that articulated earlier and prevalent till the 60s, could only be concluded with the prevalence of one group over the other. This peace, borne out of victory of one group of citizens over the other, was a state of non-violence, almost a white canvass, open to the design of the victor.

II

As scholars have repeatedly observed, the first attestation of the Latin term *bellum civile* appears in the published version of Cicero's *pro lege Manilia*, a speech delivered in 66BC to support the granting of extraordinary powers to Pompey to fight the king of Pontus Mithridates. In his attempt to convince the audience that Pompey was the best general in Rome, Cicero enlists all his successes in chronological order, beginning from his victories in the civil war of the later 80s BC, when he had allied himself with Sulla and between 83 and 81BC had fought on his behalf.¹¹ Here Cicero is referring to the role Pompey played in Sullan war of the 80s, the first civil war that Rome experienced, when a Roman general ahead of his army crossed the *pomerium*, the sacred boundary of Rome and marched on the city.¹²

It seems that by the mid-60s the term *bellum civile* had firmly, albeit infrequently, entered the political lexicon of the Republic and gained common currency from the 40s onwards.¹³ Although Rosenberger may be right in postulating that contemporaries may have referred to these wars in the traditional manner by the name of the enemy, *bellum Sullanum* or *bellum Marianum*, the term was used retrospectively in the 60s and 50s to describe the

¹⁰ On its relation to the Sullan episode, see below 000.

¹¹ Cic. *Leg. Man.* 28. For an analysis of this passage see Steel 2001, 140-7. Most recently, Van der Blom 2019.

¹² App. *B. Civ.* 1.55-96; Plut. *Sull.* For an interesting reading of Sulla's war and the establishment of 'a new Republic' see Flower 2010: 80-96 and 117-34; and Steel 2013: 122-31.

¹³ For mid-first century attestations see: Cic. *Leg. Man.* 28 (66 BC); *Cat.* 3.19 (63 BC); *Fam.* 5.12. 2 (= SB 22) (55BC) where an impatient Cicero discusses Lucceius' work, a *historia Italici belli et civilis*, presumably covering from 91 down to 81BC. See also Cic. *Fam.* 4.3.1 (= SB 66) (51 BC) where Ser. Sulpicius Rufus refers to earlier civil wars as exempla to avoid in 51 BCE. See also Cic. *Tusc.* 5.56; *Div.* 2.53; Vell. Pat. 2.28.2; Auct. *Vir Ill.* 77.1; Eutr. 5.4; 5.9.

civil war(s) of the 80s.¹⁴ Even if the intriguing proposition of Carsten H. Lange and Frederik Vervaeke that the term was indeed first coined by Sulla himself in his *memoirs* has not yet gathered wider scholarly consensus,¹⁵ it is clear, however, that for the ancients themselves Roman civil war par excellence was the war initiated by Sulla and their own historical reconstruction of Roman civil wars begun there.¹⁶ As Appian famously stated, when Sulla marched on Rome in 88 BC and engaged in a battle against the Marians, ‘a battle took place between the contending parties, the first that was fought in Rome with trumpet and signal under the rules of war (*polemos*), and not at all in the likeness of a faction fight (*stasis*).’¹⁷

The point Appian makes is indeed important, as it reminds that this was certainly not the first time Rome had experienced civil strife – Rome was, after all, a city founded on fratricide.¹⁸ Our ancient sources unanimously agree that the first time since the establishment of the Republic that civil strife ended in the loss of citizens’ blood in Rome was in 133 BC with the murder of the tribune Tiberius Gracchus – episode that was followed eleven years later by the non-dissimilar death of his brother Gaius Gracchus.

The Gracchan events were perceived by the Romans themselves as the end of social and political consensus and the beginning of the end of the Republic.¹⁹

Varro, in his biography of the Roman people, claims that by removing the responsibility of the *quaestio repetundarum* from the senators and handing it over to the equestrian order, Gaius Gracchus ‘made the citizen body two-headed, the origin of the civil discords’ (*bicipitem civitatem fecit, discordiarum civilium fontem*).²⁰ Even more revealingly, Dionysius of Halicarnassus writing at the very end of the first century BC, twenty or so years later after the death of Varro, and who might have used Varro as his source, states: that ‘from the time that Gaius Gracchus, in the exercise of his tribunician power, destroyed the harmony of the constitution, they have never yet ceased from killing each other and driving each other out of the city, not refraining from any irreparable act in the pursuit of victory.’²¹ So, according to Dionysius, by exercising his tribunician powers, Gaius Gracchus had destroyed the harmony of the commonwealth, the *homonoia* of the *politeia*, that is, the *concordia*, a Roman would have said, of the community. Appian as well as Velleius Paterculus both refer to the Gracchan episodes as the moment of political strife that marked the end of *concordia*.²²

¹⁴ Rosenberger 1992: 40 and 150-1. See also Flower 2010: 77-80.

¹⁵ On Sulla’s autobiography see Smith and Powell 2009; Flower 2014. On the idea that the term was indeed coined by Sulla Lange and Vervaeke 2019. According to Brown (2003: 104), the term had been coined earlier to describe the Greek civil wars of the Hellenistic period, on the model of *emphulios polemos*. Armitage 2017: 57 following Brown’s second proposal suggests that the term was modelled on the legal category of *ius civile*.

¹⁶ Van der Blom 2019: 121-2.

¹⁷ App. *B. Civ.* 1.7.58. On the paradigmatic value of Sullan war as civil war see also Isid. *Orig.* 18.1.3. The Sullan wars of the 80s had gained an exemplary value as civil wars Cic. *Phil.* 8.7; 13.2; 14.23. On the relation between *bellum civile*, *polemos* and *stasis* see Born 2016, Armitage 2017; Straumann 2017, and Lange 2017.

¹⁸ On the idea of a Roman curse see Hor. *Ep.* 7, 19-21. See also Hor. *Sat.* 1.6.48, 1.7.18–35, *Carm.* 2.7.9–12, *Ep.* 2.2.46–51.

¹⁹ Wiseman 2010.

²⁰ Varro *De vita populi Romani* fr. 114 Riposati = Pittà 108. Cf. Florus 2.121.4; 3.17.3. On Varro’s views of civil wars see Pittà 2014 [2018]. Cf. Aug. *civ Dei* 19.12. On the passage of the *quaestio repetundarum* to the *equites* see App. *B. Civ.* 1.22.91-92.

²¹ Dion. Hal. 2.11.2-3. On the nature of the account to which this passage belongs, the so-called ‘constitution of Romulus, see Gabba 1960, Balsdon 1971, and Wiseman 2009: 81-98.

²² App. *B. Civ.* 1.2.4-5 and Vell. Pat. 2.3 with emphasis on the killing of Tiberius Gracchus as propeller of *discordiae civium*. See also Cic. *rep.* 1.31. For an interesting discussion of these passages see Wiseman 2010.

For Sallust, after the fall of Carthage, with the fear of the enemy removed, ‘the way was clear for pursuing rivalries, there arose a great many riots (*plurimae turbae*), insurrections (*seditiones*), and in the end, civil wars (*bella civilia*)’, marking the beginning of *discordia*, *avaritia*, and *ambitio*.²³

To try to make sense of the events, for the first time the Romans implemented a very important procedure, the so-called ‘*senatus consultum ultimum*.’ The ‘ultimate advice of the senate’ consisted in a unilateral declaration of the state of emergency by the senate, who entrusted the safety of the Republic in the hands of the magistrates ‘to see to it’ the formula recites, ‘that no detriment befall the commonwealth.’ Void of any strictly legal force, it represented a ‘vote of trust’, a manifestation of strong political backing that the senate gave to certain magistrates, who could therefore feel fully supported in any action they wish to take in handling what they perceived as an emergency situation. Proposed, but most likely not implemented against Tiberius Gracchus, the ‘*senatus consultum ultimum*’ was first proclaimed in 121 BC against Gaius Gracchus²⁴.

The ultimate aim was the safety of the *res publica* and the elimination of *dissensio*, *sedicio*. Their antonym was *concordia*.²⁵

Late Republican intellectuals, such as Varro, understood *concordia* as deriving etymologically from *cor congruens*.²⁶ *Cor* is the heart, as the place of the soul and feelings. *Congruens* is composed by *cum*, which expresses the idea of convergence, and the verb *gruo*, only attested in this form of participle in this compound, that means ‘to move towards, to converge.’ It follows that *cor congruens*, hence *concordia*, means a dynamic convergence of sentiments.²⁷ As long noted in scholarship, the Roman idea of *concordia* was modelled on the Greek notion of *homonoia*. However, in Rome *concordia*, ancient authors claim, was best guaranteed by the mixed and balanced constitution that, informed by a combination of distributive and corrective justice, guaranteed that all members of the community receive what it is their fair share of profit and, mindful of this, conduct their life in a state of contented satisfaction, working in harmony to achieve what they recognise to be the common good. ‘As in the music of lyres and flutes’, Cicero reports in the *de re publica*, ‘and ... in the voices of singers a certain harmony must be preserved among different sounds, harmony that if altered or discordant trained ears would find intolerable and is made pleasing and concordant by the proportionate arrangement of very different voices (*isque concentus ex dissimillarum vocum moderatione concors tamen efficitur et congruens*), so too the commonwealth is made harmonious by agreement among very different people brought about by a reasoned balance of the upper, the lower, and the intervening orders, just as if they were musical tones (*ex summis et infimis et mediis interiectis ordinibus ut sonis moderata ratione civitas consensu dissimillorum concinit*). What musicians call harmony in song is concord

²³ Sall. *Hist.* 1.12M = Aul. Gell. 9.12.15, Aug. *civ. Dei* 3.17 and Sall. *Hist.* 1.11 M = Aug. *civ. itas Dei* 2.18. Cf. Varro *de vita populi Romani* fr. 121 Riposati = 115 Pittà and fr. 122 Riposati = 116 Pittà. As Pittà observes 2014 [2018]: 26, although in the extant text of *de vita populi Romani* there is not an explicit connection between moral decay and the outbreak of civil war, the emphasis on these two themes in the surviving fragments may strongly suggest a causal nexus in Varro’s thought.

²⁴ Arena 2012: 200-20; von Ungern-Sternberg 1970 and 2008;

²⁵ Akar 2013: 45-9 on the antonyms of *concordia* and sources.

²⁶ Varro *LL* 5.73.

²⁷ Akar 2013: 37-40.

in a commonwealth, the strongest and best bond of safety in any republic; and such concord can never exist about without the aid of justice.’ (Cic. *Rep.* 2.69). Building on Plato’s musical analogy and the Pythagoreans’ notion of proportionality, Cicero explains political consensus and the ensuing *concordia* as harmony amongst different social groups (*ordines*).²⁸ Just as harmony is produced in music by a proportionate blending of high, middle and low notes, which are very dissimilar from one another, so concord is produced in the commonwealth by the common agreement (*consensus*) brought about by a proportionate blending of dissimilar social groups.

In a speech that both Livy and Dionysius attributed to Menenius Agrippa, and ‘composed’ Dionysius tells us, ‘after the manner of Aesop’, to end the so-called struggle of the orders and reconcile the plebs with the *patres*, Menenius Agrippa talks about the conspiracy of the body parts against the belly according to which, and I quote, ‘the hands should carry no food to the mouth, nor the mouth accept anything that was given it, nor the teeth grind up what they received’.

Building on the same metaphor of the body politic, these authors underline the importance of co-operation within the civic body. This cooperation is based on an agreed consensus amongst its members, which requires, on the one hand, the granting of certain powers to the people, and, on the other, the acceptance of the leadership of the senate and its role in redistributing resources. Based on the predicament of the subordinate popular participation in political life and the pre-eminent role of the senate in the administration of public affairs, Menenius Agrippa proposes the accomplishment of the common advantage by the cooperation of all parts of the commonwealth and the distribution of benefits according to the contribution, which alone can establish socio-political harmony.

This choice on the part of the Romans shows an understanding of the Republican community for which it is not sufficient a state of non-violence, where members of the community could co-exist in the same place without antagonism. Rather, in this conception of the community, which thrive towards *concordia*, what it is important that all members of society are incorporated as citizens within a civic community, governed by an ordered political structure, which is itself grounded in political and ethical standards of justice.²⁹

As Ben Gray states in his work on Greek stasis, ‘*homonoia* [and, I would add, its Roman counterpart *concordia*] intrinsically required a much greater level of consensus: ‘one-mindedness’ demanded a coalescence in views about fundamental issues such as legitimate laws, political interests and ethical values ... [that is it required] collective endorsement of, and interaction within, a sophisticated framework of both institutions and ideals, especially ideals of justice, citizenship and equality.’³⁰

III

²⁸ Arena 2012: 81-116; Akar 2013: 33-6.

²⁹ B. Gray 2017. It is not a coincidence that Cicero who made of the notion of *concordia ordinum* the ideological banner of his consulship embodied in the defeat of Catilina, did not present the Catilianian conspiracy as an act of civil war, but rather as the rebellious act of a handful of people against the fatherland (Cic. *Cat.* 3.19: the conflict is described as *bellum civile ac domesticum* in the response of the *haruspices*). Van der Blom 2019: 123-8.

³⁰ Gray 2017: 70.

In the first century BC, however, the term *bellum civile* entered Roman political lexicon and from the 40s, and, as far as it is possible to ascertain on the basis of the available evidence, its use rose in frequency.³¹ It fitted perfectly well the description of the actions of Sulla, a Roman citizen who marches on Rome against his own fellow citizens, and it was fundamentally different from *discordia* and cognate terms. As Cicero shows by adopting an effective climax, there is a distinction between these terms indicating internal strife: ‘for a man who delights in strife and the slaughter of his countrymen and civil war surely holds dear neither private hearths nor public laws nor the rights of liberty.’³²

The Roman ideological disquiet with the idea of an internecine war was patent: a civil war could never be a just war and no triumph could never be awarded as a result of victory in a civil war. Those who wished to celebrate their success over their fellow citizens had to adopt ingenious escamotage to advertise publicly their victory over other civic members of the own community.³³ As Wolfgang Havener has shown, Sulla implemented a true innovation when celebrating his triumph over Mithridates in 81 BC: on the first day, he paraded the spoils from the Pontic war, according to tradition, but on the second day, he displayed the recovered treasure that Marius the Younger had taken from Rome to Praeneste as well as a number of prominent citizens he had saved from his domestic enemies.³⁴ In doing so, Sulla set an important precedent that was then followed by, amongst others, Caesar. As Appian reports, in 46BC on his return from the war in Africa, Caesar celebrated four successive triumphs over Gaul, Egypt, Pharnaces, and Juba: although Roman names were not inscribed in his triumph, episodes and men of the civil war were represented in the procession by various images and pictures.³⁵

As a way to overcome the ideological uneasiness inherent in the idea of a civil war, in 88 BC the Romans resorted for the first time to the introduction of the declaration of *hostis*. This new institutional procedure conceptually sprang from the pronouncement of the so-called ‘*senatus consultum ultimum*’, from which, however, it was distinct.³⁶ Citizens, perceived by the senate as acting against the interests and safety of the *res publica*, were considered alienating themselves from the community and thereby, no longer their members, they would be divested of any citizens’ right. These individuals, who, the Romans thought,

³¹ See Cic. *Att.* 14.13.2 (= SB 367) (44 BC); 14.20.3 (= SB 374) (44 BC); 16.1.4 (= SB 409) (44 BC); *Fam.* 16.12.2 (= SB 146) (49 BC); 2.16.1 (= SB 154) (49 BC); 15.15.2 (= SB 174) (47 BC); 9.6.3 (= SB 181) (46 BC); 4.3.1 (= SB 202) (46 BC); 4.4.2 (= SB 203) (46 BC); 12.18.2 (= SB 205) (46 BC); 6.12.3 (= SB 226) (46 BC); 4.7.2 (= SB 230) (46 BC); 4.9.3 (= SB 231) (46 BC); 6.6.4–5 (= SB 234) (46 BC); 11.29.1 (= SB 335) (44 BC); 11.3.3 (= SB 336) (44 BC); 11.27.2, 3, 8 (= SB 348) (44 BC); 11.28.2 (= SB 349) (44 BC); 10.31.2 (= SB 368) (43 BC); *Ad Brut.* 8.2 (= SB 6) (43 BC); 23.10 (= SB 23) (43 BC); 25.4 (= SB 26) (43 BC); *Marc.* 12; 18; 24; 29 (46 BC); *Brut.* 329 (46 BC); *Lig.* 28 (45 BC); *Tusc.* 1.90, 5.56 (45 BC); *Div.* 2.24; 2.53 (44 BC); *Off.* 1.86; 2.29 (44 BC); *Phil.* 2.23; 2.37; 2.47; 2.70 (44 BC); 5.5; 5.26; 5.39; 5.40; 7.6; 7.25; 8.7; 8.8; 9.34; 13.1; 13.2; 13.7–9; 13.9; 13.23; 14.22–24 (43 BC). For Sallust’s uses see *Cat.* 5, 16, 47; 52 with analysis by López Barja de Quiroga 2019.

³² Cic. *Phil.* 13.1. see also Cic. *Fam.* 16.11.2 (=SB 145). For similar climax see Sall. *Hist.* 1.12; Tac. *Hist.* 1.46.

³³ Recent work on triumph see Lange 2013; Östenberg 2013 and Östenberg 2014.

³⁴ Plin. *HN* 33.16. Cf. Plut. *Sull.* 34.1 Havener 2014: 167-169. See also Lange and Vervaet 2019. On triumphs in an age of civil war, see Lange 2016.

³⁵ Appian, *B. Civ.* 2.101; see also Dio Cass. 43.19.2-3. Caesar’s triumph over the Pompeians after Munda in 45 BC was too met with disapproval: Plut. *Caes.* 56.4; Dio Cass. 43.42.1.

³⁶ On Sulla’s introduction of the declaration of *hostis* see Cic. *Brut.* 168; Liv. *Per.* 77; Val. Max. 1.5.5, 3.8.5; App. *B. Civ.* 1.60. See also Ungern-Sternberg 1970, Gaughan 2010 and Allély 2012.

had been subjected to an attack of folly and were deranged, were therefore considered public enemies, on the same level as the citizens of any other foreign power hostile to Rome.³⁷

Therefore, the civil wars that these famous Roman generals fought against Rome itself were presented through the language of foreign wars, as wars fought against external enemies with the aim to preserve the liberty of the *res publica*. As Florus states: ‘Lastly [in the first century BC], the Romans, turning upon themselves, as though in madness and fury, rent themselves to pieces — a crime indeed — by the hands of the Marian and Sullan parties, and finally by those of Pompeius and Caesar ...’, he then carries on explaining his plan, ‘we will describe the just and honourable wars waged against foreign nations, in order that that greatness of the daily increasing empire may be made manifest; and afterwards we will turn to the crimes and to the disgraceful and impious struggles (*scelera, turpes, et inopia*) of the citizens amongst themselves.’ (1.34.19).

The matter was far from trivial, as the term applied to describe these conflicts had a direct impact on the way in which the Romans would have dealt with it. The Romans were fully aware of the re-descriptive force of this language. The idea of civil war was a weapon in itself and one that could change the way in which reality might be perceived and action taken. As David Armitage rightly observes, the notion of civil war may look descriptive, but is (and was) in fact ‘firmly normative, expressing values and interpretations more than any stable identity.’³⁸ In 43 BC, while ‘Cicero strove to have Anthony declared a *hostis* and a state of war acknowledged, Lucius Iulius Caesar (cos. 64) argued for replacing the word *bellum* with *tumultus* and for labelling Anthony as *adversarius* (‘adversary’) rather than *hostis* (‘public enemy’): ‘I consistently called’ Cicero says before the senate, ‘Antonius a public enemy, while others call him an adversary; I consistently called this a war, while others call it a public emergency’ (Cic. *Phil.* 12.17).

The use of the word *bellum*, Cicero contends, was thwarted by the other senators, whose aim was to reject the change not only of the name of the conflict from *tumultus* to *bellum*, but also the change of its very nature from a civil dispute to outright war, and thereby reject the course of action that would have otherwise followed. It was not purely matter of rhetoric, as Hannah Cornwell emphasises.³⁹

Cicero had already argued in favour of a declaration of *hostis* earlier on, when at the instance of Gaius Pansa his proposal had been defeated because, he claims, of the *asperitas* of the word war. The proposal of Lucius Caesar prevailed, and ‘in withdrawing the frightful word, he was milder in the language than in the actual proposal.’⁴⁰ However, on April 21st 43 BC Cicero returns on the subject, demanding for a declaration of the senate that Anthony was declared *hostis*: ‘those who are enemies in fact must be branded such in words, declared

³⁷ Jal 1962 and 1963b; On Cicero’s use of this argument against Anthony see Cic. *Phil.* 2.1; 2.2; 2.51; 2.64; 2.89; 3.6; 3.14; 3.21; 4.1; 4.2; 4.5; 4.6; 4.8; 4.11; 4.14; 5.5; 5.21; 5.25; 5.27; 5.29; 5.37; 7.9; 7.10; 7.11; 7.13; 7.15; 8.6; 8.13; 8.32; 10.21; 11.3; 12.8; 12.17; 12.19; 13.5; 13.14; 13.21; 13.32; 13.35; 14.1; 14.4; 14.6; 14.7; 14.9; 14.10; 14.12; 14.20; 14.22; 14.26; 14.27; 14.36; 14.37; 14.38.

³⁸ Armitage 2017: 18. ‘Words,’ David Armitage reminds us, ‘are the way we construct our world; they are not the only way, to be sure, but they are the means by which we build it in conversation with our fellow human beings as we try to persuade them of our own point of view, to justify our actions, and to sway outsiders or even posterity.’ (233)

³⁹ Cornwell 2014 [2018]: 47: describing someone as a *hostis* in civil war was ‘a game of rhetoric over whose idea of *res publica* was correct.’

⁴⁰ Cic. *Phil.* 8.1.

enemies by our votes. Previously when I used the terms “enemy” and “war,” they repeatedly removed my motion from the list of motions to be put to a vote; that cannot now be done in the present case.’⁴¹ Since the senate is granting a *supplicatio* for Hirtius and Pansa’s victory over Anthony, and since this public thanksgiving cannot be granted in a civil war, it follows that, according to Cicero, even if the senate is unaware, Anthony is ipso facto declared a *hostis* and the war against him is a *bellum externum*.⁴²

The true normative nature of this language becomes apparent when we consider its role in legitimating a conflict in the eyes of the soldiers, for whom it played an important part to be able to justify their support for one side over another in the name of the *res publica*.

As recent work on the Roman army has shown, Roman soldiers did not launch upon a civil war solely out of disaffection with the Republic or hopes to be rewarded with grants of land.⁴³ As Francisco Pina Polo has shown looking at the behaviour of the conscripted soldiers on the losing side in Caesar’s civil war, there might have been a variety of reasons why soldiers behaved the way they did.⁴⁴ At times of deep crisis, Republican legitimacy itself was fragmented rather than directly denied and these soldiers, Nathan Rosenstein and Robert Morstein-Marx claims, rather than being mercenaries or members of a clients’ army, as often described, appear turned by competing claims of legitimacy over the *res publica*.⁴⁵ No longer associated solely with the Senate, but plausibly at times perceived as incorporated in individuals who were, at least temporarily, at odds with the Senate, these soldiers may well have been motivated by their understanding of where that fragmented legitimacy predominated as much as by the material bounty that would come their way with victory. Sulla’s soldiers, just to take an example from the conflict that the Romans perceived to be their first civil war, may well have felt that their own material interests coincided with those of the Republic, since they were all defending the consul of the Roman People (whom they had sworn in their military oath to obey), rather than engaged in rebellion against the Senate, that was now intimidated by ‘tyrants.’⁴⁶ As Appian comments pointedly, when discussing the events of 42 BC and the cases of insubordinations, ‘all parties were alike, since neither of them could be distinguished as battling against the common enemy of the Roman people. The common pretence of the generals that they were all striving for the good of the country made desertion easy in the thought that one could serve his country in any party. Understanding these facts the generals tolerated this behaviour, for they knew that their authority over their armies depended on donatives rather than on law.’⁴⁷

With Caesar’s crossing of the Rubicon, it became patent that Republican legitimacy was now in crisis and a serious blow inflicted also conceptually upon the notion of the unity of the commonwealth: each section of the community, the Pompeians on one side, and the Caesarians on the other, saw each other as rebellious and illegal and the contemporaries

⁴¹ Cic. *Phil.* 14.21.

⁴² Cic. *Phil.* 14.21-5.

⁴³ Cadiou 2018 on the composition of the army in the late Republic.

⁴⁴ Pina Polo 2019: 149.

⁴⁵ Rosenstein and Morstein-Marx 2006.

⁴⁶ App. *B. Civ.* 1.57.

⁴⁷ App. *B. Civ.* 5.2.17. Cf. App. *B. Civ.* 5.3.25: ‘Young men, also, eager for military service for the sake of gain, who thought that it made no difference under whom they served, since all service was Roman service, rather preferred to join Pompeius as representing the better cause.’

described the clash as civil war.⁴⁸ However, although engaging in a war that Varro will describe a *bellum horribile*,⁴⁹ Caesar himself was not yet prepared to describe his actions as initiating a civil war nor wished to present himself as fighting a *bellum civile*: in 49 BC, far from announcing his wishes to begin a civil war, he claimed to have actually said almost the opposite,⁵⁰ and in his official representation of the events, once the conflict began, a conflict that he calls *civilis dissensio*, civil disagreement, or *secessio*, session, he describes the Pompeians as *inimici*, personal enemies, and *adversarii*, opponent, not as *hostes*, foreign enemies.⁵¹

In a community experiencing civil war, one's opponents could be either *cives*, fellow Roman members of one's own community, or *hostes*, foreign enemies outside of one's own community. A moment of ideological confusion ensued, at the time when the declaration of *hostis* was no longer perceived as sufficient to transform a de facto civil war into a war against an external enemy.⁵²

In the political context of the mid-40s, just after the assassination of Caesar, Cicero attempts, once again, to hold on and revive the now illusionary view of a homogenous community that, united in the same sentiments, aims at defending their commonwealth against those who wish to destroy it and thereby are not worthy of their citizenship.⁵³ Thus, in 43 BC, Cicero describes the conflict against Antony not as a war between two distinct parties, but rather as the struggle between the *res publica* and one individual, something akin to an attack on the united commonwealth by a *hostis*.⁵⁴

Reviewing all the civil wars Rome had so far experienced,⁵⁵ Cicero claims that all those wars had their origins in political disputes, while in the current civil war 'for the first time there is no division or discord among citizens, but on the contrary the utmost consensus and extraordinary unity' in defending 'laws, courts of law, freedom, wives, children, and our native land' against the attempt of Marcus Antonius 'to regard the plunder of the Republic as a cause for war, to squander one part of our possessions and to parcel out the other among traitors'⁵⁶ The conclusion of this strife will re-establish the *concordia* of the community.

IV

Thus, in the aftermath of Caesar's murder, it was clear that Republican legitimacy had been deeply shattered and the ensuing intestine conflicts could not have been plausibly

⁴⁸ Cic. *Fam.* 16.12.2 (= SB 146) to Tiro; 2.16.1, 3 (= SB 154) to Caelius Rufus; 9.6.3 (= SB 181) to Varro; 4.4.2 (= SB 203) to Ser. Sulpicius; 4.7.2 (= SB 230); 4.9.3 (= SB 231) to M. Marcellus; 6.6.4-5 (= SB 234) to A. Caecina.

⁴⁹ Varro *de vita populi Romani* fr. 120 Ripsati = 114 Pittà.

⁵⁰ Caes. *B. Civ.* 1.9.5.

⁵¹ Raaflaub 1974: 192-200 and 234-239. On the distinction between *inimicus* and *hostis* see Gaertner-Hausburg 2013: 186: the latter is not only a public enemy (as opposed to private), but also entails a direct and violent confrontation (as opposed to a hostile attitude). On Caesar's use of the term *bellum civile* see *B. Civ.* 2.29.3-4 and 3.1.2-4 with Brown 2003: 113-8, Grillo 2012: 112-7, and Osgood 2019. On Caesar's title see Kelsey 1905; Rosenberg 1992: 176-9, and Damon 2015.

⁵² See Lange in this volume. See also a very sophisticated reading of Lucan's civil war by Roller 1996.

⁵³ For an exhortation to *concordia* in the aftermath of Caesar's death see also Varro *De vita populi Romani* fr. 124 Ripsati = 110 Pittà and the horror of the civil war fr. 119 Ripsati = 13 Pittà.

⁵⁴ Cic. *Phil.* 5.32. Cf. Cic. *Att.* 7.13.1 (= SB 136).

⁵⁵ Jal 1963: 43.

⁵⁶ Cic. *Phil.* 8.7-8 with Manuwald 2007: *ad loc.* On Anthony no longer a citizen, as he had acted against the community see Cic. *Phil.* 3.12; 5.21; 6.16; 7.5; 13.1-2.

described as an issue of *dissensio*.⁵⁷ In his fight against Anthony, from the beginning of 44 BC Cicero insisted to issue a declaration of *hostis* against him, to succeed only after the battle of Mutina in April 43 BC. By doing so, he was trying to navigate a phase of ideological confusion, where a war - to all intents and purposes a war against another fellow citizen - could be re-described as a war against an external enemy. This ideological move would have allowed him to think about the civic community as a unitary entity, or better as body from which the corrupt limb should be amputated, as it had been in the case of Caesar.⁵⁸ But it was *de facto* a civil war and the *hostis* declaration seemed to be losing effectiveness and, most of all, its relevance - in the words of Allély, it was becoming trivialised. The main reason for this change, I argue, lies in the complete fracture of republican political legitimacy, which was fully enacted by the passage of the *lex Titia*, which granted special powers to the Triumvirs.

From an ideological point of view, the enactment of the *lex Titia* in November 43BC sanctioned the breakdown of the notion of the commonwealth as a community whose members work harmoniously together for the common good. This conceptual change, which declared the end of the ideal constitutionally embodied by the mixed and balanced constitution and the triumph of internal division and the need of the violent prevarication of one over the other, was marked by the lexical affirmation of the notion of *bellum civile* and, most importantly, its antonym *pax*.

The fundamental point is that Anthony, Lepidus, and Octavian received their power by the granting of a comitial law, which, although enacted without regard of the customary regulations including the *trinundinum*, could have been perceived as broadly in line with the Republican *modus operandi*.⁵⁹ According to this law, they were chosen ‘as commissioners and correctors of a sort, for the administration and settlement of affairs, and that not as permanent officials, they pretended, but for five years, with the understanding that they should manage all public business, whether or not they made any communication about it to the people and the senate, and should give the offices and other honours to whomsoever they pleased.’⁶⁰

Their magistracy was closely reminiscent of the magistracy of Sulla, bestowed on him by the *lex Valeria* in 82 BC, with the explicit intent ‘to write laws and put the *res publica* back in order.’⁶¹ The two appointments also shared the use of proscriptions, a prerogative granted to them by law and inherent in their appointment, that rendered legal the killing of Roman citizens without the appeal to *provocatio*.⁶² As their edict on proscriptions makes

⁵⁷ For an account of this period see Rawson 1994: 468–490 and Welch 2012: chap. 4.

⁵⁸ On Caesar see Cic. *Off.* 1.27. On Anthony see Cic. *Phil.* 3.28; 4.12; 4.14; 5.37; 6.7; 7.27; 8.9; 8.13; 10.22; 11.1; 12.26 on which Manuwald 2007: 426–427. On the notion of *hostis* in regard to the conception of *res publica* see Moatti 2018: 229–240.

⁵⁹ App. *B. Civ.* 4.2.7. On the powers granted to the Triumvirs by the *lex Titia* see Vervaeke in this volume.

⁶⁰ Dio Cass. 46.55; App. *B. Civ.* 4.2 and 4.8–11. See discussion in Lange 2009: 18–26.

⁶¹ On the *lex Valeria* and Sulla’s dictatorship see Vervaeke 2004. Hinard: 2008, 49–54 argues in favour of Sulla’s simpler remit as *dictator rei publicae constituendae* under the terms of the Valerian law.

⁶² On Sulla’s proscriptions as the power to kill arbitrarily ratified in law see Cic. *Leg.* 42 Cf. Cic., *Leg. agr.* 3.4; *Verr.* 2.3.82. On the Triumvirs’ proscriptions as an intrinsic element of their magisterial mandate Liv. *Per.* 120. On proscriptions Hinard 1985. On Appian’s narrative see Gowing 1992: 247–69. For a comparison between the powers of Sulla and those of the Triumvirs see Sordi 1993.

clear, the Triumvirs consciously repudiated the policy of clemency adopted by Caesar, openly proclaiming their desire for revenge, and explicitly modelled themselves on Sulla.⁶³

However, although this manner to eliminate the enemies belongs to the tradition of those killed *iure* in a situation of emergency, it drastically differs from the declaration of *hostis*. Based on the recognised power of those in charge, proscriptions pursue the complete annihilation of other fellow citizens. The Triumvirs had now been invested of a magistracy that allows them to kill legally other citizens. In implementing the proscriptions, they do not try to eliminate their adversaries to recompose the original *concordia* of the community. Invested by a comitial law of their power, they can plausibly present themselves as the true representative of the *res publica* and their opponents, who now constitute a different, distinct, side rather than a group of society going astray, that has to be eliminated.

This is the main reason why, I argue, the declarations of *hostis* during this period between 49 and 40 BC first seem to be adopted almost systematically at time of political crisis against individuals, then, from 43 BC onwards, are instead directed against whole groups of soldiers, declared enemies of Rome alongside their general, and offered the ultimatum to abandon him, and finally are progressively withered away till they ceased to be adopted.⁶⁴ In 41 BC, during the Perusian war, Octavian and Lucius Antonius were both declared *hostis* by opposing side and then in 40 BC Salvidienus Rufus was yet again subjected to this pronouncement.⁶⁵ However, rather than a trivialisation of this institute, it would be more appropriate to talk about a ‘speaking atrophy’: to be implemented effectively, the declaration of *hostis* required a shared conceptualisation of the commonwealth as an homogenous community, characterised by ‘one-mindness’, and the desire to expel the individual who did not conform to its standard. When such notion could no longer be plausibly held, as both sides could credibly advance claims to legitimate power, on one side on the basis of senatorial decrees, on the other on the basis of a comitial law, the pronouncement of someone as no longer member of the community, but rather external enemy, lost its ideological foundation. In this sense, the declaration of *hostis* went through a ‘speaking atrophy’, that is a progressively less frequent use, which reveals much about the way contemporaries thought about their own community.

There was, however, an essential difference: while Sulla assumed the office of dictator after the battle of the Colline Gate in 82 BC, that is after a military crisis, when the vast majority of the fighting was over (but notate the time of military crisis, as customary for a dictatorship), the Triumvirs came to be appointed to their magistracy with the intent to prevaricate over their enemies with violence and gain power over the commonwealth for themselves, a point that does not escape our ancient commentators.⁶⁶

⁶³ App. *B. Civ.* 1.97. On the restoration of the rights of the children of the proscribed by Caesar see Vell. Pat. 2.28.4; Plut. *Caes.* 37.2; Suet. *Caes.* 41.2; Dio Cass. 41.18.2; 44.47.4.

⁶⁴ On these declarations against group of soldiers see, for example, App. *B. Civ.* 4.10 and Allély: 112.

⁶⁵ Octavian declared *hostis* at the instigation of Lucius Antonius, see App. *B. Civ.* 5.30ff; Dio Cass. 48.13.2ff, and Flor. 2.16. On this Roddaz 1994: 68 and Allély 2012: 106ff. For subsequent uncertain uses of the declaration of *hostis* see Allély: 112 ff. Salvidienus Rufus declared *hostis* by Octavian as accused of having betrayed him for Anthony. In this case, Allély notes, the transformation of the declaration of *hostis* is patent: Salvidienus has acted not as an enemy of the commonwealth, but rather as a traitor of Octavian himself.

⁶⁶ I would like to thank Frederik Vervaeke for emphasising this point in correspondence.

Meeting up near Bononia, Octavian, Lepidus, and Anthony came to the decision that ‘a new magistracy for quieting the civil dissensions should be created by law, which Lepidus, Antony, and Octavian should hold for five years with consular power (for this name seemed preferable to that of dictator, perhaps because of Antony’s decree abolishing the dictatorship); that these three should at once designate the yearly magistrates of the city for the five years; that a distribution of the provinces should be made.’⁶⁷

In the words of the edict of proscriptions, whose authenticity is widely accepted (albeit not without exceptions), ‘Marcus Lepidus, Marcus Antonius, and Octavius Caesar, chosen by the people to set in order and regulate the republic, do declare that, had not perfidious traitors begged for mercy and when they obtained it become the enemies of their benefactors.’⁶⁸

However, as ancient commentators state, despite the stated intent of quelling the civil war, the primary reason of their agreement was to take vengeance on their enemies and each securing their own power.⁶⁹ As Dio Cassius put it, behind their pretended agreement there was the wish for mutual assistance in taking vengeance over their opponents, ‘for the purpose of securing sovereignty and overthrowing their enemies.’⁷⁰ Having assumed this extraordinary magistracy to disguise their oligarchic ambitions provided the impression that ‘they were all going to rule on equal terms, but each having the intention of getting the entire power himself.’⁷¹

The fact that they only wished to further their power and were de facto engaged in a civil war did not escape the contemporaries: whilst in other civil wars, Appian comments, the agreement of those in power brought the end of the conflicts, in 43 BC the coalition between Anthony, Lepidus and Octavian brought further strifes and divisions. As a result of the proscriptions, ‘it seemed most astounding to them, when they reflected upon it, that while other states afflicted by civil strife had been rescued by harmonising the factions, in this case the dissensions of the leaders had wrought ruin in the first instance and their agreement with each other had had like consequences afterwards.’⁷² Nor did the true nature of the conflict evade the notice of Hortensia, as attested in the speech attributed to her by Appian. Rejecting the request of being taxed, speaking also in the name of the other women, she stated that, in time of war against an external enemy, women did not withdraw from their duties, but rather contributed to the military efforts of their country. However, they will never contribute on this occasion, as this is a civil war, and they will never assist the Triumvirs against each other.⁷³

In this civil war, both sides could put forward claims to powers, which could reasonably be perceived as legitimate. As the famous speech of Cassius Longinus before the final battle at Philippi in early September 42 BC shows, Cassius could plausibly (and legitimately) present the cause of his side as truly Republican: as in the war with Caesar, the

⁶⁷ App. *B. Civ.* 4.1.2. Cf. 4.2.7.

⁶⁸ App. *B. Civ.* 4.2.8. On the authenticity of the edict see Gowing 1992: 251-2 and Osgood 2006: 63-4 with previous scholarship.

⁶⁹ App. *B. Civ.* 4.6-12 and 4.27; Dio Cass. 46.55.3-56.2.

⁷⁰ Dio Cass. 46.54.

⁷¹ Dio Cass. 47.1.

⁷² App. *B. Civ.* 4.3.14.

⁷³ App. *B. Civ.* 4.33: Hortensia explicitly refers to the conflict of the Triumvirs as civil war. On the speech see most recently Hopwood 2015 with previous bibliography.

soldiers should not have considered themselves as fighting for Caesar, so now they should consider themselves as fighting for the Republic: ‘you are not now the soldiers of Cassius, or of Brutus, but of Rome ... fighting only for the freedom of the senate and people of Rome.’⁷⁴ He had adopted a similar argument in his address to the Rhodians, who, being allies of Rome, seem to have taken a stance against Brutus and Cassius. Bound by treaty to support Rome in case of need, Rhodes, Cassius reminds them, could not refuse its assistance when the senate was held captive by tyrants.⁷⁵ This is a war, Cassius continues addressing his former teacher Archelaus, but could not be considered a civil war, as in the case of civil wars, he states, each side aims at supreme power. It is, he argues, rather a war between the Republic and the monarchy, as one side aims at liberating the country, the other at enslaving it.⁷⁶ And yet again, in a speech before the battle, ‘the two sides do not decide to take up arms for the same reason—the enemy aiming at monarchy and despotism, as their proscription already proves, while we seek nothing but the mere privilege of living as private citizens under the laws of our country made once more free.’⁷⁷

And Lucius Antonius addresses his soldiers presenting the Triumvirs as tyrannical: ‘Lucius made a speech to the citizens, saying that he should visit punishment upon Octavian and Lepidus for their lawless rule, and that his brother would voluntarily resign his share of it and accept the consulship, exchanging an unlawful magistracy for a lawful one, a tyranny for the constitution of their fathers.’⁷⁸

Now, the fracture of the commonwealth was complete and delineated in the starkest of contrasts: on the one hand, Cassius, Brutus, Sextus Pompeius could claim they were legitimately invested of their powers by decrees of the senate, equally, on the other, the Triumvirs could say that their powers found their legitimate foundation in a comitial law, which granted them the ability to avenge Caesar.⁷⁹

Although no one still wished to be perceived as engaging in a civil war, if necessary, the generals of the Triumviral period were now prepared to accept that this was indeed the kind of internal conflict with which they were engaged. Addressing the senate and the equites, before his fight against Lucius Antonius, Octavian is reported to say: ‘I am not fond of fighting in civil wars except under dire necessity, or of wasting the remainder of our citizens in conflicts with each other; least of all in this civil war, whose horrors will not be announced to us from Macedonia or Thrace, but will take place in Italy itself, which, if it becomes the field of battle, must suffer countless evils in addition to the loss of life. For these reasons I hesitate. And now I do still protest.’⁸⁰

The inherent contradiction in the notion of *bellum civile* that required a *hostis* declaration to transform a domestic war in a *bellum externum* was no longer necessary.

⁷⁴ App. B. Civ. 4.12.98. Cf. 4.12.90. On the authenticity of the speech and his relation to its (Latin) source(s) see Gabba 1956: 219; Gabba 1958: ix-xxii; Gowing 1990; Westall 2015: 152-5.

⁷⁵ App. B. Civ. 4.9.66.

⁷⁶ App. B. Civ. 4.9.69.

⁷⁷ App. B. Civ. 4.12.96.

⁷⁸ App. B. Civ. 5.4.30. On the authenticity of the speech Lange 2009: 27-9.

⁷⁹ App. B. Civ. 4.9.70, who, however, does not refer to the *lex Pedia*. For the claims of the Triumvirs see App. B. Civ. 4.12.90.

⁸⁰ App. B. Civ. 5.3.28. Cf. Dio Cass. 48.1-15.

As Dio Cassius comments, the battle of Philippi proved to be a tremendous conflict that surpassed all previous civil wars, not because of their greater number of combatants nor of their valour, ‘but because now as never before liberty and popular government were the issues of the struggle ... on the present occasion the one side was trying to lead them to autocracy, the other side to self-government ... but the people at one and the same time triumphed over and were vanquished by themselves, defeated themselves and were defeated, and consequently they exhausted the democratic element and strengthened the monarchical.’⁸¹ In Roman civil wars, the defeated could only be the Romans, ‘for they were no longer capable of maintaining harmony in the established form of government.’⁸² In other words, civil wars were born out of the inability of the citizens to identify a system, institutional or otherwise, to preserve *concordia*.

V

The only possible solution of a *bellum civile* was indeed peace.⁸³ At the time of the establishment of the Triumvirate, *concordia* within all members of the overall civic community was no longer an ideal of the whole commonwealth: now it meant the harmonious agreement between the Triumvirs.⁸⁴

The conclusion of a *bellum civile* could only be brought about by the complete defeat of the enemy. Its antonym, which emerges as the dominant concept in the political discourse of the 40s, was *pax* - not *concordia*.⁸⁵

In 49 BC in his correspondence, as Hannah Cornwell has noted, Cicero uses *concordia* eight times and *pax* thirty-eight times.⁸⁶ As the certainty of war become more apparent – since by January 11th Caesar had crossed the Rubicon and had been declared *hostis* – *pax* had become the only true alternative.⁸⁷ In 44 BC a coin minted by L. Buca, depicted a personification of Peace, as veiled female bust with a diadem.⁸⁸ For the first time, on the obverse, this was accompanied by an identifying legend PAXS, on the reverse the joined hands of *fides*, trust. The first appearance of PAXS as personification on the coinage of 44 BC seems to reflect the term’s growing prominence in the political discourse of the time.

The longing for the end of civil wars and the establishment of peace was widespread in 40 BC and Virgil gives it expression in the fourth *Eclogue*.⁸⁹ To celebrate the treaty of Brundisium of 40 BC, Anthony and Octavian minted coins that represented themselves as well as the caduceus, symbol of peace, with the joined hand of *fides* accompanying a female

⁸¹ Dio Cass. 47.39. On Philippi marking a dramatic shift in the history of the period see Tac. *Ann.* 3.76.1.

⁸² Dio Cass. 47.39.

⁸³ For explicit reference to *pax civilis* see Cic. *Phil.* 7.8; 7.23; 8.11; cf. also *Leg. agr.* 2.9. For a collection of sources that attest the progressive prevalence of the notion *pax* over *concordia* see Jal 1961.

⁸⁴ *CIL* 10.5159 = *ILS* 3784 on the dedication of a *signum* to Concordia in relation to the agreement of Brundisium. On this notion of *concordia* under the Triumvirate see Osgood 2006: 189-91; Lobur 2008: 37-58, esp. 56 and Cornwell in this volume.

⁸⁵ Woolf 1993; Rich 2003, Raaflaub 2009, Raaflaub 2016 and Cornwell 2017.

⁸⁶ Cornwell 2017: 23.

⁸⁷ Cornwell 2017a.

⁸⁸ *RRC* 491, no. 480/24.

⁸⁹ Virg. *Ecl.* 4.13 and 17. Lange 2009: 39-46.

head.⁹⁰ The ovations to mark this agreement are also attested in the *fasti triumphales*, which report the Triumvirs' celebrations for having established peace.⁹¹

When, after Naulochus, on his return to Rome, Octavian addressed the Senate and the people, with these speeches that 'he wrote down and later published in pamphlet form', 'he proclaimed peace and good-will, said that the civil wars were ended, remitted the unpaid taxes, and released the farmers of the revenue and the holders of public leases from what they owed. Of the honours voted to him, he accepted an ovation and annual solemnities on the days of his victories, and a golden image to be erected in the forum, with the garb he wore when he entered the city, to stand on a column covered with the beaks of captured ships. There the image was placed bearing the inscription: "Peace, Long Disturbed, He Re-Established on Land and Sea."'⁹²

It is not a coincidence that Augustus declared emphatically to have closed three times the temple of Janus, have eradicated civil wars and have established peace.⁹³ 'Janus Quirinus, which our ancestors ordered to be closed whenever there was peace, secured by victory, throughout the whole domain of the Roman people on land and sea (*per totum imperium populi Romani terra marique esset parata victoriis pax*), and which, before my birth is recorded to have been closed but twice in all since the foundation of the city, the senate ordered to be closed thrice while I was princeps.'⁹⁴

It seems that at Rome, as Hannah Cornwell observes, *pax* most likely did not receive a proper cult until the building of the *ara Pacis Augustae*, mentioned in Augustus' *Res Gestae*, although it was put up later.⁹⁵

However, it is important to observe that for the Romans experiencing the civil wars of the 40s, it was clear that peace was not an outcome of negotiations, but rather the consequence of the outright victory of one side over the opponent - and the prize was the *res publica*.⁹⁶ As Cicero writes to Marcellus in 46 BC, 'in civil war, never once experienced by our forebears but often by our own generation, all things are sad, but none sadder than victory itself. Even if it goes to the better party, it makes them fiercer and violent; though they may not be so by nature, they are forced to it willy-nilly.'⁹⁷ 'It is the fault, not of the victor, who is as moderate as could be, but of the victory itself. In civil war victory', Cicero writes to Sulpicius Rufus, 'is always insolent.'⁹⁸

While the wider association between peace and victory is also found on coins, where a winged Victory or her symbols are associated with the *caduceus* (and at times, especially in

⁹⁰ *RRC* 532, no. 529/4. On the *caduceus* as symbol of peace see Aul. Gell. 10.27.3-5; Non. 528M; Serv. *Aen.* 4.242 and Cornwell 2015.

⁹¹ *Inscr. Ital.* XIII 1.87, frag. XL. For discussion Cornwell 2017b: 45-6. Cf. Dio Cass. 48.31.3.

⁹² App. *B. Civ.* 5.130-1; Dio Cass. 49.15.2-3.

⁹³ *Res gest.* 3.1 and 34.1; *RIC P* Augustus 476 with Pax trampling on a sword. See Lange 2019c.

⁹⁴ *Res gest.* 13. See also Liv. 1.19.3. The head of Janus had already been included on his coins by Sextus Pompeius, see Richard 1963: 334-6.

⁹⁵ *Res gest.* 12.

⁹⁶ Var. *Ling.* 5.86 on the etymology of the *fetiales* and the notion of *pax* as resulting from the end of war. Hodgson 2019: 57

⁹⁷ Cic. *Fam.* 4.9.3 (= SB 231).

⁹⁸ Cic. *Fam.* 4.4.2 (= SB 203). See also Cic. *Fam.* 9.6.3 (= SB 181). Cf. Cic. *Marc.* 12

43-2 BC, even with the *cornucopia*),⁹⁹ their directly causal relationship is encapsulated in the etymology of *pax* provided by Isidore of Seville: ‘four things are done in war: fighting, flight, victory and peace (*pugna, fuga, victoria, pax. pacis vocabulum videtur a pacto sumptum*). The term ‘peace’ seems to be taken from *pactum*, pact. Moreover, a peace is agreed upon later; first, a foedus, a treaty is entered into. A treaty is a peace made between warring parties; it derives from fide, trust, or from *fetiales*, that is, the priests of that name. For through them treaties are made, just as wars are made by saeculares, by lay people.’¹⁰⁰ The *pax* that follows a civil war did not require reconciliation such as, but rather the dominant imposition of the winning side by its unilateral act.

In the second half of the first century BC, this understanding of *pax* became dominant in discussions on the stability of the commonwealth, as correspondingly did the notion of *bellum civile*, which, first construed on the ‘disenfranchisement’ of political opponents, with the advent of the Triumvirs to power came to indicate a profound fracture of the civic and political community into two rival sides, each arrogating for themselves the right to represent the legitimate *res publica*.

Although, as Clifford Ando has highlighted, the distinction between positive and negative peace may be insufficient to capture all the nuances of the Roman case, by 43BC in Rome *pax*, as the antonym of *bellum civile*, meant first and foremost the absence of war, to which prosperity may, in a second instance, follow.¹⁰¹

Far from prescribing a stable political and constitutional setting in which the commonwealth could flourish,¹⁰² this notion came to indicate in the first place the condition of quiet and tranquillity imposed by the victorious side that would allow it to manage the commonwealth. Alongside the power to render authoritative his version of the events, the victor has the privilege and the right to enforce his own political articulation of the community. It is this imposition that will be followed by finding ‘political solutions to underlying problems’, as Osgood observes, ‘and to frame communal memory and understanding of recent warfare as constructively as possible, with an eye on the present and the future. Politics and memory most powerfully came together in the myth of Augustus, whose personal rule came to be seen as the antidote to a long and horrible series of civil wars.’¹⁰³

In addition, however, the prevalence of this notion of peace enacted also a shift from the language of international and domestic politics, to the one of obedience and morality.¹⁰⁴ It is now the peace of the sovereign.¹⁰⁵ Opposition to Roman power is now no longer an act of political resistance between allegedly equals, but rather a moral act of disobedience.

VI

⁹⁹ In 46 BC *RRC* 472 no. 460/4 and in 43-42 *RRC* 503 no. 494/4 and 494/5; *RRC* 508 no. 494/39. Cf. *RRC* 463 no. 448/1: a winged Victoria carrying a caduceus and a palm branch in celebration of Caesar’s victory over Gaul in 48 BC.

¹⁰⁰ Isid., *Etym.* 18.1.11. On the ancient etymologies of *pax* see Maltby 1991, s.v. *pax*.

¹⁰¹ On the distinction between positive and negative peace see Galtung - Fischer 2013; Raaflaub 2016. On its potential limitations in the Roman case see Ando 2017 with discussion of Liv. 8.13.14-5 and Tac. *Agr.* 30.5.

¹⁰² Cic. *Phil.* 13.1-2.

¹⁰³ Osgood 2015.

¹⁰⁴ Ando 2017.

¹⁰⁵ Moatti 2018: 234.

The reasons why the term *bellum civile* first entered the political lexicon of the Republic and was subsequently used more frequently from the 40s onwards find its root in the unprecedented level of legalised violence carried out by Sulla and the subsequent inability by those in power to identify and implement constitutional arrangements that could address conflictual tensions inherent in the Republican system. The constitutional solutions that had been thought about and debated, with their inherent search for a constitutional order that guaranteed the safety of the commonwealth and a happy life of its citizens, had revealed themselves inadequate, while means to foster consensus within the society or even just the elite had long stopped working.¹⁰⁶ In a certain sense, it is possible to say that the notion of *bellum civile* appears and progressively gains traction when the constitutional answers, which were organised round the notion of *concordia*, become inadequate.¹⁰⁷ Their inadequacy became first most apparent at the time of Caesar's civil wars, when it became clear that these constitutional answers had failed to include a proper management of conflicts and the threat of violence in their systems, whilst the means to build up political consensus had been stretched to their limits.¹⁰⁸ It was, however, with the Triumvirate, that such inadequacy of the constitutional answers of the traditional Republic was sanctioned and a further powerful blow inflicted on the notion of an already strained community: to govern the domestic conflicts afflicting the commonwealth, a new magistracy was established that resembles Sulla's office in its general inspiration as born out of a similar situation of civil war, but differed from it on a fundamental aspect. Sulla was appointed on his dictatorship *legibus scribundis et rei publicae constituendae* to reform the *res publica* when the vast majority of the fighting was over, the Triumvirs did so very much in the midst of it, to gain an institutional tool to carry on their fight and exert their vengeance against their enemies. However, most important of all, it was the fracture of political legitimacy, which first only apparently restored to the senate after Sulla's abdication, received a first, hard, blow with Caesar's crossing of the Rubicon, but came to its full realisation with the Triumvirs. The enactment of the *lex Titia* to allow the main protagonists of the political scene of the time to fight against one another to further their personal position of power against those who could claim to represent the senate sanctioned the prevalence of the term *bellum civile* to describe the internal conflicts of the time. Civil war was a war between citizens, each with equally plausible reason to claim to represent the Republican commonwealth, and each accusing the other with equally plausible reason to aim at tyranny: the fracture of the political community was now complete and its only remedy was the search for peace.

It was indeed this re-description, or ideological cover as some historians prefer to refer to it, combined with the failure of implementing adequate constitutional mechanisms and appropriate means to foster consensus, which rendered the fracture already present in the Roman way of conceptualising their own political society fully enacted - and conceptually plausible to the contemporary civic community.

The shift from *dissensio* to *bellum civile*, that is from *concordia* to *pax*, which predominates in the Roman political discourse from the 40s onwards shows a change in the

¹⁰⁶ On Cicero's attempts see Arena forthcoming. Flaig 2013 argues that societies that rely on consensus are not sustainable in the long run and recur to the use of force and coercion.

¹⁰⁷ *Contra* Straumann 2017.

¹⁰⁸ Kalyvas - Masoud 2008: 1.

way the Romans conceptualised their own community. The emphasis was now on a community whose life was characterised by a condition of non-violent co-existence. This might have also entailed a form of collective endorsement of a very specific framework of institutions and ideals, but it might have not. The predominance of the value of peace signals the successful elaboration of a conception of a political community whose main constitutive trait is a status of non-violence of the citizens against one another, one of security and public order, but it says nothing on issues of unity of intents them, their values or their institutions.

It is not surprising that Augustus will make peace one of his fundamental values which described the political order he had established. Any opponent to his regime, which he called ‘a restored *res publica*’, could now be described as violent rebel, and under the cover of peace the status quo could be preserved.

As Tacitus famously noted: ‘it was in the interests of peace that all power be conferred on one man.’¹⁰⁹

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¹⁰⁹ Tac. *Hist.* 1.1.

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