

### The Calculus of Violence: How Americans Fought the Civil War

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#### Recommended Citation

Barber, Tom (2019) "The Calculus of Violence: How Americans Fought the Civil War," *Civil War Book Review*: Vol. 21 : Iss. 1 .

DOI: 10.31390/cwbr.21.1.05

Available at: <https://repository.lsu.edu/cwbr/vol21/iss1/5>

## Interview

### The Calculus of Violence: How Americans Fought the Civil War

Sheehan-Dean, Aaron

Winter 2019

**Sheehan-Dean, Aaron.** *The Calculus of Violence: How Americans Fought the Civil War*. Harvard University Press, \$35.00 ISBN 978067498422

Interview by: Tom Barber

Civil War Book Review (CWBR): Today the *Civil War Book Review* is pleased to speak with Aaron Sheehan-Dean professor of history at Louisiana State University and the author of *Why Confederates Fought: Family and Nation in Civil War Virginia*. Today we are here to talk with him about his new book, *The Calculus of Violence: How Americans Fought the Civil War*. Professor Sheehan-Dean, thank you for joining us today.

Aaron Sheehan-Dean (ASD): Thanks for having me.

CWBR: You begin the book by citing the Civil War's staggering death toll, some 750,000 people, but then point out that fatalities could have been much higher. What brought you to consider such a question, and how did it lead you to considering violence as an important framework for understanding the war itself?

ASD: So, I was originally commissioned to write an essay for a volume that was going to be an edited collection of comparative essays on civil wars and it was mostly 20th century civil wars. The Russian, Greek, Finnish, and a couple like that, and then the 19th century—I was going to be the 19th century counterweight to all that. And I thought "Oh that should be manageable." And I'll dedicate a year, and I'll write a meaty essay on that. And then I reached 20,000 words and I thought that's not an essay anymore—that's like two chapters. And so, I was surprised in reading the literature on violence that both the question of what are the actual

numbers and then more importantly the analytical frameworks that we would use to help us understand that, those aren't very flesh out.

Sort of weirdly, if you look two of the most important books on Southern intellectual history: Genovese's *The Mind of the Master Class* and Michael O'Brien's *Conjectures of Order* neither of those books even have violence in the index. It's somehow not a term that is part of their thinking about the southern world and its integral, as we know, to slavery. So, I thought there is a sort of open question about the kind of nature of violence. Who it's practiced against, particularly with regard to non-combatants? I initially started to answer the "How many?" question. And that, after years proved fruitless, and so I decided to try to focus on the question of both the nature of who could be subjected to lethal violence, and in doing so realized that there are some very important turning points where either violence diminished, or violence escalated. And the escalations, and the duration, are what get us 620 or 750,000, the now accepted number, but I think that the moments when violence was cut-off could have in fact mushroomed and you would have seen much higher totals.

CWBR: What kinds of violence did Americans sanction before the war broke out in 1861? And how had these boundaries been blurred by the sectional crisis?

ASD: So both sides seemed to have anticipated—in as much as people were thinking about a war—once it begins they expect that their side and their enemy are going to follow the rules of war, as they are understood in the mid-nineteenth century, which is a unique interval—at least in the Western tradition of warfare in which violence can only be directed against non-combatants and civilians are outside that scope, so no violence—no lethal violence should be directed their way, you should take prisoners, injured soldiers on the battlefield can be captured but need to be treated and then either released or put into a prison system, so very high walls in terms of containing the violence to just those people who are soldiers under uniform and really in a position of regular warfare fighting on battlefields with commanders and all the rest.

But as you note, and that's a good point, about the way in which the sectional dynamic starts to change American's understandings of what's appropriate violence. What we know from histories like Stan Harrold's study, about a couple of years on the border, and also from earlier studies on mobbing, almost all of the lethal violence, not murder which is interpersonal violence, but almost all of the social violence, or public violence of the antebellum period, is around slavery. And this is both obviously slaveholders using violence against enslaved people, but also

disputes between abolitionists and non-abolitionists that generate violence and you can see this actually in new books that have just come out in the last year on the fugitive slave, the experience of fugitive slaves and on the pressure northern places put to not be a part of that system. The most famous violent incident is the Christiana Riots in Pennsylvania, which involved the death of several people, but what we now know is that there are actually dozens if not hundreds of these kinds of events.

So, my sense is that antebellum Americans knew that slavery is a catalyzing agent that is unique in the way in which it draws people into stronger and stronger conflict that can escalate to the point of death. But notwithstanding that, certainly most white northerners at the start of the war don't think emancipation is something that is on the table and certainly white southerners hope it's not, and so they both still expect that the war will be fought according to regular rules. But I have to imagine, and I don't really say this in the book, but that sort of lingering in the background of their minds might be an understanding that in our regular civic life violence has engendered lethal conflict: what happens in the context of a war when lethal violence is widely sanctioned?

CWBR: Occupation begins to muddy violence on both sides and so do claims of Confederate statehood. How do these things begin to spiral out of control and force policy makers on both sides to reconsider war in general—or this particular conflict?

ASD: I would start with claims to Confederate statehood because at the center of just war—and that's according to just war doctrine as it evolved over the years from Saint Augustine forward—is the idea that only states can make war. And so, fundamental to this is Lincoln's denial at the start of the conflict that the Confederacy is not a nation. And Lincoln you can picture throughout the conflict using air quotes "the so-called Confederate states." He uses that language perpetually. The people who claimed to Confederates there's lots of awkward euphemisms. And initially, it seems that the Union is unwilling to recognize soldiers of the Confederacy as regular prisoners of war, and this comes to a head in the summer of 1861 with three ships operating under letters of marque. These are authorizations effectively from the Confederate government for private ships to go out and commit war on their behalf. They're captured; they're taken to New York and Philadelphia respectively. And in both places, those men are put into regular, civil courtrooms to be tried for treason effectively, and the crime of treason is punishable by death, so it's quite a serious issue. And the Lincoln administration is

initially hands-off, and in both cases the judges are asking the juries to find: are we in a state of war? And if so, is this a legitimate nation? And so how do we treat these people? As criminals? As traitors? Or are they prisoners, and so need to go to a military prison. Lincoln allows this to begin to work its way through the courts. Jefferson Davis responds by saying I've taken an equivalent number of men as you have captured and I've put them at hard labor. These are high ranking officer in Richmond and if these men in the Philadelphia and New York courts are found guilty and sentenced to death I will execute these men. And Lincoln effectively blinks at this point. And this is the moment when Lincoln effectively recognizes the Confederacy as a legitimate nation, and one in which he is engaged in a regular war with them. He will never countenance that publicly. They adopt a variety of legal fictions to cover that. It is important though because what it means is that from this point on, the Union takes prisoners. Those injured men on the battlefield are captured and returned to duty.

And so, soldiers don't have anything to worry about, but as you note, occupation which begins actively in 1862 starts to muddy waters once again. And the famous case that I talk about in the book is in New Orleans when that city is captured and the Union naval officer who comes ashore runs the US flag up the Mint and says "Don't take this down. This is the signal to our ships that we're in control of the city." And, of course, as soon as he's out of sight, a man named John Mumford pulls the flag down. And he will eventually be executed, Butler executes Mumford. And the Confederates are outraged by this because it's the killing of a civilian by a military authority. And it's kind of remarkable how high this goes, all the way to Lincoln and Davis; McClellan and Lee are writing back and forth about this one guy who's killed in the process of the Union occupying the city. And at one-point Lee, I think rather too coyly, suggests that the Union did not have actual control of the city, so that flag shouldn't have been honored. And what he seems to be asking for is that the Union in fact turn its guns on the city and pacify it forcibly, which would have been a terribly bloody event. The Union ships are floating high above the levees and have a clean line of fire into the city itself. And the Union doesn't want to do this, Lincoln is always restrained from violence because he knows he wants to try to rekindle love of the Union. But in each of these places that get occupied, these problems get sorted out by new commanders in new space, sometimes paying attention to precedent, and sometimes not. And there are not that many civilians killed outright. I would argue that the Union actually manages occupation in a reasonably non-violent way, but the longer the Union occupies places

the more it foments guerilla resistance and the Union doesn't in fact recognize guerillas as soldiers, so the death toll, you could say indirectly from occupation, as a result of cultivating guerillas is quite high.

CWBR: And so that gets to this question of you'd mentioned that you are arguing that the Union shows amazing restraint against non-combatants, but it also wages, in terms of property, an extremely war. How do those things work together? How do you at one moment wage an extremely destructive war, but manage to limit civilian casualties? How does that restraint function?

ASD: So, the restraint is about the direction of lethal violent. So, unlike say WWII with the Blitz of London or America's firebombing of Dresden, or the firebombing of Tokyo, where we are deliberately, knowingly civilians with lethal power, nothing like that happens in the Civil War. And so, this is part of what enables Lincoln and the Union military planners to claim we're conducting a lawful and just war against the Confederacy, and doing so by trying to respect the protection that's typically offered to non-combatants. A war of logistical devastation, which is what the Union wages, and Mark Grimsley has chronicled this very well in his book *Hard War (The Hard Hand of War)*, that strategy of logistical devastation has profound impact on civilians because what they're trying to do is destroy the resource base from which the Confederates can fight. Well, Confederate soldiers and Confederate civilians live off the same resources, so there's only one pool of food available. And so, the more logistical pressure the Union puts on the Confederacy, and this is a strategy, of course most fully articulated by people like Sherman and Sheridan in the Shenandoah Valley. And its later in 1864 that produces a huge amount of hardship on Confederate civilians because food supplies are diminished, the ability to process foods—so mills are destroyed. The railroad infrastructure is destroyed and so food that is maybe available doesn't get shipped to the right place. And all of that means a great deal of hardship and suffering by Confederate civilians.

My reading of the evidence is that it rarely gets to the point of actual starvation. The war is only four years long, it's a rich agricultural region, and so most people are reasonably self-sufficient. But there's no question that people suffer, that there's a great deal of malnutrition that no doubt led people to die prematurely from diseases. Although the death toll—we don't yet know, I think, what the impact of disease on civilian death toll is yet. Jim Downs has done a little bit of work on this looking particularly at African Americans, and David Hacker at Minnesota is

working on a study. David is the one who sort of revised the overall number to 750,000 and he might be able to generate a number—a kind of imputed demographic calculation that suggests here's where the death toll from disease should have been among the civilian population but what we can actually see is that it was actually X higher, and no doubt some of that is produced by people in a very bad case, and in a bad way from malnutrition as a result of this logistical devastation. So that was legitimate war, as logistical devastation, and so the Union says we can do this, but we can't do the other thing, which is lethal violence. For some people that may have been a distinction without a difference.

CWBR: By the middle of the war, late 1862-1863 you note in the book that the Union begins to revise how it thinks of military justice and begins to use judge advocates and embraced Francis Lieber's popular articulation of just war theory. What are Confederates thinking? What's prevented them—what's the reaction to Lieber's Code? Why did they not see the need to make as many revisions to that policy?

ASD: So Lieber's Code is a famous moment. It's April of 1863 when it's released as General Orders No.100 in the Union army governing conduct. The Confederacy generally reads in that all of the awful the things that they think that the Union is already doing. So, for instance the passage about guerillas, which says that if you are not operating in uniform under regular command at the place of battle then you are effectively a highway man, which means you are subject to immediate execution if you're captured. And they see the ways in which Lieber authorizes a very destructive and vigorous war. This is one of the tenants of just war. D.H. Dilbeck's book *A More Just War* very effectively lays out the ways in which the Lieber Code has tension within it. It's designed to protect people but it's also designed to facilitate a hard war because the harder the war, the shorter it is and the shorter it is in the long run the fewer casualties and the fewer unnecessary deaths. And so that goal of hardest, shortest war in some respects is at odds with this goal high walls protecting non-combatants absolutely from any kind of harm.

So, the Confederacy mostly criticizes the Lieber even though I would argue they mostly follow the same kind of rules. I mean as you point out the Lieber Code is built on the existing just war doctrine, it's a much user friendlier version of that than what Grotius had written, which is not useful, or what Halleck had written in 1861. So, they see in it only unrestrained violence, and license to do awful things. They don't establish a similar one, I think, for the same reason

they don't establish a supreme court: they're undermanned. They're cavalier answer, pun intended I suppose, would have been that we're gentlemen so we already obey the laws of war, we don't need rules to tell us this. But in fact, what we know is that the Confederacy had court martials and they had system of discipline for their soldiers that operated very similarly to what the Union did. Most of those records were destroyed in the fires when Richmond was abandoned in 1865, but we know there are tens of thousands of prosecutions for all sorts of crimes that soldiers commit, so they're holding them to a similar standard.

CWBR: So that brings us to another interesting part, when you're looking at violence, you also look at spheres of public opinion. Would say that the Confederacy, by denouncing Lieber's Code was also a strategic reading of the code in the sense that if they acknowledge it then that means guerilla warfare. It was more beneficial to the Confederacy's larger war effort to disavow this code rather than embrace it in any kind of manner? And how did that play in terms of other major public opinion issue? That is, both sides being able to weaponize public opinion to accept greater levels of violence?

ASD: The Confederacy, I would say, in general that guerillas aren't a problem for them, a kind of moral problem. Jefferson Davis comes very close to sanctioning guerilla in some private letters and certainly in his public speeches he uses the violence committed against guerillas, the execution of them principally, and he talks about it as though it is being conducted against regular soldiers which he knows is untrue. So, there's certainly a kind of rhetorical escalation that Davis begins in 1861, when he's talking about murder and rape and burning of homes at a point when Union soldiers are sprinkling rosewater on their enemies. Harder war will certainly come, but Davis is always I think guilty of the kind of grossest exaggerations. And on guerillas, its simply best to avoid it. Lee was quite clear about guerillas being counterproductive to the Confederate war effort, and did his best to curtail the use of those men.

But you're right that public opinion here in some respects helps feed a more, a bloodier war, and this is the argument Charlie Royster made in *The Destructive War*. That the public lived a vicarious existence in reading about violence and so propels, encourages its armies to greater and greater bloodshed. And I think that's certainly true. The most fascinating example that I use in the book, from my perspective the most fascinating one, is about abolitionists, who of course come to the war as the leading moral reformers of the age, most of them dedicated pacifists. But seeing the possible to finally end slavery, but to do so only with the power of military violence,



they reconcile themselves to that. Garrison is ambivalent initially, and there are some that remain ambivalent or opposed throughout. But the vast majority of abolitionists, not only grow accustomed to military violence but in fact become some of the most vigorous advocates for a hard war against the South because they see the opportunity here to finally accomplish the social change that they had wanted to for so long and that they were not accomplishing through regular legislative means. That being said, there are still—what's important about the Civil War is that these are both functioning democracies, obviously not democracies as we might like to be today—it's got universal white manhood suffrage and it goes no farther. But in both places because of that open democratic framework there are dissenting voices. In the North, there are Democrats that are persistently trying to check the actions of hard war; they are trying to limit what the Lincoln administration can do in terms of logistical devastation. These are Democrats that both don't like Lincoln and that also tend to be friends with both white southerners and not opposed to slavery in any serious way. So, it's a very cynical manipulation, these are not people concerned about the laws of war in the Mexican conflict for instance, but all of a sudden, they've become quite attentive to it.

I would also say on the Confederate side there are also critics. There are certainly people at Fort Pillow where the massacre of black soldiers occurs that speak out against that. One other example I give, that is a reasonably well known one from a famous—a letter from a soldier, a private who is a guard at the Andersonville prison and he writes directly to Jefferson Davis, and Davis actually sees the letter. And the private says, "I know you to be a good Christian man, and if you were here, you would not sanction what is going on." He says "that soldiers here think that shooting a Union prisoner who gets too close to the dead line will make them into a big man. And this is not how we should be fighting, we are better than this," effectively he says. And he wants Davis to intervene. So that letter Davis forwards to the War Department and nothing happens, but it suggests to me that there is in both places a kind of dissenting tradition in the popular discourse that helps check, to some extent, that vicarious, bloody kind of passion.

CWBR: What factors limited the effectiveness of military codes of conduct and what sections of American society felt brunt of those limitations most severely?

ASD: So black soldiers, most importantly, because the Confederates don't regard them as legitimate soldiers—depending on the attitude of a particular officer at a moment when they are encountering black soldiers, the treatment of those people can go in any different direction. And

often quite bad directions. I mean there are a handful of scrupulous Confederate officers that seems to investigate when their own soldiers committed atrocities. It's also true that women in the confederacy both white, and especially black, are subject to sexual violence by Union soldiers. I suspect by also Confederate soldiers. We have almost no research into this side of the story at all, but I have no doubt that occurred. Rape was not used as an instrument of war the way it has been in some recent contemporary conflicts, but it is also quite clear that women are the subjects of sexual violence and sexual assault by Union soldiers. The Union's code of justice, the Lieber Code, enables prosecution of those men, but of course that comes too late for the women who are victims of that. The vigor with which those prosecutions, and they are quite vigorous, should have sent a signal, but to soldiers not to commit those kinds of crimes, but those crimes happened none the less. And they happened particularly in the blurry zones of occupation where local police power had died down, or was non-existent and you had soldiers irregularly entering people's homes and doing so under the cover of martial law. So, occupation created the opportunity for that and then in an army of two million men, as the Union eventually fields, you undoubtedly had criminals who are eager to commitment this, and the war provides that. So, in those cases the laws of war certainly don't help the victims.

CWBR: Finally, what's the lesson for twenty first-century readers considering a nineteenth-century conflict, and especially in this case the American Civil War?

ASD: So, my thesis is I'm sure frustratingly ambivalent for some readers. That is, it was a violent war but it could have been much worse, and there were atrocities but there was also attention to the laws of war. And I'm not trying to be coy or to be wishy-washy. The war was both restrained and bloody and violent at the same time. So, the lesson to me is a reasonably obvious one which is there's no good war. I think the dynamic around our discussion around WWII and the kind of enshrinement of generation of WWII veterans into a kind of popular mythology, has had the unfortunate effect of leading people to think that there is such a thing as a uniformly good or just war. Even wars that are fought with noble ends, or noble causes, in this case preserving the Union which I think was a noble cause and one of the consequences was the end of slavery, which is undeniably a moral good—even in that context, those wars can be fought and have within them instances of gross unjustness, of gross injustice against a variety of people. And so, what we need to do is think very carefully at every given moment in a conflict about the decisions our soldiers are making, that our enemy is making. Each war in effect

compels us to look at the theory of just war anew and try to determine how does it here and fight out with our enemy, to the best of our ability, high walls to protect who shouldn't suffer. But if we go in thinking well the Civil War ended with emancipation and people behaved justly, so that's our gold standard, or that World War II was a good war, and was fought nobly, we're deluding ourselves in a dangerous way. Even the best wars—whatever that would be—are never thoroughly just for all participants.

CWBR: Professor Sheehan-Dean I appreciate you taking the time to sit with us and discuss your most recent work, *The Calculus of Violence: How Americans Fought the Civil War*.

ASD: Thanks Tom.