

The Breakdown of Battle Culture, from Waterloo to Sedan

On the surface, battles do not seem much like trials. Events like Waterloo seem like subjects for military historians, not legal historians. Yet battles *are* legal events: They are conflict-resolution devices, capable of resolving disputes between warring parties and creating far-reaching legal rights. Indeed, a classic battle like Waterloo was a remarkable means of resolving conflict. It lasted exactly one day; its violence was confined to participants in the battle itself; and it successfully decided legal issues of immense consequence.

The premise of this paper is that battles should indeed be understood as legal institutions, comparable to trial. Indeed, battle is arguably a more valuable institution for humanizing warfare than the rules that preoccupy most modern lawyers: Resolving conflict through a one-day battle is a superb means of limiting violence. Nevertheless, battle is an institution that has worked only fitfully in human history. Most of the time, warfare has taken the form of far worse violence, such as sieges and raids targeting civilians.

In particular, the culture of battle that existed at the time of Waterloo broke down by the middle of the nineteenth century, and has never revived. By mid-century, seemingly “decisive” battles like Gettysburg or Sedan failed to resolve conflicts like the American Civil War and the Franco-Prussian war, both of which degenerated into general violence. The paper asks why the culture of battle broke down in this way in the mid-nineteenth century. It explores two theories of how battles work as conflict-resolution—first, that battles are form of game, and second, that they are form of duel. It rejects both theories, arguing that we must explain why modern battles are perceived as history-making “events”—a problem that ultimately requires the resources of the philosophy of history.