

2. CAN WAR BE CONTROLLED?

RESTRAINTS ON WAR: STUDIES IN THE LIMITATION OF ARMED CONFLICT, Oxford University Press, 1979, 173pp. with select reading list and index. South African price equals about R16,00. Edited by Michael Howard.

It seems to me a funny thing to make rules about war. It is not a game. What is the difference between civilized war and any other kind of war?

Pancho Villa

Pancho Villa was a Mexican insurgent leader, the Fidel Castro of his time and place. His comment and question was a response to a copy of the 1907 Hague Convention's rules to restrain war. It is easy to understand why he was perplexed. At the same time, however, it is important to remember that his question does have a number of straightforward answers: it is the difference between a total war and a limited war; between a war which does, and a war which does not, recognize the difference between civilians and combatants. In addition, it is the difference between a "holy" or a "just" war, and a war in which "the question of the justice or injustice of the war is irrelevant for the purpose of observing the rules of warfare as between the belligerents".

This quotation comes from Hugo Grotius (1583-1645) and encapsulates his humanitarian convictions about war. And in one way or another each of the eight papers which Michael Howard has collected and edited explores this idea more fully. The contributors are historians, lawyers and political scientists. Three essays deal with attempts to place restraints on war by land, at sea, and in the air before 1945. Three other essays deal with contemporary ideas about a limited war in "conventional", in nuclear, and in maritime terms. All six essays cover a great deal of ground and manage to find a sensible balance between idealism and despair. But the first and the last chapters are the best parts of this very good book.

Michael Howard introduces the collection by asking whether or not war can be controlled. He believes it can: "war without social organization is inconceivable". In other words because war cannot be conducted without armed forces that are disciplined and controlled, it is not inherently impossible to place restraints and controls on how a war is conducted. He gives a brief survey of attempts to do so from the "just" war theory of Augustine and Aquinas, through the humanitarian jurists like Grotius, to the various Hague and Geneva Conventions. But this survey does more than set the stage for the discussions from the other contributors; it also enables Howard to place a firm finger on some of the obstacles to restraints on war. Amongst these obstacles he gives a prominent place to the development of mass democracy, and of a technology which created weapons that make indiscriminate destruction possible.

G.I.A.D. Draper concludes the collection with a survey of recent attempts to draft regulations for restraints in wars of national liberation. The attempts were initiated by the International Red Cross in 1971. And in 1977 the negotiations gave birth to some Protocols to the 1949 Geneva Conventions on War. These Protocols afford the benefit of the law of war to national liberation movements, especially to "armed conflicts in which people are fighting against colonial domination and alien occupation and against racist regimes in the exercise of their right of self-determination, as enshrined in the Charter of the United Nations". Unfortunately, South Africa declined to participate in the deliberations after the first formal session in 1974. And this is unfortunate because these Protocols have a particular relevance for our situation. They place restraints both on national liberation movements and on the governments with whom they are in conflict. More specifically, according to Article 96(3) of Protocol 1, the 1949 Geneva Conventions and the new provisions apply equally to a national liberation movement and to its adversary.

Draper underlines the way in which the Protocols attempt to protect civilians and to outlaw reprisals. But in the end he is critical of the fact that, in the terms of international law, they provide a right "to rebel for certain specified 'causes', racial in nature". And he raises these criticisms, not because he is in favour of racism, but because he fears that the Protocols are a step away from Grotius' conviction that "the justice or injustice of the war is irrelevant for the purpose of observing the rules of warfare". In other words, he fears that these Protocols may help to revive the idea of a "just", and therefore of a "holy", war.

This, of course, is no more than a sketch of the many important problems which are explored in this collection of essays. At the end of it all there is no unqualified answer to the question, Can war be controlled? But anyone who employs these essays to stimulate his thoughts will appreciate the two rules and the problem which occur at the end of Michael Howard's contribution. The one is an ethical rule: one does not cease to be a moral being when one takes up arms". The second is a prudential rule: "one should not behave to one's adversary in such a way as to make subsequent reconciliation impossible". The problem is to help people understand the force of these rules so that they can see that, even in a war, "order can be given to spare as well as to destroy". □