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The House of Strife

A day will come when bullets and bomb-shells will be replaced by votes, by the universal suffrage of nations, by the venerable arbitration of a great Sovereign Senate.

VICTOR HUGO, address to the Second International Peace Congress, 1849¹

Wells's assumption that only the full experience of a catastrophic war would propel humankind to peace was discouraging to those who believed that all war was self-evidently wretched and futile. Those who populated the peace movement in the second half of the nineteenth century did not believe that there was much new to learn. New types of weapons only made matters worse. Enough was known to get on with the business of outlawing war and finding better means to resolve disputes.

In 1816, Quakers organised the first formal peace society as the British Society for the Promotion of Permanent and Universal Peace. This movement spread rapidly in Europe and North America. There was always tension between the absolute pacifists, who believed that all differences could be transcended, and those who could not see how an enduring peace would be possible without social justice, which to be achieved might require some violence. Their mainstream agenda, however, focused on avoiding disputes by means of a congress of nations and international arbitration.² It also required a sustained act of political will, based on a moral appreciation that it was wicked to prepare to slaughter other human beings as acts of policy. Such a dramatic departure from past practice

might have seemed too much to hope for, but this was a time of a belief in progress and the advance of civilisation. With the growth of trade, nations were becoming bound together by shared economic interests; so common sense without the necessity for complex negotiations and new treaties might suffice to render war obsolete.

Ivan Bloch added to the case for war's obsolescence by pointing to the probability that a future war would not see quick victories through dashing offensives. Yet he was unconvinced that in making the case against war it was good enough to describe its 'appalling consequences'. In addition it was necessary to turn back the 'obstinate fanatics of militarism from the road which they have mapped out for themselves.'³ Militarism meant allowing military figures, arms manufacturers, and patriotic themes to dominate public life. Those who would benefit from war had a stake in its perpetuation—the politicians dazzled by the prospect of national grandeur, the generals by the prospect of glory, and the manufacturers by the prospect of profits. The arms dealers were considered to be particularly culpable, viewing every new type of weapon, from machine guns to torpedoes to heavy artillery, as a business opportunity, ready to create faux crises to generate a war fever and then sell to both sides.⁴

It was therefore not enough to rely on war becoming obsolescent on its own accord. Action had to be taken at the highest level to ensure that this was so. In 1899, encouraged by Bloch, Tsar Nicholas II of Russia decided to convene an international peace conference to address the issue. Russia's Foreign Minister wrote to his counterparts to urge them to attend this conference. He referred to the 'grave problems' caused by the unproductive effort currently being put into armaments. As 'terrible engines of destruction' were acquired their value was neutralised by the similar efforts others were making to acquire their own, and then lost altogether as new scientific discoveries left them obsolescent.

That May delegates from twenty-six countries met in a royal chateau just outside The Hague. There they were joined not only by Bloch but also by representatives of the various peace societies that would now be described as non-governmental organisations claiming to speak for civil society. Although the initiative came from a surprising quarter, the peace movement hailed the gathering. Bertha von Suttner of the Austrian Peace

Society, whose hotel flew a white flag in her honour while she attended the conference, confided to her diary that 'from this time on [our] movement is incalculably nearer its goal; new ways are opening up before it'. The British Peace society thanked 'Almighty God' for recognition that its ideals were 'practicable' and that 'such a proposal be made to carry them into effect by one of the great potentates of the world'. Leo Tolstoy, an ardent pacifist but also a foe of the Tsar, was less impressed by such a 'childish, silly and hypocritical project of universal peace' at a time when spending on the army was being increased.⁵

Similar scepticism, if not for the same reason, was expressed by the leader of the American delegation, Andrew White. He complained of being inundated with 'queer letters and crankish proposals', and an enormous number of people with 'plans, schemes, notions, nostrums, whimsies of all sorts who press upon us and try to take our time', which was combined with 'the pest of interviewers and photographers'. While surrounded by all this enthusiasm for peace he observed of the delegates that no such group had met 'in a spirit of more hopeless scepticism as to any good result'.⁶ Delegations had turned up more because it would have been impolite not to than because they took the Tsar's views seriously.

This contrast between the enthusiasm for peace as a principle and a project on the one hand and the harsh realities of international politics limited what the first Hague Conference could achieve. It was not judged a success. To encourage states to seek arbitration instead of war to resolve disputes, the participating states agreed to establish a Court of Arbitration at The Hague (which still exists). It had some success, but there were no enforcement mechanisms, an issue which confused pacifists because enforcement implied force.⁷ Nor were substantial restraints agreed on military expenditures or new armaments, another issue which troubled pacifists as it required distinguishing good from bad weapons. Only in the third area, agreeing a code for the conduct of war, was there progress. The first Hague Peace Conference of 1899 was followed by the second in 1907. This had been scheduled for 1904 but then delayed because of Russia's war with Japan. A Peace Palace was built for the third, scheduled for 1915, but owing to the First World War it unsurprisingly did not take place. The net effect of this considerable effort had been to confirm war's role in

international affairs while doing little to mitigate its effects.

Joseph Conrad, a novelist with a sharp eye for the political currents of his day, provided a thunderous critique. In an essay written in 1905, as Russia was losing its war with Japan, he expressed his pessimism about the future. The moral infancy of mankind was contrasted with the pressing material interests that drove the great powers to become rivals and grind against each other. The European peace was no more than ‘temporary’, dependent upon alliances based on mutual distrust and preparations for war. Only the ‘fear of wounds’ acted as a restraint. Even though the ‘speeches of Emperors, Kings, Presidents, and Ministers’ were ‘monotonous with ardent protestations of fidelity to peace,’ in practice war had never before ‘received so much homage at the lips of men, and reigned with less disputed sway in their minds.’ Nor had ‘the right of war been more fully admitted in the rounded periods of public speeches, in books, in public prints, in all the public works of peace’. Because this was the right of a sovereign state and must be protected, the humanitarian effort that might have been directed against the very institution of war had instead concentrated on limiting its effects. This process of codifying the laws of war had served, Conrad noted in a telling phrase, to acknowledge ‘the Earth as a House of Strife’. Conrad recorded the ‘alarming comicality’ and ‘touching ingenuity’ with which this mitigation sought ‘to steal one by one the thunderbolts of their Jupiter’, transforming war from a scourge into ‘a calm and regulated institution’. ‘At first sight’, he added, ‘the change does not seem for the better. Jove’s thunderbolt looks a most dangerous plaything in the hands of the people.’⁸

THE LOGIC OF THE HAGUE CONFERENCES, AS CONRAD RECOGNISED, was not to outlaw war but to make it more palatable by smoothing down its rougher edges. This was a time, as one historian notes, when war had reached its ‘pinnacle of legal prestige’. There was

an impressively detailed edifice of legal rules dealing with the entire phenomenon of war from the opening of hostilities to the signing of the peace, plus all stages in between—including conduct on the battlefield, the occupation of enemy territory, relations with neutral powers, treatment of prisoners and spies, medical treatment for the wounded and

much else.⁹

So long as the rules were followed then acts rightly considered criminal in all other circumstances became legal and were even celebrated.

As the international system assumed the autonomy and sovereignty of states, there was no higher authority to adjudicate on whether a particular war was unjust or improper. Since the 1648 'Peace of Westphalia', which concluded the deadly Thirty Years War, it was understood that the best way to avoid war was for states to mind their own business. The interests of states would be interpreted by whoever happened to be in charge at any particular time, on the dictum '*cuius regio eius religio*' ('whose realm, his religion'). These interests, however, also had meaning and durability well beyond the personalities and whims of particular rulers. States acquired their own legal personalities, distinct from the person of their ruler. Thereafter strategic imperatives were more likely to be followed than moral advice, and alterations in the configuration of power mattered more than legal guidance. Because no hierarchy or precedence could be agreed then all states enjoyed in principle a similar status, even if their actual power varied enormously. The rationales for war were still left entirely to the discretion of sovereigns.

The justification for war could be opportunistic, a sense that a natural enemy was weak, a reaction to a perceived slight, or in honour of alliance obligations. All that was required, once a decision was made, was to notify the chosen enemy in a declaration. Once made, a 'state of war' was in place. At this point governments and their armed forces could engage in practices that would have been illegal, piratical, and objectionable moments earlier but were now noble and praiseworthy. A declaration might be coupled with an ultimatum, to offer the adversary a chance to agree to a last-minute deal to avert hostilities. Alternatively it might be almost coincidental with the first military action, to avoid giving the new enemy time to prepare defences. The requirement for a formal declaration was captured in Article 1 of the Hague Conventions of 1907, which stated that hostilities should 'not commence without previous and explicit warning, in the form either of a reasoned declaration of war or of an ultimatum with conditional declaration of war.'

Though the laws of war did not seek to make war illegal they did try instead to make it less miserable. Thus the 1868 Declaration of St Petersburg, an earlier initiative of the Tsar, produced a solemn declaration to eschew ‘the employment by their military or naval troops of any projectile of a weight below 400 grams, which is either explosive or charged with fulminating or inflammable substances.’ The preamble carried the following sentiments, conveying the underpinning philosophy demonstrating how what was in practice a somewhat futile measure was supposed to help contain war:

That the progress of civilization should have the effect of alleviating as much as possible the calamities of war;

That the only legitimate object which States should endeavour to accomplish during war is to weaken the military forces of the enemy;

That for this purpose it is sufficient to disable the greatest possible number of men;

That this object would be exceeded by the employment of arms which uselessly aggravate the sufferings of disabled men, or render their death inevitable;

That the employment of such arms would, therefore, be contrary to the laws of humanity...

The contracting parties wished to set ‘the technical limits at which the necessities of war ought to yield to the requirements of humanity.’¹⁰

The impetus for this lay in reports of the misery of combatants post-battle. In 1859 Swiss businessman Henry Dunant came across the aftermath of the Austro-French Battle of Solferino, in which some 40,000 men had been killed or wounded. Appalled at its ‘chaotic disorder, despair unspeakable, and misery of every kind’,¹¹ he urged that every effort should be made to bring relief to those suffering as a result of war, whether from the winning or losing side. This led to the formation in 1863 of the International Committee of the Red Cross as a permanent relief agency and the adoption of the first Geneva Convention ‘for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field’. The next year the first Geneva Convention for ‘Bettering the Condition of Wounded Soldiers’ accepted this as a status that transformed combatants into suffering human beings. It required respect for the neutrality of those trying to help. This would now be recognised by the

symbol of the Red Cross on a white ground.

These rules on the conduct of war should be applied even-handedly. The quality of the cause would be no excuse for ignoring the rules. Essentially, ‘war would be fought with more than a trace of the sporting ethos—on the basis of strictly even-handed rules agreed by both sides prior to the conflict, with low practices such as deception kept to a minimum’.¹² This was a legacy of the practice of limited war. A limited war was an unfortunate but occasionally unavoidable mechanism for dispute resolution, undertaken between parties who would expect to have a degree of diplomatic intercourse once the unpleasantness was closed off by a treaty of some sort. A yearning for a return to this model was evident in Article 22 of the 1899 Convention: ‘The right of belligerents to adopt means of injuring the enemy is not unlimited.’¹³ There were conventions to minimise the suffering caused by war, and to ensure the appropriate treatment of prisoners and the wounded. These were legacies of the old chivalric code, matters of honour and mutual respect, and worth keeping in mind in a system in which today’s enemy might be tomorrow’s ally. Yet they did little to alleviate the worst effects of war, and this was why there had been pressure to develop new rules that would provide a degree of protection for those who were effectively *hors de combat*, no longer able to fight.

A systematic code for the conduct of war was developed for the Union Army at a critical stage in the American Civil War. The author was Francis Lieber, a professor of law at Columbia University. The occasion was President Lincoln’s Emancipation Proclamation of 1 January 1863, which proclaimed the freedom of slaves in ten rebel states. Against the Confederacy’s insistence that blacks serving for the Union side deserved to be shot as traitors, Lieber asserted that they were entitled to the same protections as any combatants. A belligerent must ‘declare that enemies of a certain class, color, or condition, when properly organized as soldiers, will not be treated by him as public enemies.’ This now seems obvious, yet it also went to the heart of the war’s core issue; it meant that slaves could no longer be treated as private property.

Lieber had an unsentimental view of war.¹⁴ Within its domain, it should be acknowledged as an unavoidably ferocious business. Beyond its

domain, civilisation should be preserved. The question was where to draw the line, and here he was flexible. If victory was at risk, civilised values had to be put aside. His key concept for drawing the line was military necessity. What constituted military necessity, however, was hardly an objective test and, in the end, would depend on a military commander's judgement. The Emancipation Proclamation itself could be an example of military necessity as it was not just about why the war was being fought but also about how it might be won by galvanising a faltering war effort.

Lieber defined military necessity as 'those measures which are indispensable for securing the ends of the war, and which are lawful according to the modern law and usages of war.' It allowed for the 'direct destruction of life or limb of armed enemies' but also 'other persons whose destruction is incidentally unavoidable in the armed contests of the war'. Also permitted was the 'destruction of property, and obstruction of the ways and channels of traffic, travel, or communication, and of all withholding of sustenance or means of life from the enemy'.¹⁵

Indispensability should take the priority. So, for example, while prisoners of war should not be executed, Lieber allowed for an exception in extreme circumstances where there might be no other choice if an operation was to succeed. If the cause was just, humanitarian restraints should not be allowed to prevent victory. Lieber did not claim to have identified any absolute standards of conduct and could be quite tolerant of harsh practices.¹⁶ Humanity was best served, in the end, if a war was short, 'and the way to ensure short wars was to fight them as fiercely as possible. The prospect of fierce wars might even prevent war from breaking out in the first place.' When the Geneva Convention was revived and expanded in 1906 the issue of military necessity was to the fore. The phrase 'so far as military exigencies permit' made regular appearances. The President of the Conference observed the principle: 'No rules whatever can absolutely bind generals; what binds them are the directions they have been given'.¹⁷ This pointed to the flaw in the efforts to control the future of war through international legislation. Whatever the consensus on best practice and appropriate restraint the conduct of wars would be shaped by the strategic imperatives that set them in motion and what appeared to be militarily necessary at any time. Moreover, any restraints would now be tested in

circumstances in which the stakes were higher than before and popular passions more engaged.