

SANCTUARY AND WAR

PERVAIZ IQBAL CHEEMA

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THE AUTHOR

Pervaiz Iqbal Cheema was born at Sialkot in October 1940 and educated at Murray College, Sialkot ; Government College, Lahore ; Punjab University ; Vienna University (Austria) ; Oslo University (Norway) ; London and Aberdeen Universities (UK). He has taught at various educational institutions both in Pakistan as well as in England. He has written a number of articles for various academic journals and newspapers. Presently Mr. Cheema is working as the Chairman, Department of International Relations, Quaid-i-Azam University, Islamabad, (Pakistan.)

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PREFACE

Every page of this book has been written with a view to initiate a debate over the utility of the institution of sanctuary in keeping a war limited. Today's world is highly technological, complex and dangerous. The advent of nuclear weapons and its continuous multiplication of destructive capabilities has substituted the remote doomsday by an imminent threat of nuclear annihilation. The urgency of the situation demands not only measures towards the prevention but also the control of war if it breaks out despite the operative checks. Thus, there is an urgent need for comprehensive and realistic exploration of measures that can control war.

War is perhaps the most deeply rooted of all human institutions. To ask mankind to live without war would amount to somewhat utopian thinking. A more realistic approach would be to comprehend war in order to prevent it, just as a doctor, while treating a cancer patient would like to understand the exact morbid conditions of the affected tissues. Just as a doctor would like to control the malignant nature of cancer, the peace lovers all over the world would like to control war and confine it to a well defined area. This book is my humble attempt to initiate a debate that the institution of sanctuary can prove to be a limiting factor,

I owe much to my friends, colleagues and teachers who helped me to formulate my ideas as well as reviewing and commenting on various parts of the manuscript. My debt is great to Phil Williams, David Greenwood and Qazi M.U. Haq who encouraged and guided me to complete this study. I am also grateful to Dr. Rafique Afzal and Mr. Mohammad Haroon who have very kindly read my manuscript in order to give it a final shape.

As is customary, I alone assume the responsibility for any errors that have inadvertently crept into the book and the opinion expressed in these pages.

PERVAIZ IOBAL CHEEMA

Dated : April 10, 1978.



Dedicated
to
my mother
and
in the memory of
my father

Dedicated
to
the
memory of
my father

FOREWORD

War as an institution has been remarkably persistent throughout human history despite the immense changes that have occurred in the political, economic, cultural, scientific and technological environment. Even today the resort to the use of physical force continues to play a dominant role in international relations. Perhaps that is why no other aspect of international relations has received more attention of scholars, politicians and journalists than war. Numerous studies on individual wars as well as on war as a general phenomenon have appeared from time to time in an attempt to understand the reasons of its alarming frequency under all forms of political and social systems and to suggest how to reduce heavy reliance upon it or even to prevent its outbreak. However, since the end of World War II and the advent of devastating nuclear weapons, war has acquired a novel significance. The chief enemy is no longer some foreign power: it is the immense destructiveness of the modern weapon. This realisation of the enormous destructive capability of the sophisticated nuclear weapon has triggered an endless but complex debate over its non-proliferation on the one hand and how to control and limit the war if it breaks out despite the incumbent constraints, voluntary or involuntary, on the other.

Literature about non-proliferation, disarmament and arms-control is available in abundance whereas there are relatively few published studies on how to control and limit war once it breaks out. The dearth of available literature is even more acutely felt when one wants to probe the usefulness of the institutions like sanctuary in limiting a war.

The focal point of this study is the role, observance of sanctuaries can play in keeping a war limited. The author tries to impress the world community not only to be more cognizant of it but also to initiate a debate on this vital limiting factor which should continue to be explored and refined to the point where, one day, an international treaty might result. The possibilities of achieving prior international agreement over sanctuary areas cannot be ruled out as an impractical proposition. On the contrary, efforts should be directed to make the world community fully understand the contribution the observance of sanctuary can make towards limiting a war even in this age of nuclear weapons.

The idea of sanctuary serving as a restraint on the expansion of war was almost virgin and unexplored until Mr. Cheema subjected it to academic investigation. In fact, Professor B. Brodie and N. Akerman are perhaps, the only two western scholars who had demonstrated some interest in the subject. Consequently credit must go to Mr. Cheema for having done a pioneer and original work in a very difficult field.

Mr. Cheema's work gives a thorough review of the usefulness of the institution of sanctuary in keeping a war limited and aims at not only influencing the world community to initiate a debate over the importance of sanctuary observance but also impress upon them the need for its codification. The introductory chapter defines the meaning of sanctuary and in particular the form which observance of sanctuary may take. In Chapter 1, the book examines the historical background of sanctuary in the fields of religion, diplomacy and warfare. Chapter 2 discusses the concept of limited warfare, its nature and operation in terms of the factors of limitation. In particular an examination is made of sanctuaries in the context of limited war and the rationale therein. The case studies with regard to the observance of sanctuaries and the violation of sanctuaries are respectively discussed in Chapter three and four. Curiously both case studies are heavily dependent upon wars fought in Asia. These two Chapters provide a valuable insight not only into the policies of the powers involved in the Korean War, the Arab-Israeli War of 1967, and the Vietnam War but also examine the institution of sanctuary in practice. Perhaps the most thought-provoking chapter is the hypothetical fifth one in which Mr. Cheema explores the significance of the institution of sanctuary with regard to the possibility of a future limited war in Europe.

In the concluding Chapter Mr. Cheema attempts to highlight the necessity for codification of the principles and practices for governing the observance of sanctuaries. In particular, he advocates the desirability of an international agreement to specify the various types of sanctuaries and the machinery required to ensure their observance.

At the end, I would like to stress that Mr. Pervaiz Iqbal Cheema justifiably deserves all the appreciation and encouragement for having produced a first study of its kind on a theme of international importance.

Lt. Gen. Azmat B. Awan,
Commandant,
National Defence College,
Rawalpindi.

Dated : April, 15, 1978.

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INTRODUCTION

Broadly speaking, a sanctuary may be described as a place recognised as holy or inviolable, or both, i.e. a place of worship, a diplomatic mission and, in times of war, an area or installation which may not be attacked by any of the belligerents engaged in combat. The term is also used to describe places reserved for the preservation and protection of birds and wild animals. Thus the fundamental characteristic common to all sanctuaries is their immunity from interference or attack. This of course includes their inmates' and inhabitants' immunity from violence of any sort, i.e. attack, arrest or punishment, etc.

The institution of sanctuary has a long tradition in the fields of religion, diplomacy and warfare. However, the present study is almost entirely devoted to the last field. As discussed in the following chapters, the origin, evolution and observance of sanctuaries in times of conflict has been influenced by the belligerents' means and objectives in waging war, as well as by the considerations of deterrence and retaliation. Observance of sanctuaries in modern limited war may take two distinct forms. Firstly, the area restraint, i.e., a scrupulous observance of the territorial limits of the region of war,¹ whereby the belligerents desist from hitting each other outside the disputed territory, or in certain parts of the actual theatre of war. For instance, in the Korean war American planes did not pursue those belonging to the Chinese and the North Koreans beyond the Yalu River. Secondly, the avoidance of involving civilian centres, hospitals and Red Cross installations, dams, ports and non-military industrial estates, etc., in the actual operations of war. For instance, in the Arab-Israeli war of 1967 both sides refrained from bombing the above-mentioned sites and installations.

But even though the institution of sanctuary has a long tradition in the field of warfare, its precise position in that regard has never been properly studied or appreciated. Obviously, it is a very wide subject, of which a detailed exposition would run into several volumes. As such, the present exposition, essentially a pioneer work of its kind, makes no claim to comprehensiveness. Its fundamental purpose is to examine the characteristics of modern limited warfare* and to explore the relevance

*Sanctuaries are not observed in total war. In fact total war implies the violation of almost all war restraints. Thus, in order to assess properly the significance of sanctuary as a war constraint, it is necessary to study limited war in which the institution of sanctuary can, and does, play an important role.

of the institution of sanctuary as a war constraint. If it does have a positive function in this role, it is also important to discuss whether there is a case for the codification of essential principles and practices to govern observance of sanctuaries. Thus this short book is intended to explain not only why sanctuaries are observed but is also concerned with the role the observance of sanctuaries can play in keeping a war limited. Conversely we must also examine how the violation of sanctuaries can widen the war or transform a local or limited conflict into a total war.

At this juncture it seems pertinent to elucidate a number of important points constituting the underlying assumptions of this. These are generally related to its discussion of the likelihood and nature of future wars. For instance, the thesis assumes that in spite of the dreadful enlargement of nuclear arsenals, wars are likely to continue as an instrument in pursuit of national interest. However, the same consideration would rule out the outbreak of all out nuclear wars, which none could hope to profit from, win, or perhaps even seriously contemplate. Thus this study further assumes that future wars, in Europe and elsewhere, would generally be fought on conventional lines, with or without the use of tactical nuclear weapons.

The purpose of this study is to initiate a debate and its underlying assumptions have inevitably determined its methodology or approach to the problem which is partly historical, and partly hypothetical. Thus Chapter I traces the origin of the concept of sanctuary, and its earlier evolution in the fields of religion, diplomacy and war. A section of the chapter is devoted to illustrating how the changing nature of warfare led to a gradual erosion of sanctuaries.

Chapter II analyses the concept of modern limited war, and its prospects under the existing nuclear parity on one hand, and the role of sanctuaries as a war constraint on the other. Clearly a war can only be kept limited if the combatants apply certain constraints voluntarily, or are obliged to do so. A section of the chapter deals with the different kinds or types of sanctuaries which have been, or may be, observed in keeping a war limited.

Chapters III and IV are respectively the case studies of relative observance and violation of sanctuaries in the post-1945 period, although

no wars can be totally classified in either category. Again, since Europe has not experienced any wars during this period, the case studies are taken from wars fought elsewhere. However, the more important case studies relate to wars in which at least one of the major powers was directly involved, i.e. Korea for the relative observance and Vietnam for the relative violation of sanctuaries.

Chapter V explores the significance of the institution of sanctuary in regard to the future warfare on the continent of Europe. It is mainly devoted to a hypothetical analysis of the prospects and the nature of any wars that may be fought in Europe either between the European nations or between the super powers, and to assessing the role which the institution of sanctuary may play in controlling their escalation.

The final chapter sums up the need to codify the principles and practices to govern the observance of sanctuaries. More particularly, it explores the desirability of an international agreement intended not only to specify the various types of inviolable sanctuaries, but also to set up an international agency to ensure their scrupulous observance.

Note

1. Brodie, B. : *Strategy in the Missile Age* (1959).
Princeton, New Jersey : Princeton University Press,
p. 328.

HISTORICAL BACKGROUND

Religious Sanctuaries

The institution of 'sanctuary' has a long history, and was practised in some form at every stage of human civilization. However, it can be safely stated that originally it sprang from religion. Worship of the Deity¹ was the fundamental tenet of all known religions, whatever their peculiarities and dogmatic differences. It was performed in the 'presence' of the Deity, in temples, churches or mosques, etc. No wonder, every religion accorded absolute sanctity to its places of worship, requiring its followers to venerate these as the houses of the Deity.² This was, especially, the case in regard to all places of worship belonging to the 'national church'. No law made by man was valid or enforceable there, and once a fugitive from any such law had taken refuge within their precincts, he was not to be harmed or removed against his will. Similarly, all clergy belonging to the 'national church' were excluded from the jurisdiction of secular law. Not unnaturally, whenever they could, fugitives ranging from petty criminals to distinguished nobles sought refuge in religious establishments belonging to the 'national church'. The practice was prevalent in ancient Greece as well as Rome. It was common throughout Christendom and also in Mohammedan countries.

However, the religious establishments were not always free to grant sanctuary to all kinds of criminals. Until the rise of church power, every country in Europe had its own list of crimes not covered by sanctuary protection. Some of the major categories of 'unprotected' criminals included public debtors, heretics pretending to be Christians³, murderers, adulterers and "ravishers of virgins".⁴ However, with the consolidation of the influence and power of the church, most of these restrictions were gradually removed through the various pronouncements of Popes and religious councils.⁵ Thus the Middle Ages saw the extension of the sanctuary umbrella to cover almost all kinds of criminals. Justification for this extension was based not merely on the traditional rights enjoyed by the church, but also on the church's concern for the fugitive. It was thought to be "religion's role to temper justice by mercy, to force the state to

reflection, to slow its single-minded pursuit of the law and its justice".⁶ Crimes committed in the heat of passion, or accidentally, needed careful evaluation of the situation before the punitive action could be taken. Often the fugitives were handed back to their legal pursuers on the condition that they would not be tortured or put to death.

A vast majority of ordinary people faithfully observed the sanctity of their places of worship and other religious establishments. The popular belief being that use of violence against anybody who had taken refuge there was tantamount to a desecration of the house of God. It was further believed that those responsible for such a grave sin were bound to suffer a terrible fate. However, civilian rulers were not always willingly reconciled to the institution of religious sanctuary. This was merely because, by aiding criminals to avoid punishment, it tended to undermine law and order, but, also, and perhaps more importantly, because less religious-minded rulers regarded it as an infringement of their power and authority. This infringement became particularly intolerable when the rulers were prevented from apprehending political rebels or insubordinate priests. No wonder history offers many examples of armed men going into religious establishments and assassinating, or arresting, their masters' enemies. For instance, on 29 December 1170 Thomas Becket, the Archbishop of Canterbury, was murdered in his own cathedral by four knights of Henry II; Geoffrey, the Archbishop of York, was dragged out of the church; in 1378 Robert Howly, an esquire, "was slain in front of the prior's stall at the very time of High Mass", and, in 1454, the Duke of Exeter, who had taken refuge in Westminster Abbey, was forcibly removed by the Duke of York.⁷

The process of erosion of ecclesiastical sanctuary started with the weakening of church power during the later part of the Middle Ages. The arrival of the Renaissance and the Reformation accelerated the erosion process. Reformation exposed the abuses of immunities and other rights enjoyed by the church. This enabled the civil authorities to curb the powers and privileges of the church, which has since ceased to provide any meaningful protections to the criminals of all descriptions.

Diplomatic Sanctuaries

Like ecclesiastical privileges of offering protection, the diplomatic privilege to offer sanctuary has a long history. While not always amenable

to the institution of religious sanctuary, political authorities always appreciated the importance of diplomatic immunities. This appreciation the church has always shared, though primarily because of its concern for the safety of clerical ambassadors travelling from country to country on papal business.⁸

The institution of diplomatic immunities originated in the dark ages. Primitive man lived in a "self-determining community" in which the prevalent tradition and customs constituted the laws of the community.⁹ One such custom was not to trespass into the neighbouring tribe's hunting areas. The delimitation of hunting areas must have been agreed upon through some form of negotiation. The envoys of both communities must have met somewhere to negotiate the boundaries of their hunting areas. The very existence of the limits of hunting areas indicates the success of negotiations on the part of earlier human groups. Indeed, negotiation of any kind presupposes the existence of a certain amount of immunities accorded to the negotiators. For it is difficult to imagine how negotiations can be conducted if the basic immunities are not accorded to the negotiator.

Among the earliest known human groups who recognised the need and importance of immunities, for the purpose of negotiations, were those of Australian aboriginies.¹⁰ The poems of Homer depict the prestigious position enjoyed by heralds who were held in high esteem, as it was believed that Zeus and Hermes had conferred special sanctity upon them.¹¹ Thucydides' writings indicate that "by the 5th century the Greeks had developed an elaborate system of diplomatic relations; that the members of diplomatic missions were accorded certain immunities and great consideration."¹² This system, subsequently, passed on to the Romans, who made enormous contributions to the institution of diplomatic immunities. Roman law provided the legal basis for ambassador's immunities which was "strengthened by the thunders of the Canon Law".¹³ The later Roman emperors and Byzantine emperors took a keen interest in the development of diplomatic practices and immunities. Realising the decline of their physical strength they tried to supplement it by strengthening diplomatic practices. They introduced a new element into the practice of diplomacy; the element of playing off one neighbouring ruler against the other.¹⁴ This presupposed the increased privileges and immunities of the ambassador in order to enable him to collect information

regarding the weaknesses and resources of those with whom they intended to deal or use. The practice of playing off neighbouring rulers against others soon became a widely accepted formula of conducting foreign relations and with it the immunities of diplomatic representatives were further strengthened.

The Middle Ages did not witness any rapid progress in the field of diplomatic immunities as the age was predominantly occupied with religious affairs. It was an age in which religion had a powerful hold over the minds of people. Consequently the clerical emissaries became far more secure and enjoyed more immunities than the diplomatic representatives. It was not until the arrival of the Renaissance and the Reformation that the diplomats started to enjoy similar immunities which were once only the privilege of clerical envoys. The Renaissance and the Reformation brought the reign of clerical ambassadors to an end.¹⁵ By the 16th and 17th centuries the sanctity of an ambassador's office was fully recognised and the immunities attached to his office were firmly established.¹⁶

The basis of diplomatic immunities is necessity.¹⁷ Negotiations could not be conducted properly if the negotiator's life was not secure. Negotiations conducted under the sword of Damocles have always resulted in a renewed clash or quick renunciation of agreement. From an early date, it was recognised that it was essential to grant certain privileges to the emissaries in order to have meaningful intercourse between nations. In its report to the tenth session of the U.N. General Assembly, the International Law Commission mentioned three theories that have exercised tremendous influence over the development of diplomatic immunities ; "the extritoriality theory, according to which the premises of the mission represent a sort of extension of the territory of the sending state"; the representative character theory which propounds that "the diplomatic mission personifies the sending state" ; and the functional necessity theory which "justifies privileges and immunities as being necessary to enable the mission to perform its functions".¹⁸ There is no doubt that all three theories have played a positive role in the evolution of diplomatic immunities. However, the theory which appears to have formed the basis of diplomatic immunities is that of extritoriality ; namely the mission representing an extension of sending state. The diplomats asserted their right not to be subjected to local jurisdiction but only to the

laws of the sending state. As the Reformation introduced a bitter religious and political strife into Europe together with the idea of the territorial state, it became necessary to exempt the diplomats from subjection to local laws. It was soon evident that a Protestant ambassador accredited to a Catholic state could not be subjected to local jurisdiction based on Catholic laws. The doctrine of extraterritoriality provided a positive 'response to the difficulties of the situation.'¹⁹

The influence of functional necessity has also been important. According to this theory it is necessary to grant immunities to diplomats and to the mission in order to enable them to perform their functions properly. It was this theory which helped in clarifying the purpose of diplomatic immunities. Originally, it was not clear whether the immunities were intended for personal benefits of the diplomats or for securing the interests of the foreign missions as a whole. This now seems to have been settled. The Mexican representative in the U.N. General Assembly's Committee aptly stated that "immunities are granted for the purposes of facilitating the performance of the functions of the mission rather than for the personal benefits of the members of the missions."²⁰ This explanation has been widely accepted. The theory of representative character has also contributed usefully towards the evolution of diplomatic immunities. In olden days an ambassador not only represented his king in the court of receiving king but also looked after his king's interests in the accredited state. This function remains part of the modern diplomat's duties. He represents his nation, and looks after its interests, in the receiving state.

The privilege of granting sanctuary, which the religious establishments had enjoyed until Reformation, was not associated with embassy premises until as late as the 16th century, and even then it could be extended only to non-political fugitives. In 1540, three Venetians, who had betrayed state secrets, took refuge in the French Embassy, but the Venetian authorities secured their surrender by a show of force.²¹ In 1726, Ripperda was arrested from within the premises of the English Embassy in Madrid, and in 1747 Springer was apprehended while sheltering in the English Embassy at Stockholm.²² All the above mentioned persons were guilty of political offences. The question of political asylum was at last discussed by the Montevideo Convention of 1933 and the Vienna Convention of 1961, which clarified and codified rules regarding the inviolability of the mission premises. Further clarifications were made by the U.N. General

Assembly's resolutions of 1962, 1965 and 1967. The 1967 resolution "calls upon all states to respect asylum once granted by a state in the exercise of its sovereignty".²³ In consequence of the above developments, diplomats and embassies are now enjoying the same privilege of offering refuge to sanctuary seekers as was once enjoyed by the clergy and ecclesiastical establishments.

There are two kinds of asylums: diplomatic asylum and territorial asylum. The former is invoked when a person seeks refuge on the premises of a foreign mission in the receiving state. The grant of diplomatic asylum is confined to persons accused of political offences, or to the victims of political persecution. Territorial asylum is involved when a person seeks refuge in a foreign country. The institution of diplomatic asylum is deeply indebted to the idea of 'franchise du quartier', i.e., the freedom of the area. In turn, this idea was a product of theory of extritoriality and was put forward only after the personal immunities of an ambassador were secured. The acceptance of 'franchise du quartier' transformed the embassy into what is known as the diplomatic sanctuary.²⁴ The bases of territorial asylum are the territorial supremacy and the sovereignty of the modern state.

Today both types of asylum (diplomatic and territorial) are frequently employed in peacetime as well as in wartime. During the wars only the neutral states enjoy the right to grant asylum to the citizens and forces of the belligerents. The current rules of international law stipulate that it is the duty of belligerents to treat the neutrals in accordance with their impartiality in the war and refrain from violating their territorial supremacy.²⁵

Although the diplomatic immunities and privileges are embodied in the present rules of international law, and are constantly strengthened by the various international conventions and agreements, still the diplomats do not enjoy absolute immunities, and the territorial asylum is not yet accorded full respect. There are many examples of local officials entering foreign missions and violating their immunities and privileges. For instance, it was reported in 1973 that the Pakistani officials entered the Iraqi Embassy in search of arms allegedly stored there for distribution in Baluchistan.²⁶ Pakistan, however, justified this intrusion on the grounds that the Iraqi Mission not only grossly violated its obligations to the

receiving state under Article 41 of 'Vienna Convention on Diplomatic Relations' but also misused diplomatic immunities and privileges. Eichmann, a former Nazi official, who was a naturalised citizen of Argentina, was kidnapped and taken out of the country by Israeli agents,²⁷ and despite the protests of the Argentinian Government, he was never returned.

War Sanctuaries

The institution of sanctuary in war has been heavily dependent upon the vast body of international customary and treaty rules governing the relations between the belligerents on the one hand, and between the belligerents and the neutrals on the other. The roots of these customary and treaty rules can be traced back to the earlier practices of warfare which came into existence following the emergence of organised communities and gradually developed over the centuries. Among primitive societies it was a common practice for the injured party either to attempt to hit back at the injurer, or to try to seek some kind of material compensation for the losses it had suffered. Such practices were not limited only to the settlement of disputes within a clan, but were also employed with regard to inter-clannish disputes. Among the Akamba, the killing of a member of one clan was normally settled by material compensations paid to the relatives of the victims, whereas the primitive Australians preferred to avenge the death of their fellow tribesman by slaying at least one member, not necessarily the slayer himself, of the slayer's clan.²⁸ Although the injurer often used the protection of his own clan as sanctuary, there was no guarantee that he would not be punished. In many cases, in order to avenge the wrong done to them, the bereaved family preferred to wage war against the injurer's tribe, thereby rendering the sanctuary of tribal protection useless for the culprit. In those days war could be started at the initiative of one individual, but once it had been started, the making of peace was in the hands of war chiefs only.²⁹

Another method of rectifying the wrongs was the widespread practice of duelling. The outcome of such duels was regarded as a divinely guided verdict, which was often accepted by the parties involved. There were three types of duels: the state duel, in which the champion of one state fought with the champion of the other; the judicial combat, in which the duel was fought under the procedure prescribed by the state; and the duel of honour, in which gentlemen fought to defend their honour under

conditions prescribed by traditions and customs.³⁰ The outstanding characteristic of duels were the rules, whether sanctioned by the state or strengthened by tradition, under which the duels took place. It is in these traditions, customs, conventions and state rules that the basis of the laws governing the conduct of warfare lies.

At various stages of history, different customs and traditions had evolved to deal with conflict situations. There had been no uniformity in the rules governing the conduct of warfare. The organised communities devised their own rules in accordance with their own attitudes towards life and conflict. For instance, the Australian aboriginals, who enjoyed a highly developed system of law and order, preferred to fight battles under definite rules and regulations. At first, they would formally declare war, and then fight the battle at a pre-arranged time and place. On the other hand, the American Plain Indians, after having declared the war, would strike at the enemy whenever and wherever they deemed beneficial.³¹ For some earlier communities, like Mongols, Huns and Vikings, war was the only fruitful way of living. Rules governing the conduct of warfare had no value for them. Then there were others, like the Pueblo Indians of Colorado and California, who would only wage war as the last resort.³² It seems that the communities with reasonably developed systems of law and order were generally keen to extend the rules beyond the area of their own jurisdiction. The Persians, Greeks and the Romans observed various kinds of rules, even restraints, in the execution of their wars, whereas the Mongols, the Tartars, the Huns and the Vikings had no interest in rules of warfare.

The evolution of the rules of war has been strikingly slow. It was not until the Middle Ages that a rudimentary form of rules of war began to emerge. It was either because of religious influence or expediency, or perhaps because of a combination of both that people started recognising the advantage of observing some kinds of war rules. Indiscriminate killing of the civilians, or the enemy soldiers, and wanton destruction of property did not necessarily produce the desired results. On the contrary, the killing of civilians deprived the victors of free labour which could have been used, say for agricultural purposes. The senseless slaughter of the captured enemy soldiers often denied the advantage of using them as hostages. Besides, the increasing domination of religion introduced a

new element of restraint; namely moral restraint. Furthermore, wars were now classified as "just" and "unjust" wars. Only those wars were regarded as just wars which were initiated by a legitimate ruler in pursuit of a just cause, and with rightful intentions.³³ These pre-conditions of just wars did not help much in reducing the frequency of war. Often a just war was considered exceedingly unjust by the opponent. However, the influence of religion did help in clarifying the position of the neutrals who, until then, in maintaining their neutral posture in conflict situations, were very much dependant upon their own strength. The practice of coercing the neutrals to take sides in times of war gradually faded away. A state could now maintain its non-involvement in the war, and yet continue to assist one of the belligerents short of direct participation. "To prevent such participation, which was in no way considered illegal, treaties were frequently concluded. Through the influence of such treaties, the difference between real and feigned impartiality of third states during the war became recognised and neutrality, as an institution of international law, gradually developed."³⁴

The rise of the church during the Middle Ages, made prolonged wars between Christians practically impossible. The Christians, in general, regarded Christendom as a loosely united single country, or a group of Christian states. Differences between the Christian states were far less important than those between the Christians and non-Christians. Consequently, the wars among Christian states were short and limited. Armies were small, and consisted of inexperienced men, who could not be kept in the army more than 40 days. Until the expiry of the first 40 days, a soldier was bound by oath to serve in the army at his own expense, but the expense beyond that time was borne by their overlord.³⁵ Under the prevalent custom, a soldier could not be kept in the army more than 40 days without being paid for his services, except for the defence of his own area.

The arrival of the Reformation exposed the corruption of the Higher clergy, thereby weakening the moral authority of the Catholic church. The wars emanating from religious strife were savage and ferocious. Two reasons account for this transformation. Firstly, the intensity of the religious strife itself, and secondly, "the nature of troops and the absence of a regular supply system".³⁶ "The typical soldier was the temporarily hired and ruffianly cosmopolitan mercenary. The irregularity of his

employment seldom permitted his higher commanders to control him firmly. Indiscipline was increased by irregularity in pay. Sovereigns were tempted to enlist more men than they could long support.³⁷ Rules of war were not properly observed during the era of religious wars. It was not until the late 17th century that proper reforms of military organisations and establishments were carried out. Gradually professional armies, composed of professionally trained soldiers, started emerging, and with it the observance of war rules became a general practice.

During the 17th century a great impetus to the development of laws governing warfare was provided by the efforts of great jurists like Grotius, Victoria and Gentilis. Their efforts not only explained the importance of having common laws governing the conduct of warfare but also highlighted the need for multilateral agreements in order to ensure the universal application of international law. Decided progress was only made after the Napoleonic wars and the Concert of Europe. Two reasons account for such a rapid progress. Firstly, the nineteenth century was a relatively peaceful century. This factor facilitated rapid developments in the field of laws governing warfare. Secondly, it was an age in which nationalism had triumphed and the armies had become national armies. The war was no longer a concern of the few. It had become an affair of the whole nation. The need for universal laws of warfare was recognised and the multilateral treaties soon began to emerge. Among the earliest multilateral treaties on the conduct of hostilities were the Declaration of Paris on Maritime Law (April 16, 1156), the Geneva Convention on the Amelioration of Conditions of the Wounded of Armies in the Field (August 22, 1864), and the Declaration of St. Petersburg (December 11, 1868).³⁸ The importance of these treaties lies in the fact that for the first time universal recognition was accorded to the need for laws governing the conduct of warfare, and in addition the relationship between states during the period of a war. Subsequent treaties and conventions, like the Hague conventions of Land Warfare of 1899 and 1907, the Geneva Convention on the Prisoners of War of 1906 and 1929, the Geneva Red Cross Conventions of 1907 and 1949, the Covenant of the League of Nations and the United Nations Charter, clarified and codified laws, covering almost all areas of warfare, and the legal rights and duties of neutrals.³⁹

In the absence of a universally recognised code of warfare, wars during the primitive and early medieval times, were fought in accordance

with existing customs and traditions. The prevailing traditions commended enough respect to deter the belligerents from violating the generally observed rules and restraints. From the outset the killing of civilians and wanton destruction of property were regarded as barbarous and most communities refrained from committing such acts. As the desecration of holy places was universally abhorred, it was often avoided. Similarly, the killing of civilians was universally condemned. Furthermore, there was little point in killing civilians when they could be forced to work for the victor, at least on the captured land. Consequently the killing of civilians was avoided. Although in some communities prisoners of war were commonly sold as slaves, the killing of prisoners was rarely done. After the day's battle the belligerents often allowed each other to carry away their wounded and the dead. In many cases, medical teams went over to enemy camps to tend the wounds of the adversaries.

A number of factors account for the observance of various types of war sanctuaries during the primitive and medieval times. These factors were not only operative at the time but were more conducive to the observance of sanctuaries rather than to violation. The types of sanctuaries which were observed because of these factors will be discussed later. The most important reason, of course, was the hold of prevalent custom or tradition over the minds of the people and the respect accorded to it. This has been discussed above. The second important factor which caused the observance of sanctuary was the limited nature of warfare. During the 16th, 17th, and 18th centuries wars were fought with limited objectives and limited means. The wars were waged with specific objectives in mind such as to gain a piece of territory, to avenge a wrong done by an enemy, to protect the trade and to defend the throne, etc. Rarely were wars initiated with the object of world conquest, or of a total surrender of the adversary. The most important reasons for the attitude towards total wars were the operative principle of balance of power and the acceptance of the legitimacy of the existing system. The principle of balance of power implied that "no one state ought to become so powerful as to be a menace to the safety of the rest, and an undue increase in the power of a state was thought to justify the formation of an alliance against it."⁴⁰ Furthermore, no state was allowed to be totally defeated or obliterated. The formation of an alliance by a state facing total collapse or defeat was regarded as justifiable. Another important

reason for the avoidance of major war was to legitimacy of the existing system. At the time, it was believed that the overthrow of one monarchy would not only set up an undesirable precedent but also challenge the whole system.

Admittedly, history does furnish a few examples in which ambitious objectives were indeed involved. However, the cost-gain calculus was as operational in those days as it is today. The states were small in terms of population, as well as territory. War was a costly method of settling disputes, especially for states with limited resources. The scarcity of resources worked against the extension of wars in any respect even for those states which were likely to win.

The third operative factor was the nature of means. The means employed in the execution of wars were also of limited nature. Archaeological evidence suggests that the weapons used in earlier periods were stone axes and clubs, etc. Although the effectiveness of such weapons was limited in modern terms, these were regarded quite adequate to cope with short lived limited emergencies. With the passage of time, new weapons like spears, swords, bows, and arrows, pikes and catapults, etc. were added to the existing arsenal of weaponry. The invention of such offensive weapons was closely followed by defensive techniques.⁴¹ Soon trenches and fortifications became a part of defensive warfare. Such offensive and defensive weapons remained in use until the invention of gunpowder. Although these weapons were used even after the invention of gunpowder, their importance and effectiveness continued to diminish. The arrival of gunpowder and its subsequent improvisations radically increased the destructive capabilities of offensive weapons. This, of course, transformed the limited nature of the means of warfare. Before the invention of gunpowder, the means were limited, both as regards their availability as well as their destructiveness.

The fourth factor, which made the observance of sanctuaries possible, was the size and the composition of the armies. The size of the armies was very much dependant upon the size of the community and its wealth. Among the earlier warrior communities, almost all young men took part in wars. The proportion which actively participated in wars gradually decreased, and instead, the mercenaries were increasingly engaged. The mercenary armies seldom reached over 20 to 30 thousands.⁴² To support such an army often proved to be too costly. Furthermore, the shifting

loyalties of the mercenaries were well known and, therefore, nobody was willing to put too much at stake when the war was to be fought with their help. Another form of raising a sizable army was to enlist the common people through the influence of the local lords. Such armies were not very reliable either, as the outcome of the war did not directly affect the interests of common soldiers who had no tangible incentive to remain with the army. Realising the unreliability of such armies, the rulers were not very keen to get themselves involved in lengthy wars.

The fifth factor, which facilitated the observance of sanctuaries, was the existence of poor communication and transportation systems. It was very difficult to quickly transport a large army to the battleground. Often it took months to transport the necessary numbers to the war zones. Furthermore, it was very difficult to maintain regular supply lines. Realising the importance of regular supply lines the generals were seldom prepared to stretch them irrespective of the prospects of victory. There was always the fear of being cut off when the supply line was stretched too much. Lack of adequate transportation facilities and of an accurate knowledge of the area generally forced the generals to refrain from pursuing the fleeing army.

The types of sanctuaries which were frequently observed during the wars were the area restraint, open cities, population centres and property, medical units and installations, etc. The most important sanctuary was the area sanctuary, which meant that the victorious armies would refrain from entering into the territory of the third state in which the defeated army or some of its soldiers had taken refuge. Three main reasons account for such restraint. Firstly, it was the limited nature of the objectives and that of means available. The objective might be to defeat the enemy but not necessarily to crush his army. The war preparations were geared towards the attainment of specific objectives. The change of objectives during the war, or just after the victory, required increased allocation of resources, for which many states were either not very keen or simply did not possess the extra means. Sometimes the unforeseen increase in the cost influenced the states to abandon even their original objectives. The second reason was the fear of overstretching the supply line which could then become prone to be cut by relatively smaller units of the enemy. Thus victory could turn into a defeat. The third important reason was

the danger of provoking the entry into the war of another country, whether absolutely neutral, or partially neutral, by violating its territorial sovereignty. This could result in an unfavourable balance, a risk often considered not worth taking. The participation of a neutral country in the war on the enemy's side created an unfavourable balance. To avoid such a situation, efforts were made to isolate the enemy before the outbreak of war and during the actual course of fighting. The concentration was upon the avoidance of any excuse which could force a neutral country to participate in the war on the enemy's side.

Another useful type of sanctuary was the sanctuary of open cities or towns. "To avoid destruction and loss of human life, certain towns were declared 'open', signifying that they would not be defended or used for any military purpose except to treat the wounded in hospitals."⁴³ Only those towns were declared open which happened to be in the way of advancing armies. The idea behind the tradition of open towns was to use the town's medical facilities for the sick and injured of both belligerent armies. The open town was to be used just like a neutral country bordering the belligerents.

The killing of civilians and the wanton destruction of property and cities were regarded as brutal and barbarous actions. As discussed above, there was not much point in killing the civilians because they could be used for victors' benefits. Similarly, the destruction of towns deprived the victors of all the advantages which a town has to offer, so it was often regarded expedient to utilise the town's facilities rather than to destroy them. The wars were normally fought in open spaces or fields, and cities were left alone so that the victor may make some use of them. A city was attacked only if one of the belligerents took refuge there and refused to surrender. Finally the medical units and installations were spared in order to make use of them. In short it seems that the motives behind the observance of open cities were somewhat utilitarian.

It must be stressed here that none of the abovementioned sanctuaries were observed in absolute sense. There are many examples in history when these sanctuaries were violated. In most cases the violations were caused by those who had no respect for law and never bothered to observe conventions and customs of war. However, there are a few examples in which the violations were caused by those who had ordinarily respected the customs and traditions governing the warfare. Their justification for

such violations was frequently based upon what is commonly known as 'military necessity'. Another important factor which caused the violations of the sanctuaries was notion of self-interest. Often the preservation of self-interest proved to be far more forceful than the force of traditions. A direct clash between the existing traditions and the self-interest of a ruler or ruling dynasty was, as far as possible, avoided. Whenever there was a direct clash between the two, self-interest was often given priority over the prevalent traditions. Such a step was taken only after careful evaluation of the strength and popularity of the existing traditions and customs.

The erosion of war sanctuaries started with the arrival of firstly, gunpowder and then, three centuries later, 'industrial revolution'. The process of erosion was accelerated by the demise of the territorial state system, and the arrival of nation state system. Nationalism transformed the dynastic loyalty of the few to national loyalty of the whole nation.⁴⁴ Not only the outcome of the wars became a direct concern of the nation, but the wars were fought by the national armies. National interest became supreme and if the national interest necessitated dispensing with the traditions, or the destruction of enemy's towns, it was regarded as a legitimate act of war. The impact of nationalism and the invention of gunpowder not only radically altered human attitudes towards war, but also revolutionised the actual conduct of warfare. A general can now mobilise a huge army at very short notice, and quickly despatch it to far off places. Modern developments have enabled him to fight his wars from his office, rather than sitting on horseback and watching the battle from a high place. The modern means of reconnaissance provide him with all the necessary information he needs to fight his war. However, the most remarkable developments have been in field of weapons and their delivery system. Modern technology has radically increased the destructive capabilities of weapons. Although we have come a long way from the days of the gunpowder revolution, it was the invention of gunpowder which started the process of rapid developments in this field. The invention of aircraft, and its subsequent introduction into the war, opened a new dimension of warfare, the ability to strike at the enemy's sanctuaries at the rear. The aircraft has brought the war into the middle of civilian centres. It is now possible to hit the military or related industries located in the middle of urban centres. Finally, the nuclear technology

has effected a millionfold increase in the destructive powers of modern weapons. There now exist weapons which can destroy the whole city with one blow. In other words, it is now possible to hold the whole city as hostage. The arrival of these sophisticated weapons, and the enormous increase in their explosive yields, have struck the death blow to the classical sanctuaries of war. For example, carpet bombing has no room for any kind of sanctuaries located in the target areas.

The change in attitude towards the war has also contributed significantly towards the erosion of sanctuaries. In the past, any deliberate killing of civilians was generally considered as an evil act, and a direct attack on civilians was seldom envisaged. The advent of the nation state has effectively killed this tradition. This is because now the civilian population of a country at war has become an essential part of its war effort. The passion of nationalism gave the general population a sense of involvement, a willingness to make sacrifice and 'personal contribution', whether through their kith and kin involved in direct fighting, or through dedicated hard work at centres of production such as factories, mines and other industrial installations crucial in the waging of war. Consequently, nations at war no longer regard the enemy's civilian centres as 'prohibited' targets. Destruction of these 'targets' would not only cripple the enemy's ability to fight on, but also affect the morale of its population. This development, i.e., the transition in practice of civilian centres into 'legitimate targets', has become particularly dangerous with the increasing progress and sophistication of war technology. Thus while none of the belligerents in the First World War possessed the necessary means to flatten, through aerial bombing, the enemies' major population and industrial centres, 'disability' did not exist during the Second World War, when the bombing of the enemies' towns and cities was almost a daily occurrence, whether to hit their industrial capacity, or the morale of their civilian populations or both. The bombing of London, and subsequently of Dresden and Berlin, are the more well known examples. More recently, the bombing of North Vietnamese towns was motivated by similar intentions. Such occurrences, once regarded as brutal and unthinkable, are now quite calmly accepted as part of the whole business of war. In other words, the changes in our attitudes towards life in general, and towards war in particular, have made attacks on civilians admissible in one form or the other.⁴⁵ "The traditional distinction between men setting forth to risk

their lives and those who stayed behind out of range of death disappeared in the first half of the twentieth century."⁴⁶ All are now regarded as combatants and, therefore, considered as legitimate targets for ground attacks or aerial bombing. The most important objective of a nation state is the security of its nationals and national interest and if the security of national interest requires the killing of civilians, or destruction of hospitals and towns, or violation of territorial integrity of another state, etc., then it would be an acceptable course of action. In short, the national interest of a state is given priority over all kinds of considerations.

Conclusion

The history of the institution of sanctuary in areas like religion, diplomacy and war discloses its independent birth in each of these areas. There is no reason to believe that the factors which caused the birth of ecclesiastical sanctuary also gave birth to the diplomatic sanctuary or war sanctuary. However, in practice, the sanctuaries in all of the above mentioned fields served a similar purpose. Ecclesiastical, diplomatic and war sanctuaries provided refuge to fugitives or to sanctuary seekers. For example, religious establishments offered protection to fugitives who were fleeing from the law for one reason or another, whereas the foreign missions offered the same facilities to a dissenter, or a fugitive, fleeing from persecution. It seems necessary to mention here that while the ecclesiastical practice of offering sanctuary is no longer operative, the diplomatic privilege of offering sanctuary is still recognised and actively practised. An open city in war also provides a similar kind of protection to a wounded soldier.

Notes

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SANCTUARY IN MODERN LIMITED WAR

Limited War

"The concept and practice of limited war are as old as war itself ; but the consciousness of limited war as a distinct kind of warfare, with its own theory and doctrine, has emerged recently".¹ The long history of warfare has recorded innumerable occurrences of limited wars between nations. These wars, however, "remained limited less by conscious choice than by considerations of domestic policy".² Despite his long involvement in European wars, Louis XIV, for example, could not utilize more than "a small proportion of national resources because of a domestic structure which prevented him from conscripting his subjects, levying income tax or confiscating property".³ Such domestic disabilities have, on the whole, ceased to exist.

Nowadays, nations at war can support their war efforts by a fuller, or perhaps even total, mobilisation of their human and material resources. A war today need not be kept limited because of necessity or because of lack of resources. It is to be kept limited by conscious policy choice. The difference between traditional limited wars and modern limited wars is found essentially in the application of "deliberate restraint". Again, traditional limited wars "were limited both in regard to the resources employed and to the issues at stake".⁴ These wars were waged either in pursuit of dynastic interests, or to decide the fate of a disputed territory. Generally, the armies consisted of conscripted peasants, and in addition included foreign mercenaries and soldiers of fortune. Neither class nor category was directly affected by the outcome of the war. It was not until the professionalisation of armies in the 18th century that the outcome of war became a direct concern of the participating soldier. However, to maintain a large and well-trained professional army was a costly business. No wonder rulers avoided waging, or getting involved in, lengthy wars entailing heavy casualties.

The weapons used in traditional limited wars had limited fire power. The advent of the industrial revolution facilitated the invention and

continuous improvement of new weapons with greatly increased fire power. Simultaneously, the advent of nationalism radically changed the nature of war. Wars became national, involving nations as a whole. The outcome of national wars directly affected the interests of the population as a whole. Consequently, it became relatively easy for the rulers and leaders to arouse patriotic passions, and, thus, to secure enthusiastic compliance of their calls for greater sacrifices, both in men and money, to sustain the war effort. Similar calls aroused little voluntary response in relation to traditional wars, which were generally waged to promote the rulers' personal or dynastic interests, to annex a piece of land, or simply to satisfy the rulers' yearning for glory.

The use of restraint in modern limited war is deliberate. The underlying motive is to achieve a limited objective without resorting to, or provoking, a total war. The latter category, that is total war, refers to wars in which the objective is total victory or unconditional surrender of the enemy. It implies a complete destruction of the enemy's war capabilities, including his will to fight. Such an objective requires unlimited commitment of the nation's human and material resources. The two world wars of this century demonstrated this essential and close connection between extreme objectives and unlimited means. Hitler's ambition of a complete subjugation of Europe necessitated the total mobilisation of Germany's human and material resources. On the other hand, the Allies' determination to frustrate Hitler's ambition, and to secure Germany's unconditional surrender, required an equally total commitment of their own resources.

The 'nuclear revolution' of the post-world wars period has produced a situation in which the use of extreme means cannot be rationally contemplated. For such an act on the part of nuclear powers is likely to lead to an end of human civilization. Enough nuclear weapons exist today to destroy almost every medium and large city in the world. This awareness of the enormous destructive capacity of modern nuclear weapons is exercising restraint over their use even in cases of extreme emergencies. The supreme objective being survival, if the use of nuclear weapons threatens self-destruction, then their employment can no longer be rationally contemplated. Implicit in the non-use of extreme weapons is the limitation of objectives. These will have to be, and remain, strictly limited, so as not to warrant, or precipitate, the use of nuclear weapons. Confronted with

a dilemma as to how to use their increased military power without having to resort to an actual use of nuclear weapons, the "super" powers started looking for alternative strategies. This quest for effective use of increased power, and the maintenance of existing deterrence postures, has produced what is generally referred to as the limited war strategy.

The limited war strategy, in fact, came to be seen as a part of the existing deterrence posture. The deterrence policy of the West was heavily dependent upon the American strategy of 'massive retaliation'. Instead of resisting permanent forces in various countries, the U.S. preferred, if need be, to strike at the source of aggression, using its massive retaliatory power on a selective basis.⁵ Although Dulles did not undermine the importance of local defence, his primary reliance was upon the U.S. atomic weapons. Critics of massive retaliation found it very difficult to accept that the U.S. would be willing to initiate an atomic war in response to a limited Communist aggression. They argued that, in order to deter effectively, it was necessary that the limited aggression must be met with limited sanctions, and that the U.S. must have the capability to do so. To deter limited aggression by the threat of initiating nuclear war did not sound credible to them, for in such an eventuality the U.S. stood to lose almost as the Soviets.

"Deterrence is the power to dissuade as opposed to the power to coerce or compel".⁶ Effective deterrence depends upon communication, capability and credibility. The deterrer must tell the other party what is at stake: deterrence cannot operate if the deterree is unaware what is likely to happen if he pursues a certain course of action. A deterrer should not only have the capability to meet aggression at the conventional level as well as nuclear level, but should also possess the capability to inflict unacceptable damage. If the deterree is rational he will see that any potential gains he might achieve by his course of action are far outweighed by the punishment he will receive: it is, therefore, in his interest not to proceed with his proposed course of action. He must be aware of the deterrer's capability to inflict unacceptable damage. Furthermore, the deterrer's threats have to be made credible. Obviously, the deterree must believe that the deterrer would, in the particular circumstances, carry out the retaliatory measures. The potential aggressor must believe that the deterrer is not only capable of carrying out the threats, but is also willing and determined to do so. It is here that such factors as the

deterrent's past behaviour are important : if the deterrer has, for example, backed down on previous occasions, then the likelihood of his carrying out the threats at a point in the future can be questioned. The French and British dealings with Nazi Germany in the middle and late 1930's are relevant in this context. The theory of massive retaliation lacked credibility. It was often questioned whether nuclear weapons would be actually used in order to meet limited aggression. To meet limited aggression with limited sanctions seemed more credible. If the deterrer lacked a limited war capability, the potential aggressor was unlikely to be effectively dissuaded. A limited war capability backed by massive retaliatory power or atomic weapons made deterrence more credible. It was for this reason that a limited war strategy came to be seen as a crucial part of the existing deterrence posture.

A modern limited war is fought for well defined and limited objectives, with limited means, and is geographically confined to a limited area. It is "fought for ends far short of the complete subordination of one state's will to another's and by means involving far less than the total military resources of the belligerents, leaving the civilian life and the armed forces of the belligerents largely intact and leading to a bargained termination".⁷ "For the main combatants, the struggle must not claim more than a minor proportion of their total resources, and it must not have any deep effect on their social and economic life."⁸ To avoid a major disruption of social and economic life the war is often fought within well defined geographical limits. In short, modern limited war is a war in which the restraint is deliberately supplied to objectives, means, the area and targets of war.

Clear schematization of limited war into different types is a difficult task because the term limited war is applicable to so many situations. J. Garnett's typology of limited war which is based upon the major limitations involved is a useful guide. According to Garnett there are four types of limited war : a war which is confined to a geographically limited area ; a war which is fought with limited means and a war in which only selected targets are subjected to an attack.⁹ What Garnett's typology lacks is the clear emphasis upon what Akerman calls "the character of the combatants".¹⁰ If limited war is fought between two super powers, or between their allies, then Garnett's basis of limited war

sanctuary status to these sites. However, it is not always easy, or even possible to avoid attacks on these sites especially if they are in close proximity to genuine military targets.

The most important internal sanctuaries are the the Red Cross installations and hospitals. These should not be attacked, even under the camouflage of what is generally referred to as 'military necessity'. For example, if a hospital happens to be next to a military target, the attack should be carefully directed against the latter. Hospitals and Red Cross installations can be used by all belligerents to relieve the sufferings of wounded soldiers. Their immunity from attack cannot possibly influence the outcome of a war.

The tradition of open cities could also be revived. An 'open city' is a city which is neither attacked, nor defended, nor used for military purposes, except to provide medical facilities to the wounded belonging to all belligerents.³⁰ All major cities of the belligerents should be declared open cities immediately after the start of the hostilities. The cities are not only the congregational points of a country's civilian population but also the centres of its business and financial activities. The destruction of cities not only entails huge civilian casualties, but may well cause the attacked nation to believe that the enemy is determined to destroy them completely. Such fears can only serve to harden resistance, and more often than not pave the way for total war. Advancing armies and their supporting air forces can easily bypass and avoid most cities, and, in any case, should refrain from attacking those that have been declared 'open'. If a military centre is located within an 'open city', and is being used, then enemy operations to destroy that centre could be justified. However, the principal military objective should be the destruction of the enemy's military forces and installations, not of his civilian population.

The other important sites and areas constituting internal sanctuaries are industrial centres, dams, ports and harbours. These should not be attacked, as the economic life or even survival of most countries largely depends upon their safety. Any attempt to destroy these sites and areas would arouse similar fears for survival as may be aroused by attacks on civilian centres. This would not only harden the resistance of the nation under attack, but may also transfer the conflict into an all out total war.

Rationale

"The principal justification of limited war lies in the fact that it maximizes the opportunities for the effective use of military forces as a rational instrument of national policy. In accordance with this rationale, limited war would be equally desirable if nuclear weapons had never been invented. However, the existence of these and other weapons of mass destruction clearly adds great urgency to limitation."³¹ The rationale of sanctuaries lies in the fact that their observance can greatly help to keep a war limited. Such observance also indicates a desire on the part of belligerents to keep the conflict limited, and to avoid a total war. However, any useful purpose of the sanctuaries is wholly dependent upon their scrupulous observance by all belligerents. Limited war of necessity, or the traditional limited war of the past, "implies the existence of a great sanctuary area in the rear of each major contestant."³² Such sanctuary areas were generally located outside the theatre of war, and, in many cases, even outside the region of war. However, the modern limited war of choice implies the observance of sanctuaries not only outside the region of war but also within the region of war.

The degree of observance of sanctuaries is very much dependent upon the voluntary initiative of one side and the reciprocity of the other. If one side voluntarily accords sanctuary status to enemy areas and installations of a non-military nature, but the enemy does not reciprocate its initiative, then there is a likelihood that the voluntarily accorded sanctuary privileges may be withdrawn. Basically, sanctuary status is accorded to non-military areas and installations belonging to the enemy in order "to induce him to do likewise, that is to make some comparable gesture of restraint, perhaps as a token of willingness to co-operate in winding down the war."³³ Another motivation for a voluntary observance of sanctuaries may be the desire not "to provoke the enemy's powerful ally to come to the enemy's assistance or increase the assistance already being given."³⁴ If the expectations of the sanctuary granting side are frustrated by the absence of reciprocity, it may well stop observing any sanctuaries. However, a comparable gesture of restraint on the part of the enemy, should normally help the continued observance of sanctuaries by both sides.

in case the sanctuaries concerned are located deep in the neighbouring state's territory, then their destruction may result in the total engulfment of that state into the actual region of war.

- (C) The observance of internal sanctuaries, i.e., the avoidance of military operations against medical installations, whether maintained by the belligerents or an International agency such as the Red Cross, industrial centres, dams, ports, harbours, urban centres and the open cities.

The essential requirement of any type of sanctuary is the strict demarcation of the war zone. The war should be fought within well-defined geographical boundaries, i.e., it should be localised within the 'region of war' and if possible strict limitations should also be applied to the actual 'theatre of war', or combat area. "Without the localization of war, hostilities involving major powers, directly or indirectly, would almost certainly exceed the scale of practicable limitation, given the existing military potentials of the major powers".²¹ However, the geographical limitations of the "war theatre" and war region are closely linked to the political objectives involved, and to the military means employed to attain those objectives. Physical demarcation of the war theatre would be far easier if the objectives were limited and of territorial nature. But, should the objectives involved be non-territorial in nature, the physical demarcation of the war zone may present complications.

The effective geographical limitation of the combat area is also dependent upon the nature of the means employed. The use of conventional weapons is far more conducive to geographical limitations, or area restraints, than would be the use of nuclear weapons. A nuclear bomb, even though only of tactical nature, dropped on the borders of combat area is liable to extend the combat area; and should the combat area be located close to the international border, the neighbouring state, whose territory would almost certainly be affected, may itself become directly involved in the conflict.

Another significant factor which plays an important part in keeping the war confined to a well-defined geographical area is the belligerents' reciprocal actions during the period of war. Each action and reaction

should be carefully weighed and reciprocated, if possible, in an identical manner or intensity. Each action and reaction communicates to the belligerents each other's real aims, as well as the extent to which they are both willing to go. It is a communication by deeds rather than by words.²² An inherent danger of this type of communication is that it is prone to misinterpretations, and misunderstandings of the actions and reactions involved. Therefore it is imperative that the attacking side should not only take into consideration the enemy's capacity to retaliate but also try to evaluate carefully the enemy's possible expectations and reactions. In a limited war "the state of enemy's expectations is as important as the state of his troops".²³ For example, a huge numerical superiority of an invading army may serve to indicate the importance which the leaders of the nation to which it belongs attach to their objective. However, this numerical superiority may also induce the numerically inferior defender to employ qualitatively superior weapons in order to match the invading army's fire power. Again, in case the defending country attaches an equal importance to the invader's objectives, it may prefer escalation to a limited defeat and, in the last analysis, resort to the use of tactical nuclear weapons. The responsibility for such a situation would clearly rest upon the invading country. For the defender, confronted by numerically superior forces, would justifiably have no alternative but to employ qualitatively superior weapons, including, if need be, the nuclear ones. Thus it is imperative for any potential attacker to consider carefully its opponent's military capacity, to evaluate its possible reactions, and thereafter to launch an attack, with a balanced force, so as not to compel its opponent to introduce tactical nuclear weapons.

Once the war is confined to a geographically limited area, the observance of sanctuaries can play an important part in preventing its escalation. The war sanctuaries can be divided into two categories: the internal sanctuaries, which are located within the war theatre and war region, and the external sanctuaries, which are located outside the region of war, including those within the territories of neighbouring states. The external sanctuaries are either used for ground bases, or for logistic purposes. During the Korean War, the North Korean planes used bases on the Chinese territory north of the Yalu river.²⁴ During the Vietnam war, the North Vietnamese and the Viet-Cong used Cambodian territory

also be limited in themselves. There exist two types of military means available to super powers ; nuclear means and conventional means. The nuclear means can be further subdivided into two categories ; the strategic nuclear weapons and tactical nuclear weapons. As far as possible, the means employed in a limited war should be of conventional nature, since "the available evidence suggests that nuclear war is considerably more likely to explode than is conventional war".¹⁶ Even the use of tactical nuclear weapons would not prove to be a useful step with regard to the maintenance of the limitations of limited war. In some cases, the use of tactical nuclear weapons may be regarded as justifiable, e.g., when the odds are heavily against one side and the objective is, though proclaimed limited, important enough to warrant the use of tactical nuclear weapons. Obviously, the side which contemplates the use of nuclear weapons in a limited war, even though only tactical nuclear weapons, is indicating the importance it attaches to the stated objective, and its willingness to drift towards the use of extreme means. Such a situation, if it occurs, will radically alter the original nature of the objective. For example, the defence of West Berlin is regarded as a symbol of NATO's determination to stand up to any Communist aggression in Europe. NATO has frequently expressed the importance it attaches to the defence of West Berlin, and has repeatedly warned the Communists not to entertain any designs of taking Berlin by force. Should the Communists decide to ignore these warnings, and try to capture Berlin by launching an attack with their enormous conventional forces, North Atlantic Alliance, which lacks the Warsaw Pact's conventional strength, would be obliged to employ tactical nuclear weapons. In such an eventuality it is likely that NATO might decide to punish the Communists for ignoring its warnings. This may take the form of annexing or destroying a considerable part of East German territory. It is equally possible that the Communists could themselves decide to retaliate with nuclear weapons in order to punish NATO for introducing nuclear weapons into the war. However, the primary responsibility for starting a drift towards total war would be upon the Communists, although NATO could still be held responsible in the eyes of the world as the instigator of nuclear war, because, as the first to use nuclear weapons, it is NATO who has crossed the 'nuclear threshold'. Each drift towards extreme means will cause modification in objectives.

This brings us to an aging controversy whether the means, or the objectives, are more important, in keeping a war limited. Brodie maintains

that "the restraint necessary to keep wars limited is primarily a restraint on means, not ends".¹⁷ On the other hand, Dr. Kissinger argues that keeping a war limited is essentially a political act, and goes on to assert the pre-eminence of political objectives.¹⁸ Both these assertions are poles apart, though both are equally unacceptable. For as Osgood has correctly stated, the "problem of limiting political objectives is inseparable from the problem of devising limited military means".¹⁹ In other words, objectives and means are interdependent ; any change in objectives would almost certainly entail alterations in military plans, as well as means, and a major change in military plans and means would generally cause a re-evaluation or modification of political objectives.

Sanctuaries

The third important limiting factor in modern limited war is the observance of sanctuaries in times of conflict. This may take the following forms :

- (A) A scrupulous observance of area restraint, or geographical limitation of war. This would help to restrict combat and active hostilities, within the actual 'theatre of war'. Combat should not in any case be allowed to spread beyond the 'region of war'. "The region of war is that part of the surface of earth in which the belligerents may prepare and execute hostilities against each other. The theatre of war is that portion of land, sea, or air in which hostilities are actually taking place. Legally, no place which is not the region of war may be made a theatre of war, but not every section of the whole region of war, is necessarily a theatre of war".²⁰
- (B) The observance of external sanctuaries, i.e., air and ground bases on the territory of a neighbouring state, and logistical facilities enjoyed by any of the belligerents on a neighbour's soil. The observance of these sanctuaries is largely dependent upon the observance of area restraint or geographical limitation of war. Frequently, these sanctuaries are in the neighbouring state's border regions. To destroy border sanctuaries means limited extension of the war region. But,

typology is fairly convincing. The difficulty arises when a war is fought between a super power, or its ally, and a medium or a small power. Restricted mobilisation of the resources of the involved super power may surpass the total mobilisation of resources of the opposing medium or small power. In that case, war may be regarded as limited from the super power's viewpoint, but it will certainly be considered as an unlimited war as far as the opposing medium or small power is concerned. Even a war which is being kept limited, because of the deliberate application of restraints upon objectives, means, area and targets, and is being fought between evenly-balanced powers, may not necessarily be a good example of a limited war. This is "because the relevant limits are matters of degree and perspective. Furthermore a limited war may be carefully restricted in some respects (e.g. geographically) and much less in others (e.g. in means, targets and objectives)".¹¹

It must be stressed here that the definition of limited war used in this chapter is primarily concerned with wars involving super powers, whether directly or indirectly. Later, the study will examine case studies outside this framework. Although small and medium powers can also consciously choose to apply some restraints in order to keep their wars limited, the absence of restraints in their case cannot possibly cause the death of civilization, or endanger the entire world. Perhaps that is why these wars are often referred to as local conventional wars, even though some of these may involve the full commitment of the belligerents' resources. The non-application of deliberate restraint in a war in which super powers are involved and which therefore has the potential for escalation, can spark off a total war, endangering the whole world. To avoid such an eventuality the application of deliberate restraint has been imperative.

Limitations

War has its own momentum and dynamics. Frequently the objectives are enlarged and means are increased during the actual course of fighting. Such a drift often occurs either because of the non-reciprocation of restrictive measures by the adversaries, or because of the misreading of the enemy's intention. If the belligerents want to avoid this undesired and unforeseen drift towards the extreme situation, they should be willing to limit their objectives and means at the outset of war, and be careful to observe the various sanctuaries. However, the most important requirements

for keeping the war limited are the limitations of objectives, and of the means employed to achieve them.

The objectives should be limited and clearly defined. Although the limited nature of the objectives "can be determined only in the light of the specific circumstances in which the war occurs",¹² yet the objectives can be such that they only require partial commitment of resources, and leave enough room for negotiations. The limited objectives would only be those objectives which are attainable within the restricted use of means. For example, "the Second World War was an unlimited war because the allies had an unlimited objective—'unconditional surrender' ".¹³ Such an objective was not attainable within the restricted use of means available to the allies, especially in the light of Germany's military strength. "In contrast, Vietnam was a limited war because the United States neither sought to defeat the North Vietnamese totally nor to impose 'unconditional surrender' terms on them. She simply aimed to perpetuate the existence of South Vietnam as an independent sovereign state—a limited objective".¹⁴ Such an objective was attainable without resorting to extreme means, such as the use of nuclear weapons. However, if the stated objectives require the use of extreme means, the objectives can no longer be viewed as limited. And there is always the danger of extreme means dictating the scale of war.

The objectives should always be clearly defined and repeatedly stated. The purpose of this exercise is to communicate clearly to the enemy the precise nature of one's objectives, and the extent to which one is willing to go to accomplish their attainment. Besides, the repeated announcements can also gauge the mood of one's own public, as well as that of the enemy's. However, if the objectives are not clearly defined and communicated to the enemy, the chances of misunderstanding are enhanced for the atmosphere in a confused conflict situation becomes the playground of what Baldwin has described as 'the allies of unreason'. "Fear, hysteria and emotions are powerful allies of unreason",¹⁵ and during a war they tend to contribute towards the enlargement of objectives as well as means. To avoid such an eventuality it is absolutely essential to define objectives clearly, at the outset, and to communicate them to the enemy with meticulous care.

The second important limitation is the limitation of military means. The means employed for the attainment of the limited objectives should

for their tactical attacks against the Americans and the South Vietnamese forces, as well as for infiltration into South Vietnam.²⁵ They, in addition, used the Laotian territory for logistic purposes; the Ho Chi Minh Trail passed through the Laotian territory.²⁶ The Palestinian guerilla groups have frequently used sanctuaries on Jordanian, Syrian and the Lebanese territories for their operations against Israel. During the Indo-Pakistan war of 1965, Pakistani planes used Iranian territory for refuelling and repairs.

It remains a moot point whether it is right for any of the belligerents to use sanctuaries on a neighbouring state's territory for operations of war. However, an attempt to destroy these sanctuaries either by bombing, or by launching an armed attack, often extends the war region. Such an action also runs the risk of provoking armed response from the country concerned, thereby not only extending the war region, but also involving another country in the area of actual hostilities. Shortly before the American 'sanctuary busting operations' in Cambodia were undertaken, General Wheeler, then Chairman of the Joint Chiefs of Staff, warned the then Secretary of Defence that these operations would not only run the risk of adverse political reactions at home and abroad, but could also force Cambodia to defend its soil.²⁷ Implicit in General Wheeler's warning was the fact that the the sanctuary busting operations run the risk of widening the war. In the event, the immediate result of American action in Cambodia was that the region of Vietnam War was extended, with Cambodia becoming directly involved in the war and a part of its territory remaining an actual theatre of war for quite some time.

The most important danger which the sanctuary busting operations entail is that of initiating a general or total war. Such an eventuality can only occur if the sanctuary bases happen to be on the territory of a big power, or on the territory of one of its allies. During the Korean War, the most important factor which restrained the U.N. troops from attacking North Korean bases on the Chinese territory was that such an action might invite Chinese and perhaps ultimately Soviet intervention, thereby starting a major war.²⁸ The question that arises here is 'why did the U.N. forces continue to accord sanctuary status to Chinese territory even after the Chinese had committed large number of their forces to active combat?' Two reasons account for this course of action. Firstly, the war aims of the Americans, who formed the bulk of U.N. forces, were to contain

communism and resist aggression occurring anywhere.²⁹ To expand the war or to launch a punitive attack upon China was never their objective. Secondly, withdrawal of sanctuary status accorded to China could have been seen to indicate the possibility, or even imminence, of a mission and direct American action against that country. The Russians could not have ignored such a possibility, for their allies might have viewed that as a sign of weakness, or indifference, to the fate of an ally.

The belligerents using external sanctuaries are often encouraged to make use of these because of two factors : either there is a sympathetic neighbour who is willing to let one of the belligerents use its territory for sanctuary purposes, or the neighbouring state, neutral or hostile, is so weak that it is unable to prevent the belligerents from an unauthorised use of its territory for their war operations. During the Korean war, the North Koreans were allowed to use the Chinese territory for sanctuary purposes simply because the Chinese were sympathetic to their cause. On the other hand, during the Vietnam War, the Laotians and the Cambodians were not strong enough to deny the Viet-Cong the use of their territories for sanctuary purposes.

The case of Palestinian guerilla groups, using Jordanian territory for sanctuary purposes, is a little more complicated than the above mentioned cases. As long as the interests and policies of the Jordanian Government coincided with that of the Palestinians, the Jordanian Government did not make any attempt to deprive the guerillas the use of their sanctuaries on Jordanian soil. Instead, the sanctuary busting operations were undertaken by the Israelis. Every time the Israelis crossed the international border in order to smash these sanctuaries, they not only violated the sanctity of international borders, but also risked strong condemnation by international public opinion. However, the case of the Palestinian sanctuaries only proves that sanctuaries are sometimes used because a neighbouring country is willing to let its territory be used for the said purpose.

The internal sanctuaries consist of Red Cross and medical installations, open cities, industrial centres, ports and harbours, dams and urban centres. The observance of internal sanctuaries requires deliberate and careful restraint on 'targetting'. The belligerents should not only try to avoid attacking the above mentioned targets, but should also accord a

The above mentioned sanctuaries have been observed in a number of modern limited wars. They have been observed not wholly because of conscious policy choices, but, in some cases, due to several other factors. These are explained in the following chapter.

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CASE STUDY I: OBSERVANCE OF SANCTUARIES

The Korean war was, perhaps, "the only pure example of a limited war in the atomic age in which the interests of great powers were directly represented".¹ It was a war in which deliberate restraint was applied in regard to the objectives, means and area of war. Although the example of deliberate restraint can be found in many other wars, it was perhaps the first war in the post-world war era in which not only was restraint deliberately applied but the observance of external sanctuaries was also practised. It is because of these reasons that in this study the Korean war has been chosen as a case study of external sanctuaries.

The other case study is that of the Arab-Israeli war of 1967. It may not be regarded by some as a clear cut example of observance of internal sanctuaries, but the fact remains that it was a war in which there was a comparatively higher degree of observance than violation.

The Korean War

On June 25, 1950, the North Korean forces crossed the 38th parallel and launched an attack upon South Korea with one armoured and nine infantry divisions.² Defending against them were four South Korean divisions and a regiment. Hopelessly outnumbered, the South Koreans could not stop the invaders and were soon forced to retreat.³ Realising his country's inability to defend itself against the Communist forces, President Rhee made frantic requests to the United States for military aid. The immediate response of the American government was to seek an emergency meeting of the United Nations Security Council. Within six hours of the attack, Trygve Lie arranged an emergency meeting of the Security Council. The Council passed a resolution calling for an immediate ceasefire and a withdrawal of all North Korean troops to the north of the 38th parallel.⁴ Nonetheless, the North Korean troops continued to push southward, with their leaders claiming that their soldiers were doing no more than liberating such parts of Korea as had fallen victim to aggression by the "puppet Syngman Rhee".⁵ Thus within two days of its first resolution, urging ceasefire and withdrawal, the

Security Council passed another resolution calling upon the member countries to help South Korea repel the North Korean aggression.⁶ Immediately afterwards, President Truman "asked U.S. air and sea forces to give the Korean government troops cover and support."⁷

At this juncture, it seems pertinent to explain the urgency and decisiveness of the Americans' action, especially since they had already omitted Korea from their "line of defence in Far East."⁸ Two main reasons account for this action. Firstly, the Americans intervened because they genuinely believed that the attack upon South Korea was "part of a general Communist plan for expansion and perhaps a prelude to general war."⁹ "Moscow, in an effort to expand the Communist sphere of interest, tried to overrun South Korea using its two satellites China and North Korea as its agents for this purpose, and itself being involved only as the supplier of material."¹⁰ The Americans were, at the time, convinced that "if this aggression went unchecked it would be the first of a chain of aggressions that would destroy the foundations of international security and eventually cause a third world war."¹¹ That is why the war in Korea was described by General Omar Bradley "as a preventive limited war aimed at avoiding World War III."¹² However, the overt nature of the attack made it easier for the American decision makers not only to intervene immediately, but also to convert this intervention into a United Nations "police action—a matter of great importance both abroad and within the United States."¹³

The other important reason behind the prompt American intervention was the prevalent feeling that such an immediate and determined action was necessary "to convince the West Europeans that the United States would come to their aid" in case of Communist aggression in Europe.¹⁴ The Europeans had already experienced the "rape of Czechoslovakia and the Berlin blockade in 1948," and were becoming increasingly apprehensive of the Communists' aggressive designs in Europe.¹⁵ With a view to restoring the Europeans' confidence, and also to making it less tempting for the Communists to make any aggressive moves in Europe, the North Atlantic Treaty was signed in 1949. However, although the Americans had committed themselves to defend Europe, European nations were far from fully reassured. This was because of Stalin's generally intransigent attitude and the threatening overtones of his policies. To convince the Europeans that in the event of a Communist attack America would stand by them, and simultaneously to convey to the Communists that any

aggression against Western Europe would not be allowed to succeed, the Americans decided to intervene in Korea, which had once been declared a strategically unimportant area.

By the time the American forces arrived at the scene, the South Korean army had been virtually defeated and pushed behind the Pusan perimeter. Pusan, of course, was steadfastly held by the combined forces of South Korea and the United States, defying the continuous North Korean attacks. In fact, it was due to the speedy arrival of the U.N. forces, and the Americans' "saturation bombing"¹⁶ of North Korean concentration points, that the swift advance of the Communist forces was effectively checked. Another factor which helped the U.N. forces to quickly establish their hold over the Pusan area was the almost total absence of the Communist airforces. There was no Communist bombing of the airfields, the U.N. warships and the port of Pusan.¹⁷

Despite Americans' saturation bombing, the North Koreans held their positions around the Pusan area, and the war began to drift towards a stalemate. Ultimately, it was MacArthur's shrewd tactic of an amphibious landing at Inchon which radically altered the course of war. "On 15th September, in a dramatic move MacArthur landed the marines at Inchon, from where they were able to break the North Korean offensive, and on 30th September, with the enemy in full retreat, U.S.-U.N. forces actually regained the 38th Parallel."¹⁸

At this juncture the objective set by the Security Council's June resolution had been achieved, i.e., the North Korean invaders had been pushed behind the 38th parallel. At the outset of war the above mentioned objective had been clearly defined by Dean Acheson, who stated that "the United Nations were fighting in Korea solely for the purpose of restoring the Republic of Korea to its status prior to the invasion from the North".¹⁹ During the first highly tense weeks of the war, neither the U.N. nor the Americans had dropped any hint that the proclaimed objectives would be reappraised in case the changed military situation so required. It seems that shortly after MacArthur's successful advance to the 38th parallel both the Americans and the United Nations changed their minds, and enlarged their objectives. "On September 27, General MacArthur was told by the Joint Chiefs of Staff that his military objective was now the destruction of the North Korean Armed Forces in North Korea".²⁰ Eleven

days after this communication, the U.N. General Assembly approved a resolution which authorised the U.N. forces to cross the 38th parallel.²¹ This they did the following day.

The obvious question that needs answering here is the reason behind this major change of objectives on the part of the Americans, as well as the United Nations. Various explanations and reasons have been put forward. One is that the Americans' change of objectives was "dictated by tactical necessity ; a halt would have surrendered the military initiative to the Communists and left the American led forces awaiting a second major offensive when the enemy had nursed his wounds and recovered his strength."²² Implicit in this view is the fact that the American Commander wanted to deny the North Koreans any time, or opportunity, for the regrouping and reorganisation of their badly mauled and scattered army units. Another view is that if the U.N. forces had stopped at the 38th parallel, the chief objectives, as expressed in the Security Council's resolution,²³ would have been accomplished, but that the crossing of the parallel meant that the U.N. forces attempted to unify Korea exactly in the same way as the North Koreans had attempted a few months earlier.²⁴ Dean Acheson, however, disagreed with this view, asserting that "the crossing had not been aimed at the military unification of Korea but only a round-up of the remnants of the North Korean Army". He further emphasised that the enforcement of the Security Council's June resolution, requiring the U.N. forces "to repel the armed attack and to restore international peace and security in the area", would have been impossible to achieve "if there were people on the other side coming over and fighting you."²⁵ Whatever considerations may have influenced the decision to cross the 38th parallel, it can be safely stated that throughout the war, the U.S. "was operating without any general theoretical notions of the nature of local war in the atomic age, and its decisions were probably affected by the lack of such theory."²⁶ The absence of such a theory was particularly reflected in the manner in which the objectives were enlarged and later modified in accordance with dictates of the military situation.

"When MacArthur was authorised to cross the 38th parallel, he was especially directed to ensure that no U.N. aircraft, under any circumstances, were to fly north of the Yalu River."²⁷ "It was also stipulated 'as a matter of policy' that as he approached the boundary between Korea and China, he should use only Korean forces."²⁸ Although MacArthur expressed his disapproval of these restrictions he did not object to them

so strongly as he started doing following the entry of Chinese volunteers into the war. On 8th October his forces crossed the 38th parallel, spearheaded by the South Korean troops. For quite some time, no strong resistance was encountered by the U.N. forces, in their successful advance towards the Yalu River. However, in the first week of November, they were engaged by the Chinese volunteers, and their hitherto successful drive came to an abrupt halt. MacArthur firmly believed that the Chinese would never enter the war. When, during his Wake Island meeting with President Truman, the President questioned him regarding the likelihood of Chinese and Russian intervention, the General quite confidently said "very little". "Had they interfered in the first or second months it would have been decisive, we are no longer fearful of their intervention."²⁹ When the Chinese actually entered the war, MacArthur's immediate response was to order the airforce to bomb the main bridge on the Yalu River,³⁰ which was reportedly being used by the Chinese as their major entry point into Korea. Alarmed by MacArthur's action, the Joint Chiefs of Staff "urgently reminded the President of an agreement with the British not to bomb Manchurian targets without prior consultation with London," and simultaneously ordered MacArthur "to postpone all bombing of targets within five miles of the Manchurian border until further notice".³¹ Although MacArthur reluctantly suspended his bombing order, he was now getting restless and disillusioned with the Administration's conduct of war. He had hoped that in the event of the Chinese entering the war, such restrictions as the bombing of Manchuria would be lifted. However, when no such move was made by the Joint Chiefs of Staff, MacArthur started criticising the policy rather openly. When the U.N. forces experienced more reverses towards the end of November, he tried to shift the onus for reverses upon the Administration. This, along with his expressed dislike of Administration's conduct of war, caused the Truman-MacArthur controversy which eventually resulted in the dismissal of MacArthur.

MacArthur believed that there was no substitute for victory.³² In order to attain victory it was essential to lift restrictions upon what MacArthur was now describing as the "privileged sanctuaries of Manchuria."³³ It must be stressed here that these were the same restrictions to which MacArthur did not object as vehemently as he was now doing following a few reverses. On the other hand, the Administration believed that the bombing of Manchuria would not only escalate the war

and over-commit American resources, but also plunge U.S. into a full scale war with China. Such escalation could have expanded into a Third World War, involving the United States and the Soviet Union directly. The nature of the relationship between China and the Soviet Union at this point was such that the Soviet Union would have come to the aid of her Communist neighbour had her existence been threatened by the United States. Furthermore, a U.S. attack on China could well have had the effect of the Soviet Union taking retaliatory measures against Western Europe. The Administration was neither prepared nor willing to get involved in a global war. This objective was reiterated by President Truman when he informed the Americans about his decision to relieve MacArthur of his command. He said,

We do not want to see the conflict in Korea extended. We are trying to prevent a world war—not to start one.³⁴

Furthermore, the Joint Chiefs of Staff expressed serious doubts about the virtues of bombing Manchuria. They believed that such an action would involve America in "wrong war, at the wrong place, at the wrong time and with wrong enemy".³⁵ General Omar N. Bradley, the then chairman of the Joint Chiefs of Staff, stated that :

We do not believe the extension of the war by bombing would get decisive results. We have about 200 miles of enemy supply line to work on now and you would only extend that length back into Manchuria Normally you think of strategic bombing as going after the sources of production. The sources of production in this case are very largely out of reach of any strategic bombing because they are not even in China (i.e., they are largely in Russia) Taking on China is not a decisive move, does not guarantee the end of war in Korea and may not bring China to her knees It would increase the risk we are taking by engaging too much of our power in an area that is not the critical strategic prize. Red China is not a powerful nation seeking to dominate the world.³⁶

Clearly the Joint Chiefs of staff believed that war with China would neither provide any solution to the Korean conflict, nor reduce the Communist threat in its global perspective.

Another factor which influenced the Administration's conduct of war was the position of its allies. The war was being fought under the U.N. auspices, and the Administration was determined not to let it assume the appearance of an American-Communist conflict. When 'the doctrine of hot pursuit' beyond the Yalu River was put before America's U.N. allies, all 13 of them strongly opposed it.³⁷ Furthermore, the British Government, having secured President Truman's assurances, had already made it clear to Peking that the "U.N. forces had no designs on Chinese territory."³⁸ Consequently the Administration "felt obliged constantly to consult its Allies on policy and was influenced by their continuous efforts to halt the expansion of the war and to bring its conclusion."³⁹

As far as the military preparedness was concerned, the Americans were not adequately prepared for a major war in that part of the world. General Vandenberg categorically opposed "the extension of air war on grounds that his shoestring airforces would lose a war against any major opposition without a build up of another two years' duration". Furthermore, "to do an adequate job of bombing in Manchuria alone would purportedly require the entire U.S. airforce, thus leaving the United States 'naked' for several years from normal battle attrition."⁴⁰ It seems pertinent to point out here that the Administration was viewing the war in Korea in its overall containment strategy. Korea was not regarded as important area; in any case, not as important as Western Europe. Actually, the Administration plunged into the Korean war in order to convince the West Europeans that their scepticism regarding the American promises of support was ill-founded, and that in the event of any Communist aggression against them, the Americans would immediately come to their aid.⁴¹ If the Administration had extended the air war into China, then it would have had dangerously exposed Western European defences. The U.S. airforce was inadequate to defend the United States and Western Europe and, at the same time, fight a major war in Asia.

Soon after the dismissal of MacArthur truce negotiations were initiated, primarily because of the appeals and pressures from various leaders of the world community. The truce negotiations dragged on for almost two years and the Cease-fire Agreement was, eventually, signed on July 27, 1953.

Throughout the Korean war the combatants observed a number of restrictions regarding their military objectives and means, as well as the area of war. It was, by no means, an exemplary model of limited war in which the restraints were deliberately applied to the fullest extent, but it was a war in which the degree of 'deliberate restraints' was noticeably high.

Both sides applied restraint to their objectives although both sides never abandoned their minimum demands. For U.S. the minimum demand was that aggression should not be rewarded with high dividends. In other words, the invaders were to be pushed behind the 38th parallel and South Korea was to be kept outside the Communist bloc. After the Inchon landing, the U.S. objective expanded to include the destruction of the North Korean war machine. When the decision to expand the original objective was taken, the consensus at Lake Success was that the Chinese never really intended to join the war actively. It was felt that "if the Chinese had intended to come in, the best time was last July when they and the North Koreans could easily have pushed the U.N. forces off the peninsula at little cost to the Chinese".⁴² When the Chinese entered the war, the members of the Security Council, who had hitherto supported the Americans in active military support for South Korea, realised "that they could not mobilize a force in Korea that could stand against the Chinese Red Army",⁴³ and started to pressure the Americans to abandon their enlarged objective.

Consequently, under pressure from their allies and because of the general concern for the war's escalation to dangerous level, the Americans modified their objective, or rather reversed to their and the United Nations' original objective, i.e., the ejection of Communist aggressors from South Korea. As regards the Communists, once they had realised that they would not be allowed to capture South Korea, their minimum demand was the maintenance of North Korea's separate identity and independence. As far as the maximum demands were concerned, both sides had unsuccessfully attempted to do the same thing "namely the unification of the peninsula under the control of their own side".⁴⁴

Deliberate restraint was also applied to the means employed in the Korean war. Nuclear weapons were available to both sides in the sense that the U.S. possessed them and they could have been made available to either

China or North Korea by the Soviet Union, which had exploded its first such device in 1949. Only the U.S, at one stage of the war, seriously contemplated the use of nuclear weapons. However, due to prompt efforts of the British Government, and the general concern for world war, the idea was quickly abandoned.⁴⁵ There were, of course, other compelling reasons which influenced the decision not to initiate the use of nuclear weapons. "The nuclear stockpile was limited and earmarked entirely for the European theatre, especially the Soviet Union".⁴⁶ There were no suitable targets for nuclear strikes in Korea ; a fact constantly reported by the local U.S. Commander.⁴⁷

The Korean war also demonstrated the observance of geographical limitations. Both sides observed 'area restraint', as well as war sanctuaries, especially the external ones. The U.N. forces never crossed the Yalu River, and the U.N. airforce never bombed the Manchurian bases, which were frequently used by the North Korean planes. A number of considerations caused strict adherence to the observance of Manchurian sanctuaries. The principal reason, of course, was the expressed U.S. objective to fight only a limited war in that part of the world, and not to get involved in a major war. Clearly America chose to fight only a limited war in Korea. The inability of the U.S. airforce to cope with a major war in the area, and still be able to defend America, as the strategically more important areas such as Western Europe, further strengthened the above mentioned choice.

Another important factor which influenced the Americans to keep the war in Korea limited was the attitude of America's NATO allies. NATO countries strongly opposed the expansion of war in Far East "as they felt that they would become increasingly vulnerable to Soviet attack if more U.S. military strength was committed in Asia".⁴⁸ In taking this attitude they were firmly supported by the then Defence Secretary, Marshall, who regarded the defence of Europe far more important than any other area outside U.S. He was convinced that the "Russians wanted to tie the U.S. down in Korea while concentrating themselves on the far more valuable and vulnerable European continent."⁴⁹ Thus the sanctuaries were observed by U.S.-U.N. forces, because of an appreciation of the factors, discussed above, resulted in the conscious decision by the Administration to keep the conflict limited. Each of the above mentioned considerations played an important role, directly or indirectly, in the observance of sanctuaries in the Korean War.

The limitation, or extension of the war, by the Americans in the light of the above mentioned constraints is an important question for consideration here. It seems fairly reasonable to assume that Americans would have extended the war if the following factors and constraints had not been operative at the time. The American objective in Korean war was to contain Communism and to eject the aggressors from South Korean territory. In the pursuit of this limited objective they were determined not to get involved in a major war. As far as the attainment of this objective was concerned, they did not encounter any major difficulty. However, what caused the enlargement of the original objective, during the course of the war, and, subsequently, its modification, was, perhaps, their lack of experience of this type of war, and the prevalent uncertainty regarding Russian intentions. Although there were ample signs to suggest that North Korea's invasion of the South had taken place with the connivance and encouragement of the Russians, it was at the time very difficult to ascertain the exact nature of Russian intentions. The Americans were not sure whether the Korean attack was part of a premeditated general Communist offensive, or only a probing operation to test America's will and determination in regard to its containment policy. It was equally possible that the Communist invasion was intended as a diversionary tactic to shift the centre of attention from Europe to Asia. Nor were the Americans sure of the extent to which Russia would back North Korea and China, in case the war in Korea got out of hand. It was this element of uncertainty which played a significant part in preventing the expansion of Korean War.

Besides the element of uncertainty, the Americans were not willing to overcommit their military resources in that part of the world. Given the low state of American military resources at the time, overcommitment would have dangerously exposed not only such areas of greater strategic importance as Western Europe, but even the homeland itself. "If the Americans had expanded the war by bombing the Manchurian bases, the Russians and Chinese with Russian help had a number of ways of retaliating by means short of total war, such as increasing pressure on Taiwan,⁵⁰ which probably would have increased the scale and scope of warfare beyond America's ability to sustain the fight at a reasonable cost in men, money and equipments."⁵¹

Finally, America was under strong pressure from its U.N. and NATO allies, who were all urging extreme caution and restraint and advising against any action likely to result in the expansion of war. In the absence of these pressures, the Americans might have been tempted to escalate the conflict against China. For a Chinese defeat would have not only greatly enhanced the American prestige, but might also have enabled the Americans to accomplish the unification of Korea.⁵² On the other hand, one has to ponder what would have been the Russian attitude in such an eventuality. Like the Americans' commitments to their allies, the Russians were equally committed to the defence of Communist countries.

Another question that needs examining here is the reason behind the Chinese intervention, especially in view of the assurances given to them that the N.U. forces would not go beyond the Yalu River, and that all legitimate Chinese interests near the frontier would be respected. Allen Whiting suggests that it was not the concern for "safeguarding electric power supplies in North Korea or the industrial base in Manchuria that aroused Peking to military action. Instead, the final step seems to have been prompted in part by general concern over the range of opportunities within China that might be exploited by a determined, powerful enemy on China's door step. At the least, a military response might deter the enemy from further adventures. At the most, it might succeed in inflicting sufficient damage to force the enemy to compromise his objectives and to accord to some of Peking's demands".⁵³ China was facing innumerable problems at home. The Communists' take over was only one year old. They had yet to consolidate their hold throughout the country, and subdue large pockets of Kuomintang forces. Having consolidated his position in Taiwan, and still enjoying the firm backing of the Americans, Chiang Kai Shek was doing his best to re-establish his rule over the mainland. It was this threat, coupled with internal weaknesses that prevented China's immediate participation in the Korean War. Still the Chinese had made it clear that they would join the war if the U.S. crossed the 38th parallel.⁵⁴ In the later stages of the U.N. advance, however, the internal weakness "may have loomed as an impelling reason to engage the enemy across the Yalu before he capitalized upon the opportunities lying inside China herself".⁵⁵

The observation of sanctuaries in the Korean War was not limited to U.N. forces; the Communist forces also observed the sanctuaries.

“Despite the fact that United States planes, taking off from airfields in South Korea and Japan and from aircraft carriers, consistently bombed targets in North Korea, the Communists engaged in almost no bombing south of the 38th parallel”.⁵⁶ Although there was no lack of inviting military targets south of the 38th parallel, the Communists seemed to have accorded ‘sanctuary status’ to all the U.N. warships, aircraft carriers, the American bases in Japan and the port of Pusan. Why did the Communists observe these sanctuaries when their objective was to unify Korea by force? One view is that the Communists simply forgot to bomb the U.N. airfields in Japan and South Korea, aircraft carriers off the Pusan peninsula and the port of Pusan itself.⁵⁷ Another view is that the Communists’ airforce was incapable of long distance bombing operation.⁵⁸ Neither view seems to be very convincing. During the early months of the war, when the North Koreans had captured almost all of South Korea, with the exception of the Pusan area, they never attacked the above-mentioned sanctuaries. It does not sound very logical that Russian-built planes were incapable of striking at the sanctuaries especially if flying from the South Korean airfields which the Communists had already captured. Besides, such attacks need not have been only air attacks, they could also have been naval attacks. Admittedly the cost would have been enormous, but to say that the Communists were incapable of launching such attacks is not very convincing. Furthermore, the distances were quite short. If the Communist planes on bombing missions to Japan had been taking off from their Manchurian sanctuaries, then of course, the range would have been too long for them. This would not have been the case however if the bombing missions had taken off from South Korean airfields which had fallen to the Communists. The most plausible reason seems to be the Communists’ belief that since the U.N. was committed to the defence of South Korea, any Communist air attacks on aircraft carriers, the Japanese bases and the port of Pusan would only eventually invite retaliation on a gigantic scale, and not only against the North Koreans but also against China itself.⁵⁹ This was too large a risk to take, especially in the case of the Chinese, who were still in the process of consolidating their position on the vast Chinese mainland.

The Korean conflict demonstrated that deliberate restraints can be applied to war situations. The most striking restraints in the Korean War were in weapons and territory. Both sides refrained from the use of nuclear weapons. Both sides fought the war within the Korean peninsula.

Both sides observed sanctuaries. What seems important to determine here is whether or not the sanctuaries were observed due to unilateral voluntary action. The unilateral voluntary observance of sanctuaries "would presuppose that there was no mutual deterrence in operation and that the areas were protected by a general concern to keep the conflict limited."⁶⁰ The sanctuaries in the Korean war were not observed voluntarily, in the sense that both sides observed them for purely individual motives without taking notice of how the other side reacted to the self-imposed restraint. In other words, the question is—Would the Chinese and North Koreans have refrained from attacking U.S. shipping had the Americans not refrained from bombing targets north of the Yalu River? Equally, would the U.S. have limited its air interdiction to targets south of the Yalu, had the Chinese and North Koreans not refrained from attacking U.S. shipping? Once one side had demonstrated, albeit unilaterally, a willingness to underscore the limited nature of the conflict by observing a specific sanctuary, the other side reciprocated for precisely the same reason. Thus, an action-reaction process was established. Although the general concern to keep the war limited was demonstrated in one form or the other, it was the existing mutual deterrence coupled with certain constraints which contributed heavily towards the observance of sanctuaries. For the Communists, the threat of retaliation and expansion of war was a very real fear throughout the Korean War, and their fears were somewhat strengthened when the Americans crossed the 38th parallel. For the Americans, the danger of involvement in a major war in that part of the world was real and unacceptable. For they believed that such an eventuality might call for direct Russian participation. Besides, the Americans' insufficient military preparedness, as well as the pressure of their allies, also acted as a restraint. However, there is no doubt that the observance of sanctuaries not only contributed enormously towards limiting the conflict in Korea, but also established a process of tacit understanding and bargaining.

"National boundaries are unique entities. So are the rivers and shorelines. A national boundary, marked by a river, as the boundary between Manchuria and North Korea was marked by the Yalu River, is doubly distinctive."⁶¹ Such geographical landmarks have all the basic characteristics necessary for what Schelling calls 'the focal-point solutions'.⁶² They are conspicuous and unambiguous. To set geographical limits for the region of war, such landmarks are useful and easy to agree upon.

When the area beyond these landmarks is accorded sanctuary status, the combatants can easily deduce and understand the adversary's intention to keep the conflict limited. It is a kind of bargaining through actions rather than through words. This is precisely what happened in Korea. A tacit understanding and bargaining became operative as soon as both sides started according sanctuary status to certain areas.

The Arab-Israeli War, 1967.

Any impartial study of the long Arab-Israeli conflict would reveal that unless it suited their military and political interests, the belligerents were not particularly keen to observe the various laws and conventions of warfare. This was not so much because of their mutual hatred of each other, as the apparent irreconcilability of their aims and objectives. The Arabs' original objective was the elimination of the Zionist Israel, and the restoration of Palestine as a predominantly Arab state. As regards the Israelis, all they have always claimed to seek was "to make the Jewish state secure".⁶³ This, of course, the Arabs have always dismissed as a euphemism to rationalise Israel's territorial ambitions at their expense. The determination with which the two sides have pursued their objectives required a somewhat fuller commitment of their military resources. Again, the importance which both have attached to their objectives has caused them to accord scant respect to laws and conventions governing the conduct of warfare. Thus in all the Arab-Israeli wars, the one fought in June 1967 was the only war in which these laws and conventions were partially observed.

The war of June 1967, or the Six-Day war as it is often called, was actually initiated by the Israelis on the morning of 5th June 1967,⁶⁴ when, in a pre-emptive strike, the Israeli air force "managed to surprise and destroy Arab planes on the ground which, in turn, enabled them to overwhelm Egyptian land forces and armour".⁶⁵ For without effective air cover the Egyptian army had no chances whatever in a desert war against the Israeli land forces, supported by their highly skilled air forces. As a matter of fact the Israelis had won the Six-Day war during the first three hours of their pre-emptive strike, which gave them a complete mastery of the skies. Realising the significance of this crucial factor as early as on June 8, President Nasser ordered his representative at the

U. N. to accept a cease-fire. He also sent the following message to his Syrian counterpart :

I tell you in all honesty that we are defeated and I appeal to you to accept cease-fire so that the Syrian Army will not be destroyed.⁶⁶

Having attained the complete mastery of the skies, the Israeli landforce swiftly moved into the Arab territories, and within six days not only gained a 'resounding victory', but also secured what they considered as the defensible borders. They took many strategically valuable Arab areas like the Golan Heights from Syria, the West Bank from Jordan, and Sinai from Egypt. The capture of these areas made Israeli borders far more secure than was the case in the past.

Throughout the Arab-Israeli conflicts the Israelis never achieved as complete a victory as they did in 1967, and never before was the observance of rules governing the conduct of warfare regarded as important as in 1967. Why was the degree of observance of the rules of warfare so high in the 1967 War, and not as great in their other clashes with the Arabs? Having acquired complete mastery of the skies, and with their land forces advancing in all directions, why didn't they attempt to smash the industrial and commercial centres of the Arabs, thereby rendering them ineffective for a very long time? Why didn't they bomb the Aswan Dam and ports of Egypt? Why didn't they destroy the industrial centres of Syria; thus wrecking the Syrian economy?

What is implicit in these questions is the fact that in 1967 Israel applied conscious restraint, and accorded respect to the laws governing the conduct of warfare. By contrast, during the previous Arab-Israeli wars, and also in the 1973 conflict the Israeli record of the violations of war laws was no better than that of the Arabs. For instance, in 1948, the Egyptian airforce had bombed Tel Aviv.⁶⁷ Both in 1948 and 1956, the city of Jerusalem experienced bitter fighting, and a lot of civilians, Arabs as well as Jews, lost their lives.⁶⁸ During the 1973 war, the Syrians fired some 20 missiles on civilian settlements in northern Israel, whilst the Israelis bombed Damascus.⁶⁹ On the Egyptian front, the village of Meet Assim was bombed and scores of innocent peasants, including women and children, killed.⁷⁰ The bombing of Damascus,

though unfortunate, was perhaps understandable as a number of military targets were located within its bounds.⁷¹ However, there was no justification whatsoever for the bombing of Meei Assim, as there was no military target within many miles of that essentially civilian habitation.⁷²

In 1967, the Israeli jets could have bombed any target at a negligible cost. Yet they scrupulously avoided the bombing of civilian centres and non-military targets.⁷³ However, the story was different during the 1973 War, when, according to the International Red Cross, the combatants did not observe the Geneva Convention rules designed to protect civilians. The Red Cross urged the combatants to observe the rules.⁷⁴ Again, in contrast with 1967, in 1973 the Israeli jets carried out deep bombing raids against the Arab industrial centres. They attacked oil refineries at Homs, the Mediterranean terminal for Iraqi crude oil at Banias, fuel tanks at Adra and Latakia, and the port of Tartous.⁷⁵ While Port Said was attacked during the 1967 War, the attack was undertaken by Israeli destroyer and torpedo boats, and not by aircraft.⁷⁶ However, what is imperative here is to seek a logical explanation for the Israelis' observance of the rules of warfare during the 1967 War. This because during that war the Israelis were in a commanding position, and could easily have flouted any rules or conventions. On the other hand, the Arabs were neither in a position to inflict heavy damage upon the Israelis nor to flout the rules in case they wanted to. This is why this discourse has concentrated on the combatants that dominated the course of war, and swiftly achieved a stunning victory over its adversaries.

Two important factors account for Israeli restraint during the June war of 1967. The principal restraining factor was, of course, the nature of Israeli objectives. During the late sixties Israel was fast becoming conscious of the fact that "the balance of power was gradually shifting against her",⁷⁷ which was perhaps caused by the massive 'military hardware' poured into Arab states by the Russians. Thus Israel was waiting for an opportunity to tilt the balance in her favour. The desired opportunity was provided by President Nasser when he closed the Straits of Tiran, claiming that it was within the Egyptian territorial waters and that by closing it the Egyptians had done nothing but exercise the rights of Egyptian sovereignty.⁷⁸ The Egyptians had also requested the U.N. to pull out of Sinai and had moved their own troops close to the Israeli frontier. Alarmed at these Egyptian moves, the Israelis decided to strike first and to have all the advantages of surprise in their own

favour. True it cost them dearly in terms of the world opinion.⁷⁹ For the Israelis' claim that the Egyptians, in closing the Straits of Tiran, had actually initiated the 1967 War is essentially a controversial one. The Egyptians have always disputed it, maintaining that their pre-war moves were simply intended to prevent an Israeli invasion of Syria, and that they had no intention whatsoever of attacking Israel. In any case the Israelis were too clever to unnecessarily flout the already critical world opinion. Hence their scrupulous care not to violate any of the rules or conventions of war. Besides, their objective was to tilt the military balance in their favour, and the successful pre-emptive strike had put them in a favourable position to achieve this objective quickly. Consequently the Israeli airforce concentrated only on the bombing of military targets, and to giving necessary air cover to their land forces.

Thus the Israelis refrained from any acts that could earn them further adverse publicity. The restraint was to last a mere six days, the actual duration of this remarkable war. The result was a total realisation of Israel's immediate war objectives, i.e., the tilting of the Middle East balance of power in her favour, and the destruction of the Arab's recently acquired military hardware.

The second major factor which influenced Israel's decision to apply restraint with regard to the enemy's financial and industrial centres, dams, ports and harbours was the effect which the alternative course of action could have had to harden the Arabs' attitudes towards Israel, and thus, in practice, further impede the prospects of the Israelis achieving ultimate objectives, i.e., their right to exist in the region with full recognition of the surrounding Arab states. Operationally, during the course of the war, it was quite possible for Israel to wreck the economy of the Arab states. However, the wrecking of the Arab economies would have not only jeopardised the Israelis' objective of living in peace with their neighbours, but also created a deep mistrust of Israel's future intentions in the area. The Israelis recognised the fact that their conflict with the Arabs is essentially a political problem, and it cannot be solved by military means. Military means may provide a short lived advantageous settlement, but a lasting solution has to be sought through political means such as 'peaceful negotiations'.⁸⁰ Therefore, Israel did its best to avoid all such acts during the 1967 War as could further and irretrievably harden the Arabs' attitude towards her. Of course, the June war "engendered bitter

anti-Israel feelings even in those states which had been not too greatly concerned with the Palestine question in the past."⁸¹ This was, perhaps, the natural outcome of a shocking and humiliating Arab defeat, and of the Israeli occupation of vast Arab territories. It can be argued that after the Israeli airforce had destroyed the Arab airforce, on the ground, on the morning of 5th June, it was inevitable that the Israeli ground forces would achieve a decisive victory. In consequence, there was no necessity to attack civilian targets or industrial centres, etc., since the dual objectives of enhancing the security of Israel's frontier and destroying the Arab military machine would be met.

Among the specific targets not subjected to bombing, and since discussed in various accounts, was the prestigious Aswan Dam. Besides maintaining the image of a fair player, Israel refrained from bombing the Aswan Dam because of the presence of a large number of Russian experts and advisers, still engaged in the completion of the project. It is believed that by the end of 1966 there were more than 600 Russians working on the Dam.⁸² Any casualties amongst its nationals engaged in a non-military project could have forced the Russian government to take strong measures against Israel. This, in turn, could have started a major war in the area. Neither Israel nor its major supporter, the United States, desired such an eventuality. Moreover, the Aswan Dam was located far from the actual theatre of war. Any Israeli attempt to bomb it would have been seen to indicate her desire to wreck the Egyptian economy.

Glaring contrast emerges when Israel's behaviour and attitude towards the Arabs in 1967 war is compared with that of 1973 war. In 1967, attacks on Arabs' industrial sites, commercial and population centres were scrupulously avoided, whereas in 1973 many of these sites were deliberately subjected to various attacks. The primary reason behind Israel's decision to wreck the Arab economy in the 1973 war was that this time Israel's own losses in terms of men and material were far greater than in the previous clashes. "According to Israeli sources in Europe—that Israel was going to need at least six years to recover from this war : to repair the damages both to its military machine and to its economy. Therefore, the Arabs had to be so injured that they too would need at least six years to recover."⁸³ The Israelis did not have the complete air superiority which they had enjoyed in 1967, because of the Air Defence Systems employed by the Arabs, notably Egypt and Syria. Thus, they were unable

to mount an air attack of the size and scale necessary to inflict severe damage on the Arab economies. In addition, again as distinct from 1967, there was the possibility of Egyptian and Syrian retaliation on Israeli towns and cities, using Soviet supplied FROG Surface to Surface Missiles.

The Korean War and the Arab-Israeli war of 1967 demonstrated that the sanctuaries could be and had been observed. In the Korean War external sanctuaries were observed whereas in the Six-Day war a high degree of internal sanctuaries were observed. In both cases the sanctuaries were not observed because the observance was part of the code of warfare, but because certain restraining factors were operative at the time. Whether the combatants in the above mentioned wars would have observed the sanctuaries in case the said restraining factors had not been operative is a debatable question, but this can be safely stated that the observance of sanctuaries did help in keeping the wars limited.

Notes

1. Akerman, N: *On the Doctrine of Limited War (Translated by Keith Bradfield)*. Lund: Berlingska Boktryckeriet, 1972, pp. 85-86.
2. *Chamber's Encyclopaedia*. London: Pergamon Press, 1966, vol. VIII, p. 267.
3. Leckie, R.: *The Korean War*. London: Barrie & Rockliff with Pall Mall Press, 1963, p. 42.
4. *Ibid.*, p. 48
5. Cuttmann, A. (ed.): *Korea and the Theory of Limited War*. Boston: D. C. Heath and Company, 1967, p. 1.
6. *Ibid.*, p. 3.
7. *Ibid.*, p. 2.
8. "The American government's low estimate of Korea's strategic importance was reflected in the words of high military and political authorities as well as in the disposition of forces. In the spring of 1949, before the National Security Council had reviewed the situation in Korea, General MacArthur, Supreme Commander of Allied

Powers, outlined in a newspaper interview an American 'line of defence' in Far East that omitted the Korean peninsula. On January 12, 1950, Secretary of State Acheson, in a speech before the National Press Club, delineated the same American 'defensive perimeter', from which he also omitted Korea''.

- Osgood, R.E. : *Limited War : The Challenge to American Strategy*. Chicago : The University of Chicago Press, 1957, p. 164.
9. Halperin, M.H. : *Limited War in the Nuclear Age*. New York and London : John Wiley & Sons, 1963, p. 39.
10. Akerman, *op. cit.*, pp. 86-87.
11. Osgood, *op.cit.*, p. 165.
12. Halperin, *op. cit.*, p. 39.
13. Brodie, B. : *War and Politics* : New York and London : The Macmillan Company, 1973, p. 62 .
14. Halperin, *op. cit.*, p. 40.
15. Brodie, *op. cit.*, p. 62.
16. Rees, D. : *Korea : The Limited War*. London : Macmillan & Co., 1964, p. 46.
17. Brodie, B. : *Strategy in the Missile Age*. Princeton : Princeton University Press, 1959, p. 328.
18. Horowitz, D. : *From Yalta to Vietnam*. Harmondsworth: Penguin Books, 1967, p. 124.
19. Spanier, J.W. : *The Truman-MacArthur Controversy and the Korean War*. Cambridge: Harvard University Press, 1959, pp. 88-89.
20. Higgins, T. : *Korea and the Fall of MacArthur*. New York : Oxford University Press, 1960, p. 53.

21. *U.N. General Assembly Resolution of October 7, 1950.*

U.N. Recommends that

- (a) All appropriate steps be taken to ensure conditions of stability throughout Korea ;
- (b) All constituent acts be taken, including the holding of elections, under the auspices of the United Nations, for the establishment of a unified, independent and democratic government in the sovereign state of Korea ;
- (c) All sections and representative bodies of the population of Korea, South and North, be invited to co-operate with the organs of the United Nations in the restoration of peace, in the holding of elections and in the establishment of a unified government ;
- (d) United Nations forces should not remain in any part of Korea otherwise than so far as necessary for achieving the objectives specified in sub-paragraphs (a) and (b) above ;
- (e) All necessary measures be taken to accomplish the economic rehabilitation of Korea. . ."

Clause (a) of the recommendations could easily be interpreted in favour of crossing the 38th parallel. Clause (b) further strengthens the case for crossing the parallel. It is obvious that none of the recommendations mentioned in clauses (a) and (b) could be achieved without having crossed the parallel and established the firm U.N. control over North Korea.

Guttman, *op. cit.*, pp. 7-8.

22. Spanier, *op. cit.*, p. 89.23. *U.N. Security Council ; Resolution of June 27, 1950.*

"The Security Council,

Having determined that the armed attack upon the Republic of Korea by force from North Korea constitute a breach of the peace. Having called for an immediate cessation of hostilities, and, Having called upon the authorities of North Korea to withdraw forthwith their armed forces to the 38th parallel, and Having noted from the report of the United Nations Commission for the Korea that the authorities in North Korea have neither ceased hostilities nor withdrawn their armed forces to the 38th parallel and that, urgent military measures required to restore international peace and security, and Having noted the appeal from the Republic of Korea to the United Nations for immediate and effective steps to secure peace and security, Recommends that the Members of the United Nations furnish such assistance to the Republic of Korea as may be necessary to repel the armed attack and to restore international peace and security in the area."

Guttman, *op. cit.*, pp. 2-3.

24. Horowitz, *op. cit.*, pp. 125-26.
25. Spanier, *op. cit.*, p. 89.
26. Halperin, *op. cit.*, p. 44.
27. *Encyclopaedia Britannica*. London and Chicago: William Benton, 1970, p. 470.
28. Brodie, *War and Politics, op. cit.*, p. 71.
29. Guttman, *op. cit.*, p. 8.
30. Higgins, *op. cit.*, pp. 67-68.
31. *Ibid.*
32. Guttman, *op. cit.*, p. 13.
33. Higgins, *op. cit.*, p. 103.
34. Guttman, *op. cit.*, p. 14.
35. *Time*, May 28, 1951. p. 11.
36. *Ibid.*
37. *Time*, May 21, 1951, p. 14.
38. Higgins, *op. cit.*, p. 74.

39. Halperin, *op. cit.*, p. 40.
40. Higgins, *op. cit.*, p. 155.
41. Halperin, *op. cit.*, p. 40.
42. *Time*, December 11, 1950, p. 18.
43. *Ibid.*
44. Akerman, *op. cit.*, p. 89.
45. *Ibid.*, p. 90.
46. Brodie, *War and Politics*, *op. cit.*, p. 64.
47. Brodie, *Strategy in the Missile Age*, *op. cit.*, p. 319.
48. *Encyclopaedia Britannica*, *op. cit.*, p. 472.
49. Higgins, *op. cit.*, p. 161.
50. Rees, *op. cit.*, pp. 171-72.
51. Osgood, *op. cit.*, p. 183.
52. *Ibid.*
53. Whiting, A.S. : *China crosses the Yalu*. Stanford : Stanford University Press, 1968, p. 159.
54. K.M. Panikkar, who was at the time India's ambassador in China, conveyed to the U.N. Command the Chinese warnings to intervene if the 38th parallel was crossed.

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CASE STUDY II : VIOLATION OF SANCTUARIES

The Vietnam War

The Vietnam war demonstrates a high degree of violation of the clauses of Geneva Agreement, and of the other rules governing the conduct of warfare. For instance, according to a special report which the International Commission for Supervision and Control in Vietnam submitted in 1962, the North Vietnamese had violated "Article 10 providing for a complete cessation of hostilities, Article 19 not to use the regrouping zones for resumption of hostilities to forward an aggressive policy, Article 24 not to violate the demilitarized zone and to respect the territory under the military control of the other party by committing no act or undertaking no operation against it, and Article 27 to ensure full compliance by all elements of military personnel under the command of North Vietnamese authorities".¹ The Commission also reported that South Vietnam had violated "Articles 16 and 17 of the Geneva Agreement in receiving increased military aid from the United States which the Republic of Vietnam had not deducted from the credit it had received for military equipment which had been worn out or removed from Vietnam".² Apart from the above mentioned violations of military provisions of Geneva Agreement, the major political clause requiring the holding of elections in 1956 was never honoured.

Similarly, throughout the course of the war the belligerents showed scant respect for laws governing the conduct of warfare. The International War Crimes Tribunal concluded in 1967 that these had been frequently violated.³ It seems relevant to point out that the Tribunal's findings were restricted to crimes alleged to have been committed by the U.S. and its allies.⁴ It did not concern itself with the war crimes committed by the Communist forces. In fact, none of the belligerents was free from gross violations of the various laws governing the conduct of warfare, although each justified his violations on the grounds of military necessity, or just blamed them on the complex nature of the Vietnam War.

The Vietnam War was a unique and probably the most complicated war of this century. It was a civil war; a war of liberation; a conventional limited war and a proxy war, all in one. Perhaps it was because of the complex nature of this war, that the degree of disrespect accorded to the laws of warfare was very high. However, this chapter is not intended to list the various violations of the laws of warfare which occurred in Vietnam. Its real purpose is to survey the major sanctuaries and sanctuary busting operations, and to ascertain their role in the expansion of Vietnam war. It must be emphasised here that the Vietnam war was not a classic model of the violation of sanctuaries. In fact, there was a fair degree of observance as well.

As most of the 'sanctuary-busting' operations were undertaken by the Americans and their allies, the emphasis should be upon the American conduct of warfare in Vietnam. Although the Americans' association with Vietnam began as far back as 1945, their active and direct involvement in Vietnamese affairs dates from the Geneva Conference of 1954, and was the result of their containment policy. In the post-1954 period, American commitments to allies in South-East Asian countries gradually increased. Thus, in 1962, at the invitation of the Saigon Government, the Americans undertook the job of training and advising the South Vietnamese armed forces. Although the following years witnessed a gradual increase in American military personnel and equipment, the war did not escalate until as late as 1965. Again it was in February 1965 that the Americans decided to intervene directly, and to initiate bombing attacks upon North Vietnam "in reprisal for Viet-Cong attacks on United States' and South Vietnamese' installations."⁵ The story beyond the year 1965 is one of rapid escalation of war and of mounting number of American troops on combat duties in Vietnam. By the end of year 1968 the number of American troops was well over 500,000.⁶

The period during 1965-71 witnessed the violations of external as well as internal sanctuaries. Among the external sanctuaries which were violated either by the Americans themselves or by the American-led operations were the well known Viet-Cong and North Vietnamese sanctuaries in the eastern regions of Laos and Cambodia. The internal sanctuaries which were grossly violated included the cities, hospitals and medical installations, schools and places of worship, harbours, dams and irrigation

projects. As will be discussed in this chapter, the great majority of these violations were deliberate and not accidental.

The Laotian Sanctuaries

As far as the Vietnam war was concerned the most important sanctuary in Laos was the so-called Ho Chi Minh trail. The Ho Chi Minh trail was the major supply route used by the Communist forces. It linked the combat area in the South Vietnam with North Vietnam, and ran through the eastern regions of Laos. The trail was not a single path, it was a whole network of indistinguishable paths.⁷ Camouflaged by natural vegetation, the trail was probably the most ideal supply route for an army whose rate of mobility was far less than that of its enemies. The trail was studded with well concealed storage depots, repair workshops, resting places, training schools and field hospitals.

Ever since the beginning of the Vietnam conflict the trail had been firmly controlled by the Communist forces, and used by them for southward bound supplies of men and material. For its defence the Communist troops not only regularly patrolled the area, but also installed many anti-aircraft guns along the trail.

Throughout the Vietnam war, Hanoi's objectives in Laos seemed to be of secondary importance when compared with its objectives in South Vietnam. The main prize had always been South Vietnam itself, and not Laos or Cambodia. The need to maintain absolute control over the trail, however, had often played an important role in the formulation of Communist objectives in Laos. Whenever a major offensive against South Vietnam was in the offing, Hanoi employed diversionary attacks upon the strategically important positions in Laos. Just before the Tet offensive of early 1968, the Communists attacked a number of carefully selected, and strategically important, targets in Laos. The objective of such attacks "was not to win a sudden victory or foment a popular uprising, as in South Vietnam, but to defend the trail system and divert and disperse Lao forces in the North".⁸ On 13 January 1968, the North Vietnamese attacked Lao positions in the Nam Bac valley; an area relatively away from the trail.⁹ The purpose of this attack was not to get too deeply involved into the Laotian conflict, but "to drive away the menace on the west flank of the North Vietnamese, who occupied most of the territory

to the east of Nam Bac town, and to draw as many Lao troops as possible into the region to facilitate the passage of North Vietnamese regiments along the Ho Chi Minh trail."¹⁰ A month later the Communist forces also surrounded a number of towns which happened to be either too near or on the trail itself; for instance, the towns of Saravane and Attopeu.¹¹ Such tactical attacks indicate the strategic importance which the North Vietnamese attached to the absolute control of the trail. The partial destruction or loss of the trail would have meant not only a disruption of the supplies so vital for the prosecution of the war in south, but also the endangering of sanctuaries which were in constant use for the regrouping and recuperation purposes. The Communists' 'Phoenix-like ability'¹² to recuperate was very much dependent upon the safety and security of their sanctuaries on the trail system.

At this juncture it seems pertinent to point out that the Communist sanctuaries in Laos were greatly facilitated by the precarious peace situation created by the Geneva Accord of 1962. The Geneva Accord "established a troika government in Vientiane and called for the withdrawal of all foreign troops; it also in principle ratified the de facto partition of the country."¹³ Since then, in close cooperation with their Vietnamese comrades, the Laotian Communists had made sure that eastern Laos remained under their firm control. In fact, the presence of Vietnamese troops on the trail constituted a violation of the Geneva Accord. But the North Vietnamese never openly admitted their presence in Laos, always maintaining that it was the Pathet Lao troops who were controlling eastern Laos as well as the Ho Chi Minh trail. Perhaps it was because of the fear of being branded as the violators of the Geneva Accord that the Communist forces did their utmost "not to succeed too well in their continual skirmishing with Royal Lao troops. Overdoing it on the Lao battlefields would upset the precarious balance between the two halves of Laos and would thus justify allied intervention under the Geneva treaty."¹⁴ However, at times, this balance was upset and, whenever it was, it not only hardened the attitude of Laotian rulers against the Communists, but also intensified the internal clashes between the Pathet Lao troops and the Royal Lao troops.

The Americans realised the strategic significance of the Ho Chi Minh trail, and the advantages which the trail and the sanctuaries associated with it accorded to the Communist forces. No wonder, immediately

after the escalation of the Vietnam war in 1965, they started the regular bombing of the trail. However, the bombing of the trail proved to be one of the most difficult tasks ever undertaken by the U.S. airforce, since it was almost entirely hidden under a solid canopy of trees. To make their sorties effective, the Americans developed a specialised type of aircraft known as a 'Gunship', which was equipped with "night time viewing detectors."¹⁵ The regular application of advanced technological air interdiction aids inflicted heavy losses upon the Communist forces, both in men and supplies. Despite the increased price of controlling the trail, however, the Communists continued filtering through their supplies. In 1969, it was reported that the Communists were still able to send through something like 7,000 to 10,000 troops everyday.¹⁶ Mr. Robert C. Seaman, the Secretary of the U.S. Air Force, announced in 1971 that during the years 1969-70 and 1970-71 the Communists managed to send through at least 30,000 tons of their material despite the regular bombing of the trail.¹⁷

The initial air interdiction operations of the trail were carried out covertly from the bases in Thailand¹⁸ with the tacit approval of Prince Souvanna Phouma. Later "permission for unrestricted bombing of the trail was obtained from the Prince at the cost of increased U.S. commitment of economic and military aid."¹⁹ In fact the continuous bombing of the trail by the Americans proved to be a useful balancing lever for the Prince against the Communists in the perilous situation of Laos. Ever since the coalition government fell apart in 1964,²⁰ the situation in Laos progressively worsened. During the subsequent years many efforts were made to find a workable solution for the deteriorating Laotian situation. But, as both sides consistently refused to compromise, the situation continued to deteriorate. Hanoi and the Laotian Patriotic Front, which is the political arm of the Pathet Lao, frequently expressed their willingness to seek a negotiated settlement of the Laotian problem, provided the bombing of the trail was completely stopped.²¹ On the other hand, Prince Souvanna Phouma maintained that the North Vietnamese had consistently violated the Geneva Accord of 1962, and that the bombing would only stop after the North Vietnamese had withdrawn all their troops from Laos.²² Such an uncompromising situation proved to be very useful for the Americans, who had little difficulty in obtaining Prince Phouma's permission not only to bomb Ho Chi Minh trail regularly, but also to increase their ground and air activities in Northern Laos.²³

Until February 1971, the sanctuaries on the trail enjoyed the status of being partial sanctuaries. These were not complete sanctuaries because ever since the active American involvement in the war they were regularly bombed. Two important questions arise here; firstly why did the Americans grant even the partial sanctuary status to the trail sanctuaries, and secondly, why did they eventually decide to withdraw this privilege and to launch a ground invasion in order to destroy them? The Americans refrained from undertaking an overt ground operation against these sanctuaries as late as 1971 because of the "diplomatic liabilities" involved.²⁴ During the years 1961-62, the Americans had actively worked for, and supported the neutralisation of Laos. The resultant Declaration and Protocol on the Neutrality of Laos stipulated the withdrawal of all foreign troops.²⁵ Having agreed to the requisite withdrawal, the Americans decided to refrain from violating Laotian neutrality and to desist from an overt military operation against the Communists on Laotian territories. Instead, they encouraged the Royal Laotian troops to step up their ground operations against the Communist forces, for which purpose the Americans not only supplied the necessary military hardware, but also the necessary advisors and instructors. For example, the Meo tribal army, at the time Laos' only fighting army, was trained by American advisors and equipped with money provided by the C.I.A.²⁶

Another reason for the Americans' reluctance to attempt the destruction of the Ho Chi Minh trail, by launching a ground invasion, was the complex nature of the trail. Any ground operations to destroy it were bound to entail heavy casualties. Moreover, there was no reason to assume that a ground invasion would necessarily achieve its purpose. Furthermore, the Americans also realised that even if the Ho Chi Minh trail was completely destroyed, the Communist supplies would still come in via the Sihanouk trail. Besides, a number of American field commanders were convinced that "ground forays against Communist concentrations outside Vietnam made no military sense."²⁷

Early in 1971, the Americans decided to destroy these sanctuaries and a ground attack was launched in February 1971. The invasion did not produce the desired result, not merely because of complexity of the trail network but also because of the appalling weather confronting the invaders. Consequently the invading force was withdrawn by 25th March, 1971.²⁸ The most important reason for the American decision to withdraw

sanctuary privileges was the insignificant measure of reciprocity. Throughout the war, the Communists did not reciprocate the restrictive gestures of the Americans and the South Vietnamese with the possible exception of "temporary restraint shown at the Vietnamese New Year". That, too, was perhaps more because of consideration for traditions than an example of reciprocating the enemy's gestures.²⁹ Besides, the Americans were getting increasingly weary of the cost and duration of the war, and they might have thought that such a course of action would not only shorten the war, but also minimise American casualties.

The question how far the American and Vietnamese activities in Laos caused the widening of Vietnam war needs due consideration here. Although the use of Eastern Laos by the North Vietnamese, even only for logistical purposes, was a violation of Geneva Accord of 1962, its contribution in the extension of Vietnam war was quite insignificant. The area surrounding the Ho Chi Minh trail was more or less uninhabited and had little value for Laos; a fact which was repeatedly acknowledged by the Laotian premier in many interviews.³⁰ The Laotian authorities would not have objected so strongly to the use of trail area, had the North Vietnamese confined their activities to that area only, and the Americans had not decided to bomb the trail, and sought the Laotian authorities' permission for doing so. The Americans wanted to bomb the trail in order to disrupt the Communist supply line and, at the time, the Laotian rulers wanted to check the rapidly increasing influence of the Communists in their own country. The American request for permission coincided with the Laotian desire to curb the Communist activities and influence in Laos and perhaps that is why the permission was granted. However, when the trail, besides being bombed by the American planes, was threatened by the American and South Vietnamese ground forces on one hand, and the American trained and equipped Royal Laotian forces on the other, the North Vietnamese not only stepped up their material support for the Pathet Lao, but also undertook a number of diversionary operations. The purpose of this exercise was to keep the Laotian forces as far away from the trail as possible. The outcome of these operations was that a considerable portion of Laotian territory became a part of the actual war theatre. This portion was further extended when the American and South Vietnamese forces launched their ground operations against the trail. Thus, while the expansion of the war theatre was initiated by the

Communists, it was subsequently precipitated by American activities in Laos as well as in South Vietnam.

The Cambodian Sanctuaries

Unlike the Laotian sanctuaries, the Cambodian sanctuaries were established with the tacit approval of Prince Sihanouk. Two reasons account for his approval. The principal one was the hostile attitudes and activities of Thailand and South Vietnam with regard to Cambodia. The Prince always regarded Thailand and South Vietnam as the major enemies of Cambodia. Compared with the anti-Cambodian designs of Thailand and South Vietnam, the activities of small groups of Communists, in league with local Khmer Rouge, were never viewed as a serious threat. Secondly, it would have been very difficult for the Prince to stop smuggling and the infiltration of the Communists as most "Cambodian provincial and custom officials, easily bribed by the Communists, were already reaping considerable profits from it".³¹

Initially small bands of Viet-Cong and North Vietnamese infiltrated into the Cambodian-South Vietnamese border region, and established small base camps there. With the escalation of the Vietnam war, these small bases began to expand rapidly and were used for training, resting, regrouping, supply depots and field hospitals, as well as for tactical attacks upon South Vietnam. Not only the Communists enjoyed the sanctuary bases all along the Cambodian-South Vietnamese border but they also enjoyed port facilities at Sihanoukville (now called Kampong Som) and at Kep. The supplies brought by the Russian and Chinese ships were taken to these sanctuaries by road transport. As long as Prince Sihanouk was ruling Cambodia, this supply route was regarded as the safest route for necessary supplies. Unlike the Ho Chi Minh trail it did not experience any kind of air interdiction operations. It was only after the ousting of Sihanouk that the port facilities were denied to the Communist shipping, thereby forcing them to rely heavily upon the Ho Chi Minh trail system for supplies.

The establishment of sanctuaries on Cambodian soil was greatly facilitated by the cordial relations between the Communists and Prince Sihanouk. Although, at times, the relations were strained, there was never a serious rupture. One of the major reasons facilitating the

maintenance of good relations was the Communists' effort to maintain a "low profile" in Cambodia. Despite the Cambodian authorities' non-interference in the Communists' activities, the Communists pursued the policy of conducting their logistical operations in utmost secrecy. The secrecy of operations not only helped Sihanouk to maintain his neutral posture, but also helped the Communists to avoid the accusations of expanding the war and violating the Geneva Accord.³³ Furthermore the Communists deliberately refrained from any such activities that were not directly related to the prosecution of war in South Vietnam.³⁴ The Prince, on the other hand, did not acknowledge the presence of the Communists' troops as late as 1969, and even at this late stage he was not willing to encourage the Cambodian troops to interfere with the Communists' activities in Cambodia.

The sanctuaries in Cambodia were complete in every sense of the word. These were neither bombed nor threatened by the local forces. In fact, these sanctuaries enjoyed the covert protection of the Cambodian government, who felt far more threatened by its neighbours than by the Communist bases on its territory. These sanctuaries proved to be very useful for the Communist forces.

The question that arises here is that why did the Americans and South Vietnamese respect these sanctuaries, especially in view of their usefulness to the Communist forces. The principal reason for such a course of action was the American relationship with Sihanouk. As long as Sihanouk was the dominant force in Cambodia, the relations with the Americans never really reached a satisfactory level. Sihanouk was highly suspicious of American military aid to Thailand and South Vietnam, the traditional enemies of Cambodia. As the war in South Vietnam progressed, the South Vietnamese, along with their American allies, frequently undertook small operations against the Communists in the Cambodian border regions. Simultaneously, the Thai border patrols increased their incursions into the Cambodian territory. Sihanouk was convinced that these violations were undertaken with the Americans' connivance and encouragement. Thus the Prince frequently blamed the Americans for these violations and repeatedly demanded from them guarantees to respect Cambodia's territorial integrity.

Another factor which clouded American-Cambodian relations was the conviction of Prince Sihanouk, especially during the early sixties, that the Americans would never be able to defeat the Communists in that area.³⁶ It was partly because of this belief that the Prince preferred to have good relations with the Communists rather than with the Americans. However, the American relations with Cambodia began to improve once the Americans pledged themselves to respect Cambodia's independence and territorial integrity in 1969.³⁷

As the war in Vietnam expanded, the Americans became increasingly concerned about the Communist sanctuaries in Cambodia. Frequently the American field commanders expressed their concern about these sanctuaries in the long cables that were regularly sent to Washington. The U.S. Defence Department held serious discussions in order to devise some way, or method, to deal with these sanctuaries.³⁸ Despite the mounting discomfort caused by them, however, the American High Command decided to refrain from undertaking any major protracted operation against the sanctuaries on the grounds of the diplomatic liabilities involved and, instead, frequently urged the Prince "to prevent the Communist military units from using his territory as a sanctuary".³⁹ The Prince, on the other hand, consistently denied the presence of Communist troops on Cambodian soil and often rejected American requests. Furthermore, whenever such requests were made by the Americans, the Prince, apprehensive of Americans' or their allies' independent action against his country, used each opportunity to warn the Americans to refrain from contemplating any unilateral action against his country, and threatened that if such an eventuality occurred "he would seek help from all justice-loving nations."⁴⁰

During the days of Sihanouk's rule in Cambodia, the Americans, though extremely dissatisfied with Sihanouk's response to their requests regarding the Communists' sanctuaries in Cambodia, avoided undertaking direct action against these sanctuaries and waited for a better opportunity. The opportunity came soon after the overthrow of Sihanouk. Lon Nol, the new ruler of Cambodia, was far more friendly towards the Americans than his predecessor. One of the first acts of the new government was to give an ultimatum to the Communists to pull all their troops out of Cambodia within three days.⁴¹ Clearly it was an unreasonable ultimatum, because even if the Communists had agreed to pull out of Cambodia it

would have taken them months not a few days. However, the Communists decided not to pull out. Consequently, they did not bother to pay any attention to the ultimatum as they fully realised that the Cambodian authorities lacked the necessary resources to enforce their ultimatum. Realising his country's inability to push the Communists out of Cambodia, Lon Nol sought help from the interested and sympathetic countries. For obvious reasons the Americans and the South Vietnamese were willing to respond to Cambodia's call.

On May 1, 1970 the Americans and the South Vietnamese launched a major attack upon Cambodian border regions in order to destroy the Communist sanctuaries. Anticipating the American and South Vietnamese invasion in the changing political environment of Cambodia, the Communists had already evacuated some of these sanctuaries and gone deep into Cambodian territory.⁴² As the invading forces pressed the Communists in the border regions, the Communist forces, in turn, pressurised the Cambodian forces in the western regions.

The immediate effect of the Allied invasion was that the war spread all over Cambodia. Innumerable villages and towns, hitherto outside the war zone, were now subjected to ground and air attacks. More than two million Cambodians were made homeless and became refugees in their own country.⁴³

The effect of the expansion of the war upon the Cambodian economy was equally staggering. Just before the American and South Vietnamese sanctuary busting operations, which caused the expansion of the war, the Cambodian economists had predicted substantial exports of petroleum products, rice and rubber, etc. However, the impact of the war turned out to be so great that none of these predictions was fulfilled.⁴⁴ In fact, the situation became so bad that a country which had been exporting rice had to import large quantities in that particular year. A major reason for this acute rice shortage was that, having been driven out of the border regions, the Communists had captured most of the rice growing areas in western Cambodia.

On the whole, it seems that the Allied sanctuary busting operations in Cambodia cost more to the Cambodians than either to the Communists,

who lost their border sanctuaries and went towards western regions rather than leaving Cambodian soil, or to the allies who secured the Cambodian border by depriving the Communists of their border sanctuaries and regarded the expansion of war into Cambodia "as merely a tactical extension of the Vietnam conflict".⁴⁵ In fact, the extension of war brought large parts of Cambodian territory within the war zone and the Cambodians had to pay a much higher price than that paid either by the Americans and their allies, or by the Communists.

The Bombing of North Vietnam

Explaining the objectives of the American bombing of the North Vietnam before the Senate Sub-Committee, the American Secretary of Defence, Robert McNamara, said in 1967 that the "primary objective was to reduce the flow and/or to increase the cost of the continued infiltration of men and supplies from North to South Vietnam".⁴⁶ After explaining the geo-physical difficulties in the area, Secretary McNamara commended the American forces who had "done a superb job in making continued infiltration more difficult and expensive".⁴⁷ Implicit in McNamara's commendation was the acknowledgement that their principal objective had been more or less attained. But the findings of the Jason Division of the Institute of Defence Analysis in 1967 contradicted this claim. According to the Institute's findings "the bombing of North Vietnam has had no measurable effect on Hanoi's ability to mount and support military operations in the South. The reasons for this lack of success were that damage to the North was more than offset by military and economic aid from China and U.S.S.R., that even a small portion of the transportation and trail system to the South was sufficient to maintain an adequate flow of men and material and that the North Vietnamese possessed a more than adequate supply of manpower for repair, reconstruction and work on the trail".⁴⁸ It seems that the bombing did hurt the North Vietnamese supply network though not as much as Secretary McNamara was trying to project and not as little as the Jason Study concluded. There was no need to expand the Ho Chi Minh trail system and bring more Laotian territory into the trail network if the bombing was hurting as little as concluded by the Jason Study.

The other stated objectives of bombing were "to raise the morale of South Vietnamese" as well as "to make clear to the North Vietnamese

political leadership that so long as they continued their aggression against the South, they would have to pay a price in the North".⁴⁹ As far as the South Vietnamese morale was concerned, the bombing did make its contribution but with regard to the final objective the Jason Study concluded that "the bombing has not discernibly weakened the determination of the North Vietnamese leaders to continue or direct and support the insurgency in the South".⁵⁰ With the exception of South Vietnamese morale the Americans failed to achieve their objectives.

Initially, the American bombers concentrated upon the communications and transportation system of North Vietnam but later, when the bombing did not produce the desired effects, all targets of industrial and economic significance were subjected to bombing. This happened despite Secretary McNamara's assurances that the bombing campaign was primarily "aimed at selected targets of military significance".⁵¹ During the early years of bombing, most of the bridges, fuel and ammunition storages were destroyed, and the rail links heavily damaged. All these targets were of military significance and could have been justifiably bombed, in any war. However, as the war progressed the Americans started bombing North Vietnam's medical installations, educational and religious establishments, civilian centres, dams and irrigation systems.⁵² From a military point of view these targets had little or no significance. The question that arises here is : Why did the Americans expand their bombing targets, and start bombing raids against targets of secondary importance as well ?

The reasons for the American decision to bomb selected targets initially, and to adopt a policy of comprehensive bombing of North Vietnam later, including that of its internal sanctuaries, were the failure of the deterrence and the non-reciprocity of restraint. A combination of these factors drove the Americans to embark upon a policy of compellence. One of the essential requirements of compellence is the actual administration of punishment until the adversary acts.⁵³ The punitive action is intended to hurt the adversary until he begins to comply with the wishes of the administrator of the punishment. The degree of punishment is gradually stepped up if the compliance is not procured soon. The bombing of North Vietnam was a part of the American policy of compellence in the Vietnam war which gradually widened the area of targets as the war intensified and the enemy resisted the forced inducement.

The bombing did not produce the desired results. In fact, it did not inflict as heavy damage upon the enemy's military capabilities, or its infiltration system, as it did upon its economy.⁵⁴ Whatever war material was lost or used up, it was immediately replaced either by the Soviet Union or by China. Even the heavy damage to the economy did not discourage the North Vietnamese' will to fight. Instead their attitudes were hardened and they became even more determined to fight on. The bombing of the irrigation system generated a feeling that the Americans were seeking to destroy the North Vietnamese economy. This feeling strengthened the Communists' determination to continue the war. North Vietnam is basically an agricultural country and the livelihood of most of its inhabitants depends upon its land products such as rice. The cultivation of rice is very much dependent upon an efficient working of the North Vietnamese irrigation system, and when this system was subjected to bombing, the Vietnamese saw this as an American attempt to destroy their country and society. Consequently their attitudes were hardened, and their determination to fight to the end was considerably strengthened. They were, now, willing to endure every kind of hardship and willing to sacrifice almost everything for the prosecution of war. Thus the heavy damage which constant American bombing inflicted upon North Vietnam's economy helped the North Vietnamese leadership to prepare their people for an all out war.

Conclusion

During the course of the Vietnam war a number of sanctuaries were violated, although this war also exhibited a fair degree of observance of sanctuaries. With one exception all the sanctuaries which were observed, were observed because of deliberate restraint applied by the Americans. The one exception was that of the Thai sanctuaries. Almost all the planes which were sent to bomb the Ho Chi Minh trail had flown from the U.S. air bases in Thailand.⁵⁵ These bases served as sanctuaries for the U.S. air force. These sanctuaries were observed not because the Communists applied any deliberate restraint, but because they were militarily unable to do anything about them. Any attempt to destroy the Thai sanctuaries would have required a very large number of planes. These the Communists did not have. However, it can be safely assumed that had the Communists been in possession of a powerful airforce, they might have

attempted to destroy these bases. Consequently, the war would have been extended to Thailand.

All other sanctuaries were initially observed by the Americans. Instead of reciprocating their initiative with regard to the sanctuaries, the Communists exploited them to their advantage. The institution of sanctuary is something that can be easily exploited if one of the belligerents decides to do so. Sometimes sanctuaries are introduced into the war region because one side thinks it is expedient to do so. Further, if such an initiative is not reciprocated in somewhat similar manner or the sanctuaries are exploited too much, then there is a great incentive to violate them. Perhaps the lack of reciprocity and too much exploitation of sanctuaries by the Communists influenced the American decision not only to withdraw the sanctuary privileges accorded to Communist bases in Laos and Cambodia, but also to inflict punishment upon North Vietnam. Thus the bombing of North Vietnam was intensified. Besides bombing the targets of direct military relevance, a number of targets of secondary importance were subjected to bombing. For example, the irrigation system of the North Vietnamese was subjected to intensified bombing. Although the U.S. Defence Department's spokesman explained that the bombing of the irrigation system was purely accidental and unintentional,⁵⁶ it seems difficult to believe that the areas which had no targets of direct military relevance in the vicinity and had only irrigation facilities (i.e. dikes, etc.) were so frequently and so accurately hit 'by chance'.

There is no doubt that the American sanctuary busting operations in Laos and Cambodia widened the war. Not only two-thirds of Laotian and Cambodian territories became part of the actual war theatre, but the people of Laos and Cambodia, hitherto spared the horrors of war, found themselves caught in the middle of battlefields. The extension of war did not achieve the stated objectives of bringing a quick end to war by destroying the sanctuaries and disrupting the infiltration routes. Instead, it forced the Communist troops to spread all over Laos and Cambodia, and merely delayed their tactical attacks upon the American and South Vietnamese forces.

The extensive bombing of North Vietnam caused the destruction of many internal sanctuaries, and this not only hardened the attitudes of the North Vietnamese, but also prepared them to bear the brunt of all out war.

As long as the home ground of the Communist forces was not subjected to bombing, the units of their forces operating the South enjoyed a complete sanctuary in the North. They could move forward or withdraw to their territory at will. Although extensive bombing of North Vietnam and the eventual mining of Haiphong effectively checked the mobility rate of the Communist forces, and disrupted their supply lines, it could not reduce their will to fight. The attrition qualities of the North Vietnamese are well known. They had probably acquired these through their long struggles and wars against the Chinese, the French and, finally, the Americans. The American policy of compellence made them believe that the former were trying to force them into surrender. Hence, their determination to continue the war. In short the sanctuary violations in the Vietnam war did not help to keep the war geographically confined, or to shorten its duration. In fact the results were exactly the opposite.

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POSSIBILITIES AND PROSPECTS IN EUROPE

Throughout the post-world war period, Europe was dominated by 'Cold War' which polarised the continent into two somewhat equal power blocs. The origin of the Cold War remains a subject of "one of the most volatile controversies amongst contemporary historians since 1945".¹ The difference in interpretation is as great today as it was during the late forties and early fifties. Some suggest that the seeds of conflict were sown in 1917, when the Bolsheviks successfully introduced a socialist system in Russia ; others maintain that the origin of the Cold War can be found in the allies' failure to agree upon the future of central Europe at the end of Second World War. Whatever its origin, the arrival of the Cold War created an atmosphere which was conducive to the establishment of the two most powerful military alliances the world has ever known, i.e., N.A.T.O. and the Warsaw Pact. N.A.T.O. was established by the U.S.-led bloc and the Warsaw Pact was formed by the Soviet-led bloc. "The main reason for setting up the Western alliance, and its subsequent *raison d'être*, was the hysterical fear of Soviet aggression in Europe; especially after indirect Soviet aggression in Korea in 1950".² Throughout the post-war period the Russian policy towards Western Europe had been "a mixture of threats, inducement and harassment".³ The West interpreted these tactics as manifestations of aggressive Russian designs against Western Europe, and, therefore, established a collective defence alliance in the form of N.A.T.O. This was, later, extended to include West Germany.

The Russians, having suffered twice at the hands of Germans, were "determined that Germany should never again be in a position to threaten aggression against its neighbours, especially those to the east".⁴ No wonder the Russians and the Allies have always found it difficult to agree over the future of Germany. When West Germany was allowed to rearm itself, and to become a member of NATO, the Russians reacted rather strongly and "created the Warsaw Pact in 1955 as a counter to the decision to rearm West Germany".⁵

During the cold war period the existence of strong alliance provided the necessary sense of security to both sides which, in turn, paved the way for detente. Although the arrival of detente has helped to reduce the prevalent suspicions and misunderstandings to a considerable extent, and thereby improved East-West relations, it has not as yet completely eliminated the dangers of war, nuclear or conventional. Although detente diplomacy has managed to impose restrictions and limitations upon further acquisition of nuclear weapons, it has not as yet been able to outlaw the use of these weapons, or even to stop research and experiments to improve their qualities. Perhaps that is why "the competition in strategic armament between the two superpowers is now switching from quantitative to new qualitative areas".⁶

A number of questions need careful consideration especially in the light of the existing conditions in Europe. Given the dangerous implications involved in NATO-Warsaw Pact confrontations, what are the chances of an outbreak of hostilities of keeping it limited? What restraint could be applied? If nuclear weapons are used from outside the area of conflict, would there be retaliation? Before any of these questions is answered, it seems pertinent to discuss a number of important military, political and economic considerations peculiar to the continent of Europe.

Each of the two superpowers regards its own European bloc as the most important area, strategically as well as commercially. Both are deeply involved in the defence and security of their respective blocs. Indeed the security of their respective blocs is regarded as a key in their own security policy. "The loss to either party of its respective part of Europe would mean a complete transformation of the defence structure, radically changing the balance of power".⁷ To maintain the existing balance of power, both sides have not only openly committed themselves to the defence of their respective blocs, but also, repeatedly, communicated to each other their determination to honour that commitment. Both have played key roles in the establishment of the powerful alliances of NATO and Warsaw Pact. Both have warned that, if need be, they would safeguard their interests through the use of nuclear weapons. NATO strategies especially are linked with an early employment of nuclear weapons.

Commercially, the European continent is regarded as a very important trading partner by the Soviet Union as well as by the United States. Europe is a highly industrialised region of the world. The loss to either party of its industrial and commercial links with Europe would, undoubtedly, have a serious effect upon its own economy. Both sides have already invested large amounts in their European enterprises. Further, as Europe has made impressive economic progress over the last twenty-nine years, economic and commercial ties with European countries have become exceedingly important.

For Russians, Europe is perhaps the most important continent "because of its geographical nearness to the heart of Russian state, because it is the centre of that European civilisation to which Russians feel so strongly attracted, and because Western Europe succeeded in developing an economic, scientific and industrial strength which far outpaced anything which traditional Russia was able to achieve".⁸ Similarly, the Americans attach great importance to their links with Europe. "American strategy has always taken the European continent to be a key factor in the country's security policy. Occasional 'isolationist' tendencies have not been able to disrupt the close connections existing between the two continents, nor, above all, the economic, military and political exchange relevant in this context".⁹ In fact, the American participation in Korean War was partly motivated to convince the Europeans that Americans would resist any Communist aggression against Western Europe. Throughout the Korean War one of the American objectives was "to prevent adverse repercussions in Europe while using the episode to strengthen NATO and build up its military capability".¹⁰

Another interesting feature especially relevant to the European situation is that politically Europe has remained as the most stable area since the end of the Second World War. Although it has experienced the tensions of cold war, during the last twenty-nine years, there has not been any 'hot war' in the continent of Europe.

Another interesting factor has been the arrival of detente. During the cold war period mistrust and suspicion dominated relations between the two blocs. The arrival of detente has helped to remove many suspicions and misunderstandings, and to improve East-West relations.

Detente diplomacy has not only relaxed tension, but also brought the two sides closer together. The European Security Conference and the Conference on MBFR (Mutual Balanced Force Reduction) are heavily indebted to detente.

However, although both sides are striving to reduce the forces level, without endangering their security, the danger of confrontation continues to exist. For most of the issues which lay behind the cold war are still very much alive. Germany is still divided. General De Gaulle once remarked that "there would be no peace in Europe without the unification of Germany".¹¹ Detente may have pushed the question of the German re-unification into the background, but it has not, as yet, provided a tangible and lasting solution to that question.

Another problematic issue is the strong control which the Soviet Union exercises over Eastern Europe. This control is still as firm as it was during the height of the cold war. There exists a certain level of dissatisfaction and unrest in parts of Eastern Europe, and at times it seems as if increased contact with the West would stimulate this unrest. However, such an eventuality would invite swift and firm Soviet action as was demonstrated by events in Hungary and Czechoslovakia. Similar Soviet interventions in the future may be challenged by the West, thereby causing a fatal blow for detente.

Under the existing conditions, the question that needs prior consideration is whether or not the outbreak of hostilities is possible in Europe. In view of the superpowers' pledges to defend their respective allies in Europe and the dangers involved in all out nuclear war, it seems fairly safe to assume that the initiation of strategic nuclear war, in pursuit of even important political objectives, will not be seriously contemplated by either side. Both sides fully comprehend the implications of such a confrontation. If strategic nuclear war is ruled out, then what about tactical nuclear war and conventional war. The conventional weakness of the West has made their defensive strategies very much dependent upon the tactical nuclear armoury. If the Communists had attacked with large conventional force, then they would leave no alternative for NATO (apart from capitulation) except to employ tactical nuclear weapons, which would initiate a tactical nuclear war provided the Communists decided to retaliate in somewhat similar manner.

"Tactical nuclear war, by the very nature of weapons, has a built-in escalation mechanism".¹² It is very difficult to maintain the threshold between tactical nuclear war and strategic nuclear war. If one superpower decides to attack, or to retaliate, with tactical nuclear weapons, the other may find it necessary to raise the level of nuclear violence. Such an action is likely to begin the spiral which may end up with fully fledged strategic nuclear war. The conventional weakness of NATO, and its heavy dependence upon nuclear weapons, is a constant reminder to the Communists that, in the event of an all out conventional attack by the latter, NATO would have no alternative but to retaliate with its nuclear weapons. Thus it may be safe to conclude that neither side would seriously contemplate a major war, even on conventional lines. However, this does not mean that the outbreak of war in Europe is altogether impossible, as this can happen accidentally or inadvertently. For instance, it could start following an American convoy being fired at on the Berlin autobahn, or as a result of that convoy itself firing at a road block in order to continue its journey towards Berlin.¹³ Ordinary incidents of this type have the potential of causing acute tensions and, at times, even serious conflict situations. A sudden upheaval in one of the Eastern European countries is likely to attract a number of volunteers from the West, especially in the light of prevailing spirit of detente and increased contacts with the West, who may, in turn, be treated rather harshly or even be put to death by the local authorities! Such an action is likely to provoke a strong reaction in the West and in the absence of a satisfactory explanation, may cause a conflict situation. There could also be a flare up over an unintentional border incident. The overreaction of the officer on the spot, the scale of retaliation, and the lack of satisfactory explanation can deteriorate the situation. Alternatively, a 'police action' by Soviet forces in either East Germany or Czechoslovakia could cause a major conflict. If, for example, the dissidents in either state sought refuge in large numbers in Western Germany, what would be the Allied reaction if Soviet forces pursued them across the border?

Whether or not such a situation can get out of control depends upon the circumstances under which the incident in question has occurred. According to Bernard Brodie, there are two basic factors which are conducive to, and often accelerate, the deterioration of conflict situations: "the presence of rigid mechanism of military response" and the existence of number of psychological factors; such as "the concern with loss of

face and the tendencies to yield to feelings of hatred and rage".¹⁴ Both factors are, to a considerable extent, potentially operative in Europe. When, and if, an explosive situation occurs and the decision is not carefully taken, the danger, under the existing rigid military mechanism, is that events may lead both sides to a position where they would be deeply committed to escalate, rather than de-escalate.

This brings us to the question whether, in the event of outbreak of hostilities, the war can be kept limited, and if so, what types of restraints have to be observed. If the belligerents decide to strictly adhere to the use of conventional weapons, the likelihood of war being kept limited becomes a real possibility. Implicit in the decision to fight a conventional war is the limitation of the means of war. One of the important motivations for keeping conventional war limited is the desire to prevent the use of nuclear weapons. The side which is comparatively weak in its conventional capabilities and hard pressed is more likely to bring in the nuclear weapons. The side which has large conventional forces has to be extremely careful not to drive its opponent into resorting to the use of nuclear weapons. This, of course, would require strict limitation upon objectives as well. Once the means and objectives are subjected to limitation, the observance of internal and external sanctuaries can help keep the war limited.

In the event of a tactical nuclear war the application of limitations can be a fairly difficult, if not impossible, task. The most important limitation, in a tactical nuclear war, would be the geographical limitation. For example, if war breaks out in Central Europe the "nuclear detonations could be confined to the areas between the Rhine and Oder-Neisse Line".¹⁵ However, the problem would be what to do about the wishes and aspirations of countries which happen to be between the Rhine and Oder-Neisse Line. For them, the proclaimed limited war would be extremely damaging irrespective of who wins, unless the war operations are limited in the over-all sense and regarded as such by the countries upon whose territory it is being fought.¹⁶ Limited war operations also require limitations upon weapons and the observance of sanctuaries. In a tactical nuclear war efforts should be concentrated to use only those tactical nuclear weapons which have the minimum yield. The weapons with a yield of 20 kiloton, or above, are capable of destroying a sizeable town. There is also the likelihood of misinterpretation and exaggeration of the

yield in war situations, and this may be used as a justification for raising the violence level. To avoid such an eventuality it would be wise to use weapons with the minimum yields, and communicate this clearly to the opponents.

The observance of sanctuaries in a European situation would require the application of strict restrictions upon targets. Firstly, only those targets should be subjected to attacks which are located within the war zone. All targets outside the war zone, however important they may be, should not be attacked or bombed. Thus the bases, from which the planes take off for delivering their nuclear load into the war zone and to support their armed forces, or those used for firing of the missiles, should not be attacked so long as these are located outside the war zone. It seems pertinent to mention here that such a condition could be easily exploited by either of the belligerents. However, any exploitation would invite immediate retaliation which could escalate the war. Therefore, it is absolutely essential that the belligerents refrain from exploiting such conditions and apply strict adherence to target limitations. Secondly, the logistical facilities and supply depots outside the war zone should not be subjected to bombing or ground attacks. This is particularly important in a future European war in which practically every European country would be regarded as an active participant. This follows because almost all the European countries are members of either NATO or the Warsaw Pact. If one side attacks the supply depots, logistical routes, naval vessels, and the bases which are outside the war zone, it will not only extend the war zone, but would be inviting almost equal if not higher level of retaliation. Gradually such actions and reactions may engulf the whole of Europe. For example, if the Communists decide to use nuclear weapons against the ports of Britain, and of other Western European countries, receiving supplies from the U.S., the port areas of all NATO countries would become part of the war zone.¹⁷ In such a situation, it is almost certain that NATO would retaliate in a somewhat similar manner and scale. In short, all targets outside the war zone should be scrupulously avoided because each attack would almost immediately lead to retaliation as both sides are not only deeply committed to the defence of their own allies in Europe, but also have the capability to retaliate. In the Vietnam War, the Communists lacked the capability to retaliate to American bombing in either the same manner or on an equal scale; otherwise, it seems a fair assumption that they would have attacked and bombed targets even in Thailand.

Amongst the targets inside the war zone which should not be subjected to ground or air attacks are the non-nuclear industrial facilities, and the urban population centres. Both the industrial facilities and the cities are regarded as the most important pillars of a nation's economies. The cities are the main centres of national, commercial and financial activities. There could be "no doubt that to initiate economy-busting or city-busting means starting off a total war, which for any belligerent not in possession of a monopoly of long range nuclear striking power constitute an act of sheer national suicide."¹⁸ The bombing of cities is not only dangerous but also morally wrong. Thus the bombing of cities should be scrupulously avoided. Even the installations near the cities should not be subjected to air attacks unless the city concerned had been given time and warning to cope with this type of emergency.¹⁹ According to Arnold Wolfers: "If a belligerent resorted to city bombing without already possessing a monopoly of nuclear striking power, he would provoke nuclear war".²⁰ At present, no superpower enjoys that kind of monopoly and therefore it seems reasonable to assume that the city bombing would be regarded as the last resort. To avoid the killing of civilians and the destruction of cities, perhaps the best way out is to declare all the important cities, at the outset of war, as "open cities". The practice of "open cities" should be revived. It would be particularly useful within the European context. However, the revival of "open cities" may not prove to be as useful as it is envisaged, if nothing is being done to avoid the enormous collateral damage. The collateral damage can be avoided either by the use of low-yield weapons or by the threat of escalation which would result in retaliation in like manner.

The bombing of non-nuclear industrial facilities or non-military industries is a complex issue. To begin with it "is impossible under the present conditions to draw a line between war industries and other industries because the whole economy sustains the war effort".²¹ For example, ports are as essential for industrial goods as for war material. Furthermore, there are many industrial installations producing war material which are inside cities. Bombing of such targets would also imply killing of civilians. However, the concentration of bombing should be primarily upon those war industries which are outside the cities. "Once the threshold is crossed into this target system, retaliation—if not the attack strategy itself—would be bound to make the nuclear war total".²²

The medical installations within the war zone should not be subjected to any type of attacks. In fact, there are strong moral reasons that medical facilities, whether sponsored by one belligerent or the other, should be made available to all combatants who need them.

Finally the question that needs consideration is what to do if the tactical nuclear weapons are fired from outside the war zone. For example, a number of missiles can be, and probably would be, fired from the Soviet Union, or from Britain, or from naval vessels, and could be so directed that they would only land between the Rhine and the Oder-Neisse Line. Under the present conditions, it is more than likely that most missiles would be fired from bases outside the war zone. Any attack on such bases would not only invite retaliation but would also be indicating a willingness to raise the level of violence and to extend the war zone. Raising the violence level can also be used as a means to pressurise the opponent—an important lever for bargaining. However, to avoid the expansion of war zone it is imperative to accord sanctuary status to all bases outside the war zone. Arnold Wolfers' war zone includes all those bases and ports which are actually used for war operations even if these happen to be outside the actual fighting area.²³ Western, as well as Eastern, Europe is studded with a large number of bases and ports. If these are attacked, then practically the whole of Europe would become part of the war region. In all probability, initially only the front line bases would be activated for war operations, but in the event of failure to achieve desired objectives, it is likely that all other bases may be activated. This means that attacks upon the Soviet homeland would also become a real possibility. In such an eventuality the American homeland would become a target for retaliation.

The war in Europe, if it is to be a limited conventional or limited tactical nuclear war, has to be fought within a restricted geographical area. It would be like the Korean War which was not only strictly confined to Korean peninsula, but in which internal sanctuaries were also observed. The observance of sanctuaries is especially important for European limited war because European countries are small in size, and have many cities and industrial installations. If sanctuaries were violated in a European limited war, the war would not only be rapidly widened but the scale of destruction and damage would be colossal. When sanctuaries were violated in the Vietnam war, the area which consequently

became part of the war zone was a mostly uninhabited and forested area. However, in the case of Europe, if the war zone is widened, the area which would become part of the war zone would be a highly populated and industrialised area.

Besides the geographical limitations and the observance of sanctuaries, the limitations upon weapons and objectives are absolutely essential. Both blocs have nuclear as well as conventional capability. Both are equipped with the most modern weapons of warfare. The control of conventional war is far easier than that of nuclear war. If the war starts in Europe, it would be in the interest of both blocs to use "low-yield weapons that can be used with discrimination"²⁴ and, if possible, only conventional weapons. This would make the task of controlling the war easier. Furthermore, the limitations upon objectives are equally essential. Not only the objectives should be carefully devised and communicated but ideas like 'presenting the opponent with a fait accompli' should not be entertained. Both sides have vulnerable areas in their defences, which could be exploited. One side could launch a surprise attack and quickly capture some area and present the other side with a fait accompli. For example, "the NATO defences in the Baltic are vulnerable", where the Soviets could launch a quick surprise attack believing that "a nuclear counter-attack to be impossible because the speed of the operation would face NATO with a fait accompli".²⁵ Such an eventuality is likely to start a major war, because, as stated earlier, both sides are too deeply committed to the defence of their respective areas.

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CONCLUSION

The observance of sanctuary is essentially a voluntary restraint. Like most voluntary restraints, its continued application, in a war, depends upon the belligerents' view of its advantages. There is no doubt that the observance of rational restraints entails sacrifices as well as advantages. The policy of restraint implies willingness to sacrifice at least for a short time. The nature of the advantages is very much dependent upon the degree of reciprocation by the adversary. The element of reciprocity is extremely important for the continuous application of any voluntary restraint. If the degree of reciprocity is insignificant, the likelihood of sudden, or gradual, erosion of deliberate restraint, becomes a real possibility. As the case studies revealed, the degree of reciprocity in the Korean War was high and, consequently, the restraint was practised throughout the war. But as the degree of reciprocity in the Vietnam War was negligible, and the restraints were gradually eroded, violations took place. However, this does not mean that voluntary restraint cannot be applied unilaterally. Sometimes voluntary restraint is applied unilaterally either because of humanitarian considerations or expediency. During the earlier years of their involvement in the Vietnam War, the American observance of sanctuaries was indeed unilateral. It was not until the late sixties and early seventies that the "sanctuary busting" operations were undertaken.

Frequently, sanctuaries in modern limited wars are observed not because of a deliberate policy of restraint, but because of the operative constraints and deterrence. The observance of sanctuaries in the Korean War was primarily caused by the 'deterrent postures' of the superpowers, and was not a case of 'voluntary observance'. "The existence of real, entirely voluntary sanctuaries would presuppose rather that there was no mutual deterrence in operation, and that the areas were protected by the general concern to keep the conflict limited."¹ As the mutual deterrence was operative at the time of Korean War, the sanctuary observance during the war was not an act of voluntary restraint. Thus,

the observance of sanctuaries can be a product of a peculiar set of circumstances.

The importance of sanctuary is often undermined when it is exploited too much by the adversary to its own advantage. Instead of reciprocating the gesture, the enemy starts capitalising on it. Such an eventuality often results in the withdrawal of sanctuary privileges. Exploitation causes quick erosion of considerations for which the sanctuary status was originally accorded to certain areas. For example, too many tactical attacks upon the American and South Vietnamese positions by the Communists, from their Cambodian sanctuaries, caused the violation of those sanctuaries.

The most important single factor, which has been, and is, weakening the importance of the sanctuaries, is the growth of guerilla warfare. Generally, the guerillas have sanctuary bases outside the country. For example, the Vietminh, from 1949 onwards, had external sanctuaries in China,² the FLN (Front for National Liberation), during the Algerian War, had sanctuaries on Tunisian soil,³ and the Greek Communist guerillas were provided with sanctuaries in Bulgaria, Albania and Yugoslavia.⁴ They used these bases, not only for the purposes of training and re-grouping, but also for launching attacks. Although, in most cases, the Governments refrain from violating international borders in pursuit of guerillas, at times it becomes very difficult to restrain their forces. For example, during the Algerian War the FLN was exploiting the Tunisian sanctuaries rather too much and causing enormous damage to the French Army. Despite the restraint applied by the French Government, French Commanders, on certain occasions, "bombarded Tunisian border villages with artillery and aircraft, causing casualties among Tunisian civilians".⁵ At the present time, the Israeli jets often bombard the guerilla sanctuaries in Southern Lebanon. Such occurrences have significantly undermined the importance of sanctuaries—at least as far as the guerilla wars are concerned. However, guerilla wars are different from modern limited wars.

To sum up, sanctuaries are most likely to be observed where the belligerents are genuinely interested to keep the war limited, where the degree of reciprocity is significantly high, and where there is no exploitation of sanctuaries. The sanctuaries are likely to be violated in situations where the concern to keep the conflict limited is not all that great, where

the objectives are not limited, where the degree of reciprocity is insignificant, and where the enemy frequently exploits the sanctuaries to its own advantage or where the guerillas are causing unacceptable damage.

It must be stressed here that the sanctuary observance is just one of the useful conditions to keep the war limited. It is by no means the most important requirement of the modern limited war. The limitations upon objectives as well as upon means remain the most important conditions. Without them, the observance of sanctuary would neither be useful nor even practicable.

The purpose of sanctuary observance is to keep the war geographically confined, to minimise casualties, particularly among civilians, and to avoid the destruction of the national economy. As it is very difficult to measure the degree of voluntary observance of sanctuaries, it would be useful if the sanctuary areas inside the war zone are specified and announced at the very outset of war. For example, all major cities, being not only the population centres but also the focal points of a nation's industrial and commercial activities, could be declared 'open cities'. All medical installations, ports, dams, etc., could also be declared sanctuary zones within the region of war. Such specifications and declarations would communicate to the enemy the desire to keep the conflict limited, and the observance of sanctuaries would reduce the level of human casualties and economic destruction.

The external sanctuaries would be automatically observed if the belligerents decided to apply strict area restraint and fight the war within a limited geographical area, as, for instance, the Korean War which was fought within the Korean peninsula. However, this type of area restraint may not prove to be a right type of restraint in a European conflict situation. In the event of a future European conflict, almost every member of both NATO and Warsaw Pact would be directly involved in war. In such an eventuality, it would be useful for both blocs to declare immediately after the outbreak of hostilities, the geographical limits they intend to observe. For example, the war could be restricted to an area between the two rivers or to a number of central European states. In the absence of such a declaration, the whole of Europe may be regarded as the region of war.

Although the declaration of sanctuary zones can prove mutually beneficial for the belligerents, there still remains the dilemma of what can, or cannot, be classified as sanctuary zones or areas. To avoid an ambiguous situation, it is essential to have an international agreement over various types of sanctuaries. For example, major cities, non-military industries, dams, ports and medical installations can be classified as internal sanctuary areas. As regards external sanctuaries, it can be agreed that the belligerents should set geographical limits, at the outset of the war, and areas beyond those limits be accorded sanctuary status. The question that needs consideration here is how to set the geographical limits. Professor Schelling's idea of 'focal points' can be very useful in setting these limits. According to Schelling a 'focal point' is not only prominent and conspicuous but also a unique entity. It is easily recognizable because of its qualitative difference from the surrounding alternatives.⁶ National boundaries, rivers, mountains, shore-lines, etc., are unique geographical landmarks. They could serve as focal points in order to set the limits and the areas beyond these limits could be observed as sanctuary zones. However, in 1970, U. Thant the U.N. Secretary General, suggested in his supplementary Report on Human Rights that civilian sanctuary zones "should be registered with an international authority and be subject to an effective system of control and verification."⁷ Similarly, all internal sanctuaries can be registered with an international agency like the U.N. or Red Cross. Such a course of action would not only avoid ambiguities but also accord the necessary international recognitions.

The nature of warfare and nations' attitudes towards war have changed rather rapidly during the last 50 years, whereas the rules of warfare have not kept pace with these changes. It is essential that the rules of warfare "should be applicable to the circumstances of modern warfare and clearly and closely defined in their application".⁸ Thus there is an urgent need for a new conference to carry out the necessary revision and modification of the existing rules of warfare on the one hand, and to approve the incorporation of some new rules on the other. The latter category could include rules governing the observance of sanctuaries.

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