

THE  
CULTURE  
OF WAR

MARTIN VAN CREVELD



BALLANTINE BOOKS  
NEW YORK

ite  
eg)  
w  
zg  
es  
ki  
b  
f it  
ate  
ml  
ra  
s f  
or  
n A  
th  
m  
im  
on  
es  
en  
ic  
ar  
to  
es  
or  
fa  
ar  
ne  
to  
e  
st

Copyright © 2008 by Martin van Creveld  
All rights reserved.

Published in the United States by Presidio Press, an imprint of  
The Random House Publishing Group, a division of Random House, Inc., New York

Presidio Press and colophon are trademarks of Random House, Inc.

Grateful acknowledgment is made to the following for permission  
to reprint previously published material:

Barbara Levy Literary Agency on behalf of the Estate of George Sassoon:  
"To the Warmongers" by Siegfried Sassoon. Reprinted by permission of Barbara Levy  
Literary Agency on behalf of the Estate of George Sassoon.

The Free Press, a division of Simon & Schuster Adult Publishing Group:  
Title page from *The Goose Step Is Verboden: The New German Army* by Eric Waldman,  
copyright © 1964 by The Free Press and copyright © renewed 1992 by Eric Waldman.  
All rights reserved. Reprinted by permission.

Viking Penguin, a division of Penguin Group (USA) Inc. and Barbara Levy Literary Agency  
on behalf of the Estate of George Sassoon: "In Barracks" from *The Collected Poems of  
Siegfried Sassoon* by Siegfried Sassoon, copyright © 1918, 1920 by E. P. Dutton,  
copyright © 1986, 1946, 1947, 1948 by Siegfried Sassoon. Rights in Canada and the  
United Kingdom are controlled by Barbara Levy Literary Agency. Reprinted by  
permission of Viking Penguin, a division of Penguin Group (USA) Inc. and  
Barbara Levy Literary Agency on behalf of the Estate of George Sassoon.

LIBRARY OF CONGRESS CATALOGING-IN-PUBLICATION DATA  
Van Creveld, Martin  
The culture of war / Martin van Creveld.  
p. cm.

Includes bibliographical references and index.  
ISBN 978-0-345-50540-8 (hbk : alk. paper)  
1. Sociology, Military. 2. War. 3. Military art and science—History. I. Title.  
U21.5.C74 2008  
306.27—dc22 2008025740

Printed in the United States of America on acid-free paper

www.presidiopress.com  
2 4 6 8 9 7 5 3 1

FIRST EDITION

Book design by Mary A. Wirth

To you, bold venturers, adventurers, and whoever has embarked  
With cunning sails upon dreadful seas—  
To you, who are intoxicated with riddles, who delight in twilight, and whose souls  
Are drawn by furies to every dizzying abyss;  
For you do not want, with cowardly hand, to grope for a rope  
And where you can guess, there you disdain to decipher.

—FRIEDRICH NIETZSCHE, *Also Sprach Zarathustra*

## The Rules of War

7

If, comparing war with games, I said that war is a game without rules, here I am going to argue that, in another sense, war without rules is impossible. The reason why it is impossible is because war is an *organized* activity; whereas an organization without rules is a contradiction in terms.<sup>1</sup> One could go a step further still. Many scholars believe that one thing war does, or can do, is to provide an outlet for social tensions that may lead to chaos if they are not relieved.<sup>2</sup> What is seldom noticed, however, is that the way it achieves this goal is by channeling the tensions in question, pointing them in this or that direction, and surrounding them with all kinds of rules.

In all societies and at all times and places, some kinds of behavior, under some kinds of circumstances, for some kinds of reasons, with some kinds of goals, toward some kinds of people are considered part of war; whereas others are not. The former are required, cultivated, praised, rewarded, whereas the latter are rejected, excoriated, condemned, sometimes even punished. True, the bulk of the warriors may merely be provided with a few simple rules; after all, not everybody who attends church is an expert on theology either. Yet the existence of a vast scholarly debate, which in Western culture goes back as far as Greece and Rome, proves that the rules are anything but easy to formulate or master. A very good way to understand how complex the rules can be is to project ourselves into some past civilization, study the way it went about

waging war, and compile a list of behaviors that were or were not considered acceptable. This, after all, is just what the group of people known as reenactors do. Trying to create an authentic impression of the U.S. Army in World War II, for example, they regularly end up with handbooks comprising hundreds of rules spread over dozens of pages. Even so, it is impossible to cover every point. Many remain in dispute, confirming the idea that no organized activity can take place without a body of agreed-on rules; often the outcome is that different groups of reenactors split up and go their separate ways. How much harder it would be to reconstruct the wars of some Stone Age society where patterns of behavior, the ties that held men and groups together, and ideas concerning what did and did not comprise of culture were so different from our own as to be almost incomprehensible. Perhaps that is why, the further back in time any reenacted event, the less authentic—more “farby,” as reenactors say—it tends to be.<sup>3</sup>

The origins of the rules vary greatly. Some are based on more or less explicit cost/benefit considerations; in other words, they reflect what might be called “best practice.” Often the objective is to avoid alienating the local population. Good examples are Mao Zedong’s prohibition on plundering the civilian population during the Chinese Civil War and the “rules of engagement” issued to every U.S. soldier in Vietnam. Other rules are the result of cultural factors. They comprise the things that, in any given society and very often for reasons that are really no reasons at all, are “done” or “not done.” Such things may be spelled out in Holy Scripture or else orally transmitted, as, for example, is done in the Koran and other early Islamic traditions.<sup>4</sup> A third kind originates in agreement, tacit or explicit, written or unwritten, between the belligerents.

Here one must note that war, however cruel and fearful it may be, is not necessarily a zero-sum game in which one side can gain something only at the direct expense of the other. Instead, as we shall presently see, there may be, indeed often are, situations in which they share certain interests even as they tear each other to pieces over others. Both common sense and the equations of game theorists tell us that in such situations those who over time consistently stick to the rules (while always on their guard against those who do not) will end up by gaining an advantage.<sup>5</sup> The reason why they gain an advantage is because they build up a reputation for fair dealing; such a reputation is not without its uses in finding allies, in obtaining reciprocity, and even in bringing the conflict to an acceptable end. Conversely, there are always some people who, putting

their own immediate interests first, disregard the laws of gods and men and thereby endanger everybody else. When the time comes, they can expect to be dealt with by the other side, and perhaps their own, too.

As to the categories themselves, far from being separate, they are interrelated. While culture, custom, and the like are very important, obviously no set of norms that has its origins in them but which clearly obstructs the practical demands of war can survive for very long. Two-sided rules that originate in common interests but are regularly violated by one side will not survive either, as the goose disregards them, so will the gander. To these problems should be added difficulties of communication as well as the usual ability of humans to make words and concepts mean what they want them to mean. For all these reasons, deciding what does and does not fall within the rules, let alone why, is extraordinarily complicated; why else have entire legal departments staffed by highly trained lawyers? Here all I can do is to provide a few examples of the rules, how they work, and what an important part they form both of the culture of war and war itself.

For any kind of society to wage any kind of war, the first question that must be answered is who may be treated as an “enemy.” Clearly people who form part of the society itself cannot be so treated, or else it would very soon fall apart. This, however, is only the beginning. The vast majority of societies do not draw a simple line between friends and enemies. Instead, enemies are divided into different kinds, each of which is supposed to be fought by different means and treated in different ways. A very good example of this is provided by the book of Deuteronomy, which distinguishes between no fewer than three different kinds of enemies.<sup>6</sup> First there are the Amalekites, a hereditary enemy specifically condemned by the Lord, who must be exterminated whenever and wherever encountered. Next there are the pre-Israelite inhabitants of the Land of Israel. They, too, must be exterminated, but in their case this is not because of any special hatred but because of what, in a modern context, might be called a *raison d'état*. Finally there are “ordinary” enemies. Any wars the Israelites may wage against them are seen as purely instrumental, and accordingly the treatment they are to receive is quite different. And even this threefold classification still does not take into account civil war against other Israelites, a possibility that Deuteronomy does not discuss but which was actually realized on at least two later occasions.<sup>7</sup>

Nor are tribal societies, ancient or modern, the only ones to see things in such a way. In classical Greece, a clear distinction was drawn be-

tween two main kinds of enemies, Greeks and barbarians. As to what this could mean, suffice it to recall Aristotle: "barbarians," he says, are, "by nature, slaves."<sup>8</sup> The Romans distinguished between *vinnicus* and *hostis*.<sup>9</sup> The Koran distinguishes between war waged by Muslims against other Muslims, war waged against other "peoples of the book," such as Jews and Christians, war waged against heathens, war waged against apostates, and war waged against brigands.<sup>10</sup> Enemies of each category were supposed to be treated differently; for example, whereas unbelievers could be enslaved, Muslims could not. Naturally these differences were mirrored by the Christians who waged war on the Muslims themselves. Thus war against the Saracens was not waged on the same principles as war against fellow Christians, albeit as the Crusades went on and the two sides got to know each other better, the differences between them tended to diminish.

On more than one occasion, such distinctions also governed warfare within the medieval *res publica christiana*. Fighting one another, French, English, Flemish, and German soldiers behaved in one way. Fighting others, such as the Irish, the Welsh, the Scots, or the Slavs in the east, they often behaved in an entirely different way, casting off most restraints and laying about them in a truly horrible fashion. Contemporary writers such as Gerald of Wales (1146-1223) were, of course, well aware of this. To explain the difference, they adduced all kinds of geographical, social, cultural, and military reasons.<sup>11</sup> No matter. Here, all we are trying to do is show that differences between different kinds of enemies did exist and were recognized. Which means that, in waging war against them, different sets of rules were applied.

Far from waning away along with the Middle Ages, such ethnic and religious distinctions continue to apply even today. From the time of Vasco da Gama on, European nations usually applied one set of rules when fighting each other. They used a second when fighting the Ottomans, and a third in their encounters with people outside Europe and the Mediterranean world; these differences persisted for hundreds of years. In World War II the Germans applied one set of rules when fighting Western countries such as France and Britain. A different set was used when confronting the Soviets in the east, and a third when fighting "barbarians" in the occupied countries; regarding the latter, distinctions were also made between the west and the east, including the southeast.

To stay with this example, even in a country as disrespectful of international norms as Nazi Germany was, the shift from one set of rules to an-

other was anything but self-evident or automatic. In order to make sure his generals understood what he required of them and carried it out, Hitler at one point summoned them for a highly unusual meeting at his Berchtesgaden mountain retreat.<sup>12</sup> Later in the war, although there may have been no orders from the top, the American military saw things in a similar light and behaved in a similar way. For the GIs, fighting Germans in Italy or France was one thing, doing the same against the Japanese in the Pacific Theater another. In the latter, racist stereotypes were superimposed on the already harsh realities of an all-out war between states, leading to, as one author puts it, a "war without mercy."<sup>13</sup>

When enemies are not classified by their religious beliefs or ethnic origins, they may be classified by their status or the class to which they belong. Particularly in the Middle Ages, war between members of the chivalrous classes was completely different from war between them and the lower classes.<sup>14</sup> In the former, opponents would often, though of course not always, be spared; in the latter, seldom if ever. In part it was a question of simple expediency: given that knights often had property and could be put to ransom whereas many others did not and could not. In part it was a question of class solidarity that sometimes transcended momentary conflict, and in part perhaps the hope that the way one treated one's opponents, and the kind of reputation that one gained thereby, could come in handy in case the fortunes of war reversed themselves. Again, no matter. The essential point is that there existed different kinds of war attended by different kinds of rules, even if they were fairly vague, even if they were never clearly written down, and even if they were sometimes violated.

Yet another method is to divide opponents into those who have the right to wage war and those who do not. Legitimate belligerents are usually classified as enemies, illegitimate ones as rebels, conspirators, guerrillas, terrorists, robbers, bandits, or criminals. If only because reciprocity is expected, legitimate belligerents are often treated with a degree of consideration. Not seldom, as in the Netherlands since 1621 or so<sup>15</sup> and in the rest of Europe from the second half of the seventeenth century on, this is done on the basis of explicit treaties, which themselves may be either bilateral or multilateral.<sup>16</sup> On the other hand, showing mercy to illegitimate belligerents might cast doubt on one's own legitimacy. As a result, normally they can expect no quarter. To the contrary, very often they are treated in ways consciously and explicitly designed to serve as a warning to others—for example, by being crucified as were Spartacus's

men, and a century and a half after them the Jewish survivors of the Great Revolt.

Needless to say, there were occasions when the distinction between legitimate and illegitimate belligerents could lead to remarkable results. Take the case of medieval Japan, Japan being an island, for centuries on end it did not wage war against external enemies, with the result that all wars were civil wars by definition. There was, however, a curious twist. In war, Japanese-style, all parties always claimed to be fighting on behalf of the emperor and against the evil men who had captured him or misled him; much the same reasoning also applied in Confucian China. In both countries, it followed that the losers were ipso facto rebels and treated accordingly. The leaders were executed in all kinds of interesting ways. The followers were perhaps more likely to be pardoned or incorporated into the victor's army, but in principle there was nothing to prevent them from being executed as well.<sup>17</sup>

Yet another way the rules may operate is to distinguish between what, for lack of a better term, I shall call "active" opponents and the rest. The former are those on the enemy side who participate in combat and, doing so, either kill the members of one's own side or at any rate do their best to achieve that result. Not so the latter; depending on the society in question, they may watch from the sidelines, provide medical and logistic support, form part of the social and economic infrastructure without which no war can be fought, or simply stay at home while waiting for the outcome. Since different societies had different forms of military organization, the precise way in which the lines were drawn, as well as the technical means used to keep the various categories apart, were not fixed but varied very much from one to the next.

Tribal societies usually distinguished between adult men, on one hand, and women and children, on the other.<sup>18</sup> So did societies of the ancient Middle East. Take the reliefs that used to decorate the royal palace at Nineveh and which show the Assyrian siege of Lachish, Judea, in 705 B.C. In them, the men are shown impaled, whereas women and children are led away, apparently unharmed. Although there were exceptions, by and large Greek, especially Hellenistic Greek, and Roman armies observed similar distinctions. Medieval jurists tried to distinguish between combatants and innocent people, the latter comprising not only women and children but those whom today we would call noncombatants.<sup>19</sup> In Europe since the second half of the seventeenth century, the basic distinction was between those who, wearing the king's coat (as uniforms were often

called), were authorized to fight and those who were not. The former had it coming to them while the fighting lasted but were supposed to be protected once, for one reason or another, they were hors de combat; with the latter, the opposite was the case.<sup>20</sup> Reflecting the problem of the *Franco-Prussians* that had arisen in the Franco-Prussian War of 1870-71, the international conventions signed during the early years of the twentieth century added the idea that even irregulars were entitled to certain forms of treatment. Provided, that is, they wore a distinguishing mark or dress, carried their arms "openly," and obeyed a clear chain of command.<sup>21</sup>

Whatever the precise categories adopted, very often the objective of the rules is to prevent escalation. To the side that is gaining the upper hand, pouring oil on the waters may be desirable in order to persuade the other to relax his efforts, refrain from going berserk, and perhaps surrender. On the side that is about to lose, doing the same may very well be the only way to avoid reprisals, even to make survival possible. Quite often, too, neither side is able to achieve a decisive victory. There may even be situations in which they do not want to—for example, with an eye to preserving the balance of power and turning an enemy into an ally in the not too remote future. In 1815, such considerations prevented the Congress of Vienna from depriving France of territory conquered before 1792 or even dismembering it. In 1866, similar ones led Bismarck to conclude peace with Austria without any attempt at annexation. On top of all this, both sides may have a common interest in preserving the infrastructure so as to ensure that once the war is over, a more or less civilized life can resume.

At all times and places, perhaps the factors most likely to lead to escalation are perfidy and gratuitous injury. Concerning the former, something has already been said when we discussed declarations of war. Not all societies have the custom, and even those that do, sometimes violate it in order to gain advantages, such as surprise. Yet surely such declarations are issued (and expected) by enough societies, and sufficiently often, to make an unprejudiced observer conclude that there must be some real advantages to doing so. Certainly those who do not do so are considered worthy of condemnation and punishment. Of course the arts of warfare are full of sudden raids, ambushes, and the like. Yet probably at no time and at no place was launching a totally unprovoked attack on a totally unprepared enemy considered a great feat.

Declarations of war apart, perfidy may also be committed during the hostilities themselves. Good examples are the assassination of enemy

leaders (a practice that under the name of "targeted killings," remains as controversial today as it has always been), breaking truces, wearing false uniforms and other distinguishing marks (a practice specifically prohibited under modern international law<sup>21</sup>), resuming the fight after being granted quarter, and the like. In both medieval Europe and Japan, military codes served explicit warning against engaging in it. The same is true of the list of rules issued by Muhammad's immediate successor, Abu Bakr.<sup>22</sup> The reason why they did so was not simply because perfidy is not "nice." Rather, it was because it was incompatible with the warrior's highest quality, his honor—precisely the factor that, when things got tough, could still bind knights, samurai, tribesmen, and other kinds of warriors to their lords and cause them to do their duty even unto death. This did not rule out the use of ruses. Was not Frontinus's *Strategemata* one of the most popular military textbooks of the Middle Ages, and had not Sun Tzu roundly declared that all warfare is based on deceit?<sup>23</sup> The difference was that ruses were permitted, even expected; however, violating ones freely given word was not.

To illustrate what was meant by perfidy, consider the following two incidents. In 1173, Louis VII of France, invading the Norman border town of Verneuil, was on the point of victory when, to save himself a final effort, he offered the inhabitants a three-day truce after which, if help did not arrive, they were to surrender. Probably he had hoped his opponent, Henry I of England, would be unable to come to the town's assistance in so short a time; when the Normans appeared nevertheless, instead of keeping his word he set fire to the town and tried to escape (only to be pursued by Henry). Again in the next year, Louis invested Rouen. Making little headway, first he granted a one-day truce in honor of St. Lawrence, he said—and then, pressed by his advisers—or so others said on his behalf—violated it. Contemporaries found his conduct heinous and roundly condemned it. Had the opportunity presented itself, they would have treated him as he deserved. Then as now, perfidy is considered perhaps the worst offense of all, and enemies who committed it, or who are accused of committing it, are likely to be executed out of hand.

Gratuitous injury is most often committed against those who are unable to resist, that is, the various kinds of people who are not active combatants, however defined, and those who have ceased to resist, a group encompassing the wounded and prisoners. The wounded do not have to be discussed at length, as during most of history they were not considered a separate category at all. Naturally those who had been wounded in

the fighting might ask for quarter, as other warriors also did. However, it was only in the last three centuries or so, and then only in the West, that people started looking at them as a special group with rights similar to those of prisoners. First hospitals were turned into sanctuaries. Next neutral representatives such as those of the Red Cross were permitted access to them, and finally conventions prohibiting the capture of medical personnel and arranging for enemy wounded to receive treatment similar to the one meted out to one's own troops were signed.<sup>24</sup> From the West the idea spread to many other parts of the world. Today, violating the rights of the wounded, let alone butchering them, is considered a serious offense indeed. It is also one that invites retaliation and, in this way, escalation.

Some societies, when engaging in some kinds of war, do not take any kind of prisoners at all. Either those who do not fight or have retired from the fight enjoy immunity or else, going to the opposite extreme, they are simply killed whenever possible. Still, by and large these are exceptions. One reason for taking prisoners is because they often can be valuable, whether by way of their labor (both men and women), as sexual partners and breeders (women), or as a future source of manpower (children). In addition, prisoners can be used for gloating as well as for ceremonial purposes, subjects that will be treated in the next chapter. However it is done, every society has its rules as to whether prisoners should be taken in which kinds of war; which categories of people should be taken prisoners and which not, and how they should be treated once they have been taken.

In Europe, for several hundred years past, it is only members of the opposing armed forces (or, in case of guerrilla warfare and terrorism, their supporters) who may be taken prisoner. This proposition also works the other way around. Regardless of what their actual function is, anybody in uniform is considered an enemy and may be captured; this applies to rear-area troops just as much as to combatants at the front. During much of history, things were different. Very often, not only warriors or soldiers but also noncombatant men, women, and children—in fact, all members of the enemy society—constituted fair game. To illustrate, among the Meru of Kenya, life revolved around herds of cattle. So important was the role of cattle rustling in warfare that a warrior who wanted to surrender would call out, "Take cattle." Then he would place all weapons in both hands, point them upward, and push them toward his opponent. The victor would take the weapons and use his own cape to

cover his captive, thus symbolically taking possession. Since the objective was to make a captive's family pay ransom, and since a future reversal of fortune was not unlikely, captives were rarely maltreated.

This, however, was just the beginning. Not just men but uncircumcised girls and those who had already been "cut" but were still waiting to be married could be captured (the scholars who gathered the material seem to have forgotten to ask about the fate of married women). Rarely, however, were they maltreated. Custom dictated that they could not be claimed as concubines or wives by their captors; instead, they would be exchanged for cattle in the same way as males were. Another method was for the captor to adopt the girl as his daughter. Eventually he would marry her off to a man of another clan, in return for which he and his family would, once again, receive cattle.<sup>25</sup>

Enslaving women and children is one thing, treating grown men in the same way, another. Most tribal (and, later, feudal as well) societies did not have the organization needed for the purpose, with the result that male captives had to be either killed or let go for a ransom. The situation in the ancient Middle East, Greece, and Rome was different. First, government was stronger and more articulated. This by no means meant that male prisoners were always spared—Egyptian, Assyrian, and Roman monuments often show us their fate in grisly detail. It did, however, mean that large numbers of adult men could be kept in permanent bondage and their labor exploited both on behalf of individuals and that of society at large. Second, the armies of these peoples, being much larger but not faster, probably found it harder to achieve surprise. Going on campaign, they were likely to find the country they passed empty. Usually the population would escape and take refuge in fortified cities. As happened, to cite but one instance, when the Spartans invaded Attica during the Peloponnesian War.<sup>26</sup>

Once a city had fallen, and unless surrender terms had been negotiated first, it would be sacked. A sack could be spontaneous, the result of soldiers' lust for revenge and plunder. As often, though, it was deliberately ordered by the victorious commander with an eye to revenge—sieges tended to be expensive in terms of losses suffered—profit, and the intimidation of future enemies. In the latter case it could be organized very carefully indeed; and, being organized, made subject to rules just as war itself was.<sup>27</sup> Men, women, and children were all seen as fair game, to be treated as, using Roman terminology, the *ius gentium* or *ius belli* dictated. Men would be either killed, perhaps after being subject to torture

to force them to reveal their belongings, or enslaved. Women and children were also enslaved, the former after being raped first (although exceptionally beautiful women, or such who formed part of the aristocracy, might be spared either to be presented to commanders or in order to increase their value when the time for ransom came). The city itself either was razed, as Carthage was in 146 B.C., or rebuilt and provided with a new population, as Jerusalem was in A.D. 137. Going from victory to victory as they did, Roman armies in particular were accompanied by professional slave dealers, chains at the ready. They would buy the captives from the troops and take them to the market.<sup>28</sup> The list of cities that at one time or another suffered this fate is almost endless, including, besides the above two, Troy, Babylon, Syracuse, and Rome itself (at the hands of the Vandals).

In modern Europe, the last time a real sack took place was at Magdeburg in 1635 (although Bajadcz in 1511 came pretty close). In both cases the commanders, Tilly and Wallington respectively, blamed the troops for getting out of hand. Even so, these were not Roman times. It is true that, in both cases, large numbers of men, women, and children perished. It is also true that many women were raped and the cities themselves ransacked in search of valuables. Still, there could be no question of systematically destroying the cities, let alone of carrying off their populations and putting in new ones. Children, women, and even men who had survived the initial fury were not taken prisoner or enslaved but allowed to resume their lives as best they could. Perhaps most important of all, whereas Xenophon had once written that "the losers' lives and property belong to the victors," by this time sacking a city was considered very much *hors du loi*. This explains why commanders, by claiming that the soldiers had acted on their own, took the trouble to apologize for what they had wrought.

By contrast, even Berlin, captured in the aftermath of the bloodiest war in modern history, was not sacked. Certainly there was plenty of robbery and rape. However, they were not carried out in an organized way. At no time did the Soviet high command issue orders, or even allow its troops to kill and destroy indiscriminately. As a result, paradoxically, such German men as were present, most of them either quite old or very young, had less to fear than German women did.<sup>29</sup> Yet this and many similar episodes do not mean that man is finally turning into a kinder, gentler animal. At most, one may say that those who break the rules are likely to be condemned, sometimes even punished; but that has always been the

case. The real reason why enemy civilians, as opposed to enemy soldiers, are no longer captured is because from about 1700 on armies with their firearms became so powerful that mere civilians could not resist them anyhow.<sup>30</sup> As long as they did not resist, by and large conquerors found it more useful to treat them as part of the infrastructure on which they themselves relied. This situation, though, may not last forever. During the years since 1945 new forms of war, such as terrorism and guerrilla, have grown to the point where they are now almost the only ones left. The more important they are, the harder it becomes to maintain the distinction between combatants and noncombatants.<sup>31</sup>

In a modern economy based on free enterprise, slavery is generally regarded as inefficient. This probably explains why, although prisoners are often put to work, there can be no question of enslaving them. In this context, it is probably no accident that during and after World War II the only societies that deliberately captured and used large numbers of slave laborers were the totalitarian ones, Nazi Germany and the Soviet Union. Another factor has been the shift from polygamy (historically, most societies have been polygamous) toward monogamy. Along with modern contraceptives, this led to a highly peculiar idea: namely, that for a man to cheat on his wife is just as bad as for her to cheat on him. Alas for many men, the time when they could capture an enemy woman, take her home, sleep with her, and breed her is gone. But this does not mean that rape has less appeal for modern soldiers than it did in the past.

As already indicated, one possible objective of the rules of war may be the preservation of the economic infrastructure. Once again the Meru provide a good example of how it was done, or at any rate of how, in the glowing memories of old men speaking of long-dead traditions, it was supposed to be done. On one hand, the overriding objective of warfare was livestock rustling. On the other, engaging in it was considered not merely a serious business but also a game in which young warriors could discharge their energies and gain their spurs. Some care was taken to allow warriors to play the game without undue damage to the rest of society. Passing through their opponents' banana groves, raiders were permitted to take what they needed but forbidden to cut down or otherwise harm the trees. The same applied to fields of grain, yams, and arrowroot. Raiding parties could seize whatever they found within the enemy's huts but not destroy the huts proper. Weapons were seen as legitimate spoils of war, but agricultural tools were not. Warriors were forbidden to interfere with trade routes, both local ones and those linking the Meru with

others. Such routes were solemnly marked in peacetime and were expected to remain open in wartime, too.

Rules broadly similar to those developed by the Meru may be observed in countless other societies as well. The Greeks had rules against poisoning wells and cutting down olive trees, which are notoriously slow to grow. The Koran has similar ones, as did medieval chivalrous custom.<sup>32</sup> Modern societies normally draw a line between military and civilian. The former may legitimately be attacked, bombed, demolished, and smashed to smithereens, while the latter may not. When William T. Sherman in 1864-65 made Georgia howl, this was precisely because, instead of observing the rules, he deliberately set out to violate them.<sup>33</sup> As might be expected, often there are problems of definition. Where does "civilian" end and "military" begin? Do the workers in an industrial district where munitions are produced form a legitimate target? Often the more complex a society, the harder it is to answer the question, the reason being that many kinds of equipment, communication and transportation arteries, and productive plants have dual uses. Still, most people would agree that *some* rules do exist and ought to be observed. Conversely, those who do not agree and target people and things indiscriminately are usually known as terrorists.

In this context it is necessary to say a word about the rules as they pertain to holy places and buildings. Under the modern law of war as it has existed for the last few centuries, such places are supposed to receive special attention and enjoy immunity. This is not because they are considered important; in a way, the contrary is true. In a secular society, the real reason why armies engaged in invading or bombing their enemies are supposed to spare churches and the like is precisely because most of us no longer believe that divine intervention may be, to speak with Machiavelli, "effective." Another reason may be the desire to avoid antagonizing the enemy population, as, for example, when Moshe Dayan ordered the Israeli army to take good care of the mosques on the Temple Mount after it occupied Jerusalem back in 1967.<sup>34</sup> Even so, the law says that holy sites, like the rest of the civilian infrastructure, must only be protected as far as "military necessity" permits.<sup>35</sup> In this way it provides a loophole wide enough to take not just a truck but a tank transporter, too.

Needless to say, previous societies had their own rules as to how these things should be done. To begin at the beginning, most tribal societies are closely identified with their gods. In fact, the belief in certain gods and not in others is precisely what distinguishes them from the rest

and empowers them; consequently, when fighting other tribes, not only do they target the enemy's shrines, holy implements, and so on, but those implements and those shrines are often among the most important targets of all. Very good examples of this are provided by the Pentateuch, where the Lord explicitly commands the Israelites to smite not just their enemies but those enemies' gods as well.<sup>36</sup> Also included in the Bible is the story of the Ark of the Covenant. Ordinarily it was kept in the shrine, but at one point it was carried into battle as a miraculous rallying point and ended up being captured by the Philistines. So shaken was the prophet Eli when he heard the news that he fell off his chair, broke his neck, and died.<sup>37</sup>

Some readers may think that since tribal societies were small by definition, not too much should be made of them. This overlooks the fact that some of the mightiest empires ever—those of the ancient Middle East, the Arab ones, those of the Aztecs and the Inca—were in many ways little, but tribes writ large.<sup>38</sup> In these societies, rulers held their position by divine right. As a result, fighting those rulers also meant opposing the gods from whom they were descended or by whom they claimed to have been appointed. No wonder that when such empires waged war on each other or when other peoples tried to bring them down, religious objectives, far from being subject to special rules which protected them, were among the very first targets.

Here and there one may find really tolerant conquerors. Probably the best-known example is Rome. Of course, the Romans were by no means averse to robbing temples. Still, normally they would incorporate the gods of conquered peoples into their own pantheon.<sup>39</sup> Military and economic motives, not religious fury, determined what happened to the temples in question. Rome apart, most of the time the rules of war will only protect religious sites in two kinds of situations. One is when two or more belligerents profess the same faith. This was the case in ancient Greece and also in Europe before the Reformation. While in both societies there were cases when the rules were violated, each time an invasion threatened, people would take their belongings and pack them into the temples and churches; sometimes they succeeded in saving them in this way, sometimes not.<sup>40</sup> In Europe, this situation lasted until the Reformation and Counter-Reformation, when churches became targets par excellence. Next, after the Peace of Westphalia in 1648 caused religious passions to cool down, it more or less reasserted itself.

As already indicated, the other situation when religious assets are

likely to be spared is when people no longer believe in God. Hence, "military necessity" permitting, they are content to treat such assets in the same way as they do others that have no special sort of holiness attached to them. It should, however, be noted that, in many cases, even self-styled "advanced" and "civilized" peoples are prepared to respect the rules concerning religious objects only as long as doing so does not carry negative consequences for themselves. For example, the British in 1900 relentlessly pursued the Golden Stool of the rebellious Ashanti tribe in the Gold Coast, present-day Ghana. Until, in the end, they succeeded in capturing it and planting their hands on it.

Perhaps the most important set of rules of all, both in themselves and because they act as the necessary basis for all the rest, are those concerning communications between the belligerents. We have already seen how declarations of war are used to inform the enemy that one condition—that is, peace—has ended and been replaced by another in which different rules apply. Certainly not all war-making organizations issue such declarations. Some skip them altogether, and some publish them only as a kind of afterthought; still, there is no real proof that their use is in decline. For every modern state that breaks the rules in an effort to take the enemy by surprise and destroy its air force before it can even take off, one can find a terrorist organization that, seeking to draw supporters and perhaps gain some kind of legitimacy, publishes "manifestos" and declares "war" before starting to blow up things and kill people. In 1998 and again in 2000, the best-known terrorist organization of all, al-Qaeda, did just that.<sup>41</sup> In this case, as in many similar ones, the real problem was not that fair warning was not served but that nobody listened to what Osama bin Laden had to say.

Once hostilities have started, at least one side usually still considers it very important that some channels of communication remain open. One reason for this is to enable individual warriors and even entire units to surrender; though occasions when groups of people fight to the death do exist, they are perhaps less frequent than one might think. Another is to arrange truces and cease-fires, start peace negotiations, and the like. Truces in particular are very important. Were it not for them, waging war would be like traveling down a motorway that does not have places to stop, which is why, starting in the *Iliazd*, the annals of warfare are full of them.<sup>42</sup> The most important reason for concluding a truce is to allow negotiations to take place, exchange prisoners, and the like. It may, however, also be used in setting up a kind of bet—as when a garrison,

hard-pressed, promises to surrender in so-and-so many days unless reinforcements arrive first. There are even occasions when truces are concluded simply to give both sides a break, as, for example, repeatedly happened during the Vietnam War; and also when Israeli troops and Hezbollah guerrillas in southern Lebanon arranged a cease-fire so both could watch the world soccer championship on TV.

Since most war-making societies take prisoners, at least in some kinds of war and under some circumstances, it is imperative that they have more or less agreed-on methods to make surrender possible. Probably the most common signals are visual ones, such as dropping one's weapons, raising one's hands, going down on one's knees or even on one's stomach, or, in the case of Rome, raising one's shield over one's head. These forms of behavior are accompanied by appropriate verbal formulae or other utterances whose purpose is to signify supplication. Not only people but many kinds of animals are capable of giving such signals, recognizing them, and responding to them; as, for example, by turning tail, rolling over, or, in the case of females of many mammalian species, crouching and presenting their behinds so the male may mount them.<sup>44</sup> Backed as they are by a long evolutionary development, it is scant surprise that the signals are still used even in the most recent conflicts between the most advanced countries.

In case it is not individual soldiers but entire groups or units that want to surrender or merely to parley, other methods are needed. One is to employ a special class of envoys whose persons are sacrosanct and who may therefore act as go-betweens. In both ancient Greece and medieval Europe, this was the task of heralds.<sup>45</sup> Europe also had a class of people who belonged to a supranational organization, that is, the Church. This, as well as the fact that the whole continent professed a single religion, made it possible for ecclesiastics to be pressed into service as intermediaries; churchmen, moreover, were prohibited from touching weapons or shedding blood. Depending on conditions, other societies have their own ways of doing these things and used other objects to make their wishes known.<sup>46</sup> One of the most remarkable examples comes from New Guinea. There making peace was regarded as women's work, the reason being that women neither took part in war nor were considered capable of doing so. As a result, delegations passing the "lines" regularly included women.<sup>47</sup>

Returning to Europe, such methods only started to be abandoned during the fifteenth and sixteenth centuries. First Italian city-states and

then other rulers started appointing permanent representatives in each other's courts, rendering the services of the Church and other go-betweens unnecessary.<sup>48</sup> At the same time, the advent of disciplined, semipermanent armed forces facilitated the development of rules that enabled armies to contact each other directly. To make sure that the envoys' identity and intent were not mistaken, often they carried flags of truce. The first time a white flag is mentioned is in China during the Eastern Han dynasty (A.D. 25-220). In Europe during the Middle Ages envoys sometimes wore a white tunic over their armor; just how this developed into the modern system is not clear.

Though signals indicating an individual's desire to surrender are as old as humanity or older, during most of history there was no obligation to take note of them; in other words, whether or not quarter was granted was entirely up to the warrior to whom the signals were addressed. Even as late as the first half of the seventeenth century, Hugo Grotius, discussing the problem, still did not cite any form of international law. Instead, he suggested that ordinary charity be brought to bear.<sup>49</sup> The situation of envoys was different. Regardless of who they were, it is hard to think of a time and place where they did not have a right to be heard, or at least allowed to depart unharmed. To disobey this rule has always been considered one of the worst "war crimes" of all. If, in the passage we have quoted and which describes Agamemnon's joy in battle, the king did not heed the pleas of Pisander and Hippolochus but mercilessly butchered them, then this was not because he was cruel; rather, it was because their father, Antimachus, had once suggested not only that the Achaean envoys' request for Helen should be turned down but that the envoys should be killed.<sup>50</sup>

By contrast, modern international law as it has developed since Grotius has tended to put matters upside down. Individuals who surrender in due form have a right to have their lives spared as well as to be decently treated during the captivity that follows.<sup>51</sup> Yet nothing obliges a belligerent to receive the envoys of the other side, let alone grant them a hearing. Sometimes such delegations, gingerly making their way across no-man's-land, are met by shots fired over their heads. If they do not take the hint and withdraw, then of course the next rounds may be aimed straight at them.

Not only do most societies have rules concerning the methods by which the desire to surrender may be signaled, but the concept itself implies certain forms of behavior concerning what the victor may do to the

loser. Once again, let's use the *Iliad* as our example. For all the undoubted savagery of Homeric warfare, Agamemnon, Odysseus, and the remaining heroes do seem to have recognized a standard formula under which cities might surrender. Under its terms, the defenders' dependents' lives and liberty would be spared, as would their own. This was done on condition that the losers swore not to conceal any of their belongings and the victors would be allowed to take away half of them. At one point during the siege, Hector considered the possibility of making peace on such terms, only to reject the idea in the end.<sup>52</sup>

Almost without exception, the same applies to subsequent civilizations. In particular, the history of siege warfare bristles with occasions when fortresses surrendered on terms that were considered acceptable by the contemporary culture of war.<sup>53</sup> Such occasions were often surrounded by pomp and circumstance; one need only think of Diego Velazquez's celebrated painting, *The Surrender of Breda* (also known as *Las Lanzeas*). Often, the victors formed a kind of guard of honor as the defeated marched out with bands playing and banners flying. Normally their officers were permitted to retain their sidearms. That such ceremonies are by no means a matter of historical record only was shown, among other occasions, by the departure from Beirut of Yasser Arafat and his PLO fighters in 1982.

In fact, so incapable are men of escaping the culture they themselves have created that rules often exist even when their existence is denied. One example of this comes from World War II. To the Germans, the Allied demand for unconditional surrender came as an innovation, and many feared that they might be shot.<sup>54</sup> To the Americans, though, it was merely the formula Grant had used in all his victories and, in particular, at Appomattox Court House in 1865. The phraseology notwithstanding, there was no question of the Confederate troops being shot, their houses and property taken over, and their wives and children sold into slavery. Instead, having been supplied with food out of Union stocks (they were literally starving), they were immediately allowed to return home and even take their horses with them. None of this is to deny that conventions concerning surrender are just as likely to be violated as any others. That, however, simply takes us back to the question of perfidy already discussed.

As of the early twenty-first century, war remains the most fearsome of all human activities and one that, unless both sides exercise very strict control, is very likely to escalate out of hand. As of the early twenty-first century, too, it not only remains as rule-bound as it has ever been but

cannot take place without rules to define what it is, and is not, about. Some of the rules are explicit, others tacit. Far from standing on their own, they are closely related to the culture of the society that created them, which explains why they vary widely between one society and the next. As society changes, so do the rules. As a result, probably there has never been even one war-making society that did not create and apply rules of this kind. Accustomed as we are to our own rules, we sometimes think that they are so simple as to be almost self-evident. That, however, is not the case. Otherwise the Japanese government, desperately trying to catch up with the West during the final years of the nineteenth century, would scarcely have sent out delegations to study them and submit recommendations as to how they might be applied.<sup>55</sup>

That even the most "civilized" societies often violate the rules of war is undeniable. It is also true that some societies at some times and places waged war with less restraint than others—and that the same societies have behaved with greater or lesser restraint at different times and when fighting different opponents. What cannot be proved, however, is the existence of a historical trend. One scholar, speaking of the years after 1789 and especially after 1914, claims that the advent of mass armies put an end to the "limited" cabinet wars of the eighteenth century. A second, speaking of Japan, claims that sixteenth-century samurai were less chivalrous than their medieval predecessors. A third, speaking of Europe, claims that late medieval warfare was conducted less chivalrously than that of the twelfth century, whereas a fourth, after a thorough examination, concludes that the warriors of the high Middle Ages were less chivalrous than the earlier Germans had been. We are even asked to believe that classical Greek warfare was less restrained than its archaic predecessor.<sup>56</sup> Accepting this logic, the inescapable conclusion is that human civilization peaked when our ancestors were still living in caves.

Nor is it true, as one author has written, that the rules are simply "the etiquette of atrocity," mere intellectual exercises designed to find reasons for committing crimes and to justify them after they have been committed.<sup>57</sup> Of course they are that—and so, in their own way, are all other types of rules as well. Nevertheless, over the millennia the rules of war have helped save the lives of millions of people as well as prevent the destruction of uncounted economic assets and cultural treasures of every kind. Had it not been for them, surely the destruction, the bloodshed, and the number of casualties would have been much greater than they already were. To mention but one example, what would have happened if, in World

War II, the Western Allies had treated German prisoners as the Germans themselves treated Soviet ones? In that case, surely in 1945 there would have been a few million fewer Germans than was actually the case.

Vice versa, perhaps the best way to understand what a conflict without rules, without even the possibility of communication of any kind, might be like is to turn to H. G. Wells's *The War of the Worlds* (1898). In this science fiction fantasy, Martians intent on exterminating the human race invade the earth. While provided with huge brains, they hardly have any bodies as we understand the term, with the result, as Wells explicitly says, that they are incapable of any kind of human emotion and perhaps of any emotion at all. Using heat rays and poison gas (which is then cleared away by jets of steam) they set out to methodically cleanse the earth of its inhabitants, treating humans "as men might smoke out a wasps' nest."<sup>58</sup> Surely in comparison with this, war as we know it, even war in its very worst and most atrocious forms, as waged by the Romans against Carthage or on the Eastern Front in 1941-45 or in the Pacific during the same years, can only come as a welcome relief.

A r  
on  
mo  
Ch  
he  
sol

Fig  
the  
ent  
tril  
Ca  
the  
air  
arc  
Th  
rit  
th

be  
co  
in  
to  
pr  
sh  
at  
ar  
ju  
A  
is

C  
g