

UNIVERSITY OF SYDNEY

FACULTY OF LAW

Department of Jurisprudence and International Law
(Institute for Advanced Studies in Jurisprudence)

MATERIALS FOR POSTGRADUATE STUDIES, 1967

KAUTILYAN PRINCIPLES AND THE LAW OF NATIONS: A COMMENT

By

Upendra Baxi

SUMMARY

In this Comment, only one major aspect of Professor Charles Alexandrowicz's paper has been discussed, viz. the principle of dynastic solidarity - though the entire main paper bristles with fresh insights in Kautilyan principles and their possible impact on the classical international law as developed in the West.

The first section of this Comment deals with the drawbacks, now obvious, of the Eurocentric perspective in the study of international law. Eurocentrism is here not used pejoratively: it signifies accumulated habits of thought which have led to acceptance of European (or Western) intellectual traditions as the invariable, if not superior, framework of enquiry. Among several undesirable consequences of this anachronistic outlook, the distinct retardation of the historiography of the law of nations has now been most effectively mitigated by the pioneering studies of Alexandrowicz.

While Indian history does not permit a conclusive assertion about the operation of the principle of dynastic solidarity, the infrequency of debellatio, so unique in world history, does give much credence to this hypothesis.

Viewing theoretically the Indian caste structure with Professor Louis Dumont, as a "balance of forces" primarily centering round the complex Brahmin-Kshatriya relationship, we do find a "solidarity" between these two castes throughout the pre-colonial India, notwithstanding occasional caesaropapism or Brahminic ascendancy to royal power. On the critical question of the existence and impact of this Brahmin-Kshatriya solidarity in inter-state, as distinct from intra-state, relations the present Comment reaches somewhat negative conclusions. Obviously further doctrinal and historical research is needed in this direction and for this very reason the hypothesis of solidarity in the context of infrequency of debellatio represents one of Alexandrowicz's seminal contributions to Indian political sociology in general and the history of the law of nations in particular. This then is the theme of Sections 2 and 3 of this Comment.

The last Section attempts to highlight the contemporary significance of Kautilya and especially in relation to the theory of Mandala a close parallel between Kautilyan political theory and international "system" theory of the type propounded by Morton Kaplan and others, emerges. Finally, the problematic but crucial notion of an all-India Emperor, at the heart of most political theorising in pre-colonial India, is briefly presented with the suggestion that such explanations as can be gleaned from some commentaries on Indian political thought are inadequate to explain the great importance it enjoyed and the plea that it richly deserves the attention of the community of scholars, united at least by their common lack of Eurocentrism.

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1. Eurocentrism and the Law of Nations:

The full significance of Professor Charles Alexandrowicz's varied and valued historical researches in the inter-state relations in Asian countries still awaits assimilation in contemporary thinking about international law.¹ If I may sum up in a few words the message I derive from his superb contributions, it amounts to this: Eurocentrism in scholarly thinking about international law is anachronistic. I would even go further and assert that persistent Eurocentrism in international legal scholarship as well as in the sphere of social learning as a whole cannot but be pernicious both in terms of development of learning in general and in those of progress towards a more viable future world legal order.

From the perspective of human history the colonial epoch, however significant, cannot be regarded as being more than a brief interlude in the historical life of the colonised nations. Thus viewed, it also becomes clear that much of the current rhetoric about "new nations", and their acceptance of international law does not make much sense in terms of "old" and "new". Nations which have now joined international political and economic organisations are "new" only from the limited perspective of the mid-twentieth century history. Deprivation of their political freedom by colonial powers cannot be said to have extinguished their "nationhood" in any significant use of that term; nor, indeed, is there any compelling need to regard "Western" and colonial powers as being significantly "old" nations. History is a great equaliser; and at any rate to the realities and perplexities of midtwentieth century all nations come as relative strangers.

The present world tensions, it needs scarcely any emphasis, arise not from newness v. oldness of nations participating in contemporary international legal order, and thus assisting creation of a future world legal order, but rather from vast disparities between the developed Western nations and woefully underdeveloped ex-colonial nations. The verbal vendetta against the so-called European international law makes sense only as an articulation of the powerful urge felt by the emancipated nations for self-assertion as a precondition for an international egalitarian world order.²

The active presence of Eurocentrism, howsoever incarnated, exacerbates rather than mitigates world tensions and often creates an avoidable diversion of energies and resources of international organisations.³ Demise of Eurocentrism is accordingly not merely a necessity for academics and publicists. They merely form the vanguard in the procession of change. Respect for the political and cultural traditions of the "new" nations can only be fostered in the minds of statesmen responsible for the future of the world when their awareness of this heritage is sharpened. To treat an African or an Asian delegate or diplomat as a representative of a "new" or "underdeveloped" nation is more often than not to relegate to these categories their cultural and political heritage. Knowledge of both Machiavelli and Kautilya may be found in an Indian diplomat, whereas the existence of Kautilya may well be news to his European colleague even today.⁴ The point I am seeking to make here is that knowledge and appreciation of different traditions of statecraft - however distant in their origins and however tenuous their hold on the contemporary state practice - may intrinsically be of some value for all participants in the international social and political processes.

In short, demise of Eurocentrism in scholarly thinking is but an inevitable part of the entire process of decolonisation. In the realm of economic assistance to the underdeveloped countries, it is slowly but surely being recognised that our tasks are not done when declarations of Independence are signed but rather that they begin in real earnest after that.⁵ This awareness has, however, not penetrated our thinking about international law as yet. Political decolonisation, in other words, has to be followed (and followed with greater rapidity) by a cultural and intellectual decolonisation, by an appropriate awareness, recognition and rediffusion of the "colonial" learning in the other parts of the world.

No doubt intellectual decolonisation can also be carried too far, indeed to the point of forfeiting the attention of the learned.⁶ Nationalisation of learning is no answer to Eurocentrism.⁷ Nor does a reckless deification and exaltation of intellectual traditions serve the interests of knowledge. While efforts to invoke the charisma of history for a contemporary dogma represent a common enough human and scholarly failing, the tendency, so often manifest, to discover the genesis of anything significant in the doctrine or development of the law of nations to Indian traditions cannot always be treated with a gentle bemusement.⁸ I here agree with somewhat harsh strictures of Professor Friedmann that an "... artificial inflation of cultural distinctiveness in the field of international relations and law is more than just a harmless exercise in hypocrisy and narcissism."⁹

It is precisely in this spirit that I also welcome the sobering formulation of a set of thirty seven questions by Professor Julius Stone to an All India Seminar on Possible Contributions of Indian Traditions Concerning the Relations of Major Organised Groups to Contemporary Problems of International Law in 1960.¹⁰ A wider dissemination and a deeper study of this

Report will certainly provide the most effective antidote to surviving tendencies towards a mythopoetic idealisation of India's past and suggest fruitful avenues of analytical and historical research in Indian political tradition and theory. It would seem, however, that one of the unintended consequences of the Seminar discussions has been a general devaluation of the significance of Indian thought in this area, this in turn reinforcing Eurocentric tendencies already present.¹¹ To combat this effectively; a readjustment of perspectives seems very necessary and I am happy that Professor Alexandrowicz has here provided a welcome lead by asserting at the outset that it is futile, if not totally meaningless, to seek to relate the ancient Indian traditions of statecraft either to the contemporary international law and order or to the international behaviour of the Republic of India in the present times.¹²

All emancipated nations are groomed in and have an interest in the corpus of international law as developed in the preceding three centuries. No doubt they have protested against, and in some cases flouted, some of its norms; and have also with some vehemence sought reconstruction of some aspects of the law so as to take their peculiar needs and expectations into account. But all their impatience and anxieties have a meaning because they acquiesce in most of the fundamentals of international law. In other words, no "new" nation has, or probably ever will, sought with anything even faintly approaching serious commitment, a total renovation either of the salient norms of international law or fixed pattern of international behaviour and relations, in the light of its pre-colonial and indigenous traditions of statecraft. Making use of the latter, for political or other purposes, is something entirely different from crusading to establish the relevance of such traditions to contemporary international order.¹³

The central lesson of historical knowledge would seem to lie in the truth that the relevance of what is past consists, above all, in understanding what is past. To read Kautilya with Oppenheim's glasses can lead merely to a distortion of both; but by the same token to persist in neglecting either may also mean, among other things, a further impoverishment of the historiography of the law of nations.¹⁴

2. Principle of Dynastic Solidarity:

One of the many aspects of Professor Alexandrowicz's thought-provoking analysis which has particularly intrigued me is, if I may so call it, the principle of dynastic solidarity. Before I venture to discuss it I would like to point out the two main levels on which all analyses of ancient Indian thought have to proceed. One level is that of theory; the other is the level of fact or history. The transition from one to the other is often an unconscious feature of many studies and proves to be particularly troublesome in a correct understanding and evaluation of ancient and mediaeval political theory. The theory in the present case comprises of a large corpus of literature in the Arthaśāstra tradition, of which Kautilya's treatise is

easily the most outstanding. The history here consists of political and social conditions of India. The Arthaśāstra of Kautilya does not mirror, though it may help a reconstruction of, the history of the times during which it is supposed to have been written.¹⁵ Nor does the Indian political history, while illustrating occasionally the impact of Kautilyan thought, always reflect an exclusive fidelity to Kautilyan prescriptions of statecraft. The correlation between theory and history, in this as well as in most kindred instances, is notoriously difficult to establish; and here both by precept and example Professor Alexandrowicz has provided us with one valuable model of cautious analysis. Nevertheless this methodological difficulty is ubiquitous, and in fact a part of the cognitive situation; and it is worthwhile to recall at the outset of this comment that the task of observing a neat distinction between theory and history is one that really requires the dexterity of a funambulist.

Professor Alexandrowicz observes:

... the existence of the caste system across the vertical boundaries of hundreds of states in India and Further India created a horizontal stratum (the Kshatriyas) with its own bonds of solidarity. Thus dynastic legitimism and inter-dynastic solidarity are two of the elements which cemented the otherwise heterogeneous network of states in the Indian sub-continent.¹⁶

It would seem that implicit in the above statement are two different though related principles oriented to indicate, and also explain, solidarity. The first is the principle of inter-dynastic solidarity which by its name is of limited application and would primarily be operative between or among dynasties. It would appear also not to be specially characteristic of Indian political system. But the second, and more important principle would be that of intra-caste solidarity in the sense that since most rulers will belong to the Kshatriya caste, that common belonging or social affinity will lead to some kind of solidarity. This solidarity will appear to be widespread as inclusive of all members of the Kshatriya caste. An ancillary observation of Professor Alexandrowicz refers to what he calls "dynastic legitimism" by which he seems to mean the legitimation of the political power of the Kshatriya within the framework of ruling dynasties. While the solidarity principle receives some attention in this analysis, not much attention is given to the idea of dynastic legitimism. In absence of the requisite clarification about the status of this idea, I here hesitate to call it by the name of a principle though later in the comment some possible implications of this idea will also be discussed in the general context of legitimation of royal power.

Historically there are many difficulties, which almost prove insurmountable, in way of a conclusive substantiation of the solidarity principle. It is doubtful that Kshatriyas in practice, as distinct from theory, formed a special ruling caste in the sense of enjoying an innate monopoly of political power and thus arresting inter-caste vertical mobility. In fact, it

would seem to be a unique feature of the caste system, notwithstanding the lay and specialist prejudices to the contrary, that it provides a dynamic framework for social mobility.¹⁷ Thus, while being born in a Kshatriya caste generally enhanced one's eligibility for kingship this was not in itself a necessary condition for holding that august office; nor did hereditary considerations always effectively oust people of other castes from positions of rulership.

Thus while hereditary preference for the ruling class generally prevailed, even during the early times (600-321 B.C.) when the monarchical form of government was steadily triumphing over the republican form there is evidence to show that Kings came to rule from almost all the castes. The Nandas who eventually ruled the Magadha empire are said to have been of a non-Kshatriya origin; and the founder of the dynasty, Mahapadma, is variously reported to have been the son of a shudra mother and also as being an offspring "of a union between a barber and a courtesan".¹⁸ Pushyamitra, who overthrew the Mauryan dynasty, was a Brahmin belonging to Shunga dynasty (200 B.C. - A.D. 300) which mainly consisted of Brahmins. The social origins of Pratihars in the South Indian history (A.D.700-1200) have been doubted and the probability of their non-Kshatriya origin has some good historical support.¹⁹ The Maratha confederacy, including its founder Shivaji, whose rise to political power is one of the central enigmas of 17th century politics in India, was preponderantly Brahmin both in origin and evolution.²⁰

These few random examples²¹ should suffice here to show that being a kshatriya was an important credential rather than a passport to kingship in Indian political history. They are not intended, however, to demonstrate that intra-caste and hereditary Kshatriya affinities played no significant role in Indian history. Any such categorical conclusion will be palpably untrue. The political history of the Rajputs, who rose to political eminence in the ninth and tenth centuries, provides one of the strongest evidences of intra-caste, or at least intra-Rajput, solidarity even when their social origins are doubtful till today. In fact their vehement insistence on the Kshatriya status is taken to be suggestive of their probable foreign origin.²² There is another factor which might prompt the conclusion of intra-caste solidarity. Irrespective of their social origins all persons or elite groups aspiring or acquiring political power were usually declared to be kshatriyas and thus legitimated by the Brahmins.²³ This process of legitimation extended even in cases of apostasy. Thus the two brothers, Bukka and Harihara, who had adopted Islam, were reconverted to Hinduism and reinstated to kshatriyadom by Brahmins in order that their ascent to royal power be facilitated. This event which was to provide some embarrassing dynastic antecedents is sometimes invoked to explain partially at least the so-called Hinduistic revival in the Vijayanagara empire in the South in the 14th and the 15th centuries.²⁴ But these instances in general would form an exception rather than a rule.

Much the same can be said from the strictly historical viewpoint about the principle of inter-dynastic solidarity, save again with some caveat arising from the fierce caste-consciousness evidenced by the rajputs from time to time. In fact, we have in general rather compelling evidence indicating absence of solidarity among various ruling dynasties throughout the Indian political history. This lack is neatly illustrated by the general picture of internecine strife and helplessness during the various incursions by foreign powers. beginning with the advent of the Turks, Afghans, and Moguls to the final consolidation of the British rule in the mid-eighteenth century. Thus, for example. Dr. Romila Thapar tells us that the "Turks in India themselves felt insecure, since they feared the possibility of a Rajput confederation which strangely enough never materialised."²⁵ Turning Southward we observe the same pattern: the Kings of the Vijayanagara never formed any alliance to combat the Muslim advent in their proper sphere of influence. All through the process of consolidation and decline of the Mogul empire we find Hindu rulers seeking foreign support in intra-mural struggle for power. Even intra-dynastic solidarity is difficult of inference from the testimony of history.²⁶

On the whole, it appears that historical materials would not support greatly the dynastic solidarity principle and any generalisation on this aspect must remain problematic.

Theoretically also we confront many imponderables when we consider the principle of intra-caste solidarity. It is of course true that the rulers of the sub-continent were almost always (as we have seen) assimilated within the caste hierarchy as kshatriyas even when they were not so by birth. Royal power in all cases had to be legitimated, the brahmins usually performing this function.²⁷ In this sense surely we may perceive here a symmetrical social structure, lending as it were some uniformity to the Indian political scene through the ages. But while this symmetry may impart Kshatriyahood to the rulers, either by birth or by priestly legitimation, it does not seem to warrant any inference of intra-caste solidarity as a special feature of Indian political system at any given time.

But even if we were to presume the existence of such a solidarity we still encounter some formidable theoretical obstacles. Thus, I apprehend, the principle of dynastic solidarity will deprive us of any rationale for war as a political institution. To be sure, much will here depend on the meaning and the extent of the solidarity principle; but basically the very idea of war would seem to be at odds with the principle. For one clear implication of the term 'solidarity' is some kind of cohesion which negates or repels disintegrative or discohesive behaviour. And yet war was not merely an ubiquitous feature of the Indian political scene, but was also a cardinal principle of wise statecraft, and to some extent even a part of the philosophy of state.²⁸ This very same difficulty of explaining, let alone justifying, war will arise – and in a much more acute form – if we were to

extend the principle of intra-caste solidarity from the elite groups in the caste to all the members of the Kshatriya caste as a whole in any given community, at any given period.

That war should be an important precept of statecraft, and should also form an integral part of the royal duties, should not be surprising if we are to take into account that in some significant sense secularisation of politics, and consequently of inter-state relations, had occurred rather early in India as compared with the rest of the world.²⁹ One consequence of this secularisation seems to have been a perpetual quest for power-maximisation implied in the very idea of the ultimate form of political power as wielded by an all-India conqueror.³⁰ This is of course not to say that ethical and religious restraints did not operate and influence the political decision-making or statecraft but rather to suggest that they could not play a decisive role in a political system which assigns a clear supremacy to secular power. In this sense again we seem to find that the principle of solidarity would run counter to one of the essential implications of secularisation of inter-state politics.

All this then brings us to the very difficult question of the precise meaning, and depending on that the scope, of the solidarity principle. The term "solidarity" immediately recalls to one's mind the several types of social solidarity of Durkheim.³¹ But these cannot be usefully employed here since our concern is more with the inter-state relations rather than with the bonds of solidarity arising within and prevailing between various social groups of a given community. We concede that the distinction between international, in the sense that the term is used in contemporary discourse, and national societies will be of limited significance in ancient and mediaeval political relations which are now being considered. This while correctly alerting us to the problematics of intellectual milieu of this distinction does not entitle us to blur the inherent difference between a political system comprising a number of units (i.e. distinct sovereign kingdoms) and their relations inter se and the sub-systems comprising that system (i.e. the relations between the various social groups within each kingdom, the idea of kingdom being the closest approximation we have in Indian political theory to the idea of state).

Nor of course can we adopt as a precise connotation of the solidarity principle the generally homogenous cultural and social base of the Indian kingdoms. It may be said that these kingdoms shared common, and sometimes identical, forms of social organisation, notably the caste structure, and that this lent both a perceptual uniformity and a degree of cohesiveness that would not have been otherwise possible. It may also be said further that this sharing, as it were, of social structure facilitated inter-state relations and political communication.

This will appear more convincing in the light of Professor Dumont's recent insightful analysis of Kingship in ancient India. Dumont actually

offers in this study a reinterpretation of the caste system. Basing his views on the pioneering analysis of Hocart and Dumézil, he suggests that the system can be viewed, and fruitfully so, as a "system of oppositions" rather than as a "linear hierarchical order". This means, for our purposes, that the hierarchical relations, wherein the Brahmins appear at the apex, only emerge as a result of the "close association" or solidarity between Brahmins and Kshatriyas. Both these combined oppose, as it were, the rest of the caste structure and act as one integrated force in relation to them. The ideological superiority of Brahmins and their factual dependence on the Kings both combined give us the situation in which "... a relation of mutual but asymmetrical dependence" prevails between the two.³²

This highly complex Brahmin-Kshatriya relationship of interdependence which Dumont inspiringly takes into account not as a "contingent trait" but as a "necessary institution" leads to even more important results for inter-state relations. One consequence of Dumont's approach is the concept of secularisation of politics, meaning (in his terms) a relative autonomy of the political domain from absolute values, which Alexandrowicz commendably seeks to extend to inter-state relations in pre-colonial India.³³

But in the process of transposition of the significant aspects of the caste structure as reinterpreted by Dumont the evidently integrative role of that structure cannot, in my opinion, be extended to inter-state relations.^{33a} This is because of multiplication of common forms of social organisation arising from territorial divisions into separate kingdoms. A crude illustration should suffice. It is true that the Brahmin, in close association with the Kshatriya, performs in the role of a Purohita,³⁴ inter alia, a legitimating role in a given state society. But in a power conflict between two kingdoms (or states) we have obviously a pair of kings and purohitas, and notwithstanding the solidarity between them the purohita of the vanquished pair can no longer perform the legitimating function. In inter-state relations then the problem of conflicting legitimating roles is resolved not through solidarity but by hostility and war, victory and defeat.

This difficulty merely illustrates the sociological aspects of inter-state and international relations *in general* though it arises within a particularly indigenous, ancient and complex milieu. The difficulty consists in absence from international system of the integrative structures and solidarity bonds of the same kind and efficacy as are present in a given state society. Some would also formulate this difficulty in terms of the absence of a unificatory supranational authority. In either case, the pre-colonial inter-state relations in India and the Kautilyan and neo-Kautilyan political theory provide us with one more illustration of an agonisingly familiar contemporary problem. And both formulations confront us with the need for systematic thinking and study of international relations. This is then as much the raison d'être of Kautilya's Arthasāstra as it is of contemporary writings on international law.

3. Absence of "Debellatio" and Dynastic Solidarity:

The relative infrequency of debellatio in ancient and mediaeval state practice is certainly puzzling, more so when juxtaposed with the complex theory of mandala resting basically on aggrandisement of a hypothetical all-India ruler. Professor Alexandrowicz is inclined to think that the absence of the debellatio is one of the salient functions of the dynastic solidarity principle, discussed above. This means that common social origins and common social roles or the very kshatriyahood of all rulers makes it necessary that virtual subjugation or total deprivation of sovereignty of the vanquished ruler should be avoided as a matter of policy, if indeed it is not an ingrained characteristic of the state systems. This claim merits examination.

Most political writers on pre-colonial inter-state behaviour in India would generally agree as to the absence, or more accurately the relative infrequency, of debellatio, though it is one of the chief merits of Alexandrowicz's analysis that it studies the matter specifically from this perspective. It is generally agreed that sovereignty did not mean invariable or total exercise of control over vassals or feudatories and that even the hypothetical unifier of India would seek merely an acknowledgment of political overlordship rather than actual possession and exploitation of the conquered kingdoms.³⁵ This has important bases in the theory of statecraft and we will here briefly refer to three aspects of Kautilyan thought.

Kautilya offers us a threefold classification of conquerors: dharmavi jayin, lobhvi jayin and asuravi javin. These terms are usually rendered in English respectively as: the righteous conqueror, the avaricious conqueror and the demonic conqueror. The mere presence of the prefix "dharma" in the first epithet has led most writers to interpret dharmavi javin as a ruler or a victor whose conquest is righteous, in accordance with dharma. But it is important to remember that Dharma in the tradition of statecraft and in the literature of Arthaśāstra school usually refers to Rājdharma, that is the dharma of the King, and not to dharma as a whole. In Kautilyan thought this distinction acquires a particular sharpness. Even though the ultimate ends of Rājdharma are not, and cannot theoretically be, different from those of dharma in general, the former is essentially confined to the political domain in which the prescriptions of righteousness generally applicable to the individual person as a moral entity do not apply in the same manner.³⁶ Once this distinction is perceived, it will seem more appropriate to render the expression dharmavi javin in terms of statecraft rather than those of morality, as Dr. Kane has done,³⁷ as signifying a conqueror who is satisfied with obeisance or mere submission. In this sense, a dharmavi javin will differ from the other two categories of lobhvi javin and asuravi javin, the former insisting on satisfaction in land and money and the latter going even beyond these "robs the defeated king of his son, wife and life" (XII.1)

The first form of conquest was generally approved but the other two in most cases met with disapprobation, and this for good reasons as we shall see shortly. Kautilya (VII.16) prescribes that not merely the territory, wealth, sons, and wives of vanquished should not be coveted but that the conqueror should reinstate the vanquished ruler if alive or install his successor to the throne.³⁸

With the prescriptions to the conqueror and the classification of types of conquests, Kautilya has also a reciprocal set of directives for the conduct of policy for the vanquished and weak rulers. A weak king attacked by a ruler who is the leader of the circle of states (mandala) should, Kautilya advises, submit and sue for peace, offering to the conqueror his army, treasury, territory and even himself. (VII.3) Kautilya then methodically proceeds to characterise and discuss the types of agreements (sandhis), with their subtypes, which can be thus arrived at. Agreements arrived at by the submission of army are called dandopanata, those with the offer of treasury are called kospanata and those implying submission of territory are called desopanata.³⁹ The dual set of prescriptions, one with regard to the conduct of the conqueror and other with regard to the conquered, may at first impression seem somewhat inconsistent. But such inconsistency is more apparent than real. All through Kautilya is mindful of the fact that the dangers of unrestrained force in inter-state relations are as great as those of anarchy within the national orders without dandaniti.⁴⁰ If the ultima ratio of the state within the municipal order is dandaniti, that of the inter-state order is survival and peace in the midst of, and notwithstanding, hostility and war. Thus, the conqueror ready to initiate war and capable of winning it, should not be allowed to indulge in liquidation or disgrace of the enemy. Likewise, the weak king should abjure bravado and forego no opportunity for peace, offering if necessary all his possessions and showing a readiness to renounce all aspects of his sovereignty. This inculcates power bargaining processes in the inter-state relationships and helps creation of a climate for a rational management of power conflicts. The powerful ruler is never to aspire at anything more than dharmavi jaya; but the weak ruler is also to provide an impetus for peace. By the initial conception of dharmavi jaya magnanimity of the conqueror is implied; and by stressing the posture of total but dignified submission a further incentive to the exercise of magnanimity is provided.

This magnanimity is not really a matter of the moral conscience of the monarch, though in particular instances the dictates of conscience may reinforce magnanimity. For Kautilya it is rather a precept of wise statecraft. Thus, he insists that if in the above situation the conqueror insists in violating these prescriptions, and treating the victim unjustly, his action would provoke the wrath of mandala.⁴¹ This again may seem inconsistent at first sight: after all, discussions of various types of conquests

and treaties commence with, or contain, an acknowledgment that the conqueror is, or is postulated to be, the leader of the mandala. But this leadership in Kautilyan conception is precisely a function of wise statecraft, one of the cardinal canons of which is avoidance of unnecessary use of force and extravagant claims to absolute sovereignty.⁴²

Kautilya also urges another consideration of good statecraft in this connection. In discussing the yātvayas or kings who are vulnerable, he emphatically maintains that the "... powerful but unjust ruler should be attacked instead of a weak but just ruler" because affection and alienation of the subjects towards the king are important ingredients in a strategy of war and help a rational assessment of the prospects of victory.⁴³ Loyalty of the subjects, or their affection and alienation, plays a great role not merely from the viewpoint of military strategy but also as furnishing the mainstay of the viability of conquest. Conversely, incitement of disaffection is one of the most important parts of the preparations for war just as creation of stable loyalties is an important part of the royal duties during peace.⁴⁴

Finally, it is important here to note a novel distinction made by Kautilya between what he calls dvairājya and vairājya. The former literally means sovereignty of two and the latter simply a foreign rule. Differing from his predecessors, Kautilya maintains that dvairājya is more viable than vairājya because the former generally exists between father and son or between two brothers, these sharing, among other things, virtually the same political orientation and the counsel of ministers. But vairājya comes into existence as a result of territorial expansion and often the foreign ruler thinking that this "country is not mine" impoverishes it and carries off its wealth or treats it as a chattel (for sale) or when he finds that the country is disaffected towards him abandons *it* and goes away."⁴⁵

These considerations have in general some relevance to the principle of dynastic solidarity and the non-application of debellatio. In the threefold classification of conquests and the primacy assigned to dharmavi javin, no doubt it is possible for us to see some kind of solidarity at work. Thus, Professor Basham, rendering the latter term as merely righteous or Dharmic conquest, infers that

the idea of "a righteous conquest" or "conquest according to the Sacred Law" may have developed among Aryans soon after their occupation of North India, as an expression of their solidarity against the dark-skinned natives. It is evident, though not explicitly stated, in the later Vedic literature.⁴⁶

It has been pointed out earlier that the term dharmavi javin cannot be simply rendered as righteous conquest. But even with this caveat in mind, the inference of such a solidarity in the early phases of ancient India seems to us quite responsible. But it is doubtful whether this can be extended to later parts of Indian history – both ancient and mediaeval – and be invoked to explain the principles of statecraft developed in the heyday of Arthaśāstra

traditions. The significance of ethnic solidarity as a principle of historical explanation diminishes with the progress of Aryanisation of India and with the emergence of relatively ethnically homogeneous social structure.⁴⁷

There is no doubt that the prescriptions for the victor and the vanquished have, both in theory and practice, the effect of making debellatio unusual in inter-state relations. It would seem that the remarkable discussion of dvairājya and vairājya also offers us some indication of the awareness of inter- and possibly intra-dynastic solidarity since Kautilya considers dvairājya more viable eminently on the grounds of kinship solidarity.

Thus there is some scope for invocation of dynastic solidarity as a principle of explanation for the infrequency of debellatio in Indian state practice despite the distinct possibility that the latter may also be sought to be explained on other theoretical and historical grounds.⁴⁸

4. Some Thoughts on Mandala: Contemporaneity of Kautilya

The theory of Mandala was no doubt formulated earlier but it was Kautilya who developed it and made it into a cornerstone of inter-state relations.⁴⁹ The doctrines of three śaktis or powers of the king and the sādgunya or the sixfold policy of inter-state relations arise out of contemplation on the theory of mandala and are closely related to it. Kingship cannot be conceived of in absence of the three śaktis. They are utsāha, prabhu (or prabhāva) and mantra. Kautilya defines these as meaning respectively the "force of the king's bravery" (or his valour), the power of the treasury and army, and finally the power of knowledge of statecraft (VI.2). To the latter (mantraśakti) Kautilya assigns the highest value (IX.1)⁵⁰ in a fashion somewhat reminiscent of the arcana imperii of the older European theorists.⁵¹ In the implementation of the six-fold policy – sandhi (arrangement or agreement), vigraha (hostile posture or war), yana (preparations for hostilities), āsana (attitude of indifference), samśarya (alliance with a powerful king; lit. taking shelter) and dvaidhibhāya (biformal policy of making peace with love and war with another) – cognizance of the range of the three śaktis by the aspiring king is essential. Obviously neither personal valour or military might bereft of the knowledge of statecraft can lead to a discerning employment of these policies. And likewise knowledge of statecraft will be inadequate without a clear conception of the political motivations and behaviour of the other states. Hence, the theory of mandala.

The theory is too intricate to be described simply and for the present purposes it will be apt to rely on the neat summation provided to us in the main paper. It is generally agreed that the concept of mandala is purely theoretical and is not descriptive of political state of affairs at any given historical period. It has been a typical tool for the Brahmin political theorists with which to organise the existing political realities with a

view to their proper examination and elucidation in the process of offering policy guidance to the statesman and rulers – a function of scholarship now generally, even if somewhat grudgingly realised, in international law.⁵²

In the concept of mandala, one may legitimately claim, one comes closest to having a fully fledged "systems" theory of politics and international relations. For the inter-state relations are here sought to be understood in terms of political actors or units (in Kautilyan terminology also "elements")⁵³ and the notion of equilibrium within the system is crucial in the theory of Mandala. The basic policy orientations or the rules of the system are clearly specified.⁵⁴ The nature of the political actors is also indicated by a threefold classification of states into: coordinate, major and minor states.⁵⁵ Correspondingly, their progression within the power spectrum is captured in three key terms: decay, stabilisation and progress.⁵⁶ Morton Kaplan and his associates will no doubt find in Arthashastra a valuable parallel to their present theorising and in Kautilya one of their worthy precursors in the realm of political theory.⁵⁷

To realise the astonishing analytical sophistication (I am sure those who do not like Kaplan school will find in Kautilya a wearisome pedantry and vice versa) one has to read Kautilyan exposition of mandala with the following passage of the rules of balance of power system as recently expounded by Morton Kaplan:

The "balance of power" international system is characterised by the operation of the following essential rules, which constitute the characteristic behaviour of the system: (1) increase capabilities, but negotiate rather than fight; (2) fight rather than fail to increase capabilities; (3) stop fighting rather than eliminate an essential actor; (4) oppose any coalition or single actor that tends to assume a position of predominance within the system; (5) constrain actors who subscribe to supranational organisational principles; and (6) permit defeated or constrained national actors to reenter the system as acceptable role partners, or act to bring some previously inessential actor within the essential actor classification. Treat all essential actors as acceptable role partners.⁵⁸

But as seen towards the conclusion of Section 2 of this paper, the contemporary significance of Kautilya also extends to basic philosophical and sociological problems behind all thinking about international law and relations. We will conclude this comment by stressing one more dimension of Kautilyan thought.

At the centre of mandala is a hypothetical unit, the vi jigisu (an ambitious ruler or conqueror).⁵⁹ Theoretically, the vi jigishu aims at overlordship of a cross section of a political system comprising a nucleant mandala of neighbouring states.⁶⁰ Kautilya assures us that a king "who understands naya (good policy)", which term no doubt also refers to the implementation of the sixfold policy discussed above, "will conquer the whole world", though originally he may have a small kingdom. (VI.1). Elsewhere Kautilya also refers to chakravartin as the lord of the territory "on the earth spreading towards the north from the sea to the Himalaya, which is a thousand yojanas in extent when measured in a straight line" and also employs a new expression "caturanto raja" (a king of the earth up to its four boundaries).⁶¹ Thus, the

vi jigisu who is initially a conqueror of the nucleant mandala is ultimately to become an all-India emperor.

One great puzzle in regard to the conception of mandala, and therefore with the general theory of inter-state relations in pre-colonial India, seems to lie precisely in the notion of extension of power over an ever-widening scale finding its terminus in sovereignty over the entire sub-continent. Nowhere, it would seem, has a political theory been offered which seeks, as the concept of mandala, the overlordship of the whole arena of political activity as an ideal of statecraft as distinct from mere power maximisation thriving on political expediency, or a mere struggle for hegemony. Nowhere do we find an approximation to this idea of inter-state relationships oriented to their own perpetual extinction through the creation of a power monolith.

Dr. Percival Spear, in a slightly different context, has perceived in this what he prefers to call "the dogma of Indian indivisibility" venturing also the observation that "the extension of power to the geographical limits was not an aggression to their (i.e. Indian) minds but an expression of natural law".⁶² But in the context of the present discussion this name rather than explains the puzzle.⁶³

Professor Basham would tend to subsume this puzzle purely in terms of what he calls "Hindu militarism". While he does make an exception in recognising that the Arthaśāstra conception of war was different from older texts, he feels that in general there existed a tradition of military glory wherein death in the battlefield was invested with a special sanctity. Basham makes a pointed reference to the practice of jahur by which many mediaeval rajput kings preferred to burn themselves rather than surrender to the enemy.⁶⁴ Insightful as this approach is, it simply cannot be employed in explaining the primacy of the conception of all India conqueror in the mandala theory. In addition, the moderation in recourse to war, specially urged by Kautilyan and neo-Kautilyan writers, coupled with the generally recognised principle of negotiating to limit would seem to be at odds with the idea of Hindu militarism as a principle of explanation.⁶⁵

Nor again can the matter be summarily dismissed by the general answer, now trite, that Kautilya thought in an essentially Hobbesian manner seeing man as an incurably and inherently anarchistic animal. This comparison seems unfair to all the three constituents — man, Hobbes and Kautilya.⁶⁶ This is not to deny that Kautilya made use of the concept of matsanyaya which was part of the intellectual heritage of Arthaśāstra writers. But as transition from tribe to society was accomplished, and the final triumph of monarchy over clan republics occurred around 5th and 6th centuries A.D., the institution of kingship became an established datum of political thought, not requiring any reasoned elaboration for its existence. The fear of anarchy was then lost in the certitude of kingship. In this respect, however, Kautilya lived in the times of transition as can be seen from the fact that he devotes

one full book (XI) to stratagems for overthrow of clan republics and oligarchies.⁶⁷

But notwithstanding this fact, a careful reconstruction of Kautilyan thought will simply not bear out the view that wars of territorial expansion, and the ideal of all-India overlordship, were only motivated by the fear of anarchy. Perceptive writers have already hinted that like the conception of kaliyuga, the last and desperately evil era of human existence on earth, the repeated apprehension of matasanyaya may have been one clever device on the part of ancient thinkers to legitimate the monarchical system and to invest it with some initial magico-religious significance.⁶⁸

The ideal of chakravartin, lying at the heart of mandala theory, may perhaps never be fully explained; like war, the means through which it was sought to be attained almost continually in Indian history. War, Quincy Wright tells us in a Polonius-like formulation⁶⁹ has "politico-technological, juro-ideological, socio-religious, and psycho-economic causes".⁷⁰ But war has been a subject of Wright's monumental and indispensable study. A similar study in the ideal of chakravartin now awaits labours à la Alexandrowicz.

FOOTNOTES

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1. The theme of interaction between the Asian state practice and classical international law has been discussed by Professor Alexandrowicz in a number of learned articles over the last decade. A compact, and at the same time comprehensive, discussion of the subject is to be found in Alexandrowicz, "Treaty and Diplomatic Relations between European and South Asian Powers in the Seventeenth and Eighteenth Centuries", 100 Receuil des Cours (1960) 203-321. See also id., Introduction to the History of Law of Nations in East Indies in the 16th, 17th and 18th Centuries (Forthcoming).
2. The psychological component of international relations is very often overlooked. See the insightful analysis in O. Klineberg, The Human Dimension of International Relations (1963). The passionate insistence by small and developing nations on equality and sovereignty should be seen less as a manifestation of irredentist tendencies and more as expressive of search for outlets for creativity on their part. An egalitarian world order has yet to evolve and in this the participation and the creative role of the new nations, through the structure of equality principle, has yet to be fully grasped. In this context~ see the masterly exposition of the equality principle, Julius Stone, "Approaches to the Notion of International Justice" in 1 Future of World Legal Order (ed. by Falk and Black: forthcoming). For a useful theoretical formulation of "criteria of Justness" in world order see I. Tammelo, "World Order and 'Enclaves of Justice'", sec. 5, Ottawa Law Review (Inaugural Number: just published but not yet available to the writer).
3. The non-recognition of the rich heritage of traditions of statecraft in the ex-colonial countries is surely one of the driving forces behind the attempts to "universalise" the learning and teaching of international law. For a useful analysis (though inadvertent to this aspect of the movement) in this direction in the United Nations, see Hazard, "Editorial Comment" 60 American Journal of International Law (1966) 342; and Fine, "Note" 15 International and Comparative Law Quarterly (1966) 1165. The term "Eurocentrism" is here not used as a pejorative. It refers to both conscious and unconscious methods of thinking and accumulated cognitive habits, which lead to a quiescent acceptance of European (or Western) intellectual and socio-cultural traditions as an invariable, and often superior, framework of enquiry. The days of ungracious denigration of Afro-Asian traditions, one would hope, are over. None, for example, would accept today the infamous statement of Macaulay who said that a dozen European books are worth more than a whole library of Indian (or Eastern) books.

So strong are the Eurocentric habits of thought, however, that an almost continuous dialectic between Asian and Eurocentric writers seems to persist even till today. Thus, for example, Dr. Kosambi still finds it necessary to refute the view of A.B. Keith, who said: "It would indeed be melancholy if this (i.e. the Arthaśāstra) were the best that India could show as against the Republic of Plato or the Politics of Aristotle, or even the common sense and the worldly wisdom of the author of the tract on the constitution of Athens formerly ascribed to Xenophon." Quoting this, Kosambi responds: "This is a bit of pretentious irrelevance. Aristotle's royal pupil Alexander did not put the learned Stagirite master's political ideas into action. Athenian democracy failed after a singularly brief span, for all the supposed political wisdom of its constitution, precisely because of Plato's closest friends.... In contrast, the Indian state we have described (i.e. Magadha) grew without a setback from small and primitive beginnings to its intended final size. The Greeks made excellent reading; the Indian treatise worked infinitely better in practice for its own time and place." Later in the book, however, Kosambi ruefully acknowledges that

the "... brahmin indifference to past and present reality not only erased Indian history but a great deal of real Indian culture as well. The loss may be estimated by imagining the works of Aristotle, Herodotos, Thukydidēs and their contemporaries as replaced by priestly ritual as rewritten for the medieval Patrologia Latina of Minge, supplemented by excerpts from the Gesta Romanorum." Kosambi, The Culture and Civilization of Ancient India in Historical Outline (1965) 141 and 174 respectively.

4. This would not be surprising because standard books on the history of law of nations scarcely mention Asian and African sources and traditions of international law e.g. Nussbaum, A Concise History of Law of Nations (Rev. ed. 1953). Even this edition has only one paragraph on Hindu traditions and Kautilya is nowhere mentioned. It will of course be futile, though instructive as a study in Eurocentrism, to look for a proper perspective of these traditions in other writers such as Oppenheim. This neglect is also evidenced by most Indian (and I am sure this applies to other indigenous) textbooks. Kautilya makes a brief appearance in Professor Friedmann's recent book, see infra n.9, but even that does not take any account of Alexandrowicz's work, and consequently of course of the real contribution of Kautilyan thought.

But despair is not justified. Studies of international law from the perspectives of human communication will surely have the effect of rendering Eurocentrism obsolete. See, e.g., Tammelo "The Law of Nations and the Rhetorical Tradition of Legal Reasoning" xiii The Indian Yr. Bk. of Int. Affairs 227, at 230 (Pt.2, 1966). In a more general context; see also Iyer (ed.), The Glass Curtain Between Asia and Europe (1965).

5. On this see the recent valuable study by Ünner Kirdar, The Structure of United Nations Economic-Aid to Under-Developed Countries (1966).
6. Irresponsible analyses abound in the field of ancient Indian political theory, and are usually popular. Circumspect writers have found these writings as genuine obstacles to learning e.g. Nilakanta Sastri, Studies in Chola Administration (Madras, 1953); and generally P.V. Kane, History of Dharmaśāstras (Three Volumes, 1946). Sastri observes:

To import the associations of democracy to the interpretation of early Indian records, because some of them happen to mention elections and ballot, is unconsciously to raise fresh obstacles in the way of a correct understanding of the atmosphere surrounding the working of these and other institutions in ancient India... for the doubtful satisfaction that may be derived from claiming modern wisdom for our ancestors is purchased at the cost of any chance of knowing them as they were. (97-98)

Needless to say that in Section 4 while stressing the contemporaneity of Kautilya we are mindful of this caution.

7. The term "nationalisation of learning" is among the progeny of Julius Stone's term "nationalisation of truth". In a different context, Richard Falk has made a telling use of a similar term "nationalisation of scholarship". See R. Falk, "Adequacy of Contemporary Theories of International Law - Gaps in Legal Thinking" 50 Virginia Law Rev. (1964) 231.

On the problems involved in decolonisation in the writing of history, and the need to counteract the growing nationalisation of historical learning, see the essays reproduced in Wallerstein (ed.), Social Change: The Colonial Situation (1966) 583-674.

8. Derett, for example, prefaces his comment on the Delhi Seminar (infra n. 10) by a lighthearted observation: "Talk to a knowledgeable Hindu about religion and you will be given to understand that Hinduism has all the answers". Much in the same vein, we are tempted to say that by this standard at least a large majority of Hindus must be treated as ignoramuses since they would not venture such a response! See Derett, "Indian Traditions and Rule of Law Among Nations" 11 International and Comparative Law Quarterly (1962) 266.
9. Friedmann, Changing Structure of International Law (1964) 316. As to our reservations see infra n.13.

10. The Proceedings of the Seminar were published by the University of Delhi, India, in 1960. Due to non-availability of this publication, I have relied on the Notes prepared by Professor Julius Stone for his personal use and I here gratefully acknowledge his kind permission for their use.

11. In scholarly discourse reference to the Seminar has become preponderant as dispositive of the subject of possible contributions of Indian traditions to international law (e.g. n.4 supra).

References to Professor Alexandrowicz's Hague lectures are however rare in this context. He observed in the same year: "There is ... no reason to consider nineteenth century positivists as the ultimate arbiters on the frontiers between superior and inferior civilisation and of the timing of the entry of some of the ancient Asian States into the universal Family of Nations. The order in which these States entered the community of nations cannot be judged by nineteenth century standards only; it is a matter in which the views of the classic writers deserve to be taken into account." (Op.cit. n.1, 315).

12. See Alexandrowicz, "Kautilyan Principles and the Law of Nations" (the main paper).

13. Such attempts are sometimes no doubt, to borrow Friedmann's words, "conflicts of interests "disguised as" philosophies of value". But resurrections of ancient ideas or representations of modern ideas in the garb of past traditions (whether or not these traditions are of dubious significance) may often be insightful acts of wise statesmanship rather than expressions of moral infirmities. Enunciation of non-violence or Panchshila can be seen in both lights. And at any rate, judgements of hypocrisy can only be made if we altogether prescind sophistication of both ethics and psychology. Summary judgements do not, perhaps, exist in the court of conscience.

14. See the useful, though Eurocentric, account of historiography of international law in Nussbaum, op.cit. at 291.

15. There is, as usual, no agreement among historians about the exact date of the Arthaśāstra. Miss Romila Thapar places, after a critical study of several views, the probable date of the treatise towards the end of the 4th century B.C. See Thapar, Asoka and the Decline of Mauryas (1961) 218-225.

16. See Alexandrowicz (main paper).

17. For an outspoken but effectively sobering critique of lay and specialist prejudices of the caste system see N. Chaudhri, The Continent of Circe (1965) 59-62; also see for a comprehensive study, Kane, 2 History of Dharmasastras, Part 1 (1941) 19-179 and a recent study for caste mobility M.N. Srinivas, Social Change in Modern India (1966).

18. See R. Thapar, 1 History of India (1966: Penguin) 579. Dr. Thapar further observes: "Curiously enough, the Nandas were the first of a number non-kshatriya dynasties. Most of the leading dynasties from now on belonged to castes other than kshatriya, until the coming of the Rajput dynasties a thousand years later. There also appears to have been a strange reversal of roles as the religious teachers of this period were of a kshatriya origin and some of the kings were brahmins."

19. See Thapar, supra, n.18 (to be cited hereafter simply by author) at 222.

20. See P. Spear, 2 History of India (1965: Penguin) 58-60.

21. For other illustrations, and doctrinal source-material, see Kane, 3 History of Dharmasāstra (1946) 39-40. Kane's study will hereafter simply be cited by author and volume.

22. See Thapar, at 227-228, for a brief account of their attempts at attaining the kshatriya status.

23. See above; and also Drekmeier, Kingship and Community in Early India (1962) 38-43 and 282-300 passim; and L. Dumont, "The Conception of Kingship in Ancient India" 6 Contributions to Indian Sociology (1962) 48-77. Both these works will hereafter be referred to by author. See also R. Bendix, Max Weber: An Intellectual Portrait (1962: Anchor Paperbacks) 142-199 passim.

24. Thapar, at 323-324 and 334-336.

25. Ibid. 268.

26. "Strife for the throne was regarded as a minor occupational hazard of Kingship by Canakya (another name of Kautilya). No regard for morality or filial piety is ever in question. He quotes his predecessor's maxim: 'Princes, like crabs, are father-eaters'". Kosambi, The Culture and Civilization of Ancient India in Historical Outline (1965) 144-145.

Thus, Ajatsatru, one of the architects of the Magadha Empire, is said to have blithely assassinated the gentle but old Bimbisara, his father. Parricide in fact was almost a normal method of ascension to the throne in the Mauryan dynasty and the five successors of Ajatsatru are said to have succeeded to throne by parricide.

27. See supra n.22 and 23; and also Kosambi supra n.26, at 171.

28. This is clearly implied in the theory of Mandala briefly discussed in Section 4 of this Comment. And see generally, Ghoshal, A History of Indian Political Ideas (1959) 140-41; 380-81; 490-92 and 512-13.

29. See infra n.33.

30. See Section 4 of this paper for the concept of an all-India ruler.

31. For a general discussion of Durkheim, see Stone, Social Dimensions of Law and Justice (1966) 148-50. But Drekmeier, in his superb study goes even further and argues that: "Neither of Durkheim's categories is sufficient in itself to describe Hindu society because caste organisation and religious system that provided its legitimation have combined the two in a social organisation that has had few parallels in human experience" (at 262).

The learned writer would apparently prefer to approach the Hindu society in Weberian framework as a society characterised by "traditional authority" and not involving a functional differentiation of the political and non-political forms of life. If this well-reasoned view is to be accepted, even much greater difficulties will, arise in sociological transference of the inter-caste solidarity within the state-systems to inter-state relations.

32. Dumont, op.cit. supra n.23, esp.51-56. Writing at the same time, Drekmeier also observed a similar solidarity between the two castes: "The power of the brahman class was due more to its control over culture than to its material position or its influence exercised through ministries. To term the Hindu state a theocracy would be to suggest its sectarian foundation on dogma and identification of magistrate and priest. This was not the case, though a strong bond existed in theory between the brahman and the kshatriya classes. Prosperity could result only if two classes cooperated with one another. If the alliance should break, eternal confusion will result." (at 299-300. Emphasis added)

Once again it must be emphasised that both these learned writers speak of "Hindu state" and "Kingship" in monistic terms as encompassing entire India. But in discussing inter-state relations we are estopped, as it were, from using a monistic framework and are confronted with a multiplicity of state entities. See below.

33. Dumont is careful to qualify the secularisation principle as a "relative one". There is no doubt that this seminal perspective arising from a contemplation of Indian society as a whole has useful implications for study of inter-state relations, notably in that it reveals the perennial sociological reality of international law referred to in the text.

33a. The assertion in this paragraph should not be taken to mean that since the integrative role of the caste structure cannot be transposed to inter-state relationships, the isomorphism of the Hindu social order, revealed to us by monistic contemplation of the Indian society, does have no impact on these relations. Perhaps, infrequency of debellatio can be seen as a plausible offshoot of Brahmin-Kshatriya solidarity (see Section 3, infra). The crucial question, however, is the determination of the character and impact of solidarity principle in inter-state relations, as distinct from intra-state relations. A good deal of doctrinal and historical research is needed before any final conclusion in this direction can be arrived at. See also supra n.32, 33.

34. "Purochita" may be rendered for our purposes as the royal chaplain. On the role of Purochita see generally Kane, vol. II at 40, 363 and vol. III at 117-119.

35. See generally Kane, vol. III, at 68-72.

36. See generally Kane, vol. III, at 1-16; 235-241. For a doctrinal and partly historical conspectus of Rajdharma see Drekmeier, at 245-262.

37. See supra n.35. But see for possible redefinition of the concept of Dharmavi jayin as a proselytizing war, at least in the times of Asoka, Saletore, Ancient Indian Political Thought and Institutions (1963) 573-577. The learned author, after an examination of the views of Dr. Hultzsch, and some Indian writers, comes to the conclusion that "... Asoka completed the concept of a dharmavi jayi as given in the Arthaśāstra by laying down rules as to what his conquered subjects were to do after they had done him the obeisance" (at 577).

With due respect to Professor Saletore's views, it would seem that Asoka revised rather than conformed to or expanded the Arthaśāstra conception of a dharmavi jayin. Proselytizing conquests do not appear in Kautilya's writings and at any rate it is doubtful to assert as a matter of history that Asoka embarked on such wars. See Kosambi, op.cit. supra n.26, at 159-60.

And also see as to the different usage of the term conquest by Asoka in R. Thapar, supra n.15, at 167. "By conquest Asoka does not mean the actual overrunning or control of foreign territory. Thus, he includes the Greek kingdoms of Syria, Egypt, Cyrene, Macedonia, and Epirus as having been conquered by Dhamma, whereas in fact all that may have happened was a cordial exchange of embassies or missions or merely the sending of one of these by Asoka to the Greek Kings mentioned." Professor Saletore is inadvertent to this important analysis of Asoka. He also fails to take into account the Buddhist concept of Chakkavatti which may have influenced Asoka, Chakkavatti is a Pali rendering of the Sanskrit term Chakravarti meaning the world-ruler or an all-India emperor. See for a brief exposition of the Buddhist concept, Ghoshal, op.cit. supra n.28, at 77-79.

In the general context of the Arthaśāstra, there appears to be no particular reason not to accept the meaning of Dharmavi jayi in terms of morality of statecraft as distinct from dharma.

38. Kane, vol. III at 71.

39. As to the various policies the weak king should adopt from the military point of view see Ghoshal, op.cit. supra 144-145; and Ramaswamy, Essentials of Indian Statecraft (1962) 125-127, this being a selective English rendering of the Arthaśāstra. Neither of these seem to attach any importance to the aspects here discussed. For this see Kane, III at 68-71; 224.

For the various sub-types of the sandhis offered by Kautilya see Kane, vol. III at 224-225. This classification does not even theoretically rule out debellatio. See especially the subtypes of sandhis consisting of the offer of territory.

Therefore, would it be also urged that given the above "ifs", non-debellatio rather than debellatio ought to be a precept of statecraft.

The advantage of formulating the matter in this way lies in its stress on the comparative merits of the two broad techniques of aggrandisement, one based on debellatio and the other based on non-debellatio. When Kautilya opted for the latter, he must have with his characteristic acumen evaluated the comparative merits of both. It would not be difficult to marshal sufficient evidence from the Arthaśāstra on this aspect. At the same time, to advance this norm of statecraft as the sole basis, sufficient in itself, for the non-debellatio in Indian history would be hazardous in absence of further doctrinal and historical research. One of the tasks of such a research will be to find out why if conditions similar to those obtaining in India prevailed, debellatio was still applied contrary to Indian practice. This might in turn point to the possibility, even assuming similar conditions, that the non-debellatio norm is not the only norm of ideal statecraft.

(b) Economic interpretation:

An economic interpretation of history would seek to explain non-debellatio in terms of the basic economic motivation for territorial expansion, as can be seen from the following passage from Dr. Kosambi's recent analysis:

"But the fruit of aggression was not direct tribute, which history shows to have been the normal motive elsewhere in antiquity. If the defeated king were reasonable (he could not survive otherwise), he could retain his old throne with all his former revenues and officials left intact. The sole right insisted upon by the conqueror was over wasteland, where clearing, settlement, mining would be conducted on behalf of the winner. If possible, this right was to be gained without war, by simple agreement with the neighbouring king. Magadha of the fifth and fourth centuries B.C. was the one state where political economy was clearly understood as a science. The others ate up their own subjects for taxes - something the Arthaśāstra king avoided by building up crown income directly." Kosambi, op.cit. supra n.26, at 151. (Emphasis added.)

For the full context of the discussion one must turn to the distinction between rāshtra and sitā lands and taxes succinctly summarised in Kosambi. See also the comprehensive analysis by J. Spengler, "Arthaśāstra Economics" in Braibian & Spengler (eds.) Administration and Economic Development in India (1963) 224. (For a parallel, and much hated classification of lands existed during the Maratha Confederacy. land was classified as swarajya or the homeland with stable administration, and mughlai or foreign land subject to frequent aggression.)

We should, however note that the above passage speaks merely of the Magadhan state where, discounting the exaggeration in the last sentence (emphasised), economic considerations may have played a significant role in non-debellatio approach. But before this economic explanation can be generalised so as to explain non-debellatio solely on that basis, adequate research in the economic history of pre-colonial India would appear to be an essential pre-requisite.

49. See Kane, vol. III, at 217-222; and a recent brief exposition with an original diagrammatic representation, Spellman, Political Theory of Ancient India: A Study of Kingship from the Earliest Times to circa A.D. 300 (1964) 156-159. It is amazing that Spellman does not take into account the extremely valuable contributions on the same subject by Drekmeier.

50. See Kane, vol. III at 170-171. In a way this is not surprising if we take the "brahman precept, kshtriya arms" view of the whole matter as Dr. Kosambi seems to have done. See Kosambi, op.cit. supra n.26, at 171.

51. See Friedrich, Constitutional Reason of State (1957) 6-7. He cites "the well-known admonition of James I to his judges" as neatly illustrative of this doctrine. King James insisted:

if there falls out a question of my prerogative or mystery of state, deal not with it, till you consult with the king or his council or both; for they are transcendent matters ...

52. The grudge is due not to the idea of usefulness of international lawyers in guiding statecraft but arises out of nationalisation of international legal scholarship inadvertently but surely engendered in the process. See supra n.7.

53. See Kane, vol. III, 17-20, Kautilya observes raja rajyamiti prakritisamksepa (VIII 2): "The most concise exposition of the elements of Rajya is to say that the King is the State".

54. See Ramaswamy at 117-128 op. at n.39.

55. Ibid. 113-115.

56. Ibid. 109-111; and Ghoshal, supra n.28, at 146.

57. See the pioneering study by Morton Kaplan, System and Process in International Politics (1957). In endeavouring to establish contemporary significance of Kautilya, I am mindful of the fact that facile comparisons should be avoided in the cause of advancement of knowledge (see n.6). But I agree fully with Drekmeier that it "... is our responsibility to apply the refinements of methodology and the social sciences in searching out the intended or latent sense of the ideas that confront us. The discovery of meanings that might otherwise remain hidden to us is a nobler employment for our newer knowledge than its restriction to the essentially negative tasks of controverting and deriding." (at 283n.)

58. Kaplan, "Some Problems of International Systems Research" in International Political Communities (Anchor Books, 1966) 469.

59. It is important for the understanding of the mandala theory to note that it is an "as-if" concept. It is primarily a theoretical model. It does not assert that at any given time there is a conqueror preparing an actual invasion any more than the formula "one's neighbour = one's enemy" means that at any given time a neighbouring ruler is necessarily an enemy. The theory of mandala, enshrouded by inaccurate summarisings, and obscured by abundant platitudes, needs to be reformulated in Kautilyan precision, with an emphasis on its abstract and scientific character. Thus, for example, the above rules of the mandala will be reformulated as follows: .

Given that a political actor X seeks territorial aggrandisement culminating in an all-India overlordship, another political actor Y, geographically juxtaposed to X, is more likely than not, other things being equal, to combat this tendency.

Notwithstanding the apparent scientism of the proposed reformulation of the mandala, such an attempt will clarify many important aspects of the theory and expose the total baselessness of the denigration of the theory as wearisome pedantry or idle Brahmanic game. It will bring us closer to the functional value of the theory. Moreover, we would learn the crucial difference between theory and history.

Only with such an approach, for example, we can make a meaningful use of Professor Stone's question:

Question 24(a): How long it (i.e. madhyama, somewhat inaccurately identified here with 'traditional Indian support of non-alignment and mediation) survives if the balance of military power between Washington and Moscow-Peking axis were drastically disturbed? What is the relevance here of the Circle of State doctrine (Rajmandala)?"

Prescinding the purely indigeneous milieu of the mandala theory, I feel confident that both Kautilya and Morton Kaplan will answer: "As much relevance as the balance of power system has to the political realities in 1960 when the question was formulated. "

In other words, we have to verify whether the political system envisaged in the mandala theory, with its rules and prescriptions, prevails in a given political milieu (here 1960). If it does, then the mandala would have a great relevance, subject to n.60 infra.

60. The term "nucleant mandala" is intended to signify that, from the perspective of the all-India overlordship each mandala is merely nucleant. It leads to an ever-widening circle of power reaching to a point where the entire system is conquered i.e. all power conflicts are subsumed under one central terminus of ultimate power. The essential difference between mandala and the "balance of power system" would precisely seem to lie in the concept of a chakravartī discussed in the text.
61. On the various meanings of the term see Kane, vol. III, at 66-68; on the meaning of this concept in Buddhist ideology see n.37, supra.
62. See Spear, op.cit. supra n.20, at 52-53. Spear is remarking on the fact that even Akbar, like his predecessors and successors, in the year 1600 was obsessed with the idea of a unified India.
63. Obviously the question is "Why" and not "What" of the ideal of chakravartī. Hence we cannot employ fruitfully either the "dogma of Indian indivisibility" or the "expression of natural law" valuable though these insights are.
64. See supra, n.46.
65. On the post-Vedic modification of the "heroic ideal" and the transition from the "disinterested act" to "the rationalised act" see the valuable discussion in Drekmeier, at 147-162.
66. It is an oversimplification of the complex thought of Kautilya and Hobbes to readily attribute to them this particular image of man: still less of course is the analogy fair to man because to say the least any attempt at attributing a nature to him is doomed to failure and can be no more than arbitrary elevation of a pronounced trait to the status of "man's nature". See the brief but thought provoking remarks on this aspect in H. Arendt, The Human Condition (Anchor Paperbacks, 1959) 12-13.
- There is also ample textual evidence in Hobbes' writings to dispel this simplistic view commonly attributed to him e.g. Hobbes contends that "... though the wicked were fewer than the righteous, yet because we cannot distinguish them, there is a necessity of suspecting, heeding, anticipating, subjugating, self-defending." De Cive, (ed. by S.P. Lamprecht, 1949) Preface at 12. A closer reading of Hobbes may yield an interpretation that his too is an "as-if" view of human nature providing a rationale for political philosophy. For brief, conventional summaries of Hobbes' thought see Cairns, Legal Philosophy from Plato to Hegel (1949) 246-271; and Bowle, Western Political Thought (1948) 310-332.
67. See Kane, vol. III, at 88-92; and the useful description in Kosambi, op.cit. supra n.26, at 145-146.
68. For a description of the Kaliyuga see Kane, vol. III at 885-902; and see Drekmeier at 244-262 passim.
69. Polonius, introducing the players, says: "The best actors in the world, either for tragedy, comedy, history, pastoral, pastoral-comical, historical-pastoral, tragical-historical, tragical-comical-historical-pastoral...."! Shakespeare, Hamlet, II, ii.
70. Q. Wright, 1 Study of War (1942) 41.