On the Relevance of Hugo Grotius and De Jure Belli Ac Pacis for our Times

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Part I

A Survey of Our Times which focuses on: the world society, the state, war and international law.

Part II

The Relevance of Hugo Grotius for a reconsideration of these major issues in our times.

The paper is an extension of certain conclusions reached in my book The Future of Law in a Multicultural World (1971), among them the following:

The world-spanning systems installed first in 1919 and then in 1945 were far more ambitious and extensive in their scope and aims than the modern European states system and the Grotian law of nations (p. 49).

The growing distance between the established legal system and reality suggests a modified approach to war. Since the modern world is being shaped decisively by war, it is unrealistic to pretend not only that peace is the rule but also that law as the servant of peace can effectively defy force. In this, as in other matters once believed subject to international law, nations would profit, singly and collectively, from a return to the less ambitious Grotian view of the role of international law (p. 184).

I. A Survey of Our Times

1. Each era in history has had its contingents of explorers and travellers, scholars and conquerors who reached beyond the boundaries of their

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native lands so as to inspect, assess or occupy areas on earth that had not been within their own society’s field of vision earlier. The world was thus being discovered slowly, in bits and pieces as it were, by motley crews of men from Asia, Africa, the Americas and Europe who ventured forth independently of each other, at different times and under greatly various auspices. These circumstances explain why one and the same place could be “discovered” many times, and why these separate discernments were usually not concordant. India is a case in point, for in the course of the last 2000 years it was found and explored by pioneering agents of numerous peoples, among them Chinese, Persians, Greeks, Macedonians, Turks and Europeans. Some of the incursions were instigated by desires for power, wealth and aggrandizement; others were undertaken as quests for learning or adventure. Judgments on what was noteworthy or relevant about India differed therefore from case to case, and so did subsequent decisions as to how to integrate the newly perceived identity of India into the discoverer’s existing world view.

The rich documentary records of cross-cultural encounters such as those relating to the Indian subcontinent show that originally alien beliefs, artistic styles, literary images, codes of ritual or technological devices can be successfully modified and transplanted without threatening the established order and the self-view of the recipient society. The challenge is altogether different, however, when nations are compelled by circumstances to come to terms with each other as comprehensive living entities. In such cases the response is determined mainly by the particular quality of fundamental norm-setting ideas from which a given society gains sustenance and identity as a unique, historically ongoing human organism.

Hindu India’s stamina throughout its long and troubled history is thus in large measure a function of the caste system, for by providing religious, moral and social security to successive generations, it endowed Indians with a collective identity that could remain intact despite centuries of alien rule. However, the logic of these structuring norms and values also stipulated that non-Hindus had to be perceived as outsiders. It is true that resident groups of Muslims and Christians were ingeniously casted in terms of their particular occupations: yet none not associated with Hinduism could be born a brahman, a kshatrya, or a sudra; nor could he hope to gain spiritual merit so as to be able to participate in those cycles of reincarnation that would bring him nearer to nirvana, or to find meaning and guidance in sacred sanscrit texts.

Other great literate civilizations of the Orient — one thinks mainly of traditional China, Cambodia and Japan — did not bring forth similarly