K. E. SHAW*

A SKETCH FOR A FUNCTIONAL THEORY OF PEACE**

* LL. B., Soochow University, Law School (The Comparative law School of China), Shanghai; LL. D., Tokyo University, Tokyo, specialising International Law; at present lecturer staff-researcher of Social Science Research Institute, International Christian University, Tokyo, studying Sino-Japanese juridical and political relations after the Second World War.

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"... (La réunion de toutes les forces particulières, dit très bien Gravina, forme ce qu'on appelle l'état politique)...
"Les forces particulières ne peuvent se réunir sans que toutes les volentés se réunissent. (La réunion de ces volontés, dit encore très bien Gravina, est ce qu'on appelle l'état civil). (Montesquieu, "De L'Esprit Des Lois".)

I. Introduction

This theme is not one of traditional search for Peace; it deals with the exact meaning and possible functions of the concept called "Peace" and, in effect, the relations between law and facts. It is a trial for the establishment of a new theory.

Max Weber once well said that the achievements of science consist in raising problems. It i sin this sense that this ambitious but rudimentary, hence on some points defective, article is written, with the hope that this may serve as a stepping-stone for further development.

The term "Peace" is one among the most confused and multivocal in human vocabularies; and, indeed, the present critical, endangered and seemingly desperate world situation is the direct token of disagreement on its interpretation. Be this as it may, the fact remains that no philosopher, especially no social scientist, could possibly escape from putting this term in his writing. The problem is aged, dating back at least to Plato's "Politeia"; it is also new, however, seeing that for thousands of years no content or form, less possible functions, of "Peace" has ever been discovered.

With very few exceptions which, as will be seen, failed due to improper methods, from Francisco de Vitoria through Grotius, Vattel to Oppenheim in international law; from Machiavelli through Toynbee, Carr to Morgenthau in international politics; more generally, from Hobbes, Locke through J. J. Rousseau to Laski and Lasswell in political science; from Comte through Durkheim to McIver and Sorokin in sociology; and even from Aristotle through Kant to B. Russell in philosophy proper, no one has tried to define this concept and find out its functions, if any.

The reason appears to be this: whereas laymen, from their historical tradition of thought, have their common-sense concept(s) of Peace, specialists found it undesirable to operate on "Peace" in their respective fields. To the international lawyers, Peace it not a juridical concept; it is meta-, non-, super-, or pre-juridical, and, as such, it is possibly a political concept not susceptible of juridical construction. To the political scientists, on the other hand, this appears to belong to sociology. To the sociologists, again, this should be studied from psychology. But, to Le Bon, William James, to McDougall and to Freud, this is a problem proper only for contemplation by philosophers. However, the philosophers, who can not refuse this job because their subject is knowledge of all knowledges, find justification to free themselves from such burden — questioning Peace, and they must ask what is "war", and vice versa. Si vis pacem, cognosce bellum. Here lies a circular argument which, erred in logic, is not allowed them exactly because they are men of logic.

But what gives birth to this circular argument? The tradition. The predetermined common-sense that while Peace is a normal condition, war, on the contrary, is an abnormal one.

From this pre-occupation comes a philosophical proposition, hypothetical in nature, to the effect that Peace and war are a pair of antithesis.

As a result, a more curious, and in fact tragic, picture was drawn. Even in the modern age, where nothing other than Peace is the most urgent for humankind, those who wrote volumes or articles on "Peace", abstained from defining "Peace" or, if this was done, no meaning was given to "Peace". Ferrero's frequently cited "Peace and War", Butler's less profound but far-sighted "The Path to Peace", Hoover and Gibson's dynamic article "The Problems of Lasting Peace", Horowitz' traditionally faithful "The Idea of War and Peace in Contemporary Philosophy", Knudson's well-arranged "The Philosophy of War and Peace", McIver's excellently analytical "Toward an Abiding Peace", Redslob's new-styled "Le problème de la Paix", R. Strausz-Hupe's "Sobre Paz y Guerra", S. Staley's rare "Economic Raw Material in Peace and War", and other innumerable pages of the kind, zealous as they are, give no exact or substantial "meaning" (content) of the subject-term of their works. So careful a legal philosopher like Del Vecchio is no exception ("El Fenomenon de la Guerra y la Idea de la Paz", and "Il Diritto Internazionale ed il Problema della Pace"). It would be a miracle if they could reach the correct conclusion, or make useful suggestions, with the point of departure left for guess by the readers. In the last analysis, the inclusion of "Peace" and "war" in a single title has already committed mistake in cognition and method; and this has been the only prevailing modus. It consciously

or unconsciously presupposes a prejudiced "antithesis" between Peace and war. Their failures had been decided at the commencement.

The exact meaning of the concept thus remains unknown. So important a term is thrown into the intelligently ignored world. One more mystery is added to History itself. Right direction toward Peace, if any, is denied to us. We become blind.

II. The Real Issue

The antithetic positions of Peace and war so presupposed, in the field of studies of international relations, is more powerful and decisive than in any other field. It makes compulsory the split of the international order: the peace-time order and the war-time order. International law is accordingly divided into the "law of Peace" and the "law(s) of war". The fact that even Oppenheim's recent text (edited by Lauterpacht, with great changes in substance, in comparison with the original text keeps such formally dualistic division, shows how irresistible is this tradition; and, Rivier's statement, one of many of the kind, that "Le mot de paix signifie á la fois l'état de paix et la traité qui l'établit", considered in the context of the further assertion that "L'État qui a le droit de guerre, doit avoir aussi le droit de paix" ("Principes du Droit des Gens"), signifies the possibility of this tradition's being pushed to the dangerous extreme. In company with this formal dualistic division, substantially writers of international politics also take for granted that the international order is sometimes "peaceful" and sometimes "war-like or hostile". In regard to the former, Max Huber's persuasive article entitled "The Role of International Law" prepared for "Perspectives on Peace", Q. Wright's highly specialised "The Causes of War and the Conditions of Peace", Kelsen's unique "Law and Peace in International Relations", and Dickinson's excellent "Law and Peace", (and also Del Vecchio's "Il Diritto Internazionale ed il Problema della Pace" above mentioned), are indeed a few examples of mucho; to the latter, to give only some instances, belong Toynbee's "Can We Learn Lessons from History?" and "Civilisation on Trial", and the statement of Kalijarvi, one of the very few who insist on a definition of Peace, to the effect that Peace is absence of hostilities, that is, absence of war and war, correspondingly, interruption of Peace. It is further to be pointed out that any definition, if given at all, bears no "meaning"; for, by saying that Peace is absence of war, no content of Peace appears: we are referred back to the philosophical "circular argument".

Hand in hand with Del Vecchio's masterpiece "Filosofía del derecho", Kelsen's transitional "Allgemeine Staatslehre" denied such antithesis, in the sense that Peace means 'law' while war means use of force. In the science of international law, especially after the Second World War, absolute majority of writers in all countries did the same, on ground quite different from those of these two great legal philosophers of our century: they did this with less profound insight; to wit, war being outlawed, the term "laws of war" becomes self-contradictory; and the "laws of war" is an "order" antithetic to the "order", or the system, called "the law of peace". This tendency occurs more strongly in case of continental writers; and it has the strongest force over the New Italian School — in Morelli's standard text we can hardly find out the word "guerra". In short, international lawyers challenged the tradition, and cancelled the formally dualistic division of this law in their texts. However, materially such division has been retained. They could not do anything more. They did not inquire even the 'kind' of existence to which Peace may belong; accordingly, traditional way, mistaken, it is believed, of thinking and methods still prevail. No wonder we are not told the content (meaning) of Peace.

There is a group of international lawyers challenging from another viewpoint: seeing that war as a state of affairs is outlawed, there must, for practical reasons, be a new condition between the two extreme conditions of Peace and war. Thus J. Stone talked about a "no-peace-no-war" condition; Schwargenberger and Jessup suggested an "intermediate status", and Grob discovered the "relativity of peace and war". But, they again failed, for the same reason.

The antithesis above referred to, in turn, gives birth to the juridical proposition that Peace, as such, is identified, or at least sided, with law as order, that is, a system. All international lawyers, and lawyers in general, including of course those who challenged this antithesis, have in mind the concept of "order" when they wrote about "Peace". This tradition goes as far as Augustine who, in his "The City of God", teaches that "Peace between men (was) well ordered concord between those of the family who rule and those who obey". How does such concord become "well-ordered" is untold; perhaps according to God's Will. But what, we may say, concerning the human world is not "the next birth". Such a 'definition' may justify another Pax Romana which, as history has rendered the final judgement, must fail. It should be noted that it is exactly the "order" of such "order" that is the question: a metaphysical order is pointless.

The identification or sidedness of Peace with law or order is, to tell the truth, an iteration, in another form, of Pslam's defining Peace as "love of thy law". Such law refers to jus vigente, the existing law. The motive is plain; it pays no attention to fundamental human rights. Kelsen's and dickinson's collection of lectures above referred to were done in this manner, though without such motive. Reves, in his best-seller "The Anatomy of Peace", gives a definition that "Peace is order based on law", with comment that Peace is law itself and with the confidence that "there ir no other imaginable definition". This a model case at hand. To save pros and cons, and setting aside the question whether human imagination ends with Reves' such selfenjoyed but curious definition, it is worthwhile pointing out that his above 'definition' is no definition at all; for, as has been pointed out, while defining Peace in terms of order, that is law, he did not tell us what is 'order'. And, as will be shown later, it is exactly the form of the 'order' which will, and able to, decide the meaning and the functions of Peace.

If Peace is antithetic to war, it can not but be identified or sided with law. From such identification or sidedness, it follows that Peace, being normal, that is, natural and static, condition, can have no functions whatsoever. Human minds are thus paralysed, and fatalistic-pessimistic view on the present world situation poisons us.

In international politics, the picture is the same. All writers on this subject treat Peace as a static state of affairs, with no functions conceivable. They, however, all understand "Peace" in terms of "power". Typical is the statement that "peace is the state that exists when the power relations of states are in equilibrium, whereas war is the state that exists when the power relationships are thrown out of balance" (Schuman, "International Politics"). Toynbee's "war-peace cycle" (in "A Study of History", vol. IX) even asserts that such is a permanent phenomenon.

This stand is also mistaken. However, no space is left for us to criticise it. The 'normalcy' of Peace makes the concept of Peace undefinable; while its identification or sidedness with law and order confiscates all its possible functions.

The fact that international lawyers, and legal philosophers, consider Peace in terms of order and law, on the one hand, and that writers of political science, and those of international politics in particular, understand it in terms of power, on the other hand, is very important. And Toynbee's above assertion, being a statement coming from a great historian, is highly significant. The two point to an undeniable fact: the problem we face is really profound — the ever-lasting conflict and struggle between power and law, or fact and norm. This is crystallized in Jellinek's phrase

"normative Kraft des Faktischen" in reply to his own question "Wie wird Nichtrecht zu Recht?" The source of this "normative force of Facts" is, however, unexplained. This is the point lying at the edge of the nerve-system of the great legal philosophers. Jhering, answered this problem by reference to the "Machttheorie"; Kelsen, with the "Stufentheorie des Rechts"; Duguit, with his "Solidarité social"; Krabbe, with "Sense of Right"; Savigny and his followers of the modern time, with the "Volksgeist"; Dicey, with "Public Opinion"; and Bierling, with his theory of "Anerkennung" which is nearer to the truth. Nonetheless, even Bierling failed to tell us the "how", though he teaches us the "what". None of these great figures could possibly have done so; for, once more, they followed the traditional form of cognition and methodology which are both wrong and dangerous.

It is here clear that, so far concerning our present problem, the normative keeps Peace with law and order. But this means that Peace has no continuity, and so is the international juridical order. For, if in the genetic sense factual (or political) force, the highest degree of which is war, revolution or coup d'état, makes law which is normative, it also establishes new Peace which must die with respective existing juridical order formerly made by force. In case of a successful revolution or a victory in war, civil or international, as soon as the formerly existing juridical order is abrogated, Peace is sentenced to death because it is the collaborator of such abrogated law.

Here lies our starting-point.

It is universally agreed upon among the jurists, in one form or another, that law is a system of norms, in contradistinction to facts or force. In this respect, Kelsen's "Pure Theory of Law" is the representative in methodology.

Basing on New Kantian School of epistemology, Kelsen founded this theory which asserts the absolute severance of the Sollen from the Sein, the Ought from the Is, or the Normative from the Factual, that is, the logical existence from the natural existence and, in the last analysis, the Ideal from the Real.

According to this school, between these two worlds there is absolutely no hope for a bridge for connection or intercourse, as from the one there can never be derived something belonging to the other. This, simply, is the purity of method that "facts political, sociological, ethical, or economic will not be considered in the study of law as science". To state in more concrete way, the normative and the factual are absolutely two worlds in human cognition, each having its own system of linking rings within itself. The world of Sollen, i. e. law as normative system, is governed by

logical necessity, in the form of hierarchy from the lower to the higher norms; while the world of Sein, e. g. politics, is governed by natural inevitability of a chain of causes and effects. It stands to reason, therefore, that study of law in general, and that of international law in particular, must be 'pure' from all interferences foreign to the juridical; for, such interferences, not being juridical, have their sources in the factual, that is, belong to the world of Sein.

Considering law as science, and for the purpose of suggesting the important line between law and politics, etc., this theory is sound. However, it does not solve the problem of Peace and war. There is perhaps something hiding at the borderline between the normative and the factual. Going back from the lowest to the highest norm, Kelsen, like all others, is destined to conclude that beyond the "Grundnorm", which in municipal domain is "historically the first constitution" and in the international domain, the norm "pacta sunt servanda", for juridical science nothing can be or is allowed to be sought. The reason is simple: that would involve facts, in particular, politics which would make juridical science a prostitute. To justify this cut-off, Kelsen raises the shell of "unity of juridical science"; that is, juridical science itself as a system can and should start only from this "Grundnorm" which does not have a higher norm at its basis. No need for further search, according to him; for this will suffice study of juridical science as a logical, normative system.

On this point, Kelsen is again correct. But it may well be asked whether a logically completely self-sufficient system called 'law' without applicability can console the legal philosopher. This is more so, as soon as it be proved that such theory solves all problems except the most important point of Peace and war, which solution is the most worthy work for human being. To repeat, as science, law is no doubt to be studied as a logically self-sufficient and independent system, so as to prevent political or economic interferences which might, as for times did, involve power politics that would make law a slave of ideology and maid-servant of power, as philosophy itself once was some centuries ago. Indeed, Kelsen did consider the factual; however, with his purity of method in the extreme form he could hardly succeed in dealing same. He lack a broader system (order). He is bound by the tradition.

The ultimate issue for legal philosophers to work on is the "transformation of fact into right (law)". In connection with the present theme, this is the problem of Peace, law, and war. Kelsen's theory goes too far as to exclude every and any possibility, or necessity as a result of usefulness, of the unity of the two worlds through scientific method and under a broader view. He thus puts himself in a deadly dilemma. Such dilemma

appears most sharply, as soon as he faces the practical, hence, philosophically relevant, problem of Peace and war. He could not solve this problem without the aid of natural law, whatever form it be, which according to his own theory must, due to its choleraic nature, be excluded from consideration, so as to purify the science of law.

Questioning the nature of war which, to him, is the only point deciding the juridical character of international law, Kelsen introduces the ethical concept "bellum justum" (the "just war theory") as his starting point. The application of the just war theory is a necessary result of his uncompromising position about the logical absoluteness of law as Sollen against the Sein. But how can an ethical concept become a juridical one, only through his note that "by 'just' is meant 'legal'"? And, even if this were possible at all, where is the hope for the measuring of such legality or justice? He would say that this is a matter left for decisions of states concerned "in their capacities as representatives of the international community". Taking for granted that there were such rule delegating to states such capacity, and even if we had a World State in the true sense of the term, the problem, when a "world civil war" takes place, remains unsolved. If one may assert that every human being, or human group, is purely moral, there would be no law, and no legal philosophy either. Perhaps Kelsen is expressing his ideal; but if so, like his philosophical grandfather, he is bound to sigh, as will be examined in turn.

The struggle between law and force in our world, reflected in philosophy the Sollen against the Sein, is, somewhat, permanent, as Toynbee pointed out. The pure theory of law, like the Consent Theory and the assertion, by Kunz for instance, that the norm pacta sunt servanda is a positive norm of international law, can not solve this problem and many current questions arising therefrom. Seeing that the only way to solve the two orders is to have another order including these two as parts, with something like an arbitrator or contact agent, a broader view must be had if traditional cognition was mistaken or impotent, and new method be used if traditional methods be proved to have failed.

The difficulty has its deeper reasons. It has its origin in Kant's critical philosophy. It is here to be noted that the "Pure Theory of Law" was not invented by Kelsen, but rather an extreme development of Kant's "pure theory of right" (in "The Philosophy of Law") by Kelsen.

III. The More Profund Problem

The very source of difficulty comes from Kant's praktische Vernunft (practical reason) which is theoretically understood through his critical method of philosophy, and which finds its end in his Moral Philosophy given expression in the matter of freedom of individual person.

In the field of epistemology, starting from his metempirics, Kant laid down his proposition "transcendental truth precedes all experimental truths, and makes the latter possible". To demonstrate this, he, like Copernicus had done before him in natural science, called for a revolution in thought, by advising to give up the vain attempt theretofore made, of subjecting human cognition to object for cognition, and to hold the contrary. By so doing, he situated transcendental cognition over the experimental Given. This supplies to the possibility of transcendental cognition with a foundation, through confirmation of the proposition that it is not the object which makes a concept possible, but that the contrary is true — and this results the reduction from objectivity of the nature, to the logicality of human cognition. Thus the real meaning of his critical philosophy lies in such a consequence: transcendental basis gives foundation to possible experiences.

Here, in the matter of freedom, under the superiority of practical reason, it was possible for Kant to situate subject-position of human individual over experimental restriction and arrive at his "Kingdom of the Ends" based on autonomous freedom of individual.

But up to this allegedly last stage, Kant met the contradiction between transcendental freedom which is the foundation of freedom in the practical sense, and the natural rule of cause and effect. To avoid this contradiction, which he named "the antinomy of pure reason", he asserted that the two, the freedom and the nature, belong to two totally different worlds co-existing.

To state in plain terms, Kant's position is somewhat like this: basing on the transcendental moral ideal which is the necessary result of his philosophical system in the field of practice, he teaches that human being, as existence in the experimental world, has no freedom; for, the world of reality is controlled by the natural rule of causes and effects. However, he says, human being is the existence in the experimental world, as well as personality in the moral world. Here, in morality, to him it is the universally valid moral rule that prevails; and the validity of this moral rule presupposes freedom of human will. The rule of causes and effects, which controls the world of experience, does not work in the world

of transcendental morality. Accordingly, human freedom is the demand of transcendental moral ideal, rather than a question of experimental reality. Here the dualism is apparent.

This dualism, on the one hand, succeeded by Stammler from the point of distinct division of form and content, was developed into the critical legal philosophy giving birth to a "changeable natural law", and by E. Lask from the point of structuralism by seeing the structure of the object through the form of cognition, was drawn new methodology for sciences; on the other hand, it was pushed to the extreme by Kelsen, as has been stated, with the assertion of absolute severance of the ideal from the reality, the spirit from the nature, and, more concretely, the Ought from the Is.

With this in mind, if, as will be examined, Kant could not but compromise on his dualism, Kelsen can only add another failure because of the questionable character of Kant's philosophical stand which is the origin of Kelsen's "Pure Theory of Law".

That Kant's stand is questionable, can find positive or negative proofs from the philosophers of the following ages.

Radbruch, for instance, who, likewise belonged to the New Kantian School, tried to soften this dualism, through answering a particular but fundamental problem, and arrived at his relativism. Here lies at least possibility for attempted amendment to Kant's stern position, in a certain aspect: namely, the problem between law and politics.

In addition, Kant's such dualism of knowledge in general has been proved to be unacceptable. Hegel supplied us with a good example among many. According to Hegel's monism, "what is rational is real, and what is real is rational" ("Grundlinien der Philosophie des Rechts, oder Naturrecht und Staatswissenschaft im Grundrisse"). On this proposition, he established his system of historical philosophy, or philosophy of the Real - the absolute absoluteness, or the absolutised Ideal. It is to be added that Marx, one of the successor to Hegel, went to the other extreme, that is, the absolute Real. After Hegel, philosophy split into the two extremes. No middle way has proved to be successful. Such a situation, in fact, had been existing long before Kant, going back to Plato. Bacon, Descartes, Leibniz, Spinoza, Vico, Berkeley, and Hume, all faced this dilemma.

Hegel's theory is by no means healthy or wholesome. Its results, indeed, have been highly hartful to mankind. Touching the question we are confronted here, for instance, from the absolutised Ideal he drew the logical consequence that the state, as the highest expression of general will or, in his own term, the "Sittlichkeit", is the last stage of development of human society and, the case being so, it is again logical, or rather, inevitable,

for him to praise the absolute, the idealized Real, the war waged by states, to be "Dances in the Garden of Roses". The appearance of Marx as the son of Hegel in this part of assets is, as reactions against Kant and Hegel himself, quite natural in the development of history of ideology.

Coming back to Kant, and we can prove the above. In the famous "Zum ewigen Frieden" ("For Permanent Peace") which may be said the crystallisation of the whole thought of an aged philosopher, starting from the human consciousness of abstention from war, which comes from an absolute proposition of practical reason, to wit, "Es soll kein Krieg sein" ("There ought never be war"), Kant laid down an absolute command based on moral law, which requires the fulfilment of an obligation imposed on us to guarantee getting closer to permanent Peace through establishment of a world organisation therefore. To Kant, permanent Peace is, however, the ultimate political ideal of mankind: it is in fact "das Höchste politische Gut" ("the highest political Good"). Why did he treat permanent Peace as ideal and not as realisable item, is due to impediments lying in the way of the realisation of such "Gut". And, in face of the international political reality or, what amounts to the thing, the status quo concept, which has ever since the new birth of the European state-system, respected in the international society, and considering the limited effectiveness of international law, he was obliged to give up his Civitas Gentium which, according to him, is correct in theory but hypothetic in reality, and found "das negative Surrogat" ("the negative substitute") for an ideal world state ("Weltrepublik"). Against this background, Kant compromised with reality and suggested a "Staatenbund" which is something like the League of Nations in the 1920's and the United Nations of today, leaving the sigh expressing his dissatisfaction about this compromise, by choosing the title "Zum ewigen Frieden" which, in its original meaning, had been a praying phrase for those who lie in the tombs (signifying those who died in war), to show his pessimism toward the problem of Peace and war. This, in effect, is tantamount to a confession, reluctant as it was, of the weakness of his dualism of knowledge.

There is no surprise that Kant failed in finding a solution. Returning to what we have said, the normalcy of Peace genetically provides the naturalness of Peace and phenomenally presupposes permanent Peace. However, the antithesis of Peace and war, which is the logical son of the normalcy of Peace, makes permanent Peace impossible; for, such antithesis makes Peace and war to exist in rotation and, in effect, excludes any possible permanency of either of them. The hypothesis of normalcy of Peace itself, therefore, brings with it internal contradictory issue: it at

the same time makes a permanent Peace possible and impossible. Hegel's dialectics applies here, perhaps.

Thus Kelsen is destined to sigh with Kant on the matter. Perhaps Rickert saw this tragedy, when he said that the ideal is never reacheable (in "Der Gegenstand der Erkenntnis"). This is plain; but this is the fundamental truth.

IV. The Break-down of the Traditional Dogma

If so, what can we do with this problem as it appears in our theme here?

Before answering this, we have to break down the tradition first.

Referring to the propositions above given, which have their ultimate basis in the normalcy, affirmative and static nature, of Peace (hence abnormality, negative and dynamic nature, of war), we discover that they are linked one after another in a logically hierarchical form. The commonsense normalcy of Peace is the mother of the phisolophical hypothesis of the antithesis between Peace and war; and the latter, in turn, gives birth to the juridically structural proposition that Peace is identified or sided with law or order. This structure, again, gives room to the idea that Peace, being passive, has no functions.

The hypothesis of the normalcy of Peace finds its counterpart in the term "justice" or "equility". We may ask what is the standard for testing such normalcy; and this is the same as we ask where is the measure for determining what is 'just'.

Aristotle, in his "De Republic libri VIII et Oeconomica", presupposes a Cosmos wherein justice is the predominant rule. His concept of justice is synonymous with the idea of equality. Here we may challenge that it, as such, is, and can be nothing more or less than, an ideal, or rather a belief. Justice, as an ideal, is of necessity an ethical concept, the eternal hope and the last destination of mankind. It is the same to the meaning of the "Good". And like the Good, justice or, what is the same thing, equality, is a sided as well as a neutral term. It is an ideal, and hence the Perfect, the Virtue, the Maximum Whole, because human being longs for it but is unable to reach it. Here, in want of a higher standard as to whether something is good or not, that is, just or not, this becomes a matter subject to differences according as different persons, or groups of persons, may think fit and likewise subject to changes of space and time. In otherwords, this depends on respective existing social relations which compose the Order. Even if a standard for justice be established, it may well be asked

further what is the standard for such standard, and so on. This is an unended link of queries to which no ultimate answer would be obtainable, except given by God Himself, or recourse be had to the philosophy of religion.

The same is true of a standard for the normalcy of Peace. If we ask for the ultimate standard - the standard of all standards, we must meet two interrelated questions: whether human nature is good or evil, and whether in the state of nature human beings lived in a estate of Peace or in a state of war; if 'normalcy', as it should, signifies also 'natural'. As to the former, for more than thousand years since two rival Chinese philosophers, Mencius and Shuncius, who asserted the two extremes, no agreement has been reached so far; as to the latter, we need only give as example Hobbes' logically necessary presupposition for the quest into the genesis of civil society, that the state of nature is one of war and not of Peace: this presupposition, though not necessarily correct, equally for many generations, except by Locke's contrary proposition which is also not free from doubt, has not been subject to a total breakdown. The state of war presumed to have existed in presocietal period, as a case finding its realisation in the international community, is even asserted by many modern writers with sound reasonings, in the light of the world situation of today.

This is not all. Provided that one cannot without committing logical error say that "normalcy is normalcy", or that "normalcy is non-abnormality", and because there exists no generic concept able to include both the normalcy and the abnormality as its lower specific concepts equal in rank, the 'normalcy' of Peace remains to be proved. If so, Machiavelli can at least with equal weight of reason assert the extremely realistic view of "il ragione di Stato" directly against such 'normalcy'. Majority, however absolute, and tradition, however deeply rooted, can not by the reason of number or length of time alone, claim monopoly of truth.

Under the tradition of the "normalcy of Peace", as a matter of course, the concept of Peace can not be had. To use Hegel's expression, in our case Peace can not be "mastered conceptually and hence, its cognition, impossible" ("System der Philosophie, Erster Teil. Die Logik").

If the hypothesis of normalcy of Peace is thus proved baseless and arbitrary, it stands to logic that the philosophical proposition of antithesis between Peace and war can not hold. In addition, there are other reasons proving that such a proposition is ill-founded and, to some extent, absurd.

The antithesis of Peace and war, in the field of law, finds expression in Cecero's maxim that between war and peace there is no intermediate. Inter bellum et pacem nihil est medium. This, made use of by Grotius ("De Jure Belli ac Pacis"), found a new shape in the statement that war

is a status (i. e., a condition, state of affairs) of contest by force. Bellum sit status per vim certantium. The linking point between the two maxims is: if Peace is a condition, and if it is antithetic to war, war must also be a condition. Thus Grotius found support for his "state-of-war" theory which for the first time in history gave war a juridical status, and which has been dominating the study circle of international law up to the present, with the unfortunate result of formal dualistic division of this branch of law.

The consequence is serious. It means that Peace, antithetic to war in the sense that it is a normal, natural, affirmative, static, and hence passive, state of affairs, in contradistinction to war which is abnormal, anti-natural, negative, dynamic, and hence active, state of affairs, must be identified or sided with law against which war is a negation. With this background, it goes without saying that Peace, being the idol of law, cannot have functions or, if at all, has the functions exactly the same to those which the law may have. Peace therefore dies with law, and only lives so long as 'the' law exists.

But such antithesis is incorrect in juridical logic. To be antithesis, Peace and war must have some characteristics similar or contrasting, if there is no higher and common generic concept which will include them as specific concepts of equal rank. But whereas war, though looked as necessary evil, has long been a juridical concept (a status), Peace has always remained an extra-juridical one, though ambiguous. And the juridical and the extra-juridical have no points of similarity, nor of contrast because they are not contrary terms. Furthermore, while war in international juridical order has some functions, Peace under our tradition has no function at all; and the 'function' and the 'no-function' can not be said contrasted, less are they similar. Again, to make war, according to the traditional doctrine, only one party is enough; on the other hand, to 'make' Peace there is always the need for a juridical form called "peace treaty" made among or between parties to the war. This is of course not a case of contrast, but rather one disapproving the antithesis. One more point must be mentioned. It may be reminded that war, itself a situation of fact, makes juridical condition, while Peace, though the consequence of an accord (treaty of peace) which, if it fulfils juridical requirements, ought to have juridical effects so far as the rebus sic stantibus clause does not apply, remains a fact. There has been no juridical concept of "Peace", not even is there one in the Charter of the United Nations which, in theory as well as in purpose and in practice, ultimately depends its livelihood upon the concept of "Peace". No similarity nor contrast is involved here.

This is not all. If Peace and war were antithetic, they must in law be equal in rank and position. However, while, according to the traditional doctrine, a war has the effect, evil as it is, of interrupting, that is, breaking down, Peace, Peace can not have effect to break down war, because Peace is something given birth to by a peace treaty, and has in itself no direct effect on, not even connection with, war preceding it or next to it. There is no mutual rotation nor mutual correspondence between Peace and war, though there may be phenomenon of alteration from Peace to war.

However, the above proofs may meet with an attack: war being outlawed, and Peace, protected by the law, war is antithetic to Peace in the sense that war is against the law. But this begs bad questions. Putting aside the question as to whether the outlawry of war by treaty (particular international law) affects the 'residual right' of states to make war under customary (general) international law (and of course the present writer will not be hesitate to hope that it does so affect, we answer that even if war may be so considered as illegal act and hence antithetic to Peace, this can not alter the fact that Peace remains non-juridical. By the fact of the illegal character of war alone, Peace cannot be made "legal" (in the sense of "lawful" in contradistinction to "juridical" which means both "legal" and "illegal"); and only when Peace becames "legal", is it possible to talk about the antithesis in the sense that war is illegal. Besides, that war, that is, use of force, is antithetic to law is untenable. Kelsen's authority on this point is with us, and Del Vecchio and many other great legal philosophers, too.

Thus, logically, Peace cannot be antithetic to war. If these arguments are not convincing enough, the present writer refers to his former essay "Theoretical Structure of War in International Law" (Orúe Plaza Prize article), the whole content of which is offered to this point. The conclusion arrived at there is a formula: "war = sanction + delict = counterrevolution + revolution" (in contradistinction to Kelsen's theory that war is sanction 'or' delict, and to the Italian School (Anzilotti, Morelli, B. Pallieri and Quadri) which asserts that war is 'legislation', or 'procedure of juridical production', or 'executive means of protecting interests', or 'revolution'). For the sake of avoiding confusion, this formula may be reformed as: "war = war—act(+) + war—act(—)". More simply, war is, and always remains, bilateral actions, and not a 'status' or 'condition' pure and apparent.

In result, war is a combination of two actions, and Peace, a form. But war, as Oppenheim defines it, being "a contention between two or more States through their armed forces for the purpose of overpowering each other and imposing such conditions of Peace as the victor pleases" ("International Law, 'Disputes, War and Neutrality' "), which in substance

follows Clausewitz's quasi-classic but still prevailing formula that war is continuation of politics, then it is some kind of political (factual) existence; whereas Peace, if, as is agreed upon by all jurists, not an obeying servant of politics, must be some other kind of existence, whatever it is, different from that of the political (or factual) existence of war.

Epistemologically and methodologically, again, there cannot be antithesis between Peace and War.

If the proposition of "antithesis" breaks down, there will be no doubt that the proposition deriving thereform, that Peace is identified or sided with law or order can no more stand; for, the latter proposition is only another form of the former. Furthermore, to strengthen our position, we may add the question: if Peace justifies law and order, or vice versa, what justifies Peace, or what justifies law and order? No answer can be given.

Logically, once more, if there is no antithesis between Peace and war, there is no room for such a proposition that Peace is identified or sided with law or order or vice versa; for, in this case the dualistic form (dichotomy) of order is non-existent. Paradoxically speaking, unless the form of the world order be considered as monistic or divided in a trichotomous manner, there will be no way out of the dilemma faced by dualism. But there are other reasons showing the difficulty of holding the "identification" proposition itself.

In regard to the law (order) is sided with Peace proposition, Kelsen's "Law and Peace in International Relations" above-mentioned is a good example.

First it must be pointed out that the fact that in the title the term "law" precedes the term "Peace" is significant; though in content it is more proper to put the latter before the former. Perhaps Kelsen had, like Dickinson, had much trouble in giving primacy to one of the two terms. In its content "Peace" should be given such primacy; but as a lawyer he could not help holding the reverse. This is another proof to our above statement that Peace possesses no juridical character. This is not a matter of mere formality, but one bearing great importance of deciding the subject-position of law and order on the one hand, and Peace on the other; and, the situation being so, it may also have great influences on the basic attitude of thought. Dickinson carefully showed this consciousness in his "Law and Peace", equally referred to in the above ('Foreword' and 4th Lecture). And it was very unfortunate, or rather natural, that Dickinson added another example to show the super-juridical character of "Peace".

In this collection of lectures, Kelsen defines "law" but leaves "Peace" in the dark. "Law is, essentially, an order for the promotion of peace". What is Peace remains intact; no content nor form is given. But by saying that

X is, essentially or otherwise, Y for the promotion of Z, it means that X or Y is the means for the promotion of Z as an end. And since an end determines, and always takes precedence over, the means, in Kelsen's case it is law and order that should side with Peace, not vice versa.

To Kelsen, law is a system of norms, that is, a logical order. However, law seen from scientific point of view "must be regarded as a social phenomenon among other social phenomena". This is correct. But what are the interrelations among the social phenomena to which law belongs as one? This is to him pointless; for, they do not concern lawyers, according to him. This again is correct. But, one step further, if "Peace" is not a juridical concept, is should be something "not juridical": there can not be a third alternative. If this is so, his above lectures should treat something more than "juridical", that is, law and something which is not law itself (Peace), seeing that the term "Peace" is one of the subjective terms of the study, primary or secondary notwithstanding. But Kelsen did not pay attention to this, because in this writing, unlike in his "Vom Wesen und Wert der Demokratie" or "Der soziologische und der juristische Staatsbegriff, kritische Untersuchug des Verhältnisses von Staat und Recht", he shall talk about, and nothing other than, the juridical. If so, what is Peace, and, what is its real relations with law and order, retreat to the shadow. The reason for the sidedness becomes unknown; it must therefore be taken for granted. At the very beginning, if law and order on the one hand, and Peace on the other, are different existences (law is logical existence, while Peace, being non-juridical, though with the content unknown, belongs to existence different from law), there must be a reason for their fraternal connection, and more the sidedness. Lacking the link between the end and the means, the raison d'être of the "promotion" are required for is therefore non-existent, and the proposition of sidedness, untenable.

An example showing that the proposition that "Peace is sided, or even identified, with law and order" can not be true, is Reves' definition of Peace, already mentioned. "Peace is order based on law", he said. This is worse than not to give a definition. Kelsen and Dickinson are on this point more careful and juridical than Reves is.

What is such "order" as conceived by Reves? That which law bases. But what is such "order" which is based on law, nay, what is an "order", at any rate? Reves' definition is, true as he asserted, a realistic one, though it is shallowsighted, far from standard. Insofar as he did not tell us what is meant by him an "order", on whatever be it based, his definition is no more than a petitio principii against which Weldon has given warning

with ample examples (in "The Vocabulary of Politics"). In a word, if Peace is order, and order, unknown, how can Reves recognise Peace?

This is not all. Besides the tautology of the terms "order" and "law", by saying that "Peace" is "order", Reves ignored epistemology. The two belong to different categories: while the later, being a system (order is recognised to be "system"), is a concrete abstraction (seemingly concrete but in fact abstract); the former, whatever it is (perhaps abstract concretion), not being a system (no body, bound by the tradition will say that Peace itself is a system, though it may be a part of a system or end of a system; and Reves, when he asserted that Peace is order under law, is bound by such tradition), may not be a concrete abstraction similar to "order". If Reves is to assert that they belong to the same category, he must give proof. No such proof is given. Furthermore, if Peace is order 'based' on law, it of necessity also depends on law. And to say that Peace depends on law, besides pushing Peace to a subordinate position which is not at all corresponding to the opinion of the majority, means also that beyond law there is no Peace, but war, according to the tradition believed by Reyes. But what is meant by Reves' 'law'? The content of his writing shows that it should mean 'positive law' that is, 'the' law. This would be another form of expressing Hobbes' "bellum omnium contra omnes" which remains unproved, as indeed it is unprovable. Thus Reves' assumption of the identification and sidedness of Peace with law and order, which comes as a necessary result of his definition of Peace, being something based on something unprovable, itself await proof.

We may therefore conclude that Peace is not necessarily passive or static, because it is not true that it is identified or sided with law or vice versa, and hence is released from the yoke of law. If so, it 'may' be active and dynamic, that is, it 'may' have functions.

How?

V. The Solution - Reconstruction of the World Order on Purely Conceptual Plane

To make this possible, we must first presuppose a World Order. Presupposition, as Rickert pointed out (in ibid., also "Kulturwissenschaft und Naturwissenschaft"), is necessary and compulsory for research either in sciences or in philosophy. Without presupposition, in one form or the other, all writings would, without exception, be impossible, because they would have no starting-point. A striking example is Descartes's famous psycho-ontological logical formula of "cogito, ergo sum" which was found

beyond any doubt after he had cast doubts on all things and conceptions, and which was later reformed, better or worse, by Spinosa as "ego sum cognitans".

Such World Order, whatever form or content it may have, is also presupposed by all writers in our field. And, being something presupposed, we do not bear the duty to verify its meaning. What is clear is that it is a system; for, where there is no system, there is no 'order', whatever kind. And, being a wider, or the widest, system, concerning our problem here it must be able to include the Sollen and the Sein, or the logical existence and the factual existence (in our case, law and politics). But, since if there is in short of something acting as arbitrator or contact agent between the two existences, we shall be obliged to go back to Kant and Kelsen's dilemma, a third concept indispensably comes into the picture, if the World Order itself can not so function. This, we assert, is the concept of Peace; no other concept in this particular picture is conceivable. If someday someone can give another concept in the stead of Peace, we must give way and bow to that which is nearer to Truth.

Here, if Peace is not a 'nihil', it must be something, some kind of existence. In the last resort, Peace, as a concept recognised, is some sort of existence.

There are, according to Professor Yokota, the top authority on international law in modern Japan, three kinds of existence — the physical, the psychological, and the ideological (in "The Sollen and the Sein in Law", Japanese language; see also Kant, "Kritik der reinen Vernunft"; Rickert, "Die Grenzen der naturwissenschaftlichen Begriffsbildung"; Wundt, "Logik"; etc. in Yokota, l. c.). It is not the place here to examine "The Existence" in detail. Suffice it to note that "Peace", if not a physical existence, must be either psychological or ideological existence.

Law, being the normative, is, like figures, ideological existence and, being propositions expressing relations of value, is logical existence; while use of force (politics, in our sense), having human mass activities as its content, is physical existence (though politics proper may have the aspect of Sollen, which is beside the point here). The 'kind' of existence of Peace remains to be seen; however, it can not be logical existence as law is. And this is so for two reasons: first, 'law' itself is a juridical concept, while 'Peace', non-juridical; secondly, unlike law, Peace itself has no system and hence, to be logical existence it lacks the essences of syllogism 'if', 'because', and 'therefore'. Peace is, in result, not logical existence. By saying this, though we do not exclude the possibility that an existence may be ideological and remain not logical, we do insist that the category of such 'existence' befitting 'Peace' is waiting for sufficient proofs.

If so, for the time being we may say that Peace is psychological existence, because this the only possibility. Proof to be stated below will strengthen our such position. As a matter of fact, the "existence" and the differences in the kinds of existence are of crucial importance to us. It is of paramount necessity, so far as epistemology is concerned. And epistemology, as is well known, decides methodology.

Following the above line, three methods must be used for the 'How'. They are logical, political (or sociological), and psychological, methods. They, and the method in using them, commit great departure from our tradition. If the tradition is proved not qualified to solve the problem (and this has been so proved by historical actuality), there seems no reason why we may not depart from it.

Concerning these new methods, and with a view to make the picture clear, we treat "law" and "politics" as two unit-orders on purely conceptual plane. Their respective contents are left to specialists concerned; and the interrelations among the three new methods, to future studies. We are to see "from outside" these two orders, so as to solve the problem and suggest a new basis for studies of their interrelations, and not to see their internal structures. As to the "purely conceptual plane", attention must be drawn that it is justified by the fact that traditional law has been divided into two unit-orders, due, as having been noted, to the proposition of antithesis.

A warning must follow. Since we are to study the problem from purely conceptual viewpoint, we are not to be misunderstood as having overlooked the existing international organisations, especially the United Nations, and their functions; or as having recognised a 'juridical' right of war enjoyed by states and hence submitted to the wrong Darwinian assertion of the so-called 'inevitability of war'. Nor are we to engaged ourselves in seeking the dynamic causes for the moving World Order. Due to time and space, we shall stop at suggesting the methods, and the method of using such methods so as to draw a 'sketch' of the picture. Our only purpose is to find out the exact meaning and functions, if any, of Peace.

The reason why we treat only law and politics, to the exclusion of economical and other social activities and forces which are important to our World Order or, more properly, "World Social Order", is: social activities and forces, economic or otherwise, are, indeed heterogeneous in form, but homogeneous in content, so far as politics is concerned. To borrow terms from administration, however, they are different like those institutions run under the system of division of labour. Taking politics (or political forces) as the ocean touching the shore of continent "A",

all other social forces are metaphorically water in the streams of continent "B", running into this ocean. In our problem, phenomenally social forces, though with great pressure on politics, themselves cannot directly contact law so far as the 'making' and the 'alteration' of law are concerned. They can do so only through their representative, politics. In especial, so long as we have here the theme directly related to 'use of force' or war, we are justified to treat only law and politics, if war is considered in line with the opinion of Oppenheim and, more basically, of Clausewitz. In such matter, politics, and politics alone, contacts law through war, which is "delict + sanction (application of law)", as a phenomenon of the physical world.

Seeing that the traditional dichotomy of the world order can no more hold as a result of the break-down of its theoretical foundation, the question, again on structure, is: If Peace is not antithetic to war, and if it is equally not identified nor sided with law and order, what is its possible position in the reconstructed World Order?

Conceiving "order" or "orders" on purely conceptual plane, it becomes possible, when we are studying the "structure" and the "function", and unavoidable, by analogy to the formally dualistic positions of Peace and law (order) on the one hand, and war or politics on the other, that the analytical geometrical method be used in changing the positions.

There may be five possibilities for the World Order to be reconstructed: (1) Peace disappears forever and remains a historical term; (2) it is identified or sided with the political order; (3) it goes to the heaven, without any connection with law or politics; (4) it, together with law, surrenders to politics; and (5) it is connected with law and politics seen as unit-orders purely conceptual, but at the same time it is independent.

The first possibility is against reality; the second makes another state of nature as against the hope of mankind and tendency of history, hence is opposed to by all; the third, a fantasy or religious myth; and the fourth, a redicule. Only the last possibility remains; and that is → Peace is connected with law and politics, but independent.

The picture of the newly constructed World Order is thus trichotomous, as differed from the traditional one which was dichotomous.

In this picture, law and politics, conceived as pure orders, stand at their positions as understood by traditional doctrine (but of course not antithetic); while Peace, pushed to its should-be position, is independent but connected with law and politics. This may be called the "Transposition of Peace in the World Order".

Law, being logical existence, can not, as Kelsen rightly told us, be directly connected with physical forces (delict) as a political form

challenging existing norm or system of norms (existing juridical order). Such physical force is the extreme form expressing dissatisfaction and the maximum means to realise demands of social groups (forces). There is no war (in the traditional sense) called 'law', just as there is no war (in the traditional sense) named 'Peace ; though there have been, and still will be, wars in the name of 'law' and/or 'Peace'. The logical existence (law) can get in touch with the physical existence (use of force from the side of political order) only through something which is also physical existence. To make this possible, the connection between the logical existence, and the physical existence from the side of law able to meet use of force from the side of political order, is absolutely necessary. In our case, such physical existence is the use of force from the side of the valid juridical order. It is called 'sanction' (war-act (+)). And, if use of force from the side of political order (war-act (—)) meet with it, there, will, according to our theory, be a war as bilateral actions (war-act (+) + war-act (—) = war); and the connection between law and sanction is the consequence of the "application" of the norm or norms which composes the existing juridical order. It must be added here, that the above phrase "from the side of political order" does not signify that law and politics, hence juridical order and political order (and other social orders, economic, etc.) are distinctively severed. This is not possible; for, there are social forces which may back the existing juridical order, however underisable to other social forces it may appear to be. Such relations are interweaving; and, for the sake of simplification, we deal with the case where use of force is, or is very likely to be, carried out. Nor, in addition, does the term "war-act (+)" (the plus, affirmative symbol of (+)) refer to legitimate character of the 'sanction', or to a presumption that use of force from the side of political order is always in the offensive, that is, the first which occurs in a war (in the new sense). Thus the linking point between the juridical order and the political order is war itself (when sanction comes into contact with delict, or vice versa).

But, one step forward, physical force, be it sanction or delict, can find justification only in the concept of Peace: if sanction wins, this means that existing juridical order continues to satisfy the majority of social forces (groups) represented by the concept of Peace, and hence to fulfill the requirements of Peace; on the other hand, if the delict-violence wins, and that is, existing law backed by forces crystallised in its sanction is defeated, in the extreme case it means that such delict newly obtains recognition from Peace, that is, gets supports from majority of social forces (groups) — a visa with the effect that the newly established juridical order becomes 'juridical' (possesses validity), pending constant test

of its effectivity, espressed in its own sanction, that it may not in future be fought down by another violence supported by social forces (delict). Such was the same case of the juridical order broken down by this victorious violence; therefore, the effectivity of the new juridical order is subject to the non-existence of the former juridical order and its sanction which it tried to break down or defeat. This gives a negative criterion to the rule of "effective control" under international law, which is, for most times, applied to test the effectivity of one of the parties victorious in a civil war, and hence, directly supplies also a criterion to the Law of Recognition.

But why is it that newly established juridical order must be recognised by the concept of Peace? Provided that there is no other concept which can function in the matter, and since Peace is the ultimate aim of, and at the same time the pre-requisite for, the existence and continuance of existence of any kind os society, this must be the case. Furthermore, there is no revolution (understood as international war as well as civil war) which is not for Peace but for revolution itself; that is, revolution and war is a means to an end, and not end in itself. The end, or ends (object or objects), may be interests, or pride, or power; while the end of such end or ends, or rather, the condition which makes the realisation of such end or ends possible, besides the victory in war or revolution, is Peace.

From this the nature of Peace becomes clear. Connected with, and reflecting, social forces as accumulation of forces and energies of human individuals composing the social groups, Peace can only be psychological existence which backs, and is backed by, social forces, that is, human individuals at large. Peace is therefore the crystallised but potential centre of human feelings; such feeling, if translated into forces of the physical world, becomes mass social forces before which nothing can resist. To continue to be valid and effective, existing juridical order, and to succeed in breaking down the existing juridical order and to establish a new one in its stead, the delict, must both resort to these social forces, that is, in the psychological world, Peace. This is perhaps the true meaning of the medieval Teutons' understanding of "Peace" as "a regular and orderly social life without reference to war" (in Kalijarvi, "Modern World Politics").

With the above, it leaves no doubt that human beings, as human beings, has a right of resistance against tyranny. This theme has for times been suggested; however, no sound basis could be found; for, the dilemma of struggle between law and politics, or the question of "facts make law" remained. On the other hand, it is equally clear that a check is put on

such right to resist, with the application of the negative test of effectivity of a revolution. This is true in the international sphere as well as in the domestic sphere. And, as by-product, we suggest "sovereignty of the People", in otherwords, "Sovereignty of Peace", to take the place of the mystery of "sovereignty of the state or nation", through strongly asserting human rights, thus restore to the People, that is, Human Beings as a whole, their should-be position in the world. Salus populi suprema lex esto.

In this sense, the saying that we are living in the century of the People, implying also Nationalism, is true. Our above statement is in line with this development of the history. Pending a definition of the term "People", we hold that Rousseau's general theory underlying his Contrat Social remains valid even as of today, and that that is the common ground for both Democracy and Communism. People, hence Peace, is therefore not something susceptible of monopoly by Communism.

Be this as it may, as the late Professor Otaka, the top authority on legal philosophy in Japan, points out: "While politics (meaning political forces) makes law, law, once made, regulates political actions" (in "That Which Lies at the Bottom of Law", Japanese text), we are not stressing that the People commits no wrong. Far from this, we must warn that the majority often is erred. Whereas there is no reason why a People must tolerate sway of the laws which they do not like, there is equally no ground for revoke with selfish purposes. And, on the one hand, the state is not belonged to the rulers, and the World, not to the strong states: whereas revolt in a state must not be undertaken, so long as the laws are still tolerable; and again, small states in the international society must not, as it has for times been the case after the Second World War, be too confident in abusedly using the arms of their number in the form of non-violently violent majority to oppress the minority strongs. Peace, as common tie of all of us on earth, will and can give decision. It is the balancer; it is also the arbitrator.

Post Scriptum

The functions and the meaning of the concept of Peace are, so far, roughly described. The present writer must, however, confess that this picture is incomplete, seeing that in this structure the World Order is somewhat static. But, to repeat, we must be satisfied with this situation. The full use of our methods, and the interrelation among the results therefrom, must be left for the time to come. This field, worth named "Science of Peace" or even "Science of the World (Social) Order", is too huge,

and the resources, too ample. The study is endless; it takes one's life-time.

But a theory, be it one of natural science or social science, old or new, must fulfill some conditions, at least three in our case: internal selfconsistency in logic; applicability; and, as a new theory, justification for its being established. The first to be left for judgment by the readers, the third, sufficient given. There remains the question of applicability, if our theory is not to bear the name of "game of logic".

Besides that which have been stated in the above pages, our theory may supply to the norm pacta sunt servanda its foundation of being a positive norm; it, moreover, makes not only possible but also necessary the continuity of Peace and that of the international juridical order which have heretofore been for too much times considered interrupted by wars, or, though such continuities be considered to have been kept, no well-founded theory has been given; furthermore, we suggest a sounder basis for the application of the laws of war (jus in bello) to all future war, de jure or de facto, international and civil alike because, if wars aim it the last analysis at Peace, they must be restricted by Peace, so that Peace might not be endangered. In addition, we clear a way for new approach toward study of "foreign policy", if by policy is meant a diplomatic (non-violent) means, in contradistinction to use of force (violent means), for attainment of an end or several ends; again, we solve the question of duress in the making of treaties of peace; and, we also suggest a theoretical basis for the phenomenon called "revolution". There is, besides the solution of the dilemma of "force makes law", that is, the struggle between law and politics, also possible application of our theory to the question of determining "aggression", and perhaps many other dilemmas in existence or to come to exist. Our theory, therefore, has its raison d'être, so long as it stands the hard tests of reality. "Uomo (é) un nosse, un velle, un posse finito che tende all'infinito (Man (is) a finite wisdom, will and strength toward the infinite)" (Vico, "Principi di una Scienza Nuova intorno alla Comune Nature delle Nazioni").