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The Subjugation of International Law to Power Politics and Mystery of State (Arcana Imperii) in Shakespeare’s Henry V

Foreword

As William Shakespeare’s literary heritage enters its fourth century, the tendency to use passages from his oeuvre to denote certain perennial facets of human nature has also come of age. It is now well over a century since Sigmund Freud first made references to the Bard’s work as he employed themes from the Shakespearian corpus and put them to use in his fields of enquiry, which were far removed from the literary, theatre-bound ones in which these works originated.¹ In addition to psychology, Shakespeare’s works have also been used to elaborate on issues in the legal realm – most notably, those concerning the laws of war.² In this paper, I would like to follow this methodological pattern of using Shakespearean passages to document phenomena beyond the literary and theatrical realms in their strict sense. I opt to use Shakespeare as an aid to examine the conjuncture of secretive elements in statecraft (Arcana Imperii) and the tendency to abuse international law in the service of power politics. Both issues are strongly connected with absolutist regimes and modalities of governance, whose ethos stretches as far back as late antiquity and whose resurgence and influence were strongly felt during Shakespeare’s time. In the conclusion, I examine the recent resurgence of strong, absolutist tendencies the world over (in Vladimir Putin’s Russia or Viktor Orbán’s Hungary), in light of Shakespeare’s depiction of absolutism,


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and ponder what this might mean vis-à-vis the nature of diplomacy in our day
and age.

A word on method. As a diplomatic historian, whose primary works focus on
the history of international law, I choose to treat Shakespeare’s work first and
foremost as material historical evidence pointing towards a certain zeitgeist of
his time. This methodological approach has influenced my preference for
Henry V over other works in Shakespeare’s corpus that touch upon international
law.³ In contrast to Julius Caesar or even King John, in which the historical events
portrayed were far removed from Shakespeare’s time, those recorded in Henry V
occurred less than two centuries prior to that play’s performance. We know for
certain that Shakespeare had access to several historical accounts concerning
Henry’s 1415 military campaigns in France, as well to his pre-war negotiations
with the French king, Francois VI. Moreover, no other work by Shakespeare por-
trays both issues (Arcana Imperii and the manipulation of international law) in
such an intertwined, dovetailed manner as do the relevant parts in Henry V
(Act 1 Scene 2 and Act 2 Scene 4).

1 The manipulation of international law in
Shakespeare

Tradition has it that, in 1599, Henry V was the first play to be performed on the
stage of the newly opened, timber-built Globe theatre (later destroyed by fire in
1614).⁴ It belongs to a string of historical plays that Shakespeare wrote during the
last decade of the sixteenth century. It is a dramatized version of the historical
events that led to the invasion of France by Henry V in 1415, through his success-
ful military campaigns of 1416, up until his ultimate (albeit short-lived) unifica-
tion of the crowns of France and England through marriage. The passages of the
play that best portray both Arcana Imperii and international law occur in Act 1
Scene 2 (the discussion at Henry’s privy council and the decision by the English
king and his nobles to claim the throne of France) and Act 2 Scene 4 (when Hen-
ry’s messenger – his uncle, the Duke of Exeter – delivers his ultimatum to the

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³ Both themes – Arcana Imperii and international law – are treated by Shakespeare in King John
and Henry IV Part II, Julius Caesar, and certainly Richard III, all have their ample doses of Arcana
Imperii.

⁴ Hence, the play’s famous reference to “this Woodden O, the very Caskes.” Its first verified per-
formance was in front of James I in 1605, at His Majesty’s court.
French king, Francois VI, should the latter not relieve himself of the French crown in Henry's favour).

In the first of these scenes (1.2), Henry assembles his council of nobles to hear the learned arguments of the Archbishop of Canterbury as to why he indeed has the right to the French crown. A remarkable rendering of this scene, with an arresting cast of Shakespearean actors, can be observed in Kenneth Branagh's cinematic adaptation of Shakespeare's play. Noting the perennial contest between Church and State, the king enquires, "where is my gracious lord of Canterbury," upon which the archbishop and the Bishop of Ely rush into the council chamber blessing the king, under the watchful eyes of the Duke of Exeter (masterfully played by the veteran British actor Brian Blessed), who is discontented due to their retard. The king then requests the archbishop to explain to him and to the council whether he does indeed have a just claim to the throne of France:

My learned Lord, we pray you to proceed,
And justly and religiously unfold,
Why the Law Salique, that they have in France,
Or should or should not barre vs in our Clayme:
And God forbid, my deare and faithfull Lord,
That you should fashion, wrest, or bow your reading,
Or nicely charge your vnderstanding Soule,
With opening Titles miscreate, whose right
Sutes not in natiue colours with the truth:

In the subsequent passage, the king warns the archbishop of the consequences that his legal opinion will ultimately have should England go to war with France based on his legal interpretation:

For God doth know, how many now in health,
Shall drop their blood, in approbation
Of what your reuerence shall incite vs to.
Therefore take heed how you impawne our Person,
How you awake our sleeping Sword of Warre;
We charge you in the Name of God take heed:

5 Kenneth Branagh, Shakespeare's King Henry V (1989). All references here are to this film. In 1944, Laurence Olivier also made a screen adaptation of the play. His version is much more patriotic in its interpretation, having been made during World War II while Branagh's film enjoys a much higher degree of realism.

6 In the original Shakespearean text, Exeter explicitly mentions to the king that the Archbishop of Canterbury is not present, upon which Henry specifically sends for the archbishop, thus stressing further the issue of Church–State tensions.
For neuer two such Kingdome did contend,
Without much fall of blood, whose guiltlesse drops
Are euery one, a Woe, a sore Complaint,

Upon this request, the archbishop embarks on a long monologue filled with legal argumentation based upon the lineage of successions of the Kings of France dating back over a thousand years, coupled with geographic references to unfamiliar lands between Germany and France. The archbishop attempts to rebut the French legal line of argument; this precludes Henry’s claim to the French throne based upon Salic law, which supposedly did not recognize the right of accession to the throne via female regal offspring. The archbishop then claims that the existing French royal line has consistently executed the right of legal accession to the throne via female lineages, and hence that Henry’s claim, which is based on his direct ancestral link to Edward III, should be valid as well. During this elaborate presentation, the archbishop uses Latin phrases to cite legal sources, with geographical references to places most probably alien to most of the council members. Upon a signal from Exeter to make his final point, the archbishop cements his conclusion with the words “So, that as cleare as is the Summers Sunne,” to which all the members of the council break out into laughter.

The king, obviously not understanding the bulk of legal argumentation set forth by the archbishop, asks for his final counsel: “May I with right and conscience make this claim?” to which the archbishop answers unequivocally, “The sinne vpon my head, dread Soueraigne.” Once the archbishop had cast his judgment, Exeter and Westmorland take the floor and urge the king to take up the sword against France:

Exeter: Your Brother Kings and Monarchs of the Earth
Doe all expect, that you should rowse your selfe,
As did the former Lyons of your Blood

Westmorland: They know your Grace hath cause, and means, and might;
So hath your Highnesse: neuer King of England
Had Nobles richer, and more loyall Subiects,
Whose hearts haue left their bodyes here in England,
And lye pauillion’d in the fields of France.

While Westmorland reiterates to the king that the entire English nobility would provide the fighting forces required for such a military campaign, it is Exeter’s argument that is most important here. Exeter speaks of the expectation by third-party powers – “Brother Kings and Monarchs of the Earth” – that Henry should make this claim, in order to conform to international diplomatic prece-
dent and to avoid chaos within the international system, thus pressuring the king to uphold the diplomatic-legal code of his predecessors. The discussion ends with the Archbishop of Canterbury pledging to provide the king with the financial resources to execute this military endeavour, as he whispers in his ear:

In ayde whereof, we of the Spiritualtie
Will rayse your Highnesse such a mightie Summe,
As neuer did the Clergie at one time
Bring in to any of your Ancestors

And thus, the issue is resolved.

What can one infer from this depiction by Shakespeare of the legal discussions concerning England’s international legal justification for her Jus ad Bellum call against France? Moreover, what are the characteristics of the realm of international law according to this depiction? In short, how would the audience observing the play at the Globe theatre in 1599 have understood what international law actually was?

To begin with, international law seems, in Shakespeare’s depiction, to comprise a very complicated legal field involving multiple layers of required knowledge (the legal codes of other countries, the geographies and intricate histories of those nations, and a multitude of foreign languages). This complexity contrasts starkly with the relative clarity with which Shakespeare chooses to treat other branches of law – for instance, the law of inheritance and its abuses (in King Lear) or the laws of debts and mortgages (in The Merchant of Venice). The intelligent and educated King Henry certainly does not understand whether he has or has not a claim to the throne of France. If one imagines Shakespeare’s

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7 The term Jus ad Bellum, coupled with the term Jus in Bello, has served as the bedrock of the laws of war since ancient Roman times. Jus ad Bellum refers to the laws of nations that provide the justification for going to war in the first place. Once conflict has commenced, humanitarian dictums require the execution of Jus in Bello, meaning the correct legal conduct within hostilities and armed conflict – most notably over the humane treatment of civilians (especially women and children); the accepted conduct towards prisoners of war; and refraining from deliberate, unnecessarily destructive policies (most notably “scorched-earth” tactics). For a good overview of Jus ad Bellum through the ages, see: Stephan Neff, War and the Law of Nations (Cambridge: Cambridge University Press, 2008): 7–68. On the specific influences of St. Augustine and St. Thomas Aquinas on the absolute requirement for a just cause for war in Christian theology (whose impact was crucial both on the historical figure of Henry V and, not least, on Shakespeare himself) prior to the “secularization of war” following the Thirty Years’ War and the Treaty of Westphalia, see: Frederick H. Russell, The Just War in the Middle Ages (Cambridge: Cambridge University Press, 1975): 213–292.
own audience at the Globe, it too would most probably have been in a similar state of bewilderment to King Henry’s character in the play, waiting patiently to hear the Archbishop of Canterbury’s ultimate verdict as to the rightfulness of the English claim.

The contrast between international law and other branches of the law in Shakespeare deepens when one considers that the former (certainly in Shakespeare’s time) actually lacked the most fundamental characteristic of law – namely, the presiding of role of the judge and his *ultima ratio*. In both *The Merchant of Venice* and *Measure for Measure*, the objectivity and conclusiveness of the judge’s role is indispensable to the plot. Yet it is precisely this lack of a final judicial authority in the engagements of nations that accounts for international law’s heightened potential for abuse.

And there was indeed abuse of international law by Henry V. As the great medievalist E.F. Jacob noted in his authoritative historical study of the king, his claim to the throne of France between 1414 and 1416 was at best “a sham so as to disguise his preparations for war,” and this aspect of English history was in all probability rather well known during Shakespeare’s time.

The understanding that international law was more prone to abuse than other fields of law was certainly not exclusive to Shakespeare. One succinct (yet powerful) example of this negative quality, from roughly the same period, appeared just over a century after Shakespeare’s death. In 1724, the great French jurist Charles de Montesquieu – the father of modern constitutional law and the inventor of the doctrine of the State’s separation of powers (between the executive, legislative and judiciary) – published his *Persian Letters* to great public acclaim. By this time, Montesquieu was a recognized legal authority, having served as the Lifetime President (*Président à Mortier*) of Bordeaux’ Parlement Régional since 1716. His book features an exchange of letters between two fictitious Asian Muslim friends, one (“the Uzbek”) residing in Paris and writing to the other, his younger friend “Rhedi” in Venice, about what appear to him to be the odd ways of the Europeans. This genre of writing, in which so-called “objective” outsiders unmask and expose unspoken negative truths about European societies, was well known in the late seventeenth and early eighteenth centuries. Concerning

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international law and its manipulation, the Uzbek provides the following observations:

International law is better understood in Europe than in Asia; and yet it must be said that the passions of princes, the patience of the people, and the flattery of authors, have corrupted all its principles.

At the present time this law is a science which teaches princes to what length they may carry the violation of justice without injuring their own interests. What a design, Rhedi, to wish to harden the conscience by reducing iniquity to a system, by giving it rules, by settling its principles, and drawing inferences from it!

[...] one would say, Rhedi, that there are two species of justice wholly different from each other: one which regulates the affairs of individuals, and rules in civil law; another which settles the differences arising between peoples, and tyrannizes over international law; as if international law were not itself a civil law, not indeed of a particular country, but of the world.¹⁰

2 “Arcana Imperii” in Henry V

The picture of the abuse of international law that emerges from Shakespeare’s dramatization is immanently associated with competing quests for power by rulers, who, for the sake of that power, sidestep what ought to be “blind” and impartial tenets of justice. Yet this abuse of international law is not carried out in a cognitive limbo; rather, it demands varying degrees of darkness and sombre environments. The abuse of international justice is facilitated by an enabling political environment of concealment and secrecy: a darkness that runs counter to openly transparent, enlightened, moral and political environments. It is not for nothing that the age of “Enlightenment” also gave rise to the first fully-fledged “objective” envisioning of international legal systems. The most notable of these representative works include Emer de Vatell’s The Law of Nations (1758) and Immanuel Kant’s works What is Enlightenment?¹¹ and The Metaphysics of Morals


¹¹ Kant’s original German title, Was ist Aufklärung? implicitly retains within its etymology this idea of the clarity of the enlightened world that he wished to envisage, as opposed to the obscurity that he openly associated with the age of absolutism, which preceded his generation. The association of secrecy with darkness and obscurity, as opposed to transparency, light, and visual clarity has remained a feature of our world today, as in the workings of the most important NGO advocating governamental transparency and the fight against institutionalized state-based corruption, Transparency International. See www.transparency.org
(1797) – the latter known in its English translation as *The Philosophy of Law: An Exposition of the Fundamental Principles of Jurisprudence as the Science of Right.*

Darkness, in fact, plays a major role in *Henry V*, especially in Branagh’s cinematographic interpretation of the scenes that evolve around international legal issues (1.2 and 2.4). In Act 1 Scene 2 (during the presentation by the Archbishop of Canterbury at Henry’s privy council), the entire chamber is poorly lit, with the king walking into the scene backlit with his face blackened and only his silhouette visible to the spectator. In the second scene in which international legal issues are debated – during the delivery of the armed ultimatum by Exeter to Francois VI, the King of France – the French chamber is even darker, with Exeter walking from a bright foyer into the dimly lit chamber of the French king’s council.

The spectator is immediately drawn into an emotional condition of fear – especially during the ultimatum scene (of whose thematic separate discussion follows below). The frightening Duke of Exeter (brilliantly captured in Blessed’s overbearingly huge stature) enters the dark chamber in full armour (plate mail over chainmail), sword at the ready, and delivers a chilling ultimatum of all-out war, along with a vile and gruesome threat of immense bloodshed. This obscenely violent content within its threatening, warlike context is contrasted with Exeter’s soft-spoken tone of voice and his diplomatically polite speech. The episode becomes all the more frightening when Exeter and the French Dauphin politely exchange worrisome mutual insults. All this takes place right under the watchful eye of a deeply fearful and sombre French monarch (masterfully portrayed by that great Shakespearean actor Paul Scofield, who plays his part solely through a fantastic array of facial-expression acting which contrasts with his totally monotone delivery). This entire portrayal of statecraft – being undertaken in dark rooms, behind closed doors, in utter secrecy – is the very essence of the “Mystery of State” (*Arcana Imperii*) that Shakespeare was attempting to portray.

To what does this notion of *Arcana Imperii* pertain, and how does it connect to the manipulation and abuse of international law? Moreover, if *Arcana Imperii* is indeed what Shakespeare was pointing to here, where and how could he have come across it?

The term broadly refers to the existence of a secretive ethos, which underpins the entire realm of statecraft and policy making within a given political entity. *Arcana Imperii* not only condones the handling of state affairs behind closed doors and away from the public eye – it in fact advocates these conditions outright, as it stresses the dangers of populism and mob rule (“ochlocracy” is the Aristotelian term) when these make their way into the directing of international and state affairs. *Arcana Imperii* has always been intimately associated with autocratic, absolutist, and non-democratic or non-republican regimes. The German translation for the term – *Geheimpolitik* – immediately triggers acute, traumatic
connotations of the *Geheime Staatspolizei* ("Secret State Police") of the Nazi regime, better known via its notorious acronym GESTAPO, and the later workings of its East German successor, the "Staatssicherheit," more widely recognized by its respective acronym: the STASI.

Yet the concept of *Arcana Imperii* and the very idea that statecraft inherently rests upon some sort of mysterious, secretive, non-explicable and even intuitive (that is, illogical) bedrock of ideas and practices have their origins in late antiquity. It was in fact Tacitus, in a famous passage from his *Annales,* who first made explicit use of the term.¹² While the idea carried forward through the Middle Ages, it was only in the early modern period, with the sixteenth- and early seventeenth-century rise in national consciousness in both the French and German-speaking intellectual-political milieus, that the term was revived with significant success. Arnold Clapmar in Prussia and, especially, the intellectual circle around Cardinal Richelieu in early seventeenth-century France developed *Arcana Imperii* as their-conduct-of-choice for both domestic and, particularly, international statecraft.¹³ However, amidst the religious yet nakedly realistic political realities of the early modern era, Niccolò Machiavelli’s lure, strong as it undoubtedly was, could not be easily called upon without exposing oneself to accusations of Christian heresy – especially given the pervasive, overbearing influence that the moralistic ethos of Thomism exerted upon matters of state. Yet Tacitus was an entirely different source. The Roman historian was compulsory reading in the political education of any learned man, let alone senior magistrate, anywhere in seventeenth-century Europe. What everybody knew about *Arcana Imperii* from Machiavelli’s *Prince* but could not quote for fear of being charged with heresy was thus enabled, both discursively and politically, thanks to its sanctioning by Tacitus.

That *Arcana Imperii* was, by the 1630s, salient in Europe is well. However, Shakespeare had already put on *Henry V* in 1599, and it was certainly not the only one of his historical plays to include overt representations of the concept (the most obvious came in *Richard III* as early as 1592!). This means that Shake-

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Shakespeare must have come across *Arcana Imperii* in its acute form at an even earlier date – at the latest, some time in the 1580s. Conclusive proof as to where the Bard actually obtained his ideas for *Arcana Imperii* is beyond the scope of this paper; if this is at all possible (depending upon available existing sources, in terms of the methodological “burden of proof” required by historians to justify such a claim), this would merit a full-blown study in its own right. Rather, what I will try to do in the following pages is provide a hypothesis as to where Shakespeare *might* have taken some of these ideas from. I do this in the hope (and open-ended call) that other scholars will test this hypothesis of mine further, and see if it “holds water.”

*Arcana Imperii* is intimately connected with the rise of the early modern European nation-state. The late sixteenth century was a crucial time, with two of the paradigmatic nation-states – Great Britain and France – actually coming into being. Germany and Italy did not come into their own before their unifications in the nineteenth century. Spain was more of an empire on the world seas than a confined nation-state, and as for the Hapsburg and Ottoman empires – these were relatively decentralized multiethnic entities. In the Europe of the late sixteenth and early seventeenth century, the rise of the State was embodied in these two countries: France and Great Britain (albeit only after the unification of the crowns of Scotland, England and Ireland under James I in 1603 – *after* the writing of *Henry V*). However, the most crystallized model of statehood – which encompassed *Arcana Imperii* in its most naked form, and which could have pressed itself upon Shakespeare’s psyche as he began engaging with these ideas during the 1580s – must surely have been France. And it was France that first provided the world with that vital concept, the *conditio sine qua non* for any full statehood to come into being: sovereignty.

In 1576, in his *Six Books of the Republic*, the French jurist Jean Bodin first formulated the concept of sovereignty as the non-divisible and exclusive control of all means of power over a people in a defined territory. Bodin wrote the *Six Books* in direct relation to the violent slaughter of the Huguenots in the 1572 St. Bartholomew’s Day massacre, which he justified from a French royalist perspective given the Huguenots’ perceived direct attack on the French crown and, conse-

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14 For an important explanation as to why the State arose specifically in the late sixteenth and early seventeenth centuries – as an answer to the chaos of the wars of the Reformation, the Thirty Years’ War, and as a result of the economic havoc that the expansion into the New World had wrought upon decentralized empire-economies in Europe – see: Theodore K. Rabb, *The Struggle for Stability in Early Modern Europe* (Oxford: Oxford University Press, 1976): 61–99.
quently, on the State. The threat that the Huguenots posed to the French crown was more statutory than religious (after all, the French King Henry IV, who later issued the Edict of Nantes, was himself a Protestant). The strong and affluent Huguenot nobility, headed by Gaspard de Coligny, had requested noble prerogatives and a limitation of the Crown’s sovereign powers in a similar manner to demands being voiced by the British nobility (which eventually resulted in the English Civil War and the beheading of one king, until parliamentary prerogatives were firmly cemented in 1689). The French crown’s conceptual answer to the Huguenots’ demand for a power-sharing arrangement (e.g. the limitation of the power of the crown in one way or another) was answered in Bodin’s concept of sovereignty, which he saw as *ipso facto* indivisible and which he thus framed in his well-known Aristotelian syllogism as:

Sovereign Authority is absolute
The King of France is sovereign
The King of France is absolute

Many signals point to the possibility that Shakespeare was acquainted with Bodin’s thought on sovereignty and statecraft. In 1581, the jurist accompanied François of Anjou to England; the French prince, who was wooing the young English Queen Elizabeth I, spent several months in London along with his entourage, to which Bodin belonged. We also have evidence that Bodin remained in contact, and on good terms, with Francis Walsingham, Queen Elizabeth’s “spymaster,” and that during these years Bodin also worked on a large treatise denouncing sorcery and witchcraft – yet another venture into alternative worlds of secrecy and darkness.

The events of August 1572, during the St. Bartholomew’s Day massacre, probably had a certain influence upon Shakespeare. In 1593, Christopher Marlowe’s play *Massacre at Paris* – which depicts the events surrounding the actions of the instigator of the killings, the Duke de Guise – was first performed.

Marlowe’s influences on Shakespeare are common academic knowledge, and have been amply demonstrated. In fact, his literary impact on Shakespeare is virtually unquestionable when one considers the acute resemblances between

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Marlowe’s *The Jew of Malta* and Shakespeare’s *The Merchant of Venice* or the re-demptive–punitive elements in *Macbeth* in comparison to Marlowe’s *Doctor Faustus*, as well as similarities between Shakespeare’s historical plays and Marlowe’s *Edward II*. The two playwrights knew each other well and ample evidence points to Shakespeare’s acquaintance with Marlowe’s employment as a spy in the service of Walsingham – especially in connection with the character of the “English Agent” in *Massacre at Paris*, which in all probability was Marlowe’s own self-portrayal of the spy that he indeed was. If Marlowe was living a “life on the edge,” which included considerable secretive elements that were connected to the Elizabethan court’s real-life spy networks and a secretive state apparatus, the chances are that Shakespeare knew about (and probably tactfully kept at a distance from) these secretive elements under the English crown.

In his *Massacre at Paris*, Marlowe was the first English dramaturge to provide a staged depiction of the events that led up to the St. Bartholomew’s Day atrocities. The play roughly follows the sequence of events from the declaration of the forthcoming marriage of Henry of Navarre to Margaret of Valois, through the riots and killings in Paris up to the execution of the Duke de Guise. Throughout, the piece is dominated by Guise’s character, who is portrayed as a classic Machiavellian, cunning political operator – albeit one who is totally committed to the preservation and protection of both the French crown and its Catholicism. The audience is struck by the extent to which Guise, the play’s *bête noire*, is prepared to sacrifice his moral principles, and later even his life, for the sake of the monarchical Catholic French crown. Early in the play, as he enters for the very first time (Scene II), the duke provides the audience with a much-needed and rare insight into his true motivations for the sake of the protection of France:

What glory is there in a common good,
That hanges for every peasant to atchieve?
That like I best that flyes beyond my reach.
Set me to scale the high Peramides,
And thereon set the Diadem of Fraunce,
Ile either rend it with my nayles to naught,
Or mount the top with my aspiring winges,
Although my downfall be the deepest hell.¹⁸

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As for the personal, dubious attributes that Guise intends to employ to these ends, he leaves the audience with very little doubt about any moral scruples he might have had:

For this, I wake, when others think I sleepe,
For this, I waite, that scorn attendance else:
For this, my quenchles thirst whereon I builde
Hath often pleaded kindred to the King.
For this, this head, this heart, this hand and sword,  
Contrive, imagine and fully execute²⁹

All this must be done through the inner dealings of secretive state matters, of which neither the peasants (to whom Guise eluded earlier) nor the nobility have any understanding:

Matters of importe, aimed at by many,
Yet understoode by none.²⁰

### 3 The ultimate impact of *Arcana Imperii* upon Shakespeare – King James I

So much for the circumstantial influences that might have triggered Shakespeare’s interests in *Arcana Imperii*. Yet beyond these arguable influences, which methodologically are suggestive at best, there remains the more immediate and direct effect that *Arcana Imperii* must have exerted upon Shakespeare due to his immediate and direct exposure to it – in the open and official proclamations of his king (and direct employer!), James I.

Thanks to Ernst Kantorowicz’s pioneering enquiry into the ecclesiastical origins of monarchical justifications – later published in his renowned work, *The King’s Two Bodies* – we are able to embed Shakespeare within his true, immediate political context.²¹ In his “intellectual run-up” to this book, Kantorowicz published several important studies, within which he delved into various facets of monarchy. In one of these studies, published in 1957, the German-American historian claimed that the absolutism that began in the sixteenth century, and

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²⁹ Marlowe, *Massacre*, Scene II.
²⁰ Marlowe, *Massacre*, Scene II.
which reached its zenith in the seventeenth, in fact borrowed its authority and insignia from the ecclesiastical world of the Catholic Church. While this claim ought to be revisited, given Tacitus’ (that is, the non-Christian) historical precedence for medieval Christian theology, which would fault Kantorowicz’s claim with a good measure of anachronism, the article itself is filled with first-class (and hitherto overlooked) early seventeenth-century absolutist sources that shed much new light upon Arcana Imperii. In 1610, King James I complained that “nothing is now unsearched into, neither the very highest mysteries of Godhead nor the deepest mysteries that belong to the persons or state of King and Princes.” In 1616, James spoke of: “My Prerogative or mystery of State and of the mysterie of the King’s power, and of the mysticall reverence, that belongs unto them.” Kantorowicz continues his quotations with one of the most representative examples of James I’s attitude towards the British Parliament, the ultimate qualifier of regal power: the king “ordered the speaker of the House of Commons to acquaint that house with our pleasure that none therein shall presume to meddle with anything concerning our government or mysteries of State.”

James I ascended to the throne of England in 1603. We know for a fact that the first proven performance of Henry V (as opposed to the hearsay tradition that places its premiere at the Globe theatre in 1599) was at court – with the king as a member of its audience. James I’s absolutist tendencies, as James VI of Scotland, were well known long before he acquired the English throne. While we do not have the words “mysteries of State” themselves in the play, Shakespeare’s reference to Arcana Imperii is unmissable. When one considers the king before whom

22 Ernst H. Kantorowicz, “Mysteries of State: An Absolutist Concept and its Late Mediaeval Origins,” The Harvard Theological Review 48.1 (January 1955): 65 – 91. Kantorowicz’s central question – “How, by what channels and by what techniques, were the spiritual arcana ecclesiae transferred to the state [so] as to produce the new secular arcana imperii of absolutism (66) – already establishes as its meta-logical forgone conclusion that such a transfer from the spiritual to the temporal world indeed took place. This position by Kantorowicz is somewhat problematic given that he himself acknowledges (69, n.18) the origins of Arcana Imperii in the very same passage from Tacitus quoted here, above. I would argue that the mysterious elements of statehood need not necessarily have come only from the Christian spiritual world, as they existed full-well within the “real world” of northern European folk mythologies concerning statehood – most notably, in stories of the Knights of the Round Table, and even of Alexander of Macedon’s mysterious ability to untie the Gordian knot (which, in itself, is a state-based mythological element already found in Homer). Subsequent scholars would do well to examine this alternative to Kantorowicz’s origin of mystery.

23 Kantorowicz, “Mysteries of State,” 68.
24 Kantorowicz, “Mysteries of State,” n. 10.
25 Kantorowicz, “Mysteries of State,” n. 11.
the play was first enacted; when one considers the well-known intellectual impact that Marlowe exerted upon Shakespeare; and when one merges Shakespeare’s contemporary political context, of the bitter rivalry between European monarchs who demanded to be gods and who thus refused to accept any parliamentary limits upon their powers (be that in France with the Huguenots or in England with the “long and short” parliaments) we can grasp the full impression that *Arcana Imperii* probably had upon Shakespeare.

4 Conclusion: The return of *Arcana Imperii* and the end of democratic diplomacy

It is now time to revisit the topic with which I began this paper – namely, international law and its susceptibility to abuse, as portrayed by Shakespeare in *Henry V* – and to examine the intimate connections between *Arcana Imperii*, international law, and the realm of international diplomacy.

If time travel were possible, and one were to invite the signatories of the 1648 Treaty of Westphalia to visit the UN building in New York as the General Assembly was in its annual session (from September to December each year), with its habitual marathon of UN Security Council sessions, these guests would probably be appalled and disgusted by the publicity and openness with which diplomacy is exercised at the turn of the third millennium. While estimates vary as to exactly how many people were fully acquainted with the exact details inscribed into the Westphalian Treaties even at their most numerous these did not exceed several thousands of people the world over. And one must remember that we are talking about the treaties that ended the Thirty Years’ War in Europe – a conflict that annihilated roughly a third of the population of the continent and its livelihoods.²⁶ Since the end of World War I, and especially since the creation of the UN after World War II, the world entered a new phase in the history of diplomacy – the age of “democratic diplomacy.”²⁷ The hallmark of this new diplomacy is its subordination to public scrutiny, as the contents of and negotiations regarding international treaties, pacts, and diplo-

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²⁶ Several historians, foremost amongst them Chicago University’s Michael Geyer, have subsequently argued that in proportional terms the impacts of the Thirty Years’ War far exceeded the destruction and trauma caused by World War II.

matic alliances are known to electorates in democratically governed countries, and are subject to the latter’s public control and questioning.²⁸

To understand the stark difference between Shakespeare’s time and our own, it would be sufficient to compare the manner in which a military ultimatum, the critical moment in any diplomatic engagement, was delivered in Shakespeare’s time, under absolutism, with such a delivery in the age of democratic diplomacy. One can, in fact, compare the two visually by contrasting the ultimatum delivered by the Duke of Exeter to the French court in Branagh’s cinematized version of Henry V with that delivered by Adlai Stevenson of the United States to Ambassador Valerian Zorin of the USSR at the publicly televised UN Security Council session of October 1962 on the subject of Cuba.²⁹ In 1416, the ultimatum was delivered in a dark and secretive chamber to a small group of men, the result of whose deliberations would “impawne,” in Shakespeare’s words, the life and well-being of their two nations. The 1962 ultimatum was delivered on public television and broadcast around the world. When Ambassador Zorin continued to attempt to mask his intentions concerning the placement of Soviet nuclear weapons in Cuba, around 100 miles off the coast of the United States and rebuked the American diplomat, declaring that he was not under prosecution in a US court room, Stevenson uttered the words that have since gone down in the pantheon of diplomatic conduct: “You are in the courtroom of world public opinion.”

There is a message here for us all. In both cases, in the 1416 confrontation between England and France (so well portrayed by Shakespeare in Henry V) and during the Cuba Missile Crisis, two world powers experienced the acute presentation of an ultimatum before all-out war was intended to be waged upon them. For all the inherent differences of these two examples, one cannot deny the mitigating, indeed soothing, effect that public pressures (on both sides of the Iron Curtain, it should be added) played in preventing war in 1962. The de-

²⁸ This change in the nature of diplomacy was evident to Harold Nicolson himself, who, just before his death in 1963, published his well-known essay “Diplomacy Then and Now” in Foreign Affairs (October 1961) (reprinted in Nicolson, Diplomacy, 244–262. Nicolson joined the British Foreign Office several months prior to the outbreak of World War I, and, as the youngest delegate at the British Embassy in Berlin at the time (as per diplomatic protocol), was chosen for the task of delivering Britain’s declaration of war upon Germany in August 1914. He then served as the first secretary of the British delegation to the Versailles negotiations, and witnessed firsthand how public opinion swayed the diplomats there towards the cruel surrender terms imposed upon Germany in that treaty, which Nicolson himself criticized at the time.

²⁹ For the ultimatum delivered by Exeter in Branagh’s version of Henry V, see: www.youtube.com/watch?v=mKHihAPr2Rc&t=3s (last access February 3, 2017) For the speech by Adlai Stevenson at the UN Security Council, see: www.youtube.com/watch?v=xgR8NjNw__I (last access February 3, 2017)
mocratization of diplomacy – that is, the extrication of *Arcana Imperii* from statecraft under democratic regimes – has gone hand in hand with an enhancement of public accountability; with the rise of the ethos of human rights; and ultimately, as in the Cuba Missile Crisis, with belligerent leaders succumbing to a public opinion opposed to an unaccountable bloodletting. The involvement of democratic publics in diplomacy has also been a harbinger of the promotion of fairer and more transparent conduct with regard to international law – its development and usages.

With the recent rise – or rather resurfacing, for they have always festered beneath the visible surface – of absolutist tendencies in many of the world’s regimes (as in Benjamin Netanyahu’s Israel, Recep Tayyip Erdoğan’s Turkey, Trump’s US, and Viktor Orbán’s Hungary) one can certainly anticipate a return to *Arcana Imperii*, and its corresponding tendency of abuse of international law in the service of narrow political objectives and at the expense of the well-being of publics at large. Shakespeare’s archetypal depiction of these two traits provides an insight into the dangers of the world of diplomacy that were once, for a period during the twentieth century, held at bay, and whose re-emergence in the near future is unfortunately more probable.