

# Human rights vs. sovereignty

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By Gerard Chretien The massive, protracted bombing of Serbia was " the first offensive action for NATO, and the first time that Allied armed forces were unleashed against a sovereign nation with which the United States was not formally at war or without express authorization by the United Nations Security Council," observes Stephen Presser, professor of law at Northwestern University. " What we were doing in the Balkans is part of the post-Vietnam creation of a new set of doctrines of international law. These doctrines lack clearly defined limits," he warns. " We may be witnessing the opening moves in the forging of a New Global order that fundamentally impairs national sovereignty and allows possessors of superior military force to dictate the basic terms of domestic life to other nations without even the formalities of conquest." In the current issue of *Orbis*, a quarterly publication of the Foreign Policy Research Institute (fpri.org), Presser argues that the real reason for NATO's bombing of a sovereign nation " appears to have been to compel Belgrade to cede autonomy, if not territory, to a minority ethnic group. What is there, then, in the United Nations charter or in international law that would authorize our action in the Balkans," he asks, " and what, if any, are the reach and the limits of our new doctrine of Humanitarian Intervention? The UN Charter seeks to secure both the protection of 'fundamental human rights' and the 'equal rights' of 'nations large and small,'" Presser notes. " The Charter clearly undertakes to protect the territorial integrity and the sovereignty of individual nations, and seems to preclude interference in a nation's domestic affairs unless the Security Council declares a situation a threat to 'international peace and security' and expressly authorizes intervention. While the UN and its agencies expressed

official concern about what went on in the Balkans," he affirms, " the Security Council did not authorize intervention in Kosovo by UN or NATO forces." Presser points out that " a series of international law doctrines wholly outside the UN Charter authorize interference by one state in another's affairs. These have included military actions to protect one's own citizens who are within another's borders, and there have been several armed interventions by individual or groups of nations purportedly to protect the rights of minorities in particular or human rights in general, whether or not the individuals to be protected were citizens of the intervening nations. A third type of intervention has occurred, usually through UN auspices, in the cases of 'failed states' incapable of protecting human rights. There is even some scholarly and UN support for a fourth type of intervention to prevent human rights violations that have not yet occurred. For these theorists," Presser laments, " national sovereignty counts for very little, if anything." He worries that the U. S. and its western allies are " sailing into uncharted waters, and nothing less than the Anglo- American tradition of the rule of law is at stake."