

# Gun law & the new Global Doctrine

**B**RITAIN'S Prime Minister is fond of the expression, "Doctrine of International Community". In his Chicago speech of April 22 last year he said: "Globalisation means that we cannot turn our backs on the violation of human rights in other countries if we want to be secure".

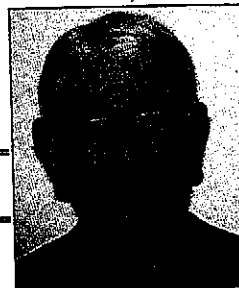
This is a dangerous policy, because for a small group of states to SELECT the country or countries in which to intervene on the basis of human rights violations makes nonsense of the principle in international law, shown by Article 2, paragraph 4, of the UN Charter that only the United Nations may decide to take steps towards armed intervention, if that is found necessary. The Kosovo bombardment was illegal, as I have sought to demonstrate elsewhere.<sup>1</sup>

Indeed, the (now very fashionable) historian, Norman Davies, had this to say in *The Spectator* (13 November 1999): "... the smart way to wage wars these days is to declare one's own selective interpretation of ethics as superior to international law and then to bomb and blast one's adversary from heights where tanks cannot be distinguished from tractors...." There is never any fear that China might be invaded because of its wrongs perpetrated in Tibet! Ethics, seemingly, do not run that far.

**A**CCORDING to one lawyer<sup>2</sup> a key issue today is the relationship between the international law of force and the international law of human rights.

A good many people might question whether human rights can ever be regulated by law, the nature of them being political rather than judicial. One has only to see this in operation in the US, where the Supreme Court justices first of all fashioned a "right to privacy" from a constitution that doesn't mention it, and then extended that "right" to encompass abortion within certain defined limits. It is plain the decisions were "political-

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ly correct", rather than based in law and reason. Alexis de Toqueville observed in the nineteenth century<sup>3</sup>: "... there is hardly a political question in the United States which does not sooner or later turn into a judicial one".

So, we have on one side the selective use of force to achieve so-called "ethical" ends; and on the other side a selective choice of "human rights" to suit the political palate of the day. The law is meant to protect us and yet it can't do that when rendered uncertain and disregarded by the main players.

**T**HAT THERE is an international community is undoubted. And that, hitherto, it has been governed by international law – what one writer called "the Common Law of Mankind"<sup>4</sup> – is also true. "The duties and rights of States are only the duties and rights of the men that compose them"<sup>5</sup>. "The first general law that we discover in the very object of the society of nations," says the 18th century exponent, Vattel<sup>6</sup>, "is that each individual nation is bound to contribute everything in her power to the happiness and perfection of all the others".

Thus, we take for granted passage by air over most other countries. We do not pause to ask why postage is not charged by postal authorities in states through which our letters travel. Boundaries and continental shelves are settled by agreement; oceanic oil fields and other resources are determined international-ly; the laws of war prescribe the treatment of

prisoners, and so on. There is such a fine network of treaties and conventions which cannot be brushed aside by the thoughtless interventions of such leaders as Blair and Clinton.

**B**UT THERE is one human right about which there is universal agreement. It is there, in the UN Charter itself. Article 55 states: *The United Nations shall promote ... full employment ...* Article 56 provides: *All members pledge themselves to take joint and separate action in co-operation with the organization for the achievement of the purposes set forth in article 55.* Article 23 of the Universal Declaration of Human Rights says: *Everyone has the right to work ...* (Although you won't find a replica of this in the European Convention on Human Rights and Freedoms – perhaps because, with current unemployment rates in France of 11.4% and Germany of 10.9%, the goal would seem dis-

treasingly unobtainable!) The International Covenant on Economic, Social and Cultural Rights includes the following, under Article 6: *The states parties to the present covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his livings by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.* Indeed, there is scriptural authority for the existence of such a right<sup>7</sup>: "But thou hast only the right to work" – and then, disconcertingly, it adds: "but none to the fruit thereof."

Now, Georgists are brought up on the truth that full employment depends on two factors: access to land and its resources, and freedom from employment-based taxation on the marginal enterprise. What if the UN could be challenged to encourage the observance of these factors throughout the world? C.W. Jenks wrote<sup>8</sup>: "The obligation to promote and maintain full employment is nevertheless a legal obligation from which legal consequences can be drawn; the full employment pledge does imply a willingness of each country to take action, as the need arises, designed to promote and maintain full and productive employment through measures appropriate to its political, economic and social institution'....employment policy has ceased to be a matter essentially within domestic jurisdiction'" [emphasis added].

In any event, Article 14 of the UN Charter can achieve useful objectives through publicity, fact-finding machinery and "other measures". What do you think? Is it worthwhile making a submission to Mary Robinson, the UN Human Rights Commissioner, explaining the paramount importance of this one right, the right to work, and how it might be achieved through access to land and the proper incidence of taxation? After all, the South African Constitution now asserts<sup>9</sup>: *The state must take reasonable legislative and other measures, within its available resources, to foster conditions which enable citizens to gain access to land on an equitable basis.*

The "Doctrine of International Community" can take one of two paths: towards the objective of "might is right"; or towards an increasingly benign international lawfulness which appreciates the importance of the individual and seeks to realise his fundamental "right to work".

- 1 *The Economic Monitor*, Autumn 1999.
- 2 Alan Griffiths, quoted in *The Times Law Section*, 19 October 1999.
- 3 *Democracy in America* (Meyer ed., p. 270).
- 4 *The Common Law of Mankind*, C. W. Jenks (Stevens 1958).
- 5 *Ibid.*, p.14.
- 6 *The Law of Nations*, lxi.
- 7 *The Geeta* (Faber 1935), p.16.
- 8 'Common Law of Mankind' *op.cit.*, p. 298.
- 9 Section 25 (5) of the 1996 Constitution.

#### ABOUT THE AUTHOR

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