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Kosovo and the Westphalian Order

By James Bissett, Chronicles Magazine
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The breakup of the Yugoslav federation was the first serious diplomatic challenge facing the Western democracies following the collapse of the Soviet Union. They made a mess of it. They are still making a mess of it; and if a decision is made in the coming months to grant independence to the Albanians in Kosovo—as the United States seems determined to do—then the decision will simply add to, and compound, the many errors and mistakes made by the US-led Western powers before, during, and after the disintegration of the former Yugoslavia.

From the beginning of the break up of Yugoslavia the policies followed by the United States and NATO countries have been marked by duplicity, double standards and cowardice. They have forgotten the role played by Serbia in two world wars and they have deliberately demonized Serbia and the Serbian people. They have falsely blamed Serbia for the breakup of Yugoslavia and for all of the atrocities committed in the wars that followed. They have set up that "travesty of justice"—The Hague Tribunal—to perpetuate these myths.

More seriously, western intervention in the former Yugoslavia has shaken the global framework of international peace and security that has governed the relationship among sovereign states since the founding of the United Nations.

The origins of that framework date back to the peace of Westphalia in 1648 which ended the horrors of the religious wars that devastated Germany and other parts of Europe for more almost half a century.

Westphalia laid down the basic tenets of sovereignty—the principle of territorial integrity and of non-interference in the affairs of national states. These are principles that have proven invaluable through the years in the prevention of armed conflict between states. The Westphalian order has frequently been violated, but age has not diminished the principles themselves. They remain the essential components of international law.

Article 2 [4] of the UN Charter includes territorial integrity as one of the key principles prohibiting the threat or use of force in the resolution of international disputes, and it is one of the paramount elements in the Charter relating to the concept of sovereign equality.

There are those who believe the United Nations is a corrupt organization and there is abundant evidence to back up such a charge. Apart from anything else the shameful

manner in which the UN establishment has deliberately sabotaged its own resolution 1244 in Kosovo is proof enough of corruption and malicious mismanagement.

Nevertheless, it is one thing to condemn the UN organization but another thing to therefore disavow the principles enshrined in the United Nations charter. These principles represent the difference between the rule of law and the law of the jungle. Sovereignty, respect for borders and international law, the peaceful settlement of international disputes, and the territorial integrity of states remain as valid today as they did when the UN was founded. These principles were reinforced by the Helsinki Final Act of 1975 and were given further emphasis by including a section on the inviolability of frontiers.

Section III of that Act ("Inviolability of Frontiers") says: "the participating states regard as inviolable all one another's frontiers as well as the frontiers of all states in Europe and therefore will refrain now and in future from assaulting these frontiers. Accordingly, they will also refrain from any demand for, or act of, seizure and usurpation of part or all of the territory of any participating state."

Section IV ("Territorial Integrity of States") pledges the participating states to respect the territorial integrity of each of the participating states: "Accordingly, they will refrain from any action inconsistent with the purposes and principles of the Charter of the United Nations against the territorial integrity, political independence or the unity of any participating state and in particular from any such action constituting a threat or use of force The participating states will likewise refrain from making each other's territory the object of military occupation or other direct or indirect measures of force in contravention of international law, or the object of acquisition by means of such measures or the threat of them. No such occupation or acquisition will be regarded as legal."

These are fundamental principles. They were designed as a guarantee that all nations, small as well as large, need not fear aggression by a more powerful neighbor.

They were meant to have universal application and they cannot be set aside because of special circumstances or when they prove inconvenient to the policy aims of the larger powers. Their message is simple and clear. Borders can be changed - but only through agreement by the states involved.

In this regard it is interesting to note that in 1938, at the time of Munich, president Edvard Benes of Czechoslovakia, bullied by the British and French, signed the agreement to hand over the Sudetenland region of Czechoslovakia to Germany, thus giving his consent to the transaction. It would seem that even Hitler insisted on at least the appearance of following the rules of international conduct.

the determination of the united states to remove Kosovo and Metohija from Serbia and to grant independence to the Albanians living there is a threat to the Westphalian

order and an unequivocal violation of international law. It also has far reaching implications for global peace and security.

Shortly after NATO aircraft began the bombing of Serbia in the spring of 1999 I wrote an article in one of Canada's national newspapers entitled "a return to barbarism."

In the article I condemned the bombing as a violation of international law and of the UN charter and of NATO's own treaty. But the point of the article was to stress that the bombing marked an historical turning point.

As the 20th century was coming to the end there had been a brief period after the collapse of the Soviet Union and the fall of the Berlin Wall when we were offered the encouraging prospects of a "pax Americana." Many believed the United States was the one country that might guarantee that the new century would see an end to war and violence.

After two cataclysmic world wars and the dropping of the atomic bomb on Hiroshima and Nagasaki, the world was offered the hope that the new century would follow the principles laid down in the united nations and that the Westphalian order would be restored.

Alas, these hopes were shattered with the bombing of Serbia by the US-led NATO powers. This was a naked act of aggression against a sovereign state. Sadly, it had been carried out by the democratic nations whose political leaders never failed to sing the praises of the rule of law and the UN charter. It was a foreboding warning of things to come.

The bombing of Serbia established an ominous precedent. It meant the United States and the NATO countries could intervene wherever and whenever they wished. The use of force or the threat of it would be used whether within the law or not and having set the precedent with the bombing of Serbia the decision to invade Iraq was easy.
The American insistence on giving the Albanians independence and unilaterally handing over 15% of Serbian territory to the criminal leaders of Kosovo is simply a further example of the willingness of the United States to use naked power to achieve its policy objectives.

It would seem the only obstacle in the way of the American desire to create an independent Kosovo is a resurgent Russia. Ironically, it is Russia that is insisting on compliance with the principles of international law and the UN charter before any consideration is given to Kosovo independence. This in itself is a remarkable development.

It would almost seem that the new breed of American political leaders—the Clintons, the Albrights, the Holbrookes, the neoconservatives, George Bush and others like

them—have betrayed the trust bestowed upon them by the founding fathers of their great Republic.

By doing so they have abandoned the very principles upon which America was founded and which are enshrined in the UN charter by doing so they have lost the moral authority that formed the real strength of the democratic countries in overcoming the forces of totalitarianism. They have also delivered a damaging blow to the Westphalian order. It will not be easy to get it back.