This Time We Knew
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Although many have expressed their exasperation over the failure of the international community to act to end the carnage in the Balkans, few have seen the manner of Yugoslavia's dissolution and the response of the international community as indicators that an era characterized by the Nuremberg principles has given way to a barbaric age in international relations, in which the United Nations and other international and regional organizations act to contain and manage, not end or resolve, such phenomena as aggression and genocide in much the same way that American realtors redline decaying urban areas without addressing the causes of the decay. The past four years may have marked the victory of the proponents of state sovereignty and the practitioners of bureaucratic barbarism and power politics over the advocates of individual and collective human rights.

If we want to define an era rather than argue the law, a broad, moral approach seems most useful. Morally, the Nuremberg era effected a "revolution in human affairs" by making a sovereign state's treatment of its citizens "the legitimate concern of all mankind." It followed that individual and collective rights should take precedence over the legal
The logic led to (1) efforts to implement the principle of self-determination, which is a basic collective right; (2) the codification of human rights in international treaties and conventions, including the 1950 Nuremberg principles, in order to make international law regarding human rights uniform and enforceable; (3) the creation of multinational organizations to serve as forums for advocates of human rights, and as instruments to protect those rights; (4) the adoption of foreign policies that replaced the more cynical and egoistic goals of an earlier realpolitik with a concern for self-determination, human rights, and human progress.2

Legally, the Nuremberg principles and the Nuremberg tribunal overthrew the Act of State Doctrine, circumscribed defenses based on the coercive power of superior orders, and asserted the right of international bodies to impose standards of behavior on citizens of national states.3 What is more important, the international community made an effort to limit the sovereignty of states by concluding treaties containing “standards of internationally agreed, and legally binding, rules” that nominally took precedence over the laws of individual states.4

The Nuremberg era occurred in large part because the mass slaughter of World War I and the systematic killing of World War II made clear that modern mass warfare, or “total war,” had to be regulated and that vicious domestic regimes would sooner or later become predatory imperial states.5 Not only did statesmen begin to perceive international relations as a function of domestic politics, but during the Cold War each side used the issue of human rights to criticize the other, thereby creating higher standards for both. The need to control modern warfare and the necessary compromise between two conflicting visions of the world—the socialist, derived from such theorists as Beccaria, Rousseau, and Marx, and the capitalist, derived from thinkers like Locke, Smith, and Spencer—consequently, and perhaps ironically, resulted in a new stress on human rights. Even so, enunciating rights was one thing, applying them quite another; and the period was peppered with abuses by both superpowers and tinhorn dictatorships.6

The assertion of social rights such as employment, shelter, and medical care expressed a socialist ideal diametrically opposed to the often brutal practices of nineteenth-century capitalism, while the demand for such political rights as freedom to vote, own property, and move freely clashed with the often dictatorial praxis of twentieth-century socialism. Because there has been a trend to reject social rights as utopian, the new barbarism
may be seen as coinciding with the recrudescence of a predatory postmodern capitalism and the acceptance of a bureaucratically managed reality that is characterized by the imposition of the culture and legal systems of powerful individuals, corporations, and states on weaker individuals, groups, and states. There is a discernible enough symmetry between the bureaucracies of states, corporations, health care services, educational institutions, and military machines to suggest a generalized diffusion of the mental processes that allowed Germans to do “their jobs” and “follow orders” between 1933 and 1989. In effect, the new barbarism could be defined as a form of efficient bureaucratic indifference.

The principle that embodies the most basic clash of individual with collective rights, and of state sovereignty with both, is that of self-determination. Whether one is discussing the idealistic patriotism of Giuseppe Mazzini and Giovane Italia or the murderous chauvinism of Gavrilo Princip and Mlada Bosna, self-determination has always aimed to undo established multiethnic empires in order to create states coterminous with a particular people. Prior to 1918, the primary opposition to the principle came from conservative empires like Britain, Austria, and Russia, which sought to guarantee their interests and protect their legitimacy by containing the revolutionary potential of self-determination. The primary support for the principle came from the middle classes and elites of such embryonic states as Serbia, which stood to gain an identity, independence, and territory, depending on how far the principle could be stretched. By 1914, self-determination was so powerful a concept that even multiethnic empires like Russia and Britain employed it against their enemies, who returned the favor. By 1918, most expected that the “oppressed” peoples of Europe, if not those dwelling in the noncontiguous empires of the victorious powers, would be allowed to exercise their “right” to choose the state to which they would belong. This expectation and a wartime propaganda that tied self-determination to both socialist and liberal values and reiterated the idealistic goals of the belligerents laid the moral foundation for the Nuremberg era, just as the League of Nations Covenant and interwar treaties formed its legal framework.

Because the principle of self-determination has subverted older multiethnic states and served as a means of aggrandizement for new nation-states like Serbia, it has proven to be a tricky concept to apply. It has no jurisprudence; its application has never satisfied everyone involved; and in the former Yugoslavia, its use satisfied no one. Ostensibly the fulfillment of south Slav self-determination, Yugoslavia was actually a dis-
guised Greater Serbia created to contain Austria and Hungary, stymie Italy, and calm the fears of French, British, and American leaders who foresaw chaos should the Balkans be divided up into ministates—a fear resurrected by both the right and the left in the late 1980s.11

Non-Serbian ethnic groups were unhappy because their rights to self-determination had been abridged in favor of Serbia, which provided the military, political, judiciary, and managerial cadres for the new state. But the Serbs were dissatisfied because even the fiction of a Yugoslav state hindered their pursuit of purely Serbian interests.12 As a result, the “first” Yugoslavia had a stormy history and in 1941 quickly disintegrated into small nationalist states sponsored by the Axis powers. Although Tito and the Yugoslav Communist Party managed to damp down ethnic rivalries after 1945, it was largely Tito’s prestige (Mi smo Tito, Tito je nas [We are Tito, Tito is us]) and a very active police apparatus that held Yugoslavia together.13 Following his death in 1980, the Yugoslav Communist Party’s control of the regional centers of power weakened. This allowed Franjo Tudjman to employ the principle of self-determination to create a Croatian state that contained a problematic Serbian minority. It allowed Alija Izetbegović to argue for a somewhat archaic multiethnic state. And it allowed Slobodan Milošević to conquer and “cleanse” territory for a Greater Serbia. Slovenia, ethnically homogeneous and far from Belgrade, slipped away almost unnoticed, but the goals of Serbian leaders precluded an easy separation for Croatia and Bosnia.

If self-determination remains both a basic right and an imperialist ploy, the preservation of existing states now seems to take precedence over a people’s right to its own state.14 The right to secede appears to have been denied in the Helsinki Declaration; the United Nations has made defending the sovereignty and the territorial integrity of established states its highest priority; and since the early 1970s there has been a bias toward existing states, a turn away from the ideals embedded in the concept of self-determination, and a general disinclination to apply or recall those treaties seen as inconvenient or irrelevant.15 It was thus predictable that the initial response to the crisis in Yugoslavia would be to try to salvage a Yugoslav state, even if that meant giving the Yugoslav National Army free rein and abridging certain basic civil and human rights of Serbs and non-Serbs alike.16

This shift was not obvious, in part because much of the rhetoric remained the same, in part because there seemed to have been so much progress toward codifying human rights in international legal instruments,

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and in part because so many protests were raised when rights were violated. However, the CSCE (now OSCE) and the UN Security Council were largely impotent unless the major powers agreed to act in concert, and efforts to create ad hoc tribunals similar to the one convened at Nuremberg in order to punish those who had committed war crimes and crimes against humanity in the former Yugoslavia have not had priority.\(^17\) Not until 1993 did the United Nations reluctantly name a commission to investigate war crimes in the former Yugoslavia, and it then failed to fund the commission adequately, forcing private individuals and organizations to contribute and leading the commission to finish its work prematurely. As a result, even though a Serbian guard from the Omarska concentration camp became the first one arraigned for war crimes, the tribunal appears to be more of a token to placate a disillusioned world than a symbol of the United Nations’ commitment to justice. Cherif Bassiouni, who headed the commission, has urged justice, and his report has been largely confirmed by the CIA and partially by Serbian documents implicating Milošević, but Telford Taylor, who led the prosecution at Nuremberg, has expressed a cynical view of such tribunals, and it appears that David Owen, the head of the UN negotiating team since 1992, and Boutros Boutros-Ghali, secretary-general of the United Nations, did their best to soften the commission’s findings.\(^18\)

Although such organizations as the Nuremberg tribunal and the United Nations can be viewed as fictions created and maintained to justify the dispensing of victor’s justice or exclusive clubs run by cynical great powers, at least during the era from 1918 to the early 1980s, regimes of all ideological persuasions had to pay lip service to the basic ideals for which such organizations stood and make a pretense of supporting the principles embedded in such documents as the League’s Covenant or the Genocide Convention of 1949.\(^19\) Statesmen might continue to act in a cynical manner, but they had to clothe their actions in the rhetoric of human rights. If doing so smacked of hypocrisy (since there were glaring examples of human rights violations from Asia to the Americas), even a formal adherence to human rights may have prevented states from committing—and tolerating—even worse behavior, although it is obviously impossible to prove that this was so.

At the very least, the custom of appealing to international norms to judge a nation’s behavior, both at home and abroad, created the illusion that progress was being made toward guaranteeing human rights, limiting
the abuses of war, and ameliorating the human condition in general. The Nuremberg era was therefore permeated by a cautious optimism that things could, would, and were getting better, if not day by day in every way, at least from time to time in some places with regard to some things. Consequently, most of us were confident that never again would Europeans practice genocide, and we were certain that, barring a nuclear holocaust, nothing more serious than proxy wars would disturb the peace of the developed world to which Yugoslavia belonged by virtue of its geographical proximity to Western Europe.\textsuperscript{20}

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It is precisely the loss of this confidence in a relatively stable and increasingly humane international order that characterizes the new age of barbarism in which we find ourselves. Proxy wars have been transformed into ethnic conflicts, which now occur in Europe as well as in sub-Saharan Africa, with Bosnia and Rwanda recently providing examples that suggest the spread of barbarism rather than the progress of civilization. The reemergence of a cynical great power diplomacy that is content to contain and manage the crises that have racked Haiti, Burundi, Somalia, Bosnia, and Rwanda suggests that the bipolar absolutism of the Cold War has been replaced by a policy of "neo-realpolitik" that places the rights and interests of states above those of peoples and individuals.\textsuperscript{21} It is not, therefore, a choice between collective and individual rights that faces us, since both are clearly subordinate to the prerogatives of states in the new era, but the problem of how to make governments respect human rights domestically and include them as a legitimate policy consideration. Vietnam made it clear that even in the United States, where the judiciary was designed to act as a check on the executive and legislative branches, the government proved incapable of objectively assessing the behavior of its own military and executive.\textsuperscript{22}

Perhaps it is appropriate that Henry Kissinger, an admirer of Kant, Spinoza, and dispassionate calculation,\textsuperscript{23} has been one of the most visible entrepreneurs and managers of this new age in which pundits and experts can cynically manipulate the threat of "escalation" to argue that NATO and the United States must stay out of the Balkans because we have no "national interests" there, while high-ranking military officers and well-known politicians argue that even the loss of even a few of "our boys" would be too high a price to pay to stop the killing in places like
Bosnia. What, one wonders, would the experts, pundits, generals, and congressmen and congresswomen have said to the sacrifice of three hundred thousand additional Americans to avenge the death of three thousand American servicemen in 1941? Would the United States have pulled out of the Pacific and let our proxies—China, Holland, New Zealand, Australia, and Britain—do our fighting for us?

The question is not altogether specious, since the current American doctrine that its military, first, must have “clear and unambiguous objectives” and, second, must be able to deploy overwhelming force against an enemy has stripped the U.S. armed forces of any serious combat function. According to the former chairman of the U.S. Joint Chiefs of Staff, Colin Powell, the purpose of the armed forces is instead to undertake peacekeeping and humanitarian operations, support their allies, and make “any disturber of the peace” think twice about doing so. Of course, a potential aggressor is unlikely to think twice when such a policy appears to hamstring the military and to hog-tie U.S. foreign policy by making it contingent on the wishes of its actual and potential allies. However, this does provide the perfect excuse for not committing U.S. forces to combat in Bosnia. Whether U.S. military leaders really fear becoming involved in another Vietnam is thus a moot point, because at most they would be called on to act as members of an international military force, as they did in Iraq. The reluctance to become involved in Bosnia compared to our previous haste to crush Iraq and our earlier willingness to wage ideological warfare in Asia and Latin America indicates, at the very least, a major change in the nature of American policy. Naked and unashamed self-interest now seems the norm, reflecting a general trend in American politics and culture of rejecting altruism in favor of more selfish virtues such as ambition. Although he has recently urged prosecution of accused war criminals, even the secretary-general of the United Nations has appeared to be more concerned with increasing the size of the organization’s peacekeeping forces—and thereby the contributions of its members and the prestige of the United Nations—than with abstract concepts of justice or more concrete atrocities.

If the formation of Yugoslavia was a dramatic demonstration of the limitations and contradictions of the principle of self-determination, its recent dissolution has become a “test case” for the United Nations, much as Ethiopia was for the League of Nations, and the international response
to each conflict was typical of the era in which it occurred. Although some believe that the United States, Britain, and France—who with Russia and China effectively control the Security Council, and hence the United Nations—“flunked” the test provided by Yugoslavia’s breakup, and reporters like Peter Jennings have implied that Washington’s failure to act led to enormous human suffering in Bosnia, most Western actions have been more calculated and cold-blooded. International organizations no longer seem to have clear functions, and some have adopted a brutal pragmatism. Thus General John Galvin noted that in 1991 NATO decided to become a “crisis manager” rather than intervene to end the crisis in Yugoslavia; the editor of Foreign Policy has discerned a certain efficacy in “ethnic cleansing”; and others have advocated a return to nineteenth-century colonialism.

Whereas Fascist Italy’s attack on Ethiopia in 1935 elicited almost universal disapproval, Serbia’s attacks on its neighbors in the early 1990s led to condemnation of those states pressing for recognition of Croatia, Slovenia, and Bosnia; they elicited criticism of the victims of Serbian aggression; and they spurred efforts to force Zagreb and Sarajevo to deal with Belgrade. In 1935, movements for sanctions against Germany were undercut by France and Britain, who wished to avoid war with another great power, but who at least proposed sanctions aimed at the aggressor and not at its victim. In late 1991, the major powers placed an arms embargo on both Serbia and its victims. The arguments used to justify doing so—that the conflict was a “civil war” and that more blood would be shed if more arms were introduced—were already threadbare in 1991 and have grown more so, but they are still regularly used to justify the arms embargo on Bosnia, Croatia, and Slovenia—all sovereign states with the right to defend themselves under international usage and the provisions of the UN Charter. That the great powers have actively denied them that right by imposing an arms embargo is the most obvious indicator that we are now in an age in which the will of the great powers takes precedence over principle, treaty, and custom. Such actions are reminiscent of the Spanish Civil War, but there is a crucial difference. While Spain served as a battleground for competing ideologies and the efforts to contain the war could be seen as an effort to try to avoid a more general European conflagration, the war in the former Yugoslavia is one of territorial aggrandizement, with only a very crude racial ideology justifying Serbian aggression. The containment, therefore, would be of genocide, not of war.
There has been relatively little criticism of official policy because a pervasive ignorance of history has allowed pundits and politicians to explain, excuse, and rationalize Serbian aggression and atrocities by depicting the Serbs as historic, actual, and potential victims of their purportedly fascist, neofascist, protofascist, and fundamentalist neighbors, whose hostility to them has supposedly caused the Serbs to behave in a regrettable, but understandable, manner. Misreadings of the histories of the Balkans and World War II thus became a justification for contemporary Serbian atrocities and an excuse for the international acceptance of Serbian aggression. When reporters present scenes of carnage, they objectively note that if the Serbs seem to be the worst offenders, the fault for the slaughter lies with all sides, because what is occurring in the former Yugoslavia is a civil war that has been raging for centuries. It is thus not altogether bizarre that in April 1993 Slobodan Milošević publicly thanked Bill Clinton for refusing either to take military action or to rescind the arms embargo. At least the Serb leader knew that by not acting the American president had guaranteed that the victims of Serbian aggression would remain unarmed and unprotected.

In other words, our leaders and opinion shapers are either disingenuous liars or as poorly informed as the man in the street, easily given to stereotypes, very susceptible to propaganda, and essentially befuddled by complex events—like any barbarian.

Yugoslavia was created in 1918, then re-created in 1945. It fell apart for the first time in 1941, for the second in 1991. To those familiar with its history, the recent dissolution of Yugoslavia came as no surprise, just as it was no surprise to those familiar with Balkan history that the current war was initiated by Serbia, which has been militaristic since its creation and has pursued an aggressive foreign policy for over a century. It has consequently been embroiled in numerous international crises, from the Balkan Wars to the assassination that triggered World War I, to the attacks on Slovenia, Croatia, and Bosnia by the Serbian-controlled JNA in 1991 and 1992. Indeed, when people speak of “Balkan” politics, they often unwittingly use “Balkan” as a synonym for “Serbian”—yet politicians, pundits, and diplomats have condemned the Croats as aggressors because they followed the Serbian example in Bosnia. They have scolded Croats and Slovenes for exercising their right to self-determination and “pro-
voking” the Serbs, and they have lectured the Bosnians on their failure to give up most of their territory to mollify the Serbs.

How far we have descended into barbarism can be gauged both by our efforts to force the victims of aggression to be “reasonable” and by the extent of our tolerance of genocide, which in the former Yugoslavia has taken the form of torture and forcible expulsion as well as mass murder. Initially, UN Secretary General Boutros Boutros-Ghali dismissed the carnage there as not terribly significant when compared with the problems of the Third World. Those responsible for “ethnic cleansing” have been interviewed by the hosts of ABC’s Nightline and PBS’s MacNeil-Lehrer NewsHour as if they were run-of-the-mill politicians; and Ted Koppel has juggled statistics to make it appear that deaths occurring in African states over ten years are comparable to the slaughter perpetrated by Serbian forces in Bosnia over two. Charles Maynes has noted that “ethnic cleansing” worked well in such places as Poland; and Brent Scowcroft has argued that we should accept Serbian gains in Croatia and Bosnia for the following specific reasons: “we cannot do everything everywhere”; ethnic cleansing occurs in Northern Ireland; the United States cannot restore peace where “people don’t want to keep the peace themselves”; and the Serbs “have fought long and hard” to realize a Greater Serbia.

Because the victims of Serbian aggression are represented as potential killers themselves, their deaths seem to be their own fault, even though the Serbs are the only minority in Yugoslavia who were not threatened prior to 1990, and who have lived since then among other ethnic groups with few reprisals for what has happened to members of these groups in Serbian-controlled areas. Yet the Serbs use the threat of such reprisals to justify their actions, and the international community has, until recently with NATO air strikes, refused to protect the rights of non-Serb minorities in Serbian areas. UNPROFOR forces have actually helped consolidate Serbian gains, not protect human rights, because they have prevented the victims of Serbian aggression from rearming, and they have accelerated the process of ethnic cleansing by evacuating those Muslim towns and “safe havens” under attack by Serb forces. Peacekeeping has thus degenerated into protection of the aggressor, and UN forces have become accomplices to genocide.

In the new age not even lip service is paid to ideal conceptions of international law and human rights. Hard-nosed realism and soft-brained conflict resolution are the order of the day; pundits and experts echo
politicians and military leaders who prompt Ortega y Gasset's chorus to join in the mantra that unless a state's vital, strategic, or commercial interests are at stake, acting to enforce international agreements, intervening to assure human rights, and siding with the victim are luxuries that no government can afford. The basic documents of the Nuremberg era have become irrelevant pieces of paper, subordinate to the narrow interests of great powers. The United Nations thus presses to end apartheid in South Africa while imposing it in the former Yugoslavia, and the United States condemns Moscow for using force against breakaway republics while supporting Belgrade's right to do so.\(^{41}\)

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Defining the characteristics unique to the new barbarism is difficult because this has been a barbarous and brutal century. Some of the following seem familiar; the distinction is one of attitude, an Orwellian approach to reality coupled with a Bismarckian nonchalance toward the use of force, and a technician's attitude toward killing. My list is neither comprehensive nor necessarily an accurate reflection of trends. We have, after all, just entered the new era. So the best that the following observations can be is suggestive.

1. An Orwellian treatment of history is now normal. Past events are distorted to justify current policies, facilitated by media and a citizenry that are blissfully ignorant of past or present realities.\(^ {42}\)

2. Repeated efforts to persuade the general public that the Cold War is over have resulted in a pathetic belief that history is at an end because democracy has won out. But this victory of democracy masks the triumph of a neocapitalism whose predatory values are rapidly displacing traditional value systems, and the reemergence of a vicious, technically manipulated nationalism, every bit as deadly as its recent ancestors.

3. While elites use force to repress dissent at home and protect economic and strategic interests abroad, they refuse to use force to protect the values embedded in the basic documents of the Nuremberg era. The consequence of this is an erosion of basic individual and collective human rights.

4. There is a growing consensus that the great powers, led by the United States, will guarantee the established authorities, the territorial integrity, and the sovereignty of existing states, unless they are "failed"
states, which will need constant intervention and tutelage from the major
powers and regional organizations.

5. Statesmen, academics, politicians, and pundits dismiss international
treaties and law, cynically rejecting ideals in favor of policies based on
and justified by a state’s national (vital) interests, or by appeals to interna-
tional stability (a variation on the domestic law and order theme).

6. Powerful states and their clients act unilaterally or use international
organizations as surrogates to contain, validate, consolidate, and police
areas where the vital national interests of these powers are in play.

7. There is a marked tendency to blame the victims of aggression and
genocide for placing uncomfortable and inconvenient moral demands on
other states, peoples, and individuals. The corollary to this is a tendency
to exculpate rather than punish the guilty while forcing the victims of
aggression to accommodate their attacker, save in those cases involving
the national interest of a major power, such as Iraq’s threat to Mideast oil
fields.

8. The media have contributed to the spread of nonchalant, even
voyeuristic, attitudes toward human rights violations, indifference to
genocide, and treatment of war criminals as if they were regular states-
men, military leaders, and politicians. Whether this is a “postmodern”
phenomenon due to misunderstandings of classic legal “texts,” the result
of overcrowding and high unemployment, or simply the consequence of
popular indifference to corrupt political and diplomatic processes is not
clear.43

9. While the use of force has become highly selective, it is increas-
ingly common, evidently owing to the belief that military force can
resolve political problems if applied correctly. Such a conviction coin-
cides with a general militarizing of the languages and cultures of major
societies, from that of the United States to those of the Third World. The
new barbaric era is thus quintessentially a militaristic one as well.

10. Cynicism is widespread, and while most expect statesmen and
politicians to lie, few expect anything decent from them.

11. There has been a growing tendency to ignore crimes committed
within a state as the internal affair of the state involved, except where the
interests of major powers are involved. This attitude may be rooted in a
Cold War mentality that adopted a double standard as a norm. Conserva-
tives could thus be shocked by abuses in Soviet mental hospitals, but
excuse the Pinochet’s excesses in Chile; and leftists were appalled at the
desaparecidos in Argentina, but intellectualized the mass murder committed by the Khmer Rouge.

12. Secret diplomacy is again in vogue; diplomatic media events are carefully managed to reassure domestic audiences or to rationalize the action or inaction of single states and coalitions of states.

In short, there has been a tendency to reassert the realpolitik of the nineteenth century without the humanistic principles of the period. So foreign policies are now less “hypocritical” in that the naked self-interest of states is repeatedly invoked to justify action or inaction, but elites have become morally insensitive. Governments will not intervene to stop aggression and genocide so long as doing so presents any risk of serious conflict. We thus extol heroes like Vaclav Havel, but refuse to act on his exhortation that our responsibility is to humanity, not to national states.\(^44\) The strong can prey on the weak with impunity, since at most they can expect the imposition of sanctions that their patrons and friends will circumvent. Even those critical of Serbia have been willing to accept Serbian gains as faits accomplis, something the world would not concede the Italians in 1935, nor the Germans in 1939.\(^45\) The one-dimensional heroes played by Arnold Schwarzenegger are thus our only hope in a world indifferent to justice and morality. But there is no real action hero to challenge the terminators among us. Indeed, if there has been a lesson this century, it is that fighting terror with terror makes one a terrorist, and resorting to barbarian methods to eradicate barbarism makes one a barbarian, whether one is wearing camouflage or pinstripes.

In the case of Yugoslavia, Serbia was stronger than its neighbors because it controlled the JNA and because its powerful patrons—France, Britain, Russia, and the United States—saw it in their strategic interest to avoid the creation of a *Mitteleuropa* made up of states tied to Germany and Italy. As a result, the support given Croatia, Slovenia, and Bosnia by Berlin and Rome was meaningless, because both the fledgling south Slav republics and their supporters were weaker than Serbia and its patrons. And in the new barbaric age, it is might, not right, that has the final word. To paraphrase Thomas Nagel’s conclusion of twenty years ago: “We have always known that the world is a bad place. It appears that it may be an evil place as well.”\(^46\) Today it seems that the world is also a place where corrupt men and efficient bureaucrats commit barbaric acts in the name of peace.
NOTES


4. Paul Sieghart, *The International Law of Human Rights* (Oxford: Clarendon Press, 1983), xix, 6–7, 14. The law is essentially the codification of what is morally permissible, politically expedient, and customary in a given society. It works because it includes a specific set of procedures for resolving grievances and conflicts, but it is not synonymous with justice, which confers legitimacy to law, or morality, which is usually an absolute standard. The law is thus imperfect and practical, and it usually expresses the minimum standard of conduct that a community will tolerate. The law may even be immoral. The Nuremberg era therefore should be considered a period marked by a particular concept of justice informed by a morality formulated in reaction to the trends and excess of the early twentieth century, of which the tribunal’s judgments were but one legal elaboration.

5. There were also countervailing tendencies, for example, those rationalizing mass destruction as normal. See Daniel Pick, *War Machine: The Rationalization of Slaughter in the Modern Age* (New Haven: Yale University Press, 1993).

6. For problems applying the Nuremberg principles, see Donald A. Wells, *War Crimes and Laws of War* (Washington, DC: University of America Press, 1984), 81–92. For basic documents, see Herbert W. Briggs, *The Law of Nations* (New York: Appleton-Century-Crofts, 1952), 1021–22. There is no space to discuss the traditions of left and right, but in broad terms those on the left stress the need to protect individuals and groups, while those on the right the necessity of assuring individual rights and freedoms. J. S. Mill, who began by focusing on the latter, ended by championing the former as a sine qua non to assure individual rights and freedoms to everyone, regardless of social standing.

7. Typical was the U.S. statement on May 24, 1991, that "U.S. policy toward Yugoslavia is based on support for the interrelated objectives of democracy, dialogue, human rights, market reform and unity." Given the power of international financial organizations, such as the International Monetary Fund, to make and break sovereign states, one of the main goals of the "breakaway" republics in
the former Yugoslavia has been to attract foreign investment by showing that they have political and social climates friendly to commerce and industry. Because democratic institutions have become linked to a predatory American form of neocapitalism whose only concern is profit, the United States is not interested in the welfare of Poles or Russians, but only in the business climate in Poland and Russia. See New York Times, July 1 and June 29, 1991 for Slovenia, where the same holds true. Since the end of the Cold War, the Nation has repeatedly pointed out the bankruptcy of a policy that makes freedom for entrepreneurs to operate synonymous with the democratic and liberal traditions of the Western world. Yet the Nation itself has shown tremendous confusion regarding the rights of small nations and has had a difficult time making sense of events in the former Yugoslavia.


9. Serbia’s use of the concept should therefore not be confused with its use by Croatia, Slovenia, or Bosnia, because while Belgrade seeks to extend its state boundaries under the guise of self-determination, the other peoples of the former Yugoslavia seek only to establish theirs on a viable basis consonant with the ethnic composition of the new states of Bosnia, Croatia, and Slovenia. This may seem like hairsplitting. It is not.

10. Sieghart, op. cit., 368–70. The lack of jurisprudence is testimony to the thorny nature of the principle.


13. For interwar Yugoslavia, see Ivo Banac, The National Question in Yugo-


15. For example, the refusal of the United States, when found guilty of meddling in Nicaragua’s affairs, to recognize the findings of a court it had pressed to establish.

16. A double standard was quickly established: Serbians in Croatia were allowed, even encouraged, to break away from Zagreb, while Croats were censured for their desire to be free of Belgrade.

17. See Wells, op. cit., passim, for a history of such efforts. Enforcing rules of war and guaranteeing human rights have proven difficult because statesmen prefer their commitments to absolute ideals to be vaguely worded and easily repudiated. Thus, in 1928, when the great powers rejected war as an instrument of foreign policy, they reserved their “right” to wage defensive wars whenever they believed it appropriate, and few signed treaties that defined an aggressor too precisely. Similarly, most powers have decried the shedding of innocent blood and signed treaties outlawing acts such as the shelling of civilians, but the Allies systematically bombed urban areas during World War II, and if the media have deplored Serb shelling of civilians, they seldom have reported their actions as criminal, preferring to follow the lead of the diplomats who sought to rationalize Serbian atrocities in order not to antagonize Belgrade by noting that the Serbians actually intended to destroy buildings and infrastructure, not terrorize civilians. This argument of “double effect” is discussed by Thomas Nagel, “War and Massacre,” in Cohen et. al., op. cit., 10–11; also Falk et. al., op. cit., 33–40, for the 1907 Hague Conventions that prohibited attacks on civilians.

19. Consequently, one argument raised by fascist diplomats to justify their invasion of Abyssinia in 1935 was that the invasion was a humanitarian one because Italy would put an end to slavery in the African country. The Italian minister in Belgrade condemned the Yugoslav regime for being a brutal police state. There are various litmus tests for organizations such as the League and the United Nations. One is the way in which minority rights have been guaranteed. For discussion, see Claude Inis, Jr., *National Minorities: An International Problem* (New York: Greenwood, 1969).

20. As Justice Robert H. Jackson noted in his opening statement at Nuremberg in 1945, “the ultimate step in avoiding periodic wars” was “to make statesmen responsible to law.” And if it was too much to expect that war might be banished altogether, Jackson expected the major powers to “put the forces of International Law . . . on the side of peace.” Falk et al., op. cit., 78–87.

21. For example, Gerald B. Helman and Steven R. Ratner argued that states unable to manage their own affairs should be handed over to larger, more powerful states to be managed, in effect a return to the colonial era without the pretense of civilizing the colonies. See “Saving Failed States,” *Foreign Policy*, winter 1992–93.


23. Still of interest is Oriana Fallaci’s portrait of Kissinger in *Intervista con la storia* (Milan: Rizzoli, 1974). Kissinger, a regular guest on such shows as *Nightline*, is one of the major power brokers in Washington and it is not a coincidence that his “associates,” from Lawrence Eagleburger to Brent Scowcroft, have helped shape the new world, nor that Eagleburger’s role regarding U.S. policy in Serbia should be questioned, given his links to Belgrade and Serbian business interests. See Patrick Glynn, “Yugoblunder,” *New Republic*, February 24, 1992; and Lawrence C. Soley, *The News Shapers: The Sources Who Explain the News* (Westport, CT: Praeger, 1992), esp. 85–94.

24. “National interests” or “vital interests” are always either left vague or narrowly defined as commercial and mineral, and usually coupled with rhetorical questions. With regard to U.S. policy, this is clear from a sampling of the *MacNeil-Lehrer NewsHour*, which is really a forum for policy makers to rational-
ize their actions to a particular segment of the American middle class. For example, on April 28, 1993, Lee Hamilton declared that the United States should stay out of Bosnia because it had no “vital interests” there, then wondered who would be willing to risk young American lives there for no reason; on February 10, 1994, John McCain labeled Bosnia a “tar baby,” and Pat Schroeder and Hank Brown insisted no American lives should be risked there; on April 11, 1994, Lawrence Eagleburger warned that the United States was “dangerously close to a step-by-step escalation”; a week later, on April 18, John Warner insisted that the “lesson” was not to take risks unless clear U.S. interests were at stake; and two days after that, on April 20, William Hyland, arguing against intervention and for the arms embargo, warned that no one could predict what the Serbs might do.


26. Boutros-Ghali, “Empowering the United Nations,” who exulted that Yugoslavia was the biggest peacekeeping effort ever by the United Nations, noting that peacekeeping is “a growth industry.”

27. The test involves the principles of ethnically pure states, which at least one Bosnian nurse dismissed as “stupid” on Radovan Tadić’s documentary *Sarajevo: The Living and the Dead*, PBS, March 1, 1994, but it also involves the questions of minority rights, premeditated aggression, and state-sponsored genocide.


30. The tendency was to blame Croats, Slovenes, and Bosnian Muslims for provoking Serbia by invoking the principle of self-determination; blaming the victim is an argument often heard by the defense in rape trials in this country. There was, and continues to be, sharp criticism of Germany for pressing to recognize the “breakaway” republics. Oddly, there is little criticism of Italy and other states who favored recognition, an indication that the diplomatic clash over Yugoslavia was one that involved Germany’s position in Europe. For example, Alexander Cockburn, “Beat the Devil,” *Nation* August 31–September 7, 1992, argued that the Serbs were merely reacting to Croat atrocities during the early 1940s and were getting a bum rap in the Western press; or Misha Glenny and William Pfaff, who blamed all sides, especially the Croats, for the fighting. See William Pfaff, “The Shame of Bosnia,” *New York Review of Books*, September 24, 1992; and Misha Glenny, “The Massacre of Yugoslavia,” *New York Review of Books*, January 30, 1992. One of the more disingenuous efforts to blame the
victim was made by Alex Dragnich, who argued that Serbs had "exploited themselves for the benefit of the (Yugoslav) nation as a whole," and had repeatedly been victimized by those who had failed to appreciate their sacrifices. See Alex Dragnich, "The Anatomy of a Myth: Serbian Hegemony," *Slavic Review* 50, no. 3 (fall 1991): 559–662; for a rebuttal of Dragnich's thesis, see James J. Sadkovich, "Serbian Hegemony Revisited, or Blaming the Perpetrator, not the Victim," *Association of Croatian Studies Bulletin*, October 1991.

31. See Briggs, op. cit., 977–86; and Ian Brownlie, *Basic Documents in International Law* (Oxford: Clarendon Press, 1983), 4, 14–17. Claims that the country was involved in "civil war" effectively protected Belgrade from sanctions for attacking a sovereign state.

32. Warren Christopher warned during an interview on the *MacNeil-Lehrer Newshour* on April 5, 1993, that military intervention would mean an end to humanitarian aid and more killing and bloodshed. Less disingenuously, he added that Russia was "very reluctant" to lift the arms embargo, but did not say whether Moscow considered Belgrade its client. In an interview on the same show in March 1993, David Owen insisted that the Serbs must be offered a "carrot" in addition to being shown the "stick," so that they would talk peace and the Russians would "stay on board." More recently, Elizabeth Furse warned on the April 18, 1994, broadcast that "more people will get killed" if the arms embargo is lifted.

33. Kissinger solemnly informed Koppel's listeners that "these people have been fighting for a thousand years," on ABC's *Nightline*, April 22, 1993; the *Nation* depicted Croatia's government as "crypto-fascist" in "Bosnian Quandary," April 26, 1993; William Pfaff, "Reflections (The Absence of Empire)," *New Yorker*, August 10, 1992, argued that the peace settlements after World War I and Tito's regime after World War II had "denied" Serbs the opportunity to create an "integral Greater Serbia"; Aleksa Djilas, *The Contested Country: Yugoslav Unity and Communist Revolution, 1919–1953* (Cambridge: Harvard University Press, 1991), 43–47, 225, focused on Croatian atrocities while excusing those committed by Serbs during the war; and Robert M. Hayden, "Constitutional Nationalism in Formerly Yugoslav Republics," *Slavic Review* 51, no. 4 (1992), has implied that Croatia's president is responsible for Serbian atrocities. It is thus not surprising that John F. Burns, Stephen Engelberg, Chuck Sudetic, and Celestine Bohlen all got their history wrong and that American leaders did as well. See, for example, articles by the latter three in the *New York Times*, March 24, April 2, and May 16, 1991.

34. Typical was a National Public Radio report on November 29, 1993, that noted that Jews in Croatia were worried over the "quiet rehabilitation" of the NDH, the World War II Croatian state; and Col. Miguel Moreno's remark on an April 6, 1993, ABC *Nightline* segment that if Serbian areas had been cleansed of
Croats and Muslims, Croatian areas had also been “ethnically cleansed” of Serbs.


36. For the relevant treaties relating to violations of human rights, see Sieghart, op. cit., 128 ff., 135 ff., 159 ff. Also see Yoram Dinstein, “The Right to Life, Physical Integrity, and Liberty,” in Henkin et al., esp. 115–19, for the right to life, 122–23, for torture, 128, for liberty, and 136 for the observation that even during a war, summary execution and torture are outlawed.

37. Koppel did so on a segment of *Nightline*, compressing statistics for African states to make them seem comparable to the losses in Bosnia, and Boutros-Ghali has on several occasions played down the extent of the suffering in Bosnia, a position also taken by some members of the Jewish community, who refuse to admit any comparisons with the Holocaust, among them Erwin Knoll, editor of the *Progressive*, who in the July 1993 issue attacked those who compared Bosnia to the Holocaust and condemned “such invocation of the Holocaust as inappropriate and even offensive,” agreeing with Ronald Steel that all that was under way in Bosnia was “an ugly policy of forced population transfer, intensified by a brutality endemic to Balkan wars . . . not genocide and not the Holocaust.” Knoll joined those who have blamed the victims of Serbian genocide, and displayed his own ignorance of what constitutes genocide. Elie Wiesel has also been careful to distinguish between the Holocaust and what is occurring in the former Yugoslavia. But such disparate figures as George Shultz and Leon Wieseltier have found such distinctions specious, noting that genocide is not civil war and that the Holocaust should have taught us to recognize, and intervene to end, genocide. *Nightline*, April 22, 1993, for Wieseltier and April 26 for Shultz.

38. Maynes, op. cit., 11; *This Week with David Brinkley*, May 9, 1993, for Scowcroft. Also Furse’s remarks on *MacNeil-Lehrer Newshour*, above, including her suggestion that since we could not do anything in Bosnia, we should prepare for “future Bosnias.” Judging by such remarks, “conflict resolution” is a euphemism for redlining military operations within the Third World, or simply an excuse for doing nothing.

39. Sieghart, op. cit., 35 ff., 72 ff., 174, 370–76. Liberty of one’s person is also guaranteed, but not respected. For the rights of minorities, see Louis B. Sohn, “The Rights of Minorities,” in Henkin et al., op. cit., esp. 282, for the right of minorities to preserve and develop their ethnic, religious, and linguistic characteristics, a right clearly denied non-Serbs in Serbian-controlled areas, but enjoyed by Serbs in Croatia, according to the republic’s constitution. See also B. G. Ramacharan, “Equality and Nondiscrimination,” also in Henkin et al., op. cit., esp. 259, 262–64, who notes the duty of states to assure freedom of thought, conscience, and religion, and to assure equality and nondiscrimination, which are affirmative aspects of the same principle.

40. UNPROFOR’s role has not been a happy one. The first units arrived in
Croatia in the fall of 1991, but failed to disarm Serbian forces in Croatia and have been unable to resettle those chased from their homes by the JNA and Serbian irregulars.


42. Part of the problem of the New York Times obviously is the dominance of broadcast media, which by their nature cannot present thoughtful or thorough analyses. Not only do they tend to favor human interest stories, stress brevity, and seek out well-known personalities to interview, but deadlines and lack of penalties for being ignorant lead to superficial treatments of most news. Thus, NPR’s May 7, 1994, broadcast of All Things Considered included a background piece on Haiti that made it seem as if the United States had tried to save the tiny state, whereas a great many, if not all, of the island’s problems are the result of American intervention between 1915 and 1934. But then, it is unlikely that the reporters had time to read Hans Schmidt, The United States Occupation of Haiti, 1915–1934 (New Brunswick: Rutgers University Press, 1971); David Healy, Gunboat Diplomacy in the Wilson Era: The U.S. Navy in Haiti, 1915–1916 (Madison: University of Wisconsin Press, 1976); Hogar Nicolas, L’occupation américaine d’Haïti: La revanche de l’histoire (Madrid, 1955); Suzy Castor, La ocupación norteamericana de Haití y sus consecuencias (1915–1934) (Mexico, DF, 1971), or the other scholarly works on the island’s history. Similarly, it is clear that when Joseph Joffe wrote that Yugoslavia had been an “explosive concoction of warring tribes and nations,” and concluded that a Greater Serbia was the second-best choice to a south Slav state, he had read relatively little Balkan history. See his “The New Europe: Yesterday’s Ghosts,” Foreign Affairs, winter 1992–93, 30–35.

43. This involves a discussion of the media and postmodernism, since a good part of the new barbarism seems to be classifiable as ennui and derives from television. Put another way, such events as the war in Bosnia exist to provide images for television audiences, and only become “real” when “mediated” through that medium. See Arthur Kroker and David Cook, The Postmodern Scene: Excremental Culture and Hyper-Aesthetics (New York: St. Martin’s, 1986), 266–70. It is also worth noting Dana Polan’s observation that the concept of a postmodernist culture implies a radical shift from a modernist’s optimistic faith in technology, vision, and endeavor to a total lack of interest in reality. This has triggered a crisis of conscience (or perhaps consciousness) that has paralyzed much of the left and led Warren Montag to conclude that “On a field of conflicting forces whose balance of power shifts endlessly, we have no fixed reference points, nothing to guide us but our own errors,” and Robert Stam to note the need to transcend “sterile dichotomies and exhausted paradigms.” See E. Ann Kaplan, ed., Postmodernism and Its Discontents, Theories, Practices (New York: Verso, 1988), 45–46, 55, 142–43. The point, of course, is that our moral sensibilities have been dulled, and there are no longer any moral absolutes, even on the left.

45. As one member of Congress noted on *This Week with David Brinkley* on May 9, 1993, the “Serbs have done pretty well here”: they realized their objective of a Greater Serbia, and the “best” that the rest of the world could do was to “hold” the peace.