No event illustrates more sharply the gap in thinking between those who try to integrate human rights into everyday geopolitical thinking – and usually failing to – and those such as Amnesty International who stand apart from day-to-day political compromise and insist on an un tarnished standard than the debate over the bombing of Yugoslavia in 1999. NATO claimed it was a crusade to fore stall the ethnic cleansing of the Albanian people of the province of Kosovo. But in fact the bombing turned out to be nothing less than the precipitating event in the ethnic cleansing, which, contrary to NATO propaganda, did not occur on a massive scale until after the bombs began to drop.

Amnesty, although critical of the bombing at the time, did not issue its blockbusting press release until 13 months after the event. It had taken that long for its thorough checking processes to be completed. But once its then secretary-general, Pierre Sane, had taken the final decision to go public in May 2000, it became quickly apparent this was the essence of Amnesty’s long tradition: to stand apart from governments, even democratic ones, and to question means as well as ends. On 7 June the Amnesty press release went out, with a copy sent simultaneously to the US State Department, the foreign ministries of Britain, Germany and France and NATO headquarters in Brussels. The New York Times’ Steven Erlanger began his dispatch:

“In an extensive report that has infuriated NATO leaders Amnesty International said that NATO violated international law in its bombing over Yugoslavia by hitting targets where civilians were sure to be killed. Amnesty accused NATO of war crimes, of ‘breaking the rules of war’, said that those responsible ‘must be brought to justice’ and asked the UN criminal tribunal on the former Yugoslavia to investigate these allegations.”

Ironically, this perhaps showed that the Pentagon generals who had waged a bureaucratic war against President Clinton to water down and, in the end, oppose the creation (which initially he had strongly favoured) of a permanent International Criminal Court for trying war crimes had focused their attention in the right direction. Their intuitive alarmism, which many at the time thought was overdone, turned out to be essentially correct. The human rights lobby has
the wind in its sails and is going about its business in a way that is pushing its ship forward at a fast rate of knots. Over the last decade, it has won worldwide ratification of the Genocide and Torture Conventions, the creation of a UN High Commissioner for Human Rights, the establishment of ad hoc war crimes tribunals for ex-Yugoslavia, Rwanda and Sierra Leone, the arrest and detention in Britain of General Pinochet of Chile and, most important, a permanent International Criminal Court for the prosecution of crimes against humanity.

The reasons the Pentagon gave to President Clinton for opposing an International Criminal Court – that other nations would not allow the US to write into the treaty that US troops could never be arraigned before it – now can be seen as prescient. Guantanamo and Abu Ghraib prisons and the use of rendition and torture suggest that a case could be made for a prosecution of the US by the Court. It will be deeply ironic if the human rights cause to which an American president in the 1970s gave so much of a fillip should progress to the point where it is hoisting the US with its own petard.¹

But that, indeed, is what Amnesty and Human Rights Watch is up to. Case by case, the logic of their own mandates is leading it more and more into a head-on clash with the liberal democracies. Contrary to the current widespread opinion, given voice to by such diverse personalities as Samantha Power, the US ambassador to the UN, the late David Holbrooke, the “father” of the Dayton Agreement, the Canadian writer Michael Ignatieff and the Oxford don Timothy Garton Ash, the pursuit of human rights is not particularly well served by military action. To quote Michael Ignatieff: “The military campaign in Kosovo depends for its legitimacy on what fifty years of human rights has done to our moral instincts, weakening the presumption of state sovereignty, strengthening the presumption in favour of intervention when massacre and deportation become state policy.”

But war is war, even if it is launched in a “good” cause, and human rights is too often the loser however stringent the control exercised by democratically elected politicians of their fighting machine. The war in Afghanistan has provided yet one more example. While anger at the atrocities of Osama bin Laden’s Al Qaeda movement appeared to move a large majority of humanity it remains clear that America and Britain’s decision to go to war was not the answer to ending this particular kind of terrorism. As Amnesty’s Secretary-General Irene Khan told European Union policy makers, “[h]uman rights do not need to be sacrificed to obtain security”. The US and the rest of the international community should have decided at the outset to pursue bin Laden with the same perseverance as Israel showed hunting down the Nazi exterminator-in-chief Adolf Eichmann to bring him to trial before the International Criminal Court, with quiet police work, following the accepted precepts of international law, not noisy war work.

¹ For a fuller and profound discussion of the growth and extension of the norms of international jurisprudence, see W. Pfaff, ‘Judging War Crimes’, by 42:1 Survival (Spring 2000).