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AN UPDATE ON: *SELF-DETERMINATION AND HUMANITARIAN INTERVENTION IN A COMMUNITY OF POWER* BY JAMES A.R. NAFZIGER

Julie Jackson[*]

I. INTRODUCTION

This update focuses on two articles written by James A.R. Nafziger for the Denver Journal of International Law and Policy. The initial article is entitled Self-Determination and Humanitarian Intervention in a Community of Power.[1] This article was later followed by Humanitarian Intervention in a Community of Power: Part II.[2]

Generally, Self-Determination and Humanitarian Intervention looks at the principles of self-determination and humanitarian intervention in the post-Cold War era. The author suggests that it would be an appropriate time now for the international community to end the debates surrounding these principles and move on to constructive discussions about methods of solving the disputes which continue to arise.[3] Specifically, efforts should include greater preventive diplomacy, pre-established procedures when disputes arise, and multilateral initiatives by regional and international institutions.[4] Nafziger argues that relying on regional and international institutions, rather than the unilateral actions of individual states, may prevent the issues of self-determination and humanitarian intervention from becoming threats to international peace and security.[5]

The follow-up article, Humanitarian Intervention II, notes that the

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1. James A.R. Nafziger, *Self-Determination and Humanitarian Intervention in a Community of Power*, 22 DENV. J. INT'L L. & POL'Y 9 (1991) [hereinafter *Self-Determination and Humanitarian Intervention*].

2. James A.R. Nafziger, *Humanitarian Intervention in a Community of Power—Part II*, 20 DENV. J. INT'L L. & POL'Y 219 (1994) [hereinafter *Humanitarian Intervention II*].

3. *See Self-Determination and Humanitarian Intervention*, *supra* note 1, at 11.

4. *Id.* at 39.

5. *Id.*

international community has embraced humanitarian intervention in the past few years, but many key issues remain unresolved.[6] Nafziger identifies the following five questions:

1. What is the scope of the Security Council's powers to prescribe, organize, or authorize intervention?

2. Is unilateral intervention any longer permissible?

3. When should the United Nations condition intervention on a state's consent?

4. May the Security Council authorize the "Blue Helmets" to take "all necessary measures," including the use of force, regardless of the purpose or type of operation?

5. Is the new superpower of the Security Council simply a bully in multilateral disguise?[7]

After Nafziger completed his research for this study in 1993, the tragedies in Rwanda and Somalia escalated to the point where humanitarian intervention became inevitable.[8] As a result, this update will first evaluate whether the events in Rwanda and Somalia support Nafziger's contention that reliance upon regional and international institutions could have prevented these situations from threatening international peace and security; and second, whether any of the five unresolved humanitarian intervention questions have been answered.

II. SUMMARY OF *SELF-DETERMINATION AND HUMANITARIAN INTERVENTION AND HUMANITARIAN INTERVENTION II*

Self-Determination and Humanitarian Intervention traces the historical roots of the self-determination principle.[9] Provisions in many international documents contain this principle, most significantly, Article 1(2) of the United Nations Charter.[10] Additionally, the International Court of Justice further developed the right of self-determination in the Namibia and the Western Sahara cases.[11] Furthermore, the International Covenant on Economic, Social and Cultural Rights[12] and the In-

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6. *Humanitarian Intervention II*, *supra* note 2, at 233.

7. *Id.*

8. THE UNITED NATIONS AND RWANDA, 1993-1996 (United Nations Dep't of Pub. Info. ed., 1996)[hereinafter U.N. & RWANDA]; THE UNITED NATIONS AND SOMALIA, 1992-1996 (United Nations Dep't of Pub. Info. ed., 1996)[hereinafter U.N. & SOMALIA].

9. *Self-Determination and Humanitarian Intervention*, *supra* note 1, at 12-20.

10. U.N. CHARTER art. 1, para. 2.

11. *Self-Determination and Humanitarian Intervention*, *supra* note 1, at 14. *See* Advisory Opinion on Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa); Notwithstanding Security Council Resolution 276, 1971 I.C.J. 16 (June 21); Advisory Opinion on Western Sahara, 1975 I.C.J. 12, 31-35 (Oct. 16).

12. International Covenant on Economic, Social, and Cultural Rights, art. 1, G.A.

ternational Covenant on Civil and Political Rights[13] expressly provide for the right of self-determination.

Although generally accepted as a right, the scope of self-determination remains ambiguous and consequently is subject to differing views on the meaning of the term.[14] Nafziger raises several unresolved questions regarding the time and to whom self-determination is appropriate.[15] Another debated issue is the right of self-determination for people in self-governing territories.[16] In general, states oppose this practice,[17] but in the former Soviet Union, this right was recently exercised through the dismantling of the USSR.[18] Overall, the principle of self-determination lacks precise guidelines for its application.[19] Section II provides the background on the practice of humanitarian intervention.[20] Humanitarian intervention, as a right, remains controversial in light of the fact that the only explicit exceptions to the prohibition against the use of force in the U.N. Charter are in Chapter VII or VIII, neither of which directly includes humanitarian intervention.[21] In addition, unilateral intervention remains extremely suspect, but nevertheless potentially permits a prohibited use or threat of force.[22] As a result, criteria were established to define the legitimacy of humanitarian intervention.[23] Nafziger concludes that the criteria provide excellent guidelines, but fail to reflect actual practices.[24]

Section III briefly addresses the role of the United Nations during the Cold War and the constraints on the United Nations' ability to respond to issues of self-determination and humanitarian intervention.[25] Although the United Nations has been instrumental in decolonization efforts, it has been ineffective when dealing with post-colonial situations and when serving as an instrument for humanitarian intervention.[26] Nafziger contends that the bipolar stalemate limited the ability

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Res. 2200, U.N. GAOR, 21st Sess., Supp. No. 16, at 49, U.N. Doc. A/6316 (1966).

13. .International Covenant on Civil and Political Rights, art. 1, G.A. Res. 2200, U.N. GAOR, 21st Sess., Supp. No. 16, at 49, U.N. Doc. A/6316 (1966).

14. *Self-Determination and Humanitarian Intervention*, *supra* note 1, at 17.

15. *Id.* at 17-18.

16. *Id.* at 19-20.

17. Ved P. Nanda, *Self-Determination Under International Law: Validity of Claims to Secede*, 13 CASE W. RES. J. INT'L L. 257, 271-74 (1981).

18. *Self-Determination and Humanitarian Intervention*, *supra* note 1, at 19.

19. *Id.* at 20.

20. *Id.* at 21-6.

21. U.N. CHARTER, arts. 39, 42.

22. *Self-Determination and Humanitarian Intervention*, *supra* note 1, at 25.

23. *Id.* at 25-26 (citing Richard Lillich, *Humanitarian Intervention: A Reply to Ian Brownlie and Plea for Constructive Alternatives*, *in* LAW AND CIVIL WAR IN THE MODERN WORLD 249 (John Norton Moore ed., 1974).

24. *Self-Determination and Humanitarian Intervention*, *supra* note 1, at 26.

25. .*Id.* at 26-27.

26. *Id.* at 26.

of the United Nations to effectively deal with these issues.[27]

Section IV focuses on the close of the Cold War and its effect upon the ability of international institutions to handle self-determination and humanitarian intervention issues.[28] A community of power replaced the bipolar balance of power system present during the Cold War.[29] The author argues that this community of power also contains a rejuvenated United Nations, capable of "facilitat[ing] self-determination, preempt[ing] unilateral humanitarian intervention by states, and initiat[ing] its own form of intervention and dispute settlement."[30] The success in the Gulf War experience supports this proposition. Despite its positive outcome, however, the United Nations was weakened by: the failure of states to work together in good faith; the absence of clear ground rules; and the limited bases for decision making.[31] In light of these criticisms, the author suggests that structural changes, increased financing, and increased action on the part of other international and regional bodies should be implemented.[32]

Section V focuses on the need for the members of the United Nations to clarify the law of self-determination and humanitarian intervention.[33] The author states that this is even more necessary now due to the larger community of power present today.[34] Further, improved mechanisms and procedures could significantly increase the efficiency of United Nations efforts to deal with these types of problems.[35] Nafziger suggests several possible changes: first, making the Security Council sit in session year-round; second, including the Secretary-General's participation in Security Council initiatives and undertaking other supportive activities; third, using United Nations human rights bodies to investigate and assess these issues; fourth, establishing an international courthouse with mandatory mediation prior to adjudication; fifth, establishing a general instrument for the settlement of disputes; and sixth, using regional arrangements in the settlement of disputes, coordinated by the staff of the Secretary-General.[36] In essence, Nafziger suggests shifting from a focus on unilateral action to multilateral deliberations and initiatives.[37]

Nafziger further elaborated on his first article with the publication

27. *Id.* at 27.
28. *Id.* at 27-34.
29. *Self-Determination and Humanitarian Intervention, supra* note 1, at 28.
30. *Id.*
31. *Id.* at 29-32.
32. *Id.* at 32-34.
33. *Id.* at 34.
34. *Id.*
35. *Self-Determination and Humanitarian Intervention, supra* note 1, at 35.
36. *Id.* at 35-38.
37. *Id.* at 39.

of Humanitarian Intervention II.[38] In that article, Nafziger concluded that the international community has finally embraced humanitarian intervention, but several questions remained unanswered. First, what is the scope of the Security Council's powers to prescribe, organize, or authorize intervention? Second, is unilateral intervention permitted, and if so, must an intervening state first exhaust international or regional remedies? Third, should the United Nations condition intervention on a state's consent? Fourth, may the Security Council authorize the "Blue Helmets" to take "all necessary measures" including the use of force, regardless of the purpose or type of operation? Fifth, is the new Superpower Security Council simply a bully in a multilateral disguise?[39]

III. THE SITUATIONS IN RWANDA AND SOMALIA

A. Rwanda

In April of 1994, the on-going civil war in Rwanda resumed between the majority Hutus and the minority Tutsi (which are primarily represented by the Rwandan Patriotic Front (RPF)).[40] Just six months earlier, representatives from each side had signed the Arusha Peace Agreement ending the most recent conflict in a long series of conflicts between the two tribes.[41] On April 6, 1994, the President of Rwanda, a Hutu, was killed in a suspicious plane crash.[42] In response, the Hutu's immediately began systematic waves of massacres aimed at the Tutsi and Hutu moderates resulting in the deaths of tens of thousands of people.[43] Within days, approximately 25% of the population fled or relocated internally.

These events led the United Nations to increase involvement in Rwanda. Several months after the parties signed the Arusha Peace Agreement, the United Nations Assistance Mission for Rwanda (UNAMIR) was established for "peacekeeping, humanitarian assistance and general support through the Secretary-General's good offices" in

38. *Humanitarian Intervention II*, *supra* note 2, at 219.

39. *Id.* at 233.

40. Keith B. Richburg, *For Hutus, Life Has Become a Death Trap; Refugees in Squalid Camps in Rwanda Fear Departure of French, Revenge by Tutsis*, WASH. POST, Aug. 12, 1994, at A29; *See also* S.C. Res. 918, U.N. SCOR, 49th Sess., 3377th mtg. at 2, U.N. Doc. S/RES/918 (1994). [hereinafter S.C. Res. 918].

41. *Peace Agreement between the Government of the Rwandese Republic and the Rwandese Patriotic Front, signed at Arusha*, United Republic of Tanzania, August 4, 1993; *see* U.N. SCOR, 49th Sess., Supp. for Oct.-Dec. 1993, U.N. Doc. S/26915 (1993).

42. Keith B. Richburg & Jonathan C. Randal, *First French Soldiers Arrive on Mission to Help Rwanda*, WASH. POST, June 24, 1994, at A29.

43. S.C. Res. 918, *supra* note 40, at 2.

Rwanda.[44] With the civil war reignited, the United Nations took a more active role, and in coordination with the International Committee of the Red Cross (ICRC) and other non-governmental organizations, the U.N. sought to provide large scale emergency relief to Rwanda.[45] The United Nations planned first, to provide for urgent survival needs in Rwanda; and second, to rehabilitate Rwanda's devastated infrastructure as a means of revitalizing the economy, restoring order, and promoting development.[46]

By mid-May, it was clear that humanitarian relief alone would not turn the situation around. As a result, the United Nations created UNAMIR II, a force of 5,500 troops utilized to deter hostilities.[47] Security Council Resolution 918 (1994) expanded the mandate of UNAMIR into UNAMIR II.[48] UNAMIR II was mandated to provide security for refugees, displaced persons, and civilians and to ensure the distribution of humanitarian aid.[49]

Once the Security Council approved UNAMIR II, the mission faced immediate obstacles to its deployment. The recent problems with the intervention in Somalia resulted in a reluctance by Member States to contribute troops and financial resources to what was viewed as another African civil war.[50] Further, the troops that were offered by Member States lacked essential equipment needed for the operation.[51] As a result, the international community was forced to formulate another plan to assist the people of Rwanda.

The French Government, having historic ties to the region, rose to the occasion and declared their intention to send troops into Rwanda with assistance from the Zairian government.[52] France proposed that this mission would operate under Chapter VII of the United Nations Charter, thus permitting the use of force to maintain or restore international peace and security.[53] On June 22, 1994, Security Council Resolution 929 (1994) approved the mission "Operation Turquoise."[54] Resolu-

44. *Id.*

45. U.N & RWANDA, *supra* note 8, at 69-71.

46. *Id.*

47. S.C. Res. 918, *supra* note 40, at 2.

48. *Id.*

49. *Id.*

50. Walter Clarke & Jeffrey Herbst, *Somalia: Lessons from a Humanitarian Intervention*, CURRENT 10, May 1, 1996; Richburg & Randal, *supra* note 42.

51. U.N & RWANDA, *supra* note 8, at 50-52.

52. Richburg & Randal, *supra* note 42, at A29.

53. Letter from the Permanent Representative of France to the Secretary General of the United Nations (June 20, 1994), requesting adoption of a resolution under Chapter VII of the Charter as a legal framework for the deployment of a multinational force to maintain a presence in Rwanda until the expanded UNAMIR is deployed. *See* U.N. Doc. S/1994/734, June 21, 1994.

54. U.N. SCOR, 49th Sess., 3392d mtg. at 2, U.N. Doc. S/RES/929 (1994)[hereinafter S.C. Res. 929].

tion 929 provided that Operation Turquoise would be a temporary operation, under French command, and could take "all necessary means to achieve the humanitarian objectives of UNAMIR II."[55]

Operation Turquoise, though mandated by the United Nations, remained a French-led multilateral operation. France retained control over the operation and the countries supplying troops bore the costs thereof. This is in contrast to United Nations' peace-keeping missions in which Member States are reluctant to relinquish control over their armed forces.[56] Nonetheless, Operation Turquoise worked closely with UNAMIR and its officers located in Zaire and Kigali towards achieving the goals of UNAMIR II.[57]

Operation Turquoise established a humanitarian "safe zone" in southwestern Rwanda.[58] The continuing fighting and broadcasting of threats against the Hutus had resulted in the mass movement of Rwandans towards the southwestern part of the country and towards Zaire.[59] The French troops had seen the large number of displaced persons and fleeing civilians and believed that, short of a cease-fire, the establishment of a safe zone was the only way to protect the Rwandan population.[60] On July 9, 1994, the French deployed troops to establish the safe humanitarian zone, which, although opposed by the RPF, was not directly challenged by them.[61]

Although the war ended in July, the problems resulting from the flight of hundreds of thousands of Rwandans continued. On July 19, 1994, the RPF declared victory and established a government of national unity.[62] Just prior to this declaration of victory and cease-fire, 1.5 million people had fled into Zaire, mostly Hutus, fearing reprisal from the Tutsi RPF.[63] Despite the assurance of the new Rwandan president that refugees in Zaire could safely return to Rwanda,[64] the refugee camps in Zaire remained full of Rwandans, inadequately supplied and ridden with disease.[65] The French Government took notice of

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55. *Id.*

56. U.N. & RWANDA, *supra* note 8, at 54-55.

57. *Id.* at 55.

58. *Aid Effort and Balladur Visit Underscore French Ties to Africa*, ASSOC. PRESS, Jul. 31, 1994, *available in* 1994 WL 10121428.

59. *Id.*

60. Letter from the Secretary-General, *United Nations*, to the President of the Security-Council, *United Nations* (July 2, 1994) transmitting a letter from the Permanent Representative of France to the United Nations (July1, 1994) concerning the establishment of a safe humanitarian zone in Rwanda, U.N. Doc. S/1994/798, July 6, 1994.

61. U.N. & RWANDA, *supra* note 8, at 73-74.

62. Jonathan C. Randal & Keith B. Richburg, *Rebels Declare Victory, Cease-Fire in Rwanda, Flood of Hutu Refugees Into Zaire Continues*, WASH. POST, July 19, 1994, at A1.

63. *Id.*

64. *Id.*

65. Keith B. Richburg, For Hutus, *Life Has Become a Death Trap; Refugees in Squalid Camps in Rwanda Fear Departure of French, Revenge by Tutsis*, WASH. POST,

the anguished situation and indicated that additional resources were needed not only in the safe zone, but also in Zaire to support fleeing Rwandans.[66]

In order to secure the safety of those in the zone, the need to implement UNAMIR II increased as the termination date of Operation Turquoise neared. On August 10, 1994, UNAMIR II finally deployed its troops in the safe zone and replaced the French on August 21, 1994.[67] The departure of the French troops resulted in only 70,000 more Rwandans fleeing from the safe zone into Zaire, a number less than ten percent of the 1.2 million in the zone at that time.[68]

Evidence of a planned genocide of the Tutsi minority mounted. The United Nations High Commissioner for Refugees (UNHCR) documented the "pattern of abuses" which occurred at the hands of various militia groups. The abuses included the torture, rape, and murder of hundreds of thousands of people. The Special Rapporteur of the Commission for Human Rights found that the killings had been "planned, systematic, and atrocious," instigated by the members of the former government to incite ethnic hatred. The Secretary-General labeled these actions as "genocide," and, in 1994, Security Council Resolution 955 eventually created an international tribunal for violation of international human rights law and genocide in Rwanda.

Severe health problems continued in the refugee camps, which remained filled beyond capacity.[69] As healthy, able refugees slowly returned home, the weak and feeble remained, facing threats and abuse at the hands of bandits and militia members.[70] A plan to secure the camps was implemented through a joint effort of the Zairian government, the UNHCR and UNAMIR II, which was ultimately extended until March 8, 1995.[71] Security Council Resolution 965 (1994) supported efforts to inform the Rwandan people by radio of this joint effort to secure the camps and of the humanitarian programs available to them.[72]

Meanwhile, the Secretary-General exposed violations of the arms

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Aug. 12, 1994, at A29.

66. Letter from the Office of the Permanent Mission of France to the Secretary-General, *United Nations* (Aug. 4, 1994). *See* U.N. Doc. S/1994/933 (1994).

67. Keith B. Richburg, *French Troops Withdraw from Rwanda Safe Zone; Zairian Officials Reopen Border to Refugees*, WASH. POST, Aug. 22, 1994, at A14.

68. Keith B. Richburg, *Rwanda's Feared Wave of Refugees Turns Out to Be a Trickle*, WASH. POST, Aug. 26, 1994, at A17.

69. Third report of the Secretary-General on security in the Rwandese refugee camps (noting heightened tensions). U.N. Doc. S/1995/304 (April 14, 1995) .

70. Keith B. Richburg, *Refugee Camp Violence is Imperiling Rwandans; Rival Factions in Zaire Form 'a Nasty Cocktail'*, WASH. POST, Sept. 28, 1994, at A25. *See also*, Keith B. Richburg, *Food Aid Failing to Reach Rwandans; Malnutrition Rises as Thugs Pilfer, Divert Camps' Supplies*, WASH. POST, Nov. 22, 1994, at A1.

71. U.N. & RWANDA, *supra* note 8, at 83-84.

72. U.N. SCOR, 49th Sess., 3743d mtg. at 2, U.N. Doc. S/RES/965 (1994).

embargo committed by members of the former government. Reports indicated that training of the former government forces was occurring in Zaire.[73] Although noting the need for measures insuring that Rwandan nationals did not participate in activities which would jeopardize the Rwandan government, Security Council Resolution 1011 lifted the arms embargo against Rwanda.[74] Apparently, the Security Council felt that, since the embargo was initiated in order to protect civilians, a supply of weapons would not threaten the well-being of civilians now that the government had stabilized.

Although UNAMIR II completed its withdrawal from Rwanda on April 19, 1996, the United Nations continued its involvement in Rwanda. Security Council Resolution 1053 requests that the Secretary-General maintain the Commission of Inquiry regarding the build up of arms in Rwanda and urges all States to prevent the further development of militia troops of the former Government of Rwanda.[75]

B. Somalia

In the early 1990's tragedy struck in Somalia. Famine, civil war and a devastated economy caused the death of at least 300,000 people.[76] The international community attempted to mitigate the problem, but found that outsiders could only do so much without the commitment of the various Somali factions.[77] As a result, the efforts of the United Nations and its agencies, though substantial, could not rebuild this devastated nation.

Civil war arose in Somalia after the United Somali Congress party overthrew President Mohammed Siad Barre in 1990. Once the United Somali Congress party (USC) had control, the dispute over who would succeed Mohammed Siad Barre led to a division in the party between two different factions.[78] General Aidid, from the Habr Gedir sub-clan, was elected chairman by the congress, while Ali Mahdi, from the Abgal sub-clan, was proclaimed as interim president.[79] The United Nations sent a mediator to Mogadishu to resolve the dispute, but General Aidid would not participate in any foreign mediation.[80] In addition, the problems were further exacerbated when the Somali National Movement (SNM) declared an independent Somaliland Republic in northern

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73. *Fighting Abates in Rwanda's Capital, but Clashes Expected to Resume*, Assoc. Press, May 8, 1994, *available in* 1994 WL 10135801.

74. U.N. SCOR, 50th Sess., 3566th mtg. at 3, U.N. Doc. S/RES/1011 (1995).

75. U.N. SCOR, 51st Sess., 3656th mtg. at 2, U.N. Doc. S/RES/1053 (1996).

76. U.N. & SOMALIA, *supra* note 8, at 3.

77. *Id.*

78. Keith B. Richburg, *Peace Effort in Somalia Meets Initial Failure; One Feuding Side Rebuffs U.N. Mediation*, WASH. POST, Jan. 4, 1992, at A18.

79. U.N. & SOMALIA, *supra* note 8, at 12.

80. *Id.*

Somalia.[81] Until independence in 1960, northern Somalia was a British protectorate, while southern Somalia was ruled by Italy.[82] The SNM felt that their interests were not adequately represented causing them to declare independence.[83]

The civil unrest, particularly in southern Somalia (which is the breadbasket of the country), destroyed the ability of Somalis to feed themselves.[84] Almost one-fifth of the entire population, 1.7 million people, fled after the fall of the government in 1990. This mass population movement interrupted food production, which combined with the destruction of farmland, irrigation systems, and livestock, set the stage for massive food shortages in the following years.[85] In addition, factions and bandits, viewing food as a source of power, prevented the distribution of food by non-governmental organizations and United Nations agencies.[86]

The Security Council approved the United Nations mission in Somalia (UNOSOM) to provide security for humanitarian providers and to monitor the cease-fire.[87] Additional United Nations agencies, non-governmental organizations, and other aid providers had attempted to continue humanitarian assistance in the war-torn country but faced increasing hostilities.[88] Although the factions agreed to a cease-fire on February 14, 1992, absent United Nations monitoring of the cease-fire, it did not appear that food stuffs and other essential supplies would reach the Somali people due to the continued hostilities.[89] To address this problem, UNOSOM placed 50 military observers and 500 lightly armed troops in Mogadishu to protect the security of relief personnel, equipment, and supplies.[90]

The United Nations, working with UNOSOM, launched a 90 Day Plan of Action to assist the desperate Somali people in April of 1992.[91] The civil war had resulted in the destruction of agricultural land, grain stores, water and sanitation systems, which compounded by a drought

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81. Keith B. Richburg, *Fall of African Dictatorships Fuels Separatist Feeling*, WASH. POST, Mar. 25, 1992, at A1.

82. *Id.*

83. U.N. & SOMALIA, *supra* note 8, at 12.

84. *Id.* at 13.

85. *Id.* at 14.

86. *Id.*

87. U.N. SCOR, 47th Sess., 3069th mtg. at 2, U.N. Doc. S/RES/751 (1992) [hereinafter S.C. Res. 751].

88. U.N. & SOMALIA, *supra* note 8, at 15.

89. Joint Communique issued at the conclusion of discussions between United Nations officials and representatives of the League of Arab States, the Organization of African Unity, and the Organization of the Islamic Conference with representatives of the Somali factions in Mogadishu (Feb. 14, 1992). U.N. Press Release IHA/434 (Feb. 14, 1992).

90. S.C. Res. 751, *supra* note 87.

91. U.N. Doc. S/23839/Add.1, April 21, 1992.

in northern Somalia, placed millions of lives in jeopardy.[92] The International Red Cross and the World Food Programme flew in 80,000 tons of food during the first half of 1992, significantly less than the estimated 30,000 tons per month needed in Somalia.[93]

As a result of increasing media coverage of the starving Somali people, nations from around the world mobilized with food and supplies, including the United States through Operation Provide Relief. Operation Provide Relief planned to supply 145,000 tons of food to Somalia.[94] In addition to the efforts put forth by various nations, the United Nations Security Council approved an airlift to the inland areas of Somalia.[95] In August of 1992, the 100 Day Action Programme was established to coordinate the efforts of various nations and agencies to deliver food and seeds, provide health care, clean water, and distribute materials for building shelters.[96] These efforts decreased the death rate in some areas. The efforts were limited, however, by the continued violence threatening relief workers and the looting of food supplies by gangs and bandits.

International efforts to further assist the people of Somalia were halted by the factions' opposition to these activities and suggested that achieving the mission's objective would be difficult. In August 1992, the Security Council increased the number of troops mandated under UNOSOM to 3,000.[97] General Aidid announced that he would respond to the deployment of additional troops with violence.[98] On November 12, 1992, General Aidid insisted that UNOSOM troops leave the Mogadishu airport and fired upon the troops when they failed to depart.[99] Also in early November the leader of the other faction, Ali Mahdi, threatened to fire upon any ship trying to dock at the Mogadishu port, believing that the supplies were aiding General Aidid.[100] In south-west Somalia militiamen who had supported the Former President Siad Barre took over Bardera, which essentially destroyed all progress the relief workers had previously made.[101] As a result of the factional fighting the humanitarian assistance did not reach those in need, re-

92. U.N. & SOMALIA, *supra* note 8, at 21.

93. *Id.* at 22.

94. Keith B. Richburg, *U.S. Begins Airlift for Starving Somali, Negotiations with Kenya Clear Way for Aid*, WASH POST, Aug. 22, 1992, at A18.

95. S.C. Res. 767, U.N. SCOR, 47th Sess., 3103st mtg., U.N. Doc. S/RES/767 (1992).

96. *100-Day Action Programme for Accelerated Humanitarian Assistance for Somalia* (excerpt, Oct. 6, 1992), *reprinted in* U.N. & SOMALIA, *supra* note 8, at 194. *See also*, Report of the Secretary-General on emergency assistance for humanitarian relief and the economic and social rehabilitation of Somalia, U.N. Doc. A/47/553, Oct. 22, 1992.

97. S.C. Res. 775, U.N. SCOR, 47th Sess.,775th mtg., U.N. Doc. S/RES/775 (1992).

98. U.N. & SOMALIA, *supra* note 8, at 28.

99. *Id.*

100. *Id.*

101. *Id.* at 28-29.

quiring a new plan by the international community.

The United Nations mandated the Unified Task Force (UNITAF) under Chapter VII of the Charter to use force to implement the distribution of humanitarian assistance under Resolution 794.[102] The Security Council authorized UNITAF to use "all necessary means" to establish a secure environment for humanitarian relief operations in Somalia.[103] The United States commanded this mission, referred to as "Operation Restore Hope." The nations supplying additional troops funded the mission.[104] The first troops were deployed on December 9, 1992 and swiftly took control over the famine-ridden areas of Somalia, finally implementing the objectives of the 100-Day Action Programme.[105]

Although the UNITAF objective was to provide food for the starving people of Somalia, early in the mission it became clear that food distribution alone was not enough.[106] Troops discovered that unless disarmed, bandits and thugs would steal food intended for others, forcing the UNITAF troops to confiscate weapons from the Somalis.[107] In addition, U.S. State Department officials had been facilitating "town meeting" discussions between community leaders to promote discourse between opposing sides. It was hoped that such talks could lay the foundation for future resolution of the political differences in Somalia.[108]

With security ensured by the UNITAF troops, United Nations agencies and non-governmental organizations undertook various activities in an attempt to rebuild Somalia. Efforts by UNICEF, the World Food Programme, and the World Health Organization (WHO) focused on providing nourishment and health care to the Somali.[109] Other organizations worked to rebuild agricultural production and livestock, through the distribution of supplies, tools, and the vaccination of the livestock.[110] In addition to these efforts, the United Nations and other agencies worked to reopen schools and to repair water sanitation systems.[111]

The mandate of UNITAF included attempting to reconcile and con-

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102. .S.C. Res. 794, U.N. SCOR, 47th Sess., 3145th mtg., at 7, U.N. Doc. S/RES/794 (1992).

103. *Id.*

104. Keith B. Richburg, *Broader U.S. Role Developing in Somalia, Americans Move Beyond "Narrow Focus" to Take on Some Tasks of Civil Rehabilitation*, WASH POST, Dec. 31, 1992, at A16.

105. U.N. & SOMALIA, *supra* note 8, at 34-35.

106. Richburg, *supra* note 104.

107. *Id.*

108. *Id.*

109. U.N. & SOMALIA, *supra* note 8, at 35.

110. *Id.* at 35-36.

111. *Id.* at 36.

clude the conflict in Somalia. Talks were held in Addis Ababa in January of 1993, between leaders of the different factions. These talks resulted in the Addis Ababa agreements which included among other provisions a cease-fire, an agreement to disarm and hand over heavy weaponry, and the establishment of a monitoring body to oversee these activities.[112] Nonetheless, one of the rival factions within the Somali Patriotic Movement violated the cease-fire provision by moving troops into Kismayo in February of that same year.[113]

The Security Council mandated a United Nations led mission, UNOSOM II, to take over upon the completion of UNITAF.[114] UNOSOM II took over for UNITAF on May 5, 1993.[115] UNOSOM II, like UNITAF, permits the troops both to defend themselves and to use force offensively when disarming.[116] Although the United States command ended with the completion of the UNITAF mission, over 3,000 United States troops remained in Somalia to serve under United Nations command.[117]

While UNITAF sought to relieve the starving and to avoid entanglement in the political problems of Somalia,[118] UNOSOM II intended to participate in a broader range of activities. UNOSOM II was mandated to rebuild the economy, to reinstate political institutions (including law enforcement), and to promote national reconciliation.[119] Not surprisingly various factions opposed this outside interference, however well intended, who viewed particular policy choices as biased.[120] Unfortunately, opposition was not only expressed through words but also through the use of force.

Despite efforts to deter violence against the Blue Helmets, Somali factions continued to attack. After the death of 24 Pakistani peacekeepers in June of 1993, the Security Council approved Resolution 837 which reaffirmed that "all necessary measures" could be employed against those who attack UNOSOM II forces.[121] UNOSOM II forces tried to disarm the factions. This created additional fighting between the United Somali Congress/Somali National Alliance faction and

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112. *Id.* at 38.

113. *Report of the Commission of Inquiry established pursuant to resolution 883* (1993) (investigating armed attacks on UNOSOM II personnel). U.N. Doc. A/1994/653 (1994).

114. S.C. Res. 814, U.N. SCOR, 48th Sess., 3188th mtg., U.N. Doc. S/RES/814 (1993) [hereinafter S.C. Res. 814].

115. Keith B. Richburg, *U.N. Takes Command of Troops in Somalia,* WASH POST, May 5, 1993, at A23.

116. *Id.*

117. *Id.*

118. *Id.*

119. S.C. Res. 814, *supra* note 114.

120. U.N. & SOMALIA, *supra* note 8, at 49.

121. S.C. Res. 837, U.N. SCOR, 48th Sess.,3229th mtg., U.N. Doc. S/RES/837 (1993).

UNOSOM II, and caused additional civilian casualties.[122]

The pursuit of General Aidid, who led the USC/SNA faction, contributed to the decreasing support for the mission in Somalia. On June 17, 1993, Admiral Howe, the Special Representative for Somalia, issued a warrant for the arrest of General Aidid because of the attacks against UNOSOM II forces. On July 12, United States led United Nations forces in attacking a suspected meeting place of Aidid, killing several of his advisors.[123] The United Nations' legal department criticized the attack as an "unnecessary hostility."[124] These differing views on how to handle the situation in Somalia, along with the death of United States soldiers in October of 1993, set the stage for the departure of the United States troops on March 26, 1994.[125]

After the United States and other European troops pulled out, the United Nations mission unsuccessfully switched to a peaceful approach in Somalia.[126] In August of 1994, peacekeeping soldiers from India were killed on several occasions.[127] In addition, efforts for national reconciliation continued to fail and violence increased throughout the country.[128] Realizing that peace cannot be forced upon a nation, the last United Nations troops left Somalia on March 3, 1994.[129]

IV. LESSONS FROM RWANDA AND SOMALIA

A. Can reliance upon regional and international institutions rather than the unilateral action of individual states prevent threats to international peace and security?

Since unilateral intervention did not occur in Rwanda or Somalia, comparing it to intervention by regional or international bodies is impossible. In both situations, the United Nations authorized the use of force to prevent a threat to international peace and security. However,

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122. *Report of the Secretary-General on the implementation of Security Council Resolution 837.* U.N. Doc. S/26022 (1993).

123. Keith B. Richburg, *U.N. Report Criticizes Military Tactics of Somalia Peace-Keepers*, WASH POST, Aug. 5, 1993, at A22.

124. *Id.*

125. Keith B. Richburg, *U.S. Completes Pullout from Somalia*, WASH POST, March 26, 1994, at A1.

126. Keith B. Richburg, *Indians Girding Down for Gentler Somalia Mission, Major Remaining U.N. Contingent Emphasizes Third World Affinity*, WASH POST, Feb. 19, 1994, at A18.

127. Statement by the President of the Security Council (concerning an attack on United Nations peace-keepers and the killing of seven Indian soldiers near Baidoa on 22 August 1994). U.N. Doc. S/PRST/1994/46, Aug. 25, 1994.

128. Keith B. Richburg, *Africa in Agony, Somalia Slips Back into Bloodshed, Anarchy, Death Toll Grow as U.N. Mission Winds Down*, WASH POST, Sept. 4, 1994, at A1.

129. U.N. & SOMALIA, *supra* note 8, at 77.

the extent to which this intervention prevented the spread of violence beyond the borders of Somalia and Rwanda, respectively, cannot be accurately gauged based on these two case studies.

B. Whether the questions presented in Nafziger's second article were answered by the events which occurred in Somalia and Rwanda?

The questions raised by Nafziger focus on the scope of the Security Council's power and the scope of any individual nation's power regarding humanitarian intervention. In both Somalia and Rwanda, the Security Council was essentially unrestricted in implementing humanitarian intervention, other than through the veto power of the Council's members. States' consent may limit the discretion of the Security Council, however, in a case where no government exists, obviously this will not be a consideration. As a result, the Security Council is only limited by their inability to convince its members that the reason for humanitarian intervention meets the requirements under the United Nations charter for the use of force.

The ability to unilaterally intervene has also not been more clearly defined in either of these cases. As articulated in sub-section A, unilateral intervention was not proposed, but in Rwanda, France did decide to intervene prior to approval by the United Nations. This suggests that unilateral intervention may be permitted. On the other hand, the seemingly unilateral action of the United States in pursuing General Aidid faced criticism from the international community. Whether disapproval from the international community acts as a prohibition against the act in question depends on the policy of the acting state.

Finally, the answer to whether the Security Council qualifies as a "bully in a multilateral disguise" will depend entirely on the individual to whom the inquiry is directed. The dictator of a country who faces opposition from an international offensive may argue that it is. On the other hand, the innocent people seeking food, supplies, and security would disagree with that characterization of the Security Council. This question will certainly continue to be debated for many years to come.

V. CONCLUSION

The events in Rwanda and Somalia exhibit the effect that international missions can have through humanitarian intervention. These case studies demonstrate that despite the efforts of the international community, without efforts on the part of the suffering nation permanent change will not last. In addition, the situations in Rwanda and Somalia teach us that simply delivering food and hastily retreating does not cure the problem or make a nation self-sufficient. No easy answers exist in situations where dictators use long standing tribal conflicts to

artificially divide the country and create public contempt for one particular faction . Nafziger raises many thought-provoking issues in regard to humanitarian intervention in the new community of power. Unfortunately, the answers to these difficult questions tend to elude us. The only certainty exists in the fact that these situations will continue to arise, and the international community will have to struggle collectively in finding acceptable and long-lasting solutions.