LIBERIA: THE CASE FOR CHANGING U.N. PROCESSES FOR HUMANITARIAN INTERVENTIONS

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Liberia has been wracked by war for decades. Its tumultuous history of factional fighting culminated in 1989 when a rebel group led by Charles Taylor took over the government.[1] War spread throughout the country as various rebel groups splintered and fought each other.[2] In 1993, a joint U.N. and regional peacekeeping intervention in Liberia failed to end the factional fighting or establish a viable governing structure.[3] This initial involvement of a regional coalition appeared to indicate an expanding role for regional organizations in international peacekeeping efforts; however, it also exhibited a flawed U.N framework for collective action and intervention in humanitarian crises. On October 1, 2003, U.N. troops took command over a West African force in Liberia,[4] attempting for a second time to stabilize and rebuild the country.

The first collaborative effort in Liberia yielded several lessons for the U.N. in peacekeeping interventions. First, although collaboration with a regional organization can be advantageous, it caused more problems than it resolved in the 1990s intervention. Regional ethnic allegiances and politics undermined the peacekeeping effort.[5] The U.N. needs to be the unquestioned leader of an intervention. To rebuild Liberia with the current mission, the U.N. must make use of regional help yet also successfully lead and coordinate military, diplomatic and political offices. In addition, lines of authority must be clarified to prevent undermining U.N. authority.

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* J.D., University of Wisconsin, May 2005.

[1] Microsoft Encarta Online Encyclopedia 2003, Liberia, *at* http://encarta.msn.com/ecyclopedia_76156772/Liberia.html (last visited May 25, 2005) [hereinafter Encarta Online].

[2] *Id.*

[3] *Id.*

[4] *See Welcome Progress in Liberia,* THE JAPANESE TIMES, Aug. 8, 2003, *at* www.japantimes.co.jp/cgi-bin/getarticle.pl?ed20030808a1.htm.

[5] *See generally* Binaifer Nowrojee, *Joining Forces: United Nations And Regional Peacekeeping – Lessons From Liberia,* 8 HARV. HUM. RTS. J. 129 (1995).

Second, internal peacekeeping missions are best justified for humanitarian purposes. Where war atrocities are widespread, as in Liberia, reconstruction and rehabilitation must be implemented to effectively end the fighting. Any transition must include a formal human rights mechanism to punish violators and deter future abuses. The Transitional Government of 1994 included individuals known to have committed atrocities and provided blanket amnesty for acts committed during military engagements.[6] These mistakes must not be repeated if the current mission is to succeed.

Finally, and most importantly, the U.N. needs to reassess its place in the post-Cold War world where "international peace" is most affected by internal humanitarian crises. The U.N. has been redefining its role in light of changes in the world. It must continue that effort and strengthen its position as a world peace leader. To maintain member nation support, it must formulate a clear mandate of the peacekeeping process. The underlying concept of the U.N. is that international cooperation is good for all,[7] and in order to maintain legitimacy and crucial member political support and funding, peacekeeping missions including the operation in Liberia must follow a clear and consistent procedure.

I.   BRIEF HISTORY OF LIBERIA

A.   TRACING THE ESTABLISHMENT OF LIBERIA AND THE PROBLEMS UNDERLYING THE 1989 OUTBREAK OF CIVIL WAR.

The state of Liberia began as an American colony for freed slaves at the beginning of the nineteenth century.[8] Although the

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[6] *Id.* at 139.

[7] U.N. CHARTER pmbl. pledges, in relevant part:

> WE THE PEOPLES OF THE UNITED NATIONS . . . to save succeeding generations from the scourge of war, . . . to reaffirm faith in fundamental human rights, . . . AND FOR THESE ENDS . . . to unite our strength to maintain international peace and security . . . HAVE RESOLVED TO COMBINE OUR EFFORTS TO ACCOMPLISH THESE AIMS.

> *Id.*

[8] Levi Woodward, *Taylor's Liberia and the U.N.'s Involvement,* 19 N.Y.L. SCH. J. HUM. RTS. 923, 923–24 (2003).

state was self-sufficient by 1841,[9] problems abounded, from hostilities between the Americo-Liberian communities and indigenous tribes to the refusal of European states to recognize Liberian jurisdiction over the interior.[10] United States' support finally led to agreements establishing the current borders in 1911.[11]

Troubles continued however, especially because of Americo-Liberians' political monopoly until 1980.[12] The League of Nations investigated charges of slavery and forced labor in 1929, concluding that government officials profited from indigenous peoples' forced labor.[13] Decades of political and social unrest followed, as Americo-Liberians kept a firm grip on the government.[14] A coup in 1980 led Samuel Doe, the first indigenous leader, to power.[15] Doe proved to be equally discriminatory, using his power to promote his Krahn tribesmen and brutalize all other ethnic groups.[16]

In 1989, decades of tribal animosities and conflicts and the recurring abuse of power by ruling elites erupted in an uprising by Charles Taylor's National Patriotic Front of Liberia (NPFL).[17] Taylor, an Americo-Liberian descendant, fostered allegiances with oppressed ethnic groups and quickly took control of most of Liberia.[18] Soon only parts of the capital, Monrovia, remained

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[9] *Id.* at 924.

[10] Encarta Online, *supra* note 1.

[11] *Id.*

[12] Jamie O'Connell, *Here Meets Humanity: How to End the War and Support Reconstruction in Liberia, and the Case for Modest American Leadership,* 17 HARV. HUM. RTS. J. 207, 210 (2004).

[13] Library of Congress, History of Liberia: A Time Line, *available at* http://memory. loc.gov/ammem/gmdhtml/libhtml/liberia.html [hereinafter Library of Congress] (last visited May 31, 2005).

[14] Encarta Online, *supra* note 1.

[15] O'Connell, *supra* note 12, at 210–11.

[16] *Id.* at 211. Doe "systematically promoted Krahn from selected clans to sensitive posts in the government and army. Doe made his political rivalries ethnic: when he purged military rivals, he also brutalized civilians from the same ethnic groups."

[17] Woodward, *supra* note 8, at 926.

[18] Ved P. Nanda et al., *Tragedies in Somalia, Yugoslavia, Haiti, Rwanda and Liberia – Revisiting the Validity of Humanitarian Intervention Under International Law – Part II*, 26 DENV. J. INT'L L. & POL'Y 827, 852 (1998).

under the control of Doe's acting government.[19] Taylor's soldiers fought forces of the government and its Krahn allies; all sides committed human atrocities.[20]

The three best candidates for international involvement declined to intervene in the conflict in 1989, leaving only a subregional group to act. The U.N. Security Council ignored the Liberian representative's appeal.[21] The U.S. insisted that "the resolution of this civil war is a Liberian responsibility."[22] The Organization of African Unity (OAU) rejected involvement, citing the principle of non-intervention.[23] The only one to take action was a sub-regional group, the Economic Community of West African States (ECOWAS), which announced it was launching a "humanitarian intervention."[24]

B. ECOWAS' INTERVENTION

The U.N. Charter prohibits the unilateral use of force by states or regional organizations.[25] Chapter VII, Article 39 expressly states that the Security Council alone determines whether there has been a threat to the peace, and if so what measures to take.[26] However, Articles 51 and 52 provide loopholes, invoking the right of collective self-defense when triggered by the victim

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[19] *Id.*

[20] *Id.* Current discussions for humanitarian funding indicate the humanitarian abuses suffered by Liberian civilians for years: resettlement of refugees; reintegration of former combatants; especially child soldiers; community revitalization and providing basic social services; reconstructing police and judicial structures; establishing an independent media; military reform; and forest sector rehabilitation. *See also Improved Security in Liberia Heralds More Support for Development Funding*, ALLAFRICA, INC., Jan. 13, 2004.

[21] Matthew S. Barton, *ECOWAS and West African Security: The New Regionalism,* 4 DEPAUL INT'L L.J. 79, 95 (2000) (citing David Wippman, *Enforcing the Peace: ECOWAS and the Liberian Civil War, in* ENFORCING RESTRAINT: COLLECTIVE INTERVENTION IN INTERNAL CONFLICTS 157 (1991)).

[22] Barton, *supra* note 21, at 105.

[23] Nanda et al., *supra* note 18, at 852–53.

[24] *Id.* at 853. *See also ECOWAS to Dispatch Intervention Force to Liberia*, XINHUA GENERAL OVERSEAS NEWS SERVICE, Aug. 7, 1990.

[25] U.N. CHARTER art. 2, para. 4. "All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purpose of the United Nations."

[26] *Id*. art. 39.

state's invitation and authorizing regional involvement in enforcement actions.[27] Regional involvement, however, must be preceded by Security Council authorization.[28]

Debate abounds over the effectiveness and parameters of the Charter provisions, especially as they relate to humanitarian interventions.[29] "In the absence of a self-defense rationale, the practice of states suggests that multilateral interventions, unlike unilateral ones, still fall within the spirit of the current Charter rules. Alternatively, states have advanced humanitarian excuses or the threat posed by regional instability as legitimate justifications for intervention."[30]

In August 1990, ECOWAS cited humanitarian abuses and regional instability to justify its intervention in Liberia's civil war, despite the protests of Taylor and the NPFL.[31] ECOWAS' action indicated a shift away from the practice of acquiring prior approval by the U.N. before such unilateral action.[32]

Although the U.N. Charter provides little basis for ECOWAS' unilateral action, the U.N. commended its efforts and

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[27] *Id*. art. 51. "Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security." *Id.* art. 52:

> Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided that such arrangements or agencies and their activities are consistent with the Purposes and Principles of the United Nations.

Id.

[28] *Id.* art. 53, para. 1.

[29] John D. Becker, *The Continuing Relevance of Article 2(4): A Consideration of the Status of the U.N. Charter's Limitations on the Use of Force,* 32 DENV. J. INT'L L. & POL'Y 583, 584 (2004).

[30] Eleanor Lumsden, *An Uneasy Peace: Multilateral Military Intervention in Civil Wars,* 35 N.Y.U. J. INT'L L. & POL. 795, 800 (2003).

[31] Kofi Oteng Kufuor, *Recent Development: Developments in the Resolution of the Liberian Conflict,* 10 AM. U. J. INT'L L. & POL'Y 373, 374 (1994).

[32] Jeremy Levitt, *Humanitarian Intervention by Regional Actors in Internal Conflicts: and The Cases of ECOWAS in Liberia and Sierra Leone,* 12 TEMP. INT'L & COMP. L.J. 333, 334 (1998) (citing David Wippman, *Change Continuity in Legal Justifications for Military Intervention in Internal Conflicts*, 27 COLUM. HUM. RTS. L. REV. 425, 446 (1995–96)).

ten months later adopted Resolution 866, creating a U.N. Ob-server Mission in Liberia (UNOMIL).[33] It stated that this was "the first peace-keeping mission undertaken by the United Na-tions in cooperation with a peace-keeping mission already set up by another organization, in this case ECOWAS."[34] An apparent partnership was born. However, ECOWAS' involvement was troubled from the start.

Taylor's troops tried to prevent the landing of the U.N.-backed ECOWAS Cease-Fire Monitoring Group (ECOMOG) forces in 1990 and declared war on them soon after.[35] The chaos in Liberia continued as splits occurred on all fronts—among the rebel groups, inside the ECOWAS organization, and among the international actors. In addition, Taylor and several African states opposed Nigeria's dominant role in ECOWAS; Nigerian troops made up the majority of ECOMOG forces, and its goal seemed to many to be regional hegemony rather than peace in Liberia.[36] The first attempts to broker peace and establish an in-terim government failed for lack of NPFL support. Although it was included in the first interim government, the NPFL refused to participate because it had been excluded from the executive branch.[37] It also distrusted ECOMOG forces, which did not in-clude soldiers from states that the NPFL trusted.[38]

Splits among ECOWAS members and between interested states, such as France and the U.S., hurt organization and en-forcement. When ECOWAS announced its intervention in Au-gust 1990, the U.S. government reportedly privately supported the action, while France openly opposed the initiative.[39] Pressure on the U.S. to intervene was great even before ECOWAS' action.

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[33] Levitt, *supra* note 32, at 347.

[34] *The United Nations and the Situation in Liberia*, U.N. SCOR, 52nd Sess., at 35, U.N.Doc. [ST/] DPI/1668 (1997).

[35] Nanda et al., *supra* note 18, at 856–57.

[36] Luca Renda, *Ending Civil Wars: The Case of Liberia*, 23 Fletcher F. World Aff. 59, 69–70 (1999).

[37] Kufuor, *supra* note 31, at 379.

[38] *Id.* at 380.

[39] Nanda et al., *supra* note 18, at 853 (citing Michael Knipe, *West African States May Send troops Into Liberia*, The Times, July 6, 1990); *France Backs Liberia Inter-vention Force*, Xinhua General Overseas News Service, Aug. 3, 1990.

Reports of civilian casualties grew,[40] and many shared Taylor's belief that the U.S. was partially to blame for its support of former President Samuel Doe because the U.S. had given substantial aid to Doe during his 1980s tenure.[41]

After ECOWAS' launch, France aligned with Francophone countries, including Senegal and Burkina Faso, in opposition.[42] It denied allegations that it was supplying Taylor's rebels with arms through the Ivory Coast and Burkina Faso.[43] The indirect involvement of both France and the U.S. continued throughout the 1990s ECOWAS-U.N. Liberia intervention.

Splintering and shifting alliances among the rebel groups and ECOWAS members increased confusion and caused fighting on many fronts.[44] A rebel group allegedly allied with ECOMOG ambushed and killed the ousted President Doe, whose repressive regime had inspired Taylor's uprising, in September 1990.[45] Aid organizations could not support the half-million Liberian refugees and tens of thousands of displaced, sick, and starving civilians.[46] A cease-fire lasted twenty months,[47] but in November 1992, the U.N. ended its deferral to ECOWAS when renewed fighting caused more ECOWAS member states to oppose the intervention. The Security Council passed a resolution imposing an arms embargo on the rebel factions in Liberia and authorized a fact-finding mission to evaluate the situation.[48]

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[40] Nanda et al., *supra* note 18, at 854 (citing *Pope Urges Liberia's Allies to Help End Civil War*, REUTERS, BC cycle, Aug. 1, 1990). Up to 600 civilians taking shelter in a church in Monrovia were reported to have been killed by government troops.

[41] *See id.* at 854 (citing Gill Tudor, *Rebel Leader Vows to Resist Foreign Intervention in Liberia*, REUTERS, AM cycle, Aug. 3, 1990). *See also* O'Connell, *supra* note 12, at 211. "Much of the $300 million Doe reportedly embezzled was U.S. government aid, which totaled $500 million between 1980 and 1985, a third of the national budget. When Doe brazenly stole an election in 1985, the State Department defended him."

[42] Nanda et al., *supra* note 18, at 857.

[43] *Id.* (citing *Nigeria Warns Against French Involvement in Liberian Crisis*, XINHUA GENERAL OVERSEAS NEWS SERVICE, Sept. 9, 1990).

[44] O'Connell, *supra* note 12, at 213. "Alliances came and went, and fighters, arms, and money flowed between Sierra Leone and Liberia." *Id*.

[45] Nanda et al., *supra* note 18, at 858.

[46] *Id.* at 859.

[47] *Id.* at 860.

[48] *Id.*

By supporting the ECOWAS mission, the U.N. created a precedent for regional action, by which regional organizations may intervene in internal conflicts without prior approval of the Security Council.[49] The ad hoc relationship between the U.N. and ECOWAS resulted in at least four shaky peace agreements before one held.[50] The ECOMOG forces arguably did more harm than good, as claimed by U.N. consultant Luca Renda:

> ECOMOG failed to satisfy the main requirements for a successful conflict resolution effort. In terms of timeliness, the intervention was launched when the conflict was not ripe for resolution. As a peacekeeping mission, it was ill conceived because there was no peace to keep, and it lacked the consent of a major faction, [Taylor's] NPFL. As a peace enforcement operation, it was ill equipped to impose a unilateral solution to the conflict. Problems of internal consensus affected the coordination among ECOWAS countries, which were driven by strategic and economic interests. Finally, because of its controversial relations with the warring factions, ECOMOG failed to establish a climate of trust among the factions.[51]

Instead of overseeing the troubled African coalition, the U.N. deferred to ECOWAS, supporting the flawed mission without question for two years. It set a dangerous precedent of allowing unilateral regional action. Once the U.N. finally stepped in to lead the peacekeeping in Liberia, its authority had already been undermined by the years of turmoil during which it had deferred to ECOWAS. It took until 1996-97 for UNOMIL and ECOMOG to jointly manage the disarmament and demobilization of fighters in conjunction with a Liberian transitional government.[52] National elections finally took place in March 1997, marking an end to the 1990s intervention.[53] Yet Liberia remains

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[49] Barton, *supra* note 21, at 97.

[50] Nanda et al., *supra* note 18, at 861. The Cotonou Agreement was signed in the summer of 1993 but failed shortly thereafter. The 1994 Akosombo Agreement also failed, and finally the Abuja Agreement of 1995 held until renewed fighting broke out in April 1996. A negotiated revision of the Abuja Accord led to partial disarmament and national elections in 1997.

[51] Renda, *supra* note 36, at 71–72.

[52] *Id.* at 72.

[53] Barton, *supra* note 21, at 97–98.

unstable almost a decade later, providing an example of the flawed U.N. process for international peacekeeping.

II. WHY THE 1990 INTERVENTION IN LIBERIA WAS UNSUCCESSFUL, AND MISTAKES TO AVOID IN THE CURRENT INTERVENTION

Charles Taylor's 1989 coup, and the subsequent international reaction to it, could have finally set Liberia on a path to stability. For the first time since its inception, someone took notice of the troubled country and attempted to break the cycle of corrupt leadership. ECOWAS deserves credit for taking the initiative and forcing the U.N. to acknowledge the humanitarian chaos into which Liberia had descended. However, the joint intervention failed to effect positive change because the U.N. stepped in too late, the U.N. misunderstood the basis of the conflict and the goals of Taylor and other involved states, and it could not overcome ECOWAS' transparent self-interest.

Charles Taylor's inauguration as President of Liberia in August of 1997[54] could also have been a decisive moment in the stabilization of Liberia. The intervention seemed to have notched a small success; the election was the first step in possible lasting peace and security. Questions about the "free" elections soured that victory, with reports that Taylor's former NPLF combatants had intimidated and threatened civilians and refugees.[55] The U.N. failed to investigate despite protests by thirteen political parties.[56] Furthermore, human rights abuses persisted under Taylor's and ECOMOG's watch, without U.N. intervention.[57]

Taylor's presidency did not, in fact, stabilize the country. "Taylor ruled Liberia as a personal fiefdom, continuing his natural resource extraction business and diverting the state's minimal resources, mainly revenue from its international registry of ships. Paramilitary security forces repressed opponents as the country's

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[54] *See id.*

[55] Woodward, *supra* note 8, at 931.

[56] *Id.*

[57] *Id*. *See also* Amnesty International, Annual Report 1998: Africa: Liberia, *at* http://www.amnesty.org/ailib/aireport/ar98/afr34.htm (last visited May 31, 2005).

economic condition grew more and more desperate."[58] His cor-
rupt regime continued his fight against targeted ethnic groups. It
also caused trouble in bordering states; for example, Guinea ac-
cused President Taylor of supporting insurrection and supplying
rebels in that bordering country.[59] In addition, a U.N. Report
from December 2002 found that Liberia was providing military
training and weapons to Sierra Leone's rebel forces in exchange
for Sierra Leone diamonds being trafficked back to Liberia.[60] Fi-
nally, rebel uprisings continued within Liberia, including an inva-
sion from neighboring Guinea by exiled Liberians calling
themselves Liberians United for Reconciliation and Democracy
(LURD) whose sole objective was to remove President Taylor.[61]

A. U.N. Strategic Errors

The U.N. intervened again in 2003 to stop renewed internal
fighting in Liberia. Its first attempt, begun in 1992, failed for lack
of timeliness, strategy and coordination, and implementation.
The U.N. had waited too long to step in. It deferred to
ECOMOG for two years,[62] ascribing to the notion that regional
organizations can better mediate internal conflicts. From the be-
ginning, however, it was clear that ECOWAS was not a neutral
actor in the dispute. Its member states arguably had motives be-
sides peace in Liberia. This was borne out when they became

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[58] O'Connell, *supra* note 12, at 216 (citing International Crisis Group, Liberia:
The Key to Ending Regional Instability 1–2 (2002)); Human Rights
Watch, Sierra Leone: Getting away with Murder, Mutilation, and
Rape (1999).

[59] Woodward, *supra* note 8, at 931.

[60] *See Report of the Panel of Experts Appointed Pursuant to Security Council Reso-
lution 1306, in Relation to Sierra Leone*, ¶ 19, U.N. Doc. S/2000/1195 (2000). *See
also* O'Connell, *supra* note 12, at 231: "In March 1991 NPFL units joined guerril-
las calling themselves the Revolutionary United Front (RUF) and invaded Sierra
Leone, expanding the war."

[61] *Back to the Brink: War Crimes by Liberian Government and Rebels: A Call to the
Greater International Attention to Liberia and the Sub Region*, 14 Hum. Rts.
Watch. 2, 7–8 (2002).

[62] Renda, *supra* note 36, at 72. U.N. direct involvement in the Liberian crisis began
only in 1993.

combatants in the conflict, committing the same human rights abuses as many of the warring factions.[63]

The U.N. did not coordinate its intervention well with that already in place by ECOMOG.[64] The U.N. needed to step in and generate trust among the parties—including ECOMOG, which had essentially become another warring faction. The U.N. should have been a neutral overseer rather than deferring to the existing ECOMOG hierarchy.

Finally, the U.N. and ECOMOG failed to remain engaged in the implementation of an effective peace agreement and reconstruction of Liberia.[65] Multiple cease-fire agreements failed, and the last negotiated agreement was not essentially self-enforcing. The lack of enforcement mechanisms resulted in a lack of support from necessary parties.[66] The election was suspect, and Taylor's resulting regime left much to be desired in the line of a successful, peaceful resolution.

B. Three Flawed Assumptions: Basis of the Conflict, Goals of Taylor, Involvement of International Actors

To understand the roots of the Liberian conflict, one must recognize the exceptional power conferred on the president by the Liberian Constitution and the important role of ethnicity in Liberian politics.[67] Foreigners have always controlled a majority

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[63] *Id.* at 69–70 (citing M.A. Sesay, *Civil War and Collective Intervention in Liberia*, 23 Rev. Afr. Pol. Econ. 46 (1996)). ECOMOG was severely criticized for killing civilians, attacking relief convoys, and violating Ivorian territory. ECOMOG officers constantly engaged in illegal trafficking of looted goods with the factions through controlled ports and airfields.

[64] "[The United Nationas Observer Mission in Liberia (UNOMIL). . .] was poorly organized, largely duplicative of ECOMOG and ineffective as either a peacekeeping or peacemaking mission because the command structure had little authority to achieve subordination of the fighting military factions." Danette Zaghari-Mask et al., *The United Nations and Humanitarian Intervention: Building Legitimacy by Confronting Our Past – An Open Letter,* 16 Fla. J. Int'l L. 483 (2004).

[65] Renda, *supra* note 36, at 61.

[66] *Id.*

[67] *Id.* at 64.

of the Liberian economy, leaving the government as the only instrument for channeling and distributing wealth.[68] President Doe, who came to power via a bloody coup in 1980, took advantage of his powers of executive appointment to benefit his ethnic tribe, discriminating against and repressing the others.[69] Once elected, Taylor did the same thing.[70] Any true reconstruction of Liberia must include a revision of the constitution to implement checks on presidential power to end this cycle of corruption and violence.

While ethnic tension could explain the revolution led by Taylor, evidence suggests it was neither solely an attempt by the Americo-Liberians, from whom Taylor is descended, to regain control, nor was it a reaction of the repressed Gio and Mano tribes who made up most of Taylor's initial forces.[71] Taylor simply took advantage of the opportunity to seize power, killing any challengers to his leadership.[72] The primary goal of Taylor, as well as that of the other warlords, was "'to engage in profitable crime under the cover of warfare.'"[73]

The constantly changing allegiances and splintering of factions supports the conclusion that ethnicity was simply a "dependent variable exploited by the faction leaders to achieve personal goals."[74] In the 1990s, the U.N misunderstood the role of ethnicity, which led to the failure of its intervention. To succeed this time, the U.N. must properly weigh and account for the ethnic conflicts. More importantly, it must address the true causes of the war: failed state institutions and economic misery.[75] A successful Liberian government must include representation for all peoples, whether or not tribally affiliated. It must develop strong

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[68] *Id.*

[69] *Id.*

[70] Woodward, *supra* note 8, at 926–27. Samuel Doe's military consisted of his native Krahn tribesmen. Taylor's revolution was successful in part because it was joined by the Gio and Mano, ethnic tribes Doe's forces had oppressed.

[71] Renda, *supra* note 36, at 64–65.

[72] *Id.* at 65.

[73] O'Connell, *supra* note 12, at 214 (citing Ian Smillie et al., *The Heart of the Matter: Sierra Leone, Diamonds, and Human Security* 48 (2000), *available at* http://www.pacweb.org/e/pdf/heart%20of%20the%20matter.doc (last visited May 31, 2005)).

[74] Renda, *supra* note 36, at 65.

[75] O'Connell, *supra* note 12, at 218.

economic institutions and prevent the criminal plundering of the country. Only then can the conflict be peacefully resolved.

Furthermore, the U.N. must also take proper account of international actors. Different state interests played an important role in triggering and sustaining the conflicts. Throughout the 1990s, there was behind-the-scenes support for Taylor from such neighbors as the Ivory Coast (from which Taylor launched his attack), Libya, and Burkina Faso.[76] In addition, the U.S. influenced Liberia through its significant investments there and used its relationship to secure military bases in exchange for aid.[77] Yet when called upon to intervene, it refused. Therefore, the political climate surrounding all members of the U.N. and those directly involved in Liberia will be an important factor in a final, lasting resolution. U.N. leaders must recognize this influence and effectively channel it to create a stable Liberia.

C. PROBLEMS WITH ECOWAS

The ECOWAS intervention seemed to signal acceptance of regional organizations unilaterally intervening in internal state conflicts. Whether its actions reflect the establishment of a new customary international law or the apparent elimination of the need for prior U.N. approval, however, ECOWAS' role in Liberia also offers valid arguments against such unilateral action. The lack of internal consensus within ECOWAS influenced the course of the operation from the beginning and undermined most of the peace accords.[78] Members suspected Nigeria of using the conflict as an opportunity to reinforce its regional hegemony. Taylor also doubted ECOMOG's neutrality.[79]

Although ECOMOG's intervention eventually helped to stop the fighting, it also caused many more casualties than if Taylor had simply seized power within a year (as he surely would have without intervention). From its start in 1990 to the end of the war in 1997, ECOMOG contributed to an estimated rise in

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[76] Renda, *supra* note 36, at 66.

[77] *Id.* at 67.

[78] *Id.* at 68.

[79] *Id.* at 69. *See also* Nanda et al., *supra* note 18, at 853: "One reporter proposed that the initiative was undertaken because 'none of the member states likes the idea of a fellow West African government coming to power as a result of civil war.'"

casualties from 4,000 to more than 150,000, and a tally of over one million displaced persons.[80] Ultimately, the intervention did not prevent Taylor's eventual election.

ECOMOG's shifting alliances with various rebel groups added to the confusion and multi-faceted fighting. Its commanders and soldiers committed human rights abuses, and engaged in the illegal trafficking of looted goods.[81] Military and economic cooperation and dissolution between ECOMOG and rebel factions undermined ECOMOG's credibility to facilitate a resolution, especially in the disarmament process.[82] The involvement of regional actors can be valuable in stabilizing a country such as Liberia. ECOWAS' 1990s intervention, however, stands as evidence against allowing such unilateral action.

III.   The Final Lesson from Liberia – the U.N.'s Future Role as an International Peacekeeper

Liberia is just one of the lesser-known humanitarian atrocities of the past decade.[83] It presents a great focal point for a re-evaluation of the U.N., because Liberia, like international law and related enforcement and regulatory issues, is very much in flux at the moment. The U.N. was founded as an instrument to foster international peace, but has had to adapt to the post-Cold War world. Standing in place of the Great Power conflicts of the past are "internal conflicts fueled by political, ethnic, religious, and economic antagonisms no longer contained by Cold War politics. Moreover, the casualties of these conflicts are predominantly civilian noncombatants."[84] The failure of the first U.N.

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[80] *Id.* at 67.

[81] Barton, *supra* note 21, at 107–09. "[T]he ECOMOG presence in Liberia has led to the systematic looting of the Liberian infrastructure." The lack of political consensus among ECOWAS members led to poorly coordinated exercises and operational failures. "During the Liberian conflict, [Taylor's] NPFL frequently singled out the Nigerian troops for attack, exploiting divisions between ECOMOG national contingents." The fierce fighting between the ECOWAS forces and the NPFL often resulted in a focus not on peacekeeping, but on active support for anti-Taylor factions or direct military actions against the NPFL.

[82] *Id.*

[83] *See generally* Zaghari-Mask et al., *supra* note 64.

[84] Nowrojee, *supra* note 5, at 129.

mission in Liberia, along with other similar humanitarian disasters in Rwanda and Bosnia, demonstrate the need for a better U.N. mechanism for dealing with internal conflicts. To best assume a leading role in establishing and promoting international peace, the U.N. must be willing and able to intervene in increasingly common humanitarian conflicts.

The U.N.'s large pool of resources and international structure, which allows diverse input, makes it the natural choice to lead objectively. It alone can best coordinate military, diplomatic and political offices, and establish clear lines of authority. To lead in this manner, the U.N. must formulate guiding principles and processes for peacekeeping missions to fulfill its Article I mandate to "maintain international peace and security."[85]

A.   LEGAL JUSTIFICATION FOR HUMANITARIAN INTERVENTIONS

Customary international law, implicitly incorporated into the U.N. Charter, allows non-intervention in internal conflicts.[86] However, Article 34 gives the Security Council responsibility to investigate any dispute or "situation" to determine its likelihood of endangering international peace and security.[87] Furthermore, some regard humanitarian interventions as a "valid exception to non-intervention when egregious human rights violations occur within a state,"[88] a view exemplified by the International Bill of Rights.[89] It expresses the principle that individuals are proper subjects of international law, whereby states owe duties to their citizens both within and outside their borders.[90] Accordingly, the

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[85] *See* U.N. CHARTER, art. I.

[86] Zaghari-Mask et al., *supra* note 64, at 487 (citing Malvina Halberstam, *The Legality of Humanitarian Intervention*, 3 CARDOZO J. INT'L & COMP. L. 1, 2–3 (1995)).

[87] LORI F. DAMROSCH ET AL., INTERNATIONAL LAW 833–34 (West Group, 2001) (1980).

[88] Nanda et al., *supra* note 18, at 851.

[89] *See generally* Zaghari-Mask et al., *supra* note 64, at 484. The term 'International Bill of Rights' refers to three separate documents: the Universal Declaration of Human Rights (UNDHR), the International Covenant of Civil and Political Rights (ICCPR) and the International Covenant of Economic, Social, and Cultural Rights (ICESCR).

[90] *Id.* (citing Hersch Lauterpacht, *International Law and Human Rights*, *in* INTERNATIONAL HUMAN RIGHTS CONTEXT: LAW, POLITICS, MORALS 147–48 (Henry J. Steiner & Philip Alston eds., 2000)).

U.N. has increasingly used its broad Chapter VII[91] powers to authorize military operations that are humanitarian in nature, despite claims that internal matters fall within the jurisdiction of the Member State under Article 2(7) of the U.N. Charter.[92] This is the first step towards the U.N. being able, if not always willing, to act when gross violations of human rights demand a forceful response.[93]

Although U.N.-led humanitarian interventions have gained acceptance, disinterest among the permanent members and the financial woes of the U.N. hinder its ability to carry out such missions.[94] "Decisions with respect to humanitarian intervention have been tainted by U.N. member states' fears of military losses, [. . .] subdued racial motivations, and the political will of more powerful U.N. member states."[95] The U.N. can strengthen its ability to intervene by formulating and clarifying its peacekeeping process. A consistent approach to humanitarian crises secures the legitimacy of an international coalition.[96] That consistency will in turn lead to the needed financial resources and political support from the permanent members of the Security Council.[97]

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[91] *See* U.N. Charter arts. 39–51.

[92] U.N. Charter art. 2, para. 7.

> Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter Vll.

> *Id.*

[93] Nanda et al., *supra* note 18, at 862 (citing Richard B. Lillich, *The Role of the U.N. Security Council in Protecting Human Rights in Crisis Situations: U.N. Humanitarian Intervention in the Post Cold War Era*, 3 Tul. J. Int'l & Comp. L. 1, 14 (1995)).

[94] *Id.* at 862.

[95] Zaghari-Mask et al., *supra* note 64, at 483.

[96] *Id.* at 490. "[I]nconsistencies in the responses to similar conflicts have either led the international community to lose faith in the integrity and stamina of the United Nations or have instead encouraged a politicized atmosphere where inconsistencies are being nourished."

[97] *See* Richard Falk, *The Complexities of Humanitarian Intervention: A New World Order Challenge*, 17 Mich. J. Int'l L. 491, 513 (1996). *See also* Nanda et al., *supra* note 18, at 863. "The U.N.'s ability to undertake humanitarian intervention

B.   Fixing the Current U.N. Processes

1.   *Authority and Credibility*

The U.N. needs a concrete procedure that does not depend exclusively on the Security Council for undertaking and fulfilling internal peacekeeping interventions. It should start with reporting mechanisms by which interested parties can call immediate attention to humanitarian crises.[98] Veto-holders on the Security Council hinder quick and decisive action, while the General Assembly only recommends action. ECOWAS, for example, informed the U.N. of its efforts in Liberia but received validation only after the fact.[99] ECOWAS' mission was hampered by its apparent self-interest, and its troops actively participated in the conflict.[100] If the U.N. does establish a concrete procedure and intervene sooner, such problematic usurpations will continue.

The U.N. is the only international body able to credibly undertake humanitarian intervention. Although the Charter itself does not provide a clear answer to the question of who should intervene,[101] the principles expressed in the text points to the U.N.:

> is limited by its lack of resources and lack of political will among the permanent members of the Security Council."

[98] *See, e.g.*, Barton, *supra* note 21, at 105.

> ECOWAS will serve as a valuable early-warning device to alert the United Nations of conflicts with the potential to have a global impact. Because ECOWAS has much closer economic, cultural, and political ties with is neighbors in West Africa, it has a greater capacity to appreciate the significance of early-warning signs as they emerge in the early stages of conflict.

> *Id.*

[99] Levitt, *supra* note 32, at 347. "In virtually every resolution and statement, the United Nations commended ECOWAS for its efforts, not once making reference to ECOMOG's "offensive" use of force; in effect, this tacitly legitimized the force. . . . Resolutions 788 and 866 placed a *retroactive de jure seal* on the ECOWAS intervention."

[100] Barton, *supra* note 21, at 109.

[101] Nanda et al., *supra* note 18, at 865. Chapter VII of the Charter addresses the issue or regional arrangements, but the chapter does not specify whether the U.N. or the relevant regional organization should have primary jurisdiction over humanitarian crises. The Charter prohibits regional organizations from undertaking "enforcement action" without the consent of the Security Council. On the other hand, the Charter gives regional organizations priority over the peaceful resolution of disputes by requiring Member States to "make every effort to

The United Nations was founded to take collective measures to ensure international peace and security. Therefore, the U.N., rather than regional organizations, should have primary jurisdiction over intervention in humanitarian crises. As the most universal and representative international organization, the actions of the U.N. enjoy the greatest legitimacy and are least likely to be motivated by the self-interest of a particular Member State.[102]

Thus, the U.N. must oversee any and all action taken to alleviate internal conflicts because it alone has the legitimacy to do so.

2.   *Timeliness and Incorporation*

To make the best use of its leadership role, the U.N. must define a process to react more quickly and effectively to humanitarian crises. The one constant valid criticism of U.N. missions since the end of the Cold War is tardiness.[103] Just as appeals from the Liberian representative to the U.N. went unheard in the early 1990s,[104] the Security Council ignored earlier evidence of the extreme atrocities in Rwanda.[105] In Liberia, it took five years for international pressure to bring down President Charles Taylor's destructive regime.[106]

A report of ruinous internal fighting must prompt immediate action. If Security Council authorization remains necessary

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achieve pacific settlement of local disputes [. . .] before referring them to the Security Council."

[102] *Id.* at 865–66.

[103] "Efforts to obtain U.N. Security Council action often take many months and there is a time lag between action and the ability to deliver sufficient resources to resolve crises." Bruce Zagaris, *International Community Tries To Implement Security Council Resolution On Sudan*, Int'l Enforcement L. Reporter (Oct. 2004).

[104] Barton, *supra* note 21, at 95.

[105] Nanda et al., *supra* note 18, at 846. While this slaughter took most of the world by surprise, there was sufficient early warning that such a massacre might occur. However, the United Nations and member states took no effective action to prevent the disaster. Nor did they intervene to stop the killings.

[106] Kathy Ward, *Might v. Right: Charles Taylor and the Sierra Leone Special Court*, 11 Hum. Rts. Br. 8 (2003) "Growing recognition that Taylor and his regime lay at the heart of the widening spiral of fighting in the region developed into a movement to confront him."

to launch humanitarian interventions, this trend of ignorance and delayed action will continue. Reports of human rights abuses in internal conflicts should trigger mandatory investigation, coupled with an evaluation and input from all interested parties. U.N. leadership can then coordinate the input and insight of regional, internal, and third party actors, since their involvement is key to a lasting resolution.[107] All must have a seat at the table and a say in negotiations. The U.N. facilitates this goal as it lends credibility and enforcement to peacekeeping. Its status as the objective overseer, whose goal is lasting peace, will allow it to mediate between the various interests.

Had this process existed at the time of the Liberian crisis, an immediate evaluation would have been triggered upon the Liberian representative's appeal. An evaluation of ECOWAS' motives and actions, rather than deferential resolutions commending them, would have been undertaken. Effective action by the U.N. would have held all involved parties accountable. In Liberia, ECOWAS needed to be prevented from becoming another party to the fighting. Although they were attacked first by Taylor's troops,[108] their lack of organization and oversight colored their credibility as an impartial mediator. The U.N. must take its leadership role seriously and assign acting parties, such as regional organizations, roles that answer to the U.N. command.

Collaboration with a regional organization can be advantageous, but it also holds great potential to create more problems. ECOWAS deserves credit for taking the lead in Liberia when others, who were arguably more qualified, sat back.[109] However, due to its members' own political interests in the conflict's regional effects, ECOWAS became a fighting faction itself, rather

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[107] *See generally* Winston A. Tubman, *The Role of the United Nations with Respect to the Means for Accomplishing the Maintenance and Restoration of Peace,* 26 GA. J. INT'L & COMP. L. 101, 106–07 (1996).

[108] Nanda et al., *supra* note 18, at 856–57.

[109] *See, e.g.*, O'Connell, *supra* note 12, at 244. "United States support for Doe and complacency toward his corrupt predecssors. . .arguable give the United States a moral responsibility to provide a tiny portion of its military and financial resources to help Liberia rebuild."

than a neutral peace-keeper. This experience indicates that regional involvement is necessary, but most effective when properly directed.

As former U.N. Secretary-General Boutros Boutros-Ghali expressed in his Agenda for Peace, regional arrangements have a potential that is best used in "preventive diplomacy, peace keeping, peacemaking, and post-conflict peace building."[110] He also supported U.N.-regional cooperation in the forms of consultation, diplomatic and operational support, codeployment, and joint operations.[111]

Along related lines, partnerships between the U.N. and other states have recently resulted in success, including those cases of the United Kingdom in Sierra Leone and of France in Cote d'Ivoire.[112] O'Connell convincingly proposes that "the United States would serve its national interest by leading the international effort to end fighting in Liberia and reconstruct its state, and that the international community has developed a promising model for such an effort."[113] The 'evolved model' of intervention is indeed a good one; however, the reliance on a single state to lead a U.N. mission presents the same problems as were borne out by ECOWAS' attempt in 1990s Liberia. Such action by a single state, to be credible, must be well defined and accountable to U.N. leadership.

Like ECOWAS, regional organizations and other states are in a position to take the initiative and call attention to situations before the U.N. recognizes the threat. Regional organizations are a good resource for evaluating and understanding local culture and interests. However, both regional organizations and other interested states are particularly susceptible to charges of partiality and therefore their role as mediators should be limited. Joint efforts between the U.N. and regional organizations may be the best middle ground since neither group is well-equipped to intervene alone in humanitarian conflicts. Thus, the U.N. must

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[110] *Agenda for Peace Preventive Diplomacy, Peacemaking and Peace-Keeping*, U.N. SCOR, 47th Sess., ¶ 64, U.N. Doc. A/47/277-S/2411 (1992).

[111] *Supplement to an Agenda for Peace: Position Paper of Secretary-General on the Ocassion of the Fiftieth Anniversay of the United Nations*, U.N. SCOR, 50th Sess., ¶ 86, U.N. Doc. A/50/60, S/1995/1 (1995).

[112] O'Connell, *supra* note 12, at 207.

[113] *Id.*

formulate and implement a plan for overseeing regional or single-nation intervention and more fully develop its own rapid deployment force and the financial and political support necessary to effectively lead humanitarian interventions.

3.   *Standards for Intervention*

Internal peacekeeping missions should be justified for humanitarian purposes only. The U.N. needs to recognize this and incorporate it into the procedure for intervention. Defining humanitarian purposes is a challenge: if too broad, it is easily abused; if too narrow, humanitarian missions will never occur. A clear process for authorizing humanitarian interventions will prevent future disputes over the legality and necessity for missions undertaken.[114] "[T]he legitimacy of the United Nations is questioned when there is the perception that protection and peace are at the mercy of political agendas, rather than existing pursuant to the honorable purpose of promoting basic human rights as outlined in the U.N. Charter."[115] Regional actors such as ECOWAS need to be involved, because they can contribute knowledge of and insight into regional issues,[116] but they should be bound by a U.N. Resolution and rules to minimize self-interest.

a.   *Legal Standards: Necessity and Proportionality*

The criteria for evaluating humanitarian intervention can be formulated through the use of analyses such as that of Professor Ved Nanda; he proposes consideration of (1) necessity; (2) proportionality; (3) purpose; (4) collective or unilateral action; and (5) outcome.[117] Necessity depends on "whether there was [or is] genocide or gross, persistent, and systematic violations of basic human rights."[118] The proportionality criterion looks at the duration and propriety of the force applied.[119] Recognizing the range

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[114] *See, e.g.,* Nanda et al., *supra* note 18, at 867*; see also* Renda, *supra* note 36, at 59.

[115] Zaghari-Mask et al., *supra* note 64, at 518–19 (citing Judy A. Gallant, *Humanitarian Intervention and Security Council Resolution 688: A Reappraisal In Light of a Changing World Order,* 7 Am. U. J. Int'l L. & Pol'y 881, 892 (1992)).

[116] Lillich, *supra* note 93, at 14.

[117] Nanda et al., *supra* note 18, at 827–28.

[118] *Id.* at 827.

[119] *Id.*

of possible purposes for intervention, the third criterion considers whether action is motivated by humanitarian consideration, self-interest, or mixed motivations.[120] In the final two criteria, Nanda would evaluate whether the action is collective or unilateral, and whether the intervention would maximize the best outcome.[121]

Necessity and proportionality are two criteria favored by many scholars. Defining the two concepts, however, presents a wide range of possibilities. Zaghari-Mask et al. examined the multitude of suggestions for determining "necessity" and "proportionality" and found them lacking.[122] "Most of the language [. . .] found puts the [necessity] threshold fairly high, with such terms as 'massive violations of human rights,' 'genocide or gross violations,' 'severe humanitarian crisis,' 'ethnic cleansing,' 'loss of life on a massive scale,' and 'shocks the conscience.'"[123] Similarly, the issue of intervening on a weighted, "proportional" basis led to the proposal of a wide range of factors, including (1) private interest, (2) the presence of anarchy, (3) the exhaustion of alternatives, (4) consent of the target state, and (5) whether the target state is better off as a result of an intervention.[124] These varying suggestions demonstrate the difficulty of creating universally applicable standards for when and how to intervene on humanitarian grounds.

Nonetheless, the U.N. can establish a transparent policy and procedure by adapting Professor Nanda's framework and defining the legal standards of necessity and proportionality. Re-evaluation of this framework in light of specific missions, such as that in Liberia, will improve the effectiveness and credibility of U.N. humanitarian intervention. If the U.N. is to take seriously its

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[120] *Id.*

[121] *Id.* at 827.

[122] Zaghari-Mask et al., *supra* note 64, at 518–22.

[123] *Id.* at 519–20 (citing Nanda et al., *supra* note 18, at 827); Yvonne C. Lodico, *The Justification For Humanitarian Intervention: Will The Continent Matter?,* 35 INT'L L. 1027, 1029 (2001); T. Modibo Ocran, *The Doctrine of Humanitarian Intervention in Light of Robust Peacekeeping*, 25 B.C. INT'L & COMP. L. REV. 1, 8 (2002); Ravi Mahalingam, *The Compatibility of the Principle of Nonintervention With the Right of Humanitarian Intervention,* 1 UCLA J. INT'L L. & FOREIGN AFF. 221, 263 (1996); Richard B. Lillich, *Kant and The Current Debate Over Humanitarian Intervention,* 6 J. TRANSNAT'L L. & POL'Y 397, 398 (1997).

[124] Zaghari-Mask et al., *supra* note 64, at 520–22.

peacekeeping role, then it must take the time and effort to develop and implement the strategies and practices that best accomplish that end.

b. *Precedence*

A viable alternative to the formulation of legal standards, endorsed by Zaghari-Mask et al., is the "precedent" approach.[125] This recommendation rests on the principle that "similar cases call for similar responses."[126] Unlike the formulation of legal standards, which inevitably result in political disagreement over the definitions, use of precedent leaves "no room for selective or inadequate intervention."[127] A precedent approach is also more predictable and stable, "because when similar cases are treated alike, the subjects of future controversies are able to predict the outcome and plan their affairs accordingly."[128]

Following the common law world's reliance on precedent allows for greater consistency, predictability, fairness, efficiency, and objectivity.[129] Precedent, as a respected mode of jurisprudence, will lend incredible legitimacy to the United Nations' humanitarian interventions. It also weakens political actors' reliance on self-interests:

> Under the precedent approach, action or inaction would not be solely at the mercy of the political interests of veto-wielding states. A decision of whether or not to intervene based on precedent can be viewed as predictable, fair, rational and legitimate since it would encompass similar past situations, rather than be based on a general subjective set of malleable standards that are unable to pass the critical muster of the international community.[130]

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[125] *Id.* at 523.

[126] *Id.*

[127] *Id.*

[128] *Id.* at 524 (citing Richard B. Cappalli, The American Common Law Method 9 (1997)).

[129] *Id.* at 523 (citing Samuel C. Damren, *Stare Decisis: The Maker of Customs,* 35 New Eng. L. Rev. 1, 2–4 (2000)).

[130] *Id.* at 525.

4.   Enforcement and Reconstruction

For the U.N. to truly lead international law and institutions, it must develop an effective enforcement mechanism. Enforcement is a traditional problem in international law, evidenced by the numerous and on-going discussions of why parties obey international law despite the severe lack of enforcement.[131] Although the U.N. can impose sanctions with the consent of its members or pass resolutions authorizing its members to act,[132] it needs a more powerful tool, such as a rapid deployment force that reports directly to the U.N.

Professor Nanda supports "the establishment of a rapid deployment force – a small force of 3,000 to 5,000 troops under direct U.N. command, supplemented by voluntary units designated by states for such operations to be undertaken by the United Nations."[133] The idea of the U.N. having its own independent forces may be a tough sell, but there is room to compromise on this issue, as current missions are purportedly under U.N. command. Problems of disunity currently surround donated troops that remain under the command of their home country.[134] Their participation is premised on their nation agreeing with the U.N. mission. The need for a tougher U.N. military force is widely recognized.[135] Stopping the fighting, and then keeping the peace are the crucial first steps in any intervention.[136] That is only accomplished when "a strong military force [is] available to provide back-up to the peacekeeping force."[137] Thus, a clear line

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[131] *See, e.g.,* Harold Hongju Koh, *Why Do Nations Obey International Law?,* 106 YALE L.J. 2599 (1997).

[132] U.N. CHARTER arts. 41–42.

[133] Nanda et al., *supra* note 18, at 863.

[134] *See* Tubman, *supra* note 107, at 104. In Somalia, "if the United Nations was supposed to be neutral then it had not only to be seen as neutral, but to act neutral [. . .] It looked as if the United Nations was taking sides at the same time it was supposed to be neutral."

[135] Daryl McLure, *United Nations could learn from US; Impotent in face of world tyranny; IGNORED BY THE UNITED NATIONS,* GEELONG ADVERTISER (REGIONAL DAILY), Dec. 29, 2003 ("perhaps the UN has to toughen up and empower military forces entrusted to it to do more than wander around in nice, light blue berets").

[136] O'Connell, *supra* note 12, at 220–24.

[137] *Id.* at 222.

of authority to a U.N. commander, with no or minimal interference by the donor nation, is necessary.

Military training also has to be updated, by states and any potential independent U.N. force. If the primary international mission will be internal humanitarian relief, the apprehension over police forces must be overcome.[138] Specialized training is required for rebuilding a war-torn country, a lesson the U.S. is learning this lesson the hard way in Iraq,[139] and the U.N. should take note and change its focus. Past peacekeeping missions have been unsuccessful largely for this reason.

Discomfort over the use of force by the U.N. or coalition troops can also be alleviated by mediating peace agreements that are essentially self-enforcing. By involving all sides in the conflict and gaining their support, an agreement is more likely to be sustained. This means making full use of internal state resources, especially "people who have an abiding stake and interest in the situation."[140] This connotes residents of the country and members of the warring parties, since they have an enduring stake in ending the conflict and establishing a lasting peace. However, their perception of outsiders as self-interested is a potential hindrance. Therefore, the U.N. must walk a fine line in taking advantage of regional organizations and Member States' troops but still implementing a solution that is workable for the country itself. "The best and primary means by which the United Nations can influence development in the various developing countries with internal conflicts is by equipping, strengthening, and using the states themselves."[141]

To effectively change troubled countries such as Liberia, the U.N. must also have staying power. Once the fighting has ended, the involved parties must address the causes of the conflict, including failed state institutions and economic misery.[142] Reconstruction work has been frequent since the end of the Cold War.

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[138] *See generally* Zaghari-Mask et al., *supra* note 64 (discussing the "Somalia syndrome," or U.N. member states' fears of military losses, as tainting decisions with respect to humanitarian intervention).

[139] *See generally* Joe Klein, *It's Time for Extreme Peacekeeping,* TIME, Nov. 24, 2003, at 25.

[140] Tubman, *supra* note 107, at 106.

[141] *Id.* at 108.

[142] O'Connell, *supra* note 12, at 218.

The U.N. and the international community can learn from the well-chronicled rebuilding efforts in places such as Kosovo and East Timor.[143] Some reconstruction guidelines suggested by O'Connell include: (1) facilitating the return of refugees and internally displaced persons, (2) rebuilding state institutions, (3) improving governance, and (4) supporting development.[144] These guidelines are applicable to humanitarian interventions generally, as well as Liberia today.

Thus, the U.N. must first act to stop violence caused by internal conflicts, and then it must utilize the states themselves to create and implement a lasting solution. In addition, because the underlying concept of the U.N. is that international cooperation is good for all,[145] and in order to maintain the crucial political support and funding of its members, the organization's operations in Liberia, and peacekeeping missions in general, must be clear.

C. APPLICATION TO LIBERIA TODAY

In order to reconstruct Liberia, the U.N. must follow through on the rehabilitation of the country and its citizens. On August 18, 2003, a power-sharing agreement was signed, creating a transitional government and calling for eventual elections.[146] The current interim government, headed by businessman Charles G. Bryant, includes representatives of rebel groups, political opponents, civil leaders, and members of Taylor's government.[147] Power sharing is important, because groups with political power are more likely to disarm. However, rebuilding will take time, as

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[143] *Id.*

[144] *Id.* at 225–29.

[145] U.N. CHARTER pmbl., *supra* note 7. The Charter pledges, in relevant part:

> WE THE PEOPLES OF THE UNITED NATIONS DETERMINED. . .to save succeeding generations from the scourge of war, . . .to reaffirm faith in fundamental human rights, . . . AND FOR THESE ENDS . . . to unite our strength to maintain international peace and security . . . HAVE RESOLVED TO COMBINE OUR EFFORTS TO ACCOMPLISH THESE AIMS.

> *Id.*

[146] *UN-Led Peace Committee Urges Liberians to Rein in Fighters,* AGENCE FRANCE PRESSE, Nov. 10, 2003.

[147] *Id.*

the civil war has been ongoing for more than a decade, and clashes continue.

Security Council Resolution 1509, passed on September 19, 2003, outlined a plan for reconstruction.[148] In it, the U.N. expresses its need for help from ECOWAS, international organizations, and "interested states."[149] Specifically, the U.N. needs troops, reconstruction money and personnel, and the elimination of Taylor's meddling.[150] The international community has responded, deploying a record number of peacekeepers and pledging over fifteen million USD in aid.[151]

1. Peacekeeping

Fighting continues between militia groups loyal to ex-president Taylor and two rebel groups, the Movement for Democracy in Liberia (MODEL) and the Liberians United for Reconciliation and Democracy (LURD).[152] Government troops often intervene as a last resort. The U.N. repeatedly relies on and often reminds group leaders to "control their fighters" and halt hostilities.[153] Disarmament continues. The U.N. needs more participation from its members, in the form of peacekeeping forces, funding, and expertise to rebuild Liberia.

2. Reconstruction

In June 2004, eight months after the arrival of the U.N. mission, water and electricity still had not been restored.[154] Slowly, though, progress is being made in the areas of police training and

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[148] O'Connell, *supra* note 12, at 230.

[149] *Id.*

[150] *Id.* at 231–32.

[151] *UN Visitors: Here Is Liberia,* ALLAFRICA, INC., June 24, 2004.

[152] *See Liberia: Taylor's Militiamen Continue to Loot Towns, Villages in Central Region*, BBC WORLDWIDE MONITORING, Jan. 6, 2004; *see also* Chris Melville, *Liberian Rebel Stronghold Receives UN Troops*, WORLD MARKETS ANALYSIS, Jan. 6, 2004.

[153] *UN-Led Peace Committee*, *supra* note 146.

[154] *Liberia; UN Is Not Infallible,* ALLAFRICA INC., June 24, 2004.

rebuilding the capitol's law school and judicial system.[155] National elections are slated to take place in October 2005.[156] U.N.-imposed sanctions on the timber industry and diamond sales continue, however. Interim president Bryant, among others, believes lifting those sanctions is a necessary next step "to enable the government to create jobs and macro economic viability."[157]

3.   *Eliminate the Influence of Ex-President Taylor*

Another necessary step towards a resolution in Liberia, and for humanitarian interventions in general, is for the U.N. to enforce a formal human rights mechanism to punish violators and deter future abuses. The Transitional Government of 1994 included individuals known to have committed atrocities and provided a blanket amnesty for acts committed during military engagements.[158] When Charles Taylor was elected, his government basically continued fighting his tribal enemies. The fighting never ended in Liberia; civilians continued to be displaced and humanitarian needs were neglected.[159] The current intervention did not occur until Taylor stepped down. In August 2003 he resigned as President of Liberia and went into exile in Nigeria.[160] Taylor was guaranteed asylum in Nigeria as part of the ceasefire, despite having been indicted for war crimes by the U.N.-backed Special Court for Sierra Leone.[161]

Although the exile agreement was necessary to negotiate Taylor's removal, it sends the wrong message to war criminals and their victims. Setting free a criminal who bilked the country out of hundreds of millions of dollars and oversaw massive human rights abuses undermines the international community's desire to bring lasting peace to Liberia.

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[155] *Peacekeeping and Intervention Forces: Liberian Police Training Begins, More Ex-Combatants Disarm, UN Says,* ALLAFRICA, INC., July 13, 2004.

[156] *Id.*

[157] *Bryant's Appeal Trip,* ALLAFRICA, INC., June 15, 2004.

[158] Nowrojee, *supra* note 5, at 139.

[159] *See generally* Stephanie Bunker, *Humanitarian Affairs Office Continues Security Assessments in Liberia*, M2 COMMUNICATIONS LTD., Nov. 12, 2003. An ongoing U.N. mission reports destruction of village occurred before 2003.

[160] Bruce Zagaris, *Nigeria Criticizes U.S. Proposed Reward for Taylor as Encourage Violation of Nigerian Sovereignty*, INT'L ENFORCEMENT L. REPORTER (2004).

[161] *Id.*

The difficulty on the issue of Taylor's continued freedom highlights the disagreement between those

> who want to compromise criminal prosecution by giving asylum or according immunity to the head of state and other high-level officials in order to achieve peace or at least a cease fire as a means to end major conflicts, even though awarding asylum or immunity compromises criminal goals of denying impunity to leaders who allegedly are responsible for genocide, crimes against humanity, and war crimes.[162]

That Taylor is being protected by Nigeria under the auspices of its territorial integrity tells Liberian citizens that their decades of suffering at his hands were for naught.

In June 2003, the UN Special Court for Sierra Leone unsealed an indictment for war crimes for Taylor's support of a rebel movement in Sierra Leone, yet Nigeria continues to protect him.[163] Taylor's history of war crimes and his immediate and continuing violation of the terms of his exile by contacting and controlling his former colleagues in the government and military justify Nigeria handing Taylor over to the Court.[164]

Clearly, removing Taylor was an essential step towards rebuilding Liberia. However, it was also clear that granting him asylum would not end his hold on troops and officials. Reports of his interference were immediate and constant, from the moment of his exile in August 2003.[165] The resulting mess in Liberia caused by granting Taylor asylum should prompt reconsideration of the policy underlying this decision in particular as well as asylum decisions in general.

IV. CONCLUSION

The current intervention in Liberia presents an opportunity and framework by which the United Nations can and should refocus its policy and procedures regarding the maintenance of

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[162] *Id.*

[163] *Id.*

[164] Emily Wax, *In Exile, Taylor Exerts Control: Liberian Ex-President Exercises Influence from Nigeria,* WASH. POST, Sept. 17, 2003, at A17.

[165] *Id.*

international peace. This is a challenging task, and the U.N. has struggled since its inception to overcome the politics of its members. The end of the Cold War understandably cancelled any established U.N. role, placing it in flux once again. The increasing number and scale of humanitarian crises must be addressed, and the U.N. is the best candidate for the job.

It is essential to reconsider and reshape the U.N.'s general mission. Both O'Connell's "evolved method" and Zaghari-Mask et al.'s "precedent" approach offer plausible methods by which the U.N. can define and legitimize its approach to humanitarian crises. The precedent approach is more likely to encourage international support and increase the success of humanitarian missions.

The 1990s are marked with many failed peace interventions, including one in Liberia. Using the lessons learned there, the U.N. can change that trend. The current U.N. mission in Liberia can and should be a success. Its situation highlights all of the important factors that the U.N. must address: justifications and standards for commencing an intervention; securing needed resources; enforcement of peace agreements; and the role of regional and international actors; cooperation of internal factions; reconstruction. The U.N. ought to lead the international community in clarifying the process for internal intervention and enforcing its position at the head of peacekeeping missions.