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# Continuing Limits on UN Intervention in Civil War

MARY ELLEN O'CONNELL\*

Can the United Nations (UN or Organization) send military forces into civil war without the consent of the parties to the conflict? To date, it never has,<sup>1</sup> but with the end of the Cold War, the Organization is in a position to think again about its proper role in civil war.<sup>2</sup> During the past year, the Security Council has had requests to intervene in the civil wars in Iraq, Yugoslavia, and Somalia. So far, the UN has sent troops to Iraq<sup>3</sup> and Yugoslavia<sup>4</sup> but only after getting the consent of all parties.<sup>5</sup>

The Security Council's recent decisions conform with the requirements of the UN Charter. Under the Charter, the Organization may not interfere in the internal affairs of member states.<sup>6</sup> Moreover, the Charter prohibits the Security Council from taking enforcement action except in response to threats to international peace and security.<sup>7</sup> Nevertheless, Brian Urquhart, former head of UN peacekeeping, has recently called for UN intervention in Yugoslavia, regardless of consent, in order to establish a cease-fire and bring about a quicker end to the bloodshed.<sup>8</sup> Urquhart joins others who have in recent years called for changing or reinterpreting the Charter to

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1. For a full discussion of UN nonmilitary, as well as military, intervention in civil war before 1974, see Schacter, *The United Nations and Internal Conflict*, in *LAW AND CIVIL WAR IN THE MODERN WORLD* 401-45 (J. Moore ed. 1974).

2. Since President Gorbachev's speech to the UN in 1986, UN members have engaged in an active debate over the Organization's role in many realms, especially with regard to peace and security. See, e.g., McFadden, *Leaders Gather in New York to Chart a World Order*, N.Y. Times, Jan. 31, 1992, at A1, col. 6.

3. See Wash. Post, June 27, 1991, at A1; Fin. Times, May 10, 1991, at 4, col. 1.

4. See N.Y. Times, Feb. 14, 1992, at A1, col. 4.

5. A major obstacle to deployment of UN troops in Croatia was removed when one Serbian leader reversed his opposition to the presence and agreed to accept the peacekeeping force. N.Y. Times, Feb. 24, 1992, at A3, col. 1. At the time of writing, the Secretary General has succeeded in negotiating a cease-fire in Somalia. N.Y. Times, Feb. 15, 1992, at A5, col. 4.

6. The Charter states:

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 VII.

U.N. CHARTER art. 2, para. 7.

7. "The Security Council shall . . . decide what measures shall be taken . . . to maintain or restore international peace and security." *Id.* art. 39. "[T]he Security Council . . . may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security." *Id.* art. 42.

8. Urquhart, *Who Can Stop Civil Wars?*, N.Y. Times, Dec. 29, 1991, at E9, col. 6.; see also McFadden, *supra* note 2.

allow the Organization to use military means for various humanitarian purposes.<sup>9</sup> Yet military intervention is unlikely to have benign results. History shows all too often that intervening in civil war can prolong bloodshed, rather than ending it. Intervention can, moreover, deny people their right of self-determination and is inherently inhumane.<sup>10</sup>

This paper is not an exhaustive study of civil war or self-determination. Rather, it presents the UN's recent decisions about Iraq and Yugoslavia to demonstrate that the UN has not abandoned the Charter prohibition on intervention in civil war. Reviewing these decisions shows that UN members voted against intervention to avoid prolonging civil conflict and interfering with self-determination.<sup>11</sup> Their concerns are justified and explain why the UN should continue to resist calls to intervene militarily in civil war. The UN should concentrate instead on mediating peaceful solutions.<sup>12</sup>

## I. IRAQ

In August, 1990, Iraq invaded and occupied its neighbor, Kuwait.<sup>13</sup> In November, the UN Security Council, citing its authority in Chapter VII of the Charter, authorized a coalition of states to use force to liberate Kuwait.<sup>14</sup> As the fighting ended, Iraqi Kurds began a rebellion against the Baghdad government.<sup>15</sup> The Kurds wanted the anti-Iraq coalition to liberate them, along with Kuwait, from Saddam Hussein's government. While coalition governments were sympathetic to the Kurds, this request immediately raised concerns regarding the legality of intervening in Iraq to aid a secessionist movement.

The coalition was right to be concerned. The UN Charter authorizes the use of force but only against international aggression. While the human rights of the Kurds are a matter of international concern, violation of internationally protected human rights does not trigger the Security Council's authority to use force. The Security Council may take action only to "maintain international peace and security."<sup>16</sup> Moreover, the Council must

9. *E.g.*, Henkin, *The Use of Force: Law and U.S. Policy*, in *RIGHT v. MIGHT* 42-43 (D. Scheffer ed. 1989); F. TESON, *HUMANITARIAN INTERVENTION* (1988); Delbrück, *A Fresh Look at Humanitarian Intervention*, 67 *IND. L.J.* 887 (1992).

10. O'Connell, *U.N. Shouldn't Intervene Militarily in Civil Wars—Like Yugoslavia*, *Philadelphia Inquirer*, Jan. 30, 1992, at A11.

11. *See infra* notes 27-41, 56-57 and accompanying text.

12. Somalia is a good example of the right approach. The Secretary General has negotiated a cease-fire rather than fighting for one as Urquhart would urge. *See supra* note 5.

13. Apple, *Invading Iraqis Seize Kuwait and Its Oil; US Condemns Attack, Urges United Action*, *N.Y. Times*, Aug. 3, 1990, at A1, col. 6.

14. S.C. Res. 678, 45 U.N. SCOR (2963d mtg.) at 27-28, U.N. Doc. S/Res/678 (1990) [hereinafter S/Res/678].

15. *See infra* note 19 and accompanying text.

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

avoid interfering in internal affairs of member states by altering a state's political arrangements.<sup>17</sup> Taking these rules seriously, the Security Council authorized humanitarian relief but no intervention that might change the political status quo.

The Council's decision to permit only humanitarian aid for the Kurds is an important precedent for future requests for help—such as those already received from the Croats. The context and rationale of the Kurdish decision should, therefore, be well understood.<sup>18</sup>

The Iraqi civil war began just as the fighting to liberate Kuwait ended on February 28, 1991. The Kurds of northern Iraq began a rebellion against the Iraqi government, apparently either to secede from Iraq or to establish at least an autonomous Kurdish region.<sup>19</sup> This development seems to have caught the UN and the coalition off guard. Both resisted initial calls for intervention on behalf of the Kurds. The United States took the position that it could not intervene militarily to support the uprisings because intervention would be unlawful interference in Iraq's internal affairs.<sup>20</sup> The French agreed with this legal assessment but argued that "[t]he law is one thing, but the safeguard of a population is another, quite as precious, to which humanity cannot be indifferent."<sup>21</sup> France said it would try to get the law changed to allow intervention.

France could not, however, persuade the other permanent members of the Security Council to authorize force to liberate the Kurds. Instead, the Council ordered only humanitarian aid on the Kurds' behalf. In Resolution 688, the Council found that Iraqi attacks on the Kurds constituted a threat to peace in the region:

The Security Council . . . .

. . . .  
1. *Condemns* the repression of the Iraqi civilian population in many parts of Iraq, including most recently in Kurdish populated areas, the consequences of which threaten international peace and security in the region . . . .<sup>22</sup>

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17. U.N. CHARTER art. 2, para. 7.

18. The organization Middle East Watch has claimed incorrectly that the actions authorized on behalf of the Kurds constitute an authorization of humanitarian intervention to protect human rights. Middle East Watch Report, Nov. 1991.

19. *Fin. Times*, Mar. 22, 1991, at 6, col. 4. Shias in southern Iraq also rebelled. *Id.* The UN, however, addressed itself exclusively to the Kurds, raising the question discussed further below of how the UN can tell which groups fighting in civil wars should be aided and which not. Very often it will have no clear legal or ethical guidelines. The same problem arises in Somalia, where a number of clans are currently at war. *N.Y. Times*, Feb. 9, 1992, § 4, at 16, col. 1.

20. *Fin. Times*, Apr. 5, 1991, at 1, col. 3; *Fin. Times*, Apr. 5, 1991, at 17, col. 1.

21. *Fin. Times*, Apr. 5, 1991, at 4, col. 4 (statement of the French Foreign Minister Roland Dumas).

22. S.C. Res. 688, U.N. Doc. S/Res/688 (1991).

In the subsequent operative paragraphs of the resolution, the Council called on Iraq to end its repression of the Kurds and to allow international humanitarian assistance to reach northern Iraq.<sup>23</sup> This is as far as the Council could go without inviting a Chinese veto or failing to get the required two-thirds vote of the fifteen-member Council.<sup>24</sup> As it was, China and India abstained from supporting the resolution, while Cuba, Yemen, and Zimbabwe voted against it. All stated they believed the resolution interfered in Iraq's internal affairs.<sup>25</sup>

The UN would have interfered with Iraq's internal affairs if it had helped the Kurds secede or if it rearranged Iraq's government. However, the UN did not interfere by taking steps short of force to provide humanitarian assistance to the Kurds. Distribution of humanitarian aid, even against the wishes of a government in effective control, is not unlawful intervention according to the International Court of Justice. In the Nicaragua case, the court said:

There can be no doubt that the provision of strictly humanitarian aid to persons or forces in another country, whatever their political affiliations or objectives, cannot be regarded as unlawful intervention, or as in any other way contrary to international law.<sup>26</sup>

The type of aid supplied to the Kurds—basically food, water, and shelter—certainly fell within these parameters.

As soon as the Council approved Resolution 688, Britain and the United States announced simultaneously that their troops in the region would

23. In the resolution, the Council:

2. *Demands* that Iraq, as a contribution to removing the threat to international peace and security in the region, immediately end this repression and expresses the hope in the same context that an open dialogue will take place to ensure that the human and political rights of all Iraqi citizens are respected;

3. *Insists* that Iraq allow immediate access by international humanitarian organizations to all those in need of assistance in all parts of Iraq and to make available all necessary facilities for their operations;

4. *Requests* the Secretary-General to pursue his humanitarian efforts in Iraq and to report forthwith, if appropriate on the basis of a further mission to the region, on the plight of the Iraqi civilian population, and in particular the Kurdish population, suffering from the repression in all its forms inflicted by the Iraqi authorities;

5. *Requests further* the Secretary-General to use all the resources at his disposal, including those of the relevant United Nations agencies, to address urgently the critical needs of the refugees and displaced Iraqi population;

6. *Appeals* to all Member States and to all humanitarian organizations to contribute to these humanitarian relief efforts;

7. *Demands* that Iraq cooperate with the Secretary-General to these ends;

8. *Decides* to remain seized of the matter.

*Id.* (emphasis in original).

24. U.N. CHARTER art. 27(3).

25. Int'l Herald-Tribune, Apr. 6-7, 1991, at 3.

26. Concerning Military and Paramilitary Activities in and Against Nicaragua (Nicar. v. U.S.), 1986 I.C.J. 14, para. 242 (Judgment of June 27).

administer humanitarian aid.<sup>27</sup> They began by distributing food. Ten days later, however, the United States announced that its troops would also set up camps for the refugees inside Iraq and further that it would defend the refugees from Iraqi attack.<sup>28</sup> British, French, Dutch, and German<sup>29</sup> troops soon joined the effort, excluding Iraqi troops from north of the 36th parallel.

Creating the protective zone, however, seems to have gone beyond the terms of Resolution 688. Yet the British have argued that 688 did provide authority to create the zone.<sup>30</sup> In Resolution 688, the Security Council found that Iraqi actions against the Kurds threatened peace in the region.<sup>31</sup> This language repeats the finding in Resolution 678 that Iraq threatened peace in the region. That earlier finding prompted the Security Council to authorize the use of "all necessary means" to implement Council resolutions calling for the end of Iraq's occupation of Kuwait and restoration of "international peace and security to the area."<sup>32</sup> Reading 688 and 678 together, some believe, gave coalition members authority to use "all necessary means" to secure peace in an area that included the Kurdish region.<sup>33</sup> Thus, Iraq's

27. *Fin. Times*, Apr. 6-7, 1991, at 1, col. 3.

28. *Fin. Times*, Apr. 22, 1991, at 1, col. 3.

29. In a dramatic legal reassessment, the German government decided that it too could send troops to northern Iraq without violating the German constitution. The German government explained that Germany can "use" troops outside the country, for example for humanitarian efforts, as long as it does not deploy them in the military sense. *Fin. Times*, Apr. 25, 1991, at 4, col. 3.

30. *Fin. Times*, Apr. 9, 1991, at 1, col. 3. This article reports that the British cited both Resolution 688 and Resolution 687. It is not clear, however, how 687 could provide support for the protective zone since it basically called for Iraq to allow access for humanitarian groups. *Id.*

31. *Supra* text accompanying note 22.

32. The resolution states:

*The Security Council, . . . .*

. . . .

*Acting under Chapter VII of the Charter [of the United Nations],*

1. *Demands* that Iraq comply fully with resolution 660 (1990) and all subsequent relevant resolutions, and decides, while maintaining all its decisions, to allow Iraq one final opportunity, as a pause of goodwill, to do so;

2. *Authorizes* Member States co-operating with the Government of Kuwait, unless Iraq on or before 15 January 1991 fully implements, as set forth in paragraph 1 above, the foregoing resolutions, to use all necessary means to uphold and implement [Security Council] resolution 660 (1990) and all subsequent relevant resolutions and to restore international peace and security in the area;

3. *Requests* all States to provide appropriate support for the actions undertaken in pursuance of paragraph 2 of [this] resolution;

4. *Requests* the States concerned to keep the Security Council regularly informed on the progress of actions undertaken pursuant to paragraphs 2 and 3 of [this] resolution;

5. *Decides* to remain seized of the matter.

S/Res/678, *supra* note 14 (emphasis in original).

33. Interview with Edwin Williamson, State Department Legal Adviser, in Washington, D.C. (Apr. 19, 1991).

aggression against Kuwait formed the legal basis for the right to form the protective zone, a right states would not normally have in providing humanitarian assistance.

Despite their wide authority, however, the coalition members did not argue that they had the right to help the Kurds win their military fight against Iraq. Resolution 688 speaks only of humanitarian measures, and the coalition in fact limited its help to humanitarian aid. By April, when coalition troops began arriving in northern Iraq, the Kurds were fleeing. They were no longer resisting the Iraqis.<sup>34</sup> Implementing a buffer between the Iraqis and Kurds did not provide any significant military advantage to the Kurds. Indeed, the coalition killed no Iraqis.<sup>35</sup>

No coalition member urged more than humanitarian aid after early April. The United States plainly had practical considerations in mind. It expressed its concern about becoming involved in a long, bloody, Vietnam-type civil war.<sup>36</sup> It was concerned that Iraq should remain a viable country. Neither the United States nor anyone else could be certain that the Kurds could form a viable state without Iraq or that their success in Iraq might not encourage uprisings in Turkey and Iran, resulting in widespread fighting in the region. Nor is it clear that aiding the Kurds would ultimately aid self-determination. Who is the self? The Kurds or the Iraqi people as a whole?<sup>37</sup> Similar concerns have arisen often enough in other internal conflicts to have fostered a general rule against military intervention in civil war.<sup>38</sup>

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34. See N.Y. Times, Apr. 20, 1991, at A5, col. 1.

35. The British exchanged fire with the Iraqis on one occasion but could not confirm any Iraqi deaths. The Times (London), May 14, 1991, at 1, col. 4.

36. Int'l Herald-Tribune, May 4-5, 1991; Fin. Times, Apr. 8, 1991, at 2, col. 4.

37. And, as queried *supra* note 19, why help the Kurds and not the Shias? International law's current position is that states can best aid self-determination by staying out of civil war. See generally L. BUCHEIT, SECESSION 43-127 (1978); Doswald-Beck, *The Legal Validity of Military Intervention by Invitation of the Government*, 56 BRIT. Y.B. INT'L L. 189, 251 (1985). But compare the views of noninternational lawyers in A. BUCHANAN, SECESSION (1991); Brillmayer, *Secession and Self-Determination: A Territorial Interpretation*, 16 YALE J. INT'L L. 177 (1991).

38. The best contemporary ideas about self-determination find the use of force inappropriate to achieve self-determination. In international law today, the idea of self-determination of peoples has evolved into one in which people should have the right of representative government within the existing state (a right that may be promoted from outside only by peaceful means). Doswald-Beck, *supra* note 37, at 203. As such, self-determination could not give rise to the right of violent secession in the postcolonial context. *Id.* at 201. The former colonial states themselves have taken the lead in preventing the development of a right of secession. See CHARTER OF THE ORGANIZATION OF AFRICAN UNITY art. III. Thus, if groups do not have the right to secede without first reaching consensus with the remaining state, it is clearly unlawful for outside states to intervene on behalf of secessionist movements. Somewhat inconsistently, the rule against aiding secessionists does not permit aid to antiseccessionist forces. Nor does international law forbid eventual recognition of secessionists. If, after internal struggle, a secessionist group defeats antiseccessionist forces, the secessionists would be in a position to demand consensual separation. At this stage, international law permits recognition of the new *de facto* state. See, for example, the circumstances of Eritrea and Ethiopia, which separated



By the last week of April, the coalition forces were eager to extricate their troops even from humanitarian assistance to the Kurds. The British proposed that a United Nations police force be formed and sent to replace coalition troops in northern Iraq.<sup>39</sup> The United States believed the Secretary General could do so without a Security Council resolution. The Secretary-General disagreed, however, and sought either Security Council authorization or Iraq's consent.<sup>40</sup> Typically, either the Council or the General Assembly authorize the sending of peacekeeping troops after receiving the consent of all the parties to the conflict. United Nations forces are a buffer, not a war-fighting force, and without the parties' consent would soon become casualties.<sup>41</sup>

UN peacekeeping troops eventually replaced coalition troops to continue to buffer the Kurds. Council members reiterated their concern that the UN not interfere in Iraqi affairs, and only when Iraq gave its consent did UN troops head to Iraq to replace coalition troops in June.

## II. YUGOSLAVIA

Just as UN peacekeeping troops left for Iraq in mid-summer, fighting broke out in Yugoslavia between the province of Croatia, which had declared its independence, and the Yugoslav federal government.<sup>42</sup> This conflict has also raised the question of UN intervention in civil war. Again, however, the Security Council has taken a measured and appropriate route.

In the early months of the war, the UN played no role. The European Community (EC) wished to mediate the conflict, declaring it a European matter.<sup>43</sup> But the EC had not succeeded in getting a cease-fire by mid-September, so the Dutch called for the formation of a European force to

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after peace talks in May. N.Y. Times, May 30, 1991, at 10, col. 1. Rather than speak of a rule against secession, therefore, it is probably more correct to emphasize the rule of general nonintervention so that people may work out their domestic affairs without foreign interference or domination. Such interference would clearly be at odds with all notions of self-determination.

As for a right to intervene in civil war only to protect human rights and not to affect the outcome of the civil war, there simply is no such right. See, e.g., O'Connell, *Enforcing the Prohibition on the Use of Force*, 15 S. ILL. L.J. 453, 474-75 (1991); Schachter, *The Right of States to Use Armed Force*, 82 MICH. L. REV. 1620, 1623 (1984); Henkin, *supra* note 9, at 41-42. The Security Council's reaction to the Iraqi civil war is the most recent rejection of the claim for humanitarian intervention.

39. Fin. Times, Apr. 29, 1991, at 1, col. 3.

40. Apple, *Baghdad Rejects U.N. Police to Protect Kurds*, N.Y. Times, May 10, 1991, at A1, col. 6.

41. See generally M. HARRELSON, *FIRES ALL AROUND THE HORIZON* (1989).

42. N.Y. Times, July 26, 1991, at A8, col. 5.

43. Fin. Times, Sept. 17, 1991, at 1, col. 3.

intervene in Yugoslavia.<sup>44</sup> Such a force could not intervene lawfully, however, without Security Council authorization or the consent of the parties to the conflict.<sup>45</sup> The Dutch acknowledged this. Nothing came of their proposal and by mid-November, after the Croats and the Yugoslav federal government indicated they were amenable, Britain, France, and Belgium requested that the Security Council become involved.<sup>46</sup> They asked the Council to send a peacekeeping force and to impose a mandatory oil embargo on Yugoslavia.<sup>47</sup>

When the Council began consideration of the request, debating the size and purpose of a peacekeeping force, the problem immediately arose of what borders the force should observe. By November, Federal forces occupied almost a third of Croatia and made clear their position that any UN force must observe the occupation borders. Croat officials, of course, demanded the original provincial borders. This dispute raised concerns that the parties would not consent to a peacekeeping mission. Could the force go without consent?

As mentioned previously, Brian Urquhart has recently argued in favor of sending a force both without consent and without a cease-fire.<sup>48</sup> He would allow the force to fight until a cease-fire is established but admits this would be a radical departure from precedent. As discussed in the previous section, UN peacekeeping troops have only been used with the consent of the parties. The UN plainly has the right to use troops without the consent of the target state when the Security Council invokes its authority in Chapter VII, articles 39-43 of the Charter. But Chapter VII requires a threat to *international* peace before taking action. Some states, including the United States, have at times maintained that the Council can determine threats to peace under article 39 even if they are noninternational. That may be, but it also seems clear that the Council cannot order action unless it finds a threat to international peace as it did regarding the Kurds. In the Yugoslav situation, no outside states appear to be threatened by war or on the verge of intervening. After nine months of fighting, the civil war has not extended beyond Yugoslavia.

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44. *Id.*; see also N.Y. Times, Sept. 17, 1991, at A3, col. 4.

The Netherlands . . . proposed today that Western European countries consider deploying a "lightly armed" force in Yugoslavia because an international team of 200 civilian observers had so far been unable to end the fighting.

Dutch officials said the idea of the force was not to impose a cease-fire but rather to use a European show of arms to discourage a resumption of warfare after a new cease-fire goes into effect.

*Id.*

45. Regional organizations have authority to take enforcement action after notice to the Security Council. U.N. CHARTER art. 53.

46. N.Y. Times, Nov. 14, 1991, at A1, col. 3.

47. *Id.*

48. *Supra* note 8 and accompanying text.

Some argue that the Council need not find an actual threat to international peace. Because it has the sole authority to find threats to the peace without reference to any limiting guidelines, it can find any dispute to be such a breach—including, presumably, a war such as Yugoslavia's that has not threatened other countries.<sup>49</sup> This view holds that threats to the peace are determined by the process of Security Council deliberation, not on the basis of any substantive notion of what threatens international peace.

This interpretation, however, is at odds with the spirit in which the Charter was written. Article 2(7) plainly states that the internal affairs of members are out-of-bounds for the Organization. Civil war has always been viewed as an internal matter. Indeed, before democracy's current popularity, war was a typical way many states changed governments. For the UN to be able to intervene in such matters would plainly have given it world-government status.

[W]hen United Nations assistance is obtained for the purpose of imposing by force a political settlement which could not be achieved through the operation of the principle of self-determination—as, for example, by conceding to the people themselves the right to determine, freely and without compulsion, the form of their government, and the people who shall administer their governmental machinery, or the rules to which such government must conform—such intervention cannot be regarded as legitimate.<sup>50</sup>

This is plainly the case in Yugoslavia—the UN would not be able to establish a political solution except by force and such a solution would interfere with self-determination. Short of giving unlimited scope to the concept of threat to the peace, there is no legal basis for UN intervention without the parties' consent.

The closest the UN has come to intervening in a context such as Yugoslavia's was in 1960 in the Congo civil war. The Security Council initially authorized UN intervention to counter Belgian intervention on the eve of Congolese independence. The UN, however, ended up fighting alongside the central government against the people of Katanga province who were attempting to secede. The UN attempted to remain neutral but could not and thus tipped the balance against those attempting to secede.<sup>51</sup>

Equally, the UN is unlikely to be able to fight neutrally to establish a cease-fire in Yugoslavia. If either the Croatians or the Yugoslav central government resisted, the UN would counterattack.<sup>52</sup> The success or failure of UN troops would then move the battle from its position at the time of UN intervention, thus aiding or harming one side or the other side. Moreover, as with British troops in Northern Ireland, it would be difficult for

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49. See N. WHITE, *THE UNITED NATIONS AND THE MAINTENANCE OF INTERNATIONAL PEACE AND SECURITY* 50-51 (1990).

50. R. SIMMONS, *LEGAL PROBLEMS ARISING FROM THE UNITED NATIONS MILITARY OPERATIONS IN THE CONGO* 111 (1968).

51. N. WHITE, *supra* note 49, at 192-201.

52. N.Y. Times, Jan. 8, 1992, at A1, col. 1 (EC observation helicopter shot down by Yugoslav federal forces).

UN troops not to develop sympathy for one side or the other. International opinion seems to be on Croatia's side, certainly European opinion is, yet current international law suggests the UN should side with the federal government.<sup>53</sup> While the Charter grants peoples, such as the Croatians, the right of self-determination, this right is best interpreted as a right of representative government, not a right to disrupt Yugoslavia's territorial integrity.<sup>54</sup> To avoid being in the middle of a clash between law and emotion, the UN is best advised to intervene only after a cease-fire and with consent of both sides.

On November 27, the parties in Yugoslavia did give their consent to a UN presence, and the Council adopted a resolution authorizing a 10,000-person force.<sup>55</sup> This will be the largest force deployed since the UN intervention in the Congo. At time of writing, however, it has yet to be sent. The Secretary-General has vowed that it will not be sent until Yugoslavia has a viable cease-fire. Despite the size of this force, the Secretary-General still does not see it as a war-fighting force. It is not meant to intervene in the war to unsettle the status quo but to act only as a buffer.<sup>56</sup>

In the meantime, the Secretary-General tried to convince Germany and other states not to recognize Croatia. The Secretary-General believes recognition will prevent an overall political settlement of the crisis.<sup>57</sup> For the recognizing state, recognition means the fighting is no longer a civil war but an international war. States may then intervene at the request of a government being attacked from outside.<sup>58</sup> Germany has not said it will send troops or aid to Croatia after recognition; it has done so to diminish the Yugoslav government's interest in fighting.<sup>59</sup> Unless one can be certain of this outcome, however, surely the best solution is to provide only lawful humanitarian aid and use peaceful means to encourage settlement.<sup>60</sup>

### CONCLUSION

The end of the Cold War has invigorated the UN. Unfortunately, it has also encouraged conditions favorable to increased civil war. This concurrence of events should not, however, encourage UN military intervention in civil

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53. See *supra* note 38.

54. *Id.*

55. N.Y. Times, Nov. 28, 1991, at A1, col. 6. The size of the force has since been enlarged to 14,000. See N.Y. Times, Feb. 28, 1992, at A3, col. 1.

56. See *supra* note 5.

57. Germany believes early recognition would have the opposite effect by reducing Yugoslavian government incentives to fight a recognized state. See Frankfurter Allgemeine, Jan. 6, 1992 at 1, col. 5.

58. Some French politicians have urged France to recognize Croatia for this very reason, urging France to send troops to Croatia. Reuters, Oct. 16, 1991 (LEXIS, Nexis library, Omni file).

59. N.Y. Times, Dec. 24, 1991, at A3, col. 1; see also *supra* note 38. After the secessionist group succeeds in reaching a consensual agreement with the antisecessionist forces, recognition is appropriate.

60. See *supra* note 5 and accompanying text.

war. Under current law, the UN may not intervene in civil war without consent. Nor should the rules on nonintervention be changed: as an organization of equal states, the UN cannot be the arbiter of which nations should remain together and which should break up. It should certainly try to help mediate peaceful solutions but should not use military means to impose political settlements. Such means do not advance self-determination, human rights, or humanitarian interests.

