Law and Anarchy in Somalia

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On 20 November 1992, the US Central Command issued a warning order to the First Marine Expeditionary Force (I MEF) at Camp Pendleton, California. The Joint Chiefs of Staff had just approved a plan for a large-scale humanitarian intervention in Somalia, designating the I MEF as the nucleus of a combined task force consisting of forces from 20 nations. The plan would soon be submitted to the National Command Authorities and the United Nations for approval. Lieutenant General Robert B. Johnston, USMC, the I MEF Commander, was chosen to lead the force that would be known as Unified Task Force Somalia (UNITAF). I MEF Headquarters entered a period of intense predeployment activity as the elements of the task force were assembled.

Initial intelligence reports from Somalia painted a grim picture. The country had been devastated by nearly two years of civil war, and the government had ceased to exist. Bands of looters and gunmen roamed freely. Media coverage centered on the tremendous suffering and starvation in the interior of the country, where armed bandits thwarted efforts to deliver relief supplies.[1] The faces of starving children on the evening news were important factors behind the deployment of UNITAF to Somalia.

Legal planning for the deployment presented unique challenges. The lack of a government and a system of laws made it difficult to plan in several important areas. The term "host nation support" had no real application in Somalia, so UNITAF would have to be entirely self-sufficient. At issue were such questions as these:

- What traditional responsibilities of the sovereign government (e.g., police, courts, public services) would have to be assumed by US forces?
- What would be the "status of forces" with respect to US personnel in Somalia in the event of criminal violations?
- How would offenses of local nationals be handled?

The US Central Command (CENTCOM) issued the first draft of the mission statement during the last week in November. The mission was brief and to the point: provide security for the delivery of relief supplies in

Somalia.[2] As each I MEF staff section developed implied taskings in preparation for the development of the operation plan, it became clear that US forces would be operating in an austere environment where the rule of law had been replaced by the law of the gun. Advice and innovative planning in a variety of nontraditional functions and activities would be needed as the UNITAF Commander entered uncharted waters.

Reports of armed individuals and so-called "technical vehicles" (essentially trucks modified to carry a crew-served weapon)[3] in Somalia required special planning measures. Virtually every male over the age of 12 in Somalia was armed. This circumstance was aggravated by the widespread use of the narcotic substance *khat*, which gave the gunmen a feeling of invincibility.[4] Clearly, specialized rules of engagement (ROE) would have to be drafted to cover the abundance of small arms in the hands of potentially unstable persons and the proliferation of technical vehicles. The ability to deal successfully with these and similar challenges would require a solid foundation under international law.

The UNITAF Office of the Staff Judge Advocate (OSJA) was formed around the I MEF OSJA, adding an Army lieutenant colonel as deputy, an Army major as claims officer, and a Marine major as an international law specialist. Five lawyers were part of the UNITAF staff, providing advice on a wide range of issues in the emerging field of "operational law."[5]

This article will provide an overview of the significant legal issues and policy decisions unique to Operation Restore Hope. The first step will be a discussion of the underlying legal principles applicable both from a national and international perspective. Thereafter, the article looks at rules of engagement, a key element in the operation; guidance on the use of force, both deadly and non-lethal; women and children as combatants; and UNITAF weapons control policy, one of the most difficult issues faced in Somalia. The last topic is the issues faced by the UNITAF staff during the transition to UN operations.

Legal Authority

Chapter Six of the United Nations Charter provides the authority to conduct peacekeeping operations, while Chapter Seven is the authority for the rarely used "peace making" or "peace enforcing" operation. UN Security Council Resolution 794 provided the legal authority for Operation Restore Hope,

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authorizing the use of "all necessary means" to provide security for the delivery of relief supplies in Somalia.

There was little precedent for Operation Restore Hope, in large part because there was no sovereign nation to call for, or object to, the proposed intervention. Since this was an expedition with little precedent, legal planners had to consider the authority for the operation under international law. To provide the underlying legal philosophy for all actions taken by UNITAF, CENTCOM determined that Restore Hope would be a humanitarian operation and not an "armed conflict" under international law. The legal status and responsibilities of UNITAF would flow from the UN Security Council Resolution; they would not be those of an "army of occupation."

Rules of Engagement

Rules of engagement are the means by which the US National Command Authorities and the military chain of command authorize subordinate commanders to employ military force. Nothing in the rules of engagement negates the commander's right and obligation to act in defense of his unit. The same right of self-defense applies to individuals, and rules of engagement must never interfere with that fundamental right. The basis for the rules of engagement for Operation Restore Hope was the CENTCOM peacetime rules of engagement.[6] With that as a starting point, the UNITAF rules of engagement were drafted to account for the hostile circumstances in Somalia. Special language was developed to deal with the threat posed by armed individuals and technical vehicles, giving commanders maximum flexibility to challenge individuals and confiscate weapons. The object was to enhance mission accomplishment without detracting from the inherent right of self-defense.

As soon as the classified rules of engagement were established, unclassified versions of the rules were issued on a card for all personnel of Unified Task Force, Somalia. Thirty-five thousand unclassified cards were printed at the base printing shop at Camp Pendleton on 3 December, and copies were flown to the Amphibious Ready Group to be provided to the first Marines to go ashore on D-Day, 9 December. The unclassified rules of engagement card is replicated in Figure 1, on the following page. The full text of the UNITAF rules of engagement was part of the Operation Plan and classified secret, but it has since been declassified. Key parts of the UNITAF rules of engagement have been incorporated into the rules of engagement now in effect for the United Nations Operation in Somalia (UNOSOM II).[7]

The absence of host-nation law made it imperative to set out the basic rules and standards applicable to UNITAF personnel. General Order No. 1, issued just before departure from Camp Pendleton, was patterned after the one issued in Southwest Asia for the Gulf War. Most of the order was applicable only to US personnel serving with UNITAF; coalition forces were responsible for setting their own standards of conduct. The general order prohibited, among

JTF FOR SOMALIA RELIEF OPERATION
GROUND FORCES RULES OF ENGAGEMENT

NOTHING IN THESE RULES OF ENGAGEMENT LIMITS YOUR RIGHT TO TAKE APPROPRIATE ACTION TO DEFEND YOURSELF AND YOUR UNIT.

A. YOU HAVE THE RIGHT TO USE FORCE TO DEFEND YOURSELF AGAINST ATTACKS OR THREATS OF ATTACK.

B. HOSTILE FIRE MAY BE RETURNED EFFECTIVELY AND PROMPTLY TO STOP A HOSTILE ACT.

C. WHEN U.S. FORCES ARE ATTACKED BY UNARMED HOSTILE ELEMENTS, MOBS, AND/OR RIOTERS, U.S. FORCES SHOULD USE THE MINIMUM FORCE NECESSARY UNDER THE CIRCUMSTANCES AND PROPORTIONAL TO THE THREAT.

D. YOU MAY NOT SEIZE THE PROPERTY OF OTHERS TO ACCOMPLISH YOUR MISSION.

E. DETENTION OF CIVILIANS IS AUTHORIZED FOR SECURITY REASONS OR IN SELF-DEFENSE.

REMEMBER

1. THE UNITED STATES IS NOT AT WAR.
2. TREAT ALL PERSONS WITH DIGNITY AND RESPECT.
3. USE MINIMUM FORCE TO CARRY OUT MISSION.
4. ALWAYS BE PREPARED TO ACT IN SELF-DEFENSE.

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Figure 1

other things, the consumption of alcohol and the possession of personal weapons. The substance *khat* was declared contraband for military personnel; this portion of the order could be punishable as a violation of a lawful general order under Article 92 of the Uniform Code of Military Justice.

Weapons Incentive Program

The Somali lifestyle is marked by independence, self-reliance, and violence. Constant fighting over political and ethnic differences has marked Somali society through its history.[8] The Somali tendency toward violence and factional warfare has been aggravated over recent years by the tremendous proliferation of weapons in East Africa. During November 1992, with Somalia in a state of anarchy, every adult male and most teenagers carried a weapon openly in the streets. In December 1992 US Special Envoy Robert Oakley, who had been stationed previously in Somalia, said, "There are three things that are most important to a Somali male—his wife, his camel, and his weapon." In late December, UNITAF opened discussions with Ambassador Oakley concerning an arms reduction program. At this point, some of those involved were concerned about whether such a program would be within the mission of UNITAF. Security Council Resolution 794 called for the creation of a "secure environment for the delivery of relief supplies," but the UNITAF

Commander had stated on numerous occasions that disarming Somalia was not his mission. He maintained this position despite several statements to the contrary by the UN Secretary General.

Planners considered several incentive concepts, variations of "food for guns" or "cash for guns," and evaluated the US experience with disarming the civil populace in Panama.[9] However, Somali social and political dynamics were considerably different from those encountered in Panama, as illustrated by Ambassador Oakley's comment. The large quantity of weapons in the region created another challenge. There would be little incentive for the bandits to turn in their best weapons, and the program potentially would have disarmed the hungry people who needed protection from the bandits. A cash-for-weapons program also would have run the risk of creating more crime by encouraging bandits to steal weapons to turn in, or providing incentives for arms dealers to import more weapons from other parts of East Africa. An informal, small-scale weapons incentive program was used during the third week in January when UNITAF Marine forces began giving a receipt for the turn-in of weapons or for information on where to find weapons. These receipts were then exchanged for bags of wheat provided by the humanitarian relief organizations. This informal program was never expanded beyond a single sector of Mogadishu, however, and it had limited effect on the number of weapons in circulation. In late January, a decision was made by the UNITAF Commander not to implement a nationwide weapons incentive program. An aggressive UNITAF weapons confiscation policy made such a program unnecessary.

Weapons Confiscation Policy

The initial UNITAF weapons confiscation policy directed the confiscation of all crew-served weapons, as well as individual weapons that were displayed openly or brandished with hostile intent. Commanders were justifiably reluctant to issue complex confiscation rules that required the use of a reference book or a legal interpretation before a weapon could be taken. From the beginning of the operation, UNITAF forces were called upon to exercise their individual judgment in the confiscation of weapons. This outcome not only made the policy relatively easy to understand, but it protected the individual rifleman who had to make quick decisions under dangerous conditions.

The most contentious weapons confiscation issue arose in the implementation of the policy for the humanitarian relief organizations (HROs). The HROs are the heart of the Somali relief effort, and the mission of UNITAF was to make the environment secure for the relief organizations to do their work. Before the arrival of UNITAF, conditions in Somalia made it necessary for HROs to have a system of "security guards" to conduct business.[10] In Somalia there is a fine line between honest labor and extortion, so it was often difficult to distinguish security guards from bandits. What little economy was left in Somalia was based on the delivery of relief supplies, and security was

a large part of the cost of doing business. The most reliable security personnel worked and lived in the walled compounds of the HROs. Other security personnel were "day hires"; they reported for duty in the morning and left before dark. There was some concern among UNITAF commanders that many of the day hires turned to banditry at night. If so, the HROs were unwittingly contributing to a system that rewarded extortion and made banditry profitable.

One of the primary complaints of the relief organizations was the apparent inconsistency in the application of weapon rules in different sectors of Somalia. If a relief vehicle traveled between sectors and different rules were in effect in each sector, the relief organization faced the risk that its weapons would be confiscated in one sector and its personnel would be defenseless when entering the adjacent sector. Although security in Somalia improved with the arrival of UNITAF, it remained impossible to guarantee the security of the HROs, particularly in the outlying areas beyond UNITAF control.

It took time to achieve evenhanded implementation of the UNITAF weapons confiscation policy. Military checkpoints were operating throughout Mogadishu, and all civilian vehicles were required to stop for inspection. Problems arose early in the operation when weapons of some of the HRO security guards were confiscated by UNITAF personnel.[11] HRO officials registered their complaints with the Civilian-Military Operations Center (CMOC), a part of the UN Humanitarian Operation Center. By mid-January 1993 the CMOC looked like an armory, as improperly confiscated weapons were identified and returned to the HROs.

In February 1993 a nationwide UNITAF weapons program was implemented, incorporating the issue of blue identification cards that were valid in all sectors. The identification card system helped to solve the problems described above. Even greater progress was made in April 1993, when a concise weapons policy card in English and Somali was printed and distributed widely to UNITAF and HRO personnel. This card spelled out clearly in words and pictures the few rules that governed who could possess a weapon, what weapons were prohibited, how weapons could be carried, and what acts would result in confiscation of a weapon. The card finally cleared up most of the confusion, significantly improving relations between UNITAF and the HROs.

Use of Deadly Force

The UNITAF rules of engagement gave commanders and soldiers maximum flexibility to use force—deadly force if necessary—to defend themselves and their units. Rules of engagement must always be viewed in the context of the principles of international humanitarian law and the "law of armed conflict." In other words, rules of engagement may not override basic principles that limit force to the minimum degree necessary to accomplish the objective, and that require it to be proportional to the threat. For

"Rules of engagement may not override basic principles . . . including the inherent right of self-defense."

example, an entire building occupied by civilians should not be destroyed in a response to a sniper attack from the roof.

Nonetheless, UNITAF forces in Somalia faced difficult choices of when to use deadly force in response to a perceived threat. Two unfortunate incidents illustrate the seriousness of the problem. Both were widely reported in the US media and resulted in hearings based on allegations of the use of excessive force. In the first case an American noncommissioned officer shot an individual who had just stolen his sunglasses. In that case the claim of self-defense was rejected, and a conviction at a general court resulted. In another case, another noncommissioned officer shot and killed a youth who ran up to his vehicle carrying a small box. The situation at the site of the shooting was tense, and there had been warnings the day before of hand grenade incidents. In that case the charge was dismissed based upon legitimate self-defense.

Operation Restore Hope placed US personnel in difficult and dangerous situations, requiring split-second judgment. Rules of engagement provide the basic guidance, including the inherent right of self-defense. All reported shooting incidents were followed by a command review of the facts to determine if there had been excessive use of force. When necessary, criminal investigations were conducted to determine if charges should be brought. Article 32 investigations were convened in four cases involving seven individuals, two of which were discussed above. Two cases were recommended for trial by general courts-martial, and convictions resulted in both cases.

Use of Non-lethal Force

Few, if any, US personnel had experienced the conditions that existed in Mogadishu in January 1993. Verbal warnings and a show of force were inadequate to protect convoys from crowds of youths who approached UNITAF vehicles to snatch personal gear and weapons.[12] At busy intersections, young thieves would approach and rip the glasses off the faces of the passengers. Crowds of young Somalis closely followed vehicles screaming for handouts. The UNITAF rules of engagement provided limited guidance in these situations. The key language was contained in the rules of engagement card: "When . . . attacked by unarmed hostile elements, mobs, and/or rioters, US forces should use the minimum force necessary under the circumstances and proportional to the threat." Although this guidance was designed

to cover civil disorders, it contains two important principles: first, the concept of minimum force; and second, the rule of proportionality. These concepts were not new to Operation Restore Hope; they apply broadly to occasions when deadly force is not authorized.

The question in Somalia became the definition of "minimum" non-lethal force. UNITAF forces promptly developed preventive measures in an effort to deal with the problem. The UNITAF Psychological Operations Branch made announcements in its Somali language daily paper and radio broadcasts, describing the local nationals and UNITAF forces that were hurt as a result of these activities. Assistant drivers and passengers carried tent stakes or similar sticks to use to keep the children at a distance. Barbed wire was strung along the side of some of the vehicles as an additional deterrent. Although some of these measures may seem a bit heavy-handed, the UNITAF forces were remarkably restrained in their use of force against unarmed crowds stealing from convoys. The undesirable effect of this restraint, however, was that it encouraged those in the crowds to continue their behavior.

Riot control agents could not be used in Somalia without prior authorization. The authority to employ riot control agents had been delegated from CENTCOM to the UNITAF Commander. Riot control agents were available in Somalia. Their use, considered several times, was never authorized.[13] Early in the operation it became clear that some type of incapacitating spray, such as Mace, could be an answer to the problem of theft from moving vehicles. Commercially produced cayenne pepper spray would work, but the logistics of acquiring and getting it to Somalia proved formidable. Another delay occurred while the guidelines for using the spray were reviewed at higher headquarters. When the cayenne pepper spray was finally approved in April 1993, it proved to be highly effective.[14]

Detention of Civilians

From the outset of Operation Restore Hope, it was clear that we would need authorization to detain civilians. Again, the unclassified rules of engagement card was designed to provide the basic guidance: "Detention of civilians is authorized for security reasons or in self-defense." Although this rule was in effect on the first day of the operation, additional guidelines on the conditions permitting detention had to be developed in the theater.

When UNITAF forces arrived in Somalia there was no functioning police or court system, with the exception of a very limited system in South Mogadishu.[15] Courts had not been conducted in nearly two years. During the first days of the operation it became obvious that UNITAF could not rely on the Somali system to effectively handle prisoners detained by UNITAF. A military detention facility with a capacity of 20 prisoners was established at the US Support Command Headquarters. It never held more than six prisoners at once, and was not equipped to handle long-term detainees.

During the first few weeks of Restore Hope, a large number of Somalis were apprehended by UNITAF forces. In most cases the period of custody was relatively short. Individuals were often disarmed, questioned, and released. It became apparent quickly that a uniform standard for continued detention had to be adopted. The UNITAF Commander decided to establish a high threshold for the types of offenses warranting continued detention. The basis for this approach lay in the limited US detention facilities and the absence of a reliable Somali confinement system. The UNITAF standard permitted detention only in "exceptional circumstances."[16] This policy was designed to prevent the apprehension of individuals for minor offenses, such as simple assault or making a threat. UNITAF forces had neither the capability nor the responsibility to care for large numbers of civilian detainees. Furthermore, the mission statement of UNITAF did not include the responsibility to police the entire Somali population. Security Council Resolution 794 limited the responsibility to providing a "secure environment" for the delivery of relief supplies. This was interpreted as a limited mandate for apprehension of civilians, generally limited to those who attacked or threatened the force.

Questions arose quite often regarding the scope of the UNITAF detention authority. For example, should soldiers apprehend a Somali who was caught raping another Somali? UNITAF commanders had the authority, and in some cases the responsibility, to protect the population from violence, theft, and other forms of crime. Still, Operation Restore Hope was not an armed conflict under international law, nor were the UNITAF forces considered an army of occupation. Had UNITAF been an occupying force, it could have been responsible for the health, welfare, and safety of the Somali people. The responsibility of the UNITAF Commander extended only to areas of Somalia within his control. This responsibility included military posts and their immediate environs, and areas patrolled or regularly used by UNITAF forces.[17]

In the closing days of Operation Restore Hope, situations arose that tested the limits of the apprehension and detention authority. In one incident a civilian relief worker was killed by a Somali national. Investigation by UNITAF revealed the name of the Somali assailant and the fact that he had fled from an area in southern Somalia controlled by UNITAF. This incident was widely publicized, and there was a call by several groups to hunt down and apprehend the assailant. A decision was finally made not to conduct a manhunt with the limited resources available to UNITAF. It was determined that the assailant was likely to be in an area outside military control and therefore outside the responsibility of UNITAF under international law.

Women and Children as Combatants

On 16 March 1993 fighting broke out in Kismayo, Somalia, that would have serious repercussions throughout the country. On that day, forces loyal to warlord Mohammed Siad Hersi (known as General Morgan) defeated

the forces loyal to warlord "Colonel" Omar Jess. As a result of this incident, the Somali peace conference then underway in Addis Ababa came to a halt. General Aideed accused Morgan of truce violations, and the Belgian UNITAF forces were blamed for the defeat of Jess. Moreover, there were reports that women and children had been used as shields in the fighting. The deliberate use of noncombatants to shield military objectives from enemy attack is prohibited by the Geneva Conventions, and this prohibition is broadly accepted.[18] On 18 March the UNITAF Commander ordered an inquiry into the events of 16 March.

The fighting in Kismayo must be viewed in the context of traditional methods of warfare in Somalia. Alliances are complex and probably cannot be understood by someone who is not native. Somalis are a nomadic people organized into an extensive clan structure that has existed since the middle ages. The tactics used by the opposing factions were not new. They were developed over hundreds of years and have only recently reached a high degree of destructiveness owing to the availability of modern weapons. All these factors made it difficult to place culpability for the events of 16 March on a single party to the conflict. Both sides used women and children as active participants, with a mix of carefully coordinated infantry tactics.[19] Since women and children were willing participants in the conflict, there was no apparent violation of international humanitarian law.

Transition to UNOSOM II

From its outset, Operation Restore Hope was to be of limited duration, with the United Nations assuming responsibility for long-term assistance to Somalia and the functions normally associated with nation-building.[20] I MEF received no clear definition during predeployment planning of the end state for the operation. Since the mission was to provide security, there was an assumption that the mission would end when security had been restored to a level sufficient to permit a successful turnover to the United Nations. The level of security was not explicitly defined before the operation started. This lack of an objective standard would prove troublesome during the transition phase of Restore Hope.

During the initial stages of Restore Hope, UNOSOM I forces were in place in Somalia; they had deployed as a result of an earlier Security Council Resolution. They played a minor role and acted essentially as observers and coordinators of UN efforts.[21] During late February the United Nations began to make the first significant moves to prepare for the transition from US control. Upon his assignment as UNOSOM II Commander, Lieutenant General Cevic Bir of Turkey visited UNITAF Headquarters in Mogadishu. Soon thereafter, the staff of UNOSOM II began to arrive to begin the work of transition.

Lieutenant General Bir's visit also offers an insight into the fragile nature of peacekeeping operations in Somalia. His visit coincided with a

series of violent demonstrations in Mogadishu as a result of the 21 February defeat of forces loyal to Colonel Jess (an Aideed ally) in Kismayo. At a briefing in Lieutenant General Johnston's office in Mogadishu on 26 February, the Italian commander in Mogadishu briefed Lieutenant General Bir on the conditions in his sector. As he presented his slide that listed "conditions in Mogadishu: calm and secure," smoke from burning tires wafted through the room and a machine gun on the roof fired a burst at a suspected sniper across the street.

During March and April 1993, the transition process for the UNITAF staff was a slow and frustrating experience. The UN staff arrived piecemeal, and during March the UN military headquarters was located about two miles from the UNITAF Headquarters. The UNITAF staff had to travel across town for meetings at UNOSOM.[22] Realizing that the requirements for a successful transition (and their departure from Somalia) hinged upon a trained and capable UN staff, the UNITAF staff worked hard to provide the necessary support and training for their successors.[23] At times during the final month of transition, some UNITAF staff members must have felt as if they were being held hostage by UNOSOM. Each day new requests were made for support, weapons, or equipment to be left for UNOSOM use.[24] One of the final items at issue was the US expeditionary force's air control facility, which had controlled all flights at the Mogadishu airport since early December 1992. There was some concern that the United Nations would not be able to provide basic air control services (creating a potentially dangerous situation) without the US equipment and personnel. With satisfactory resolution of all these issues, the UNITAF/UNOSOM II change of command occurred on 4 May 1993. A US ground-based Quick Reaction Force of about 1500 remained, and a Marine Expeditionary Unit was to be available on call during regularly scheduled deployments.

Several limitations inherent in UN operations made the transition difficult. United Nations decisionmaking is divided between the military and civilian leadership, and it is sometimes not clear who is in charge. In late March, General Bir stated he would be ready to conduct the turnover on or about 1 May 1993, a date proposed publicly by the Secretary General sometime earlier. Nevertheless, Jonathan Howe, the new UN envoy, refused to agree to that date. This was despite the fact that all the humanitarian relief sectors, including Mogadishu, had been successfully turned over to coalition forces by the United States, and the UN military commander had stated that he was ready to assume command.

Another inherent limitation of UN forces was the lack of logistical and intelligence support. The United States agreed to leave about 3000 US troops in a logistics support role, as well as additional intelligence personnel at UNOSOM II Headquarters. Yet in July and August 1993, UNOSOM II operations were reportedly hampered by an inadequate intelligence capability.[25]

The turnover to UNOSOM was particularly frustrating for the lawyers on the UNITAF staff. Legal support for UNITAF had been an important factor in the operation, with lawyers providing advice at each component headquarters. Although some of the UNOSOM staff asked the UN as early as January 1993 to provide attorneys, legal support positions on the UNOSOM staff were not filled before the change of command on 4 May. And when the attorneys finally arrived, the new arrivals had little experience in international law.[26] During April 1993, the UNITAF Staff Judge Advocate assisted UNOSOM staff in the development of the UNOSOM rules of engagement. United Nations staff responsibility for rules of engagement fell to a Belgian lieutenant colonel in the operations section who had no prior experience working with rules of engagement. After the departure of UNITAF, a US Army Judge Advocate General Corps lieutenant colonel remained on the US forces staff to provide legal advice to Major General Thomas Montgomery, US Army, who was simultaneously the US Forces Commander and the deputy for UNOSOM II. During the first critical weeks of its operation, UNOSOM II was not able to assemble legal support of the kind and quality available to UNITAF during Operation Restore Hope.

Conclusion

Operation Restore Hope presented a unique array of legal and policy issues in military humanitarian operations. A number of conclusions and recommendations may be useful to commanders and planners who are confronted with a similar situation.

Rules of engagement must be promptly developed and widely disseminated to the personnel who will need them in the field. US performance has improved tremendously in this regard in the past few years.[27] Rules of engagement need to be simple, and an unclassified version should be distributed in card format to all personnel. This procedure will ensure that the troops receive the basic guidance for the use of force during the operation in a form that they can have readily at hand.

Commanders should promptly develop a clear policy concerning weapons confiscation and promulgate it as widely as possible among US forces and the local populace. Individual soldiers should be trained in the proper identification of those persons entitled to carry weapons. The command should be prepared to promptly introduce a system of identification cards to permit designated persons to carry weapons for self-defense. Finally, the policy should be carried out in a manner that ensures the safety of US and coalition personnel.

Relations between the humanitarian relief organizations (HROs) and UNITAF were reasonably good; certainly they were adequate for mission accomplishment. Nevertheless, there was much room for improvement, and future operations of this nature should place a high priority on maintaining a good working relationship with the HROs. Much of the problem seemed one

of perception. Many UNITAF officers viewed the HRO workers with suspicion, considering them inefficient or even dishonest, politically liberal, and anti-military. At the enlisted level, many troops were poorly informed about the mission and functions of the HROs and the role of HROs in the delivery of relief supplies. In future operations there should be increased emphasis on troop information—for example, an information booklet on HROs could be developed and distributed. If we can train our troops on the identity and capabilities of the T-72 tank, we certainly can educate them about the mission and functions of humanitarian relief organizations.

Problems in UNITAF/HRO relations were not limited to the military. Many HRO officials were poorly organized and did in fact have negative views of the military. In many cases representatives of the HROs expected UNITAF to solve all their problems, or were resistant to breaking the self-imposed cycle of paying fees to security guards in what amounted to extortion. In the long term we need to identify good working relations with HROs as a major objective for US forces. In those areas where Civil-Military Operations Centers were established at the local or battalion level, rather than just at the Joint Task Force Headquarters, coordination was greatly improved.[28] Effective teamwork with the HROs was essential to mission accomplishment in Somalia and may well be the case in other such operations.

The use of women and children as combatants presents a troubling prospect. Reports from Mogadishu after the departure of UNITAF indicate that it has become more common. This tactic will certainly provide a challenge for future UN peacekeeping efforts. It is easy to provide a legal opinion that women and children willingly participating in hostilities are not protected, but this does not eliminate the natural reluctance of troops to fire on women and children, nor does it prevent the events from inflaming local public opinion and becoming the subject of international media attention. Dealing with this problem will require the utmost in training, skill, and measured judgment at every level.

End state conditions for future US-led humanitarian operations must be set before the US commits forces to such operations. End state conditions include not only the circumstances that will permit the United States to withdraw from the commitment, with its mission complete, but also the terms for completing the transition to whatever force will follow the United States. The United Nations will have to improve its ability to deploy forces and fill vacancies on the transition staff. Legal support should not be neglected, and the UN rules of engagement should be designed to track as closely as possible with the US rules of engagement. Finally, there should be a detailed list, agreed to in advance, describing the support and equipment to be provided by the United States at the time of transition.

Operation Restore Hope was a success. It will not be remembered for the number of weapons confiscated or the amount of food delivered.

Success was properly measured by the improved security for the Somali people at the time of transition, 4 May 1993.

The challenges facing UNOSOM II in Somalia are much more formidable than those faced by UNITAF.[29] UNOSOM II has assumed responsibility for disarmament and nation-building tasks that were outside the scope of the UNITAF mission. The challenge for UNOSOM II is to accomplish the expanded mission without becoming embroiled in the factional fighting to the point of backing one faction against the others. Whether the United Nations will succeed can best be expressed by a phrase common in the Moslem world: "En Sh'Allah,"—If it is willed by God.

NOTES

1. The town of Baidoa in south central Somalia became known in the media as the "city of death." The reported death rate in November 1992 from starvation in this district was over 400 per day. In addition to problems of starvation, the local hospital admitted an average of 30 gunshot victims daily.

2. The full text of the mission statement read as follows: "When directed by the National Command Authority, USCINCCENT will conduct joint/combined military operations in Somalia, to secure major air and sea ports, to provide open and free passage of relief supplies, to provide security for relief convoys and relief organizations, and to assist the United Nations/nongovernmental organizations in providing humanitarian relief under UN auspices."

3. The term "technical vehicle" came from the humanitarian relief organizations, which justified expenses for gunmen and security guards as "technical assistants." The "technical" became a symbol of mobile destructiveness in Somalia.

4. Intelligence reported that the substance, also known as *chat* or *quat*, was chewed by a large percentage of the young male population. It was imported from Kenya and sold in the street markets. Some claimed it helped Somalis cope with hunger and adversity. By late afternoon, as the armed *khat* chewers took to the streets, the danger of violence escalated noticeably.

5. See *Lawyers in the War Room*, American Bar Association Journal, December 1991.

6. The CENTCOM peacetime rules of engagement are contained on USCINCCENT Order 525-11 and are classified secret.

7. UNITAF (and UNOSOM) rules of engagement concerning armed individuals and technical vehicles stated in part that:

> Crew served weapons are considered a threat to UNITAF/UNOSOM Forces and the relief effort whether or not the crew demonstrates hostile intent. Commanders are authorized to use all necessary force to confiscate and demilitarize crew-served weapons in their area of operations. . . . Within the areas under the control of UNITAF/UNOSOM Forces armed individuals may be considered a threat to UNITAF/UNOSOM and the relief effort whether or not the individual demonstrates hostile intent. Commanders are authorized to us all necessary force to disarm individuals in areas under the control of UNITAF/UNOSOM. Absent a hostile or criminal act, individuals and associated vehicles will be released after any weapons are removed/demilitarized.

8. See the *Restore Hope Soldier Handbook*, produced by the US Army Intelligence and Threat Analysis Center (USAITAC).

9. The proposal was based upon the successful "weapons for cash" plan in Panama, which recovered over 4000 weapons at a cost of about $800,000.

10. In Mogadishu, the price for vehicle rental in January 1993 was about $2,500 (US) per month, which included the driver and two gunmen armed with Kalishnikovs. HROs were forced to pay extortionate fees for security services. Many of the HROs were paying over $100,000 per month for their guards.

11. On some occasions all weapons in a vehicle were confiscated; on other occasions only weapons that were openly brandished were taken. At times, all occupants of the vehicles, including HRO officials, were required to exit and stand back from the vehicles while a detailed search was conducted.

12. The writer saw this firsthand, losing a Nikon camera and a Marine Corps cover (hat) to young thieves on separate occasions.

13. During Restore Hope, thieves and trespassers posed a greater problem than general civil disturbance. The UNITAF Commander considered the potential for subsequent adverse reaction to the use of riot control

agents, because the threats arose in areas of pedestrian congestion. The effect of riot control agents such as "CS" (tear gas, whose powdery substance can persist for days under hot and humid conditions) would have been indiscriminate. Furthermore, the use of CS on a civilian population that was hungry and in poor health could have had major public relations consequences.

14. After the first use of the device, the word spread promptly to the gangs, and there were reports that thieves could be deterred simply by waving an aerosol shave-cream can.

15. In early December 1992 the main Somali prison was still operating with a cadre of volunteer guards, but the few prisoners that remained were subject to release by armed gangs who would come to retrieve their imprisoned members.

16. Detention of civilians was authorized only for crimes of a serious nature such as murder or rape, for crimes against UNITAF forces, or for persons whose release would threaten UNITAF forces.

17. The responsibility did not extend, for example, to parts of Mogadishu, a city of more than one million people, that were away from main supply routes and not patrolled by UNITAF forces. Neither would the responsibility extend to remote parts of Somalia which were outside the control of UNITAF.

18. Common Article 3 of the Geneva Conventions of 1949 recognizes the special protection accorded to noncombatants in "the case of armed conflict not of an international character." Although Operation Restore Hope was not defined as an "armed conflict," the Somali civil war and the clan warfare that ensued clearly falls under the cognizance of Common Article 3. This principle of special protection accorded to noncombatants is so fundamental that it is also an accepted normative value of customary international humanitarian law.

19. The forces of Jess and Morgan were determined to be equally at fault for the violence that occurred in Kismayo. See Report of Inquiry into the Events of 16 March 1993 at Kismayo, Somalia, dated 21 March 1993, available from I MEF Staff Judge Advocate, Camp Pendleton, Calif.

20. In early December, President Bush predicted that most US forces would be home by Inauguration Day, 20 January 1993. At the I MEF planning level, it was clear that an operation on the scale proposed by the President could not be concluded in 41 days.

21. UNOSOM, as with all major UN operations, has distinct political and military wings. UNOSOM I had a Pakistani brigadier general and an Iraqi diplomat in charge. They did not present a model of efficient coordination, and UNOSOM I suffered from a lack of manpower and resources to conduct assigned missions. This was particularly true during January and February 1993, the second and third months of Operation Restore Hope.

22. In late March it was agreed that the UNOSOM staff would take over the former US Embassy/UNITAF Headquarters. The collocation of UNITAF and UNOSOM improved coordination immensely. Approval for this action was required from the US Department of State.

23. Having lived in an austere and expeditionary setting for four months, it was fascinating for the UNITAF staff to watch the UN bring in air-conditioned trailers and other trappings of civilization. The UNITAF staff generally felt they had accomplished their mission and were anxious that the UN staff take charge.

24. As an example, since the Pakistani vehicles had not yet arrived, the United States was asked to leave about 20 vehicles "on loan" for the Pakistani forces. This presented some novel legal questions, including the possible violation of a federal law (the Pressler Amendment) that placed limitations on US support for Pakistan.

25. During July and August 1993, UNOSOM II forces conducted operations designed to capture fugitive warlord Mohammed Farah Aideed. Alleged faulty intelligence resulted in several well-publicized commando raids that failed to net Aideed. "U.S. Faults Intelligence in Failed Somalia Raid," *Los Angeles Times*, 31 August 1993. Subsequent assertions of a deception operation by those forces have raised other questions about the quality of intelligence information.

26. After the change of command from UNITAF, the UNOSOM II legal staff eventually evolved into an office headed by a Pakistani lieutenant colonel, with a Bangladeshi major and a Zimbabwean captain assigned. All these individuals had criminal court or administrative backgrounds, but no real experience in international or operational law.

27. The examples of highly restrictive and politically driven rules of engagement used by US forces in Vietnam and Beirut should never again be used to limit the collective and individual right of self-defense. See Hayes Parks, "Rules of Engagement: No More Vietnams," *U.S. Naval Institute Proceedings* (March 1991).

28. An excellent independent assessment of this subject was conducted by the Center for Naval Analysis. See *Military Relations with Humanitarian Relief Organizations: Observations from Restore Hope*, draft of 22 July 1993, Center for Naval Analysis, Alexandria, Va. See also, elsewhere in this issue of *Parameters*, the article by Major General S. L. Arnold and Major David T. Stahl, "A Power Projection Army in Operations Other Than War," on the experiences of Army forces operating in Somalia.

29. UN Security Council Resolution 814 provides a broad charter to UNOSOM II. Responsibilities include providing humanitarian assistance, rehabilitating political institutions and the economy, promoting national reconciliation, completing the disarmament process, establishing a national police force, and reconstituting the courts and legal system.