

27. Takafusa Nakamura, *The Postwar Japanese Economy: Its Development and Structure* (University of Tokyo Press, 1981); Koji Taira, *Economic Devt. and Labour Market in Japan* (Columbia University Press, 1970).
28. Levin B. Solomon, *Industrial Relations in Postwar Japan* (University of Illinois Press, 1958), p. 32.
29. Nakamura, *op. cit.*, 151 – 167.
30. For the American experience see Elting E. Morison, *From Know-How to Nowhere: The Devt. of American Technology*, (Oxford, 1974).

Self-Determination and Humanitarian Intervention: the Case of Economic Commission of West African States (ECOWAS) Intervention in the Liberian Civil War

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Introduction

International events as they unfold today seem to suggest that debates about self-determination, intervention on humanitarian grounds and the consequent challenges to the time-honored norms of international law, like national sovereignty and territorial integrity will attract attention of many African academicians and politicians in the post-Cold War era. This situation is due to two main reasons. First is the absence of unanimity regarding the meaning and application of those concepts in the post-Cold War era a phenomenon emanating from cultural difference and conflicting national interests (Ajami, 1972; Donnelly, 1984). The second reason relates to the vigor with which the advocates of the "new world order" want to challenge the existing international norms and rules of the inter-state relations (see Nafzinger, 1991; Held, 1991; Lopez, 1991; Young, 1991; Heraclides, 1992; Ravenhill, 1988; Wright, 1989; Cass, 1992; Wess & Chopra, 1992; Jacobson, 1992; Berkey, 1992; Bruilly, 1982).

This paper is about the application of the concepts of self-determination and humanitarian intervention as they relate to the Liberian Civil War. It is neither a theoretical nor a critical study. Its modest objective is to evaluate the extent to which the ECOWAS intervention in the Liberian Civil War is legally acceptable by the international community. The evaluation will be made in the context of the United Nations set standards on intervention and the criteria proposed by Verwey (1986:70). It is hoped that the ECOWAS experience will provide a useful lesson for both academic and non-academic circles.

The paper is divided into four main sections. The first section will briefly trace the historical origins of self-determination, intervention and humanitarian intervention. A review of the literature relevant to the debate on humanitarian intervention will be given. Our aim here is to provide the background necessary for comprehension of issues related to the study. In the second section, the case study will be presented, focusing on the background information to the Civil War, and the breakdown of the civil and political order, which led to widespread human rights abuses. The aim here is to see whether or not there existed sufficient grounds for intervention. The third section will focus on the ECOWAS intervention and the controversies surrounding the action. The last section will constitute the concluding remarks.

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Self-determination Non-Intervention, and Humanitarian Intervention: Origins and Development

Self-determination, as a principle of international relations, has its origins in the libertarian movements of the 18th century [Wambaugh (1920)]. It connoted a collective aspiration for a people to determine their own affairs without undue external interference, and was boosted by the United States Declaration of Independence which made self-determination a cornerstone for a modern regime of popular aspirations. In the 20th century, Woodrow Wilson and V. I. Lenin both championed the principle of self-determination. Furthermore, the peace treaties which followed World War I established a nation-system in Europe and regimes of rights for minority populations based on what could be regarded as the principle of self-determination. The Covenant of the League of Nations established a measure of self-determination for mandated territories, but did not articulate a general principle.

The concept of self-determination was, clearly defined in the United Nations Charter when the latter incorporated a general principle of self-determination into Article 1 (2). (See Laing, 1989: 113; and UN Charter Provisions, Articles 55, 73, and 76 (1) which confirmed the principle of self-determination).

Article 21 (3) of the Universal Declaration of Human Rights, provides a customary elaboration of Article 55, and states that the will of the people shall be the basis of the authority of government and the people were not to be construed as individuals, but rather their 'collectivity' as a nation. (Universal Declaration of Human Rights (1948).

The right of self-determination has been most clearly recognized during the post-World War II decolonization process in the form of the declaration on Granting of Independence to Colonized Countries and Peoples. The Declaration provided for the first time, detailed articulation of the right, as it recognized that all peoples have the right to self-determination, and that by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development. Furthermore, it required that immediate steps be taken, to transfer power to the peoples of the territories that were yet to attain independence. [U.N. Declaration on the Granting of Independence to Colonial Countries and Peoples (1960.)]

Articles 1 (1) and 3 of the International Covenants on Economic, Social, and Cultural Rights and on Civil and Political Rights, both of which came into force in 1976, are an important articulation of a general right to self-determination. Other instruments substantiating this right include the 1970 Declaration on Friendly Relations which provides that by virtue of the principle of equal rights and self-determination... all peoples have the right to determine, without external interference, and that every State has the duty to respect this right in accordance with the provisions of the Charter... [and] the duty to promote... self-determination of peoples.

When the Organization of African States (OAU) was founded in 1963, the principles of self-determination and territorial integrity were accepted as the Organization's guiding principles.

At the Cairo OAU Summit, the fundamental commitment to territorial integrity became for more explicit; all member states "pledge themselves to respect the borders existing on their achievement of national independence," a resolution voted by

acclamation except by Morocco and Somalia, which harboured territorial ambitions. The OAU went further than UN by asserting obligation on its members to defend the sovereignty and territorial integrity of all African States (Kamanu, 1974). And Brownlie (1979) underscored the fact that the resolution, the conduct of governments based upon that resolution provides the basis for a rule of regional customary international law binding those states which have unilaterally declared their acceptance of the principle of the status quo as at the time of independence.

The acceptance by African countries of the legal doctrine of *uti possidetis*, a concept that asserts the territorial continuity of African units in spite of the transfer of sovereignty and irrespective of the international legal merits of their original demarcation is attributed to many factors. These factors include, *inter alia*, external actors seeking global strategic advantage through support of forces seeking territorial alterations, States lacking historical pedigree, existence of innumerable instances of where cultural communities are divided by colonial partition, and eruption of serious border wars between 1963 and 1964, as a result of a big number of ethnic self-determination claims (Young, 1991:27).

The OAU reaffirmed the principles of self-determination and territorial integrity in its Charter provisions as indicated below:

- (i) the Preamble in which member States are "Determined to safeguard and consolidate...independence as well as sovereignty and territorial integrity..."
- (ii) Article 11 (c) to defend their sovereignty, territorial integrity and independence"
- (iii) Article 111 (2) "non-interference in the internal affairs of states"
- (iv) Article 111(3) "respect for sovereignty and territorial integrity."
- (v) Article 111 (4) "peaceful settlement of disputes by negotiation, conciliation or arbitration."
- (vi) Article (xix) OAU member states "pledge to settle all disputes...by means..."

The OAU Commission on Peoples and Human Rights of 1981 also reaffirmed the principles of national independence and territorial integrity, as its Article 29 (5) states that one of the duties of individuals is "to preserve and strengthen the national independence and territorial integrity in accordance with the law."

The principle of Non-intervention is a well established international law norm. It is a product of the post-World War I era, and came as a reaction to the then principle of just war. This latter principle justified war as long as the initiator could give a just cause for his action. And the causes for justifying war then were not difficult to come by; they included, *inter alia*, (i) self-defence, (ii) recovering lost territory, (iii) preserving balance of power, (iv) assisting relatives on the other thrones, (v) defending the established church, (vi) converting the heathen, (vii) avenging a slight to national honor, and helping an oppressed people to overthrow a tyrannical regime (See Vitell, 1964).

The devastating effects of World War I forced the international community to agree to limit the expansive legal theory of just war. The Covenant of the League of Nations outlawed all wars except in self-defence, and this position was renewed and reaffirmed in the UN Charter, Article 2 (4):

No state or group of states has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other state. Consequently, armed intervention and all other forms of interference or attempted threats against the personality of the state or against its political, economic, and cultural elements, are in violation of international law.... Interference in civil strife in another state (Quoted from Cutler, p. 99.)

The principle of non-intervention was further elaborated in 1975 by a resolution on "The Principle of Non-Intervention in Civil War", adopted at the Institut de Droit International by eminent international law scholars (See Cutler, 1991:10). The principles of non-intervention were considered to include:

any armed conflict, not of any international character, which breaks out in the territory of a State and in which there is opposition between... the established government and one or more insurgent movements whose aim is to overthrow the government of the political, economic or social order of the State.

From the foregoing, it is clear that the prevailing international legal instruments support the principle of self-determination and intervention is strictly forbidden except for self-defense.

What, then, can humanitarian intervention be justified? Attempts to answer that question have faced two thorny issues. First, is the absence of legal provisions allowing the practice in inter-state relations, and second is the dilemma of balancing two contradictory established international norms of self-determination and intervention. Hence, the post-cold war debate on the theory and practice of humanitarian intervention.

A careful reading of the existing literature on self-determination and humanitarian intervention reveals three schools of thought arising from their interpretation of those two concepts and their application in international relations. It may be useful, however, to note that the division of scholars into the three schools of thought is not watertight; they overlap in certain areas.

The first school of thought includes those scholars who perceive and understand the concepts of self-determination and humanitarian intervention from the traditional perspective of international relations and international law, in which states are the dominant actors. For this school of thought, international norms and practice get their meaning and content from the state practice and traditions. In this respect, international law, international organizations, international norms, aspirations are nothing but reflection of what states want them to be. International law, according to this school of thought, is primarily intended to play a regulatory role; to see to it that the accepted international norms and standards are adhered to, but not to create and impose new norms on unwilling states. As such, the concepts of self-determination and humanitarian intervention are conceived and understood in the context of the already existing United Nations Charter provisions and accepted state behavior and customs. This school of thought includes scholars like Donnelly (1984), Ajami (1978), Brownlie (1974), Reisman (1973), Schachter (1984, 1991), Rostow (1991) Domrosch & Scheffer (1991), Weston (1991) and Farer (1990).

The second school of thought includes those scholars who attempt to reinterpret the existing United Nations Charter and other international instruments related to

self-determination and human rights in order to make them reflective of what they describe as current international reality, the reality of the post-Cold War era. According to the argument of this school of thought, the role of the nation-state has declined. Globalization of politics has rendered the vitality of the state less important. More important international actors have emerged; such as the International Monetary Fund (IMF), the World Bank, Non-Governmental Organizations (NGOs), environmental movements, etc. The emergence of these new actors, the globalization of politics and the increased international cooperation among non-state actors raise questions about the very vitality of the concepts of sovereignty of states and self-determination. Further, this school of thought points to the fact that human rights issues have become an international rather than a national matter (moral argument). Hence, there is a need to reinterpret the existing international legal instruments in order to reflect these fundamental changes occurring in the world arena. Scholars belonging to this school of thought include, among others, Lopez (1991), Nafzinger (1991), Carter & Trimble (1991), D'Amato (1990), Friedlander (1991), Franck (1970), Weiss & Chopra (1992), Cass (1992), Delbruck (1992), Adelman (1992) and Scheffer (1992).

The third school of thought includes scholars who acknowledge the significance of the issues related to human rights and the imperative need to do something to avert abuses of human rights by states to their citizens. They, however, are fearful of the negative repercussions that a blanket legalization of humanitarian intervention would create in the international system. As such, these scholars uphold the traditional view of international law and politics. They contend that states might use humanitarian intervention to camouflage their own selfish national interests. For the scholars in this school of thought, humanitarian intervention should be invoked as the last resort when all peaceful means have failed, and when resorted to, it must be carried out carefully, observing strictly the conditions stipulated in Chapter II of the United Nations Charter. The scholars in this school of thought include Verwey (1986), Bayzler (1987), Lillich (1967, 1973), Moore (1969), Teson (1987) and Ratnaik (1989).

The scholars from the three schools of thought highlight three ways of understanding and handling of issues related to self-determination and human rights, including humanitarian intervention. Although the first school of thought, represented by Jack Donnelly, had a solid and convincing comprehension of the relationship between law, morality and politics, it ignored the importance of the role of the United Nations as outlined in Chapter ii and iii. This omission is understandable since Donnelly was more interested in non-interventionist policy and, as such, he did not like to endorse any situation in which intervention could be permissible. Scholars in the second school of thought demonstrate uncritical optimism about morality and law in the world community, for they downplay the crucial role of politics. It can also be said that their exclusive emphasis on morality and law in a world community, outside the realm of politics, is obviously a serious flaw in their conception and understanding of self-determination and humanitarian intervention. Scholars in the third school of thought, although skeptical about humanitarian intervention, still see the need, in certain circumstances, to resort to it. Hence, the prescription of the stringent criteria to be met before a state or group of states is legally involved in humanitarian intervention.

It is clear that scholars from the three schools of thought have contributed immensely to our knowledge of the pertinent controversial issues involved in any discussion of self-determination and humanitarian intervention. For the present study, the criteria suggested by Verwey (1986:70) and the U.N. standards will be useful in assessing the extent to which ECOWAS adhered to the internationally accepted norms and behaviour in its intervention in the Liberian Civil war.

Verwey's criteria include the following points;

- (i) that the intervening state has a 'relative disinterest' in the situation, in the sense that its overriding concern is the protection of human rights;
- (ii) that there is an emergency situation in which fundamental human rights are being violated or are about to be violated on a mass scale;
- (iii) that only a last-resort armed action can save the actual or potential victims;
- (iv) that there is no enough time to await action by the United Nations or UN action has proved ineffective;
- (v) that the impact of on the authority structure of the target state will be minimal;
- (vi) that the military action is proportional to the requirement of the rescue mission; and
- (vii) that military action does not threaten to incur more human losses than that it seeks to prevent.

As it can be seen from the suggested criteria the emphasis is placed on caution, restraint and skepticism when deciding to use armed force in the name of human rights.

Liberia: Background and Subsequent Events to the Civil War

Liberia is a West African state with a total area of 111,370 square kilometers. It is bordered by Sierra Leone on the west, Cote d'Ivoire on the east and Guinea on the north. As of July 1991, the Liberian population was 2,730,446 (*The World Fact Book*, 1991:180). The country's ethnic composition is as follows: (i) indigenous African tribes, including the Kpelle, Bassa, Gio, Kru, Grebo, Mano, Krahn, Gola, Gbandi, Loma, Kissi, Vai and Bella – making 95% of Liberia's total population; and (ii) descendants of the repatriated slaves known as Americo-Liberians – making up the remaining 5% of the country's total population.

The political history of Liberia stems from a charter granted by the U.S. Congress to the American Colonization Society in 1816 to establish a settlement for freed slaves on the west coast of Africa. The first settlers arrived in 1822 and settled at the present-day Monrovia (Eastman, 1956). Firestone's operation of the world's largest rubber plantation at Herbel (See Banks, 1990:376, Amin, 1973; Clower, et al. 1966).

The True Wig Party had monopoly of political power in Liberia. It ruled the country continuously for more than a century after coming to power in 1878. Political authority was strongly centralized under the successive administration of President William V.S. Tubman from 1944 until his death in 1971. He was succeeded by William R. Tolbert, Jr., who ruled the country until he was overthrown in a coup on April 12, 1980. Following that coup, a People's Redemption Council (PRC), chaired by (then) Master Sgt. Samuel Kanyon Doe, was established. On April 13, 1980, a civilian milit-

ary cabinet was formed, but did not take long to disintegrate and thus creating the political atmosphere conducive to civil unrest that followed.

Ayang Nyong'o (1982, 1989) ably treated the historical background to the events that led to the Liberian Civil War. Contributions of others were also significant (*West Africa*, 4 Nov. 1985; Tipoteh, 1985:89-92; Taryor, 1984; Chaudhuri, 1985). To avoid repetition, it would suffice here to present in an outline manner the immediate events that prepared the ground for the Civil War.

It could be stated that although general political, social, and economic grievances may have existed for as long time, due to the exclusion of the majority of the indigenous population from participating in the political process, open political crises began in April 1979. It is the official view, however, that the crises were a result of domestic opposition to Tolbert's regime, triggered by a proposal to increase the price of rice. Emergency powers granted to President Tolbert to deal with strikes and widespread rioting at Monrovia worsened the situation. The emergency measures led to postponement of municipal elections scheduled to take place that year, and to the enactment of tough labour laws to end strikes.

In 1980, the People's Progressive Party (PPP), the country's only legally recognized opposition in over two decades, under the leadership of Gabriel Baccus Matthews, called for a general strike in March 1980. The government reacted by arresting Matthews and other PPP leaders, but on April 12, 1980, two days before their trial was to begin, President Tolbert was overthrown in a coup led by junior army officers, as we have noted earlier. Hence the rise of Samuel Doe to power. After the coup, a People's Redemption Council (PRC) was established and on April 13, 1980, a military-civil cabinet that included Matthews as Minister of Foreign Affairs was formed.

A series of military trials followed. On April 22, 1980, thirteen former government and True Wig Officials – including the Tolbert administration's ministers of Foreign Affairs, Justice, Finance, Economic Planning, Agriculture and Trade, the Chief Justice of the Supreme Court, and presiding officers of the Congress – were publicly executed by firing squad. Three days later, the PRC suspended the constitution and instituted martial law. Allegations of coup attempts became the order of the day. In 1981, two alleged attempts to overthrow the government were reported, organized by the armed forces and senior PRC officials, including its co-chairman, Major General Thomas Syen.

Another coup attempt was reported in 1983 which involved the Commander-in-Chief of the armed forces, Brig. General Thomas Quiwonkpa, a military officer from Nimba County. Thirteen officials were charged but some of them, including Quiwonkpa, fled the country and the remaining were granted executive clemency.

In April 1981, the PRC appointed a 25-member commission to draft a new constitution following Doe's promise of a return to civilian rule by April 1985. On July 3, 1984, a constitutional referendum was held, and on July 21, 1984, the PRC was abolished. Its members were merged with 57 hand-picked civilians to form an interim National Assembly.

The National Assembly immediately elected Doe as its president, characterizing the status as temporary, and announced that he would present himself as a candidate at a national election scheduled for October 1985.

According to restrictions imposed by the government-appointed commission, neither Matthews nor the Chairman of Constitutional Commission, Dr. Amos Sawyer, was allowed to campaign for the presidency, with their parties disqualified from presenting legislative candidates. Hence, Doe's National Democratic Party of Liberia (NDPL) was left with relatively weak challengers.

Amid widespread allegations of electoral fraud and military intimidation, Doe claimed victory at the October 15, 1985 balloting on the basis of a 50.9% presidential vote share, while the NDPL was awarded 73 of the 90 Assembly seats. With all those irregularities, Chester Crocker, the former U.S. Assistant Secretary of State for Africa, observed that "the prospects for national reconciliation were brightened by Doe's claim that he won only a narrow, 51 percent election victory – virtually unheard of in Africa where incumbent rulers normally claim victories of 95–100 percent (*Africa Confidential*, 1990:5).

On November 12, 1985, General Quiwonkpa and a number of regime opponents returned to stage a coup, but after holding the capital for several hours, they were overcome and killed by government troops. Doe ordered the arrest of all prominent party leaders, an action which provoked opposition parties to call for an Assembly boycott. In June 1987, as part of Doe's apparent effort to consolidate his power, he dismissed four Supreme Court jurists. Three months later the government reported to have thwarted a coup attempt masterminded by former foreign minister Gabriel Matthews. During 1988, Doe continued to crack down on real and imagined opponents. In March, William Gabriel Kpolleh, president of the Liberian Unification Party, was charged with leading a coup attempt, and in July, Doe's former PRC deputy, J. Nicholas Podier, was killed in the wake of another alleged overthrow effort. In September 1989, Doe's defence minister, Maj. Gen. Gray D. Allison, was sentenced to death for involvement in the ritual killing of a policeman. He was accused of using the killing to add strength to his "burning desire" to become president.

In late 1989, a group of about 150 rebels led by Charles Taylor started a fight against Doe's regime, and by early 1990, the seemingly minor insurrection in Nimba County gradually expanded to pose a major threat to the Doe regime. By early June 1990, after steady progress in a series of engagements with Liberian army units, rebel troops advanced to Monrovia and by mid-July 1990 a virtual "reign of terror" was reported at the capital, with both sides charged with committing atrocities against ethnic opponents and unarmed civilians (Banks, 1990:376–77). The rebels comprised the National Patriotic Front of Liberia of Charles Taylor and the hostile breakaway Independent National Patriotic Front (INPF) led by Prince Johnson.

Political Degeneration and Widespread Human Rights Abuses

The general political degeneration which culminated in direct confrontation between the rebel forces and Doe's army in Monrovia resulted in political and civilian killings based on ethnic lines by both the government and rebel forces. Reports about untold

suffering of innocent Liberians abounded (*West Africa*, 1990:2200). The continued fighting had been particularly disastrous for the civilians of Monrovia, many of whom were faced with the threat of starvation. The capital went without electricity, and with little food and water. People were reported to spend their days hunting for food and carrying buckets of water paid for in dollars (*West Africa*, 1990:2000).

As civil war gained momentum, killing on tribal lines took a horrifying dimension. This was particularly so following the December 1989 incursion of rebel forces in the Nimba County and its subsequent events – which brought to the fore the antagonism between Doe's group, the Krahn, who dominated the government, and the Mano and Gio communities of Nimba.

The impact of the Civil War was not confined to Liberia. The neighbouring countries were also affected, as they unexpectedly found themselves receiving great numbers of refugees from Liberia – aggravating economic hardships in their already difficult economic situations. For example, since January 1990, over 140,000 refugees fled Nimba County and crossed into Cote d'Ivoire or Guinea (*Africa Confidential*, 1990:4). The refugee problem increased. By mid-August 1990, the breakdown of Liberian refugees in the neighbouring countries was as follows: Guinea – 210,000; Sierra Leone – 80,000; Cote d'Ivoire – 120,000 (*West Africa*, 1990:2280). These refugees constituted the largest refugee population in West Africa. It is now an established fact that most of the refugees were of the Gio or Mano ethnic groups who fled the government forces which under the guise of combatting the 24 December (1989) rebel incursion, have been responsible for indiscriminate looting, killing and burning (*Africa Confidential*, 1990:4).

Worse still, as of January 1990, there was no effective government authority in Monrovia to enforce law and order. Doe himself was confined to his Executive Mansion. This situation gave impetus to the state of lawlessness and hence posed a serious threat to people's lives and property.

It was also generally feared that even a short-term victory by any armed faction was not going to end the Civil War. Rather, it would trigger a more violent, ethnically-based bloodbath creating a Lebanon-like situation whereby armed factions would roam Liberia in the name of protecting their ethnic groups (*West Africa*, 1990:2200). Under this situation, intervention for humanitarian reasons was necessary and urgent.

The ECOWAS Intervention in the Liberian Civil War

It is important to note that ECOWAS efforts toward settlement of the Civil War in Liberia came six months after fighting had erupted in the country. It also came after all internal efforts towards a peaceful settlement, particularly the Liberian Inter-Faith Mediation which took place in Sierra Leone under the chairmanship of Canon Burghess Carr, had failed.

The ECOWAS intervention was an implementation of one of the objectives of the ECOWAS comprehensive peace plan for Liberia. The implementation task of the peace plan was carried out by the ECOWAS Standing Mediation Committee made up of Gambia as Chairman, Togo, Ghana, Mali and Nigeria. Guinea and Sierra Leone were also involved in the Mediation Committee's activities because the two

countries received the largest number of fleeing Liberian refugees (*West Africa*, 1990:2280).

The decision contained in the Peace Plan were reached at the first session of the ECOWAS Standing Mediation Committee held on July 5, 1990. The major decisions contained in the Peace Plan included the following.

1. "There shall be an immediate cease-fire. All parties to the conflict shall cease all activities of Military or para-military nature, as well as all acts of violence."
2. "Under the authority of the Chairman of ECOWAS, a Cease-fire Monitoring Group (ECOMOG) was set up; it comprises military contingents from member states of the ECOWAS Standing Mediation Committee, as well as from Guinea and Sierra Leone, Liberia's neighbours."
3. "ECOMOG shall assist the committee in supervising the implementation and ensuring strict compliance of the cease-fire by all the parties to the conflict."
4. "That a broad-based interim government shall be set up in the Republic of Liberia to administer that country and organize free and fair elections, leading to a democratically elected government. The composition of the interim government shall be determined by all parties and other interest groups."
5. "None of the leaders of the warring parties shall head the interim government."
6. "For the purpose of carrying out a peace-keeping role and monitoring the peace process in Liberia, a special emergency fund was established. There shall be voluntary contributions by the member states of ECOWAS, the OAU and other friendly countries to the special fund. A budget of about \$50m is projected for financing the military operations, and for the immediate humanitarian needs of the Liberian people". (Quoted from *West Africa*, 1990:3091).

To avoid a showdown, in implementing the above-mentioned agreement the Committee tried as much as possible to get the warring parties to accept the ECOWAS cease-fire plan. Meetings were held to this effect. In the process, the Committee achieved the acceptance of President Samuel Doe and Prince Johnson of the Independent National Patriotic Front (INPF). However, acceptance from Charles Taylor of the NPFL proved elusive. At the first meeting of the Mediation Committee, held on July 5, 1990, a negotiated settlement could not be reached because the NPFL rejected the ECOWAS proposal of a cease-fire and peace-keeping force. It also made it clear that the NPFL wanted to fight to win (*West Africa*, 1990:2280). Efforts continued to be made to get Charles Taylor to attend ECOWAS peace talks. It was reported that in two instances he promised to attend the peace talks. Eventually, Taylor decided not to attend the August 1990 meeting, and sent instead a delegation consisting of Tom Woewiyu (defense), Ernest Eastman (foreign affairs) and J. Laveli Supwood (justice) (*West Africa*, 1990:2280). It was reliably learnt that the ECOWAS officials wanted to persuade the NPFL to agree to a cease-fire as a scene-setter for a process that would eventually lead to free and fair elections within 12 months.

Peace talks between ECOWAS and the NPFL representatives started and after two days of protracted negotiations, ECOWAS managed to make NPFL agree, in principle, to a cease-fire. By the evening of August 12, 1990, Woewiyu and company agreed to participate in a renewable 10-day cessation of hostilities. During this period, mixed military and civilian team would enter Monrovia and assess the situation. It was then left to the ECOWAS Executive Secretary, Dr. Abass Bundu, to secure a statement of intent to cease-fire from the three sides, who would then sign an agreement (*West Africa*, 1990:2389).

Next morning, to the surprise of ECOWAS officials, the NPFL changed its mind, bringing the talks to a stalemate. The NPFL was unhappy about the ECOWAS proposal to exclude the NPFL Leader, Charles Taylor, along with Johnson and Doe, from participating in the interim government. The new development proved beyond doubt that the NPFL would only accept peace on its own terms. It was after the failure of these peace talks that the order was given for ECOMOG to move into Liberia (*West Africa*, 1990:2390).

The NPFL reaction to ECOMOG entry into Liberia was bitter. Woewiyu threatened: "We will fight ECOMOG to the last drop of our blood" and complained, "We don't believe that ECOWAS has got the mandate from a full summit of all 16 member states to send a military force. We think they should report to say that their initiative has failed." NPFL then outlined alternative proposals which included the following.

1. Cease-fire if ECOWAS agreed to send a token civilian team to assess the situation;
2. If ECOMOG was necessary, the composition of the monitoring group must be endorsed by the NPFL;
3. Doe would have to leave during the 10-day period;
4. Concerned Liberians would meet in Monrovia to thrash out an interim administration, leading to an election within six months (*West Africa*, 1990:2390).

The ECOWAS Chairman, Sir Dauda Jawara of Gambia, issued a statement after the talks, showing anger at the shifting NPFL position. He stated:

"It is... a matter of grave concern that when confirmation of acceptance of a cease-fire by President Doe and Mr. Prince Johnson was conveyed to the NPFL, the patriotic front reversed their earlier undertaking that an agreement to cease fire could then be announced by the Chairman of the authority."

Taylor-buckets continued to insist that ECOMOG was an interventionist or invasion force. Meanwhile, in the absence of a cease-fire, the ECOWAS peace moved on steadily. On August 27, 1990, over 50 Liberians, in various collectives and individuals, began a national conference to discuss the composition and constitutionality of an interim government which would administer Liberia until free and fair elections (for more details on constitutional changes required, see *West Africa*, 1990:2390).

On November 15, 1990, an interim government was installed, headed by Dr. Amos Sawyer as interim President and Ronald Diggs as Vice-President. This interim government appointed by ECOWAS will be replaced after free and fair elections were held under a West African-brokered plan.

It is clear from the foregoing section that the ECOWAS intervention gave rise to a heated debate regarding the legitimacy or legality of the ECOWAS intervention in Liberia. Two contending positions can be identified. The first position is that held by the OAU and ECOWAS. According to this position, the ECOWAS intervention was legal. Three reasons are given to justify the legality of the intervention. The reasons are given to justify the legality of the intervention. The first reason is based on humanitarian considerations. The OAU and ECOWAS argue that the intervention was necessary since the government of Liberia collapsed, creating a state of lawlessness which led to the killing of innocent people, hunger and general insecurity, and that the neighbouring countries were bound to do something to alleviate the situation. Both the ECOWAS Chairman and the Secretary-General of the OAU strongly supported this argument. For example, the ECOWAS rationale for intervention was justified on the following line of argument: "For what we have now is virtually a breakdown of the state, with a president in name only, ruling over nothing, guaranteeing no safety to citizen, alongside a divided rebellion, apparently unable to achieve its own aims. (*West Africa*, 1990:2309). Salim Ahmed Salim, the OAU Secretary-General, dismissed the argument that ECOMOG forces in Liberia had no legal basis when the argued:

... to argue that there was no legal base for any intervention in Liberia is surprising. Should the countries in West Africa, should Africa just leave the Liberians to fight each other? Will that be more legitimate? In my very frank opinion the decision of the ECOWAS countries to despatch a peace-keeping force or a monitoring group was timely and a very bold decision. (Quoted in *West Africa*, 1990).

The second justification for the legality of the intervention was that it followed the required machinery for intervention – from both the OAU and the Security Council of the United Nations. Security Council documents S/21485 of September 8, 1990 and S/21485 of October 8, 1990, as well as the presence of the OAU Secretary-General at the ECOWAS meetings, bear witness to this fact. Furthermore, the ECOWAS Chairman had received a letter from the (then) U.N. Secretary-General Perez de Cuellar, wishing the ECOWAS initiative success (*West Africa*, 1990:2280).

The third argument to support the legality of the intervention is that it had wide support of the African people as shown by the African media concern for Africa's indifference to the Liberian Civil War.

On the other hand, the NPFL and its supporters saw the move as illegal and gave three reasons to support their position. First, the move was an imposition of military force from outside to resolve conflict, which is not acceptable. The second reason was that the five members of the ECOWAS Standing Mediation Committee had no mandate to order ECOMOG to intervene in Liberia. The last reason was that the OAU does not allow intervention of one state into another.

The Legality of the ECOWAS Intervention

To establish whether or not the ECOWAS intervention in the Liberian Civil War was legally permissible, some factors merit critical examination. Did the venture follow the accepted procedures prescribed by the United Nations and some prominent legal scholars like Verwey? Was the mission motivated by humanitarian reasons? This calls for analysis of the relevant documents, procedures and processes as manifested by the actual act of intervention shown previously.

First, it is not difficult to note that the ECOWAS Chairman (then), acting on behalf of the ECOWAS and the ECOWAS Standing Committee on Mediation, had the full mandate of the 16 members of the Community. Throughout the negotiation process, there was no official challenge raised against the Standing Committees' handling of the Liberian Crisis. Even some of the francophone countries, which complained about ECOMOG entry into Liberia, did not do that within either the OAU or ECOWAS framework. The decision to intervene had the blessing of all ECOWAS member states, and thus legally approved and politically supported.

Second, the rejection by the NPFL of the ECOWAS decision to intervene does not seriously challenge the legality of Community's action. This is particularly so since, the objector, Charles Taylor, was not the President of Liberia, since Samuel Doe was still holding the Presidency. The then President endorsed the ECOWAS peace initiative, including the sending of a peace-keeping force into Liberia, to restore law and order, and supervise the implementation of the ECOWAS peace Plan. Third, it has been shown that, throughout the negotiation and eventual decision to intervene, the United Nations and the Organization of the African Unity were fully informed and above all, they supported the plan and actual intervention. This was done in view of the awareness of the limitations imposed by the U.N. and O.A.U. Charter provisions [See UN Articles 2(4), 2(7), Chapter VII, Article 39, Chapter VIII, Articles 52(1) and 54; and OAU Charter provisions, including the Preamble, Article II(c), III(2), III(3), II(4) and XIX]. Furthermore, the Security Council document which we saw earlier attests to the consultations made and its endorsement. Additionally, the Secretary-General of the OAU was fully involved and gave his unqualified support.

Fourth, the humanitarian character of the ECOWAS intervention was unquestionable. A careful reading of their peace plan document containing the peace formula for the resolution of the Liberian crisis shows a great deal of impartiality and concern for saving the lives of innocent Liberian citizens. Furthermore, the Standing Committee made every effort to avoid a showdown, but only met consistent rejection from the NPFL of peaceful solution that made the military option inevitable.

Fifth, it was shown that even the events subsequent to the intervention cleared the ECOWAS of any ill intentions. The Plan, as of Winter 1992, was being impartially implemented, and all the elements internal to the Liberian crisis were happy with the handling of the peace process in the country. As one diplomat observed: "The beauty of the ECOWAS peace package is that it provides for the self-extinction of the interim government" (*West Africa*, 1992:2390).

Concluding Remarks

From the foregoing reasons, it could be concluded that the ECOWAS intervention in Liberia observed and followed legal procedures required by the UN and strongly supported by international human rights lawyers, and was motivated by concern to save the lives of innocent Liberians and to bring peace and security in Liberia and West Africa as a whole.

The Liberian Civil War and the subsequent ECOWAS intervention provided important lessons for both the UN and the OAU. The Civil War and the intervention demonstrated the fact that in future, the United Nations should not ignore regional

conflicts, even those being handled by regional organizations or agencies, as per Article 52 of its Charter. In addition to stating clear and open support, there is an imperative need to give actual moral, diplomatic and more importantly, material support. (It was noted with serious concern that, at the beginning of the Liberian Civil War, the UN was too much preoccupied with the Gulf Crisis, and seemed to have totally ignored the development in Liberia.)

The OAU's emerging new thinking, about concern for human rights and the possibility of endorsing and participating in humanitarian intervention when genuine need arises, is a positive move. The need for the OAU to change or modify some of the old positions enshrined in its Charter, in order to give legal support to and better address the increasing civil wars in the African countries cannot be overemphasized. It is gratifying to note that proposals in this direction made by the OAU Secretary-General and other prominent African personalities is commendable (*African Forum*, 1990:49-50).

On the whole as of Winter 1992, the ECOWAS, performed a good job in saving the lives of innocent Liberians, and at the same time observing international law requiring observance of conditions and procedures in international humanitarian intervention. ECOWAS, as has been demonstrated, strictly adhered to most of the UN standards and the strict criteria proposed by Verwey (1986:70).

It is clear that the ECOWAS example is worth emulating by the powerful nations which, for their own vested interests, think that they have the ultimate right to intervene in internal affairs of other countries, using human rights as a pretext for 'intervention with a human face', without due regard to the negative consequences of their actions.

Despite the fact that the Liberian Civil War has not as yet been resolved (*New Africa*, 1992:11; *West Africa*, 1992: 1671), the ECOWAS intervention in the Liberian Crisis, has amply demonstrated the fact that African countries can take bold decisions aimed at ameliorating serious problems facing the continent. It is a challenge that all African countries should feel honoured to take. The saying that "united we stand, and divided we fall" should always be alive in the minds of all African people, especially at this challenging post-Cold War era.

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