

of the few countries to actively investigate, prosecute, and substantively punish Canadian military personnel for human rights violations in Somalia.

In July 1993, African Rights published a report entitled *Somalia: Human Rights Abuses by the United Nations Forces*. They made serious allegations about what were prima facie human rights violations and law of armed conflict violations by UN troops, and an underlying lack of accountability. "It is extremely difficult for Somalis to obtain any recourse for abuses or losses suffered at the hands of the UNOSOM [and UNITAF] forces. UNOSOM [and UNITAF have] no mechanism for dealing with complaints or disputes. Instead, cases are left up to the individual military detachments, whose policies vary."⁶²

African Rights agrees that UN forces were "often operating in extremely difficult conditions and under considerable dangers. ...There is also no doubt that the SNA militia headed by General Aidid is contemptuous of basic human rights. This, however, cannot justify abuses of rights in response. Such abuses are not merely a crime; they are a blunder. UNOSOM has lost the moral high ground."⁶³

Part of the reason for the excesses of Somalia stems from the gradual evolution of peace-keeping operations from relatively benign inter-positional operations to what has been alternately styled peace-making or peace-enforcement. This evolution of operations has occurred with little evolution of doctrine and operating procedures. "In enforcement situations, especially where the national government and state institutions have collapsed, international peacekeeping soldiers may increasingly be given what are essentially civilian law enforcement and policing tasks, as in Somalia. While they may be involved in open combat situations, responding to armed attacks, the guidelines on the defensive use of force and riot control should be the same as those that regulate police forces. However, without proper training, advice, and human rights supervision to provide this kind of orientation, it is quite predictable that troops will act and react in the military combat mode in which they are trained."⁶⁴

Apart from aspect of codes of conduct and operating procedures in Chapter 10, this study will not revisit this issue. This should not be interpreted as minimizing the importance of human rights to the very conduct of UN field staff. In particular, armed UN forces and their commanders both military and civilian, must operate clearly within the law of armed conflict and human rights law. The UN needs to operationalize its internal obligations, including the creation of some ombuds or other avenue of redress for those alleging human rights violations by UN staff and agents.

⁶² *Somalia: Human Rights Abuses by the United Nations Forces*, African Rights, London UK, July 1993, p.16. The report goes on to state on page 30 that "The Canadian government deserves full credit for its willingness to treat allegations of homicide by its soldiers with the seriousness that the charges warrant. No other government contributing soldiers to UNITAF or UNOSOM has shown comparable concern for accountability."

⁶³ op. cit. p. 33

⁶⁴ p. 139, Clapham & Henry, in Aspen/Henkin ed., op.cit.