

Preemptive Self-Defense, Customary International Law, and the Congolese Wars

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On July 4, 1994, the Rwandan Patriotic Front (RPF), a rebel organization consisting largely of the minority Tutsi ethnic group, overtook the Rwandan capital, Kigali. Over the following weeks, the RPF successfully managed to gain control of the rest of the country. However, thousands of Hutu, including members of the paramilitary Interahamwe and Rwandan Armed Forces—the so-called *génocidaires*, fled across the border into eastern Zaire (now known as the Democratic Republic of the Congo). This massive influx of refugees, combined with an already unstable government in Zaire, ultimately provided the impetus for an enduring conflict in the Congo. Perhaps no event—aside from the Rwandan Genocide itself—demonstrated both the failings and urgent need for effective international law than the First and Second Congolese Wars. Collectively, these conflicts would result in “the needless deaths of more than five million Congolese from disease, malnutrition, and mass violence” (Cohen 86). However, the conflicts occurred not merely due to a state of lawlessness, but rather, state actors—notably Rwanda and Uganda—would claim their actions were completely in keeping with international rules governing military intervention; in contrast, the Democratic Republic of the Congo (DRC or the Congo) alleged violations of both international and humanitarian law occurred from such acts of armed intervention. This paper seeks to examine the validity of such legal arguments, specifically regarding the Rwandan and Ugandan claim to a right of preemptive self-defense, which seemingly has been incorporated into customary international law post-9/11. Before considering the legal aspects of the conflict in the Congo, however, a basic understanding of the geo-political situation that eventually would result in the outbreak of hostilities is necessary.

Historical Background

Despite being a small, land-locked country in central Africa, Rwanda—perhaps more so than any other state actor—had the greatest impact in both the First and Second Congolese Wars. As previously mentioned, the RPF-regime had just been established in Kigali and “for Rwanda the situation in Congo around 1996 represented a very real security threat” (Eriksen 1100). Hutu militias based in the Kivu region of eastern Zaire continued to launch attacks on Rwanda, while growing tension between the local inhabitants and Hutu expatriates risked further destabilizing the entire “Great Lakes” region. “The objective [for the Hutu militias], of course, was to fight their way back into Rwanda and reclaim power. To that end...they began trafficking in arms and selling humanitarian relief goods to earn money” (Cohen 90). That being said, military intervention in the Congo was not seriously considered in Rwanda; this changed, however, in 1995-1996 when the government determined that Hutu militias were engaging in a localized genocide of Tutsi populations in the eastern Congo—moderate Hutu and other groups were also targeted in the pogroms. With backing from Uganda, Rwanda soon “organized military training for Tutsi refugees from Kivu and prepared units of the Rwandan Patriotic Front...for action in Zaire” (Meredith 531). That being said, there was another—more personal—motive for intervention; the Zairian government, headed by President Mobutu Sese Seko, had a troublesome relationship with its neighbors—perhaps, most notably, Rwanda and Uganda. For instance, Mobutu offered shelter to Hutu militias after their exodus from Rwanda, even allowing them to establish a regional government in Kivu and “the exiles were supported by the Congolese military who were happy to sell arms” (Cohen 90). Rwanda and Uganda both saw intervention as a means to overthrow the Mobutu government in the Congo and, in its place, establish a friendly regime.

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In October 1996, RPF forces along with local Tutsi militias crossed the border and quickly gained control over large swaths of eastern Congo. In addition to foreign troops, the Zairian army also had to deal with the newly formed Alliance of Democratic Forces for the Liberation of Congo-Zaire (AFDL)—a Rwandan-backed paramilitary organization, which aimed to force Mobutu into exile. While the fighting was intense, it soon became clear the tide was shifting towards Rwanda, Uganda, and the AFDL. Sensing defeat the Hutu militias “and troops from Mobutu’s ramshackle army fled in all directions, taking camp followers with them, killing and looting as they went” (Meredith 534). Eastern Congo soon descended into anarchy with armed militias fighting each other and refugees desperately seeking shelter, as the AFDL continued its push towards the Zairian capital, Kinshasa.

Uganda—a close ally of Rwanda—was another country that played a significant role during the First and Second Congolese Wars. The relationship between Uganda and Rwanda—or, more specifically, the RPF—first developed with the rise of that country’s leader, Yoweri Museveni. Forced into exile because of the Hutu government’s persecution of Tutsi groups in Rwanda, the RPF found refuge in Uganda where they joined forces with Museveni, who successfully led a military coup (1985-1986) against General Tito Okello. Museveni—after consolidating his power—allowed the RPF to remain in Uganda, from where it conducted cross-border raids into Rwanda. As further described by Herman J. Cohen in *Rwanda: Fifty Years of Ethnic Conflict on Steroids*, “The [Tutsi] population living in Uganda, mostly within fifty miles of the Rwandan border, was by far the most numerous. Within this population, the political passions for a return to Rwanda, by arms if necessary, were the most intense” (Cohen 88). It is from Uganda that the RPF eventually invaded Rwanda, defeating the Hutu government and forcing the militias into eastern Zaire.

The primary concern of Uganda—regarding military intervention in Zaire—not unlike that of Rwanda, was that instability in the region could cross the border. “Museveni resented the way in which lawless parts of eastern Zaire were used by anti-government Ugandan militias as a base from which to attack his regime” (Meredith 531). Museveni also despised Mobutu, who previously supported Okello and even had sent Zairian troops into the country to bolster his political regime during the so-called Ugandan Bush War. Furthermore, it was widely believed that intervention would allow Uganda to expand its national influence and enhance its standing among other countries in the Central African region. Ugandan intervention occurred in close partnership with Rwanda; for instance, both countries worked cooperatively when forming the AFDL and selecting the organization’s leader, Congolese dissident Laurent-Désiré Kabila. Uganda also provided military advisors and other forms of direct assistance to the AFDL. In addition, Uganda offered shelter to members of the AFDL, from where they could train and prepare for the invasion of Zaire. However, unlike Rwanda, Uganda did not commit a large number of its own troops to the intervention force, but rather, acted through proxies like the AFDL and other militias. Ugandan troops deployed in the Congo served largely advisory and/or support roles.

Military intervention would prove largely a success, in that, the Hutu militias had been weakened (although not eliminated), and Mobutu was forced into exile, while a new, friendly government was established in Kinshasa. Nevertheless, Rwanda and Uganda, which now “controlled roughly half the Congo’s territory,” (Eriksen 1098) would remain in the country. Maintaining a presence in the mineral-rich regions of the eastern Congo, both countries would make a fortune exploiting the areas under their control. As further described by Stein Sundstøl Eriksen in *The Congo War and the Prospects for State Formation: Rwanda and Uganda Compared*, perhaps the most observable example “is the production of and trade in coltan, which became a major source of income for...Rwanda. In addition to coltan, Rwanda also controlled trading networks and the export of other commodities, such as gold, diamonds and timber” (Eriksen 1102). Ugandan exports of gold and diamonds, likewise, would increase “manifold after the country’s involvement in the Congo...even though there was no evidence of any increase in domestic mineral production” (Eriksen 1105). Furthermore, both countries would continue their support of various militia groups in eastern Congo, such as the Rally for Congolese Democracy and Congo Liberation Movement. The continued infringement of Congolese sovereignty, exploitation of the country’s natural resources, and other factors, eventually caused Rwanda and Uganda’s once friendly relationship with Kabila—now President of the Democratic Republic of the Congo—to deteriorate and led to war. The Second Congo War, which lasted from 1998 until 2003, was in many ways a continuation of the first, a power struggle between the Congolese government and their Hutu allies verses the combined forces of Rwanda and Uganda. While the conflict officially came to an end in 2003 with the establishment of a transitional government and the signing of the Pretoria Accord (Eriksen 1089), under which Rwanda withdrew its

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forces from the Congo, fighting and instability have continued to plague much of eastern Congo.

Preemptive Self-Defense and Legal Justifications

Although quite similar in many regards, the justification for military intervention differed slightly between Rwanda and Uganda; that being said, both countries relied on a claim of preemptive self-defense. An exploration of this concept is, thus, necessary for understanding the legal underpinnings of the actions of each country in the Congo. Essentially, preemptive self-defense refers to unilateral actions by a state (or states) to remove a non-imminent security threat. As further described by W. Michael Reisman and Andrea Armstrong in *The Past and Future of the Claim of Preemptive Self-Defense*:

The claim to preemptive self-defense is a claim to entitlement to use unilaterally, without prior international authorization, high levels of violence to arrest an incipient development that is not yet operational or directly threatening, but that, if permitted to mature, could be seen by the potential preemptor as susceptible to neutralization only at a higher and possibly unacceptable cost to itself (Reisman and Armstrong 526).

Unlike a claim of anticipatory self-defense, whereby an imminent threat of attack clearly exists—like that described in the Caroline doctrine, preemptive self-defense relies instead on the mere possibility of an attack at some unspecified, future period of time. While the United Nations (UN) Charter does restrict the use of military force to resolve interstate disputes, it nevertheless recognizes the “inherent right” of states to act in self-defense, proclaiming, “Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations” (Charter of the United Nations, art. 51). This kind of reactive self-defense, however, is markedly different from preemptive self-defense, where preventative action occurs against a non-imminent threat. Nonetheless, some argue that preemptive self-defense is fully consistent with Article 51 in asymmetrical warfare—especially when combating non-state actors using terrorism.

The claim of self-defense against non-state actors, despite its significance in the “global war on terrorism,” remains a contentious feature of international law however. For instance, the International Court of Justice (ICJ) ruled against Israel’s claim of self-defense, stating, “Article 51 of the Charter...recognizes the existence of an inherent right of self-defence in the case of armed attack by one State against another State. However, Israel does not claim the attacks against it are imputable to a foreign State” (Reisman and Armstrong 534). This restrictive interpretation seemingly denies self-defense actions by a state in response to attacks by a non-state actor; however, post-9/11 international security demands have seen yet another change in definition. Rather, as explained by Judge Bruno Simma of the ICJ, the UN Security Council:

“Claims that Article 51 also covers defensive measures against terrorist groups have been received far more favorably by the international community than other extensive re-readings of the relevant Charter provisions, particularly the “Bush doctrine” justifying the pre-emptive use of force. Security Council resolutions 1368 (2001) and 1373 (2001) cannot but be read as affirmations of the view that large-scale attacks by non-state actors qualify as “armed attacks” within the meaning of Article 5” (Reisman and Armstrong 537).

Increasingly, the right of self-defense is attached to the concept of “imminence,” which suggests action must occur “early enough to be meaningful and effective, and...must take into account the threat posed by weapons of mass destruction, the intentions of those who possess such weapons, and the catastrophic consequences of their use” (Taft, IV 660). That being said, the Council remains wary of unilateral claims of preemptive self-defense and neither has expressed its approval nor disapproval for preemptive actions undertaken by member-states in the war on terror.

The concept of *jus cogens* (or peremptory norms) is also relevant when considering the actions of Rwanda, Uganda, and—from a slightly different perspective—the DRC’s response to military intervention. For the purposes of this paper, customary law refers to patterns of behavior (i.e. norms) that, although unwritten, are nonetheless recognized by the international community, while so-called peremptory norms suggest the existence of rules “that admit no derogation and that can be amended only by a new general norm of international law of the same value. It is a concept that lacks both an agreed content and consensus in state practice” (Shelton 297). Peremptory norms are

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thus general principles of law ostensibly recognized by all states; for instance, the customary law of self-defense. That being said, “little evidence has been presented to demonstrate how and why...[a] preferred norm has become jus cogens” (Shelton 303). The aforementioned countries nevertheless would use peremptory norms to either justify their military actions in the Congo and/or allege violations of international law.

Rwanda

On May 28, 2002, the DRC introduced proceedings against Rwanda (and Uganda) in Armed Activities on the Territory of the Congo; almost immediately, the Rwandan government demanded the case be removed since it lacked jurisdiction. However, the ICJ refused to comply and, instead, Rwanda argued its reservation to the Genocide and Racial Discrimination Conventions precluded the admissibility of the DRC’s application, which alleged:

“First...breaches of the Genocide Convention and contended that Rwanda’s reservation withholding jurisdiction from the ICJ was invalid because it sought to prevent the Court from safeguarding the peremptory norms manifest in the Convention. Second, the DRC accused Rwanda of filing an invalid reservation to the Racial Discrimination Convention, which according to the DRC also contains peremptory norms. Third, the DRC invoked Article 66 of the Vienna Convention on the Law of Treaties, to assert that the Court has jurisdiction to settle all disputes arising from the violation of peremptory norms” (Shelton 306).

As previously mentioned, Rwanda—like Uganda—argued that security interests necessitated its military actions in the Congo, which are described in considerable detail later. However, what made the Court’s ruling of particular interest was here, it explicitly recognized the existence of jus cogens (or peremptory norms) in analyzing Rwanda’s reservation to both the Genocide and Racial Discrimination Conventions. For instance, the DRC argued that Rwanda had withdrawn its reservation to Article IX of the Genocide Convention. As further explained by Dinah Shelton in Normative Hierarchy in International Law:

“With respect to the Genocide Convention, the Court reaffirmed that the rights and obligations contained therein are rights and obligations erga omnes, then pronounced the prohibition of genocide to be ‘assuredly’ a peremptory norm of general international law” (Shelton 306).

That being said, the Court accepted the reservation could not be invalidated over violation of peremptory norms. Rather, it characterized Rwanda’s reservation as excluding “‘a particular method of settling a dispute relating to the interpretation, application or fulfillment of the Convention’ and not one affecting substantive obligations relating to acts of genocide themselves” (Shelton 307). Thus, it was concluded the reservation was valid, in part, because there was no peremptory norm requiring a state consent to ICJ jurisdiction.

The Court adopted a similar approach when evaluating Rwanda’s reservation to the Racial Discrimination Convention and, later, in determining whether Article 66 of the Vienna Convention provided for ruling on state violations of peremptory norms. However, some argued that while the Court “apparently aimed at sending a message that the venues for challenging and invalidating reservations to Article IX are closed, it’s Judgment and surrounding context has instead raised the issue of whether these venues are in fact closed” (Orakhelashvili 761). Indeed, the Court ruling seemingly raised more questions than it answered—though it clearly indicated that “no peremptory norm requires a state to consent to jurisdiction where compliance with a peremptory norm is the issue before the Court” (Shelton 307). Thus, the DRC was largely unsuccessful in advancing the role of jus cogens for its purposes; however, in determining the validity of claims of preemptive self-defense, the Court would rely on legal precedent—which largely favored the DRC.

Uganda

On September 11, 1998, the Ugandan High Command released a document known as “Safe Haven,” which described “legitimate security interests” in the Congo; among other things, the document proclaimed:

First, that the “enemies” of Uganda had used the DRC as a base for attacks against it for a long time in absence of

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effective control by the Congo of all its territory; second, that in May 1997 the two states had agreed on joint operations by the Uganda People's Defense Force (UPDF) and the Congolese army against the forces of Uganda's enemies in the Congo; and third, that when the anti-Kabila rebellion began in the DRC in 1998, the forces of the two sides were still operating against enemies of Uganda who had returned to the DRC (Reisman and Armstrong 534).

Uganda thus argued consent and self-defense justified its military intervention; however, this argument was only for the period between September 11, 1998, and July 1999, after which Uganda claimed the Congolese government had consented to the presence of its soldiers as detailed in the Lusaka Agreement. Military intervention was necessary because, it was later claimed, that cross-border attacks by insurgents "violated the DRC's duty of vigilance since it tolerated, or failed to take measures to prevent, subversive or terrorist activities inimical to Uganda arising from Congolese territory" (Gathii 146). This claim gave emphasis to unconfirmed reports that Sudan was providing assistance to "anti-Uganda groups" in the Congo—possibly with furtive backing from Kinshasa—and, thus, the UPDF had to act preemptively in order to deny Sudan "opportunity to use the territory of the DRC to destabilize Uganda" (Reisman and Armstrong 535). In addition to countering alleged Sudanese military activities in the region, "Safe Haven" was intended to ensure that "the political and administrative vacuum, and instability caused by the fighting between the rebels and the Congolese Army and its allies...not adversely affect the security of Uganda" (Reisman and Armstrong 535). Further, the UPDF was tasked with preventing attacks by the Interahamwe and other genocidal elements on the people of Uganda. Interestingly, there is no mention of responding to an armed attack in "Safe Haven," rather, each action is either "anticipatory self-defense, in the sense of the Caroline doctrine, or, insofar as the event for which military action is proposed is not imminent, an action purportedly in preemptive self-defense" (Reisman and Armstrong 535).

The issue of Uganda's claim to a right of preemptive self-defense was brought under the jurisdiction of the ICJ in *Armed Activities on the Territory of the Congo*, in which the DRC argued that:

"Uganda had (1) violated various principles of conventional and customary law by its military and paramilitary activities against the DRC, (2) violated its human rights obligations and failed to prevent human rights abuses perpetrated by persons under Uganda's control, and (3) violated conventional and customary law by exploiting and pillaging Congolese resources" (Gathii 142).

For its part, Uganda presented several counterclaims, claiming the DRC behaved "inconsistently with the prohibition on the use of force under Article 2(4) of the UN Charter and under customary international law, as well as in violation of the nonintervention norm" (Gathii 142). A proper analysis of this case provides much needed context in evaluating the actions of Uganda in the Congo.

Concerning the claim to preemptive self-defense, the Court remarked that, as previously mentioned, the so-called "Safe Haven" operation made no mention of responding to an armed attack—a necessary precondition to use-of-force in the UN Charter. It did, however, recognize previous attacks on Uganda by militia groups in the Congo; nevertheless, the Court determined, that "even if these attacks could be regarded as cumulative in character, they remained non-attributable to the DRC" (Chenevier 264). Uganda had also failed to report "its activities to the Security Council in conformance with Article 51, which requires members exercising the right of self-defense to 'immediately report' such actions to the Security Council" (Gathii 143). That being said, the Court acknowledged that Uganda could have acted in justifiable self-defense if the DRC and/or Sudan were actively engaged in hostile military activities; this would have given Uganda the right to use-of-force in self-defense. Ultimately, the Court decided that Uganda had not satisfactorily proven such activities were occurring in the Congo. Thus, it was concluded that the objectives of "Safe Haven," as described in the Ugandan High Command document, were not fully consistent with the concept of self-defense.

A significant weakness of the ICJ decision, however, occurred when the Court expressly declined to address when attacks by a non-state actor permitted a state to exercise a right of self-defense. This question, of course, was central to Ugandan claims of preemptive self-defense in the Congo; that being said, the Court avoided the question entirely, stating:

"The Court has no need to respond to the contentions of the Parties as to whether and under what conditions

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contemporary international law provides for a right of self-defence against large-scale attacks by irregular forces. Equally, since the preconditions for the exercise of self-defence do not exist in the circumstances of the present case, the Court has no need to enquire whether such an entitlement to self-defence was in fact exercised in circumstances of necessity and in a manner that was proportionate” (Reisman and Armstrong 536).

Unfortunately, the Court did not review the issue of preemptive self-defense when regarding non-state actors in *Congo v. Uganda*, which it had previously rejected in *Nicaragua v. The United States and Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (Reisman and Armstrong 536).

While acknowledging the duty of vigilance imposes certain responsibilities on a state, the Court nevertheless argued, “the absence of action by Zaire’s Government against the rebel groups in the border area’ was not tantamount to ‘tolerating’ or ‘acquiescing’ in their activities” (Gathii 147). Uganda had failed to produce sufficient evidence and, rather, was labeled an occupying power that the Court argued was itself responsible for a “lack of vigilance” in preventing violations by its military of international humanitarian law. This included a failure “to protect the civilian population and to distinguish between combatants and non-combatants” (Gathii 145). Somewhat ironically, the Court argued the actions of individual soldiers were “attributable to Uganda under the ‘well established rule’ of customary international law that ‘the conduct of any organ of a State must be regarded as an act of that State’” (Gathii 146). Thus—unlike the DRC—Uganda was culpable for actions of its soldiers; for instance, Uganda did not have a government policy on exploiting Congolese natural resources in occupied territory, however, it was still responsible for illegal exploitation of said resources. Ugandan counterclaims the DRC had violated the prohibition on the use of force and/or the non-intervention norm were dismissed; as was the claim the Lusaka Agreement was an “open-ended consent” to the presence of Ugandan troops in the Congo. Rather, the Court found that “Ugandan forces were engaged in ‘military assaults’ that fell outside any mutual understanding between the two countries ‘to ensure peace and security’ along their common border” (Gathii 143).

Post-9/11

Despite a seemingly direct judgment regarding the validity (or lack) of Uganda’s claim to a right of preemptive self-defense, the ICJ in *Armed Activities on the Territory of the Congo* left many legal questions unanswered. Having claimed that “Safe Haven” was not consistent with Article 51 of the UN Charter, the Court continued:

“The Court recalls that Uganda has insisted in this case that operation “Safe Haven” was not a use of force against an anticipated attack. As was the case also in the *Military and Paramilitary Activities in and Against Nicaragua* (*Nicaragua v. United States of America*) case, “reliance is placed by the Parties only on the right of self-defence in the case of armed attack which has already occurred, and the issue of the lawfulness of a response to the imminent threat of armed attack has not been raised” (Reisman and Armstrong 535).

However, as Judge Kooijmans would later argue, Article 51 “conditions the exercise of the inherent right of self-defence...without saying that this armed attack must come from another state even if this has been the generally accepted interpretation for more than 50 years” (Reisman and Armstrong 536). Indeed, he continues, arguing that, in claiming the attacks by militias were non-attributable to the DRC:

The Court does not answer the question as to the kind of action a victim State is entitled to take if the armed operation by irregulars, “because of its scale and effects, would have been classified as an armed attack rather than as a mere frontier incident had it been carried out by regular armed forces” but no involvement of the “host government” can be proved (Reisman and Armstrong 536).

The dichotomy between the ICJ’s judgment in *Congo v. Uganda* and the UN Security Council’s present interpretation of self-defense—in relation to armed attacks by non-state actors—becomes glaringly obvious, especially after September 11, 2001. To be sure, the actions of Rwanda and Uganda in the Congo differ considerably from that of the United States; nevertheless, both relied on a claim of preemptive self-defense. The necessity of each action was undertaken not because of an immediate threat, but rather against a non-imminent and/or non-proximate threat. It can accurately be said, “The Security Council has not accepted the International Court’s interpretation of Article 51,

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which...requires state responsibility for the attack that provokes a claim of a right to self-defense” (Reisman and Armstrong 537-538). Representative of this broader claim to a right of preemptive self-defense are multiple statements from national governments post-9/11; for instance, a report by the Australian Air Force contends:

“Strike may also take the form of a pre-emptive strike, aimed at deterring an aggressor before major conflict erupts. While there would always be significant political and diplomatic consideration of any pre-emptive strike, confronted by irrefutable intelligence of impending hostilities, the Government may exercise a pre-emptive strike option to remove the immediate threat and demonstrate national resolve” (Reisman and Armstrong 539).

Admittedly, what is being described is more akin to anticipatory self-defense; however, Prime Minister John Howard reaffirmed his country’s position in June 2002, saying, “The principle that a country which believes it is likely to be attacked is entitled to take preemptive action is a self-evidently defensible and valid principle” (Reisman and Armstrong 539). Likewise, Prime Minister Tony Blair of the United Kingdom, while not explicitly adopting a policy of preemptive self-defense, nonetheless claimed, “If a nation feels that it is threatened in a direct way then under Article 51 it has an inherent right to take action preemptively” (Reisman and Armstrong 541). Even the Chinese government, which criticized US policy in the Middle East, has considered the possibility of preemptive action regarding Taiwan. For instance, the People’s Congress of China “adopted an antiseccession law that authorizes ‘non-peaceful means’ in the event of overt Taiwanese secessionist actions, or even once ‘possibilities for a peaceful reunification’ are exhausted” (Reisman and Armstrong 544). None of this invalidates the ICJ’s ruling, however, what it may suggest is that a claim to preemptive self-defense—because of the policy and practice of other states—is being incorporated into customary international law.

Conclusion

In conclusion, the actions of Rwanda and Uganda in the Congo relied on a claim of preemptive self-defense. However, this was considered invalid by the ICJ, which claimed the actions of both countries were not in keeping with the language of the UN Charter and, thus, in violation of international humanitarian and human rights obligations. That being said, the actions of Rwanda and Uganda were not entirely different from that of the United States described in the National Security Strategy of 2002. What seems to have undergone a change is the acceptance of preemptive self-defense—especially when combating non-state actors like al-Qaeda and the Taliban. Certainly, the post-9/11 security demands of the international community motivated this change; however, the ICJ has yet to review the matter of preemptive self-defense. Rather, the practice and policy of states—most notably the United States—has instead begun to incorporate a claim of preemptive self-defense into customary international law. Retrospective analysis would likely see the actions of Rwanda and Uganda, at least in part, validated; although, clear violations of international humanitarian and human rights law occurred. The effects of this development have yet to be fully experienced, though if nothing else, it demonstrates the dynamic nature of customary law.

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