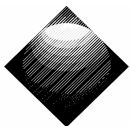


Responsibility to Protect – Engaging Civil Society

A Project of the World Federalist Movement's
Program on
Preventing Conflicts -Protecting Civilians

SUMMARY OF *THE RESPONSIBILITY TO PROTECT:* THE REPORT OF THE INTERNATIONAL COMMISSION ON INTERVENTION AND STATE SOVEREIGNTY (ICISS)



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**SUMMARY OF *THE RESPONSIBILITY TO PROTECT*:
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The *Responsibility to Protect* report, commissioned by the Government of Canada and produced in 2001 by the International Commission on Intervention and State Sovereignty (ICISS), seeks to lay out alternatives to the deeply criticized “humanitarian interventions” of the 1990s. More specifically, the mandate of the drafters was “to try to develop a global political consensus on how to move from polemics – and often paralysis – towards action within the international system, particularly through the United Nations.” ICISS Report, para. 1.7 The report is available on line in several languages at www.ciise-iciss.gc.ca/report-en.asp.

The World Federalist Movement-Institute for Global Policy (WFM) project *Responsibility to Protect-Engaging Civil Society* seeks to deepen the debate on the ICISS report and other writings that feed into the responsibility to protect framework. The following summary of the ICISS report was produced by WFM to emphasize the concepts in the report that are most relevant to WFM’s work. Unless otherwise indicated, all quotations are from the ICISS report.

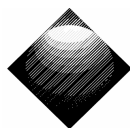
INTRODUCTION

“Millions of human beings remain at the mercy of civil wars, insurgencies, state repression and state collapse. This is a stark and undeniable reality, and it is at the heart of all the issues with which this Commission has been wrestling. What is at stake here is not making the world safe for big powers, or trampling over the sovereign rights of small ones, but delivering practical protection for ordinary people, at risk of their lives, because their states are unwilling or unable to protect them... The experience and aftermath of Somalia, Rwanda, Srebrenica and Kosovo, as well as interventions and non-interventions in a number of other places, have provided a clear indication that the tools, devices and thinking of international relations need now to be comprehensively reassessed, in order to meet the foreseeable needs of the 21st century.” paras. 2.1 & 2.2

A NEW FRAMEWORK

THE EXPANDED VIEW OF SOVEREIGNTY AS RESPONSIBILITY

The concept of sovereignty signifies “the legal identity of a state in international law.” para. 2.7 In international relations, “sovereign states are regarded as equal, regardless of comparative size or wealth.” para. 2.7 “A condition of any one state’s sovereignty is a corresponding obligation to respect every other state’s sovereignty.” para. 2.8 This is the norm of non-intervention which is codified in the UN Charter.



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“Generally, however, the authority of a state is not regarded as absolute.” para. 2.7 Internally, it is regulated by constitutional power sharing arrangements. States also take on obligations as members of the international community. In doing so, there is a necessary re-characterization “*from sovereignty as control to sovereignty as responsibility* in both internal functions and external duties.” para. 2.14

DEVELOPMENT OF STANDARDS FOR PROTECTION OF CITIZENS

The concept of “sovereignty as responsibility” now must extend to the responsibility of the state to protect its citizens. This concept has foundations in the post-World War II establishment of standards of state conduct for human rights and humanitarian protection, in the concept of human security and in the emerging practice of states, regional organizations and the United Nations.

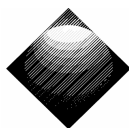
- A. *International legal obligations under human rights and human protection declarations, covenants and treaties, international humanitarian law and national law.* Including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Covenant on Economic and Social Rights, the Genocide Convention, the Geneva Conventions and additional protocols, the Rome Statute of the International Criminal Court.

These and other international legal obligations have created a benchmark for state conduct, changed national infrastructures and are fostering the transition from a culture of sovereign impunity to a culture of national and international accountability.

- B. *Human Security.* There is growing recognition that the concept of security must include people as well as states. “Human security means the security of the people – their physical safety, their economic and social well-being, respect for their dignity and worth as human beings, and the protection of their human rights and fundamental freedoms.” para. 2.21
- C. *Emerging Security Council, Regional and State Practice.* In recent years, there have been increased incidents of interventions by the Security Council, regional organizations and governments in crises that were essentially internal situations but were defined as constituting threats to international peace and security. These events also lend support to the idea that a guiding principle for human protection purposes is emerging.

THE EMERGING PRINCIPLE: THE RESPONSIBILITY TO PROTECT

- A. “The debate about intervention for human protection purposes should focus not on ‘the right to intervene’ but on ‘the responsibility to protect.’” para. 2.29 “The responsibility to protect implies an evaluation of the issues from **the point of view of those seeking or needing support**, rather than those who may be considering intervention.” para. 2.29 (emphasis added)
- B. “State sovereignty implies responsibility, and the primary responsibility for the protection of people lies with the state itself.” *synopsis* p. xi



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- C. However, “where a population is suffering serious harm, as a result of internal war, insurgency, repression or state failure, and the state in question is unwilling or unable to halt or avert it,” (*synopsis* p. xi) then “it becomes the responsibility of the international community to act in its place,” (para. 2.29) and “the principle of non-intervention yields to the international responsibility to protect.” *synopsis* p. xi
- D. The responsibility to protect is not only the question of whether the international community should intervene militarily for human protection purposes. It is a broader responsibility to prevent, react and rebuild, as explained below.

ELEMENTS OF THE RESPONSIBILITY TO PROTECT

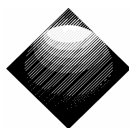
THE RESPONSIBILITY TO PREVENT

“**Prevention is the single most important dimension of the responsibility to protect.**” *synopsis* p. xi Effective prevention must address “both the root causes and direct causes of internal conflict and other man-made crises putting populations at risk.” *synopsis* p. xi It “depends on disparate actors working together,” including “states, the UN and its specialized agencies, the international financial institutions, regional organizations, NGO’s, religious groups, the business community, the media, and scientific, professional and educational communities.” para. 3.36

- A. For effective prevention, “there has to be knowledge of the fragility of the situation and the risks associated with it – so called ‘**early warning.**’” para. 3.9 (emphasis added) System-wide coordination of early warning mechanisms is needed, such as early warning data analysis and resource coordination. In particular, the UN should implement the recommendations of the *Report of the Panel on United Nations Peace Operations* (the Brahimi Report) which call for more effective collection and assessment at UN headquarters and the establishment of an early-warning capacity within the UN Secretariat. Greater regional involvement is also crucial.
- B. “There has to be an understanding of the policy measures available that are capable of making a difference - the so-called ‘preventive toolbox.’” para. 3.9

Measures aimed at **root causes** of deadly conflict may address the following:

- **political needs:** democratic institution-building; constitutional power sharing; power redistribution arrangements; press freedom and the rule of law; promotion of civil society
- **economic needs:** development assistance; redistribution of resources; economic growth; better terms of trade; economic and structural reform; technical assistance
- **legal protections:** strengthening the rule of law; protecting the independence of the judiciary and honesty in law enforcement; protections for vulnerable groups; support for organizations advancing human rights



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- **military reforms:** enhanced education and training; strengthening civilian control mechanisms; accountability of security services; promoting arms control, disarmament and non-proliferation

Efforts to address **direct causes** may also require political, economic, legal and military measures, but different instruments will be needed to reflect the shorter time available:

- **political and economic measures:** direct involvement by the UN Secretary-General; fact-finding missions, friends groups, eminent persons commissions; dialogue and mediation through good offices; international appeals; non-official dialogues and problem-solving workshops; political sanctions; diplomatic isolation; suspension of organization membership; travel and asset restrictions on targeted persons; “naming and shaming”
- **economic measures:** promises of new funding or investment or favorable trade terms; trade and financial sanctions; withdrawal of investment; withdrawal of IMF or World Bank support; curtailment of aid and other assistance
- **legal measures:** offers of mediation and arbitration; adjudication through ad hoc tribunals, domestic trials using universal jurisdiction or ICC trials; monitors to observe compliance with human rights standards
- **military measures:** stand-off reconnaissance; consensual preventive deployment; the threat to use force in extreme cases only

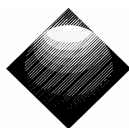
An operational strategy is important for direct prevention, including integration of quick impact development projects. A “pool of unrestricted development funds,” available for use by third party on short-notice would also be desirable. para. 3.37

- C. There must be **political will** to apply these measures. “Conflict prevention must be integrated into policies, planning and programmes at the national, regional and international levels.” para 3.39 “More resources, more energy, more competence and more commitment,” need to be put into prevention. para. 3.40 “What is necessary is for the international community to change its basic mindset from a ‘culture of reaction’ to that of a ‘culture of prevention.’” para. 3.42 The 2001 report of the Secretary-General on *Prevention of Armed Conflict* makes recommendations to that end, and ICISS wholly endorses the Secretary-General’s report.

THE RESPONSIBILITY TO REACT

Situations of compelling human need must be answered with appropriate measures, “which may include coercive measures like sanctions and international prosecution, and in extreme cases military intervention.” *synopsis* p. xi

- A. *Measures Short of Military Action.* “Wherever possible, coercive measures short of military intervention ought first to be examined, including in particular various types of political, economic and military sanctions.” para. 4.3



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Possible **military sanctions** include arms embargoes and ending military cooperation. Blanket **economic sanctions** are disfavored; sanctions must be targeted to decrease impact on innocent civilians and increase impact on decision makers including restrictions on income-generating activities that sustain or in many cases motivate conflicts; possible **political and diplomatic sanctions** include restricting diplomatic representation (such as expulsion of staff) and imposing travel restrictions on specific leaders or individuals.

- B. *Collecting evidence and information.* This requires greater use of impartial non-governmental sources for accurate, reliable reports and greater use of independent fact-finding missions by Security Council or the Secretary-General. The Secretary-General's authority under Article 99 of the UN Charter to "bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security" must be better utilized.
- C. *Military Intervention.* "Military intervention for human protection purposes must be regarded as an exceptional and extraordinary measure." para. 4.18 It would only be justified to halt or avert "**large scale loss of life**, actual or apprehended with genocidal intent or not, which is the product either of deliberate state action, or state neglect or inability to act, or a failed state situation; or **large scale 'ethnic cleansing,'** actual or apprehended, whether carried out by killing, forced expulsion, acts of terror or rape." para. 4.19 (emphasis added)

Precautionary Principles. These are other conditions that must be satisfied at the onset of an intervention.

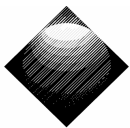
Right intention: "The primary purpose of the intervention must be to halt or avert human suffering." para 4.33 Right intention is better assured with collective or multilateral operations, "clearly supported by regional opinion and the victims concerned." *synopsis* p. xii

Last resort: "Every non-military option for the prevention or peaceful resolution of the crisis [must be] explored, with reasonable grounds for believing lesser measures would not have succeeded." *synopsis* p. xii "The responsibility to react...can only be justified when the responsibility to prevent has been fully discharged" para. 4.37

Proportional means: "The scale, duration and intensity of the planned military intervention should be the minimum necessary to secure the humanitarian objective in question." para. 4.39 All rules of humanitarian law must be strictly observed.

Reasonable prospects: "There must be a reasonable chance of success in halting or averting the suffering which has justified the intervention, with the consequences of action not likely to be worse than the consequences of inaction." *synopsis* p. xii

Right Authority: "There is no better or more appropriate body than the United Nations Security Council to authorize military intervention for human protection purposes." *synopsis* p. xii "The task is not to find alternatives to the Security Council as a source of authority, but to make the Security Council work better than it has. Security Council authorization should in all cases be sought prior to any military intervention action being carried out." *synopsis* p. xii



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“The Permanent Five members of the Security Council should **agree not to apply their veto** power, in matters where their vital state interests are not involved, to obstruct the passage of resolutions authorizing military intervention for human protection purposes for which there is otherwise majority support.” *synopsis* p. xiii (emphasis added)

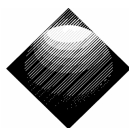
“If the Security Council rejects a proposal or fails to deal with it in a reasonable time, alternative options are: consideration of the matter by the General Assembly in Emergency Special Session under the ‘Uniting for Peace’ procedure; and action within area of jurisdiction by regional or sub-regional organizations under Chapter VIII of the Charter, subject to their seeking subsequent authorization from the Security Council.”
synopsis p. xiii

Operational Principles. The ICISS report also sets forth important operational principles to guide any interventions for human protection purposes. See Chapter 7.

THE RESPONSIBILITY TO REBUILD

“To provide, particularly after a military intervention, full assistance with recovery, reconstruction and reconciliation, addressing the causes of the harm the intervention was designed to halt or avert.” *synopsis* p. xi This requires procuring commitments of sufficient funds and resources for peacebuilding and close cooperation with local people. There are many crucial aspects to rebuilding. They include the following:

- A. *Security.* “provid[ing] basic security and protection for all members of a population, regardless of ethnic origin or relation to the previous source of power.” para. 5.8 This must include **disarmament, demobilization and reintegration** and **rebuilding of new national armed forces and police**, with integration, as far as possible, elements of formerly competing armed factions.
- B. *Justice and reconciliation.* It is important to make “transitional arrangements for justice during an operation” and also to restore a “properly functioning judicial system, including both the courts and police as soon as possible.” para. 5.13. “**Justice packages**” (including such instruments as a standard model penal code) must be integrated into the peacebuilding strategy, pending the re-establishment of local institutions; careful consideration must be given to the **return of refugees and the legal rights of returnees**. Facilitating returns of refugees requires the adoption of non-discriminatory property laws and ending the culture of impunity. The question of return sustainability, or “creating the right social and economic conditions for returnees,” must be addressed. para. 5.18



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- C. *Development.* The final peacebuilding responsibility is to encourage, to the extent possible, “economic growth, the recreation of markets and sustainable development.” para 5.19 As soon as possible, authorities must **end any coercive economic measures** and must “not prolong comprehensive or punitive sanctions.” para 5.19 They must **transfer development responsibility** and project implementation to local leadership and local actors as soon as possible. It must be recognized that **development works in conjunction with security efforts**: “the sooner the demobilized combatants are aware of their future options and opportunities, and the sooner the community has concrete and tangible demonstrations... [of]return to normality... the more positive will be their response in retaliation to disarmament and related issues.” para. 5.21
- D. Useful guidelines for behavior of intervening authorities might be found in a “**constructive adaptation**” of the **International Trusteeship System**, Chapter XII of the UN Charter. This model would “enable reconstruction and rehabilitation to take place in an orderly way across the full spectrum, with the support and assistance of the international community.” para. 5.22 This concept is likely to face resistance, but situations of failed states make a compelling argument for its application.
- E. *Local ownership.* International actors must create “political processes which require local actors to take over responsibility both for rebuilding their society and for creating patterns of cooperation between antagonistic groups.” para. 5.31 There are both positive and negative implications for the international community to remain in a country long enough to “ensure sustainable reconstruction and rehabilitation.” para. 5.25

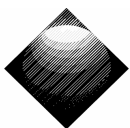
On the positive side, the hope is to **ameliorate the root causes** of conflict, and restore good governance and stability. On the negative side is the suspension of sovereignty in fact if not by law for a period of time, although the goal is to sustain forms of government that will sustain that state’s sovereignty.

THE WAY FORWARD ON RESPONSIBILITY TO PROTECT

MOBILIZING DOMESTIC POLITICAL WILL

Key to mobilizing international support is the mobilization of domestic support, or at least neutralizing domestic opposition.

Leadership of key individuals and organizations – those who will pick up and run with these principles– is necessary. These actors are responsible to the demands placed on them by political constituencies, media, and their own bureaucracies. NGO’s also have a “crucial and ever increasing role, in turn, in contributing information, arguments and energy to influencing the decision making process.” para. 8.11



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Responsibility to protect presents a moral appeal in advocating the prevention of and end to human suffering. There is a financial argument that “earlier action is always cheaper than later action.” para. 8.14 Responsibility to protect also appeals to states’ national interest because it involves maintenance of security, stabilization of economies, and because it is in “every country’s national interest in being, and being seen to be, a good international citizen.” para. 8.16

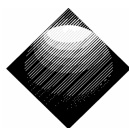
MOBILIZING INTERNATIONAL POLITICAL WILL

The UN Secretary-General has an important role to play in mobilizing international support and constructing and maintaining multinational coalitions. The Secretariat, “particularly through its reports and recommendations to the Security Council, makes a major contribution to shaping the deliberations and determining the range of options considered.” Regional and subregional organizations, international NGO’s and the media also have “immensely relevant” roles with respect to the intervention issue. para 8.20

WFM’S PROJECT: RESPONSIBILITY TO PROTECT **-ENGAGING CIVIL SOCIETY**

WFM believes that the ICISS report proposes a significant normative change for the protection of civilians and is dedicated to advancing this idea. WFM is working to **increase awareness and deepen debate** on the ICISS report and other related documents; to **promote international norms** around the obligations of governments, in particular through the United Nations, to respond earlier and more effectively to emerging humanitarian crises; to **monitor the responses** of the United Nations, the Security Council, regional bodies and governments; and to **strengthen civil society participation** by facilitating the development of new networks of organizations working on related issues.

We seek to form a global network in support of the responsibility to protect principles. If you or your organization are interested in joining us in this endeavor, please **contact us** at R2P-CS@wfm.org or (212) 599-1320. To join our **listserv**, which tracks reports, new articles, speeches and other materials related to the Responsibility to Protect, send a blank email to: R2P-CS-info-subscribe@yahoogroups.com.



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