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# THE RESPONSIBILITY TO PROTECT

REPORT OF THE INTERNATIONAL  
COMMISSION ON INTERVENTION AND  
STATE SOVEREIGNTY





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DECEMBER 2001

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INTERNATIONAL COMMISSION ON INTERVENTION  
AND STATE SOVEREIGNTY



# INTERNATIONAL COMMISSION ON INTERVENTION AND STATE SOVEREIGNTY

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# TABLE OF CONTENTS

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FOREWORD .....	VII
SYNOPSIS .....	XI
<b>1. THE POLICY CHALLENGE.....</b>	<b>1</b>
The Intervention Dilemma .....	1
The Changing International Environment .....	3
The Implications for State Sovereignty .....	7
The Meaning of Intervention.....	8
<b>2. A NEW APPROACH: “THE RESPONSIBILITY TO PROTECT” .....</b>	<b>11</b>
The Meaning of Sovereignty .....	12
Human Rights, Human Security and Emerging Practice.....	14
Shifting the Terms of the Debate .....	16
<b>3. THE RESPONSIBILITY TO PREVENT .....</b>	<b>19</b>
A Commitment to Prevention.....	19
Early Warning and Analysis .....	21
Root Cause Prevention Efforts .....	22
Direct Prevention Efforts .....	23
<b>4. THE RESPONSIBILITY TO REACT .....</b>	<b>29</b>
Measures Short of Military Action .....	29
The Decision to Intervene .....	31
Threshold Criteria: Just Cause.....	32
Other Precautionary Criteria .....	35
<b>5. THE RESPONSIBILITY TO REBUILD .....</b>	<b>39</b>
Post-Intervention Obligations.....	39
Administration under UN Authority .....	43
Local Ownership and the Limits to Occupation .....	44
<b>6. THE QUESTION OF AUTHORITY.....</b>	<b>47</b>
Sources of Authority under the UN Charter .....	47
The Security Council’s Role – and Responsibility .....	49
When the Security Council Fails to Act .....	53

<b>7. THE OPERATIONAL DIMENSION .....</b>	<b>57</b>
Preventive Operations .....	57
Planning for Military Intervention .....	58
Carrying Out Military Intervention.....	61
Following Up Military Intervention .....	64
A Doctrine For Human Protection Operations .....	66
<b>8. THE RESPONSIBILITY TO PROTECT: THE WAY FORWARD.....</b>	<b>69</b>
From Analysis to Action .....	69
Mobilizing Domestic Political Will.....	70
Mobilizing International Political Will .....	72
Next Steps.....	73
Meeting the Challenge.....	75
<b>APPENDIX A: MEMBERS OF THE COMMISSION .....</b>	<b>77</b>
<b>APPENDIX B: HOW THE COMMISSION WORKED .....</b>	<b>81</b>
<b>INDEX .....</b>	<b>87</b>

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# FOREWORD

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This report is about the so-called “right of humanitarian intervention”: the question of when, if ever, it is appropriate for states to take coercive – and in particular military – action, against another state for the purpose of protecting people at risk in that other state. At least until the horrifying events of 11 September 2001 brought to center stage the international response to terrorism, the issue of intervention for human protection purposes has been seen as one of the most controversial and difficult of all international relations questions. With the end of the Cold War, it became a live issue as never before. Many calls for intervention have been made over the last decade – some of them answered and some of them ignored. But there continues to be disagreement as to whether, if there is a right of intervention, how and when it should be exercised, and under whose authority.

## The Policy Challenge

External military intervention for human protection purposes has been controversial both when it has happened – as in Somalia, Bosnia and Kosovo – and when it has failed to happen, as in Rwanda. For some the new activism has been a long overdue internationalization of the human conscience; for others it has been an alarming breach of an international state order dependent on the sovereignty of states and the inviolability of their territory. For some, again, the only real issue is ensuring that coercive interventions are effective; for others, questions about legality, process and the possible misuse of precedent loom much larger.

NATO’s intervention in Kosovo in 1999 brought the controversy to its most intense head. Security Council members were divided; the legal justification for military action without new Security Council authority was asserted but largely unargued; the moral or humanitarian justification for the action, which on the face of it was much stronger, was clouded by allegations that the intervention generated more carnage than it averted; and there were many criticisms of the way in which the NATO allies conducted the operation.

At the United Nations General Assembly in 1999, and again in 2000, Secretary-General Kofi Annan made compelling pleas to the international community to try to find, once and for all, a new consensus on how to approach these issues, to “forge unity” around the basic questions of principle and process involved. He posed the central question starkly and directly:

...if humanitarian intervention is, indeed, an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica – to gross and systematic violations of human rights that affect every precept of our common humanity?

It was in response to this challenge that the Government of Canada, together with a group of major foundations, announced at the General Assembly in September 2000 the establishment of the International Commission on Intervention and State Sovereignty (ICISS). Our Commission was asked to wrestle with the whole range of questions – legal, moral, operational and political – rolled up in this debate, to consult with the widest possible range of opinion around the world, and to bring back a report that would help the Secretary-General and everyone else find some new common ground.

## The Commission's Report

The report which we now present has been unanimously agreed by the twelve Commissioners. Its central theme, reflected in the title, is "The Responsibility to Protect", the idea that sovereign states have a responsibility to protect their own citizens from avoidable catastrophe – from mass murder and rape, from starvation – but that when they are unwilling or unable to do so, that responsibility must be borne by the broader community of states. The nature and dimensions of that responsibility are argued out, as are all the questions that must be answered about who should exercise it, under whose authority, and when, where and how. We hope very much that the report will break new ground in a way that helps generate a new international consensus on these issues. It is desperately needed.

As Co-Chairs we are indebted to our fellow Commissioners for the extraordinary qualities of knowledge, experience and judgement they brought to the preparation of this report over a long and gruelling year of meetings. The Commissioners brought many different personal views to the table, and the report on which we have agreed does not reflect in all respects the preferred views of any one of them. In particular, some of our members preferred a wider range of threshold criteria for military intervention than those proposed in our report, and others a narrower range. Again, some Commissioners preferred more, and others less, flexibility for military intervention outside the scope of Security Council approval.

But the text on which we have found consensus does reflect the shared views of all Commissioners as to what is politically achievable in the world as we know it today. We want no more Rwandas, and we believe that the adoption of the proposals in our report is the best way of ensuring that. We share a belief that it is critical to move the international consensus forward, and we know that we cannot begin to achieve that if we cannot find consensus among ourselves. We simply hope that what we have achieved can now be mirrored in the wider international community.

## The Report and the Events of 11 September 2001

The Commission's report was largely completed before the appalling attacks of 11 September 2001 on New York and Washington DC, and was not conceived as addressing the kind of challenge posed by such attacks. Our report has aimed at providing precise guidance for states faced with human protection claims in other states; it has not been framed to guide the policy of states when faced with attack on their own nationals, or the nationals of other states residing within their borders.

The two situations in our judgement are fundamentally different. The framework the Commission, after consultations around the world, has developed to address the first case (coping with human protection claims in other states) must not be confused with the framework necessary to deal with the second (responding to terrorist attacks in one's own state). Not the least of the differences is that in the latter case the UN Charter provides much more explicit authority for a military response than in the case of intervention for human protection purposes: Article 51 acknowledges "the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations", though requiring that the measures taken be immediately reported to the Security Council. In Resolutions 1368 and 1373, passed unanimously in the aftermath of the September attacks, the Security Council left no doubt as to the scope of measures that states could and should take in response.

While for the reasons stated we have not – except in passing – addressed in the body of our report the issues raised by the 11 September attacks, there are aspects of our report which do have some relevance to the issues with which the international community has been grappling in the aftermath of those attacks. In particular, the precautionary principles outlined in our report do seem to be relevant to military operations, both multilateral and unilateral, against the scourge of terrorism. We have no difficulty in principle with focused military action being taken against international terrorists and those who harbour them. But military power should always be exercised in a principled way, and the principles of right intention, last resort, proportional means and reasonable prospects outlined in our report are, on the face of it, all applicable to such action.

### Acknowledgements

The research and consultations on which the Commission report is based, and the way in which we went about our task, are described in detail in the accompanying supplementary volume, titled *“Research, Bibliography, Background”*. We are indebted to former Canadian Foreign Affairs Minister Lloyd Axworthy, who initiated the Commission and chaired our Advisory Board, and to his successor John Manley who carried it through; to our Canadian support team, headed by Jill Sinclair and Heidi Hulan, for their boundless enthusiasm and energy; and to our research team, headed by Thomas Weiss and Stanlake Samkange, for their dedication and wise counsel. Our work has also benefited profoundly from that of many others who have researched and published on the many different issues on which this report touches, and we acknowledge that contribution more fully in the supplementary volume. We have not tried to reproduce in our report work which has been well and fully done elsewhere – for example on the subject of prevention or operational issues – but we are profoundly conscious of the many debts we owe.

We particularly want to emphasize the benefit we derived from the series of lengthy roundtable discussions we conducted in Beijing, Cairo, Geneva, London, Maputo, New Delhi, New York, Ottawa, Paris, St Petersburg, Santiago and Washington. The meetings involved representatives from governments and inter-governmental organizations, from non-governmental organizations and civil society, and from universities, research institutes and think tanks – in all, over 200 people. These roundtable meetings proved to be a wonderfully rich source of information, ideas and diverse political perspectives, and an excellent real world environment in which the Commission could test its own ideas as they evolved. If we have in our report succeeded in breaking new ground, finding new and constructive ways to tackle the long-standing policy dilemmas associated with intervention for human protection purposes, there are a great many others who can justly claim a share of that success.

GARETH EVANS  
MOHAMED SAHNOUN  
*Co-Chairs*  
30 September 2001



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# SYNOPSIS

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## THE RESPONSIBILITY TO PROTECT: CORE PRINCIPLES

### (1) BASIC PRINCIPLES

- A. State sovereignty implies responsibility, and the primary responsibility for the protection of its people lies with the state itself.
- B. 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, the principle of non-intervention yields to the international responsibility to protect.

### (2) FOUNDATIONS

The foundations of the responsibility to protect, as a guiding principle for the international community of states, lie in:

- A. obligations inherent in the concept of sovereignty;
- B. the responsibility of the Security Council, under Article 24 of the UN Charter, for the maintenance of international peace and security;
- C. specific legal obligations under human rights and human protection declarations, covenants and treaties, international humanitarian law and national law;
- D. the developing practice of states, regional organizations and the Security Council itself.

### (3) ELEMENTS

The responsibility to protect embraces three specific responsibilities:

- A. **The responsibility to prevent:** to address both the root causes and direct causes of internal conflict and other man-made crises putting populations at risk.
- B. **The responsibility to react:** to respond to situations of compelling human need with appropriate measures, which may include coercive measures like sanctions and international prosecution, and in extreme cases military intervention.
- C. **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.

### (4) PRIORITIES

- A. Prevention is the single most important dimension of the responsibility to protect: prevention options should always be exhausted before intervention is contemplated, and more commitment and resources must be devoted to it.
- B. The exercise of the responsibility to both prevent and react should always involve less intrusive and coercive measures being considered before more coercive and intrusive ones are applied.

# THE RESPONSIBILITY TO PROTECT: PRINCIPLES FOR MILITARY INTERVENTION

## (1) THE JUST CAUSE THRESHOLD

Military intervention for human protection purposes is an exceptional and extraordinary measure. To be warranted, there must be serious and irreparable harm occurring to human beings, or imminently likely to occur, of the following kind:

- A. 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
- B. large scale 'ethnic cleansing', actual or apprehended, whether carried out by killing, forced expulsion, acts of terror or rape.

## (2) THE PRECAUTIONARY PRINCIPLES

- A. **Right intention:** The primary purpose of the intervention, whatever other motives intervening states may have, must be to halt or avert human suffering. Right intention is better assured with multilateral operations, clearly supported by regional opinion and the victims concerned.
- B. **Last resort:** Military intervention can only be justified when every non-military option for the prevention or peaceful resolution of the crisis has been explored, with reasonable grounds for believing lesser measures would not have succeeded.
- C. **Proportional means:** The scale, duration and intensity of the planned military intervention should be the minimum necessary to secure the defined human protection objective.
- D. **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.

## (3) RIGHT AUTHORITY

- A. There is no better or more appropriate body than the United Nations Security Council to authorize military intervention for human protection purposes. 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.
- B. Security Council authorization should in all cases be sought prior to any military intervention action being carried out. Those calling for an intervention should formally request such authorization, or have the Council raise the matter on its own initiative, or have the Secretary-General raise it under Article 99 of the UN Charter.
- C. The Security Council should deal promptly with any request for authority to intervene where there are allegations of large scale loss of human life or ethnic cleansing. It should in this context seek adequate verification of facts or conditions on the ground that might support a military intervention.

- D. 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.
- E. If the Security Council rejects a proposal or fails to deal with it in a reasonable time, alternative options are:
  - I. consideration of the matter by the General Assembly in Emergency Special Session under the “Uniting for Peace” procedure; and
  - II. 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.
- F. The Security Council should take into account in all its deliberations that, if it fails to discharge its responsibility to protect in conscience-shocking situations crying out for action, concerned states may not rule out other means to meet the gravity and urgency of that situation – and that the stature and credibility of the United Nations may suffer thereby.

#### (4) OPERATIONAL PRINCIPLES

- A. Clear objectives; clear and unambiguous mandate at all times; and resources to match.
- B. Common military approach among involved partners; unity of command; clear and unequivocal communications and chain of command.
- C. Acceptance of limitations, incrementalism and gradualism in the application of force, the objective being protection of a population, not defeat of a state.
- D. Rules of engagement which fit the operational concept; are precise; reflect the principle of proportionality; and involve total adherence to international humanitarian law.
- E. Acceptance that force protection cannot become the principal objective.
- F. Maximum possible coordination with humanitarian organizations.