

**The Responsibility to Protect:
A Seminar on the Report of the International Commission on Intervention and
State Sovereignty**

**Canadian Pugwash Group Workshop
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Report by Dr. Erika Simpson

In his Millennium Report to the UN General Assembly, Secretary-General Kofi Annan challenged the international community to address the real dilemmas posed by intervention and sovereignty. The independent International Commission on Intervention and State Sovereignty (ICISS) was established by the Canadian government in September 2000 to respond to that challenge. After a year of intense worldwide consultations and debate, the Commission presented its Report, *The Responsibility to Protect* (hereafter the Report). With its central theme of the "responsibility to protect," the Report underlined the primary responsibility of sovereign states to protect their own citizens from avoidable catastrophe—from mass murder, from large-scale loss of life and rape, from starvation. But when they are unwilling or unable to do so, that responsibility must be borne by the broader community of states—there must be no more Rwandas or Srebrenicas.

While there is general agreement internationally that we should not stand by in the face of massive violations of human rights, respect for the sovereign rights of states retains a central place among the ordering principles of the international community. The third annual seminar co-sponsored by Pugwash Canada and Science for Peace focused on the recommendations, themes, and implications of the Report and its supplementary volume (containing background research and a bibliography). It was attended by 46 people. Prior to the seminar at the University of Toronto on March 23, 2002, *The Responsibility to Protect* was made available to all the members of Science for Peace and Pugwash Canada through the Internet and some hard copies and CDs were distributed during the meeting.

The chairman of the meeting and the Canadian Pugwash Group, Senator Douglas Roche began the seminar by congratulating the Canadian government, particularly the former Minister of Foreign Affairs Lloyd Axworthy for initiating the work of the ICISS, and his successor Foreign Minister Bill Graham for strongly supporting its recommendations. He reminded the members of Pugwash and Science for Peace in attendance (hereafter the Group) that, whereas most of the work of the ICISS had been completed before September 11, the findings and recommendations of the Commission continued to remain very relevant in our interdependent world. Senator Roche counselled the audience members to take a wide view in today's discussion and concern themselves not just with countering terrorism but with human protection, human security, and the measures Canada could take to implement its responsibility to protect.

The first guest speaker, Ms. Gisèle Côté-Harper, was introduced by the chair as Canada's Commissioner on the ICISS, a recipient of the Lester B. Pearson medal, and an Officer of the Order of Canada. A barrister and professor of Law at Laval University, she was also the former Chair of the International Centre for Human Rights and Democratic Development and a Member of the UN Human Rights Commission. In her thirty-minute presentation, Ms. Côté-Harper highlighted general and specific sections and objectives of the Report; addressed conceptual issues underlying the debate that has since ensued; and considered other initiatives and responsibilities that could be undertaken by individuals, states, and the international community. She also explained that since the main body of the report was

written before the attack on Washington and New York, the Commissioners held a special meeting to take note of the extent to which September 11 had changed international society. Accordingly, she drew the Group's attention to the Forward of the Report (which explains that the Report was not written to guide states when faced with attacks on their own nationals) and Article 51 of the UN Charter, acknowledging the inherent right of self-defence, and chapter 7, authorizing the use of force to maintain security.

In her wide-ranging overview of many of the Report's sections and objectives, Ms. Côté-Harper explained that the Commissioners had succeeded, in her view, in producing a guide of action that was realistic, intellectually credible and satisfying, as well as unlikely to be rejected out-of-hand by the North, South, the UN Security Council, or other international constituencies. Due to the need to instigate widespread international support, as well as a consensus among twelve Commissioners, she pointed out that the Report can be criticized for not being sufficiently ambitious, however it is a good starting point on which to build incrementally. A measure of the Report's success is that UN Secretary-General Annan now speaks of a country's responsibility to protect, not of a country's duty to intervene.

In her treatment of many of the conceptual issues underlying the debate that ensued over the Report, the Commissioner drew attention to the idea that the principle of state sovereignty is sacrosanct but no longer absolute. For instance, 52 states have already ratified the Statute of Rome, which recognizes that crimes against humanity should be prosecuted through a Permanent International Criminal Court (ICC), and she suggested that it might soon be possible to establish the ICC, once 60 nations had signed and 18 judges were obtained. She also underlined the fact that most of the armed conflicts we face in the world today are intra-, not inter-state conflicts (e.g. of 56 armed conflicts in 2000, 53 were internal). This phenomenon was not likely to disappear, making it all the more important that the international community address how and with what measures it would address, for example, internal conflicts in the sub-continent of Africa ranging from Somalia to Sierra Leone to Madagascar to Zimbabwe. While there are many international instruments (such as the UN Covenant on International Rights) and regional treaties committing states to protect their citizens (e.g. through the OAU, the OAS, and the Council of Europe), the ICISS sought to emphasize the concept of a 'responsibility continuum' whereby states and the international community would recognise the importance of preventing, reacting, and rebuilding. The new diplomacy would need to address the immediate and root causes of international conflict, as well as the responsibility to rebuild, so that further conflict did not take place. In particular, she drew the Group's attention to the Report's Synopsis, particularly the most critical and difficult-to-address circumstances dealt with under (1) The Just Cause Threshold and (3) Right Authority.

In her concluding comments and subsequent reply to questions from the audience, Ms. Côté-Harper also put forward specific recommendations that:

critics in the media and academe recognize that the report, by its very nature, had to put forward incremental steps which would be accepted by all; indeed, a measure of the Report's success is that it does not reflect the preferred views of any one of the twelve Commissioners, all of whom brought different views to the table; moreover, the UN Security Council has agreed to discuss the Report at its retreat on September 11, 2002; different groups and non-governmental organizations (NGOs) within civil society, as well as many regional, and sub-regional actors take it upon themselves to feel more responsible about 'reacting' and readily involving themselves as part of their responsibility to protect; Pugwash Canada and Science for Peace strike an informal or formalized committee to report to Minister Bill Graham with proposals to involve the members of these organizations and

other similar NGOs in the important task of building international consensus to support the Report's main recommendations.

Ms. Côté-Harper's presentation was followed by two presentations from Dr. H. Peter Langille and Dr. Walter Dorn, as well as an extended group discussion before and after a luncheon.

Dr. Langille was invited to comment upon the Report, particularly on the 'next steps' for ensuring protection, as well as the prevention, of armed conflict. Dr. Langille has an MA in Conflict Analysis from the Norman Paterson School of International Affairs at Carleton University and a PhD in Peace Studies from the University of Bradford in the United Kingdom. He initiated the development of a multinational peacekeeping training centre in Canada, now the Lester B. Pearson Peacekeeping Training Centre, and he was on the Core Working Group of the Canadian government's study, *Towards A United Nations Rapid Reaction Capability*. Having just completed his third book manuscript, *Bridging the Commitment-Capacity Gap: Existing Arrangements and Emerging Options for Enhancing UN Rapid Deployment* for the Centre for UN Reform in the US, the chair suggested that Dr. Langille's comments would be particularly apt given the seminar's focus on not just why—but how—the international community might intervene in deadly conflict.

Dr. Langille drew the audience's attention to some contentious issues that the ICISS had to grapple with, particularly those surrounding respect for human rights as well as national sovereignty. He praised the Report for innovatively reframing the debate, successfully finding common ground between different constituencies within civil society and government, and providing useful new ideas such as the responsibility continuum. Dr. Langille went on to provide some constructive criticism and a few specific recommendations. In particular, he questioned whether the Commission's criteria of last resort, which stated that "prevention options should always be exhausted before intervention is contemplated" were overly restrictive, 'set the bar too high', and could result in situations where it would simply be too late to help, due in part to problems with national decision-making, preparation, and training, which should commence early. By the Commission's own reckoning, he pointed out, the crises in Kosovo or Haiti might not have been addressed, and future crises might result in governments deliberately choosing to wait and watch, rather than intervene.

Dr. Langille went on to recommend further attention be paid to the 'how' of prevention and humanitarian protection—with what instruments might the international community effectively intervene? He saw greater potential and legitimacy in working to develop more rapid, reliable and effective UN capabilities, rather than focusing upon ad hoc regional alliances and coalitions of the willing. There was simply no evidence of the latter intervening in the initial stages of a humanitarian crisis when there was a serious risk that they would sustain casualties. Moreover, there were promising and supportive trends evident in UN peace operations, including the implementation of the 'Brahimi' recommendations, the potential of the SHIRBRIG, and the emphasis since 1997 on more robust operations, including Chapter VII mandates for the limited use of force and provisions for protecting civilians. Dr. Langille also noted the renewed interest in improving UN rapid deployment capabilities in the February session of the UN Special Committee on Peacekeeping Operations, as well as the growing constituency supporting U.S. House of Representatives Bill 938 for a United Nations Rapid Deployment Police and Security Force (PSF), an initiative similar to the earlier Canadian proposal for a UN Standing Emergency Group.

Dr. Langille went on to suggest that there might soon be wider receptivity to the general themes within the Report. While the ongoing war on terrorism appeared to be prompting a clash of paradigms, it was also revitalizing interest in multilateral cooperation and a legitimate counterweight to unilateralism, particularly given the prospect of a more divided,

heavily armed, and dangerous world. Dr. Langille held forth hope that there might be a return to the UN in the days ahead as after every war of the past century, there has been a temporal effort to empower international organizations. Finally, the speaker commented on several potentially supportive trends in defence planning, citing the emphasis on long-range force projection with offensive rapid reaction strike forces. While problematic, these might yet be re-directed to assist with prevention and protection, but it would be up to civil society to generate more comprehensive and inclusive initiatives to shift priorities and mobilize political will.

Dr. Walter Dorn was then introduced as Secretary of the Canadian Pugwash Group and a Research Professor with the Department of Politics and Economics, Royal Military College, as well as a faculty member of the Pearson Peacekeeping Training Centre. A scientist by training (PhD Chemistry, University of Toronto), he assisted with the negotiation, ratification, and implementation of the Chemical Weapons Convention (CWC). His interests are now broader, covering both international and human security, especially peacekeeping and the UN. For instance, he has extensive experience in field missions in East Timor, Ethiopia, and at UN headquarters with the UN's Department of Peacekeeping Operations. A former Senior Research Fellow at Cornell University, consultant to Yale University, and adviser to the Federation of American Scientists, most recently he was a Human Security Fellow in the Department of Foreign Affairs and International Trade Human Security Fellowship program.

Dr. Dorn complimented the Commissioners for producing a visionary yet realistic report with many workable recommendations. He lauded the Canadian government for initiating the entire process and drawing together so many capable experts to bring international attention to this important topic through such a high-level international forum. Despite the provocative nature of the concepts of intervention and sovereignty ('red flag words' to some), the inevitable difficulties of forging consensus, and the great challenge of developing workable criteria, the Commissioners had come up with an important and useful contribution to the advancement of international policy. He commented, however, that the suggested criteria for intervention were basically the same as those developed by Saint Augustine in his Just War theory in the 400s. The task now was to refine the interpretations for modern times, something the report did poorly. He criticized the Report for not testing its intervention criteria on recent intervention/enforcement cases in an empirical, if not scientific, fashion. Like Dr. Langille, Dr. Dorn argued that the international community should not wait for too long to intervene but should take a more pro-active stance, with better early warning and response mechanisms. For example, he would have liked the Commission to recommend that the UN be given a stronger mandate to monitor trouble spots through a 'UN Open Skies' system (as was originally proposed by President Eisenhower in 1961), as well as more power to investigate sanctions, monitor elections, and investigate human rights abuses on-site. The Report might have also noted the need for impartial monitoring of enforcement actions (such as those undertaken by 'coalitions of the willing' in the Gulf, Kosovo, and Afghanistan) to verify that these actions are taken in accordance with international humanitarian law and the specific guidelines of the UN. The report might also have recommended ways to render the UN Security Council's deliberations more transparent.

Returning to Ms. Côté-Harper's comments on Article 51 of the UN Charter, Walter Dorn noted that the inherent right to self-defence is not unlimited. It is greatly qualified in the Charter. The right is no longer applicable once the Security Council has taken action to maintain international peace and security. It cannot be used as a reason to exact punishment, only for immediate response to stop the aggression which was in progress. Nor can it be used as an excuse to intervene when the UN Security Council does not approve.

Dr. Dorn went on to suggest that the Report's criteria could be subject to conflicting interpretations simply because so many areas were open to interpretation in a restrictive fashion (e.g., what constitutes domestic jurisdiction). Finally, Dr. Dorn pointed to some measure of hypocrisy or a 'double standard' in that the international community seems willing to countenance US-led coalitions of the willing in "rough-shod Sylvester Stallone campaigns" but seldom questions their legitimacy or inherent discrimination. He asked why the international community cannot demand the same standard of protection and concern for innocent civilians on the ground as is given to the soldiers of the nations carrying out the bombing/enforcement actions (e.g., zero casualty tolerance). The speaker concluded his talk by pointing out that just as the IICSS had put forward excellent ideas for international perusal, groups like Pugwash Canada and Science for Peace could contribute useful ideas to the Canadian government and the UN that might advance human security, peace enforcement and peacekeeping.

During the Group's extensive discussion, a wide variety of questions and comments were raised. For the sake of clarity, these have been grouped here into five major themes and five general recommendations.

MAJOR THEMES

1. The Problem of 'Inconsistent Interventions'

One of the principal themes brought forward during the discussion concerned the inconsistencies of intervention, or what some referred to as the danger of 'double standards'. Many members agreed that while the Commission had accomplished a great deal in terms of defining current grounds for intervention, the possibility existed that major powers, such as the US, Russia, or China, could bias decision-making either in favour of, or against, intervention. Furthermore, problems could arise if members of the international community chose to intervene in some violent conflicts while ignoring others. In particular, some speakers cautioned Canadians to refrain from making benign assumptions about US intentions, particularly given its history of involvement (including with rebel and terrorist groups) in Latin America, Kosovo, and now Afghanistan. Even-handedness and fair mindedness would be important characteristics in future decision-making but history was a witness to the fact that intervention has frequently been inconsistent and unfair.

2. The Importance of Understanding and Tackling the Root Causes of Conflict

Many emphasized that the Commission's work was very important, however broader attention needed to be paid to understanding and preventing the root causes and sources of conflict. Among the many contributing factors to mass violence that were cited were the sale of armaments to conflict-prone areas, conflict over lucrative resources such as diamonds, and lack of civil administration leading to internal chaos. Participants noted as well subtle causal relationships between biased mediators, weakly-formulated peace proposals, Great Power strategic calculations, and dangerous ultimatums. Members agreed that the subjective and politicized nature of the debate was such that there might not be complete agreement on the causes of violence—but it was, nevertheless, important to widen the parameters of analysis to include a host of possible contributing factors.

3. The Role of Armed versus Unarmed Forces in Intervention

There was considerable debate about the morality and efficacy of employing armed conventional forces in order to ameliorate violent conflict. Some members of the Group argued strongly that the use of force could not be justified under any circumstances, while

others maintained that combat-capable forces are necessary, just as armed police officers are necessary in domestic jurisdictions to credibly quell conflict. While some argued that members of the international community should aim to forge peace by emulating the non-violent actions of NGOs such as Peace Brigades International, others pointed out that belligerents may not be deterred from slaughtering each other and innocent civilians unless they are faced with the threat of the use of force. Whether the international community would be itself irresponsible by sending unarmed forces into areas of deadly conflict or genocide was also considered, and general agreement seemed to coalesce in favour of the idea of strengthening the UN's rapid reaction capabilities to prevent deadly conflict or genocide from taking place in the first place.

4. The Importance of Mandating and Equipping the UN to Intervene

Members agreed that while there is an increased tendency within the international arena to rely on regional alliances, such as NATO and the OSCE, and on coalitions of the willing to intervene, in the long run it would be important to assign the UN more powers and capabilities to intervene. In particular, the Canadian government's seeming willingness to condone US-dominated coalitions of the willing, even US unilateralism, was criticized, while many speakers advocated preserving a system of UN-led, multilateral intervention that reflected international law. In terms of concrete proposals to equip the UN to intervene, the discussion returned to the merits and demerits of relying upon stand-by versus standing volunteer UN forces and the necessity of equipping the UN to intervene, for instance by improving its access to strategic air lift capacities.

5. The Importance of Discerning the Underlying Reasons for Intervention

In its discussion, Group members spent considerable time discussing 'just war' principles and whether any war can be considered to be just. It was argued that narrow nationalism, militarism, self-interest, or 'evil' actually underlay many arguments in favour of undertaking a just war. Accordingly, it should be understood that great powers would intervene only if it was in their own self-interest. In the international climate spawned by September 11, some criticized the Canadian government for naively overlooking the United States' intention to preserve its own interests, and encouraged government representatives to take a stronger stand internationally to oppose American unilateralism which violated international law principles. Indeed, there was general unease about the unilateralism of the US and the heedless manner in which it seems to be damaging or discarding agreements and regimes of great import and meaning to others.

GENERAL RECOMMENDATIONS

In discussing future roles for the Canadian government, Pugwash Canada and Science for Peace, many specific recommendations were put forward by individuals though these were not placed before the Group for endorsement as a whole. These can be broadly grouped into five recommendations to:

- explore modes of international cooperation to respond earlier, including institutionalizing diagnostic forces that could be deployed at the earliest sign of international concern and which would report back to the UN;
- encourage more in-depth analysis of alternatives to armed intervention such as non-armed UN international monitoring forces, stricter enforcement of international law, increased dialogue amongst belligerents, the bringing to trial through the ICC of

world leaders who have violated international law, and further regulation and transparency within the world's secret services;

- ensure a more important role for our elected representatives, particularly Members of Parliament and parliamentary committees, in deciding whether to deploy troops to intervene and/or to engage in armed conflict and war;
- support a more equitable and improved division of labour between the US and its allies by encouraging the Canadian government to specialize in multilateral peace support operations, UN rapid deployment, and peacebuilding (even as the US continues to pursue high-technology warfighting, long-range power projection, increased air power, and the dangerous weaponization of space);
- plan to establish, in the long-run, a voluntary UN force consisting of trained military, civilian, and police forces that would build upon the UN's current system of stand-by national units (SHIRBRIG) and the Canadian government's original proposal to establish a UN rapid reaction capability.

Finally, there was general sentiment in the Group in favour of Ms. Côté-Harper's suggestion that Pugwash Canada and Science for Peace strike an informal or formalized committee to report back to Minister Bill Graham with proposals to involve the members of these organizations and other similar NGOs in the important task of building international consensus to support the Report's main recommendations. The chair Douglas Roche affirmed that combining the strengths of Pugwash and Science for Peace in such a committee could enrich new ways of thinking and accord these groups a significant opportunity to influence the government's agenda.

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