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The Responsibility to Protect: A Beaver Without a Dam Review of The Responsibility to Protect: Reprot of the International Commission on Intervention and State Sovereignty

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BOOK REVIEW

THE RESPONSIBILITY TO PROTECT: A BEAVER WITHOUT A DAM?

INTERNATIONAL COMMISSION ON INTERVENTION AND STATE SOVEREIGNTY, THE RESPONSIBILITY TO PROTECT. Ottawa: International Development Research Centre, 2001. xiii + 91.

THOMAS G. WEISS & DON HUBERT, THE RESPONSIBILITY TO PROTECT: RESEARCH, BIBLIOGRAPHY, BACKGROUND (SUPP. VOL. TO THE RESPONSIBILITY TO PROTECT). Ottawa: International Development Research Centre, 2001. xiv + 410.

*Reviewed by Jeremy I. Levitt**

The beaver's dam is comparable to protective intervention for at-risk populations.¹ Beavers need dams to enlarge the underwater habitat that will be open to them in winter, by creating a pond deep enough so that the bottom will not freeze. Humanitarian corridors and safe havens serve parallel functions for displaced civilians during times of conflict. Deep water, whether it is due to a beaver dam or not, provides storage for winter food and year-round underwater access to the den secure from predators. The shelter and safety deep water provides can be likened to the physical protection needed to safeguard civilians and aid convoys, deliver humanitarian supplies, forcibly disarm belligerents, and shield humanitarian workers during and after conflict. Increasing the area of the pond through damming and additional downstream impoundments provides safer access to additional food supplies for beavers in the same way that buffer or no-fly zones protect vulnerable civilians. *The Responsibility to Protect*² can be likened to the beaver because it seeks to build a "dam of protection" through the actions of the international community, to safeguard and preserve human life in nations whose governments fail

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1. The beaver attained official status as an emblem of Canada, the birthplace of the International Commission on Intervention and State Sovereignty (ICISS), when an "act to provide for the recognition of the beaver (*castor canadensis*) as a symbol of the sovereignty of Canada" received royal assent on March 24, 1975. See Government of Canada, *The Beaver*, at http://www.canadianheritage.gc.ca/progs/cpsc-ccsp/sc-cs/o1_e.cfm (last visited Nov. 23, 2003).

2. INTERNATIONAL COMMISSION ON INTERVENTION AND STATE SOVEREIGNTY [CANADA], THE RESPONSIBILITY TO PROTECT (2001) [hereinafter THE RESPONSIBILITY TO PROTECT].

to do so. Just as beavers without dams are more at risk of death and starvation during the winter season, people in areas of conflict that lack buffer zones are similarly at risk year round. This analysis seeks to determine whether the report adequately lays out a viable strategy for the international community that complements, in human terms, the protective rationale or logic behind the beavers' dam, by providing a framework for intervention to protect at-risk populations in such a manner as to minimize human suffering and loss of life.

I. INTRODUCTION

Does the *Responsibility to Protect* report provide a new framework or paradigm of protection for forging a new consensus to resolve the long-standing dilemma of humanitarian intervention? If not, why not? If so, does it proffer a viable response to United Nations Security Council (UNSC) inconsistency, inaction, and ultimate neglect in countries such as Liberia (1990); Burundi (1994); Rwanda (1994); the Central African Republic (1996); Sierra Leone (1997); Guinea-Bissau (1998); Congo (1998) Guinea (1999); and again in Liberia (2003), where the humanitarian and political situation was arguably far more critical than in any other country in the world?³ Does the *Responsibility to Protect* adequately address the "authority" dilemma, when the UNSC sits idly by and allows, as in the case of Rwanda, genocide and massive human rights abuses to unfold before it? The analysis that follows addresses these questions.

In the wake of the arguably illegal U.S.-led Operation Iraqi Freedom in April 2003, which toppled the repressive but internally stable regime of Saddam Hussein, and general international neglect of and ambivalence toward war-torn Liberia during the same period, there is no better

3. Liberia is a poor country under autocratic rule and violent siege by unruly rebels. Since 1989, over 250,000 Liberians have been killed by civil conflict (1 out of 12 of the country's 3 million) and in the most recent surge of conflict 1 million Liberians have been displaced, 300,000 have fled across international border as refugees into neighboring countries, and 50,000 refugees from Cote d' Ivoire and Guinea living in Liberia have been disrupted. Moreover, the unemployment rate in the country is 85% and the 75% of the population live below the poverty level. See *Tackling Liberia: The Eye of the Regional Storm*, ICG AFRICA REPORT (International Crisis Group regional report), Apr. 30, 2003, available at http://www.crisisweb.org/library/documents/report_archive/A400960_30042003.pdf (last visited Dec. 8, 2003); *LIBERIA: Police disperse youth protest against Taylor*, Integrated Regional Information Networks (a news service arm of the U.N. Office for the Coordination of Humanitarian Affairs) (July 3, 2003), at http://www.irinnews.org/report.asp?ReportID=35168&SelectRegion=West_Africa&SelectCountry=LIBERIA (last visited Dec. 8, 2003); Jeremy I. Levitt, *It's Time America Comes to Liberia's Assistance*, CHI. SUN-TIMES, July 6, 2003, at 27A.

time to discuss and consider the dynamic paradigm shift from “humanitarian intervention” or a “right to intervention,” to the “intervention for human protection purposes” proposed by the International Commission on Intervention and State Sovereignty (ICISS) in *The Responsibility to Protect*. According to the report, the difference in terminology is more than semantics; it speaks to the *obligations*, as opposed to rights, of states and, in this context, the notion of sovereignty as responsibility.⁴ As Thomas Weiss notes, the intention of the ICISS seems to be to “drive a stake through the heart of the term ‘humanitarian intervention.’”⁵ The author of this book review agrees with Weiss’s assertion that

The shift in language is based on several assumptions, some more sensible than others. The first, which is frankly the least solid, is the allergy of many humanitarians to the term that they consider an oxymoron. This self-righteous monopoly by civilian agencies is hard to understand or tolerate because on many occasions the military is the only way to halt atrocities; and many members of the armed forces have certainly contributed substantially to the humanitarian enterprise.⁶

Weiss’s view, however, in no way implies that there are no valid reasons for changing the facially presumptive and self-interested terminology of humanitarian intervention to the “less controversy-ridden vocabulary of the responsibility to protect,” and thereby shifting the “debate away from the rights of interveners to the rights of affected populations and the obligations of outsiders to help.”⁷

The report seeks to answer one of the more controversial and complex questions in international relations: whether states have a right of intervention for humanitarian purposes, and if so, under what circumstances should it be exercised and under whose authority? This report was born out of the challenge by United Nations (UN) Secretary-General Kofi Annan to the United Nations General Assembly (UNGA) to avert “another Rwanda” by forging a new consensus to the long-standing controversy over humanitarian intervention⁸—urging member states to

4. FRANCIS DENG ET AL., *SOVEREIGNTY AS RESPONSIBILITY: CONFLICT MANAGEMENT IN AFRICA* xvii (1996).

5. Thomas G. Weiss, *To Intervene or Not to Intervene? A Contemporary Snap-Shot*, *CANADIAN FOREIGN POL’Y*, Winter 2002, at 141, 145. Thomas Weiss was Research Director to the International Commission on Intervention and State Sovereignty (ICISS).

6. *Id.*

7. *Id.* at 146.

8. The report deliberately decided to employ the term ‘intervention’ as opposed to ‘humanitarian intervention’ in response “to the very strong opposition expressed by humanitarian agencies, humanitarian organizations and humanitarian workers towards the militarization of the word ‘humanitarian.’” *THE RESPONSIBILITY TO PROTECT*, *supra* note 2,

formulate new approaches to responding to humanitarian crises—“to find common ground in upholding the principles of the Charter, and acting in defence of our common humanity.”⁹ In his April 3, 2000, Millennium Report address to the General Assembly, Annan commented:

We must protect vulnerable people by finding better ways to enforce humanitarian and human rights law, and to ensure that gross violations do not go unpunished. National sovereignty offers vital protection to small and weak States, but it should not be a shield for crimes against humanity.¹⁰

In that same report, Annan posed a critical question to skeptics of intervention: “[I]f humanitarian intervention is, indeed, an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica—to gross and systematic violations on human rights that offend every precept of our common humanity?”¹¹

Canada, led by its former foreign affairs minister, Lloyd Axworthy, responded to Annan’s compelling critiques and pleas by establishing the International Commission on Intervention on State Sovereignty. The ICISS was formally launched at the United Nations Millennium Summit in September 2000 by Canadian Prime Minister Jean Chretien. Annan asked it:

[T]o wrestle with the whole range of questions—legal, moral, operational and political—rolled up in this debate to consult with the widest 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.¹²

The ICISS had three primary goals:

1) to promote a comprehensive debate around humanitarian intervention; 2) to foster a new political consensus on how to

at 9. The report defines intervention as “action taken against a state or its leaders, without its or their consent, for purposes which are claimed to be humanitarian or protective.” *Id.* at 8.

9. *Id.* at 2. See also Press Release, United Nations, Secretary-General Presents his Annual Report to the General Assembly, Press Release SG/SM7136 (Sept. 20, 1999).

10. Secretary-General Kofi Annan, *We the Peoples: Secretary-General’s Statement to the General Assembly* (April 3, 2000), available at <http://www.un.org/millennium/sg/report/state.htm> (last visited Aug. 6, 2003).

11. KOFI A. ANNAN, *WE THE PEOPLES: THE ROLE OF THE UNITED NATIONS IN THE 21ST CENTURY* 48 (United Nations Department of Public Information 2000).

12. *THE RESPONSIBILITY TO PROTECT*, *supra* note 2, at vii.

reconcile the principles relating to intervention and state sovereignty; and 3) [to] translate that consensus into action.¹³

It argues:

[S]overeign 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.¹⁴

The commission was co-chaired by Gareth Evans, former foreign minister of Austria, and Mohamed Sahnoun, senior Algerian diplomat and senior advisor to the UN Secretary-General.¹⁵

In addressing the question of whether states have a right of intervention for humanitarian purposes, under what circumstances, and under whose authority, the ICISS report fashions an innovative response, namely, that the international law principles of state sovereignty and nonintervention in the internal affairs of states, on one hand, and the emerging consensus on intervention for humanitarian protective purposes, on the other, should be considered as complementary, not contradictory. By redefining the notion of sovereignty as responsibility, the report recasts the debate over humanitarian intervention, thereby replacing the notion of a “right to intervention” with a “responsibility to protect.” The report acknowledged:

[T]hat sovereignty implies a dual responsibility: externally—to respect sovereignty of other states, and internally, to respect the dignity and basic rights of all the people within the state. In international human rights covenants, in UN practice, and in state practice itself, sovereignty is now understood as embracing this dual responsibility. Sovereignty as responsibility has become the minimum content of good international citizenship.¹⁶

The ICISS clearly considered intervention lawful and legitimate when aimed at protecting people from human suffering on a grand scale. For this reason the report is bold and innovative. Yet one wonders whether the principles outlined in the commission’s report present a beaver without a dam—another framework lacking the theoretical vigor to

13. Jennifer Welsh et al., *The Responsibility to Protect: Assessing the Report of the International Commission on Intervention and Sovereignty*, 57 INT’L J. 489, 490, 491 (2002).

14. THE RESPONSIBILITY TO PROTECT, *supra* note 2, at viii.

15. See Welsh, *supra* note 13, for additional background information on the financing, composition, and structure of the ICISS.

16. THE RESPONSIBILITY TO PROTECT, *supra* note 2, at 8.

forge new normative paths while simultaneously filling normative gaps, particularly on the issue of “right authority.”

The analysis that follows is divided into two sections. The first briefly examines the metaphorical beaver—the core principles laid out in the report. The second examines whether this beaver has created a “dam of protection” by assessing the strengths and weaknesses of the report’s “responsibility to protect” paradigm in light of the regional and international law *de lege lata*, particularly in Africa, where the bulk of both UN- and non-UN- sanctioned interventions have taken place.

A. *The Beaver*

This section highlights and examines the core principles outlined in the ICISS report. That report is arguably the most progressive in a series of governmental and nongovernmental (NGO) reports that have surfaced over the past four years.¹⁷ The ICISS report is both refreshing and stale; notwithstanding, it is vital to the ongoing discussion on humanitarian intervention. The report’s vitality stems from its “fresh terminology and clear ideas for reconciling conflicting principles”¹⁸; its staleness results from the report’s inability to offer a genuine way to allay the quagmire of UNSC inaction.

The report highlights two basic principles: (1) “State sovereignty implies responsibility, and the primary responsibility for the protection of its people lies with the state itself”;¹⁹ and (2) “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 community’s responsibility to protect.”²⁰

1. Basic Principles

The first of these principles echoes (without formally acknowledging) arguments put forth by Francis M. Deng et al., the UN Secretary-

17. See ADVISORY COUNCIL ON INTERNATIONAL AFFAIRS & ADVISORY COMMITTEE ON ISSUES OF PUBLIC INTERNATIONAL LAW [NETHERLANDS], HUMANITARIAN INTERVENTION (2000); DANISH INSTITUTE OF INTERNATIONAL AFFAIRS, HUMANITARIAN INTERVENTION: LEGAL AND POLITICAL ASPECTS (1999); INDEPENDENT INTERNATIONAL COMMISSION ON KOSOVO, THE KOSOVO REPORT (2002); ACADEMIC COUNCIL ON THE UNITED NATIONS (ACUNS), EMBRACING THE ELEPHANT: PERSPECTIVES ON HUMANITARIAN OPERATIONS (2001) (Policy brief for the 11th ACUNS/ASIL (American Society of International Law) Workshop on International Organization Studies at the University of Namibia).

18. Edward Newman, *Humanitarian Intervention, Legality and Legitimacy*, INT’L J. HUM. RTS., Winter 2002, at 102, 105 (reviewing four recent books, including THE RESPONSIBILITY TO PROTECT, related to the topic of Humanitarian Intervention).

19. THE RESPONSIBILITY TO PROTECT, *supra* note 2, at xi.

20. *Id.*

General's Special Representative for Internally Displaced Persons, namely that "[t]he sovereign state's responsibility and accountability to both domestic and external constituencies must be affirmed as interconnected principles of the national and international order At the very least that means providing for the basic needs of its people."²¹ When states "fail to discharge this responsibility and refuse to call for help even under those exceptional circumstances . . . the international community can be expected to step in to provide remedies."²² Although the notion of sovereignty as responsibility did not arrive with the ICISS report, *The Responsibility to Protect* has placed the concept squarely in the global debate over the efficacy of humanitarian intervention. The report argues for the "re-characterization" of sovereignty "from *sovereignty as control* to *sovereignty as responsibility* in both internal functions and external duties."²³ Such a change in nomenclature shifts the focus of the intervention debate from "the right to intervene" to "the responsibility to protect," thereby changing the terminology and "reversing the perceptions inherent in the traditional language."²⁴ The report succeeds in switching the emphasis from the intervening state(s) to at-risk populations, and in consequence from the right of the intervening state(s), which casts the intervening state(s) in an aggressive light, to states' "duty to protect communities from mass killing, women from systematic rape and children from starvation."²⁵

The second principle is bold and definitive. Although the report "acknowledges that the primary responsibility [to protect] . . . rests with the state concerned," it recognizes the duty of the international community to protect people when the state is not able to do so, is unwilling to do so, or is the main vehicle of oppression.²⁶ To argue, as the report does, that the principle of nonintervention (a *jus cogens* norm) "yields to the international responsibility to protect," a customary international law norm at best (as opposed to the pre-emptory nature of a *jus cogens* norm), is daring as it elevates such a responsibility to a "duty" and anoints it with a status that transcends the more well-established "right to intervention" or humanitarian intervention. Moreover, it is unclear why the ICISS seems to limit the report's focus to "internal war" and other internal state dynamics as opposed to interstate war, if the principle is genuinely universal—meant to protect people in harm's way when a state fails to do so. Although it is true that since the end of the Cold War

21. DENG, *supra* note 8, at xvii.

22. *Id.*

23. THE RESPONSIBILITY TO PROTECT, *supra* note 2, at 13.

24. *Id.* at 17.

25. *Id.*

26. *Id.*

the bulk of deadly conflict has taken place within state borders as opposed to between states themselves, internal conflict is rarely solely internal and often is fueled by rival neighbors (e.g., Liberia's support of rebels in Sierra Leone between 1997 and 2002 and Guinea's and Côte d'Ivoire's support of insurgents in Liberia between 1999 and 2003) or, as William Reno has noted, by the transnational corporatist forces that compose the "shadow state."²⁷ Despite the fact that the report too narrowly focuses on internal conflict, a term that needs to be understood in a new light given the internationalization, geopolitical aspects, and economic nature of today's conflicts, its underlying principles surely were meant to apply to interstate conflict as well.

2. Legal and Philosophical Foundation

The foundation of the "responsibility to protect" rests on four major pillars: (1) "obligations inherent in the concept of sovereignty"; (2) "the responsibility of the Security Council, under Article 24 of the UN Charter, for the maintenance of international peace and security"; (3) "specific legal obligations under human rights and human protection declarations, covenants and treaties, international humanitarian law and national law"; and (4) "the developing practice of states, regional organizations and the Security Council itself."²⁸ Few states would quarrel with the first three of these pillars; however, the fourth one is more controversial and requires further analysis. Depending on how one weighs and interprets the developing practices of regional organizations and UNSC responses to such practices, one may argue that the "responsibility to protect" has already attained normative status. The trend of unilateral intervention (without prior UN authorization) by states and regional organizations in Africa,²⁹ particularly the Economic Community of West African States (ECOWAS) and its Cease-Fire Monitoring Group (ECOMOG) (see Table I), coupled with the new interventionist law of the African Union (AU), supports the notion of the existence of the doctrine of humanitarian intervention.

27. See WILLIAM RENO, *WARLORD POLITICS AND AFRICAN STATES* (1999).

28. THE RESPONSIBILITY TO PROTECT, *supra* note 2, at xi.

29. In this instance, the term 'unilateral intervention' is being used to mean an intervention taken outside of the UN Charter framework rather than one taken by one state.

TABLE I: AFRICAN MILITARY INTERVENTIONS

<i>Selected African Military Interventions, 1990–2003</i>			
GROUP	PLACE OF INTERVENTION	YEAR OF INTERVENTION	LENGTH OF MISSION*
ECOMOG ^a	Liberia	1990	8 years
MISAB ^b	Central African Republic (CAR)	1997	9 months
ECOMOG	Sierra Leone	1997	2 years
ECOMOG	Guinea-Bissau	1998	1 year
SADC ^c	Lesotho	1998	1 month
ECOMOG	Côte d'Ivoire	2003	Present
ECOMIL ^d	Liberia	2003	Present
<i>Nonhumanitarian Legal Forcible Military Interventions by Individual African States</i>			
GROUP	PLACE OF INTERVENTION	YEAR OF INTERVENTION	LENGTH OF MISSION*
Nigeria ^e	Sierra Leone	1997	3 months
Senegal	Guinea-Bissau	1998	6 months
Guinea	Guinea-Bissau	1998	6 months
<p>* This is a conservative estimate because the ECOWAS and MISAB missions were later converted into UN-sanctioned operations.</p> <p>^a Economic Community of West African States Cease-Fire Monitoring Group (ECOMOG)</p> <p>^b Mission for the Implementation of the Bangui Agreement (MISAB)</p> <p>^c South African Development Community (SADC)</p> <p>^d ECOWAS Mission in Liberia (ECOMIL)</p> <p>^e Nigerian Forces Assistance Group (NIFAG)</p>			

An intervention norm by its very nature clashes with traditional notions of nonintervention as enumerated in Article 2(4) of the UN Charter, but it is nonetheless “legally oxidized” by the UNSC’s consistent practice of retroactively authorizing otherwise illegal (under UN law) African interventions. In effect, it is UNSC practice that is chiseling away at, first, the mantle of state sovereignty by sanctioning humanitarian interventions, even those taken outside of its authority, and second, the UN Charter principle of nonintervention, by *ex post facto* authorizing such interventions. The ICISS report claims that the developing practice of states, regional organizations, and the UNSC is one of the foundations upon which the “responsibility to protect” lies, but the report ultimately fails to quantify in legal terms the impact of African interventions on the law *de lege lata* when considering the issue of “right authority.”

3. Sovereign Responsibilities

The report embraces three very important responsibilities: to prevent,³⁰ to react,³¹ and to rebuild.³² These responsibilities are not new. But for the terminology, they contextually mirror the better-known concepts of conflict prevention, management, and resolution that are found in many regional conflict maintenance systems, particularly in Africa.³³ From this background, states already have a wealth of experience constructing and operating conflict systems that embrace the responsibilities to prevent, react, and rebuild (see Table II), a fact that further reinforces the soundness of the ICISS's approach to peacemaking.

30. "[T]o address both the root causes and direct causes of internal conflict and other man-made crises putting populations at risk." THE RESPONSIBILITY TO PROTECT, *supra* note 2, at xi.

31. "[T]o 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." *Id.*

32. "[T]o 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." *Id.*

33. See, e.g., Declaration of the Assembly of Heads of State and Government on the Establishment within the OAU of a Mechanism for Conflict Prevention, Management and Resolution, Assembly of Heads of States and Government, 29th Ordinary Sess., OAU Doc. AHG/DECL.3(xxix) (1993), available at http://www.africa-union.org/Official_documents/Heads%20of%20State%20Summits/hog/3HoGAssembly1993.pdf (last visited Jan. 15, 2004), reprinted in AFRICA: SELECTED DOCUMENTS ON CONSTITUTIVE, CONFLICT AND SECURITY, HUMANITARIAN AND JUDICIAL ISSUES 219 (Jeremy I. Levitt ed., 2003)[hereinafter AFRICA: SELECTED DOCUMENTS]; Protocol Relating to the Establishment of the Peace and Security Council of the African Union, Assembly of the African Union, 1st Ordinary Sess. (2002), available at http://www.africa-union.org/Official_documents/Treaties_%20Conventions_%20Protocols/Protocol_peace%20and%20security.pdf (last visited Jan. 16, 2004) [hereinafter AU Protocol]; Protocol Establishing the ECOWAS Mechanism for Conflict Prevention, Management, and Resolution, and Peace-keeping, and Security, Dec. 10, 1999, available at <http://www.sec.ecowas.int/sitecedeaop/english/ap101299.htm> (last visited Jan. 16, 2004), reprinted in AFRICA: SELECTED DOCUMENTS, *supra*, at 259 [hereinafter ECOWAS Mechanism]; Protocol on Politics, Defence and Security in the Southern African Development Community (SADC) Region, 11 AFR. J. INT'L & COMP. L. 197 (1999) [hereinafter SADC Mechanism].

TABLE II
PHASES OF CONFLICT REDUCTION AND PROTECTIVE STRATEGIES

Stages	Conflict Maintenance Processes	Political Objectives	Political Functions	Operational Objectives	Operational Functions	Displacement Objectives
1	Conflict prevention	Avert conflict	Preventive diplomacy & deployment	Promote trust	Cease-fire or negotiated settlement	Ensuring state protection to affected civilian populations
2	Conflict management	Security and stability	Valid mandate: Sanctions Prosecution Peace-Keeping Peace enforcement Intervention	Establish order	Protection of displaced persons and warfare containment	Minimizing the escalation of conflict: Humanitarian assistance & durable solutions
3	Conflict resolution	Sustainable peace reintegration	Post conflict: Reconstruction Peace-building Justice Reconciliation	Maintain order	Monitor cease-fire & accords Civil society Capacity-building Demobilization	Negotiate agreements on the return of displaced persons

Few would contest the importance of the responsibilities to prevent, react, and rebuild, and the holistic framework the commission sets out to deal with deadly conflict; however, the report's approach raises some important questions. As noted above, why does the responsibility to prevent seem to focus solely on "the root causes and direct causes of internal conflict," as opposed to including those causes of interstate conflict as well? In addition, the report does not clarify how these three responsibilities should conjoin and/or interact. In the real world, each principle requires a different set of operating systems that are interconnected or linked to one another. Alternatively stated, although these principles seem to establish the notion of a continuum of responsibility, how will they work together in practice? How does one begin to do "root cause prevention" without examining the structural model behind contemporary governance systems (i.e., the tripartite Westphalia state model)?

The ICISS acknowledges that preventive strategies "must work to promote human rights, to protect minority rights and to institute political arrangements in which all groups are represented," but it does not address the issue of the framework or structure of representation.³⁴ Western models of governance were superimposed through colonialism on the majority of states in the international system with little consideration of preexisting indigenous political structures. Westphalia-based Western models of governance may be simply too contrary to traditional law systems, under which the majority of people of the developing world live, and that such models may serve as incubators for conflict in societies where the political culture has not changed from decentralized and even acephalous modes of organization. It has been argued that "the most distinctive contribution of Africa to the history of humanity has in fact been the civilized art of living in a reasonably peaceful way without a State."³⁵ These last two points are important because in the same way that Western governance systems have failed to establish and maintain democratic order and peace in certain states and regions, conventional state-centric remedies designed for such systems (i.e., to prevent, react, and rebuild) have not adequately considered the dynamics of traditional sociopolitical environments—environments that may require a paradigmatic approach "below" the trajectory of sovereignty as responsibility. What is needed is an approach that not only seeks to make the state accountable to people but also makes people accountable to themselves, because the vast majority of people in the

34. THE RESPONSIBILITY TO PROTECT, *supra* note 2, at 22–23.

35. JEAN-FRANCOIS BAYART, *THE STATE IN AFRICA: THE POLITICS OF THE BELLY* 35 (1993) (citing J. Lonsdale).

developing world, where the bulk of conflict takes place, have limited contact with and know little about their own rights, privileges, and duties on one hand and about national governments on the other. By themselves, top-down, state-centered approaches—whether “a right to intervention” or “a responsibility to protect”—do not adequately consider the bottom-up contingent factors in root cause prevention.

The ICISS report argues that prevention is the “single most important dimension of the responsibility to protect” and that 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.”³⁶ This assertion is perplexing given that the aim of the report is to seek new ways to “respond” to preexisting humanitarian crises and protect vulnerable populations. Prevention would require powerful states to invest in early-warning systems, preventive deployment missions, and other forms of institution building in volatile states and zones of conflict where they have no overwhelming national interest. As the report notes, doing this would require the international community to “change its basic mindset from a ‘culture of reaction’ to that of a ‘culture of prevention.’”³⁷ How can such a change be implemented? How long will it take before such a change occurs? Until it does, there is a need to forge consensus on the issue of intervention, as the people of the Congo, Liberia, Sudan and beyond need a “dam” today.

II. WITH OR WITHOUT A DAM?

This section examines whether the *Responsibility to Protect* paradigm offers a holistic, legitimate, and acceptable approach to protecting at-risk populations—whether it establishes a pragmatic approach to “dam building” when people face actual or possible large-scale loss of life or ethnic cleansing and their governments are unable or unwilling to protect them.

The most important part of the ICISS report may be found in chapters 4 to 7, appropriately titled the Principles for Military Intervention. In these chapters the report proffers “just cause” thresholds and “precautionary principles,” and discusses the issues of “right authority” and “operational principles.” The “just cause” thresholds and “right authority” principles are the most important and controversial.

The ICISS contends that exceptions to the principle of non-intervention should be limited and that “[m]ilitary intervention for

36. THE RESPONSIBILITY TO PROTECT, *supra* note 2, at xi.

37. *Id.* at 27.

human protection purposes must be regarded as an exceptional and extraordinary measure” that should be warranted only when “serious and irreparable harm [is] occurring to human beings, or imminently likely to occur.”³⁸ According to the report, the just cause threshold for military intervention for human protection purposes is met when states seek to halt or avert:

- [L]arge-scale loss of life, actual or apprehended, with genocidal intent or not, which is the product either of deliberate state action, state neglect or inability to act, or a failed state situation; or
- [L]arge-scale “ethnic cleansing,” actual or apprehended, whether carried out by killing, forced expulsion, acts of terror, or rape, or any combination thereof.³⁹

Indeed this threshold is vital to human protection, but the report does not go far enough. First, it does not quantify in legal or sociopolitical terms what is meant by a “large-scale loss of life” or “ethnic cleansing.” Nor does the report suggest standards for objectively evaluating such conditions. This raises the following question: If prevention is the single most important dimension of the responsibility to protect, is it not contradictory to require “large-scale loss of life” before saving lives?⁴⁰ As one analyst points out, this raises a secondary issue: “[W]ho[m] would we trust to provide an objective assessment of [the] likelihood” of such a loss of life?⁴¹ Second, the report’s threshold does not include two vital *jus cogens* norms: systematic racial discrimination and massive human rights violations.⁴² Furthermore, it does not consider or even mention a third important emerging norm, against toppling democratically elected or legitimate governments. The UN, ECOWAS, and Organization of African Unity’s condemnation of the overthrow of the democratically elected government in Sierra Leone in 1997, which was thereafter reversed by a universally supported Nigerian-led ECOWAS intervention, is a prominent example. The latter points are crucial because the African region has “codified” these thresholds for intervention, as well as others, at both the regional (ECOWAS and SADC) and continental levels (AU), and addressed the three aforementioned situations that have been consciously ignored by the ICISS (see Table III).

38. *Id.* at 32.

39. *Id.*

40. See Weiss, *supra* note 5, at 148.

41. Welsh, *supra* note 13, at 498.

42. See RESTATEMENT (THIRD) FOREIGN RELATIONS LAW § 102(2) (1987); see also *Prinz v. F.R.G.*, 26 F.3d 1166, 1171 (D.C. Cir. 1994).

TABLE III.
THRESHOLDS FOR MILITARY INTERVENTION

<i>Responsibility to Protect</i>
<ul style="list-style-type: none"> • 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 the killing, forced expulsion, acts of terror, or rape.
<i>AU Constitutive Act and AUPSC⁴³</i>
<ul style="list-style-type: none"> • In respect of grave circumstances, namely war crimes, genocide and crimes against humanity, as defined in relevant international conventions and instruments⁴⁴; or • Institute sanctions whenever an unconstitutional change of government takes place in a member state, as provided in the Lomé Declaration.⁴⁵
<i>ECOWAS Mechanism</i>
<ul style="list-style-type: none"> • In cases of aggression or conflict in any member state or threat thereof; • In case of conflict between two or several member states; and • In case of internal conflict: <ul style="list-style-type: none"> (a) that threatens to trigger a humanitarian disaster; or (b) that poses a serious threat to peace and security in the subregion. • In event of serious and massive violations of human rights and the rule of law. • In the event of an overthrow or attempted overthrow of a democratically elected government.⁴⁶

43. See Jeremy Levitt, *The Peace and Security Council of the African Union*, 13(1) IOWA J. TRANSNAT'L & CONTEMPORARY PROBLEMS (forthcoming Dec. 2003), for more on the African Union Peace and Security Council.

44. See AU Protocol, *supra* note 33, art. 7(e).

45. *Id.*, art. 7(g).

46. ECOWAS Mechanism, *supra* note 33, art. 25, at 274.

SADC Mechanism

- The organ may seek to resolve any significant interstate conflict between the signatories or between a signatory and another state.
- A "significant inter-state conflict" shall include:
- (a) a conflict over territorial boundaries or natural resources;
 - (b) a conflict in which an act of aggression or other form of military force has occurred or been threatened; and
 - (c) a conflict that threatens peace and security in the region or in a signatory that is not a party to the conflict.
- The organ may seek to resolve any significant intrastate conflict with a signatory.
- A "significant intra-state conflict" shall include:
- (a) large-scale violence between sections of the population or between the state and sections of the population, including genocide, ethnic cleansing, and gross violation of human rights;⁴⁷
 - (b) a military coup or other threat to the legitimate authority of a state;
 - (c) a condition of civil war or insurgency; and
 - (d) a conflict that threatens peace and security in the region or in another member state.⁴⁸

The ICISS thresholds for intervention are apparently more conservative than those of African states, but perhaps not more so than those of Asian and Latin America states, which historically are among the staunchest subscribers to the international law principles of nonintervention and state sovereignty. This fact is somewhat shocking because it means that the report is "less evolved" than the law *de lege lata* in the Africa region, home to the bulk of the world's civil wars with which the report was preoccupied. What did African states know or understand that the internationalist-minded ICISS did not? Perhaps, it is not that the ICISS was behind but that the law *jus ad bellum* in Africa is more advanced than, and arguably inconsistent with, the law *de lege lata* outside of Africa, which the ICISS was primarily concerned.

The ICISS's precautionary principles are drawn from "just war" doctrine and are generally uncontested. They serve as a basic but sound framework to assess the legal and political efficacy of intervention. The principles are:

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

47. SADC Mechanism, *supra* note 33, art. 11(2)(b).

48. *Id.*

operations, clearly supported by regional opinion and the victims concerned.

Last resort: Military intervention can be justified only when every nonmilitary option for the prevention or peaceful resolution of the crisis has been explored, with reasonable grounds for believing lesser measures would not have succeeded.

Proportional means: The scale, duration, and intensity of the planned military intervention should be the minimum necessary to secure the defined human protection objective.

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

Although “just war” doctrine forms the backbone of these principles, they also seem to include peacekeeping doctrine that has emerged out of state practice since the end of the Cold War. In this context, the first and second elements are the most relevant. The recognition in the “right intention” principle that states often have mixed motives for intervening to end human suffering, and that regional and local opinion is critical to the success of any enforcement operations, is refreshing. The “reasonable prospects” element is unique because it reemphasizes the importance of states to assess thoroughly the situations in target states before intervening with reasonable prospects of doing more good than harm. The ICISS could have paid more attention to the role of military technology, particularly surveillance and air power, in ascertaining or informing the “reasonable means” and “proportional means” principles.

The issue of “right authority” is by far the most important issue in the humanitarian intervention debate. It is on this issue that the unwillingness of the UNSC to take decisive action gravely affected the fates of millions of people in Liberia, Rwanda, Sierra Leone, Congo, Kosovo, and East Timor. The ICISS position on the question of “right authority” is disappointing and inconsistent with emerging norms of international law. The “right authority” principles set out in the report are:

- 1) 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.
- 2) Security Council authorization should in all cases be sought prior to carrying out any military intervention action. 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.

- 3) 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.
- 4) The Permanent Five members of the Security Council should agree not to apply their veto power, in matters where their vital interests are not involved, to obstruct the passage of resolutions authorizing military intervention for human protection purposes for which there is otherwise majority support.
- 5) If the Security Council rejects a proposal or fails to deal with it in a reasonable time, alternative options are:
 - a) Consideration of the matter by the General Assembly in Emergency Special Session under the “Uniting for Peace” procedure; and
 - b) Action within area of jurisdiction by regional or subregional organizations under Chapter VIII of the charter, subject to their seeking subsequent authorization from the Security Council.
- 6) The Security Council should take into account in all its deliberations the fact that, if it fails to discharge its responsibility to protect in conscience-shocking situations demanding 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.

The ICISS’s determination that there is no “more appropriate” body than the UNSC to authorize military interventions and that prior authorization “should be sought in all cases” is difficult to accept, given the Security Council’s history of allowing literally millions of people to die and numerous states to collapse between the years 1990 and 2003.⁴⁹ The

49. The bulk of deaths have taken place in Africa, specifically, the Congo (estimated 3 million), Sudan (estimated 2 million), Rwanda (estimated 1 million), Burundi (estimated 300,000) and Liberia (estimated 250,000). *GLOBAL: Terrorism shifts attention from civilians in conflicts-OXFAM*, Integrated Regional Information Networks (Sept. 16, 2003) at <http://www.irinnews.org/report.asp?ReportID=36629&SelectRegion=Global&SelectCountry=GLOBAL> (last visited Dec. 8, 2003).

first assertion on appropriateness contradicts case studies in the Supplementary Volume that clearly highlight the tension between UN law, namely, prohibitions against uses of force against states under Article 2(4) of the Charter, and emerging customary international law and binding treaty-based justifications for intervention.⁵⁰ The second assertion on “prior authorization” is almost ludicrous, considering that the UNSC itself has authorized several interventions and codeployed forces in operations taken outside of the Charter framework.⁵¹ Such actions arguably have weakened the principle of nonintervention that allows for customary international law and treaty-based remedies when the UNSC fails to maintain international peace and security and/or reasonably respond to situations causing large-scale loss of life.

Although the ICISS calls on the UNSC to “deal promptly with any request for authority to intervene,” it seems to ignore the Security Council’s history, which Rwandans know all too well. The fact that the ICISS deemed it necessary to include principles suggesting that UNSC’s permanent members not use their veto powers to “obstruct” the passing of resolutions designed to protect people and to “deal promptly” with requests, speaks volumes about the UNSC, especially since these very same “principles” formed the logic underpinning debates around UNSC powers in San Francisco in 1945.

The ICISS’s solution to the problem of UNSC inaction does not create a “dam of protection” but rather a conceptual quagmire. First, if the commission is correct in its contention that countries in regions are best suited to enforce peace and “have a greater stake in overseeing a return to peace and prosperity” in their own regions,⁵² it seems contradictory to argue that regional organizations should, in the absence of UNSC action, seek prior, if any, authorization from the UNGA under the “Uniting for Peace” resolution. If countries within regions are “more sensitive to the issues and context behind . . . conflict” and “more familiar with the actors and personalities involved [in a] conflict,” then logic follows that they should be most qualified to make informed

50. See THOMAS G. WEISS ET AL., *THE RESPONSIBILITY TO PROTECT: RESEARCH, BIBLIOGRAPHY, BACKGROUND* 166–170 (Supp. Vol. to *THE RESPONSIBILITY TO PROTECT*, 2001). The author served as a reader/writer the supplementary volume of the report.

51. *Id.* See Jeremy Levitt, *The Evolving Intervention Regime in Africa: From Basket Case to Market Place?*, 96 ASIL PROC. 136–143 (2002); Jeremy Levitt, *African Interventionist States and International Law*, in *AFRICAN INTERVENTIONIST STATES* (Oliver Furley & Roy May eds., 2001); Jeremy Levitt, *Humanitarian Intervention by Regional Actors in Internal Conflicts: The Case of ECOWAS in Liberia and Sierra Leone*, 12 TEMP. INT’L & COMP. L. J. 333 (1998).

52. *THE RESPONSIBILITY TO PROTECT*, *supra* note 2, at 54.

decisions about intervention.⁵³ To assert as the ICISS does that regional organizations “always” must receive prior authorization from the UNSC before intervention and simultaneously contend that there “may be certain leeway for future action” of regional organizations to take unilateral action and seek *ex post facto* authorization from the UNSC (e.g., Liberia, Sierra Leone, and Guinea-Bissau)⁵⁴ is contradictory and confusing. The failure of the ICISS to clearly articulate a doctrine of intervention as a result of UNSC inaction is problematic; it adds ambiguity to an already foggy issue. The ICISS perhaps unwittingly suggests carving out an “*ex post facto* exception” to the principle of nonintervention, thereby undermining its own proposition that the UNSC is the only “right authority.”

To its credit, the commission recognized that UN inaction in the face of “conscience-shocking situations” has and will continue to lead to unilateral action (absent UN authority) by states, action that ultimately harms the credibility and stature of the UN. The commission also cautions that unilateral interventions by ad hoc coalitions or individual states, “without the discipline and constraints of UN authorization, will not be conducted for the right reasons or with the right commitment to the necessary precautionary principles.”⁵⁵ However, several UN-sanctioned operations have apparently disregarded the human rights protective regime and UN peacekeeping doctrine. On this issue, one analyst comments:

It seems that every peacekeeping operation has had its share of horror stories: U.S. soldiers offending Muslim values by skinny-dipping in Somalia [and operating outside of the UN mandate to ‘arrest’ Mohamed Farah Aidid, the chief Somali warlord]; Canadians torturing and murdering Somali civilians; Dutch peacekeepers ‘luring Bosnian children into a field to check for landmines by throwing sweets into the area’; and UNTAC’s

53. *Id.* If the UN General Assembly authorization under the “Uniting for Peace” resolution is the most effective response to Security Council inaction, perhaps it is time for the UNGA to adopt a “Uniting for Peace II” resolution that empowers it to authorize interventions by regional organizations or permit them to seek *ex post facto* authorization from the UNGA when UNSC refuses to act and there is large-scale human suffering. This would provide additional legitimacy for regional organizations, enable the UNGA to shape customary law use-of-force developments and make definitive pronouncements on the legality and legitimacy of interventions—rather than UN authority being ‘usurped’ by extra-Charter state practice and treaty law developments.

54. *Id.*

55. THE RESPONSIBILITY TO PROTECT, *supra* note 2, at 55.

Bulgarian contingent becoming involved in prostitution and smuggling.⁵⁶

Conversely, examples of interventions by ad hoc coalitions and individual states that arguably have been both popular (domestically and internationally) and effective include the Mission for the Implementation of the Bangui Agreements (MISAB) in the Central African Republic in 1996,⁵⁷ and Guinea's and Senegal's intervention to thwart a military mutiny and attempted coup d'état in Guinea-Bissau in 1998.⁵⁸ When taken together, the law *jus ad bellum* in Africa, derived from state practice and treaty law developments, illustrates that indeed it is possible to find consensus around a set of proposals for military intervention that acknowledge[s] the validity of intervention "not authorized by the Security Council or General Assembly."⁵⁹

The last topic examined in the ICISS report relates to "Operational Principles." This section discusses the operational dimension of the gamut of military operations available to states to protect vulnerable populations, from preventive deployments and robust military action to post-conflict reconstruction. In this section the Commission wisely argues that "the responsibility to protect means that human protection operations will be different from both the traditional operational concepts for individual states waging war and for UN peacekeeping operations."⁶⁰ In addition, it advocates for the need to adopt a more flexible doctrine and "proceed from the fundamental thesis. . .that any coercive intervention for human protection purposes is but one element in a continuum of intervention, which begins with preventive efforts and ends with the responsibility to rebuild."⁶¹ It makes the case that any such doctrine should be based on these principles:

- 1) Clear objectives; clear and unambiguous mandate at all times; and resources to match.
- 2) Common military approach among involved partners; unity of command; clear and unequivocal communications and chain of command.

56. Duane Bratt, *Peace Over Justice: Developing a Framework for UN Peacekeeping Operations in Internal Conflicts*, 5 GLOBAL GOVERNANCE 63, 72 (1999).

57. Levitt, *African Interventionist States and International Law*, *supra* note 51, at 31–35.

58. *Id.* at 26–31.

59. THE RESPONSIBILITY TO PROTECT, *supra* note 2, at 54–55.

60. *Id.* at 66.

61. *Id.* at 66–67.

- 3) Acceptance of limitations; incrementalism and gradualism in the application of force, the objective being protection of a population, not defeat of a state.
- 4) Rules of engagement which fit the operational concept; are precise; reflect the principle of proportionality; and involve total adherence to international humanitarian law.
- 5) Acceptance that force protection cannot become the principal objective.
- 6) Maximum possible coordination with humanitarian organizations.

Few military officials, policymakers, or scholars would quarrel with this comprehensive list of operating principles. The notion of a new and more holistic operations doctrine based on the "responsibility to protect" is a welcome development. Although it would be an enormous challenge for the UN to design a one-size-fits-all doctrine, the cases of:

Cambodia and Angola provide classic examples of the acquiescent approach, while Somalia and, to an extent, Bosnia are examples of attempted coercion. Regional and UN operations in West Africa [Liberia, Sierra Leone, Guinea, Guinea-Bissau, and Côte d' Ivoire] have been characterized by a perplexing admixture of coercion and acquiescence, while the approach to disarmament and security challenges in Rwanda defies logic.⁶²

Here it is crucial to heed the warning of Thomas Weiss:

The responsibility to protect civilians presents many challenging tasks that are not favored by militaries around the world. Buried in that famous 'grey area' [between compelling compliance and coercive protection] are thus a host of challenges: the forcible disarmament of belligerents (especially in refugee camps like those in eastern Zaire); the meaningful protection of safe areas (the gruesome example of Srebrenica comes immediately to mind); and the protection of humanitarian workers (as Fred Cuny and other expatriate officials would testify if they were alive).⁶³

From this background, the ICISS recommendations to the UN Secretary-General on the operational dimension are sound and, if followed,

62. *Id.* at 66.

63. Weiss, *supra* note 5, at 152.

certainly would be a giant step in creating a “dam of protection” to which populations in harm’s way are rightly entitled.

III. CONCLUSION

The ICISS report is innovative. It makes a compelling case for shifting the focus of the notion of humanitarian intervention from the rights of interveners to the rights of at-risk populations and the “duty” of states to protect them. The report maintains that state authorities are ultimately responsible for protecting their citizens from serious harm and that when they are unable or unwilling to do so, the principle of nonintervention is trumped by the international responsibility to protect. In this context, as Weiss contends, “the three traditional characteristics of a state in the Westphalian system (territory, authority, population) are supplemented by a fourth (respect for human rights).”⁶⁴

The *Responsibility to Protect* report proffers a comprehensive and holistic approach to peacemaking, including the responsibilities to prevent, to react, and to rebuild. Its approach is not new—African regional organizations have been operating under parallel paradigms for several years—yet in the context of the law *jus ad bellum*, these three responsibilities broaden and even “humanize” the humanitarian intervention debate—advocating for a continuum of action. However, the ICISS fails to suggest ways to encourage state authorities to act on these responsibilities or to evolve from a “culture of reaction” to a “culture of prevention,” which it deems the most important dimension of its report, when the general practice of most states is to do the “minimum” at times when no overriding strategic interests are involved. The *Responsibility to Protect* does not provide a practical framework (not that I necessarily claim that any exists) to prompt governments to take action when they possess credible information that deadly civil conflict will ensue or massive human rights violations will be committed (remember Rwanda). Principles by themselves have little utility if they cannot be applied pragmatically, which ultimately takes resources and will, essential elements for constructing a beaver dam.

While the ICISS should be commended for boldly forwarding a “neo just war” doctrine and “just cause” thresholds for intervention to protect vulnerable populations, the thresholds seemingly do not comport with the law *de lege lata*, as they exclude specific reference to systematic racial discrimination and massive human rights violations, and the emerging norm against toppling democratically elected or legitimate

64. *Id.* at 153.

governments. Here the report fails adequately to consider state practice and treaty law developments in Africa and emerging democratic governance norms in Africa and Latin America, which is disappointing considering that the Supplementary Volume includes numerous case studies of interventions in these regions.

The Commission's insistence that the United Nations Security Council is the only "right authority" to authorize military intervention is also problematic, given the inaction and ineffectiveness of the UNSC and its practice of authorizing interventions *ex post facto* and codeploying forces in operations taken outside of the Charter's framework. It follows that the *Responsibility to Protect*, in my view, mistakenly hinges its sovereignty-as-responsibility approach on 1) the willingness of the UNSC to act, the systematic failure of which prompted the inquiry leading to the report itself, and 2) the Commission's recommendation for extra-UNSC approaches ('Uniting for Peace' procedure and Chapter VIII *ex post facto* authorization) to protect vulnerable populations. From this background did the ICISS meet the challenge of UN Secretary-General Kofi Annan to the United Nations General Assembly to avert "another Rwanda" by forging a new consensus on humanitarian intervention? As mentioned above, the conceptual and practical problems with the ICISS's approach to protecting at-risk populations when the UNSC fails to do so does not create a "dam of protection," but rather creates a swamp. Notwithstanding, the "Uniting for Peace" procedure and the "Chapter VIII *ex post facto*" approach put forth by the Commission are legally ambiguous and weak.

The work of the ICISS must be reassessed on the issue of "just cause" and "right authority." In the meantime, the *Responsibility to Protect* does not offer a strong "dam of protection" for people suffering actual or apprehended large-scale loss of life or ethnic cleansing. Nonetheless, the "dam of protection" that it does provide is somewhat more substantial than other paradigms. Although it may be true that weak dams are better than none at all, relatively feeble dams, like that offered in the *Responsibility to Protect*, often are swept away by strong currents, leaving the beaver, or in this case at-risk populations, to struggle for survival in dangerous conditions. The world's suffering masses deserve a comprehensive and holistic normative framework of protection—built of strong sticks and thick mud, not twigs and thin sludge. How many more millions of people must die before the international community led by the Permanent Five decides that the "responsibility to protect" is a global imperative? Arguably, Canada, the sponsor of the ICISS, has not decided this question in the affirmative considering that only 20 out of 3,745 Canadian peacekeeping troops worldwide are involved in operations in

Africa where,⁶⁵ as the *Responsibility to Protect* rightly acknowledges, the bulk of internal conflict and human suffering has taken place in recent years. Did Canada fulfill its “responsibility to protect” Liberians when Liberia degenerated into violent conflict in 2003?

65. See Government of Canada, *Current Operations*, at http://www.forces.gc.ca/site/operations/current_ops_e.asp (last visited Dec. 12, 2003).