

THE RESPONSIBILITY TO PROTECT

By

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In September 2000 the Canadian government set up an international Commission to study the complex problem of interventionism in the context of the many humanitarian disasters around the world today. The Commission received the support of important governments and institutions, and its results were published in December 2001 in a comprehensive report which suggested a new approach to action – “the responsibility to protect”. The central proposal can be summarized in this way: “when a population is suffering serious harm as a result of an internal war, insurgency, repression or failure of the State, and the State involved has no will or capacity to contain or prevent it, the principle of non-intervention ceases to apply in the face of the international responsibility to protect”^[1]

The content of the report is most evidently relevant to Colombia, The FARC’s most recent atrocity in El Chocó, where more than one hundred people, including a very large number of children, were the victims of indiscriminate attacks against the civil population,

could be the sort of situation which the Commission’s report had in mind. The appalling dimensions of the FARC’s crime underlines the more dreadful features of a conflict which is increasingly moving towards the center of world concern. Before we examine the implications of the Commission’s proposals for Colombia, however, we would have to study the contents of this interesting report with care.

The work of the Commission is another response to the growing problem of internal conflict, which has proliferated around the world, especially since the end of the Cold War. Gareth Evans, a former Minister in the Australian government and co-Director of the Commission, said, “internal conflict continues to be the norm in cases of serious violence. Of the 56 armed conflicts arising between 1990 and 2000 – 53 were intra-State.^[2] One reaction on the part of the “international community” to such conflicts has been “humanitarian intervention”, a figure surrounded by controversy; but it has been equally controversial to do nothing (as in the Rwandan crisis), with such disastrous results. For some, as the report says, the international community is not intervening as it should: and for others, it intervenes too often. The sovereignty of States lies at the heart of this debate, and the Commission was given the task of reconciling the dilemma between protective intervention and sovereignty.

Perhaps the most difficult aspect of the problem – and one which is not always properly recognized – is the enormous complexity of these many conflicts which tend to be classified under a single heading. Not all of them are strictly intra-State. Very few are anything like the classic civil wars of the past. In the terms of history and the law, many of them develop more as forms of crime than of war.

The Commission’s report sheds little light on the point, but it does suggest that the phenomenon is diverse and it recognizes the existence of complex characteristics. In broad terms, it describes three types of conflict (1) ethnic wars (2) internal wars occurring in the aftermath of the end of the Cold War, with greater demands for rights previously repressed; and (3) conflict driven by economic pillaging, where the State structure is weak, and horrendous kinds of violence have broken out for control of products such as diamonds, timber or narcotics.

All these conflicts feed off the ready availability of relatively cheap but extremely destructive arms. Many of them take place in societies stricken by poverty. Wherever they break out, “violence becomes a form of life with catastrophic consequences for ordinary people trapped in the cross-fire”. According to the

Commission, these conflicts and the problems of States today in many parts of the world are two sides of the same coin. “What is happening is a convulsion, a fragmentation of the State and the formation of the State which is changing the entire world order.”

The rich countries are part and parcel of the situation,. They often feed off the arms made in their factories. Their banks hold huge amounts of “dirty” money earned from these wars. The destabilizing effect of the conflicts make themselves felt beyond national borders, “from the worldwide network of terrorism to the streams of refugees, the export of drugs, the proliferation of contagious disease and organized crime,» In an interconnected world, says the report, the existence of feeble, failed or oppressive States “may be a threat to everyone”.

The Commission specifically warns, however, that what is primarily at stake is not the interest of the industrialized world but of “millions of human beings who remain at the mercy of civil wars, insurgency, State repression or collapse of the State”. What is needed is “practical protection for ordinary people whose lives are at risk, since their own States have no will or no capacity to protect them.”

It is most important to note that the “responsibility to protect” suggested by the Commission would be a subsidiary principle, that is, recourse to be taken in the absence of action by a State which has ceased to offer or guarantee safety. Thus the Commission recognizes that States still have a primary duty to protect their citizens. Their proposals have twin purposes: “to strengthen and not to weaken the sovereignty of States and to improve the capacity of the international community to react decisively when States do not have the will or the capacity to protection their own people.”

This point – the understanding of “the responsibility to protect” as a subsidiary principle – seems fundamental and is I believe the premise on which we should appreciate the proposals. The Commission explicitly expresses this subsidiarity in several parts of the report, and it recognizes that in practice States – their authorities, and their people – are l the right sources of understanding of their own problems, and in the face of large.-scale humanitarian disasters as a result of their absence – lack of will to act, deliberate repressive action, inability to face up to the problems – the “responsibility to protect” would become a matter for the international community to decide.

It is also important to be clear about the meaning of the Commission´s proposal, particularly in relation to the type of intervention suggested, the breadth of response considered and the conditions in which it would take place. On such principles, there would be a basis for the need for action “against a State or its leaders, without their consent”. Such actions would cover three areas of the “responsibility to protect” – prevention, reaction and reconstruction. Military intervention would be justified only as a last resort “ when all non-military options for prevention or for peaceful solution of the crisis have been explored”.

In this limited space it would be impossible to cover all aspects of this long report, which makes a detailed examination of the appropriate international authority for the implementation of this “responsibility to protect”, and the operating principles involved. We should add that the Commission was composed of distinguished figures from all over the world, and that their working sessions included lengthy consultations in all continents: Peking, Cairo, Geneva.. London, Maputo, New Delhi, Ottawa, New York, Paris, St. Petersburg, Santiago and Washington.

One may or may not agree with the proposals of the International Commission on Intervention and State Sovereignty. Whatever the case, they must be examined and discussed. In Colombia, they are especially relevant since the country has made great efforts to involve the international community in the quest for a solution to our armed conflict. Some may hasten to conclude that the Commission´s report contains the

basis for a humanitarian intervention in this country. Others may more reasonably conclude that the States have the primary responsibility to protect. The report offers plenty of reasons to argue that the Colombian State should justly demand the greatest possible solidarity on the part of the international community in its intent to strengthen and modernize itself in order to guarantee the security of its people.

^[1] International Commission on Intervention and State Sovereignty. The responsibility to protect (December 2001) in www.iciss-ciise.gc.ca/Reoport-English.asp My translation of all texts quoted.

^[2] Gareth Evans “The responsibility to protect: a new approach to humanitarian intervention” (March 2002) in www.princeton.edu/values/pepa/Evanspaper.htm