Critical Versus Problem-Solving Approaches to Security and *The Responsibility to Protect*

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Abstract:

       The Responsibility to Protect report commissioned by the Canadian government avoids naming in any clear way the problematic ethical and political dilemmas foregrounded by its keystone idea of 'the responsibility to protect', which calls for military intervention in 'humanitarian crises'. Despite language of 'ethics' and 'responsibility', the arguments are invariably based on the militarized national interests of those contemplating intervention: the commissioners imply that suffering at the margins of power is (only) worth addressing because if left unchecked it can constitute a threat to the 'civilized' world. Physical violence is privileged as more important than systemic violence, and intervention is situated temporally in an emergency caused by state failure. This forgets forms of suffering and violence that are pervasive where states are functioning 'normally'. As a result of its problematic 'ethical' contortions, the report thinly veils a narrative of duty reminiscent of colonial impulses by formulating a questionable concept of 'responsibility without corresponding rights'. This paper draws from arguments made by feminist observers who have noted that intervention narratives depict male/masculinized rescuers rescuing female/feminized victims, with the rescuers being imagined as having had nothing to do with creating the conditions of the suffering being addressed. This legitimizes military intervention as the preferred response, depicted as an act of patronal/paternal charity and wisdom. Masculinized and militarized intervention thus becomes a cathartic act that allows imperial histories to be forgotten and foreclosed, thus precluding any consideration of critical and dissenting voices posing alternative problems or imagining other possible engagements.

<u>Introduction: The ICISS Report</u>

What responsibilities do states and their citizens have to help foreign people in need? Who has the authority or the responsibility to transgress the norm of non-intervention and intervene when shocking human rights violations are taking place? Past tragedies and ongoing conflicts have presented a difficult set of theoretical and practical problems for state leaders, for individuals, and for the 'international community'. The well-known cases of suffering in Kosovo, in Srebenica, in East Timor, in Rwanda and in the Darfur region of Sudan present only a handful of the most-discussed cases. To these cases, people in relatively secure and comfortable positions have consistently responded: 'we must do something', or more often, 'we should have done something'. A growing sense of frustrated determination has continued to grind against the practical and political challenges such interventions pose.

In 2000, in response to these tensions, the Canadian government sponsored the creation of an independent International Commission on Intervention and State Sovereignty (ICISS). The ICISS' mandate was to facilitate the discussion of these problems and to work through the immense conceptual, ethical and practical challenges posed by the practice of humanitarian intervention. The main outcome of the Commission has been the *Responsibility to Protect* report, which suggests guidelines for dealing with future outbreaks of violence and which outlines a reconceptualization of sovereignty and international responsibility. The titular concept of the 'responsibility to protect' has two components: one focusing on domestic responsibility and one with international implications. In the opening synopsis, the report's basic principles are outlined as follows:

> 1) State sovereignty implies responsibility, and the primary responsibility for the protection of its people lies with the state itself.

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 responsibility to protect.[1]

By asserting a global responsibility of states and peoples to protect citizens of other states when they are in need, the ICISS commissioners aim to prevent what they see as unacceptable inaction in times of crisis. The report is intended as a rallying cry that will generate the political will to act by introducing new norms of ethical global behaviour that transcend particularist politics. The drafters argue that there is a need to leave bounded conceptions of responsibility behind in favour of a more globalized moral consciousness so that states and people in a position to respond to alleviate humanitarian crises do not, in the future, claim to have no jurisdiction, no mandate, or no responsibility to do so. When the principle of non-intervention must yield and outside states become involved, the commissioners suggest that states are bound by a set of duties that has three basic aspects: the *responsibility to prevent*, the *responsibility to react*, and the *responsibility to rebuild*.[2]

"The kind of intervention with which we are concerned in this report," the ICISS commissioners write, "is action taken against a state or its leaders, without its or their consent, for purposes which are claimed to be humanitarian or protective."[3] Although more cooperative forms of prevention and assistance are stressed at various points throughout the report, the enactment of the international responsibility to protect is argued to be epitomized by *unwelcome* intervention occurring in cases where a weak or failed state cannot or does not perform its

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[1] International Commission on Intervention and State Sovereignty (ICISS). *The Responsibility to Protect: Report of the ICISS.* Gareth Evans and Mohamed Sahnoun, co-chairs. (Ottawa: International Development Research Centre, December 2001), "Synopsis", xi.
[2] ICISS, *The Responsibility to Protect*, xi, (2.32).
[3] ICISS, *The Responsibility to Protect* (1.38).

domestic responsibility to safeguard its citizens' rights. As such, the form of protective action on which the report focuses is decidedly militarized, active and intrusive. Interveners are discursively constructed as heroic third-party rescuers, arriving on the scene having contributed nothing to the suffering at hand. As it is portrayed in the report, protection involves 'sending', 'bringing' or 'mobilizing' help in the form of troops, resources, or other positive forms of aid. Except for a few isolated comments, it is not suggested that protection and security might involve 'ceasing' harmful practices, 'rethinking' outwardly harmful domestic or foreign policies, 'changing' unfair global systems and structures, or 'adjusting' exploitative or disempowering relationships. The report reflects a paradigm of intervention worldview where problems originate within a state's borders, and where the international community offers solutions and aid at best, and inaction at worst.

The ICISS commission, whether because of its membership or its target audience, seems to seek solutions that are immediately practicable, and which do not greatly disturb the status quo of the nation-state system. The report lends fleeting consideration to critical theoretical insight, but tends to fit within what Robert Cox has called *problem-solving theory* as opposed to *critical theory*.[4] As Steve Smith summarizes, "[t]he former takes the existing social and political relations and institutions as the given starting point for analysis and then sees how the problems arising from these can be solved or ameliorated; the latter enquires into how these given relationships and institutions came into existence and how they might be changed."[5] The ICISS report represents an attempt to rationally demarcate a set of standards for intervention within the current international system so that when particular forms of humanitarian emergencies arise, or

[4] Robert Cox, "Social Forces, States and World Orders: Beyond International Relations Theory", *Millennium* 10:2 (1981), 128-129.
[5] Steve Smith, "The Contested Concept of Security" in Ken Booth, ed., *Critical Security Studies and World Politics* (Boulder: Lynne Rienner Publishers, 2005), 40-41.

threaten to arise, they can be met with quick and effective responses. Despite using the language of responsibility, the commissioners only superficially explore the ethical bases of the responsibility to protect. A more critical approach to the same project, in Cox's sense of critical theory, might have entailed more fully exploring the ways in which prevalent understandings of the state, global ethics and international relations allow and encourage normalized behaviours and actions that directly cause and compound humanitarian emergencies, both emergent and enduring.

Intervention and the Emergency

At first glance, the concept of the international responsibility to protect seems like a step towards a cosmopolitan politics where responsibility, ethics and fair treatment permeate and transcend borders. However, the ICISS report posits international responsibility as what it terms a "fallback responsibility" or "residual responsibility," which is only invoked in a crisis of state failure.[6] The doctrine of the international responsibility to protect, then, is more completely and accurately described as a doctrine of *residual* international responsibility, since this phrase captures its specificity in applying only to exceptional cases. This formulation of international responsibility's residual nature implies that states and peoples hold little responsibility to be concerned about the rights of foreigners outside of the exceptional occasion of a looming or occurring emergency.

Anne Orford has written on the temporal construction of intervention narratives, adopting a feminist and postcolonial reading of international law. As Orford writes:

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[6] See the ICISS Report, *The Responsibility to Protect*, section (2.31)

> The focus is always on the moment when military intervention is the only remaining credible foreign policy option. The question that is produced by law's focus on the moment of crisis is always 'What would you suggest we do if we are in that situation again?' The assertion that this is the only moment which can be considered renders it impossible to analyse any other involvement of the international community or to think reflexively about law's role in producing the meaning of intervention.[7]

It follows, Orford argues, that many narratives of humanitarian intervention assert that the choice is between action or inaction, intervention or genocide. The focus on the moment of crisis means that the options available are limited, thus shaping the sorts of responses which are considered appropriate. Peter Nyers points out that international emergencies and crises seem to require responses that are immediate, practical, and that get results. Responses that point out long-term requirements, unequal power relations, and problems with the normal state of affairs are dismissed as unhelpful and overly academic.[8]

One of the main arguments put forward in the *Responsibility to Protect* report is the need for the international community to "change its basic mindset from a 'culture of reaction' to a culture of prevention.'"[9] Passages of the ICISS report emphasize the need to break this false dichotomy. "There is still a range of choices between doing nothing and sending in the troops," the commissioners argue, in a section on political will. "There are always options to be considered before, during and after lethal conflicts."[10] The commissioners seem to believe that their own work escapes the 'culture of reaction.' Yet they still do locate the responsibility to protect in temporal reference to the moment in which 'lethal conflicts' emerge. Thus, while the commissioners may have escaped a *reactive* mentality, they still hold on to a *crisis* mentality.

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[7] Ann Orford, *Reading Humanitarian Intervention*, (Cambridge: Cambridge University Press, 2003), 18.
[8] Peter Nyers, *Rethinking Refugees: Beyond States of Emergency,* (New York: Routledge, 2006), 3.
[9] ICISS, *The Responsibility to Protect*, (3.42).
[10] ICISS, *The Responsibility to Protect*, (8.23).

They do not abandon the idea that the moment of state breakdown, of collapse or confrontation, is the sole moment that carries enough significance to warrant ethical concern and morally responsible action. For the commissioners, the responsibility to protect presents embodies a duty to intervene "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."[11] This places great significance on forms of violent conflict and instrumental repression, insofar as such violences are started and sustained intentionally by active human agents. Key phrases recur throughout the text of the report: "conflict," "intra-state warfare" and "slaughter" are referred to repeatedly in many of those subsections where a referent object of intervention is mentioned.[12] It is these sorts of emergencies, in the form of active military campaigns, economic meltdowns or other crises of state failure which seem to warrant ethical action from beyond borders.

The report's focus on emergencies of state failure overshadows results in an omission of those sorts of problems which might be labeled *systemic suffering*. Examples of this kind of suffering might include extreme poverty, unemployment, homelessness, starvation, disease, disenfranchisement or other such insecurities. Because what exacerbates these sorts of crises is often not military conflict but the normal operation of the global political economy, they do not carry the immediate and tangible spectacularity which often accompanies crises of state failure. The difference corresponds to Johan Galtung's helpful distinction between personal violence and structural violence.[13] For Galtung, violence in general is the sort of negative influence that causes the loss of a person's potential for realizations of the body and mind. Where such negative influence is caused by an identifiable actor, Galtung labels it 'direct' or 'personal'

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[11] ICISS, *The Responsibility to Protect*, "Synopsis", xi.
[12] See examples throughout the ICISS Report, specifically in sections (1.2), (1.20), (3.2), (3.43).
[13] Johan Galtung, "Violence, Peace and Peace Research" *Journal of Peace Research* 6:3 (1969).

violence. Where there is no such actor, where negative influence is instead the result of an unequal distribution of power or the ability to decide over the distribution of resources, Galtung sees 'indirect' or 'structural' violence.

Citing the *Human Development Report 2000,* the commissioners are reminded that human rights violations may be 'loud', direct and violent, or they may be 'soft'. Soft human rights violations, it is explained, affect people systemically, either as individual or as groups, but the suffering that accompanies them is often 'hidden in plain sight' in that it is not newsworthy because it is understood as 'normal'.[14] This seems to mirror Galtung's distinction between direct or organized personal violence and structural violence as described above, but there is a crucial difference in how the commissioners employ this concept. "People often speak of human tragedies," one of the report's supplementary essays reads, "that accompany gross and systematic violations of human rights, especially in wars. Victims die or fall sick because they do not have enough food and lack basic shelter and health care. *These deprivations are another way to kill or maim, deliberately or by neglect.* They are also another way of describing the unacceptable violations of the human rights to food, shelter and health."[15] The terminology employed here is telling. The commissioners do not problematize structural violence per se, but instead imagine it to be a symptom of direct forms of violence. By describing suffering as violations, and by utilizing the concepts of negligence, the commissioners attribute culpability to state leaders, and those who can be imagined to be responsible for violent campaigns.

In general, humanitarian disasters like extreme poverty, homelessness, statelessness, preventable disease, and homelessness are attributed significance within the report, but are

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[14] Henry Shue, *Basic Rights: Subsistence, Affluence and US Foreign Policy,* 2nd ed. (Princeton: Princeton University Press, 1996); and United Nations Development Programme, *Human Development Report 2000* (New York: Oxford University Press, 2000); both cited in ICISS, "Rights and Responsibilities," 145.
[15] ICISS, "Rights and Responsibilities," 145. Emphasis added.

usually problematized as a direct or indirect result of military conflict or government turmoil. The commissioners mention the starvation of children, for example, but frame the problem in terms of 'collateral damage'.[16] In another instance, the commissioners discuss methods for detecting the "warning signs" that can herald a violent conflict or crisis, and acknowledge that poor economic and living conditions can set the stage for deadly conflict.[17] In each of these cases, systemic and indirect forms of suffering are typically framed as undesirable side-effects of war and state failure rather than as problems in their own right. As such, because direct personal violence is prioritized, the *responsibility* to address structural violence and systemic suffering is implied to exist only insofar as such problems threaten to explode into those specific types of violent 'emergencies' which foreign states *do* have the responsibility to address. The commissioners are therefore silent on whether trans-border responsibilities might exist outside of the moment of crisis posed by a collapsing state, when people merely suffer the 'regular' violences and insecurities endemic to the contemporary nation-state system and the world economy.

Peter Nyers has suggested that "situations deemed emergencies… bring to the forefront the unquestioned assumptions and tacit agreements that work to constitute a 'normal' state of affairs."[18] The concept of the residual responsibility to protect suggests that certain emergencies should pose an exception to the norm of state-centered and state-limited politics, where co-nationals must only care for each other. Traditional norms of state sovereignty serve to protect against outside interference, the basic idea being that 'good fences make good neighbours.' Yet, as a corollary, borders also set out the confines of communities of moral responsibility. Within

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[16] See ICISS, *The Responsibility to Protect*, (1.20, 2.23, 3.43).
[17] ICISS, *The Responsibility to Protect;* on early warning, see sections (3.10-3.12). On the relationship between economic problems and conflict, see (3.18-19, 3.22)
[18] Peter Nyers, *Rethinking Refugees*, 3.

states, citizenship brings rights and freedoms provided for by the mechanisms of the state, which is typically designed to guarantee at least some minimum level of human welfare and physical security for its members. Government programs, constitutional rights, tax structures, and economic initiatives are designed to redistribute resources and power within states, but not across borders. The 'normal' mechanics of economic and trade policies, the standard rules of the global competition for resources, and the maintenance of national security are all built upon exclusive, particularist understandings of political communities.

Because political responsibility does not cross borders in normal situations, both traditional international relations theory and the practice of global politics have long held that the international sphere is an essentially non-moral realm.[19] In the contemporary world order, states are most commonly understood in militarized terms where the only truly relevant responsibilities are those to fellow citizens in partnership against threatening external competitors. This is a function of what Jim George calls the *egoism-anarchy thematic* of traditional international politics. According to George, global politics within the contemporary state system frames ethical theory and practice as "little more than a violent utilitarian ritual, carried out by autonomous, contingently related actors in an environment determined by anarchy."[20]

The doctrine of the international responsibility to protect suggests that 'normal' particularist and state-centric politics should be transcended in particular moments of crisis. Not only should the norm of non-intervention be suspended in the emergency, but so too should be the norms of international non-morality, non-concern and non-responsibility. However, there seems to be a major contradiction between the report's general enunciation of a principled

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[19] See Henry Shue, "Global Accountability: Transnational Duties Toward Economic Rights" in Jean-Marc Coicaud, Michael W. Doyle, and Anne-Marie Gardner, eds., *The Globalization of Human Rights* (New York: United Nations University Press, 2003).

[20] Jim George, "Realist 'Ethics', International Relations, and Post-modernism: Thinking Beyond the Egoism-Anarchy Thematic", *Millennium: Journal of International Studies*, (24:2), 195.

international responsibility to protect and the commissioners' relegation of that responsibility to the state of emergency. If the citizens of states hold a responsibility to protect the rights of 'foreign' others, on what ethical bases can it be argued that such responsibility is only present in the moment of crisis posed by a violent state failure? An analysis of the principles on which the doctrine of the responsibility to protect is founded helps to illuminate this question. As shall become apparent, however, the report mixes strategy and ethics to such a degree that teasing out ethical principles is difficult.

The Strategic Benefits of Protecting

On what ethical principles can it be argued that states and peoples have a responsibility to protect foreign others? The ICISS commissioners suggest that "pleas for international action of the kind that we are dealing with in this report need to be supported by arguments having four different kinds of appeal: moral, financial, national interest and partisan."[21] Because the latter three are so closely related, these four appeals are perhaps more appropriately divided into merely two types: ethical appeals and strategic appeals. Of course, a document about humanitarian intervention could concievably have been drafted based on strategic considerations alone, but the core concept of 'responsibility' on which the report is based shows ostensibly places great importance on ethical and moral motivations. Unfortunately, very little insight is offered as to the ethical bases of the responsibility asserted within. Instead, the commissioners focus more on providing arguments about how embracing the residual responsibility to protect can further a state's national interest.

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[21] ICISS, *The Responsibility to Protect*, (8.12).

"Only in situations where vital national interests are believed to be at stake," the drafters suggest, "will state leaders incur the costs of intervention."[22] With this assumption in mind, the authors of the report provide arguments framed in terms of the benefits of action to the interveners. The commissioners argue quite lucidly that there are benefits to intervention, and that preventative action is particularly wise. Earlier action is argued to be financially cheaper than late response, because preventive activity tends to be so much less expensive than military solutions. The commissioners argue that states will find their national interests advanced by helping to avoid the breakdown of a neighboring state because doing so will prevent unwanted refugee flows or disruptions to trade routes and markets. The political advantages (both domestically and abroad) of appearing as a good international citizen are cited, and so are the reciprocal benefits that can be gained by building positive interdependent relationships.[23]

These claims supplement the commissioners' main argument about the strategic benefits of action against insecurity abroad. Early in the report, the commissioners suggest that "human security is indeed indivisible," [24] meaning that the duty to ensure human rights and the security of persons must transcend borders and boundaries. This might seem to be an ethical statement of responsibility and not a strategic consideration. In context, however, this claim is founded on the premise that

> In an interdependent world, in which security depends on a framework of stable sovereign entities, the existence of fragile states, failing states, states who through weakness or ill-will harbor those dangerous to others, or states that can only maintain internal order by means of gross human rights violations, can constitute a risk to people everywhere.[25]

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[22] ICISS, "Rights and Responsibilities", 135.
[23] ICISS, *The Responsibility to Protect*, (8.14 – 8.17).
[24] ICISS, *The Responsibility to Protect*, (1.21).
[25] ICISS, *The Responsibility to Protect*, (1.21).

The commissioners expressly link the responsibility to protect to the attacks on the World Trade Center and the battle against global terror, implying that states wishing to secure themselves against threats might do well to make investments in the well-being of people in faraway places. This is a worthwhile consideration, but it is definitely not a *moral* argument about the inherent importance of securing rights for those in need. The vulnerable are depicted as worth helping only insofar as the conditions of their suffering, or indeed, affected people themselves, might come to pose a potential threat.

Mark Duffield has described the emergence of a liberal system of global governance in which global development and international security are merged. "The focus of new security concerns is not the threat of traditional interstate wars but the fear of underdevelopment as a source of conflict, criminalized activity and international instability. This reinterpretation, moreover, means that even if the system logic is one of exclusion, the idea of underdevelopment as dangerous provides a justification for continued surveillance and engagement."[26] Duffield suggests that new regimes of authority, legitimacy and regulation, are being developed to manage this demand. "The aim of liberal peace," he suggests, "is to transform the dysfunctional and war-affected societies that it encounters on its borders into cooperative, representative and, especially, stable entities."[27] Despite its seemingly cosmopolitan overtures, the *Responsibility to Protect* is based on a conception of security that emphasizes the benefits for global stability realized by addressing complex political emergencies when they arise.

Indeed, the arguments in the ICISS report suggest that intervention, aid and assistance are necessary to secure the stability of developed states against the chaos presented by insecurity at the global margins. What little discussion of 'ethics' is offered within the report is overshadowed

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[26] Mark Duffield, *Global Governance and the New Wars: The Merging of Development and Security*, (New York: Zed Books, 2001), 7.
[27] Duffield, *Global Governance and the New Wars*, 11.

by these strategic and self-serving considerations. Yet rather than making the title and terminology of their project reflect the 'strategic prudence of protection', the commissioners advance their doctrine of intervention using the language of morality, responsibility and ethics. These two elements are never reconciled, resulting in disjunctures in the text of the report. Nowhere is this clearer than in the commissioners' meek attempts to elaborate upon the foundations of the international responsibility to protect.

Moral Foundations of the Responsibility to Protect

"A discussion of the rights and responsibilities related to humanitarian intervention," the ICISS commissioners write, "…raises the most basic issues of moral philosophy."[28] When it comes to a discussion of the basic moral issues at stake in their conception of 'responsibility', however, the authors of the report are rather elusive. The majority of the document's meaningful discussion of ethical and moral consideration occurs in a supplementary essay entitled *Rights and Responsibilities,* in which the drafters promise to explore "the various ethical bases developed to justify the use of force," while then switching over to explore "the implications of taking seriously international commitments to assist and protect those severely affected by deadly conflicts."[29] Here the ICISS commissioners must perform a double duty. While ostensibly providing a discussion of the moral bases that inform the international responsibility to protect, they also focus on the 'moral' problems involved with the act of intervention. The discussion, therefore, seems to slide back and forth between a focus on the 'responsibility' to protect and the 'right' to intervene. Despite the commissioners' insistence that the latter is a less helpful way to think about responses to populations at risk, language concerning "justification"

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[28] ICISS, "Rights and Responsibilities", 129.
[29] ICISS, "Rights and Responsibilities," 131.

and "moral legitimacy" recurs throughout the report and its supporting essays, always at the expense of a clear elaboration of the ethical bases of the 'responsibility' to protect.[30]

Yet although the commissioners provide no clear moral foundation for their doctrine of responsibility, it would be wrong to say that the report contains no hints about the moral principles that might shape and determine international responsibility. Within the text of the report itself, the commissioners provide potential bases for an ethics of responsibility by alluding to reasons why states should think of themselves as outwardly responsible. Although these are not distilled or emphasized as moral considerations, nor synthesized into a cogent argument, they do serve functionally to form implicit assertions about the ethical foundations of responsibility. Some of these 'implicit' claims can be seen in the body of the report itself, while others are hinted at in the report's supplementary essay on rights and responsibilities.

There is enough material within the supplementary essay, and within report itself to piece together two broad ethical claims:

1) Human rights and human security should be granted universally, and so there is no sound moral frame under which the responsibility to ensure these rights should be limited to communities within political borders. This implies a principle of *non-discrimination*.
2) Countries of the world do not operate in a vacuum and therefore where the actions of individuals and states affect the circumstances of foreigners, those individuals and states should be accountable for those effects. This might be thought of as the principle of *accountability*.

These claims are never expressed explicitly to provide a moral foundation for the international component responsibility to protect, but the report's argument seems to tacitly rely

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[30] ICISS, *The Responsibility to Protect*, (4.32). See, also International Commission on Intervention and State Sovereignty (ICISS), "Rights and Responsibilities", *Supplementary Volume*, 137-138.

on both. If any ethical principles inform the doctrine of responsibility, these must be them, for no other ethical statements of any substance are to be found in the document. Without these tacit claims, the ICISS report would be based solely on strategic considerations, dealing with the benefits of protective action rather than the *responsibility* to protect.

In the supplementary essay on rights and responsibilities, the commissioners detail the argument that addressing human rights deprivations, whether caused purposefully or by omission, is as crucial as intervening militarily during a violent conflict. People across borders, the argument goes, must be treated not as recipients of charity but as holders of rights, which must be provided for by everyone in the international community. "Taking basic rights seriously means taking responsibility for their protection everywhere."[31] If there is an underlying moral principle being expressed here, it is the *principle of non-discrimination in guaranteeing rights*. That is, it expresses the view that political borders should not be the justification for excluding people from communities of mutual responsibility. A key passage in the same paragraph reads: "These observers would argue that we have the solemn responsibility, negatively, to avoid depriving others of these rights and, positively, to work to create the conditions in which it is possible for everyone to enjoy them."[32] However, a close reading of this section reveals ambiguity in the text. The invocation of the 'observers' makes it unclear whether the commissioners take ownership of these arguments or are merely reviewing what other authors believe about rights and morality.

"The answer to the question of who is responsible is ultimately 'everyone,'" the commissioners write.[33] Again describing, in a very detached and ambiguous manner, "one way" to think about universal obligations, the authors recount the idea that in an ideal situation, "the

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[31] ICISS, "Rights and Responsibilities," 135.
[32] ICISS, "Rights and Responsibilities", 135
[33] ICISS, "Rights and Responsibilities", 149.

community of states would share responsibility to protect the rights of all its members, but as a minimum at least its weakest members."[34] However, the commissioners remind the reader that in contemporary global politics there is no accepted obligation to protect foreigners in need. They suggest that because of this, it may be more effective to use the language of 'duties', 'obligations' and 'rights' to encourage states to take action. After some discussion, they suggest that "individuals and states may well have a duty to help those who have no corresponding right to expect that help."[35]

This dubious idea of responsibilities without corresponding rights seems to exemplify the contortions the commissioners must perform in order to avoid the implications of the ethical principle of non-discrimination they have invoked. Rather than insisting that it is the duty of individuals and states to see the rights of foreigners *as rights*, and engaging with the intensely challenging questions that this would elicit, the commissioners choose to advance a narrative of responsibility detached from the ability of those suffering insecurity to make rights-claims against people and governments beyond their home borders. As shall be discussed below, this theoretical contortion is crucial to the coherence of the concept of a residual responsibility to protect, and is crucial to preserving the normalcy of the global status quo outside of the state of emergency.

The second principle on which the commissioners seem to base their conception of responsibility is the moral principle of *accountability for one's actions*. In a short section of the supplementary essay on ethics, the commissioners mention three different common positions on the distribution of responsibility in crisis situations. First, there is the argument that responsibility should be a function of wealth and power. Second, some argue that responsibility

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[34] ICISS, "Rights and Responsibilities", 149.
[35] ICISS, "Rights and Responsibilities", 148.

is equal, but that the mandate to fulfill it should be proportional to a state's means. Third, the responsibility of states to suffering foreigners depends on moral decisions. "Past actions that may have contributed, wittingly or unwittingly to the emergence of a humanitarian crisis affect the weight of moral responsibility," write the commissioners, naming the example of Australia's relationship with East Timor.[36] Nowhere in the report is such a position enunciated so clearly.

Some examples of these sorts of past actions and contributions to insecurity are mentioned briefly in the body of the report itself, implying that accountability corresponds with responsibility. The commissioners write that "the rich world is deeply implicated" in fuelling civil conflicts through arms and monetary transfers.[37] In the context of a discussion on root cause prevention efforts, it is pointed out that "[t]he trade policies applied by many richer industrialized countries, unfairly disadvantaging or restricting access to markets, together with the terms of trade being experienced by many developing countries, have not made any easier the reduction of that debt burden, or the capacity to meet the social and economic development needs of their populations."[38] In the most explicit example, the commissioners suggest that developed countries should "overcome any reluctance to examine closely their own policies for evidence of their potential negative impact on developing countries."[39]

The commissioners come close to framing global economic injustice as a source of cross-border ethical responsibility. In a supplementary essay on the nature of rights and responsibilities, the views of scholars like Richard Falk and Ken Booth are discussed, but it is unclear what the commissioners' evaluation of their ideas might be. The commissioners describe Booth's comparison of the international state system to a "global protection racket" as sounding

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[36] ICISS, "Rights and Responsibilities," 148.

[37] ICISS, *The Responsibility to Protect*, (1.20).

[38] Note that the language of this statement is put in the negative, so that the commissioners speak in terms of 'not helping' rather than 'harming'. ICISS, *The Responsibility to Protect*, (3.8).

[39] ICISS, *The Responsibility to Protect*, (3.20).

like it was "drafted in the foreign ministry of the most critical antiglobalization persuasion."[40]

Despite these arguably dismissive descriptions, the commissioners later paraphrase Booth's arguments: "The normative practices of international society leave untouched the structural causes of the economic and social injustice rooted in a deregulated capitalist world system. As protection rackets go, it is by no means the worst imaginable, but it refutes the claim that the society of states can act as an effective guardian of human rights."[41] It would be entirely cogent if the ICISS commissioners cited injustices in the world economy as contributing to an ethical demand for accountability and answerability, but it is quite unclear whether the commissioners are adopting Booth's argument here, or merely summarizing his ideas in a detached and noncommittal manner.

This sort of ambiguity plagues the supplementary essay. In general, the argument of the supplementary essay meanders and it is difficult to distinguish the commissioners' dutiful review of literature on international relations theory from their actual opinions. The reader is left to guess about the relationship between the essay and the arguments about prevention, reaction and accountability found in the main text of the report. In many instances the commissioners cite the arguments of scholars and commentators, while providing little evaluation and leaving their own relationship to the ideas unclear. It is often hard to distinguish whether the citations are intended as evidence towards a normative argument, or whether they contribute to a simple literature review. Yet despite this lack of clear ownership, it seems that the discussion of these arguments is crucial in building to the commissioner's own assertion of a 'responsibility' to protect.

In other words, the authors of the *Responsibility to Protect* seem to have composed the reports and its supplementary essays in such a way that leaves the reader with the impression that

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[40] ICISS, "Rights and Responsibilities," 134.
[41] ICISS, "Rights and Responsibilities," 134.

the language of ethics and responsibility have been substantiated and founded on consistent principles, while keeping enough distance to avoid needing to reconcile the implications and complications of the ethical and political problems raised by the theorists and commentators the commissioners cite. Examining these implicit arguments within the report and its supplementary essays reveals a disjuncture between, on the one hand, the tacit ethical bases of the international responsibility to protect and, on the other, the limited conclusions drawn in the report itself.

If the responsibility to protect is founded on a principle of cosmopolitan care, as well as on the principle that populations should be accountable across borders for the damaging effects of their behaviour, there remains no reason why such a responsibility should be a merely 'residual' one limited to crisis situations of mass violence and state failure. In order to avoid delving into a broader discussion about ethical relationships in contemporary international society, the commissioners maintain a degree of distance from arguments about global accountability, and rely on a half-formed notion of cosmopolitanism. This constructs victims of insecurity as pseudo-ethical subjects. Other actors may choose to be responsible for these subjects, but they are not attributed the subjectivity to claim rights, nor to demand assistance, nor to decide when to call members of the international community to account. The doctrine of the responsibility to protect, therefore, creates a set of problematic power relationships legitimated under the rubric of ethics.

Narratives of Intervention and World Order

Anne Orford has offered a thorough examination of the complex narratives bound up with the concept of humanitarian intervention. Because her work offers such a unique interpretation of intervention narratives, it is worth thorough consideration here. Orford explores

intervention narratives, and international law in general, as an exchange of stories which

constitute subjects based on excluded others. Through the meaning created in the texts of

international law, the self of the so-called 'international community' is created vis-à-vis its

others, who are marked as feminine, child-like, tribal, passive, disordered and uncivilized.[42] She

argues that

> [The question of intervention] involves thinking through the nature
> of the dominant intervention narrative, the imperial and patriarchal
> fantasies that haunt this narrative and the effects of particular
> interventions. It involves a focus on the way in which meanings are
> made about intervention, and the way those meanings shut out
> potentially revolutionary ways of understanding what is at stake.[43]

Orford suggests that the need to intervene to protect the people of 'failed states' and the

relationships that develop during post-conflict 'peace-building' situations "rehearse colonial

fantasies about the need for benevolent tutelage of uncivilized people who are as yet unable to

govern themselves."[44]

The ICISS report's problem-laden discussion of rights and responsibilities results in a

reformulation of the pseudo-metaphysical imperial obligation. The commissioners' questionable

assertion that in complex political emergencies, "individuals and states may well have a duty to

help those who have no corresponding right to expect that help"[45] creates a relationship where

moral authority is unidirectional, reflecting a patronizing attitude that echoes the discourses of

colonial tutelage. Interveners are said to be responsible, but not accountable or answerable.

Furthermore, their residual responsibility is to be located in the realm of the exception, the result

of a style of emergency it is up to the intervener to identify. This concept of responsibility

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[42] Ann Orford, *Reading Humanitarian Intervention,* 48.
[43] Orford, *Reading Humanitarian Intervention*, 37.
[44] Orford, *Reading Humanitarian Intervention*, 11.
[45] ICISS, "Rights and Responsibilities", 148.

without corresponding rights bequeaths all agency and authority to the agents considering intervention, while rendering voiceless those vulnerable people who might wish to issue undesirable calls for responsibility. The commissioners' declaration that responsibilities can exist where rights are not granted justifies the act of intervening to secure the borders of world order from the threat of failing states, while also avoiding the difficult problems of distributive justice which would seem the natural extension of a truly cosmopolitan doctrine of ethical responsibility, answerability and accountability not defined in terms of the state of emergency.

Orford points towards Edward Said's *Culture and Imperialism*, citing the argument that the coercive and seductive power of imperialism is made possible in part through narrative, through common knowledges and stories that perpetuate the idea that "certain territories and people require and *beseech* domination."[46] Said's main interest in that volume is to outline the stories and truths that have been told about the imperial experience through fictional narratives. For Said, "the power to narrate, or to block other narratives from forming and emerging, is very important to culture and imperialism, and constitutes one of the main connections between them."[47] According to Said, imperial culture "on the one hand, allowed decent men and women to accept the notion that distant territories and their native peoples should be subjugated, and, on the other, replenished metropolitan energies so that these decent people could think of the *imperium* as a protracted, almost metaphysical obligation to rule subordinate, inferior or less advanced peoples."[48] It is this patronal/paternal sense of obligation and responsibility that is reasserted in modern intervention narratives like the ICISS report.

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[46] Edward Said, *Culture and Imperialism,* (New York: Alfred A. Knopf, 1993), 10, cited in Orford, *Reading Humanitarian Intervention,* 33, 54.
[47] Said, *Culture and Imperialism,* xii-xiv.
[48] Said, *Culture and Imperialism*, 8.

Jim George and other scholars like David Campbell have sought possibilities for understanding political responsibilities on terms defined by the Other, rather than allowing the imposition of 'the good' by a knowing subject. George draws from Michel Foucault, who suggested that those who speak about a commitment to such vague entities as the 'state', the 'free world' or the 'oppressed' typically have promoted these concepts in a very self-interested way.[49] Following Lévinas, responsibility must not be framed in a manner that seeks to reduce the *needs* of the Other to the *interests* of the subject who wishes to aid. According to George, Foucault's alternate scheme is to "disavow one's modernist God-like status and seek not to speak from universalist certitude, *for* others, but to utilize one's particular capacities to help others speak *for themselves*." George thus envisions "an engaged, post-modern politico-ethical perspective concerned to open up closed discursive practices to the creativity and critical capacities of peoples seeking to understand and change their worlds in their own ways and through their own struggles."[50] This call to be responsible is distinct from the strategic considerations that frame humanitarian action as strategic and pragmatic. It represents an ethical impulse outside of the traditional limits of the egoism-anarchy dynamic. The move from being responsible for others and empowering others to call for changes on their own terms involves an important shift in the power dynamics of ethical relationships. It also demands a willingness on the part of an ethical subject to open oneself up to criticism, to be liable, to be answerable and accountable.

When the ICISS commissioners suggest that states should examine the negative effects of their own policies on the world's most vulnerable people, or when they point out that powerful states are implicated in transferring arms and resources to areas torn apart by civil conflicts, they

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[49] George, "Realist 'Ethics', 218.
[50] George, "Realist 'Ethics', 218.

only hint at the enormous role that 'normal' state behaviours play in creating the crises and emergencies that cause so much suffering in the world. As Dyan Mazurana writes, "The causes of armed conflicts – those factors that generate violent conflicts and those that frustrate peace efforts – are deeper, occur earlier, and are more complex, interwoven, and transnational than the majority of us acknowledge…Consequently, people in the United Nations, international NGOs, and governments need to become aware of and responsible for social, economic, and political actions that, to date, they would rather not be held accountable for."[51] The ICISS report is filled with overtures about responsibility and duty, but the commissioners put very little emphasis on accountability or answerability, ethical concepts which demand a much greater engagement with victims and claimants.

A global commitment to an ethics of non-discriminatory responsibility and accountability would challenge and undermine many common practices and inherited truths in international politics. Accepting a vision of ethical international politics other than the orthodox conception would present us with a call for distributive justice so fundamentally challenging that, as Peter Singer suggests, "if it were acted upon, …our lives, our society, and our world would be fundamentally changed."[52] In many ways, 'normal' social and economic behaviours in global politics depend on the forgetting of the unequal power relationships that define contemporary world politics, and on the erasing of colonial histories. The ability to enjoy the comforts monopolized by those in rich and secure parts of the world depends on staying away from a conception of international ethics in which one would be called to account for such privileges. Similarly, agents of the state, officers of global commerce, members of national armed forces

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[51] Dyan Mazurana, "Gender and the Causes and Consequences of Armed Conflict" in Dyan Mazurana, Angela Raven-Roberts and Jane Parpart, eds., *Gender, Conflict and Peacekeeping* (Lanham: Rowman & Littlefield, 2005), page 29.
[52] Peter Singer, "Famine, Affluence and Morality," *Philosophy and Public Affairs* 1:1 (Spring 1972), 231.

etc. -- those who must routinely perform acts of structural or physical violence and exclusion --

build narrative defences against the possibility that their actions are somehow problematic. All

manner of narratives, myths, and stories are required to allow the globally privileged to feel that

their position within the global system is ethically justified under their own personal moral

regime. Disturbing these narratives would highlight and politicize tough ethical and political-

philosophical problems.

  If material privilege depends on unequal globalized relationships that are maintained

through narratives, the ability to produce such narratives is also a function of privilege. As

Orford writes, "the 'freedom' that makes it possible for [western journalists] to produce

knowledge about the 'non-West' is *not* a basic existential condition to which all are entitled…

but a network of demands, negotiations, and coercions that are themselves bound by historical

determinants constructed on slaughter and bloodshed."[53] The freedom to maintain certain

fantasies, misconceptions and worldviews depends on the narrator/subject holding a privileged

enough position that their stories can be prevented from being shaken. Asserting a responsibility

without corresponding rights allows for ostensibly 'ethical' action without becoming open to the

unwelcome dissenting voices, counter-narratives, and claims which might be called for by

placing an emphasis on accountability, answerability, and moral liability.

  It is this defensive impulse, the need to block counter-narratives and claims, that makes

humanitarian action of some sort necessary. Orford quotes Gayatri Spivak: "as the North

continues ostensibly to 'aid' the South – as formerly imperialism 'civilized' the New World – the

South's crucial assistance to the North in keeping up its resource-hungry lifestyle is forever

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[53] Anne Orford, *Reading Humanitarian Intervention*), 33.

foreclosed."[54] Orford explains Spivak's use of the word *foreclosed* to invoke a concept from

Lacanian psychoanalysis where "the ego rejects an incompatible (and here crucially needed) idea

together with an affect."[55] This is made all the more necessary in a globalizing age, because

"technology brings the world too close, the other threatens to invade our civilized world… [T]his

poses a threat to the sense of self of the international community, inherited from the identity

created during the European encounter with the 'New World' and based on a faith that violence

and barbarism are outside of the developed, capitalist civilized order of Western Europe and its

colonial outposts."[56]

 The spectacle of a humanitarian crisis raises difficult questions about the limits of ethical

and political responsibility in the eyes of its witnesses. The function of intervention narratives,

Orford suggests, is to provide material and ideological separation, to simultaneously locate and

distance the other as both helpless victim and dependent tutee. She equates intervention

narratives to fictional stories, drawing on film studies literature to underscore how the reader or

listener is asked to identify with the 'international community' as an active, male protagonist. As

a result, Orford argues, intervention narratives offer a sense of catharsis through which the

unsettled psyches of the reader are assuaged. "In intervention narratives," she writes, "any

anxiety about the possibility that the viewer or reader is in a position to suffer as a result of the

crisis, or any sense that the viewer or reader is in fact powerless, is healed by the sacrifice or

salvation of the target state and its people."[57] The *Responsibility to Protect* report seems to

provide exactly this sort of cathartic release. Its overall message diverts the intense and

fundamental ethical challenges presented by widespread humanitarian suffering into a 'feel-

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[54] Gayatri Spivak, *A Critique of Postcolonial Reason,* (Cambridge: Cambridge University Press, 1999). Cited in Orford, *Reading Humanitarian Intervention*, 50
[55] Orford, *Reading Humanitarian Intervention*, 50
[56] Orford, *Reading Humanitarian Intervention*, 125
[57] Orford, *Reading Humanitarian Intervention*, 176

good' assertion of responsibility that only applies in to those crises of state failure for which the 'international community' chooses to be responsible.

Conclusions

Because the ICISS report sidesteps fundamental questions of international ethics, it reinforces traditional intervention narratives by foreclosing any causal relationships or unequal relationships of power that may exist between intervening states and places affected by humanitarian suffering. The responsibility to intervene in crises is invoked in such a way that it does not imply corresponding rights which might pose problems by lending voice and authority to those in a position to issue unwelcome requests or demands for assistance. Ethical behaviour is to be decided upon by those declaring themselves responsible, not allowing the vulnerable to speak for themselves. International responsibility is not argued to be a constant feature of relationships in world politics. Instead, it is depicted as an unusual product of the special circumstances created by exceptionally violent crises of state failure. Global politics' regularly excluded Others are constructed as significant only when their state of insecurity poses a potential threat to the dominant order and the developed world. In this way, the report provides a way for the 'international community' to assert itself as civilized and morally righteous while allowing no room for challenges to its authority and legitimacy. The particular form of responsibility that is invoked thus opens up the potential for comfortably justifying the continuing project of forcefully securing the threats posed by weak states at the borders of world order.

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