

What are the Key Lessons?

The conflicts in Yugoslavia, Somalia, and Rwanda have broken an international taboo against intervening in the domestic affairs of sovereign states. It is no longer acceptable for the world to watch passively as atrocities are perpetrated. Yet war crimes tribunals, both in The Hague and elsewhere, have dropped charges whenever they have reached the conclusion that this is not an international war. Justice requires that people who are prevented from seceding from an oppressive regime must have recourse to other means of protecting their human rights. Recourse must be allowed, whether their war is an international or a civil war. But if the world is to intervene (either with force or sanctions or in some other ways) to protect human rights, we must codify the world's standards and procedures, thereby enabling potential violators to know what to expect. It is necessary for interventions into domestic disputes to be carried out with "due process" of law through non-discriminatory, predictable, standardized rules, in proportion to the gravity of the violations perpetrated by the various countries. The ambiguity of international law on this matter must be resolved so that human rights can be protected in both international and internal wars.

Lesson: Canada can contribute by asking the United Nations to re-examine international law regarding intervention in domestic crimes against humanity and other violations.

There is a second, even more urgent, lesson, which is both an obligation and an opportunity. Every expert in international law who came to the conference strongly endorses this plea, which is not at all novel. In fact, *Unfinished Peace: The Report of the International Commission on the Balkans*, issued virtually the same appeal. It urged the development of an international tribunal to elaborate on the meaning of the right to "self-determination of peoples" as expressed in the U.N. charter. It noted the "inherent tension between that principle and the no less important international commitment to the inviolability of borders."²⁹

We would expand that proposal to go beyond the process of definition and develop specific

criteria and principles that nations should take into account with regard to recognizing separatist claims of sovereignty. Some speakers suggested that the best approach to this might be for the General Assembly to request that the International Court of Justice give its advice on these questions. Whether carried out through this mechanism or some other, this process could be undertaken in conjunction with (or separately from) the review mentioned above concerning the legal conditions for intervening in defence of human rights.

Separatists frequently believe mistakenly that international law is on their side. Unfortunately, the only way to find out whether that is true is to declare independence and see what happens. Regularly, the outcome is violent. In 1994, for example, there were wars in 39 countries. In fully 19 of those countries, these were wars of secession, in which more than 2.5 million people had been killed. Nothing could serve world peace more effectively than to clarify international law concerning the criteria and procedures for legitimate secession. Of all countries, Canada is the most suitable nation to rise to that challenge. Not only is Canada a respected member of the international community, one that contributes generously to peacekeeping and peace-building, but Canada may be the next country to need an authoritative verdict on this issue.

For the future stability of Canada and of many other countries, we propose that Canada's government request the UN to ask the advice of the International Court of Justice to set specific minimum conditions that must be met before any state should recognize the claims of any separatist movement. Further, we propose that Canada ask the United Nations to empower a body (existing or new) to adjudicate any future separatist claims within the framework of these international laws and oversee the process of any secession which meets that body's newly standardized criteria.

²⁹Leo Tindemans, et al. *Unfinished Peace: Report of the International Commission on the Balkans* (Berlin: Aspen Institute and Carnegie Endowment for International Peace, 1996) p. 162. This particular proposal was accepted by all the conference participants who addressed the subject, including many who would surely not accept the entire analysis of Tindemans's group or many of the other recommendations that they developed.