

Preface

This inquiry explores in what ways schoolchildren are being used as propaganda tools by terrorists in their global terror campaign (more specifically the Taliban insurgents in Afghanistan), but also by States waging the so-called ‘war on terror’ in their propaganda relating to claims about alleged progress in stabilization and development of the conflict-affected State in question. It is emphasized, however, that there is no argument here that there is validity in the view that education should be a part of an emergency aid response wherever feasible and where the security situation permits. This given the importance of education to children’s sense of normalcy and to their future success in life (assuming, of course, that the quality of education delivered is such as to allow, at a minimum, for the development of functional literacy skills and, hopefully, a complete adequate basic education). This author is, in fact, in accord with the view that providing education services to children in fragile conflict-affected States *where the children’s safety can be assured* is vital to meeting the population’s humanitarian and development needs and entitlements. The reality is, however, that many millions of children live in States that are in a *perpetual* state of conflict with only periodic interruption (as is the case for Afghanistan). It is devastating to the children and to the country when this leads, as it inevitably does, to a shutting down of part or all of the education system. However, the suggestion by ‘Save the Children’ and other NGOs that education cannot wait *in any instance* for the State’s ‘post-conflict’ development phase, but must be delivered also in the midst of intense conflict and despite high levels of organized terrorist activity, belies the fact that security cannot always be adequately provided to schoolchildren in that circumstance as will be discussed. It is specifically the latter situations with which this inquiry is concerned.

As to the scope of the book a few points need to be made. The book deals with targeted terrorist attacks on schools, schoolchildren, teachers of children at the elementary and secondary school level carried out by organized terrorist groups such as Al-Qaeda and the Taliban extremist element as part of a systematic campaign of terror. The issue of accidental damage to schools and injury or killing of schoolchildren, teachers or other school personnel while at school unintentional

and collateral to military action is addressed only to the extent that such accidents were a foreseeable risk given the location of the schools. Note that the focus of this book concerns terror attacks on basic education and on schoolchildren; their teachers; allied school staff and on humanitarian aid workers rather than on terror attacks on universities, university students and academics. There is no doubt that terror attacks on higher education internationally have also increased in recent years. However, the present inquiry focuses on schoolchildren since the children generally have no say in whether they will attend school or not in contrast to university students. The fact that children are forced to attend school often in insecure conflict zones where there is a high risk of terror attack on the school, plus the fact that children are entitled to special protections under international humanitarian law, raises unique issues. Thus, the issue of schoolchildren attending school in 'hot terror zones' – that is zones where the terror activity level is high – is a topic that needs to be addressed separately from the issue of attacks upon university students, professors and higher education institutions. The latter topic, though also pressing, is then beyond the scope of the book.

Further, the book concentrates on organized, systematic and repeated targeted terror attacks on basic education in Afghanistan by the Taliban and other insurgents as opposed to isolated terror incidents carried out by individuals not associated with organized terror groups. The former pose a significant threat to the West, and to the stability of the States in which they occur. It is beyond the scope of this book to consider what strategy or strategies, military or non-military; or combinations, would in fact lead to greater security in Afghanistan. That weighty topic will be left to others with expertise regarding security in fragile conflict-affected States. Rather, the focus here will be on: (a) the responsibility of the international humanitarian community and the Afghan and coalition States in safeguarding schoolchildren by all means feasible and necessary including suspending school operation in hot conflict zones within the State (Afghanistan) until security for education at the sites in question can be reasonably guaranteed; (b) the potential civil liability of NGOs and States where school attendance is encouraged despite the known inadequate security situation for education and (c) potential criminal and/or civil liability under international law for individual officials most responsible for the education sector (and, at times, perhaps also for frontline workers), who encouraged school attendance at particular education sites which they knew would put the children at high risk of being victimized by a terror attack. The encouragement and facilitation of school attendance under these circumstances amounts then to the individual potentially violating international humanitarian norms (i.e., the prohibition against intentionally engaging in acts that potentially inflict or do result in avoidable and legally unjustifiable suffering – physical and/or psychological – for civilians or instigating or participating or contributing in any way to acts that place civilian lives in significant jeopardy).

As to the issue of any potential or actual civil and/or criminal liability under international law for encouraging and facilitating school attendance where security is quite inadequate, nothing in what follows, or implied therefrom, is intended to, or should be taken as being a statement attributing actual or potential culpability to

any particular conflict-affected State or its allies, particular NGO organization or humanitarian or human rights entity or particular individual as a factual matter. As far as individual culpability for violations of international humanitarian law, those are matters potentially to be investigated by a Prosecutor if there is a reasonable basis for doing so (whether there is such a reasonable basis for an investigation in any particular instance is something only a Prosecutor can decide based on the available facts). Any attribution of culpability would be a finding made by a court, should the case be heard by a national court (where there are statutes concerning 'war crimes' and 'crimes against humanity' incorporated into the domestic statutes), or by the International Criminal Court in The Hague (where all jurisdictional criteria have been met), based on all the facts in the particular case, as well as consideration by the court of defences raised and of any mitigating and aggravating factors. As far as civil liability in respect of States, NGOs and human rights bodies, those are matters that would be heard in an international court of human rights or a national court depending in part on the jurisdictional criteria operative. Rather, the intent here is simply to critically examine the conduct of the Afghan government and its Western allies, as well as that of international and national NGOs, and UN bodies in regards to basic education initiatives (primary and secondary schooling) in Afghanistan. More specifically, a challenge is mounted regarding the alleged moral and legal legitimacy of encouraging and facilitating school attendance when security for education is grossly inadequate (as is occurring in Afghanistan in certain hot combat zones). Further, the author offers her views based on extensive research from diverse sources on the potential international law violations which derive from such conduct (with actual or potential liability of any particular individual or entity here acknowledged as being factually undetermined unless and until assessed by the proper judicial authority).

The objective of this book then is to raise awareness of the fact that various democratic States, certain high profile NGOs and the United Nations are inadvertently arguably complicit in the rapidly rising numbers of schoolchildren internationally who have been successfully targeted by terrorists in contemporary armed conflicts. Though this is certainly not the result that the West and its democratic allies or human rights/humanitarian aid organizations desire; it appears to be a result that the aforementioned are quite prepared to risk. We will explore why this is the case by looking beyond the 'right to education' rhetoric which has served as something of a smokescreen for the international community's prioritizing of education over the schoolchildren's personal security in certain conflict-affected States. The *inadvertent* complicity of the West and its allies, as well as the U.N. and its organs and certain national and international NGOs, in placing schoolchildren in harm's way arises in that these players in the 'war on terror' have too often: (a) contributed to or facilitated the building and maintenance of schools operating in hot combat zones notwithstanding the acknowledged woefully inadequate security situation both at the school as well as on the children's route to and from school, and (b) encouraged parents to send their children to school despite the grossly inadequate security situation (i.e., frequently by giving parents assurances about alleged 'improved' security when in fact the security was still substandard and would be

ineffective in preventing harm to the children and to school personnel). There is no way to determine from the data available whether such assurances when given were or were not intentionally misleading or, instead, given in good faith.

There is no suggestion here that schools can only be built or operational in areas where there is an 'iron-clad guarantee' of safety for such a guarantee is not possible in any State whether conflicted or not. However, there ought to be a reasonably and factually-based almost certain guarantee of safety since schoolchildren and adults associated with the basic education effort are entitled to no less under international human rights and humanitarian law.

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