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Raul A. "Pete" Pedrozo and Daria P. Wollschlaeger (Editors)



The Changing Character of Public Legal Scrutiny of Operations

Rob McLaughlin*

Introduction

he issue of legal scrutiny of operations is ultimately a synthesis of many individual developments in the conduct and monitoring of operations generally. Over the last two or three decades in particular, the practice of operations law has evolved in response to an intricate web of related developments—in the law itself, or in its interpretation; in technology (in terms of both conduct of operations and monitoring of operations); and in the capacities of accountability agents. The consequence is, quite naturally, significantly greater scrutiny. There are few nations currently engaged in International Security Assistance Force (ISAF) operations in Afghanistan, for example, that have not faced the very public dissection and deconstruction of their legal responses to discrete operational incidents. This is most certainly not a development to be lamented; indeed it is to be greatly lauded. But this overwhelmingly positive development should not disguise the tensions—and flaws—that can result from rapid evolution in any ecosystem. In this short introduction to the changing character of legal scrutiny, I will briefly overview three particular factors in this evolution—the enablers of law, technology and the capacities of accountability agents—and make some short general observations on the potential implications of this evolution for military operations. My focus is upon the effects of these developments on public legal scrutiny, rather than the internal

^{*} Associate Professor, College of Law, Australian National University.

The opinions shared in this paper are those of the author and do not necessarily reflect the views and opinions of the U.S. Naval War College, the Dept. of the Navy, or Dept. of Defense.

or organic legal scrutiny that for most States has long been an integrated component of the conduct of military operations.

Enablers: Law

Clearly, greater definition or certainty in the law applicable to any given military operation is a positive development. This should not disguise, however, the inalienable fact that greater ultimate precision in the law comes at the price of uncertainty during the evolutionary process of establishing and implementing those interpretations while simultaneously conducting operations in which that newly minted law or interpretation or guidance is clearly applicable and is being applied. As other articles in this volume clearly attest, there is no settled view—nor even a predominant view—among and between academics, non-governmental organizations (NGOs), inter-governmental organizations, the International Committee of the Red Cross and individual States on the scope and application of the concept of targetable members of an organized armed group in the context of non-international armed conflicts. Yet this substantive legal concept is evolving as it is applied in operations such as those of ISAF in Afghanistan. Clearly, developments in the way this concept is interpreted and applied are not yet finalized or settled. Actions and incidents are nevertheless being held to account against the concept—in its myriad forms and interpretations—contemporaneously with the wider general debate as to what is, precisely, the correct interpretation and application. The obvious—but highly significant and operationally challenging—consequence is that an NGO, for example, will analyze an operational incident against one interpretation of the evolving law or appreciation of the law, whereas a State may well be analyzing the same incident in light of a different interpretation and differing State practice in relation to the very same law. Clearly, the scope for differential appreciation, confusion and antagonism is plainly evident.

The notion of direct participation in hostilities, and the subdivision of this concept into ad hoc and organized armed group components, is but one of the more obvious current manifestations of this phenomenon. Whether an improvised-explosive-device maker killed in an attack was killed in accordance with the law of armed conflict (LOAC) (that is, as a targetable member of an organized armed group) or murdered (a civilian who was not within the targetable envelope) is a fundamental fracture point.

Another example, in relation to collateral damage mitigation and weaponeering, may similarly assist in illustrating this point. It was recently reported that a US Army field artillery regiment in Afghanistan had developed a method of mitigating potential collateral damage when undertaking fire support missions by using less-explosive training ammunition during the "adjustment phase." As the report makes clear, however, this is a "moral and strategic choice within a counterinsurgency environment." 3

It is important to emphasize that this innovation is a contextual—not universal—amendment to what is to be considered as feasible in relation to precautions in attack and collateral damage mitigation. The potential exists, however, for one party in a debate to assert, with strong reasoning, that this innovation should now become the norm across all operations. Another party to the debate may well wish to emphasize, on the basis of equally sound reasoning, that this innovation is a choice available only in limited situations and a choice that is dependent upon terrain, ballistic conditions, availability, strategy and so on.

The message is clear, however: the significantly broader availability of detailed information and the vastly expanded opportunities for debate as to "the law" by reference to that information have increased the depth, scope and occurrence of public legal scrutiny of operations. The reverse side of this development is that the language of the applicable law—most particularly LOAC—can be very publicly misused so as to provide an aura of incontestability or authority to an otherwise weak statement or analysis. Stating an opinion, without proper analysis, that a particular effect was "disproportionate" carries with it very strictly defined and significant legal context and implications, even if the user of the term was employing it in a colloquial, ethical or moral sense.

A second aspect of the evolution of law as a component of increasing legal scrutiny of operations is the role of law itself in terms of the manner in which that scrutiny is conducted. Public debates on operational incidents are today generally conducted within a legal framework: the language used is drawn from the law (albeit specific terms or concepts are occasionally improperly used or explained, sometimes undermining the ultimate quality of the analysis, and thus the scrutiny); the investigative and enforcement paradigms utilized are bounded by law; and the consequences are often expressed in terms of the law. It is notable, for example, how interpretation of the applicable law—and the legal framework—dominated public debate (in political, media and civil society arenas) in Australia and the United Kingdom in the lead-up to operations in Iraq in 2003. Similarly, the most accessible and public resort to complaint in relation to operational incidents is increasingly through and via the law.

This is evident on several levels. On a limited, very individual level, one example is the significant recent media attention surrounding litigation commenced by a British army sniper against the UK Ministry of Defence (MoD) for failing to ensure that his identity was protected after he gave an interview (that was approved and monitored by MoD officials who had told him his identity would be protected). He

and his family have since been required to relocate as they were assessed to be at high risk of kidnap or targeting by militants.⁵

On a broader scale, law and legal process have also been used to invite wider public scrutiny of operations through public interest channels able to access the mechanisms of judicial review. On the basis of publicly available information and other information originally released to her by the MoD, Maya Evans—described in some media as "an anti-war activist"—was able to agitate for judicial review of ten specific detainee transfers (from UK forces serving within ISAF to Afghan government authorities) so as to ensure that detention operations in general were subject to additional public legal scrutiny.6 This is, very clearly, a positive development: authoritative and public legal determinations on detailed matters of direct operational concern, where those determinations are made on the basis of accurate information and with contextual appreciation, will generally generate more directly and operationally useful guidelines and instructions. Similarly, authoritative determinations that generally endorse current practice and legal risk mitigation strategies (as was the case in this litigation), while perhaps not as newsworthy as condemnatory decisions, are nonetheless often as useful as such condemnatory decisions. It is sometimes as edifying and important to the practice of operational law to know what we are getting right as it is to know what we have got wrong.

Enablers: Technology

Technology functions as a similarly bivalent force in the evolution of legal scrutiny of operations. On one level, technology in operations raises myriad questions about contemporaneous or simultaneous legal scrutiny, most particularly in relation to means and methods of warfare and precautions in attack. One example is the fact that public perceptions as to both the efficacy of precision-guided munitions (PGMs) and their ubiquity in modern operations are often at odds with operational reality. This disjuncture is thoroughly problematic in terms of legal scrutiny. Regardless of best intentions, it must be accepted that non-State accountability agents who analyze weapons incidents may—or equally may not—be applying an accurate understanding of the capabilities, limitations, employment parameters and effects of such weapons or of their place in broader systems of assessment, weaponeering and targeting. All of these factors will influence the effect of a discrete weapon in any given context, and all of these factors—as increasingly publicly available information—can be built into (and misapplied in the course of) significantly more detailed alternative legal assessments and scrutiny. Perhaps the most telling recent example was the public misappreciation of at least some incidents during the Kosovo conflict where debate over launching weapons from altitude, insofar as it related to precision-guided munitions and the altitudes associated with increased accuracy of some PGMs, clearly evidenced well-intentioned but ultimately inaccurate legal assessments by some accountability agents.⁷

Technology also plays a significant role in terms of the quantity and—but not always positively—quality of information available to both commanders and scrutinizers of operations. One example is the detailed analysis by Human Rights Watch (HRW) of a US and Afghan forces engagement in Azizabad in Afghanistan on August 21–22, 2008. In a letter to Secretary of Defense Robert Gates, HRW investigators reported, on the basis of their assessment of what the technology could do and thus what it should have told US forces about events in the village, that

[i]t is, therefore, questionable that the close proximity of insurgent forces to civilians was "unknown" to US and Afghan forces; if it was unknown, then the quality of US intelligence was shockingly poor. . . .

Given what could be expected to have been known about the large civilian population in the village at the time, conducting airstrikes over several hours that destroy or damage 12 to 14 houses in the middle of the night makes high civilian casualties almost inevitable.⁸

As is a risk with all assessments completed in hindsight, the factor that comes to dominate when a tragedy occurs may now appear glaringly obvious and thus be attributed significant weight in assessing both the aftermath and apportionment of blame. At the time, however, it may have been but one factor among a multitude of noisy competing pieces of information, each of which would have been colored by differential quality tags and unknown levels of perishability, and subject to the compressed time frames of operational decision making. The piece of information in question may not, at the time the decision was actually made, have held such a dominant place in the lexicon surrounding the incident. Not all mistakes are the result of intentional disregard, recklessness or negligence. Sometimes mistakes are simply the result of decisions that were at the time legitimately made (and thus of continuing lawfulness) from within a swirl of information of highly variable and occasionally unknown quality and corroboration. Mistake does not necessarily equal illegality.

Technology, with respect to legal scrutiny, also has significant effects in terms of post-incident monitoring and assessment, two of the core components of legal scrutiny. These effects operate on several different levels. First, technology—from mobile phones with digital video recording capabilities to the ubiquity of access to the Internet in operational zones, and the availability of information and ease of information sharing across the Internet—clearly makes legal scrutiny of operations

significantly faster, more omnidirectional and more informed than at any time in the past. Footage of an incident recorded by a bystander on a mobile phone can be uploaded to the Internet within minutes and can be viral within minutes after that. Within hours, footage of an incident can be the subject of both informed and ill-informed legal scrutiny, the latter necessitating a response. Of course, more "informed" in terms of raw material forming the basis of assessment does not necessarily mean more "informed" in terms of analysis; that is a function of the law and the analytical process applied.

Access to information and comment, and the ability to in turn make further comment—regardless of its accuracy, quality, purpose or contextual worth—immediately available to millions of people can drive a scrutiny agenda down a myriad of paths, thereby opening the potential for irrelevant or minimally relevant factors or concerns to dominate or derail a debate or scrutiny project. Military and governmental public affairs bureaucracies are slower and less agile than many of the other actors in the ideas and influence marketplace, a logical consequence of both clearance requirements and the predilection for prior clarification and corroboration. The consequence, however, is that while operational public affairs mechanisms are generally proactive with respect to "good" news (or rather, are often the first and only media to report such stories), they are generally seen as merely responsive to "bad" news.

An example of how media-driven legal scrutiny can herd such scrutiny down situationally inconsequential or irrelevant paths might be illustrated by some media reporting of the Australian Director of Military Prosecution's decision to prefer charges against three Australian soldiers in relation to a civilian casualty incident in Afghanistan. One issue that came to dominate the debate (for a period of time at any rate) was International Criminal Court (ICC) cognizance of, and jurisdiction over, the matter. While it was clear in press reporting that the charges were laid in accordance with Australian domestic law and after a Service Police investigation, an "obiter" comment by a respected Australian international law academic that merely reiterated that Australia has certain obligations under the Rome Statute9 suddenly saw the non-existent issue of overt ICC "pressure" become the focus of mediabased legal scrutiny and reportage for a week. "International obligations may be compelling the prosecution of Aussie troops," asserted one newspaper. 10 However, it was clear—even on the facts as reported by the media—that the matter would be inadmissible before the ICC because Australia had appropriately investigated. Quasi-legal opinion that the decision to prosecute may have been taken to ensure the ICC could not intervene was not only ill-informed and irrelevant; it was manifestly wrong at law. In accordance with its own statute, the ICC's attention, if any, is assuaged, regardless of any subsequent decision as to prosecution, at the point the relevant State has properly conducted and considered an investigation, as Australia had done in this instance.

It was also clear, quite apart from the issue of complementarity, that the "gravity" requirement for enlivening ICC jurisdiction was not met in this case. This, however, did not stop the public media-led legal scrutiny of the matter from proceeding down a deep and irrelevant rabbit hole, with resultant public misunderstandings of the role and jurisdiction of the ICC as a potentially enduring consequence.

Second, as noted previously, technology and the agility of non-State monitors and scrutinizers (who, as also noted previously, are often significantly more agile, flexible and quicker off the mark than more bureaucratic public affairs mechanisms) often combine to ensure that incidents are placed within the public domain in very short order. The consequence is that operational bureaucracies are increasingly forced to publicly respond well in advance of having collated and analyzed the available information. Whereas additional and alternative scrutiny was previously something that generally occurred after the reporting, investigation, assessment and results implementation process had been completed and communicated, the additional and alternative scrutiny process is increasingly multistaged: scrutiny based upon initial reports, scrutiny at the investigative stage, scrutiny at the assessment phase, scrutiny at the consequences stage (e.g., trials) and scrutiny at the implementation of the lessons-learned stage.

A recent example is apparent in one of the many threads of scrutiny activity that arose out of the October 2010 WikiLeaks disclosure of many thousands of classified documents relating to the Afghanistan conflict that had been prepared between January 2004 and December 2009. One public interest legal group wrote the UK Minister of Defence recommending investigation "as suspected war crimes" of incidents disclosed in the WikiLeaks documents. These documents disclose, the group asserts, the need for further legal scrutiny of "the killing of at least 26 civilians and the wounding of a further 20 by British forces."12 Legal scrutiny is thus now occurring, divisibly and in detail, at every procedural stage of an incident's legal life—from initial reporting, to investigation, to judicial consideration, to outcomes and consequence implementation. Again, this is not an evolution to be decried; it carries with it great potential for increased transparency and accountability. But it also carries with it the potential for misinformation, inaccurate assessments and misguided responses at multiple fracture points in an incident's legal journey, each of these inevitably coloring, shaping and informing the next substage of scrutiny. This is a very different proposition from public reportage and opinion based on the invariably more considered and reflective legal scrutiny and analysis that can accompany an open judicial hearing in which evidence is thoroughly tested, contextualized and weighed as it is being publicly disclosed.

Enablers: Capacities of Accountability Agents

The third element of the troika of enablers that are playing a significant role in the evolution of public legal scrutiny of operations is that some non-State accountability agents have become much more professional—and thus effective—in their approach to incidents, and much better equipped to conduct additional and alternative investigations. Academics and public interest law groups with a focus on litigation have long brought their analytical skills to bear on specific incidents but have traditionally been hamstrung by the availability of detailed information. But, as has been discussed, as information scarcity becomes less the norm, the opportunities for such academics and public interest law groups to engage with specific incidents in much greater detail and with significantly greater fidelity has grown apace.¹³

Similarly, the general stock-in-trade of many NGOs was for many years limited by information and capacity to general comments or press statements. Today, however, the increased and improved professionalism, access, resourcing and specialization of some NGOs have enabled them to become highly influential non-State actors in the field of legal scrutiny of operational incidents. 14 Second-order issues such as scrutiny on reputation, and creating impetus for policy change as a means of achieving effects on operations—effects that can be achieved on the basis of reportage and opinion as opposed to detailed legal investigation and analysis—are no longer necessarily the focus of some better resourced, connected and informed NGOs. These accountability agents are now focusing more extensively upon achieving direct and discernible results in terms of legal processes and consequences by inquiring into issues with much greater granularity and utilizing more rigidly (if not always accurately or correctly) applied legal frameworks as the paradigms within which they inquire, analyze and conclude. This allows these accountability agents to create opportunities for more direct and timely change. Being told that your policy is wrong is a less legally significant issue—and is likely to prompt a less immediate result—than being told that you are in breach of the law.

Consequences?

Although the enablers outlined above are but three of many that are driving the changing nature of legal scrutiny of operations, they do point the way to three thematic conclusions as to the future shape of this evolution. The first, which is no

surprise, is that the language of additional and alternative scrutiny of operational incidents will continue to be dominated by law and legal paradigms. Engaging with and analyzing the high volume of disparate and hybrid pieces of information that are increasingly available to alternative accountability agents, such as NGOs, the media and academics, are difficult in the absence of an organizing principle and framework. Perhaps much more readily than purely policy analysis, law provides a universally recognized (if not always universally agreed upon) framework, supplemented by detailed rules and processes, against which that information can be marshaled and applied. Further, legally based scrutiny projects bring with them the potential for substantially more urgent and direct responses and consequences than many forms of policy pressure exerted with respect to the same issue. Being told, in detail, how and why your use of force breaches the law is much more likely to prompt an immediate response than being told why your approach to the use of force is wrong from a policy perspective.

Second, military operations are ever-increasingly intelligence led and effects based. The natural consequence is that militaries not only have the capacity to generate greater levels of information on discrete targets or on discrete operational incidents, but are in fact driven by law, strategy and doctrine to do so. This development clearly opens discrete incidents to deeper additional or alternative scrutiny because each incident is treated more rigorously as an individual circumstance, thereby generating greater levels of detail and thus greater opportunities for detailed legal scrutiny. It also opens the path for new levels of legal scrutiny into ever more narrowly defined issues such as the reliance a commander placed upon individual pieces of information. It will become increasingly possible—at the very least through the cross-referencing capabilities of Internet searching—for scrutinizers to arm themselves with information that will allow them to engage not just with the law as it relates to a particular piece of intelligence that a commander may have relied upon, but with the law that relates to the manner by which it was collected, the process by which it was analyzed and the source from whence it was drawn. This is already the case with the markedly increased potential for additional and alternative legal scrutinizers to analyze particular weapons-use incidents.

It is also becoming an accepted fact of operational life that such legal scrutiny of intelligence itself is now routinely possible on the basis of publicly available information: scrutiny as to the motives and background of individual sources of intelligence (warlord, sympathizer or user of the military force as a proxy in his/her own vendettas?); as to the legal status of the process by which that intelligence was collected (telecommunications intercepts, biometrics, paid human agents?); and the availability of other information that enhances or degrades the quality of that intelligence. It is also entirely possible that post-incident scrutinizers are able to easily

find and apply—and thus assume a commander's knowledge of—additional information to which that commander may not have actually had access.

The third consequence of this evolution in the legal scrutiny of operations is that it is no longer just about what is investigated; it is about who investigates, when and where they investigate, how they investigate, that body of law used to investigate, and that body of law (or which States' particular interpretation of the law) used to measure the results. That is, the dimensions of additional and alternative legal scrutiny have now spread well beyond simple engagement with the incident itself. It is a statement of the obvious that additional and alternative legal scrutiny projects will continue to broaden in focus so as to engage with any ancillary or related issue where there is a legal framework that is readily applicable and information that is readily available.

Conclusion

The changing nature of legal scrutiny of operations generally, and of operational incidents more particularly, is not to be decried. It is vital that militaries and States acknowledge and accept that this is ultimately a positive development in the evolution of transparency and accountability in operations. It is also important that militaries and States understand that this evolution will continue regardless. However, the obligations created by this evolution are not all one way. Certainly States will continue to test and adjust their processes in order to respond to this development by developing quicker public affairs mechanisms, through increasing transparency in releasing their own investigation or inquiry findings in relation to certain incidents, and by engaging in detailed rebuttals of additional and alternative legal scrutiny reports where appropriate. But this development also places obligations upon these additional and alternative legal scrutiny agents in terms of their own engagement with information, analysis and the law. With power comes responsibility, and legal scrutiny is nothing if not powerful.

Notes

- 1. See also, e.g., the series of articles by Ryan Goodman & Derek Jinks, Ken Watkin, Mike Schmitt, Bill Boothby, W. Hays Parks and Nils Melzer in Forum, *The ICRC Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law*, 42 NEW YORK UNIVERSITY JOURNAL OF INTERNATIONAL LAW AND POLITICS 637 (2010).
- 2. Staff Sergeant Bruce Cobbledick, *Artillerymen in Afghanistan use innovation to reduce collateral damage*, CENTCOM.MIL, http://www.centcom.mil/en/news/artillerymen-in-afghanistan-use-innovation-to-reduce-collateral-damage (last visited Nov. 2, 2010).
 - 3. *Id*.

- 4. For example, with respect to civil society, see AUTHORS TAKE SIDES: IRAQ AND THE GULF WAR (Jean Moorcroft Wilson & Cecil Woolf eds., 2004); with respect to political debate, see Australia, House of Representatives Debate, HANSARD, Mar. 18, 2003, at 12505 (statement of Prime Minister Howard) (transcript available at http://www.aph.gov.au/hansard/reps/dailys/dr180303.pdf); with respect to media reportage and opinion, see Don Anton et al., Opinion, *Coalition of the willing? Make that war criminals*, SYDNEY MORNING HERALD, Feb. 26, 2003, News and Features, at 15 (an opinion piece signed by forty-two noted scholars and intellectuals), *available at* http://law.anu.edu.au/cipl/Newsletters/03%20April%20newsletter.pdf.
- 5. Sean Rayment, *Sniper sues Army over error which put him in danger of being kidnapped by al-Qaeda*, DAILY TELEGRAPH (London) (July 31, 2010), http://www.telegraph.co.uk/news/worldnews/asia/afghanistan/7920194/Sniper-sues-Army-over-error-which-put-him-in-danger-of-being-kidnapped-by-al-Qaeda.html.
- 6. Richard Norton-Taylor, *UK accused over Taliban torture risk when handing over insurgents*, GUARDIAN (London), Apr. 20, 2010, at 14, *available at* http://www.guardian.co.uk/world/2010/apr/19/torture-risk-taliban-british-accused. *See* The Queen (on the application of Maya Evans) v. Secretary of State for Defence [2010] EWHC 1445 (Admin).
- 7. For a nuanced analysis of some of the relevant issues, see Michael Schmitt, *Precision Attack and International Humanitarian Law*, 87 INTERNATIONAL REVIEW OF THE RED CROSS 445, 449–50 (2005), *available at* http://www.icrc.org/Web/eng/siteeng0.nsf/htmlall/review-859-p445/\$File/irrc_859_Schmitt.pdf).
- 8. Letter from Brad Evans, Executive Director, Asia Division, Human Rights Watch, to Secretary of Defense Robert Gates (Jan. 15, 2009), http://www.hrw.org/en/news/2009/01/14/letter-secretary-defense-robert-gates-us-airstrikes-azizabad-afghanistan (emphasis added).
- 9. Dan Oakes, *Trial's role in winning over Afghans*, SYDNEY MORNING HERALD, Sept. 29, 2010, The Nation, at 6, *available at* http://www.smh.com.au/world/trials-role-in-winning-over-afghans-20100928-15vtp.html.
- 10. See, e.g., Chris Merritt & Nicola Berkovic, Soldiers caught in justice divide, THE AUSTRALIAN, Sept. 30, 2010, Features, at 13, available at http://www.theaustralian.com.au/news/features/who-should-judge-our-warriors/story-e6frg6z6-1225931975906.
- 11. See Statute of the International Criminal Court art. 17(1), July 17, 1998, 2187 U.N.T.S. 90 ("[T]he Court shall determine that a case is inadmissible where: (a) The case is being investigated or prosecuted by a State which has jurisdiction over it, unless the State is unwilling or unable genuinely to carry out the investigation or prosecution; (b) The case has been investigated by a State which has jurisdiction over it and the State has decided not to prosecute the person concerned, unless the decision resulted from the unwillingness or inability of the State genuinely to prosecute; . . . (d) The case is not of sufficient gravity to justify further action by the Court.").
- 12. David Leigh & Ed Pilkington, *Rights campaigners try to force MoD to court over Afghan killings*, GUARDIAN (London), Aug. 2, 2010, at 4, *available at* http://www.guardian.co.uk/uk/2010/aug/01/campaigners-mod-court-afghanistan/print.
- 13. For example, prior to the 2003 Iraq conflict, public interest law groups were able to access sufficient general information to bring proceedings in the UK High Court in relation to the legality of any prospective decision to commence operations in Iraq. See R (on the application of the Campaign for Nuclear Disarmament) v. Prime Minister and Others [2002] EWHC 2777 (Admin). In 2009–2010, the significantly greater availability of information (including through disclosures such as the WikiLeaks tranches on Iraq and Afghanistan) has seen, as noted previously, public interest law groups furnished with sufficient detail and specificity regarding discrete operational incidents to support litigation and judicial review of individual detainee transfer and civilian casualty incidents.

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14. Amnesty International and Human Rights Watch are but two examples. See, e.g., the sophistication and engagement with detail evident in Human Rights Watch, *Killings in Eastern Rwanda* (Jan. 2007), http://www.hrw.org/en/reports/2007/01/22/killings-eastern-rwanda. *See also* Human Rights Watch, *Afghanistan: US Should Act to End Bombing Tragedies* (May 14, 2009), http://www.hrw.org/en/news/2009/05/14/afghanistan-us-should-act-end-bombing-tragedies. With respect to the latter report in particular, I must, however, note that while I certainly respect the endeavor, I do not necessarily agree with the outcomes.