



Submission by Human Rights Watch
to the Committee on the Rights of the Child on Tonga
81st session, 2019

This submission focuses on the protection of students, teachers, and schools during armed conflict.

Protection of Education During Armed Conflict (articles 28, 38, and 39)

In June 2015, the United Nations Security Council unanimously adopted resolution 2225 (2015) on children and armed conflict, which expresses deep concern that the military use of schools may render schools legitimate targets of attack, thus endangering the safety of children, and encouraged member states to take concrete measures to deter such use of schools by armed forces. This was further reaffirmed in Security Council resolution 2419 (2018).

The Safe Schools Declaration is an inter-governmental political commitment that provides countries the opportunity to express political support for the protection of students, teachers, and schools during times of armed conflict¹; the importance of the continuation of education during armed conflict; and the implementation of the *Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict*.²

The Tongan military, His Majesty's Armed Forces, have contributed troops to the US-led coalitions in both Iraq and Afghanistan. In 2004, Tonga sent 44 soldiers to Iraq and in 2010, Tonga sent 275 soldiers to Afghanistan. In both Iraq and Afghanistan, the military use of schools by both international and national forces has been documented as problematic for children's ability to realize their right to education.

¹ Safe Schools Declaration, May 28, 2015, https://www.regjeringen.no/globalassets/departementene/ud/vedlegg/utvikling/safe_schools_declaration.pdf (accessed March 12, 2019).

² Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict, March 18, 2014, http://protectingeducation.org/sites/default/files/documents/guidelines_en.pdf (accessed March 12, 2019).

As of April 2019, 86 countries have endorsed the Safe Schools Declaration. Tonga has yet to endorse this important declaration.

New Zealand, a key defense partner of Tonga in Polynesia, has endorsed the Safe Schools Declaration. In its newly updated military manual from 2019, the New Zealand Defense Forces (NZDF) state that in accordance with the Safe Schools Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict:

Schools are to be afforded particular protection from the effects of war as their destruction or endangerment is an attack on the learning and development of future generations who bear no responsibility for the armed conflict from which the damage arises. NZDF commanders are to take all practicable steps to protect the right of children to have an education.

Use and occupation of schools and other educational institutions obviously inhibits the exercise of this right and is to be avoided wherever possible. Where, for military reasons, it is necessary for the force to use such an institution, for example for accommodating personnel, storage of materiel or as part of a defensive position, all feasible steps must be taken, in consultation with local authorities, to ensure that the disruption to the education of children is reduced as much as practicable. This may include identifying and facilitating the use of other suitable facilities for such purposes...

Members of the NZDF are not to use school buildings or facilities for military purposes unless it is absolutely necessary. In such cases, all feasible steps are to be taken to ensure that:

- a. civilians and, in particular, children are protected from the effects of attack upon the institutions by opposing forces, including, where necessary, the removal of such persons from the vicinity;
- b. such use is for the minimum time possible;
- c. use of the facility does not breach the prohibition on treachery, i.e. the protection applicable to the school is not be used to induce the opposing force into thinking that this protection is being relied upon with the intention of betraying that confidence; and

d. adverse effects on children, in particular in respect to their right to education, are reduced to the maximum extent possible.³

Human Rights Watch recommends that the Committee:

- Ask the government of Tonga whether they have any laws or policies regulating the use of schools and universities by its armed forces for military purposes.
- What steps has Tonga taken in line with UN Security Council resolution 2225 (2015) and 2419 (2018) to deter the use of schools for military purposes?
- Encourage Tonga to endorse the Safe Schools Declaration and take concrete measures to deter the military use of schools, including by bringing the *Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict* into domestic military policy and operational frameworks.

³ New Zealand Defence Force, Manual of Armed Forces Law: Law of Armed Conflict, DM 69 (2 ed), Volume 4, January 8, 2019.