



Global Coalition to **Protect** **Education from Attack**

Submission to the Committee on the Rights of the Child's pre-session working group for the adoption of a list of issues to be taken up in connection to the consideration of the State Report of South Africa (1-6 February, 2016)

The [Global Coalition to Protect Education from Attack](#) (GCPEA)* writes in advance of the Committee on the Rights of the Child's pre-session working group for the adoption of a list of issues in relation to the State Report of South Africa on the Convention on the Rights of the Child, ahead of its 73rd session. Specifically, we write regarding the implementation of the [Safe Schools Declaration](#) (enclosed) and the [Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict](#) (enclosed), which South Africa has endorsed in May 2015¹.

The Safe Schools Declaration sets out concrete commitments by states to better protect education during armed conflict, including a commitment to bring the *Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict* into domestic policy and operational frameworks. These *Guidelines*, spearheaded by the Global Coalition and finalized in December 2014 under the leadership of Norway and Argentina, offer practical guidance that can help parties to conflict limit the use of educational facilities for military purposes and mitigate the impact the practice can have on students' safety and education. The *Guidelines* are non-binding and do not create new international legal obligations, they rather aim to instill a voluntary shift in behavior, drawing on existing best practice, so that educational facilities remain safe spaces during conflict.

Our research shows that military use of education institutions is widespread, having been reported in the majority of countries affected by conflict across various regions over the past decade. The use of schools for military purposes can deprive children of access to education and put them and their teachers at risk of attack. The presence of armed actors on school grounds can increase the risk of recruitment or use of children for combat or support roles and can expose girls to sexual harassment and abuse. This often leads to students dropping out preemptively, fearing for their safety². The use of educational facilities for military purposes thus creates tremendous obstacles for the realization of the right to education, for the protection of children from recruitment and use by parties to conflict, and from sexual violence. The *Guidelines* are a practical tool to help address this problem.

The Committee on the Rights of the Child has highlighted the negative impact the military use of educational facilities can have on the fulfillment of the rights of the child on several occasions. It has called for cessation of this practice³; for the impartial investigation and prosecution of those responsible⁴; for any damage caused by such practices to be promptly and fully restored⁵; and for the prohibition of military use of schools in domestic legislation⁶. The call for a prohibition of occupation of schools by security forces in conflict-affected areas has also been echoed by the Committee on the Elimination of Discrimination against Women⁷, recognizing the particular impact this practice has on girls. The UN Security Council has also called

¹ This submission was prepared by the GCPEA Secretariat, based on information collected by the Secretariat and the Coalition's member organizations. **This submission is, however, independent of the individual member organizations of the GCPEA and does not necessarily reflect the views of the Steering Committee or other member organizations.**

² Global Coalition to Protect Education from Attack, *Lessons in War: Military Use of Schools and Universities during Armed Conflict*, 2015. Available at: http://www.protectingeducation.org/sites/default/files/documents/lessons_in_war_2015.pdf

³ CRC/C/OPAC/COL/CO/1, 2010, paras. 39-40; CRC/C/SYR/CO/3-4, 2012, para. 52; CRC/C/THA/CO/3-4, 2012, para. 85; CRC/C/ISR/CO/2-4, 2013, para. 64.

⁴ CRC/C/OPAC/COL/CO/1, 2010, paras. 39-40; CRC/C/OPAC/IND/CO/1, 2014, para. 29.

⁵ CRC/C/OPAC/LKA/CO/1, 2010, para. 25.

⁶ CRC/C/OPAC/YEM/CO/1, 2014, para. 30.

⁷ CEDAW/C/IND/CO/4-5, 2014, para. 27.



Global Coalition to **Protect Education from Attack**

on all states to take concrete measures to deter the military use of schools in contravention of international law, highlighting the potential risks it creates for children in situations of armed conflict⁸.

In order to progressively achieve a global shift in behavior, it is critical that as many states as possible, whether directly affected by armed conflict or not, implement the *Guidelines*. Against this background, we encourage the Committee to ask the Government of South Africa the following question, and offer them the recommendation below:

Suggested Question:

- Have any steps been taken to implement the commitments made in the *Safe Schools Declaration*, in particular the commitment to bring the *Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict* into domestic policy and operational frameworks? If so, what steps have been taken?

Key recommendations:

- The Government should take concrete measures to deter the military use of schools, following UN Security Council Resolutions 2143 (2014) and 2225 (2015), including by bringing the *Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict* into domestic policy and operational frameworks, as per the commitment made in the Safe Schools Declaration which South Africa endorsed. In this framework, the Government should create or strengthen explicit protection of educational facilities from military use, for instance in military doctrine, military manuals, rules of engagement, operational orders or other relevant means of dissemination, and consider incorporating such explicit protections in national legislation.

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*[GCPEA](#)⁹ was established in 2010 by organizations working in the fields of education in emergencies and conflict-affected contexts, higher education, protection, international human rights and humanitarian law who were concerned about ongoing attacks on educational institutions, their students and staff in countries affected by conflict and insecurity. GCPEA is an international coalition of organizations that includes: CARA (Council for At-Risk Academics), Human Rights Watch, Institute of International Education/IIE Scholar Rescue Fund, Protect Education in Insecurity and Conflict, Save the Children, Scholars at Risk Network, UNICEF, UNESCO, and UNHCR.

GCPEA defines **attacks on education** as any threats or deliberate use of force against students, teachers, academics, education trade union members and government officials, aid workers and other education staff, and against schools, universities and other education institutions, carried out for political, military, ideological, sectarian, ethnic or religious reasons. These attacks violate the right to education, amongst other rights enshrined in key international human rights treaties such as the CRC. They may also violate international humanitarian and criminal law and constitute war crimes or crimes against humanity during war or peacetime.

GCPEA defines **military use of schools or universities** or use in support of the military effort to include the broad range of activities in which the fighting forces of parties to armed conflict may engage with the physical space of a school or university in support of the military effort, whether temporarily or on a long-term basis. The term includes, but is not limited to, the following uses: as barracks or bases; for offensive or defensive positioning; for storage of weapons or ammunition; for interrogation or detention; for military training or drilling of soldiers; for military recruitment of children contrary to international law; as observation posts; as a position from which to fire weapons or guide weapons onto their targets.

⁸ S/RES/2143 (2014); S/RES/2225 (2015).

⁹ www.protectingeducation.org

Safe Schools Declaration

The impact of armed conflict on education presents urgent humanitarian, development and wider social challenges. Worldwide, schools and universities have been bombed, shelled and burned, and children, students, teachers and academics have been killed, maimed, abducted or arbitrarily detained. Educational facilities have been used by parties to armed conflict as, inter alia, bases, barracks or detention centres. Such actions expose students and education personnel to harm, deny large numbers of children and students their right to education and so deprive communities of the foundations on which to build their future. In many countries, armed conflict continues to destroy not just school infrastructure, but the hopes and ambitions of a whole generation of children.

Attacks on education include violence against educational facilities, students and education personnel. Attacks, and threats of attack, can cause severe and long lasting harm to individuals and societies. Access to education may be undermined; the functioning of educational facilities may be blocked, or education personnel and students may stay away, fearing for their safety. Attacks on schools and universities have been used to promote intolerance and exclusion – to further gender discrimination, for example by preventing the education of girls, to perpetuate conflict between certain communities, to restrict cultural diversity, and to deny academic freedom or the right of association. Where educational facilities are used for military purposes it can increase the risk of the recruitment and use of children by armed actors or may leave children and youth vulnerable to sexual abuse or exploitation. In particular, it may increase the likelihood that education institutions are attacked.

By contrast, education can help to protect children and youth from death, injury and exploitation; it can alleviate the psychological impact of armed conflict by offering routine and stability and can provide links to other vital services. Education that is 'conflict sensitive' avoids contributing to conflict and pursues a contribution to peace. Education is fundamental to development and to the full enjoyment of human rights and freedoms. We will do our utmost to see that places of education are places of safety.

We welcome initiatives by individual States to promote and protect the right to education and to facilitate the continuation of education in situations of armed conflict. Continuation of education can provide life-saving health information as well as advice on specific risks in societies facing armed conflict.

We commend the work of the United Nations Security Council on children and armed conflict and acknowledge the importance of the monitoring and reporting mechanism for grave violations against children in armed conflict. We emphasize the importance of Security Council resolution 1998 (2011), and 2143 (2014) which, inter alia, urges all parties to armed conflict to refrain from actions that impede children's access to education and encourages Member States to consider concrete measures to deter the use of schools by armed forces and armed non-State groups in contravention of applicable international law.

We welcome the development of the *Guidelines for protecting schools and universities from military use during armed conflict*. The Guidelines are non-legally binding, voluntary guidelines that do not affect existing international law. They draw on existing good practice and aim to provide guidance that will further reduce the impact of armed conflict on education. We welcome efforts to disseminate these guidelines and to promote their implementation among armed forces, armed groups and other relevant actors.

We stress the importance, in all circumstances, of full respect for applicable international law, including the need to comply with the relevant obligations to end impunity.

Recognizing the right to education and the role of education in promoting understanding, tolerance and friendship among all nations; determined progressively to strengthen in practice the protection of civilians in armed conflict, and of children and youth in particular; committed to working together towards safe schools for all; we endorse the *Guidelines for protecting schools and universities from military use during armed conflict*, and will:

- Use the *Guidelines*, and bring them into domestic policy and operational frameworks as far as possible and appropriate;
- Make every effort at a national level to collect reliable relevant data on attacks on educational facilities, on the victims of attacks, and on military use of schools and universities during armed conflict, including through existing monitoring and reporting mechanisms; to facilitate such data collection; and to provide assistance to victims, in a non-discriminatory manner;
- Investigate allegations of violations of applicable national and international law and, where appropriate, duly prosecute perpetrators;
- Develop, adopt and promote 'conflict-sensitive' approaches to education in international humanitarian and development programmes, and at a national level where relevant;
- Seek to ensure the continuation of education during armed conflict, support the re-establishment of educational facilities and, where in a position to do so, provide and facilitate international cooperation and assistance to programmes working to prevent or respond to attacks on education, including for the implementation of this declaration;
- Support the efforts of the UN Security Council on children and armed conflict, and of the Special Representative of the Secretary-General for Children and Armed Conflict and other relevant UN organs, entities and agencies; and
- Meet on a regular basis, inviting relevant international organisation and civil society, so as to review the implementation of this declaration and the use of the guidelines.

GUIDELINES FOR PROTECTING SCHOOLS AND UNIVERSITIES FROM MILITARY USE DURING ARMED CONFLICT

Parties to armed conflict are urged not to use schools and universities for any purpose in support of their military effort. While it is acknowledged that certain uses would not be contrary to the law of armed conflict, all parties should endeavour to avoid impinging on students' safety and education, using the following as a guide to responsible practice:

Guideline 1: Functioning schools and universities should not be used by the fighting forces of parties to armed conflict in any way in support of the military effort.

- (a) This principle extends to schools and universities that are temporarily closed outside normal class hours, during weekends and holidays, and during vacation periods.
- (b) Parties to armed conflict should neither use force nor offer incentives to education administrators to evacuate schools and universities in order that they can be made available for use in support of the military effort.

Guideline 2: Schools and universities that have been abandoned or evacuated because of the dangers presented by armed conflict should not be used by the fighting forces of parties to armed conflict for any purpose in support of their military effort, except in extenuating circumstances when they are presented with no viable alternative, and only for as long as no choice is possible between such use of the school or university and another feasible method for obtaining a similar military advantage. Other buildings should be regarded as better options and used in preference to school and university buildings, even if they are not so conveniently placed or configured, except when such buildings are specially protected under International Humanitarian Law (e.g. hospitals), and keeping in mind that parties to armed conflict must always take all feasible precautions to protect all civilian objects from attack.

- (a) Any such use of abandoned or evacuated schools and universities should be for the minimum time necessary.
- (b) Abandoned or evacuated schools and universities that are used by the fighting forces of parties to armed conflict in support of the military effort should remain available to allow educational authorities to re-open them as soon as practicable after fighting forces have withdrawn from them, provided this would not risk endangering the security of students and staff.
- (c) Any traces or indication of militarisation or fortification should be completely removed following the withdrawal of fighting forces, with every effort made to put right as soon as possible any damage caused to the infrastructure of the institution. In particular, all weapons, munitions and unexploded ordnance or remnants of war should be cleared from the site.

Guideline 3: Schools and universities must never be destroyed as a measure intended to deprive the opposing parties to the armed conflict of the ability to use them in the future. Schools and universities—be they in session, closed for the day or for holidays, evacuated or abandoned—are ordinarily civilian objects.

Guideline 4: While the use of a school or university by the fighting forces of parties to armed conflict in support of their military effort may, depending on the circumstances, have the effect of turning it into a military objective subject to attack, parties to armed conflict should consider all feasible alternative measures before attacking them, including, unless circumstances do not permit, warning the enemy in advance that an attack will be forthcoming unless it ceases its use.

- (a) Prior to any attack on a school that has become a military objective, the parties to armed conflict should take into consideration the fact that children are entitled to special respect and protection. An additional important consideration is the potential long-term negative effect on a community's access to education posed by damage to or the destruction of a school.
- (b) The use of a school or university by the fighting forces of one party to a conflict in support of the military effort should not serve as justification for an opposing party that captures it to continue to use it in support of the military effort. As soon as feasible, any evidence or indication of militarisation or fortification should be removed and the facility returned to civilian authorities for the purpose of its educational function.

Guideline 5: The fighting forces of parties to armed conflict should not be employed to provide security for schools and universities, except when alternative means of providing essential security are not available. If possible, appropriately trained civilian personnel should be used to provide security for schools and universities. If necessary, consideration should also be given to evacuating children, students and staff to a safer location.

- (a) If fighting forces are engaged in security tasks related to schools and universities, their presence within the grounds or buildings should be avoided if at all possible in order to avoid compromising the establishment's civilian status and disrupting the learning environment.

Guideline 6: All parties to armed conflict should, as far as possible and as appropriate, incorporate these Guidelines into, for example, their doctrine, military manuals, rules of engagement, operational orders, and other means of dissemination, to encourage appropriate practice throughout the chain of command. Parties to armed conflict should determine the most appropriate method of doing this.