

# Fact sheet: Legal instruments protecting education during conflict

## International Humanitarian Law (IHL)

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IHL does not establish a right to education as such, but many rules of IHL aim to ensure that education continues and that students, education personnel, schools and other educational facilities are protected in international and non-international armed conflict. The express protection extended to education by the Geneva Conventions of 1949 and their Additional Protocols reminds us that, even in the crisis of war, states have committed to ensuring that education can continue.

The rules of IHL that protect access to education include the following:

- **Special protection of children:** Under customary law, children affected by armed conflict are entitled to special respect and protection, which can cover access to education (Rule 135 of the ICRC's study on customary IHL).
- **Conduct of hostilities:** Schools are normally dedicated to civilian use and as such are civilian objects which must not be attacked. Schools lose their protection against attack when they become a military objective; this may be the case when they are used as army barracks or weapon depots, for example. But even in such cases, warring parties must take all feasible precautions when attacking such a military objective to avoid or at least minimize incidental harm to civilian students and educational personnel, and attacks expected to cause excessive incidental harm are prohibited.
- **Fundamental guarantees:** Parties to a non-international armed conflict must provide children with the care and aid that they require. In particular, children must receive an education, including religious and moral education, in keeping with the wishes of their parents or, in the absence of parents, of those responsible for their care (Article 4.3(a), Additional Protocol II).
- **Occupation:** In an occupation, the occupying power must facilitate the proper working of all institutions devoted to the care and education of children (Article 50, Fourth Geneva Convention). In addition, in such situations IHL protects immovable property (such as public buildings dedicated to education) from destruction or seizure except in cases of absolute military necessity (Rule 51 of the ICRC's study on customary IHL, Article 53 of the Fourth Geneva Convention, Article 55 of the Hague Regulations).

From [ICRC Protecting and Ensuring Safe Access to Education](#).

# International Human Rights

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## **Article 26 of the Universal Declaration of Human Rights (1948):**

“Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit:

“Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace:

“Parents have a prior right to choose the kind of education that shall be given to their children.”

## **Article 28 of the UN Convention on the Rights of the Child (1989)**

“States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

- a) Make primary education compulsory and available free to all;
- b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
- c) Make higher education accessible to all on the basis of capacity by every appropriate means;
- d) Make educational and vocational information and guidance available and accessible to all children;
- e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.”

“States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child’s human dignity and in conformity with the present Convention.”

“States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.”

## **Other relevant international human rights law instruments include:**

- International Covenant on Economic, Social and Cultural Rights (Articles 2, 13 and 14)
- Convention relating to the Status of Refugees (Articles 3 and 22)
- Convention on the Elimination of All Forms of Discrimination against Women (Article 10)
- Convention on the Rights of the Child (Articles 28 and 29)
- Convention on the Rights of Persons with Disabilities (Article 24)
- Convention on the Elimination of All Forms of Racial Discrimination (Article 5)
- Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Articles 12, 30, 43 and 45).

## Safe Schools Declaration (SSD)

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The [Safe Schools Declaration](#) is a non-binding intergovernmental political instrument that outlines a set of commitments to strengthen the protection of education from attack and restrict use of schools and universities for military purposes. It seeks to ensure the continuity of safe education during armed conflict. By endorsing the SSD, states commit to: respecting the civilian nature of schools; developing and sharing examples of good practices for protecting schools and universities during armed conflict; collecting data on attacks on education; investigating and prosecuting war crimes involving education; and providing assistance to victims.

Importantly, by endorsing the SSD, states also commit to following the Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict and incorporating them into domestic policy and operational frameworks to the extent possible and appropriate.