



# **COMMENTARY ON THE “GUIDELINES FOR PROTECTING SCHOOLS AND UNIVERSITIES FROM MILITARY USE DURING ARMED CONFLICT”**



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## ICRC STAFF

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## PEER-REVIEW GROUP

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## SPECIAL TRIBUTE

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# FOREWORD

Schools should be sanctuaries for learning and safety. Yet in too many armed conflicts, they have become places of fear and danger. Students and teachers are attacked, classrooms destroyed and educational facilities turned into barracks or bases, increasing the risk of attack by enemy forces. Such military use not only disrupts access to education but also places children at risk in the very place where they should feel more secure. The consequences are devastating and can last for years – if not generations.


In the nearly 130 armed conflicts taking place worldwide, millions of children are denied safe access to education – a trend that continues to rise at alarming rates. Between 2022 and 2023, the Global Coalition to Protect Education from Attack documented more than 6,000 attacks on schools, universities, students and education personnel, as well as cases of military use of educational facilities – a 20 per cent increase on the previous two years. During the same period, over 10,000 students and education personnel were killed, injured, abducted or otherwise harmed. This worrying trend is confirmed by the United Nations, which reported a 44 per cent increase in attacks on civilian objects, including schools, in 2024. These figures are staggering – and likely underestimated.

This Commentary on the *Guidelines for Protecting Schools and Universities from Military Use During Armed Conflict* responds to this urgent reality. It draws on the ICRC's first-hand experience in armed conflicts, analyses of state and non-state armed group practice, and consultations with education-in-emergencies and child protection organizations. Published on the tenth anniversary of the Safe Schools Declaration, it aims to support the endorsement and implementation of the Declaration and its *Guidelines*, enhance compliance with international humanitarian law (IHL) and ultimately strengthen the protection of education during war.

The ICRC uses the *Guidelines* as a reference document in its protection dialogue with parties to a conflict, provides technical advice on implementation, and works at the national, regional and international levels with entities involved in education in emergencies in order to safeguard access to education. Building on this expertise, this Commentary clarifies the *Guidelines*' relationship to IHL rules, offers practical recommendations and highlights good practices to support situation-specific implementation. It also draws attention to the human dimension of this issue, reminding us that when schools are turned into battlefields, it is children, families and communities that bear the brunt.

The primary audience for this Commentary includes state militaries, ministries of defence, ministries of foreign affairs and military alliances. It is also relevant to non-state armed groups, as the *Guidelines* are intended for all parties to a conflict. In addition, it seeks to benefit the broader education-in-emergencies and child protection sectors by deepening understanding of education-related IHL rules.

If we do not want education to become a luxury of peacetime, the time to act is now. We hope this Commentary will encourage states and parties to a conflict to take concrete steps to enhance the protection of schools and universities during armed conflict, giving students the safety, hope and dignity they deserve.



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# INTRODUCTION

During armed conflict, safe access to education is a humanitarian need and a primary concern for children, youth, parents and communities.<sup>1</sup> Studies show that 99 per cent of children in crisis situations, including armed conflict, consider education a priority alongside other essential needs such as food and livelihoods.<sup>2</sup> Education is also recognized as a humanitarian need owing to its life-sustaining and protective role for children and youth in crisis.<sup>3</sup> Not only does it promote dignity, physical and cognitive development, resilience and a sense of normality and hope for the future, but it also sustains children's lives and well-being by providing a safe learning environment amid the dangers of armed conflict.<sup>4</sup>

Schools and other educational facilities are often at the heart of communities, serving as entry points for sharing critical information and offering support and referral related to protection, physical and mental health, nutrition, water, sanitation, hygiene and the risks posed by unexploded ordnance.<sup>5</sup> Education can also be life-saving by physically protecting children and youth from the dangers and exploitation often present in armed conflict, including recruitment into armed groups, sexual violence, early marriage and child labour.<sup>6</sup>

Beyond these immediate threats, the disruption of education can have consequences that last for years, if not generations. When children are denied safe access to schools, an educational vacuum arises, with cumulative effects on them, their families and their communities. By contrast, studies show that education is a key factor in human development, as it contributes to increasing people's income<sup>7</sup> and equips them with the knowledge and skills needed both to improve their own lives and to support the development of their communities.<sup>8</sup>

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- 1 International Committee of the Red Cross (ICRC), *Framework for Access to Education*, ICRC, Geneva, 2017, pp. 3–4.
  - 2 Save the Children reviewed 16 studies conducted by different organizations covering 17 emergency situations, ranging from armed conflict to protracted crises and disasters. In eight other studies surveying more than 4,700 children living in nine emergency situations, 38 per cent of children ranked education as the first priority, while 69 per cent placed it among their top three priority needs. See Save the Children, *What Do Children Want in Times of Emergency and Crisis? They Want an Education*, Save the Children, London, 2015. These studies show that parents, caregivers and communities also prioritize education in times of emergency.
  - 3 ICRC, *Framework for Access to Education*, cited in footnote 1 above, p. 4. See also Inter-agency Network for Education in Emergencies (INEE), *Minimum Standards for Education: Preparedness, Response, Recovery*, INEE, New York, 2024, p. 10: “In an emergency situation and through to recovery, quality education provides physical, psychosocial, and cognitive protection that can save and sustain lives.” The INEE Minimum Standards for Education provide a global reference framework to operationalize the protective role of education through, *inter alia*, safe learning environments, continuity of learning, teacher preparedness and the integration of child protection measures in emergencies.
  - 4 *Ibid.* For more information on the complementarity between child protection and education in emergencies, see The Alliance for Child Protection in Humanitarian Action, *Minimum Standards for Child Protection in Humanitarian Action (CPMS)*, The Alliance for Child Protection in Humanitarian Action, New York, 2019 edition, 2020, pp. 247–256.
  - 5 INEE, *Minimum Standards for Education*, cited in footnote 3 above, p. 10; and ICRC, *Protecting and Ensuring Safe Access to Education: The ICRC's Experience and Approach in Armed Conflict and Other Situations of Violence*, ICRC, Geneva, 2024, p. 4.
  - 6 ICRC, *Access to Education Strategy 2021–2026*, ICRC, Geneva, 2021, p. 3; and INEE, cited in footnote 3 above, p. 10.
  - 7 Each additional year of education increases a person's annual earnings by around 9 per cent. See H.A. Patrinos, “50 years after landmark study, returns to education remain strong”, *World Bank Blogs*, May 2023: <https://blogs.worldbank.org/en/education/50-years-after-landmark-study-returns-education-remain-strong>, accessed 27 October 2025. See also United Nations Educational, Scientific and Cultural Organization (UNESCO), *Education Counts: Towards the Millennium Development Goals*, UNESCO, Paris, 2011, p. 7: “One extra year of schooling increases an individual's earnings by up to 10 per cent.” On the other hand, the Organisation for Economic Co-operation and Development (OECD) has estimated a 7.7 per cent loss in earnings resulting from one year of lost schooling. On this, see E.A. Hanushek and L. Woessmann, “The economic impacts of learning losses”, *OECD Education Working Papers*, No. 225, OECD, September 2020, p. 11.
  - 8 For more information on the positive correlation between education and a country's Human Development Index – of which education is one of the three fundamental dimensions, alongside health and standard of living – see D. Setyaningrum, “Quality education and human development index”, *International Journal of Economic Policy in Emerging Economies*, Vol. 20, No. 3/4, November 2024, pp. 304–311; and B. Herre and P. Arriagada, “The Human Development Index and related indices: What they are and what we can learn from them”, *Our World in Data*, November 2023: <https://ourworldindata.org/human-development-index>, accessed 27 October 2025.

Moreover, education, particularly when conflict-sensitive, not only plays a role in ending and preventing violations against children, but also fosters safer, more stable societies by strengthening social cohesion, supporting conflict resolution and peacebuilding, and ultimately reducing the risk of future conflicts.<sup>9</sup>

When armed conflict breaks out, its impact on education is devastating and far-reaching. As an essential yet fragile public service,<sup>10</sup> education is often among the first to be disrupted when hostilities begin and one of the last to resume once they end.<sup>11</sup> According to recent studies,<sup>12</sup> over 473 million children – more than one in six globally – live in conflict-affected areas, with an alarming 52 million of them being out of school.

Armed conflict disrupts access to education in various ways. Schools and universities may be deliberately targeted or incidentally damaged by parties to a conflict, with, in some cases, students, teachers and other education personnel killed, injured, abducted or otherwise harmed in these attacks.<sup>13</sup> During armed conflict, in addition to buildings being damaged, threats of violence may lead to school closures, depriving students of the protection these learning environments provide and exposing them to risks such as exploitation and abuse, including through child labour and recruitment into armed forces or armed groups.<sup>14</sup> Even when schools and universities remain open during hostilities, a shortage of supplies, as well as the displacement, killing, abduction or arrest of teachers and other education personnel, may severely disrupt education, while weapons, unexploded ordnance and other explosive remnants of war pose dangers to students both on school grounds and while travelling to and from school. Furthermore, the military use of schools by parties to a conflict has the potential to deprive schools of their civilian status, making them vulnerable to attack, while also putting students – particularly children – at risk of injury, recruitment, sexual violence and abduction owing to their proximity to weapon bearers.<sup>15</sup>

International humanitarian law (IHL), also known as the law of armed conflict, aims to protect students, education personnel and educational facilities and to promote, more generally, the continuity of education during armed conflict. Under IHL rules governing the conduct of hostilities, students, teachers and other education personnel are presumed to be civilians, and schools and other educational facilities are presumed to be civilian objects. This means they are all protected from attack. If they become military objectives, all feasible precautions must be taken prior to attack to avoid or at least minimize civilian harm, and both indiscriminate and disproportionate attacks are prohibited. Beyond the conduct of hostilities, IHL includes specific provisions requiring parties to a conflict to facilitate access to education.<sup>16</sup> The strength of these obligations

<sup>9</sup> INEE, cited in footnote 3 above, p. 11. See also UN Security Council, Resolution 2601 (2021), UN Doc. S/RES/2601, 29 October 2021, para. 3, which reaffirms the contribution of education to the achievement of peace and security. For more information on the relationship between education and peace, see Institute for Economics and Peace (IEP) and Global Partnership for Education (GPE), *Key Findings from Analyses on the Relationship between Education and Peace*, GPE, 2024.

<sup>10</sup> The ICRC considers education an essential service alongside electricity, health care, water and wastewater treatment, solid waste disposal, market systems that provide food and other household necessities, telecommunications, financial systems, and transportation for people and goods. See ICRC, *Preventing and Mitigating the Indirect Effects on Essential Services from the Use of Explosive Weapons in Populated Areas: ICRC Recommendations*, ICRC, Geneva, 2024, p. 4.

<sup>11</sup> Education is particularly vulnerable to shocks. See ICRC, *Protecting and Ensuring Safe Access to Education*, cited in footnote 5 above, p. 3; and ICRC, *Appeals 2023: Overview*, ICRC, Geneva, 2022, p. 48.

<sup>12</sup> United Nations Children's Fund (UNICEF), 2024: *Devastating year for children in conflict zones*, UNICEF, Paris, 2024; and G. Østby and S.C.A. Rustad, "473 million children live in conflict zones", *PRIOR Blogs*, Peace Research Institute Oslo, October 2024: <https://www.prio.org/comments/1152>, accessed 27 October 2025.

<sup>13</sup> Attacks may, in some cases, be driven by opposition to the curricula taught or to the education of girls, underscoring the heightened risks faced in armed conflict by students – particularly girls – as well as by education personnel and educational facilities.

<sup>14</sup> Armed conflict disproportionately affects children, with girls facing heightened risks of rape and other forms of sexual violence, early marriage and permanent school dropout, particularly when schools are used for military purposes. Out-of-school girls in conflict settings are also more vulnerable to domestic violence, while boys are at particular risk of child recruitment. Children with disabilities encounter additional barriers to access to education and are disproportionately exposed to violence. Inclusive responses that take account of gender, disability and displacement status are essential to uphold the right to education for all children in all their diversity. See ICRC, cited in footnote 5 above, p. 4; B. Sheppard, "Keeping schools safe from the battlefield: Why global legal and policy efforts to deter the military use of schools matter", *International Review of the Red Cross*, Vol. 101, No. 911, August 2019, p. 676; and Global Coalition to Protect Education from Attack (GCPEA), *"It Is Very Painful to Talk About": The Impact of Attacks on Education on Women and Girls*, GCPEA, New York, 2019.

<sup>15</sup> See the commentary on Guideline 1 below.

<sup>16</sup> For a detailed overview of these provisions, see the "Access to education" section in the commentary on Guideline 1 below.

demonstrates the intention of the drafters of the 1949 Geneva Conventions and the 1977 Additional Protocols to ensure education continues even – or especially – in times of war.<sup>17</sup>

International human rights law complements IHL in protecting education during armed conflict.<sup>18</sup> The two legal regimes share similar aims and are based on the same principles and values.<sup>19</sup> The right to education is a fundamental human right enshrined in various international human rights law instruments, including the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child, as well as several regional legal frameworks.<sup>20</sup> It is both a human right in itself and an indispensable means of realizing other human rights.<sup>21</sup>

## PROTECTING SCHOOLS AND UNIVERSITIES FROM MILITARY USE DURING ARMED CONFLICT: THE SAFE SCHOOLS INITIATIVE

Despite these legal protections, students, teachers and other education personnel are too often deliberately targeted as such or casually disregarded as collateral damage during hostilities, while schools are too easily stripped of their civilian character on the grounds that they are of some benefit to the adversary. Educational facilities are too frequently fenced in with barbed wire, repurposed for weapon storage or used as barracks or bases, and children in conflict-affected areas face risks of harm, sexual violence and recruitment at, or on their way to or from, school. Against this backdrop, in 2012, the Global Coalition to Protect Education from Attack (GCPEA) – an inter-agency coalition of international organizations formed two years earlier to address attacks on students, education personnel, schools and other educational facilities during armed conflict – initiated and spearheaded the development of the *Guidelines for Protecting Schools and Universities from Military Use During Armed Conflict* (hereinafter the *Guidelines*).<sup>22</sup>

<sup>17</sup> Specific IHL rules safeguarding access to education during armed conflict, in particular with regard to the conduct of hostilities, are discussed in the commentaries on the *Guidelines* below. For a fuller overview of relevant IHL provisions, see ICRC, *International Humanitarian Law and the Challenges of Contemporary Armed Conflicts: Recommitting to Protection in Armed Conflict on the 70<sup>th</sup> Anniversary of the Geneva Conventions*, ICRC, Geneva, 2019, pp. 44–46. See also ICRC, cited in footnote 5 above, p. 5; and ICRC, *Childhood in Rubble: The Humanitarian Consequences of Urban Warfare for Children*, ICRC, Geneva, 2023, pp. 15–19.

<sup>18</sup> It is widely recognized that international human rights law provisions applicable in armed conflict complement the protections afforded by IHL. See, for example, International Court of Justice (ICJ), *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion, ICJ Reports 1996, p. 226, para. 25; ICJ, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, ICJ Reports 2004, p. 136, para. 106; and ICJ, *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, Judgment, ICJ Reports 2005, p. 168, para. 216. The interplay between IHL and human rights law is such that in some cases both legal regimes will apply simultaneously, with determinations on the exact nature of their relationship having to be made case by case, based on the circumstances at hand. For the ICRC's approach to the relationship between IHL and human rights law, see ICRC, *Commentary on the Third Geneva Convention: Convention (III) relative to the Treatment of Prisoners of War*, ICRC, Geneva/Cambridge University Press, Cambridge, 2020, paras 99–105.

<sup>19</sup> C. Droege, “Elective affinities? Human rights and humanitarian law”, *International Review of the Red Cross*, Vol. 90, No. 871, 2008, p. 521.

<sup>20</sup> For an overview of the international and regional human rights law instruments guaranteeing the right to education, see UNESCO, *Right to Education Handbook*, UNESCO, Paris, 2019, pp. 45–70.

<sup>21</sup> UN Committee on Economic, Social and Cultural Rights, *General Comment No. 13: The right to education (article 13)*, UN Doc. E/C12/1999/10, 8 December 1999, para. 1.

<sup>22</sup> GCPEA, *Commentary on the “Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict”*, GCPEA, New York, 2015, pp. 6–7. GCPEA is an inter-agency coalition that was established in 2010 and whose steering committee is composed of representatives of the following seven international organizations or programmes: Amnesty International, Human Rights Watch, Plan International, Protect Education in Insecurity and Conflict (Education Above All Foundation), Save the Children, UNESCO and UNICEF.

The *Guidelines*<sup>23</sup> were finalized through a state-led process headed by Norway and Argentina in December 2014 following extensive consultations with state representatives; militaries; United Nations (UN) agencies; and non-governmental, intergovernmental and international organizations including the ICRC.<sup>24</sup> Building on this initiative, and under the continued leadership of those two states, the Safe Schools Declaration<sup>25</sup> was developed and launched in May 2015 as a political instrument through which states could acknowledge the wide-ranging challenges facing education during armed conflict and commit to strengthening the protection of students, education personnel and educational facilities, including through the use and implementation of the *Guidelines*.<sup>26</sup>

The ICRC supports the objective of the Safe Schools Declaration and the *Guidelines* to enhance the protection of education in armed conflict.<sup>27</sup> The implementation of the *Guidelines* by state armed forces and non-state armed groups can help prevent and significantly mitigate the impact of armed conflict on students, teachers and other education personnel, and educational facilities while contributing to improved respect by parties to a conflict for their obligations under international law. The *Guidelines* are a valuable reference tool that supports the protection and continuity of education during armed conflict and aims to foster a shift in behaviour by parties to a conflict by encouraging them to adopt measures to reduce the military use of schools and universities.

The *Guidelines* are not legally binding rules nor do they seek to modify existing international law. In this regard, the ICRC notes that the lawfulness of any operation under international law is determined by the applicable legal framework, and acknowledges the express mention in the *Guidelines*' preamble that the military use of schools is not necessarily contrary to IHL. While the *Guidelines* recommend actions that at times go beyond the requirements of IHL, they are fully consistent with its protective aims and its provisions, as well as with the complementary human rights norms.<sup>28</sup> Preventing educational facilities from becoming military objectives and thus liable to attack plays a crucial role in ensuring the safety of civilians – students, teachers and other education personnel – and in preserving the civilian character of schools and universities, thus enabling them to operate safely during armed conflict.

<sup>23</sup> The *Guidelines* are available at the following website: <https://protectingeducation.org/publication/guidelines-for-protecting-schools-and-universities-from-military-use-during-armed-conflict/>, accessed 27 October 2025.

<sup>24</sup> *Ibid.* For a detailed account of the drafting process of the *Guidelines* by their main drafter, see S. Haines, “Developing international guidelines for protecting schools and universities from military use during armed conflict”, *International Law Studies*, Vol. 97, No. 573, 2021, pp. 600–608. Over the last ten years, international conferences on the Safe Schools Declaration were held in Oslo, Norway (28–29 May 2015); Buenos Aires, Argentina (28–29 March 2017); Palma de Mallorca, Spain (27–29 May 2019); and Abuja, Nigeria (25–27 October 2021). The Fifth International Conference on the Safe Schools Declaration is to be held in Nairobi, Kenya, on 25 and 26 November 2025.

<sup>25</sup> The Safe Schools Declaration is available at the following website: <https://ssd.protectingeducation.org/>, accessed 27 October 2025.

<sup>26</sup> *Ibid.* Beyond the use of the *Guidelines*, the Safe Schools Declaration includes commitments to collect data on attacks against education, provide assistance to victims, investigate and prosecute alleged violations of applicable law, adopt conflict-sensitive approaches to education, seek to ensure the continuity of education during armed conflict and support the education-related efforts of UN organs, entities and agencies.

<sup>27</sup> For the ICRC's public position on the Safe Schools Declaration and the *Guidelines*, see the “The Safe Schools Declaration and the Guidelines for Protecting Schools and Universities from Military Use During Armed Conflict” page on the ICRC's website.

<sup>28</sup> For more information on the complementarity between IHL and international human rights law, see footnotes 18 and 19 above.

## PROGRESS AND IMPLEMENTATION

As of October 2025, 121 states have endorsed the Safe Schools Declaration,<sup>29</sup> committing to “[u]se the *Guidelines*, and bring them into domestic policy and operational frameworks as far as possible and appropriate”.<sup>30</sup> An increasing number of these states are implementing measures to prevent, regulate, prohibit or even criminalize the military use of educational facilities through legislation, military manuals and directives, policies, jurisprudence and ceasefire agreements.<sup>31</sup> The State-led Implementation Network on the Safe Schools Declaration, created and led by Norway with the support of GCPEA, is making significant progress in fostering cooperation, mutual support and the peer-to-peer exchange of best practices among endorsing states to strengthen the implementation of the Safe Schools Declaration and the *Guidelines*.<sup>32</sup> In addition, 31 non-state armed groups have signed Geneva Call’s deed of commitment on the protection of children in armed conflict, pledging to “avoid using for military purposes schools or premises primarily used by children”.<sup>33</sup>

Over the past decade, attacks against and the military use of schools and universities during armed conflict, as well as the severe impact of such practices on children’s rights, including the right to education, have drawn increasing international attention. UN organs, bodies, mechanisms and entities have repeatedly expressed grave concern over the negative consequences of such attacks and have called for the endorsement and implementation of the Safe Schools Declaration and its *Guidelines*.<sup>34</sup> Among the first landmark UN Security Council resolutions to address education during armed conflict was Resolution 1612 (2005), which recognized attacks on schools as one of six grave violations against children under the UN Monitoring and Reporting Mechanism.<sup>35</sup> This was expanded by UN Security Council Resolution 1998 (2011), which made attacks on schools and hospitals a listing criterion in the Secretary-General’s annual report on children and armed conflict.<sup>36</sup>

<sup>29</sup> States may endorse the Safe Schools Declaration by submitting an endorsement letter to the Norwegian Ministry of Foreign Affairs, which serves as the depositary of endorsements. For the full list of endorsing states, see the “Safe Schools Declaration Endorsements” page on GCPEA’s website.

<sup>30</sup> Safe Schools Declaration, cited in footnote 25 above.

<sup>31</sup> For a collection of recent and historical examples of laws, court decisions, military orders, policies and practice by governments, armed forces, non-state armed groups and courts aimed at protecting schools and universities from use for military purposes, see GCPEA, *Protecting Schools from Military Use: 2021 – Law, Policy, and Military Doctrine*, GCPEA, New York, October 2021. Additionally, examples of good practices in the implementation of the *Guidelines* can be found in the Implementation Resource Bank on GCPEA’s website. In a similar spirit, the Global Education Cluster developed a guidance note on attacks on education, which provides humanitarian coordination tools to prevent, monitor and respond to education-related attacks, including by referring to the Safe Schools Declaration as a fundamental tool. See Global Education Cluster, *Systematising Approaches for Attacks on Education: Guidance Note for Education Clusters*, 2022.

<sup>32</sup> The State-led Implementation Network on the Safe Schools Declaration was established by Norway at the Third International Conference on Safe Schools in Palma de Mallorca, Spain, in 2019. For more information, see the “State-led implementation network for the Safe Schools Declaration” page on GCPEA’s website.

<sup>33</sup> The Deed of Commitment under Geneva Call for the Protection of Children from the Effects of Armed Conflict.

<sup>34</sup> For example, the Human Rights Council called on states to consider implementing both the Safe Schools Declaration and the *Guidelines* in Resolution 47/6, *Right to Education* (UN Doc. A/HRC/RES/47/6, 26 July 2021). This marked the first appearance of the *Guidelines* in a UN resolution. Two years later, the Human Rights Council not only strengthened provisions on protecting education and expanded language relating to higher education, but also explicitly called on states to consider endorsing the Safe Schools Declaration, in Resolution 53/7, *Right to Education* (UN Doc. A/HRC/RES/53/7, 19 July 2023). Other relevant documents include Human Rights Council, *Report of the Special Representative of the Secretary-General for Children and Armed Conflict*, UN Doc. A/HRC/58/18, 8 January 2025; UN Security Council, *Report of the Secretary-General on Children and Armed Conflict*, UN Doc. S/2025/247, 17 June 2025; Committee on the Rights of the Child, *Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Egypt*, UN Doc. CRC/C/EGY/CO/5–6, 20 June 2024; Committee on the Rights of the Child, *Concluding Observations on the Combined Fifth and Sixth Periodic Reports of the Russian Federation*, UN Doc. CRC/C/RUS/CO/6–7, 1 March 2024; Committee on the Elimination of Discrimination against Women, *Concluding Observations on the Fifth Periodic Report of the Niger*, UN Doc. CEDAW/C/NER/CO/5, 20 February 2024; and Committee on Economic, Social and Cultural Rights, *Concluding Observations on the Initial Report of Pakistan*, UN Doc. E/C.12/PAK/CO/1, 20 July 2017. See also the earlier resolution of the UN General Assembly on the right to education in emergency situations (A/RES/64/290, 27 July 2010). Importantly, to highlight the urgent need to protect education from attack, the UN General Assembly adopted Resolution 74/275 on 28 May 2020, establishing 9 September as International Day to Protect Education from Attack.

<sup>35</sup> UN Security Council, Resolution 1612 (2005), UN Doc. S/RES/1612 (2005), 26 July 2005.

<sup>36</sup> UN Security Council, Resolution 1998 (2011), UN Doc. S/RES/1998 (2011), 12 July 2011.



In 2021, the UN Security Council unanimously adopted its first-ever thematic resolution dedicated to protecting education during armed conflict.<sup>37</sup> UN Security Council Resolution 2601 (2021) urges Member States to develop effective measures to prevent and address attacks against educational facilities and to establish domestic legal frameworks ensuring compliance with their international legal obligations.<sup>38</sup> It also condemns attacks against schools, children, teachers and other education personnel and urges parties to an armed conflict to safeguard the right to education, highlighting the links between education, peace and security.<sup>39</sup> The resolution emphasizes the need for accountability for violations affecting the right to education and encourages all parties to safeguard, protect, respect and promote access to education, including in armed conflict.<sup>40</sup> Finally, it urges parties to a conflict to respect the civilian character of educational facilities as set out in IHL and encourages Member States to take concrete measures to mitigate and avoid the military use of schools while facilitating the continuity of education during armed conflict.<sup>41</sup>

Leveraging the progress made by states, civil society and international organizations, further efforts are required to continue advancing the endorsement and implementation of the Safe Schools Declaration and the *Guidelines*, including the ongoing identification of effective measures to apply the *Guidelines* in specific situations and the sharing of best practices among endorsing states to enhance the protection of education in armed conflict. This is particularly pertinent at a time when attacks on students, education personnel, schools and universities, as well as the military use of educational facilities, are increasing,<sup>42</sup> and when a lack of respect for IHL, carelessness and overly permissive interpretations of IHL provisions by parties to a conflict – such as an expansive notion of who or what constitutes a lawful target – are rife, further weakening the protective framework for education in armed conflict.<sup>43</sup>

In view of this, the ICRC urges all parties to a conflict to adhere in good faith to treaty and customary IHL provisions that protect and safeguard access to education during armed conflict, as well as to applicable international human rights law.<sup>44</sup> The ICRC also recommends that states endorse and implement higher standards as a matter of priority,<sup>45</sup> particularly by endorsing and implementing the Safe Schools Declaration and the *Guidelines*.

<sup>37</sup> UN Security Council, Resolution 2601 (2021), UN Doc. S/RES/2601 (2021), 29 October 2021.

<sup>38</sup> *Ibid.*, operative paragraph 4, p. 3.

<sup>39</sup> *Ibid.*, operative paragraphs 2 and 3, p. 3.

<sup>40</sup> *Ibid.*, operative paragraph 8, p. 4.

<sup>41</sup> *Ibid.*, operative paragraph 6, pp. 3–4.

<sup>42</sup> GCPEA identified approximately 6,000 attacks on schools, universities, students and education personnel, as well as cases of military use of educational facilities, between 2022 and 2023, reflecting a 20 per cent increase compared to the previous two years. More than 10,000 students and education personnel were reportedly killed, injured, abducted or otherwise harmed by attacks on education during the same period. See GCPEA, *Education Under Attack 2024*, GCPEA, New York, 2024, p. 41. An increase in attacks on schools between 2021 and 2023 was also reported by the UN. For the third consecutive year, the UN reported that, although non-state armed groups accounted for roughly half of all grave violations against children, government forces were primarily responsible for killing and maiming children, attacking schools and hospitals, and denying humanitarian access. See Human Rights Council, *Report of the Special Representative*, cited in footnote 34 above, p. 8, para. 39.

<sup>43</sup> See ICRC, *International Humanitarian Law and the Challenges of Contemporary Armed Conflicts: Building a Culture of Compliance for IHL to Protect Humanity in Today's and Future Conflicts*, ICRC, Geneva, 2024, pp. 6–8.

<sup>44</sup> Although recognizing that human rights law provisions applicable in armed conflict complement the protections afforded by IHL and that attacks on and the military use of schools and educational facilities may amount to violations of the right to education, it is important to emphasize that the present commentary aims to elucidate the relationship between the *Guidelines* and IHL, particularly its rules on the conduct of hostilities, and will therefore focus exclusively on IHL provisions.

<sup>45</sup> Other important child protection political commitments include the *Paris Principles and Commitments on Children Associated with Armed Forces and Armed Groups*, the *Vancouver Principles on Peacekeeping and the Prevention of the Recruitment and Use of Child Soldiers*, and the *Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences arising from the use of Explosive Weapons in Populated Areas*. Regarding the Paris Principles, see Inter-Agency Paris Principles Steering Group, *Paris Principles and Commitments on Children Associated with Armed Forces or Armed Groups: Frequently Asked Questions*, UNICEF, Paris, 2021. The ICRC also recommends that states endorse and implement the Comprehensive School Safety Framework (CSSF), which adopts an all-hazards, all-risks approach. While the framework focuses primarily on natural and environmental hazards, many of its recommendations are relevant to mitigating risks to the education sector arising from armed conflict. The most recent edition of the CSSF covers the 2022–2030 period.

In line with its Access-to-Education Strategy 2021–2026,<sup>46</sup> the ICRC has provided its delegations with the *Guidelines* for use, when appropriate, as a reference tool in their protection dialogue with parties to a conflict.<sup>47</sup> As a result of this dialogue, military commanders have relocated installations away from schools in several armed conflicts, and certain non-state armed groups have issued directives requiring that schools in areas under their control be shielded from attack. The ICRC has also incorporated the *Guidelines*, alongside other resources, into training modules on access to education for its armed and security forces delegates.<sup>48</sup> Furthermore, the ICRC provides technical advice to parties to a conflict on the application of IHL rules and the *Guidelines* in specific situations and has strengthened its cooperation with GCPEA and other education-in-emergencies partners to promote broader endorsement and more effective implementation of the Safe Schools Declaration and its *Guidelines*.

## ICRC COMMENTARY ON THE GUIDELINES

As part of the ICRC's efforts, this Commentary was timed to be published in the year marking the tenth anniversary of the Safe Schools Declaration. Its purpose is to promote the endorsement and implementation of the *Guidelines* (reproduced in full in Annex II to this Commentary) and ultimately to strengthen respect for and protection of education during armed conflict.

The Commentary provides the ICRC's legal interpretation of the *Guidelines*, with particular emphasis on the links to IHL rules governing the conduct of hostilities, as the *Guidelines* can contribute to improved respect for those rules and recommends good practices for effective implementation at the operational level. Specifically, this Commentary seeks to clarify that, while the *Guidelines* recommend measures that at times go beyond the requirements of IHL, they remain fully consistent with its provisions, object and purpose.<sup>49</sup> Their implementation can also enhance respect for IHL obligations and help prevent future violations. By elucidating this relationship, the ICRC aims to foster greater compliance with IHL rules protecting education during armed conflict, address legal queries and concerns raised by states that have not yet endorsed the Safe Schools Declaration, and support the effective implementation of the *Guidelines* in specific situations.

### How to endorse the Safe Schools Declaration

The Government of Norway is the depositary for Safe Schools Declaration endorsements. States may endorse the Safe Schools Declaration at any time by submitting a formal letter to the Norwegian Ministry of Foreign Affairs, either through their embassies or permanent missions or by sending an email to the following address: [Seksjon.for.humanitaer.politikk.og.langsiktige.innsatser@mfa.no](mailto:Seksjon.for.humanitaer.politikk.og.langsiktige.innsatser@mfa.no). An endorsement may also be announced publicly during a formal multilateral meeting, provided it is subsequently confirmed in writing to Norway following the aforementioned procedure.

<sup>46</sup> ICRC, *Access to Education Strategy*, cited in footnote 6 above, p. 7: "Engage with states, weapon bearers and non-state armed groups, including through operational dialogue, where relevant, to ensure that they formally recognize schools and other educational institutions as protected spaces and implement that protection at policy and operational levels, in order to support implementation of the [*Guidelines*]"'. See also International Federation of Red Cross and Red Crescent Societies (IFRC) and ICRC, *Addressing education-related humanitarian needs*, Pledge, 33rd International Conference of the Red Cross and Red Crescent, Geneva, December 2019: "[S]upport and/or participate in efforts to ensure the continuity of education in contexts affected by armed conflicts (...)" (including, as appropriate, by supporting States to implement relevant commitments of the Safe Schools Declaration)."

<sup>47</sup> ICRC web page, cited in footnote 27 above. For a more comprehensive overview of the ICRC's work to protect and ensure safe access to education during armed conflict, see ICRC, cited in footnote 5 above.

<sup>48</sup> *Ibid.*

<sup>49</sup> The object and purpose of the IHL principles and rules governing the conduct of hostilities is to ensure the protection of the civilian population and civilian objects against the effects of hostilities. See ICRC, *International Humanitarian Law and the Challenges of Contemporary Armed Conflicts*, report prepared for the 32nd International Conference of the Red Cross and Red Crescent, 32IC/15/11, ICRC, Geneva, 2015, p. 41.

# DEFINITIONS

**Armed conflict:** Under IHL, “armed conflict” refers to any situation falling within the scope of Article 2 common to the four Geneva Conventions of 1949 and Article 1 of Protocol I additional to the Geneva Conventions of 1949 (international armed conflict), or within the scope of Article 3 common to the Geneva Conventions of 1949 (non-international armed conflict).<sup>50</sup>

**Education:** “The processes by which societies deliberately transmit their accumulated information, knowledge, understanding, attitudes, values, skills, competencies and behaviours across generations. It involves communication designed to bring about learning.”<sup>51</sup>

**Safety:** “Freedom from physical or psychosocial harm.”<sup>52</sup>

**Schools and universities:** All learning sites and educational facilities, as determined locally, such as “pre-primary or early childhood education centres, primary or secondary schools, learning centres, and tertiary education centres such as universities, colleges, or technical training schools”. This term also encompasses “any land or grounds immediately adjacent to or attached to the institutions” and “school and university buildings (...) evacuated because of the security threats posed during armed conflict”.<sup>53</sup> However, for the purposes of the *Guidelines*, the definition does not extend to military schools, meaning institutions dedicated to the training and education of the armed forces.<sup>54</sup>

**Students:** Learners studying at schools or universities, i.e. “[p]eople, including children, young people, and adults, who participate in education programs”.<sup>55</sup>

**Staff:** Education personnel, i.e. “anyone working professionally, or volunteering, in the education system, at any level. Personnel may include teachers, academics, education officials, or education support and transport staff such as: education administrators, janitors, bus drivers, and librarians”.<sup>56</sup>

<sup>50</sup> Based on international practice and jurisprudence that reflect international law, the ICRC’s commentary on the Geneva Conventions lays out the criteria to determine the existence of an armed conflict and the consequent application of IHL. See ICRC, *Commentary on the Third Geneva Convention*, cited in footnote 18 above, paras 234–275 and 418–551. See also ICRC, *How is the Term “Armed Conflict” Defined in International Humanitarian Law?: International Committee of the Red Cross opinion paper 2024*, ICRC, Geneva, 2024.

<sup>51</sup> UNESCO Institute for Statistics, *International Standard Classification of Education (ISCED) 2011*, UNESCO, Montreal, 2012, p. 79. The term “education” must be understood in its broadest sense. It relates to various types and levels of programmes, such as pre-school, primary and secondary education, as well as technical and vocational education. See also ICRC, cited in footnote 1 above, p. 3: “a learning process that allows children and adults to acquire skills that allow them to develop socially and professionally. Education allows people to develop their resilience, ability to self-protect and to appreciate human values – all of which are life-long essentials. This applies not only to formal education, but also to non-formal education and informal learning.” Importantly, the right to education is a fundamental human right enshrined in various international and regional human rights law instruments. See UNESCO, *Right to Education Handbook*, cited in footnote 20 above; and International Red Cross and Red Crescent Movement, *The International Red Cross and Red Crescent Movement Approach to Education*, ICRC, Geneva, 2022.

<sup>52</sup> INEE, cited in footnote 3 above, p. 230. See also Human Rights Council, *The Right to be Safe in Education: Report of the Special Rapporteur on the Right to Education*, UN Doc. A/HRC/59/41, 16 June 2025, which addresses safety in education as a critical element of the right to education, albeit with a primary focus on situations outside armed conflict and other emergencies.

<sup>53</sup> GCPEA, *Commentary*, cited in footnote 22 above, p. 7. See GCPEA, *Toolkit for Collecting and Analyzing Data on Attacks on Education*, GCPEA, New York, 2023, p. 115, for the definition of “educational facilities”: “any site where students learn from a designated instructor, or where the learning process is supported, at any level of learning. In addition to primary and secondary schools, this includes preschools, kindergartens, universities, technical and vocational education training institutes, and non-formal education sites, as well as student or teacher dormitories, school buses, and warehouses or vehicles dedicated to storing or transporting educational materials. These facilities may be run by the state or other entities, including religious organizations”. The present ICRC commentary uses the terms “schools and universities” and “educational facilities” interchangeably to enhance readability.

<sup>54</sup> The working definition of “schools and universities” used during the drafting of the *Guidelines* did not include military schools. See GCPEA, cited in footnote 22 above, p. 7.

<sup>55</sup> For the definition of “learners”, see INEE, cited in footnote 3 above, p. 222. The term “children” is defined in the commentary on Guideline 1.

<sup>56</sup> Definition of “education personnel” from GCPEA, *Toolkit for Collecting and Analyzing Data*, cited in footnote 53 above, p. 115.





# ZONA ESCOLAR

ESPACIO DE PROTECCIÓN HUMANITARIA



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# 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.**

## COMMENTARY

Expanding on the *Guidelines*' preamble, Guideline 1 states that parties to both international and non-international armed conflicts should not use functioning or temporarily closed schools or universities for military purposes at any time. The aim is to "avoid impinging on students' safety and education",<sup>57</sup> thereby ensuring safe access to education during armed conflict. While no specific treaty or customary IHL rule prohibits the use of educational facilities for military purposes, Guideline 1 is consistent with IHL provisions, as outlined below, and goes a long way towards protecting people – such as students, teachers and other education personnel – who are not taking part in the hostilities, which is the very object and purpose of IHL.<sup>58</sup>

Although not a term used in IHL treaties, "functioning schools" should be understood as all educational facilities that are in active use, meaning they are operational and providing education, as opposed to those that have been abandoned, evacuated or repurposed for non-educational functions such as sheltering displaced civilians or housing emergency services. Guideline 1 also applies to schools and universities that are temporarily closed in accordance with the normal academic calendar, which, in accordance with local practice, provides for school closures when daily educational activities during "normal class hours" conclude, as well as during weekends, holidays and vacation periods.<sup>59</sup> Military schools, i.e. institutions dedicated to the training and education of members of the armed forces (such as military academies and training centres), are not included in the definition of "schools and universities" for the purposes of the *Guidelines*.<sup>60</sup>

The phrase "in support of the military effort" in the *Guidelines* comes from Article 53(b) of Additional Protocol I, which prohibits the use of historic monuments, works of art and places of worship that constitute the cultural

<sup>57</sup> Preamble of the *Guidelines*: "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".

<sup>58</sup> ICRC, cited in footnote 18 above, para. 249. On the concept of "object and purpose", see ICRC, cited in footnote 18 above, paras 87, 88 and 91. Regarding the object and purpose of the IHL principles and rules governing the conduct of hostilities, namely to protect civilians and civilian objects, see footnote 49 above.

<sup>59</sup> Such temporarily closed schools and universities, as defined in Guideline 1(a), differ from those that have been abandoned or evacuated owing to the dangers posed by armed conflict, which are addressed in Guideline 2, as the latter have ceased educational activities for reasons other than the regular course of the academic calendar. The meaning of "normal class hours" depends on the local context, but they generally occur during the daytime. However, there are instances where evening courses are also held. It is also important to note that temporarily closed schools do not necessarily mean that there are no civilians present on the premises. For example, in the case of boarding schools or university residence halls, students may live at the school, while education personnel, such as janitors and custodians, may continue to work when educational activities have temporarily ceased (e.g. during weekends).

<sup>60</sup> GCPEA, cited in footnote 22 above, p. 7. Military schools usually meet the requirements of a military objective under Art. 52(2) of Protocol I of 8 June 1977 additional to the Geneva Conventions (Additional Protocol I). For the definition of a military objective, see the commentary on Guideline 3 below.

or spiritual heritage of peoples in support of the military effort.<sup>61</sup> As noted in the ICRC's Commentary on the Additional Protocols, "military effort" is "a very broad concept, encompassing all military activities connected with the conduct of a war", including the use of protected objects by incorporating them into a defence position.<sup>62</sup> The same understanding should apply for the purposes of the *Guidelines*, under which any use of a school, university or other educational facility for military purposes would fall within this broad definition.<sup>63</sup>

For example, the use of schools and universities by parties to a conflict "in support of the military effort" – whether total or partial, temporary or long term – includes, but is not limited to, their use as barracks or bases; temporary shelters for state armed forces or non-state armed groups; storage sites for weapons or ammunition; fighting positions; detention, interrogation or recruitment centres; observation posts; or sites for military training and drilling.<sup>64</sup>

Importantly, the use of educational facilities by a party to a conflict "in support of the military effort" does not necessarily justify an attack upon them by the opposing party.<sup>65</sup> As explained in the commentary below on Guideline 3, only those schools and universities that fulfil the entirety of the two-pronged definition of a military objective can be lawfully attacked, provided that the principles of proportionality and precautions in attack are respected.<sup>66</sup>

## RISKS RELATED TO THE MILITARY USE OF SCHOOLS

The use of schools and universities for military purposes may appear advantageous to parties to a conflict for various reasons. Their strategic location in built-up areas, enclosed perimeters, spacious rooms suitable for accommodating troops or storing equipment, access to utilities and, in some cases, kitchen and dining facilities, may make them attractive for military use, in particular for the billeting of troops.<sup>67</sup>

However, such use entails significant risks, endangering students and education personnel and jeopardizing the continuity of education during armed conflict. In light of these risks, Guideline 1 states that parties to a conflict should not use functioning or temporarily closed educational facilities for military purposes. Even partial or temporary military use exposes schools and universities to attack by enemy forces, potentially resulting in significant incidental civilian harm, including deaths and injury among students, teachers and other education personnel, as well as damage to the facility itself.<sup>68</sup> Furthermore, it could lead to nearby

<sup>61</sup> For further analysis of the rules of IHL concerning the respect and protection of cultural property during armed conflict, including their relevance to buildings dedicated to education, see the "Cultural property" section in this commentary.

<sup>62</sup> Y. Sandoz, C. Swinarski and B. Zimmermann (eds), *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949*, ICRC, Geneva/Martinus Nijhoff, Leiden, 1987, p. 648, para. 2078.

<sup>63</sup> Instances where armed forces are present in the vicinity of educational facilities for protection or security purposes – such as when they serve as polling stations or for other non-military functions – are not considered military use. See GCPEA, cited in footnote 22 above, p. 8. For a detailed analysis of the use of armed forces to secure schools, see the commentary on Guideline 5 below.

<sup>64</sup> *Ibid.* Regarding the term "armed forces", unless otherwise qualified (e.g. by explicitly referring to state armed forces as in the text above), it should be understood in its generic sense, encompassing both state armed forces and non-state armed groups. The same understanding applies to the term "fighting forces" as used throughout the *Guidelines*.

<sup>65</sup> See Sandoz, Swinarski and Zimmermann, *Commentary on the Additional Protocols*, cited in footnote 62 above, p. 648, para. 2079: "[The] conditions [for attack] are [...] stricter than the simple condition that they must be [used] 'in support of the military effort'." See also M. Bothe, K.J. Partsch and W.A. Solf, *New Rules for Victims of Armed Conflicts: Commentary on the Two 1977 Protocols Additional to the Geneva Conventions of 1949*, 2nd ed., Leiden/Martinus Nijhoff Publishers, 2013, p. 375.

<sup>66</sup> For an overview of the IHL rules governing the conduct of hostilities, see the commentary on Guideline 4 below.

<sup>67</sup> Haines, "Developing international guidelines", cited in footnote 24 above, p. 598; and GCPEA, *Implementing the Guidelines: A Toolkit to Guide Understanding and Implementation of the Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict*, GCPEA, New York, 2017, p. 18.

<sup>68</sup> For the definition of "military objective" under IHL and an analysis of the rules governing the conduct of hostilities, see the commentaries on Guidelines 3 and 4 below, respectively.

schools and universities being attacked by the enemy, which may believe that these facilities are also being, or may in the future be, used for military purposes.<sup>69</sup>

Additionally, the military use of educational facilities exposes teachers, other education personnel and students – especially children – to heightened risks of physical and psychological harm (such as recruitment, use and other types of forced labour; violence, including sexual violence; abduction; and harassment) owing to their proximity to weapon bearers.<sup>70</sup> These risks affect children in different ways. While girls are disproportionately affected by sexual violence, boys – particularly older boys – face a higher risk of recruitment as combatants and are also more likely to be perceived by armed forces and armed groups as possessing information about activities by enemy forces in the area. Moreover, children with disabilities, including hearing, visual or cognitive impairments, may be less able to perceive or respond to physical and psychological threats.<sup>71</sup> Even after armed forces withdraw from the school, residual dangers such as unexploded ordnance and other explosive remnants of war continue to pose serious risks.

In addition to the physical and psychological harms, the immediate consequences for education itself are significant. Children may be prevented from accessing school altogether; teachers and students may be unable to focus on teaching and learning owing to the presence of weapon bearers; students may be displaced to other schools, creating overcrowding; new enrolment and progression to higher levels of education may decline; and, if alternative education sites are established, they are often of lower quality.<sup>72</sup>

Beyond the immediate threats, the military use of schools and universities – and the resulting disruption of education – can have long-term consequences that persist for years, if not generations. When students are prevented from accessing schools or compelled to drop out owing to fear of harm,<sup>73</sup> an educational vacuum emerges, with cumulative impacts on children, their families and their communities, further compounding other child protection risks.

## LEGALITY OF THE MILITARY USE OF SCHOOLS AND UNIVERSITIES UNDER IHL

Guideline 1 uses the term “should”, indicating that the commitment not to use functioning or temporarily closed schools and universities in support of the military effort does not constitute a general legal obligation. No treaty or customary rule under IHL specifically prohibits the use of educational facilities for military purposes. However, such use does not occur in a legal vacuum. During armed conflict, the military use of schools or universities<sup>74</sup> by the parties to the conflict is restricted by – and must be assessed in light of – their applicable obligations under IHL. This means that, in certain situations, the military use of a particular educational facility, or the manner in which a party to a conflict uses such a facility, may contravene one or more IHL provisions. These include the obligations to take constant care in the conduct of military operations

<sup>69</sup> One of the main concerns in this respect is the practice of some parties to a conflict of considering entire categories of objects, such as schools, as military objectives “by purpose”, solely on the basis of the military use of one such object by the adversary. To be clear, the ICRC considers such blanket designations of entire categories of otherwise civilian objects as military objectives to be unlawful. As explained in the commentary on Guideline 3 below, the determination of whether an object qualifies as a military objective must be made on a case-by-case basis, based on “reasonable certainty” of the enemy’s intention to use a particular object in a manner that would make an effective contribution to military action. In accordance with Art. 52(3) of Additional Protocol I (the customary status of which remains contested), in case of doubt as to whether a school is being used to make an effective contribution to military action, it must be presumed not to be so used. See footnotes 156–160 below.

<sup>70</sup> ICRC, *Childhood in Rubble*, cited in footnote 17 above, p. 33; and GCPEA, *Toolkit to Guide Understanding and Implementation of the Guidelines*, cited in footnote 67 above, p. 18. See also GCPEA, *Education under Attack 2024*, cited in footnote 42 above, for the latest figures on sexual violence and child recruitment at, or on the way to or from, school; and GCPEA, *The Impact of Attacks on Education on Women and Girls*, cited in footnote 14 above.

<sup>71</sup> ICRC, *Childhood in Rubble*, cited in footnote 17 above, pp. 34–38.

<sup>72</sup> Sheppard, “Keeping schools safe”, cited in footnote 14 above, p. 672.

<sup>73</sup> The presence of armed forces in educational facilities often discourages parents from sending their children, in particular daughters, to school. Parents fear their daughters may become victims of sexual violence or subjected to sexual harassment by weapon bearers.

<sup>74</sup> From an IHL perspective, the use of schools and universities for military purposes cannot be defined as an attack on these facilities. In fact, “attack” is defined in Art. 49(1) of Additional Protocol I as “acts of violence against the adversary, whether in offence or in defence”.

to spare the civilian population, civilians and civilian objects;<sup>75</sup> to take all feasible precautions to protect the civilian population and civilian objects under their control against the effects of attacks by enemy forces;<sup>76</sup> to afford children special respect and protection;<sup>77</sup> to facilitate access to education in specific circumstances;<sup>78</sup> and to comply with IHL rules on cultural property whenever applicable to buildings dedicated to education.<sup>79</sup>

The lawfulness of the military use of a school or university ultimately depends on the application of these rules to the specifics of a given case. However, irrespective of whether such use would be lawful or unlawful under IHL, Guideline 1 – through which endorsing states commit not to use functioning or temporarily closed educational facilities for military purposes – is consistent with applicable IHL obligations and can contribute to improved respect for them. It seeks to ensure the safety of students, education personnel and educational facilities while reducing the disruption to education caused by military use, thereby aligning with the protective aims of the IHL rules outlined below. It is, therefore, a voluntary policy through which parties to a conflict are encouraged to systematically implement – and, at times, go beyond – the requirements of IHL in a coherent and clear manner that helps to prevent potential violations.

### Constant care in the conduct of military operations

According to Article 57(1) of Additional Protocol I, “[i]n the conduct of military operations, constant care shall be taken to spare the civilian population, civilians and civilian objects”. State practice has established this rule as a norm of customary IHL applicable in both international and non-international armed conflicts.<sup>80</sup> The obligation applies to the entire spectrum of “military operations”, which the ICRC’s Commentary on the Additional Protocols defines as “any movements, manoeuvres and other activities whatsoever carried out by the armed forces with a view to combat”.<sup>81</sup> It is binding upon both attacking forces and those anticipating being attacked.<sup>82</sup> As a positive and continuous obligation, it is aimed at mitigating risks and preventing harm to the civilian population and civilian objects. The higher the risks, the greater the level of care required.<sup>83</sup>

Military operations involving the use of a school or university are thus subject to the requirement to take constant care to spare such facilities, as civilian objects, from damage, whether caused by the armed force itself or by its adversary. While this obligation does not prohibit all military use of educational facilities, it requires those involved in military operations to take steps to reduce damaging effects as much as possible and seek to avoid any that are unnecessary. For instance, this may involve requiring high-level authorization in the rules of engagement for the military use of schools or universities; ensuring clear direction and guidance from the commander concerning the particular form of caution to be exercised in such exceptional circumstances; and limiting the military use of educational facilities in terms of duration, the parts of the facility used and any structural modifications that could affect the facility’s educational function.

<sup>75</sup> Art. 57(1) of Additional Protocol I; and J.-M. Henckaerts and L. Doswald-Beck (eds), *Customary International Humanitarian Law, Volume I: Rules*, ICRC/Cambridge University Press, 2005, Rule 15.

<sup>76</sup> Art. 58 of Additional Protocol I; and Henckaerts and Doswald-Beck, *Customary International Humanitarian Law*, cited in footnote 75 above, Rules 22–24.

<sup>77</sup> Henckaerts and Doswald-Beck, cited in footnote 75 above, Rule 135. IHL provisions outlining specific measures for the treatment of children are, for example, Arts 23(1), 24 and 50 of the 1949 Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention); Art. 77 of Additional Protocol I; and Art. 4(3) of Protocol II of 8 June 1977 additional to the Geneva Conventions (Additional Protocol II). For an overview of the many other rules, see ICRC, *Legal Protection of Children in Armed Conflict: Factsheet*, ICRC, Geneva, 2003.

<sup>78</sup> Arts 24(1), 50(1) and (3), 94(1) and (2), 108(1) and 142(1) of the Fourth Geneva Convention; Art. 78(2) of Additional Protocol I; and Art. 4(3)(a) of Additional Protocol II.

<sup>79</sup> Henckaerts and Doswald-Beck, cited in footnote 75 above, Rules 38–40. See also Art. 56 of the 1907 Hague Regulations.

<sup>80</sup> Henckaerts and Doswald-Beck, cited in footnote 75 above, commentary on Rule 15, p. 51. Regarding non-international armed conflict, Art. 13(1) of Additional Protocol II requires that “the civilian population and individual civilians shall enjoy general protection against the dangers arising from military operations”.

<sup>81</sup> Sandoz, Swinarski and Zimmermann, cited in footnote 62 above, p. 680, para. 2191.

<sup>82</sup> In spite of the title of Art. 57 of Additional Protocol I, “Precautions in attack”, the obligation to take constant care to spare civilians and civilian objects does not apply only to “attacks” in the sense of Art. 49(1) of the same protocol. See International Law Association (ILA) Study Group on the Conduct of Hostilities in the 21st Century, “The conduct of hostilities and international humanitarian law: Challenges of 21st century warfare”, *International Law Studies*, US Naval War College, Vol. 93, No. 322, 2017, p. 380. See also G. Corn and J.A. Schoettler Jr, “Targeting and civilian risk mitigation: The essential role of precautionary measures”, *Military Law Review*, Vol. 223, No. 4, 2015, pp. 794 and 827.

<sup>83</sup> ILA Study Group, “The conduct of hostilities and international humanitarian law”, cited in footnote 82 above, p. 381.

## Precautions against the effects of attacks

Beyond the general obligation set out above, parties to a conflict must take all feasible precautions to protect the civilian population and civilian objects under their control against the effects of attacks,<sup>84</sup> including, to the extent feasible, by not locating military objectives (e.g. barracks or stores of military equipment) within or near densely populated areas<sup>85</sup> and by removing civilians and civilian objects under their control from the vicinity of military objectives.<sup>86</sup> Other precautionary measures that can be taken to protect the civilian population against the effects of attacks include building shelters, organizing warnings and evacuations,<sup>87</sup> and establishing protected zones.<sup>88</sup>

“Feasible precautions” refer to those that are practicable or practically possible, taking into account all circumstances ruling at the time, including humanitarian and military considerations.<sup>89</sup> The feasibility qualifier, present in both the rules on precautions against the effects of attacks and those on precautions in attack,<sup>90</sup> accounts for the realities of armed conflict. However, it cannot be interpreted as reducing these obligations from binding legal duties to mere recommendations.<sup>91</sup>

The rules on precautions against the effects of attacks have important implications for restricting the military use of schools and universities. To the extent that educational facilities are civilian objects, parties to a conflict shall, to the extent feasible, avoid placing military objectives – including troops and military equipment or transports – within or near “densely populated areas” where schools and universities are likely to be located.<sup>92</sup> In some cases, a school or university could itself qualify as a “densely populated area”. This would require, first, that the educational facility constitutes an “area” by virtue of its size and number of buildings, and second, that a large number of students and education personnel are present within it.<sup>93</sup> Guideline 1 strengthens this obligation by introducing a standardized policy against placing military objectives within schools or universities irrespective of whether the area is densely populated, and by applying in all cases rather than only “to the extent feasible”.

<sup>84</sup> Henckaerts and Doswald-Beck, cited in footnote 75 above, Rule 22; and Art. 58(c) of Additional Protocol I. See the text of Guideline 2 below.

<sup>85</sup> Henckaerts and Doswald-Beck, cited in footnote 75 above, Rule 23; and Art. 58(b) of Additional Protocol I. Under customary IHL, Rules 23 and 24 are “arguably” applicable in non-international armed conflict. See Henckaerts and Doswald-Beck, cited in footnote 75 above, commentary on Rules 23 and 24, pp. 71 and 74.

<sup>86</sup> Henckaerts and Doswald-Beck, cited in footnote 75 above, Rule 24; and Art. 58(a) of Additional Protocol I.

<sup>87</sup> Sandoz, Swinarski and Zimmermann, cited in footnote 62 above, pp. 694–695, para. 2257.

<sup>88</sup> Henckaerts and Doswald-Beck, cited in footnote 75 above, Rules 36 (demilitarized zones) and 37 (non-defended localities).

<sup>89</sup> Art. 3(10) of Amended Protocol II to the Convention on Certain Conventional Weapons (CCW) and Art. 1(5) of Protocol III to the CCW: “those precautions which are practicable or practically possible taking into account all circumstances ruling at the time, including humanitarian and military considerations”.

<sup>90</sup> The general understanding of feasibility is the same for precautions in attack and precautions against the effects of attack. See ILA Study Group, cited in footnote 82 above, p. 373. For the rules on precautions in attack, see the commentary on Guideline 4 below.

<sup>91</sup> J.F. Quéguiner, “Precautions under the law governing the conduct of hostilities”, *International Review of the Red Cross*, Vol. 88, No. 864, December 2006, p. 820.

<sup>92</sup> The term “densely populated area” is not defined under international law. The ICRC has interpreted “populated area” as an area “where there is a concentration of civilians or of civilians and civilian objects”, using it synonymously with the term “concentration of civilians” as defined in Amended Protocol II and Protocol III to the CCW. See ICRC, *Explosive Weapons with Wide Area Effects: A Deadly Choice in Populated Areas*, ICRC, Geneva, 2022, pp. 86–87. For the concentration of schools in urban areas, see ICRC, *Childhood in Rubble*, cited in footnote 17 above, p. 32; and M. Zwanenburg, “Keeping camouflage out of the classroom: The Safe Schools Declaration and the Guidelines for Protecting Schools and Universities from Military Use During Armed Conflict”, *Journal of Conflict and Security Law*, Oxford University Press, Vol. 26, No. 2, 2021, p. 265.

<sup>93</sup> For example, a large university compound with thousands of students may be regarded as a “densely populated area” for the purposes of IHL. For a similar argument, see Zwanenburg, “Keeping camouflage out of the classroom”, cited in footnote 92 above, p. 265.



Moreover, parties to a conflict must, to the extent feasible, remove civilians under their control from the vicinity of military objectives. This means that if a functioning school or university is used for military purposes, making it liable to attack by the enemy forces, the party concerned must take feasible measures to remove students, teachers and other education personnel to protect them from the effects of hostilities.<sup>94</sup>

At first glance, Guideline 1(b) may appear to conflict with this obligation, as it states that “[p]arties 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”. However, the scope of Guideline 1(b) is different. The commitment not to incentivize evacuations is based on the premise that the military use of a functioning school or university should not be permitted in the first place. Encouraging evacuations with the aim of rendering the facility non-functioning – so that the less-stringent Guideline 2, rather than Guideline 1, would apply – would therefore not be consistent with Guideline 1(b). If, despite efforts to prevent it, a school or university becomes a military objective, the party concerned is then required by IHL, to the extent feasible, to remove students, teachers and other education personnel from its vicinity.<sup>95</sup>

Furthermore, the presence or movement of students and education personnel at or near schools shall not be used to render certain points or areas immune from military operations, particularly to shield military objectives from attack or to shield, favour or impede military operations. The use of human shields is absolutely prohibited.<sup>96</sup>

### Special respect and protection for children

Under customary IHL, children affected by armed conflict are entitled to special respect and protection in both international and non-international armed conflicts,<sup>97</sup> meaning they must receive suitable care and assistance in specific ways.<sup>98</sup> A “child” is defined as “every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier”.<sup>99</sup> Given that most students in schools, and some in universities, are children and that their proximity to armed forces and military objectives increases their vulnerability – including disruption of their access to education – this obligation is relevant when parties to a conflict consider using functioning educational facilities for military purposes.

The requirement for special respect and protection is grounded in the fact that armed conflicts cause particular harm to children<sup>100</sup> and is reflected in numerous detailed IHL provisions outlining specific measures for their treatment.<sup>101</sup> For example, Article 77(1) of Additional Protocol I provides that “[c]hildren shall be the object of special respect and shall be protected against any form of indecent assault. The Parties to the conflict shall provide them with the care and aid they require, whether because of their age or for any other reason”. The military use of functioning schools has been shown to expose children to risks of “indecent assault”.<sup>102</sup> One way in which a party to a conflict may uphold its obligation to protect children from such

<sup>94</sup> See *mutatis mutandis* the recommendations for the evacuations of children in ICRC, *Childhood in Rubble*, footnote 17 above, pp. 50–51. See also GCPEA, *Lessons in War: Military Use of Schools and Other Education Institutions During Conflict*, GCPEA, New York, 2012.

<sup>95</sup> Art. 58(a) of Additional Protocol I; and Henckaerts and Doswald-Beck, cited in footnote 75 above, Rule 24.

<sup>96</sup> Art. 51(7) of Additional Protocol I; and Henckaerts and Doswald-Beck, cited in footnote 75 above, Rule 97.

<sup>97</sup> Henckaerts and Doswald-Beck, cited in footnote 75 above, Rule 135 and commentary, p. 479. See Art. 38(4) of the Convention on the Rights of the Child (CRC): “In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.” See also the text of Guideline 4(a) below.

<sup>98</sup> See ICRC, *Childhood in Rubble*, cited in footnote 17 above, pp. 15–16.

<sup>99</sup> Art. 1 of the CRC.

<sup>100</sup> ICRC, *Childhood in Rubble*, cited in footnote 17 above, p. 15; and Sandoz, Swinarski and Zimmermann, cited in footnote 62 above, p. 1377, para. 4544. This requirement entails respecting children’s best interests as the main consideration in actions concerning them (Art. 3 of the CRC).

<sup>101</sup> See, for example, Arts 23(1), 24 and 50 of the Fourth Geneva Convention; Art. 77 of Additional Protocol I; and Art. 4(3) of Additional Protocol II. For an overview of the many other rules, see ICRC, *Legal Protection of Children in Armed Conflict*, cited in footnote 77 above.

<sup>102</sup> The military use of schools places students – particularly children – at heightened risk of physical and psychological harm, including recruitment and other types of forced labour, violence (including sexual violence), abduction and harassment, owing to their proximity to weapon bearers. See footnote 14 above.

harm – and to treat them with special respect – is by refraining from using schools for military purposes. Moreover, where a school is located in territory under the control of a party to a conflict, the duty to provide children with the “care and aid they require” should also be understood to encompass the obligation to avoid interfering with their education.

Another relevant IHL provision is Article 14(1) of the Fourth Geneva Convention, which provides for the creation of safety zones and localities specifically organized to protect children under the age of 15 from the effects of armed conflict.<sup>103</sup> Once established by a party to a conflict and recognized by the adverse party through specific agreements, respect for these zones and localities becomes binding.<sup>104</sup> Insofar as schools and students are sheltered within them, safety zones and localities should be regarded by states and parties to a conflict as a protective measure serving the same purpose as Guideline 1.

### Access to education

IHL also contains rules that specifically require parties to a conflict to facilitate access to education in defined situations.<sup>105</sup> Two of these are particularly relevant in armed conflicts where either the law of occupation or Additional Protocol II applies.<sup>106</sup> In situations of occupation, Article 50(1) of the Fourth Geneva Convention provides that the Occupying Power “shall, with the cooperation of the national and local authorities, facilitate the proper working of all institutions devoted to the care and education of children”. The use of the term “shall” indicates that the Occupying Power is legally bound to take the measures necessary to assure the continuity of children’s education in occupied territories. The verb “facilitate” encompasses two aspects. The first is that the Occupying Power must avoid interfering with the proper working of educational institutions for children, in line with the general obligation to maintain the *status quo ante*. This includes refraining from requisitioning staff, premises or equipment being used to deliver education. Accordingly, using schools or other educational facilities for military purposes is incompatible with this provision.

Abstention from interference is not, however, enough to fulfil the obligation established in Article 50(1). The second element of the verb “facilitate” is that the Occupying Power must take positive action. For example, where the resources of educational institutions are inadequate, the Occupying Power must ensure that they receive the necessary materials to enable education to continue. This may include rebuilding educational facilities damaged by the conduct of hostilities.

In non-international armed conflicts governed by Additional Protocol II, Article 4(3)(a) of that Protocol states that “[c]hildren shall be provided with the care and aid they require, and in particular (...) they shall 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”. With the use of the term “shall”, this provision establishes the legal duty of state and non-state parties to a conflict to ensure education continuity in the territory under their control, and to take concrete steps to this end. Article 4(3)(a) may be complied with in different ways. Depending on the barriers to education in a given context, ensuring that children receive an education may require the allocation of funding for teachers’ salaries, running costs of schools or educational materials for students; the construction of educational facilities for displaced children; and coordination with humanitarian organizations to ensure access to education.

<sup>103</sup> Although the scope of the article remains restricted to children under the age of 15, international law more broadly has evolved to recognize that persons between 15 and 18 are also children (subject to applicable national law) and that protective measures for children should be extended to persons in this age group as well. See Arts 1 and 38(4) of the CRC.

<sup>104</sup> Art. 14(2) of the Fourth Geneva Convention.

<sup>105</sup> With regard to international human rights law and, in particular, for an overview of the international and regional human rights law instruments guaranteeing the right to education, see UNESCO, cited in footnote 20 above, pp. 45–70.

<sup>106</sup> For the ICRC’s legal analysis of Art. 50(1) of the Fourth Geneva Convention and Art. 4(3)(a) of Additional Protocol II, see ICRC, *International Humanitarian Law and the Challenges of Contemporary Armed Conflicts*, cited in footnote 17 above, pp. 45–46.

Any military use of schools and universities must be assessed in light of these – and other related<sup>107</sup> – obligations to facilitate access to education, as applicable. As such use would, in some cases, contravene these rules, committing to and implementing Guideline 1 enables parties to a conflict to more systematically avoid potential violations of IHL.

### Cultural property

Under customary IHL, parties to all armed conflicts must respect and protect cultural property.<sup>108</sup> Although educational facilities are not expressly listed as cultural property in IHL treaties, state practice indicates that buildings dedicated to education may nonetheless be considered as such in both international and non-inter-national armed conflicts.<sup>109</sup> In particular, special care must be taken in military operations to avoid damage to buildings dedicated to education unless they qualify as military objectives,<sup>110</sup> and such institutions enjoy protection against seizure, destruction and wilful damage.<sup>111</sup>

A limited number of educational buildings may be deemed of “great importance to the cultural heritage of every people” and benefit from heightened protection. In those cases, both attacks against them and their use for purposes likely to expose them to destruction or damage are prohibited, unless imperatively required by military necessity.<sup>112</sup> In exceptional circumstances, certain cultural property of particularly great importance – namely that which forms part of the “cultural or spiritual heritage of peoples” (i.e. mankind) – is entitled to additional special protection.<sup>113</sup> Any acts of hostility directed against such property, or its use in support of the military effort, are prohibited. This means that, for educational buildings forming part of the cultural or spiritual heritage of peoples, Guideline 1 commitments would apply as a matter of law.

More generally, by committing to Guideline 1, parties to a conflict can more systematically avoid conduct that may result in violations of the IHL provisions relating to the protection of cultural property.

<sup>107</sup> See Arts 24(1), 50(3), 94(1) and (2), 108(1) and 142(1) of the Fourth Geneva Convention; and Art. 78(2) of Additional Protocol I. For an overview of education-related IHL provisions, see ICRC, cited in footnote 5 above, p. 5.

<sup>108</sup> Henckaerts and Doswald-Beck, cited in footnote 75 above, Rules 38(a) and 40 and commentaries, pp. 127–128 and 133.

<sup>109</sup> *Ibid.* See also Art. 1 of the Treaty on the Protection of Artistic and Scientific Institutions and Historic Monuments (Roerich Pact). In this regard, it should be noted that buildings dedicated to education do not benefit from heightened protection under IHL except in the limited instances outlined in the following paragraph.

<sup>110</sup> Henckaerts and Doswald-Beck, cited in footnote 75 above, Rule 38(a).

<sup>111</sup> Henckaerts and Doswald-Beck, cited in footnote 75 above, Rule 40(a), which applies to institutions dedicated to education in occupied territories, in accordance with Art. 56 of the 1907 Hague Regulations. Implicit in Rule 40 is the notion of control over the object, distinct from attack. For the rules applicable to the destruction and seizure of educational facilities under the control of a party to the conflict in situations other than occupation, see Rule 50 of the ICRC Study on Customary IHL. For further analysis of the protection of schools and universities against destruction, see the commentary on Guideline 3 below.

<sup>112</sup> Henckaerts and Doswald-Beck, cited in footnote 75 above, Rules 38(b) and 39 and commentaries, pp. 129–132. For more, see ICRC, *1954 Convention on the Protection of Cultural Property in the Event of Armed Conflict and its Protocols*, ICRC, Geneva, 2021.

<sup>113</sup> Art. 53 of Additional Protocol I; and Art. 16 of Additional Protocol II.

## USE OF FORCE OR INCENTIVES TO EVACUATE SCHOOLS AND UNIVERSITIES

Letter (b) of Guideline 1 states that parties to a conflict should not use force or offer incentives to “education administrators”<sup>114</sup> to evacuate schools or universities so they can be used for military purposes. This encompasses, for instance, situations where parties to a conflict threaten school administrators with detention or violence to compel them to vacate school premises, or offer financial or material rewards to induce the relocation of students and education personnel. Together with the rest of the guideline, letter (b) aims to protect functioning educational facilities and preserve their civilian status. However, as mentioned above, if a school or university becomes a military objective, the concerned party is required, to the extent feasible, to remove students, teachers and other education personnel from its vicinity.<sup>115</sup> In this regard, it is recalled that evacuations of children must comply with the applicable rules of IHL, including that they must be temporary.<sup>116</sup>

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<sup>114</sup> “Education administrators” are responsible for organizing the daily operations of schools, monitoring teaching and learning outcomes and ensuring accountability to students, parents and the community. See “School administration and monitoring” in INEE’s online EiE Glossary.

<sup>115</sup> Art. 58(a) of Additional Protocol I; and Henckaerts and Doswald-Beck, cited in footnote 75 above, Rule 24.

<sup>116</sup> ICRC, *International Humanitarian Law and the Challenges of Contemporary Armed Conflicts*, cited in footnote 43 above, pp. 28–30.







# 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.

## COMMENTARY

Guideline 2 extends the principle of non-use of educational facilities for military purposes, as established in Guideline 1, to schools and universities that have been abandoned or evacuated owing to the dangers posed by armed conflict – meaning those that have ceased to provide education and are closed for conflict-related reasons outside the regular academic calendar. A joint reading of the first two guidelines thus indicates that parties to a conflict should refrain from using schools and universities for military purposes, regardless of whether they are functioning or temporarily or indefinitely closed.

The distinction between the two guidelines lies in their treatment of exceptions. While Guideline 1 states that parties to a conflict should not use functioning or temporarily closed educational facilities for military purposes, Guideline 2 introduces an exception for the military use of abandoned or evacuated schools “in extenuating circumstances when (...) no viable alternative” is available. The rationale behind this exception is consistent with – and adds specificity to – the IHL rules discussed in the commentary to Guideline 1 above, which must be applied in light of the specific circumstances, assessed on a case-by-case basis. Notably, unlike functioning educational facilities, abandoned or evacuated schools and universities do not provide education and typically do not have civilians present.<sup>117</sup> This distinction affects the legal considerations for parties to a conflict, particularly in relation to their obligations to remove, to the extent feasible, civilians under their control from the vicinity of military objectives.

<sup>117</sup> However, educational activities may resume, or these facilities may have been temporarily repurposed for non-educational functions, such as sheltering civilians. The potential presence of civilians should be taken into account by parties to a conflict when considering the military use of reportedly abandoned or evacuated schools and universities, in line with their obligations to take constant care to spare civilians in the conduct of military operations and to remove, to the extent feasible, civilians under their control from the vicinity of military objectives. For the general recommendation to avoid using educational facilities as temporary shelters, see INEE, cited in footnote 3 above, p. 108.

Although Guideline 2 goes beyond the requirements of IHL by outlining in greater detail the steps that parties to a conflict commit to take, its guidance on the exceptional military use of abandoned or evacuated schools and universities represents one way in which IHL obligations can be respected.

## RESTRICTIONS ON THE MILITARY USE OF ABANDONED OR EVACUATED SCHOOLS AND UNIVERSITIES

Guideline 2 states that parties to a conflict should not use abandoned or evacuated educational facilities for military purposes, “except in extenuating circumstances when they are presented with no viable alternative”. Guideline 2(a) further recommends that any such use “should be for the minimum time necessary”, underscoring that military use should remain exceptional. Regardless of the legality of specific instances of use under IHL, these restrictions aim to minimize damage to abandoned or evacuated educational facilities and to reduce the risk of attacks against them by preserving their status as a civilian object as far as possible. This is essential to ensuring their timely reopening once it is practical and safe, thereby minimizing disruptions to education.

Where a viable alternative to the military use of abandoned or evacuated schools and universities exists, parties to a conflict should refrain from the use of such facilities. The meaning of “viable alternative” in Guideline 2 should be inferred from the text that follows, which states that military use should occur “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”. This wording, which reflects Article 6(b) of the 1999 Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict,<sup>118</sup> suggests that the term “viable alternative” should be understood as “another feasible method for obtaining a similar military advantage”.

Under IHL, the concept of “military advantage” is part of both the definition of a military objective and the principle of proportionality.<sup>119</sup> It does not include advantages that are merely political, economic, financial, psychological, social or moral.<sup>120</sup> As noted in the ICRC Commentary on the Additional Protocols, military advantage generally consists in gaining ground and in annihilating or weakening the enemy armed forces.<sup>121</sup>

In light of the above, viable alternatives that parties to a conflict should prefer to the military use of abandoned or evacuated educational facilities may include existing military infrastructure or newly constructed temporary structures – such as tents or pre-fabricated modular camps – for use as barracks, shelters, weapon storage sites or fighting positions, preferably located outside populated areas. Unless their use would be contrary to IHL, other civilian buildings should also be considered as alternatives to educational facilities, even if they are less “conveniently placed or configured”. However, although Guideline 2 reflects the particular importance of preserving the civilian character of educational facilities, this does not mean that any civilian building is necessarily preferable to the military use of abandoned or evacuated schools and universities. The ICRC considers that the second sentence of Guideline 2 should be understood as referring specifically to buildings “that have been abandoned or evacuated because of the dangers presented by armed conflict”, in line with the types of educational facilities addressed by the guideline.<sup>122</sup> To the extent that they are abandoned or evacuated, such buildings may include vacant commercial premises, warehouses and industrial facilities that do not serve essential civilian functions,<sup>123</sup> as well as incomplete buildings not in use by civilians.

<sup>118</sup> The article reads as follows: “[A] waiver on the basis of imperative military necessity pursuant to Article 4 paragraph 2 of the Convention may only be invoked to use cultural property for purposes which are likely to expose it to destruction or damage when and for as long as no choice is possible between such use of the cultural property and another feasible method for obtaining a similar military advantage” [emphasis added].

<sup>119</sup> See the commentaries on Guidelines 3 and 4 below. The meaning of “military advantage” is the same for both rules, although their qualifiers, namely “definite” and “concrete and direct”, differ. See ILA Study Group, cited in footnote 82 above, p. 364.

<sup>120</sup> ILA Study Group, cited in footnote 82 above, p. 363.

<sup>121</sup> Sandoz, Swinarski and Zimmermann, cited in footnote 62 above, p. 685, para. 2218.

<sup>122</sup> For a critical perspective on the otherwise absolute preferential treatment afforded to abandoned or evacuated schools and universities over other civilian buildings, see Zwanenburg, cited in footnote 92 above, p. 280.

<sup>123</sup> However, parties to a conflict should refrain from using industrial facilities that may contain toxic or hazardous material, the release of which – whether owing to attack or the user’s own military activities – could pose a grave risk to civilians and the environment.

## “[B]UILDINGS [THAT] ARE SPECIALLY PROTECTED UNDER INTERNATIONAL HUMANITARIAN LAW”

Guideline 2 excludes “buildings [that] are specially protected under [IHL]” from those that should be prioritized for use over abandoned or evacuated schools and universities. In fact, IHL affords specific, heightened protection to certain types of buildings that are civilian objects, notably hospitals and other medical facilities;<sup>124</sup> objects indispensable to the survival of the civilian population;<sup>125</sup> works and installations containing dangerous forces (i.e. dams, dykes and nuclear power plants);<sup>126</sup> and buildings constituting cultural property.<sup>127</sup> Each protection regime is different, but they often entail additional prohibitions against attacking such objects, more demanding precautions prior to attack, and/or specific protection against operations other than attacks,<sup>128</sup> including their military use. Buildings in these categories may not be used for military purposes instead of a school or university.

In particular, hospitals, which are expressly mentioned in Guideline 2, and other medical facilities must be respected and protected at all times. They are afforded specific protection against attacks and other military interference with their medical functions, such as their use for military purposes or search or seizure operations. This protection also requires that a warning be issued before any attack or other military operation is undertaken in response to a loss of that protection.<sup>129</sup>

## SAFE REOPENING OF EDUCATIONAL FACILITIES AFTER MILITARY USE

Letters (b) and (c) of Guideline 2 address the reopening of abandoned or evacuated schools and universities following their military use, setting out conditions to support their safe return to educational purposes after the withdrawal of the parties to the conflict. Letter (b) provides that reopening by “educational authorities”<sup>130</sup> should occur “as soon as practicable” to minimize disruption to education, but only “provided this would not risk endangering the security of students and staff”. The feasibility and timeline of reopening depend on various factors, including whether hostilities in the area have ceased and are unlikely to resume, as well as the economic resources, technical expertise and equipment available to the responsible authorities. Coordination with humanitarian organizations is recommended. In some cases, reopening may also be required under IHL obligations to facilitate access to education during armed conflict.<sup>131</sup>

<sup>124</sup> Arts 19, 21 and 22 of the 1949 Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Geneva Convention); Art. 18 of the Fourth Geneva Convention; Arts 12 and 13 of Additional Protocol I; Art. 11 of Additional Protocol II; and Henckaerts and Doswald-Beck, cited in footnote 75 above, Rule 28.

<sup>125</sup> Art. 54 of Additional Protocol I; Art. 14 of Additional Protocol II; and Henckaerts and Doswald-Beck, cited in footnote 75 above, Rule 54. See ICRC, *Starvation, Hunger and Famine in Armed Conflict: An Overview of Relevant Provisions of International Humanitarian Law*, ICRC, Geneva, 2022. With regard to buildings constituting objects indispensable to the survival of the civilian population, it is important to note that, depending on the circumstances, certain types of energy and communications infrastructure on which objects indispensable to the survival of the civilian population depend could themselves be considered objects indispensable to the survival of the civilian population. See ICRC, cited in footnote 43 above, p. 46.

<sup>126</sup> Art. 56 of Additional Protocol I; Art. 15 of Additional Protocol II; and Henckaerts and Doswald-Beck, cited in footnote 75 above, Rule 42.

<sup>127</sup> See footnotes 112 and 113 above.

<sup>128</sup> ICRC, cited in footnote 43 above, pp. 41–42.

<sup>129</sup> *Ibid.*, pp. 42–45. For more, see the “The protection of hospitals during armed conflicts: What the law says” page on the ICRC’s website; and ICRC, *Protecting Health Care: Guidance for the Armed Forces*, ICRC, Geneva, 2020.

<sup>130</sup> INEE, cited in footnote 3 above, p. 213: “Governments with their associated ministries, departments, institutions, and agencies who are responsible for ensuring the right to education. They exercise authority over education provision at national, district, and local levels. In contexts where government authority is compromised, non-state actors, such as NGOs and UN agencies, can sometimes assume this responsibility.”

<sup>131</sup> See the commentary on Guideline 1 above.

Following the withdrawal of armed forces, “any traces or indication of militarisation or fortification should be completely removed”.<sup>132</sup> This includes barricades, military equipment, observation posts, signage, camouflage netting or painting and sniper positions, which – if left in place – may cause physical or psychological harm to students, particularly children, and could lead enemy forces to believe, correctly or mistakenly, that the facility remains a military objective, thus increasing the risk of attack. The clearance of “all weapons, munitions and unexploded ordnance or remnants of war” is especially critical in schools attended by children, who are more likely to pick up and play with explosive remnants of war (ERW),<sup>133</sup> often unaware of the threat they pose.<sup>134</sup> Under IHL, states and parties to a conflict that have used explosive munitions or that control areas affected by ERW must take measures to minimize associated risks and effects both during and after hostilities to protect the civilian population. These obligations stem from the principle of precaution and are set out in Protocol V to the Convention on Certain Conventional Weapons, a legally binding instrument that specifically addresses ERW.<sup>135</sup>

<sup>132</sup> Letter (c) does not specify who is responsible for this task, but carrying out these activities presupposes a degree of control over the facilities concerned. The same wording appears in letter (b) of Guideline 4 in relation to what is expected of the opposing party following an attack.

<sup>133</sup> ERW are explosive munitions that have not exploded. They include artillery shells, grenades, mortar shells, rockets, missiles and other explosive munitions. See ICRC, *Preventing and Eradicating the Deadly Legacy of Explosive Remnants of War*, ICRC, Geneva, 2023, p. 2.

<sup>134</sup> ICRC, *Childhood in Rubble*, cited in footnote 17 above, p. 24. Children account for 43 per cent of all civilian casualties of landmines and ERW since 1999, where the age group was known. See International Campaign to Ban Landmines, *Landmine Monitor 2024*, Geneva, 2024, p. 42. In addition to clearance, measures such as water, sanitation and hygiene rehabilitation, mental health and psychosocial support (MHPSS) for learners and teachers, and community engagement are also critical to resuming education safely after the military use of schools.

<sup>135</sup> For more information on the humanitarian consequences of ERW and the relevant IHL obligations, including Protocol V to the CCW, see ICRC, *Preventing and Eradicating the Deadly Legacy of Explosive Remnants of War*, cited in footnote 133 above. In addition, states party to the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (Ottawa Convention) and to the 2008 Convention on Cluster Munitions (Dublin Convention) are also bound by obligations relating to clearance and demining, as well as to risk-reduction education. These obligations are of particular relevance in the context of schools, given the heightened exposure of children to the dangers posed by ERW.



## Good practice recommendations related to Guidelines 1 and 2<sup>136</sup>

Building on the recommendations in the first two guidelines, the following complementary good practice recommendations regarding the military use of schools and universities aim to prevent and mitigate harm to civilians – students and education personnel – and civilian objects, and to help ensure the continuity of education during armed conflict.

Parties to a conflict should:

- identify, map and regularly update the locations of schools and universities within their area of operations and take their presence into account when planning and conducting military operations.
- in addition to avoiding the use of schools and universities for military purposes, refrain from locating military objectives near educational facilities, including along access routes to and from them, regardless of whether the area is densely populated.
- regulate, through standard operating procedures, operational orders and other relevant documentation, restrictions on the military use of abandoned or evacuated schools and universities, including the exceptional circumstances in which such use may occur, and the level of authority required for such decisions. These documents should also include a list of military structures or abandoned or evacuated civilian buildings (e.g. vacant commercial premises, warehouses and industrial facilities that do not serve essential civilian functions) whose use should be preferred to abandoned or evacuated educational facilities, provided that such use complies with IHL.
- ensure that standard operating procedures, operational orders and other relevant documentation include specific guidance and, where appropriate, checklists of measures to be followed during the military use of abandoned or evacuated schools and universities to minimize damage to infrastructure, safeguard educational materials and support their safe reopening after military withdrawal.
- incorporate child protection measures into standard operating procedures, operational orders and other relevant documentation (including handbooks and pocket cards for soldiers), taking into consideration the diverse needs of children and the specific risks they face. Advisers with child protection expertise should be included in planning teams.
- establish coordination measures and procedures with relevant civilian authorities and other entities, including civil society and humanitarian organizations, to facilitate the safe reopening of schools and universities following military withdrawal. Such coordination functions may be assigned to an appointed staff officer within the civilian-military liaison team, with designated responsibility for the safety of schools, who should advise commanders on applicable requirements and coordinate with civilian authorities and other entities. Where operational circumstances allow, civilian authorities, civil society and humanitarian organizations should be granted access to assess the conditions of these facilities.
- conduct scenario-based training at both pre-deployment and mission stages, incorporating school- and education-sensitive considerations, as well as the specific vulnerabilities of children, including the grave risks associated with the military use of schools and universities.
- facilitate continued education in a safe environment for students and education personnel forced to leave schools and universities owing to their military use. This may include organizing temporary learning spaces in areas not affected by armed conflict or developing distance learning programmes with limited in-person follow-up for those who can attend periodically.
- establish lessons learned, battle damage assessments and other feedback loops to reduce harm to civilians (students and education personnel) and civilian objects (schools and universities) in subsequent military operations. Lessons learned should be incorporated as soon as possible into doctrine and training.

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<sup>136</sup> This non-exhaustive list of recommendations is primarily based on the ICRC's practice, observations and public documents – including training modules on access to education for the ICRC's armed and security forces delegates and the ICRC publication *Childhood in Rubble* (cited in footnote 17 above) – as well as the GCPEA publication *Toolkit to Guide Understanding and Implementation of the Guidelines* (cited in footnote 67 above). For the broader recommendation to consider the protection of education as a significant military concern at both the strategic and tactical levels, which is necessary to establish or maintain a stable and well-ordered society after armed conflict, see Haines, cited in footnote 24 above, pp. 588–590.







# 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.**

## COMMENTARY

Guideline 3 states that “[s]chools 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”. The guideline does not specify whether the reference to future use pertains to the ordinary civilian function of educational facilities (i.e. their educational use) or to their potential future military use. Both interpretations are addressed in this commentary.

The rules of IHL applicable to the destruction of schools or universities vary depending on whether the party to the conflict has physical control over the facilities. Where such control is exercised, the total or partial destruction of an educational facility is governed by the rules regulating the destruction of an adversary’s property.<sup>137</sup> By contrast, where no such control exists, the applicable rules are those governing attack, as set out in the commentary on Guideline 4. In both cases, IHL rules on the protection of cultural property, whenever applicable to institutions dedicated to education,<sup>138</sup> are also relevant, together with the obligation to take constant care to spare civilian objects in the conduct of military operations.<sup>139</sup>

## DESTRUCTION OF SCHOOLS AND UNIVERSITIES TO PREVENT FUTURE CIVILIAN USE

As noted above, Guideline 3 can be interpreted as prohibiting parties to a conflict from destroying schools and universities with the objective of preventing their future civilian use as educational facilities, that is, the exercise of their inherent educational function. By stating that “schools and universities must never be destroyed” for this reason, the guideline reflects clear IHL obligations protecting enemy property under a party’s control and civilian objects from attack.

Where an educational facility is under the physical control of a party to the conflict, its seizure, destruction or wilful damage is strictly prohibited under IHL, without exception, when it is located in occupied territory.<sup>140</sup> In situations of international armed conflict other than occupation, as well as in non-international armed conflicts, the destruction of such a facility is prohibited unless required by imperative military necessity.<sup>141</sup> As destroying a school or university to prevent its future civilian educational use can never be justified on grounds of military necessity,<sup>142</sup> the first sentence of Guideline 3 therefore reflects relevant IHL obligations applicable in both occupied and non-occupied territories.

<sup>137</sup> Henckaerts and Doswald-Beck, cited in footnote 75 above, Rule 50; and Art. 23(g) of the 1907 Hague Regulations.

<sup>138</sup> Henckaerts and Doswald-Beck, cited in footnote 75 above, Rules 38(a) and 40(a). Rule 40(a) applies to institutions dedicated to education in occupied territories, in accordance with Art. 56 of the 1907 Hague Regulations. Implicit in this rule is the notion of control over the object, distinct from attack.

<sup>139</sup> Art. 57(1) of Additional Protocol I; and Henckaerts and Doswald-Beck, cited in footnote 75 above, commentary on Rule 15, p. 51.

<sup>140</sup> See Art. 56 of the 1907 Hague Regulations; and Henckaerts and Doswald-Beck, cited in footnote 75 above, Rule 40(a). See also footnote 147 below.

<sup>141</sup> See the “Destruction of educational facilities under the physical control of a party to the conflict” section below.

<sup>142</sup> For an explanation of the legal requirements related to the exception of “imperative military necessity”, see the “Destruction of educational facilities under the physical control of a party to the conflict” section below. In this regard, it is important to note that “[d]estroying or seizing the enemy’s property unless such destruction or seizure be imperatively demanded by the necessities of war” amounts to a war crime in international and non-international armed conflicts; see Arts 8(2)(b)(xiii) and 8(2)(e)(xii) of the Rome Statute of the International Criminal Court (ICC).

The same conclusion holds for the destruction of schools and universities that are not under the physical control of a party to a conflict. Under the IHL rules governing attack, schools and universities – whether functioning, temporarily closed, abandoned or evacuated – are civilian objects and thus cannot be attacked unless, and for such time as, they become military objectives.<sup>143</sup> Destroying them to prevent their future civilian educational use is clearly prohibited,<sup>144</sup> and Guideline 3 thus reaffirms existing IHL obligations in this respect.

## **DESTRUCTION OF SCHOOLS AND UNIVERSITIES TO PREVENT FUTURE MILITARY USE**

Guideline 3 may also be read as addressing the potential future military use of educational facilities by the adversary. In this respect, as discussed below, the guideline recommends conduct that, in certain circumstances, goes beyond the requirements of IHL.<sup>145</sup> It should be understood as a strong undertaking by endorsing states to refrain from destroying schools or universities in order to deprive enemy forces of their potential future military use, regardless of whether such destruction would be lawful under IHL.<sup>146</sup>

### **Destruction of educational facilities under the physical control of a party to the conflict**

The IHL rules applicable to the destruction of educational facilities under the physical control of a party to a conflict depend on whether the territory in which the school or university is located is occupied. In situations of occupation, the seizure, destruction or wilful damage of institutions dedicated to education is strictly prohibited, without exception,<sup>147</sup> and the first sentence of Guideline 3 therefore reflects a broader obligation under IHL.

In situations of international armed conflict other than occupation, as well as in non-international armed conflicts, the destruction or seizure of the property of an adversary – including schools and universities – is prohibited unless required by imperative military necessity.<sup>148</sup> The principle of “military necessity”

<sup>143</sup> Arts 48 and 52(1) and (2) of Additional Protocol I; and Henckaerts and Doswald-Beck, cited in footnote 75 above, Rules 7, 9 and 10. As explained in the commentary on Guideline 4, even if they are turned into military objectives – which may be the case, for example, if they are used for military purposes such as accommodating troops – the attacking party must take all feasible precautions prior to attack to avoid or at least minimize incidental civilian harm. Indiscriminate attacks and attacks expected to cause excessive harm to civilians and civilian objects are prohibited. For the definition of “military objective”, see the relevant section of this commentary below.

<sup>144</sup> Any attack against educational facilities that have not lost their protection under IHL would be unlawful. The destruction of a school or university for the purpose of disrupting its future educational function would violate the principle of distinction and may amount to a war crime. This holds true regardless of whether a party to the conflict perceives educational facilities as symbols of the adversary, for example on account of the value systems taught there, or regards education as a means of recruitment or a source of community support for the opposing party.

<sup>145</sup> As explained later in the text, while Guideline 3 goes beyond IHL requirements on attacks with respect to the destruction of educational facilities under the control of a party to the conflict outside occupied territory, it reflects broader IHL obligations in occupied territories.

<sup>146</sup> Guideline 3, like the other guidelines, constitutes a policy commitment. It is not legally binding in itself, nor does it purport to modify existing international law. For the view that the language of Guideline 3 may be too absolute, see Zwanenburg, cited in footnote 92 above, p. 282.

<sup>147</sup> Art. 56 of the 1907 Hague Regulations; and Henckaerts and Doswald-Beck, cited in footnote 75 above, Rule 40(a). Notably, the application of Rule 40(a) should be understood as limited to the destruction, seizure and wilful damage of cultural property in occupied territory, in accordance with the scope of Art. 56 of the 1907 Hague Regulations. As these rules are not subject to military necessity-related exceptions, they provide educational facilities located in occupied territory with specific and greater protection than the general protection afforded to property in occupied territory under Art. 53 of the Fourth Geneva Convention, thereby displacing that provision.

<sup>148</sup> Henckaerts and Doswald-Beck, cited in footnote 75 above, Rule 50 and commentary, p. 176. State practice establishes this rule as a norm of customary international law applicable in both international and non-international armed conflicts. It is a long-standing rule already reflected in Arts 15 and 16 of the Lieber Code and Art. 13(g) of the Brussels Declaration and codified in Art. 23(g) of the 1907 Hague Regulations.

is an essential component of IHL<sup>149</sup> and appears in numerous provisions of the Geneva Conventions.<sup>150</sup> It permits measures that are necessary to accomplish a legitimate military purpose but that are not otherwise unlawful, bearing in mind that, in armed conflict, the only legitimate military purpose is to weaken the military capacity of the adversary.<sup>151</sup>

The exception of “imperative military necessity” – which, if satisfied, permits the otherwise unlawful destruction of enemy property under a party’s control – is understood to refer to an absolute constraint of such vital importance that it leaves no other choice.<sup>152</sup> It cannot be invoked on grounds of mere military convenience.<sup>153</sup> Accordingly, only imperative reasons of military necessity, where the party to the conflict has no other viable option, could justify the destruction of enemy property under its control, including schools and universities.<sup>154</sup> Moreover, such destruction must remain exceptional: it cannot apply to all educational facilities under a party’s control, but only to the specific facility affected by the imperative military necessity at a given moment, based on a case-by-case assessment.

Even if the exception must be construed narrowly, there may be limited situations where, depending on the circumstances, the party to the conflict exercising physical control over a school or university could lawfully destroy it to prevent its future military use by the adversary – for instance, when withdrawing and losing control over part of the territory – provided that such destruction is required by imperative military necessity. For this reason, Guideline 3, which commits endorsing states to refrain from destroying any school or university to prevent its future military use, represents a policy undertaking that goes beyond the IHL rules governing the destruction of educational facilities under a party’s control in non-occupied territory.

### **Destruction of educational facilities due to attack**

Where a party to a conflict lacks physical control over a school or university, any total or partial destruction of the facility resulting from an attack is governed exclusively by the rules on attack, as outlined in the commentary on Guideline 4. In such cases, these rules displace the provisions applicable to the destruction of an adversary’s property addressed above.<sup>155</sup>

Under IHL, civilian objects may, under certain conditions, qualify as military objectives based on their purpose – that is, their intended future use by the adversary.<sup>156</sup> For a school or university to qualify as a military objective on this basis, the attacking party must have reasonable certainty of the enemy’s intent to use that specific facility (as opposed to educational facilities in general) in a manner that would make an effective

<sup>149</sup> For a study on “military necessity”, see Sandoz, Swinarski and Zimmermann, cited in footnote 62 above, pp. 392–396, paras 1389–1397; and ICRC, *Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law*, ICRC, Geneva, 2009, pp. 78–82. Art. 14 of the Lieber Code defined military necessity as “measures which are indispensable for securing the ends of the war, and which are lawful according to the modern law and usages of war”. See also International Criminal Tribunal for the former Yugoslavia (ICTY), *Kordić and Čerkez* Appeal Judgment, 2004, para. 686; ICTY, *Prlić* Trial Judgment, 2013, para. 168; and ICC, *Katanga* Trial Judgment, 2014, para. 894.

<sup>150</sup> For an overview of the appearance of the notion of “military necessity” throughout the Geneva Conventions, see ICRC, *Commentary on the First Geneva Convention: Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field*, ICRC, Geneva/Cambridge University Press, Cambridge, 2016, para. 1112.

<sup>151</sup> ICRC, *Handbook on International Rules Governing Military Operations*, ICRC, Geneva, 2013, p. 54.

<sup>152</sup> ICRC, cited in footnote 18 above, para. 4973; and ICRC, *Commentary on the First Geneva Convention*, cited in footnote 150 above, para. 1112. See also ICC, *Katanga* Trial Judgment, 2014, para. 894.

<sup>153</sup> ICRC, cited in footnote 18 above, para. 4973.

<sup>154</sup> The requirement of imperative military necessity is an objective standard that must be interpreted in a reasonable manner and in good faith, taking into account the fact that the purpose of the IHL rules in question is to prohibit destruction and that the exception must be construed narrowly. Even where destruction is deemed necessary, it must remain proportionate to the anticipated military advantage. In this context, “proportionality” refers to the broader legal principle requiring correlation between means and ends – in this case, between the harm caused by the destruction and the advantage expected to result from it. This is distinct from the specific rule of proportionality governing the conduct of hostilities, which is addressed in the commentary on Guideline 4 below.

<sup>155</sup> On the comparative analysis of Art. 23(g) of the 1907 Hague Regulations and Art. 52(2) of Additional Protocol I, see ILA Study Group, cited in footnote 82 above, pp. 348–349. See also ICRC, *Guidelines on the Protection of the Natural Environment in Armed Conflict: Rules and Recommendations Relating to the Protection of the Natural Environment Under International Humanitarian Law, with Commentary*, ICRC, Geneva, 2020, p. 74, para. 176.

<sup>156</sup> Sandoz, Swinarski and Zimmermann, cited in footnote 62 above, p. 636, para. 2022. For the definition of military objective, see Art. 52(2) of Additional Protocol I; and Henckaerts and Doswald-Beck, cited in footnote 75 above, Rule 8.



contribution to military action.<sup>157</sup> Such reasonable certainty must be grounded in objective information, going well beyond mere speculation or conjecture.<sup>158</sup> In case of doubt, caution is called for.<sup>159</sup> Given the inherently civilian function of schools and universities, reasonable certainty that the facility will in fact be used for military purposes is also needed. Only in such limited circumstances would a school or university meet the criteria of a military objective based on its intended future use and thus become a potential lawful target.<sup>160</sup>

Therefore, Guideline 3 goes beyond the requirements of IHL regarding attacks. In some cases – although, as explained above, interpreted narrowly – it could be lawful to attack a school or university on the basis of its intended future military use by the adversary.<sup>161</sup> The guideline should thus be understood as a policy commitment by endorsing states to refrain from destroying any school or university in order to prevent its future military use, regardless of whether such destruction would be lawful under IHL. In cases where attacking the educational facility would, in principle, be permitted under IHL, this commitment entails a preference for alternative effects of an attack – namely, the capture or neutralization of the facility – rather than its destruction.<sup>162</sup>

## DEFINITION OF MILITARY OBJECTIVE UNDER IHL

As noted in the second sentence of Guideline 3, educational facilities – whether functioning, temporarily closed, abandoned or evacuated – are ordinarily civilian objects.<sup>163</sup> In both international and non-international armed conflicts, they may only be lawfully attacked for as long as they fulfil the definition of a military objective under IHL<sup>164</sup> and provided that all other IHL rules governing the conduct of hostilities are complied with.<sup>165</sup> The importance of this definition, along with the restrictions it imposes, cannot be overstated. Overly permissive interpretations of this notion, extending beyond its ordinary meaning and contrary to its object and purpose of protecting civilians from the effects of hostilities, undermine the entire protective framework set forth by the rules governing the conduct of hostilities.<sup>166</sup>

The definition of a military objective under IHL consists of two cumulative conditions: the object must, by its nature, location, purpose or use, make an effective contribution to military action, and its total or partial destruction, capture or neutralization, in the circumstances ruling at the time, must offer a definite military advantage. Regarding the first prong of the definition, a school or university will never by its “nature” make an effective contribution to military action. This is because the term “nature” refers to the intrinsic character of an object,<sup>167</sup> and the intrinsic character of educational facilities is civilian.<sup>168</sup> However, a school or university may nonetheless make an effective contribution to military action owing to its location, purpose or use. For

<sup>157</sup> ILA Study Group, cited in footnote 82 above, pp. 332–333.

<sup>158</sup> *Ibid.* Conducting an attack based on mere suspicion as to the military character of the target amounts to a violation of the principle of distinction.

<sup>159</sup> Henckaerts and Doswald-Beck, cited in footnote 75 above, commentary on Rule 6, p.24: “it is fair to conclude that when there is a situation of doubt, a careful assessment has to be made under the conditions and restraints governing a particular situation as to whether there are sufficient indications to warrant an attack. One cannot automatically attack anyone who might appear dubious”. See Y. Dinstein, “Legitimate military objectives under the current *jus in bello*”, *International Law Studies*, Vol. 78, No. 139, 2002, p. 148. See also Zwanenburg, cited in footnote 92 above, p. 282, who argues that Art. 52(3) of Additional Protocol I applies not only to the current use of the object normally dedicated to civilian purposes, but also to its intended future use. This means that, if there is doubt as to the intended future use of a school – such as uncertainty regarding the accuracy of intelligence – it must be presumed not to be intended for use in military action.

<sup>160</sup> Subject to compliance with the principles of proportionality and precautions in attack, as outlined in the commentary on Guideline 4 below.

<sup>161</sup> Guideline 3 is in line with specific, heightened protection regimes, such as those applicable to works and installations containing dangerous forces (i.e. dams, dykes and nuclear power plants) in international armed conflicts, which often require actual use (as opposed to purpose) for the protection to be lost. See, for example, Art. 56(2) of Additional Protocol I.

<sup>162</sup> Even if the same definite military advantage cannot be achieved through the capture or neutralization of the educational facility.

<sup>163</sup> Under IHL, civilian objects are all objects that are not military objectives. See Art. 52(1) of Additional Protocol I; and Henckaerts and Doswald-Beck, cited in footnote 75 above, Rule 9.

<sup>164</sup> Art. 52(2) of Additional Protocol I; and Henckaerts and Doswald-Beck, cited in footnote 75 above, Rule 8.

<sup>165</sup> See the commentary on Guideline 1 above.

<sup>166</sup> See ICRC, cited in footnote 43 above, p. 41, for this argument related to the protection of critical civilian infrastructure.

<sup>167</sup> ILA Study Group, cited in footnote 82 above, p. 329.

<sup>168</sup> Schools are “normally dedicated to civilian purposes”; see Art. 52(3) of Additional Protocol I.

instance, in certain circumstances, a school may contribute effectively to the military action of enemy forces owing to its location as a site of special importance for military operations, making it necessary for a conflict party either to seize it or to prevent the adversary from seizing it.<sup>169</sup> An example of this might be a school located in a strategic position in an urban area, or on a hilltop in a rural setting, that provides enemy forces with a vantage point of military value over an adversary's camp.

While the purpose has already been discussed above, the actual use of educational facilities for military purposes – such as barracks, temporary shelters, weapon storage sites or fighting positions – is the most common circumstance in which schools and universities may become military objectives. Importantly, each object must be strictly delimited and assessed individually. For example, a school consisting of multiple buildings is not a single object for the purpose of defining a military objective.<sup>170</sup> Only the specific building(s) used for military purposes qualify(ies) as a military objective, provided it fulfils the entirety of the two-pronged definition; the other buildings retain their civilian character.

Furthermore, with regard to the first prong of the definition of a military objective, a school or university's contribution to military action must be both effective and directed towards the military action of an adversary. In the ICRC's view, this means the contribution must be directed towards the actual war-fighting capabilities of a party to a conflict.<sup>171</sup> A contribution merely to its war-sustaining capabilities is insufficient to fulfil the definition of a military objective. This differentiation is crucial, as education is often a point of contention in armed conflicts.<sup>172</sup> If a school merely generates support for a party to the conflict – such as when the content of education fosters an ideology that increases the level of community support for that party – this does not make an effective contribution to military action, even if it strengthens political commitment or encourages support for the party's war effort. Therefore, such a school does not qualify as a military objective under IHL and must not be attacked.<sup>173</sup> Overall, in case of doubt as to whether an object normally dedicated to civilian purposes, such as a school or university, is being used to make an effective contribution to military action, it must be presumed not to be so used.<sup>174</sup>

To fulfil the second prong of the definition of a military objective, the total or partial destruction, capture or neutralization of a school or university, in the circumstances ruling at the time, must offer a definite military advantage. The term “definite” requires that the advantage be “concrete and perceptible”, rather than “hypothetical and speculative”,<sup>175</sup> meaning that those ordering or executing the attack must have concrete information about the advantage gained from attacking the school or university.<sup>176</sup> The term “military” clarifies that the anticipated advantage cannot be merely political, economic, financial, psychological, social or moral in nature.<sup>177</sup> For example, undermining national morale by attacking a school

<sup>169</sup> Sandoz, Swinarski and Zimmermann, cited in footnote 62 above, p. 636, para. 2021.

<sup>170</sup> ILA Study Group, cited in footnote 82 above, pp. 333–334. The delimitation of a building/structure must be assessed on a case-by-case basis in light of the object and purpose of the IHL rules governing the conduct of hostilities, namely the protection of civilians and civilian objects. Regardless of whether a term exists to encompass several buildings (e.g. school), they should be considered separate objects whenever reasonably possible. For ease of reference, this Commentary refers to schools and universities as if they consist of a single building.

<sup>171</sup> See L. Gisel, “The relevance of revenue-generating objects in relation to the notion of military objective”, in ICRC College of Europe, *The Additional Protocols at 40: Achievements and Challenges*, Proceedings of the 18th Bruges Colloquium, 19–20 October 2017, Collegium, No. 48, 2018, pp. 139–150; and ILA Study Group, cited in footnote 82 above, p. 340.

<sup>172</sup> This includes situations where education is directly targeted because the language, history or value system taught in schools is, or is perceived to be, a vehicle for recruitment or a generator of community support for one party to the conflict. Educational facilities may also be viewed more generally as symbols of one side of the conflict. See ICRC, *International Humanitarian Law and the Challenges of Contemporary Armed Conflicts*, cited in footnote 17 above, pp. 44–45.

<sup>173</sup> *Ibid.*

<sup>174</sup> Art. 52(3) of Additional Protocol I. See also Sandoz, Swinarski and Zimmermann, cited in footnote 62 above, p. 638, para. 2037. There remains debate as to whether the presumption of civilian status set out in Art. 52(3) of Additional Protocol I is of customary nature.

<sup>175</sup> Bothe, Partsch and Solf, *New Rules for Victims of Armed Conflicts*, cited in footnote 65 above, p. 367; and ILA Study Group, cited in footnote 82 above, p. 342.

<sup>176</sup> Sandoz, Swinarski and Zimmermann, cited in footnote 62 above, p. 636, para. 2024. Notably, the military advantage does not need to accrue at the time of the attack, but may materialize later, provided it is not too remote or uncertain, in which case it would no longer be considered “definite”.

<sup>177</sup> ILA Study Group, cited in footnote 82 above, p. 363. See also footnotes 120 and 121 above.

or university does not constitute a military advantage. Finally, the phrase “in the circumstances ruling at the time” introduces key situational and temporal dimensions, meaning that where the destruction of a school or university does not yet offer, or no longer offers, a definite military advantage – such as following the withdrawal of troops – the facility remains a civilian object and must not be attacked.<sup>178</sup>

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<sup>178</sup> Timely and reliable information on the military situation is an important element in target selection and essential for implementing the principle of distinction. See ILA Study Group, cited in footnote 82 above, p. 328.









# 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.

## COMMENTARY

Guideline 4 addresses the conduct of parties to a conflict when planning or executing attacks against schools or universities that have become military objectives owing to their military use. Under IHL, any “attack”, which is defined as an “[act] of violence against the adversary, whether in offence or in defence”,<sup>179</sup> is regulated by the principles and rules governing the conduct of hostilities, whose object and purpose is to protect the civilian population, civilians and civilian objects from the effects of hostilities.<sup>180</sup>

Notably, some of the actions recommended in Guideline 4 go beyond what is required under IHL while remaining consistent with its principles and rules. Given the focus of Guideline 4 on attacks against schools and universities, the following commentary recalls the key rules of IHL governing attacks and identifies where Guideline 4 extends or adds specificity to these rules.

### IHL RULES GOVERNING THE CONDUCT OF HOSTILITIES

Attacks against schools and universities are sometimes defended by reference to the conduct of the adversary, particularly in asymmetric conflicts, where armed groups commingle with the civilian population and might launch attacks from schools and universities or even resort to unlawful practices such as the use of human shields. However, compliance with IHL is not subject to reciprocity. The fact that a party to a conflict places civilians and civilian objects at risk by using a school for military purposes – or even violates IHL, for example by failing to take all feasible precautions against the effects of attacks or by using human shields – does not relieve the other party of its obligations under IHL.<sup>181</sup>

In both international and non-international armed conflicts, regardless of the lawfulness under IHL of the military use of a specific educational facility by the enemy, the attacking party must in all circumstances comply with the rules governing the conduct of hostilities, including the principles of distinction, proportionality and precautions in attack.

<sup>179</sup> Art. 49(1) of Additional Protocol I.

<sup>180</sup> See footnote 49 above. To achieve their purpose, these rules balance what is necessary to achieve a legitimate military purpose and the principle of humanity.

<sup>181</sup> See Art. 51(8) of Additional Protocol I; and Henckaerts and Doswald-Beck, cited in footnote 75 above, Rule 140. The principle of non-reciprocity is key to mitigating risks to civilians and avoiding their “double victimization”. See Corn and Schoettler, “Targeting and civilian risk mitigation”, cited in footnote 82 above, p. 831.

## Distinction

The principle of distinction requires parties to a conflict to distinguish at all times between civilians and combatants and between civilian objects and military objectives, and to direct their attacks only against combatants and military objectives, never against civilians and civilian objects.<sup>182</sup> Schools and universities may be directly targeted only if, and for such time as, they become military objectives.<sup>183</sup> Civilians – including students, teachers and other education personnel – may be attacked only if, and for such time as, they directly participate in hostilities.<sup>184</sup> Intentionally directing attacks against educational facilities that are not military objectives constitutes a war crime in both international and non-international armed conflicts.<sup>185</sup>

As discussed further in the section on precautions in attack, each party to a conflict must do everything feasible to verify that its targets are military objectives.<sup>186</sup> This obligation, a corollary of the principle of distinction, requires parties to a conflict to maximize the use of all available information to attain the most comprehensive situational awareness possible in the circumstances.<sup>187</sup> For example, if a school is identified as a military objective owing to its use as a base or barracks, efforts must be made to verify that it is indeed being so used at the time of the attack, and that troops, military equipment or other military material have not been withdrawn or relocated. In case of doubt as to its military use, the facility must be presumed not to be so used.<sup>188</sup>

Furthermore, the principle of distinction prohibits indiscriminate attacks, which are attacks of a nature to strike military objectives and civilian objects without distinction.<sup>189</sup> This prohibition is especially relevant in populated areas, where military targets are often intermingled with civilians and civilian objects, including schools and universities. In this regard, the ICRC considers that the use of explosive weapons with a wide impact area should be avoided in populated areas owing to the significant likelihood of indiscriminate effects, despite the absence of an express legal prohibition against specific types of explosive weapons.<sup>190</sup>

The first part of Guideline 4 acknowledges that the military use of a school or university may, depending on the circumstances, render such a facility a military objective. The remainder of the guideline proceeds on the assumption that an attacking party is complying with the principle of distinction.

## Proportionality

For an attack against a school or university that qualifies as a military objective to be lawful under IHL, the attacking party must also comply with the principles of proportionality and precautions in attack.<sup>191</sup> The principle of proportionality prohibits attacks that “may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated”.<sup>192</sup>

<sup>182</sup> Art. 48 of Additional Protocol I; Art. 13(2) of Additional Protocol II; and Henckaerts and Doswald-Beck, cited in footnote 75 above, Rules 1 and 7.

<sup>183</sup> Art. 52(2) of Additional Protocol I; and Henckaerts and Doswald-Beck, cited in footnote 75 above, Rule 10.

<sup>184</sup> Art. 51(3) of Additional Protocol I; Art. 13(3) of Additional Protocol II; and Henckaerts and Doswald-Beck, cited in footnote 75 above, Rule 6.

<sup>185</sup> Arts 8(2)(b)(ix) and 8(2)(e)(iv) of the Rome Statute of the ICC. For a comprehensive analysis of international criminal law applicable to the protection of education during armed conflict, see British Institute of International and Comparative Law (BIICL) and Education Above All Foundation (EAAF), *Protecting Education in Insecurity and Armed Conflict: An International Law Handbook*, BIICL and EAAF, 2nd ed., 2019; and GCPEA, *Enhancing Accountability for Attacks on Education: Guidance on Investigating and Prosecuting Education-Related Crimes*, GCPEA, New York, 2025.

<sup>186</sup> Art. 57(2)(a)(i) of Additional Protocol I; and Henckaerts and Doswald-Beck, cited in footnote 75 above, Rule 16.

<sup>187</sup> ILA Study Group, cited in footnote 82 above, p. 382. See also the “Precautions in attack” section below.

<sup>188</sup> Art. 52(3) of Additional Protocol I.

<sup>189</sup> Arts 51(4) and (5) of Additional Protocol I; and Henckaerts and Doswald-Beck, cited in footnote 75 above, Rules 11–13.

<sup>190</sup> Such an “avoidance policy” means that explosive weapons with a wide impact area should not be used in populated areas unless sufficient mitigation measures can be taken to reduce such risk. See ICRC, *Explosive Weapons with Wide Area Effects*, cited in footnote 92 above.

<sup>191</sup> State practice establishes the rules of proportionality and precautions in attack as customary norms applicable in both international and non-international armed conflicts. See Henckaerts and Doswald-Beck, cited in footnote 75 above, Rules 14 and 15 and commentaries, pp. 46–55.

<sup>192</sup> Art. 51(5)(b) of Additional Protocol I; and Henckaerts and Doswald-Beck, cited in footnote 75 above, Rule 14.

As noted in the commentary on Guideline 2, the term “military advantage” has traditionally been understood as gaining ground and defeating or weakening the enemy armed forces and excludes advantages that are merely political, economic, social, psychological, moral or financial in nature.<sup>193</sup> Moreover, the terms “concrete and direct” require that the anticipated military advantage – such as that anticipated from attacking a school or university that qualifies as a military objective owing to its use by enemy forces – be substantial and relatively close. Advantages that are hardly perceptible or expected to materialize only in the long term must be disregarded.<sup>194</sup>

The proportionality assessment entails weighing the expected incidental civilian harm against the concrete and direct military advantage anticipated, to determine whether the former would be excessive in relation to the latter. This assessment must be undertaken prior to deciding upon an attack and requires the commander to take into account all foreseeable harm to civilians and civilian objects, based on information reasonably available from all sources in the circumstances.<sup>195</sup> This includes not only the death or injury<sup>196</sup> of civilians – including students and education personnel – and damage to civilian objects within the anticipated impact area of the weapon, which is a direct result of the attack, but also death, injury and destruction that is an indirect or “reverberating” effect of the attack, insofar as they are reasonably foreseeable at the time of the assessment.<sup>197</sup> Moreover, the cumulative consequences of prior destruction and damage must be considered: if a school or university has already sustained damage, any additional damage or destruction needs to be assessed in light of its compounded impact when determining whether it would be excessive in relation to the concrete and direct military advantage anticipated.

Crucially, where objects are used for both military and civilian purposes simultaneously – such as a school or university whose lower floors are used by a party to the conflict to store weapons while other floors continue to be used for educational purposes, contrary to the *Guidelines* – the consequences of impairing their civilian, in this case educational, use must also be considered.<sup>198</sup> The greater the impact on the civilian population from disrupting such use, the higher the value that must be assigned to the expected “damage to civilian objects” in the proportionality assessment. This reflects the principle that the value of a civilian object is closely linked to its usefulness to civilians.<sup>199</sup>

Accordingly, schools and universities should be ascribed high civilian value, particularly in view of the long-term consequences of their damage or destruction.<sup>200</sup> These may include the loss of access to education for children in the affected community and the corresponding impact on their mental health and well-being,

<sup>193</sup> See footnotes 120 and 121 above.

<sup>194</sup> Sandoz, Swinarski and Zimmermann, cited in footnote 62 above, p. 684, para. 2209.

<sup>195</sup> ICRC, *International Humanitarian Law and the Challenges of Contemporary Armed Conflicts*, cited in footnote 49 above, pp. 52–53; ICRC, *International Humanitarian Law and the Challenges of Contemporary Armed Conflicts*, cited in footnote 17 above, pp. 18 and 20; L. Gisel (ed.), *The Principle of Proportionality in the Rules Governing the Conduct of Hostilities under International Humanitarian Law*, Expert Meeting, ICRC, Geneva, 2018, pp. 43–51; and ILA Study Group, cited in footnote 82 above, p. 353.

<sup>196</sup> “Injury” should be understood broadly to include wounds, illness and disease. See ICRC, *Explosive Weapons with Wide Area Effects*, cited in footnote 92 above, p. 100. Although mental harm is generally more difficult to predict, it may nonetheless be foreseeable in certain cases – particularly where it results from physical injury or exposure to danger owing to proximity to an attack. For example, an attack with explosive weapons near a kindergarten could be expected to cause long-term psychological trauma to children. See Gisel, *The Principle of Proportionality*, cited in footnote 195 above, p. 36.

<sup>197</sup> ICRC, cited in footnote 49 above, pp. 52–53. What is foreseeable at the moment of attack must be assessed from the perspective of the “reasonable commander”, namely a person trained and experienced in military operations, acting in good faith on the basis of all information reasonably available from all sources in the circumstances. See Gisel, cited in footnote 195 above, pp. 58–59.

<sup>198</sup> ICRC, *International Humanitarian Law and the Challenges of Contemporary Armed Conflicts*, cited in footnote 17 above, p. 19; Gisel, cited in footnote 195 above, pp. 37–40; and ILA Study Group, cited in footnote 82 above, pp. 336–337 and 356. This holds true regardless of whether, in the example at hand, the entire school building or only part of it – i.e. the lower floors – qualifies as a military objective. The consequences of impairing the civilian – in this case educational – use must also be considered in cases where the military use encompasses the entire school or university, as opposed to partial use.

<sup>199</sup> ICRC, *International Humanitarian Law and the Challenges of Contemporary Armed Conflicts*, cited in footnote 17 above, p. 45; and Gisel, cited in footnote 195 above, p. 63.

<sup>200</sup> *Ibid.* An indication of the high civilian value to be ascribed to educational facilities can also be found in the customary rule requiring that special care be taken in military operations to avoid damage to buildings dedicated to education, unless they are military objectives. See Henckaerts and Doswald-Beck, cited in footnote 75 above, Rule 38(a).



as well as on the daily life of the local civilian population more broadly. For example, research shows that the loss of education can have significant negative impacts on the mental health of children.<sup>201</sup> It has also been documented how the disruption of education may act as a driver of displacement. To the extent that the disruption of education may foreseeably impact children's mental health and lead to or increase the risk of displacement, injuries, disease or even death, such incidental civilian harm must be considered in the proportionality assessment.

If, after assigning values to all relevant elements, the expected incidental civilian harm from an attack against a school or university that qualifies as a military objective is determined, in the circumstances, to be excessive in relation to the concrete and direct military advantage anticipated, the attack would be disproportionate and therefore unlawful and must not be carried out.

### Precautions in attack

As noted in the commentary on Guideline 2, in the conduct of military operations – including attacks – parties to a conflict must take constant care to spare the civilian population, civilians and civilian objects.<sup>202</sup> The obligation, which aims to mitigate risks and prevent civilian harm, applies throughout all stages of military operations, including training, planning and execution.<sup>203</sup> As a general rule, the greater the risk to the civilian population in a given military operation, the more will be required in terms of care. Given that such risks are particularly high when a party to a conflict conducts an attack – especially in urban areas – IHL imposes additional, specific obligations on those who plan, decide upon or carry out attacks, alongside the general obligation to take constant care.<sup>204</sup>

When planning or deciding upon an attack, parties to a conflict must take all feasible precautions to avoid, and in any event minimize, the incidental loss of civilian life, injury to civilians and damage to civilian objects.<sup>205</sup> This is a stringent obligation: all precautions that are “feasible” – understood as “practicable or practically possible taking into account all circumstances ruling at the time, including humanitarian and military considerations”<sup>206</sup> – must be taken.

Even when a school or university qualifies as a military objective, attacking it entails significant risks for civilians. These risks comprise not only the death or injury of students, teachers and other education personnel, and the destruction of the educational facility *stricto sensu*, but also the broader and long-term adverse effects on children's rights and the community as a whole, as discussed in the section above on proportionality. All such risks constitute “humanitarian considerations” that need to be weighed against military considerations when determining the feasibility of precautions in attack. The greater the risk to civilians, the greater the need to adopt feasible precautions. It is in this light that Guideline 4(a) should be understood. It commits endorsing states to consider “the potential long-term negative effect on a community's access to education posed by damage to or the destruction of a school” among the humanitarian considerations to take into account when assessing the feasibility of precautions in attack.

<sup>201</sup> See World Health Organization (WHO) and Calouste Gulbenkian Foundation, *Social Determinants of Mental Health*, WHO, Geneva, 2014; and Inter-Agency Standing Committee (IASC), *IASC Guidelines on Mental Health and Psychosocial Support in Emergency Settings*, IASC, Geneva, 2007, pp. 148–155. See also D. Mazrekaj and K. De Witte, “The impact of school closures on learning and mental health of children: Lessons from the COVID-19 pandemic”, *Perspective on Psychological Science* 2024, Vol. 19, No. 4, July 2023, pp. 686–693.

<sup>202</sup> Art. 57(1) of Additional Protocol I; Henckaerts and Doswald-Beck, cited in footnote 75 above, Rule 15. See also the commentary on Guideline 2.

<sup>203</sup> ICRC, *Explosive Weapons with Wide Area Effects*, cited in footnote 92 above, p. 102; and ILA Study Group, cited in footnote 82 above, p. 381.

<sup>204</sup> *Ibid.* For more on precautions in urban areas, see Sandoz, Swinarski and Zimmermann, cited in footnote 62 above, p. 679, para. 2190.

<sup>205</sup> Henckaerts and Doswald-Beck, cited in footnote 75 above, Rule 15.

<sup>206</sup> See footnote 89 above.

Among these precautionary measures, and as corollaries of the principles of distinction and proportionality, parties to a conflict must do everything feasible to verify that targets are military objectives and assess whether an attack may be disproportionate.<sup>207</sup> An attack must be cancelled or suspended if, for example, it becomes apparent that a school is no longer a military objective owing to the withdrawal of enemy forces, or that the presence of students renders the attack disproportionate.<sup>208</sup>

In addition, parties to a conflict must take all feasible precautions in the choice of means and methods of warfare, with a view to avoiding, or at least minimizing, incidental civilian harm.<sup>209</sup> This entails assessing the foreseeable effects of available weapons and considering alternative weapons and tactics. It may also involve implementing practical measures such as adjusting the type of warhead or fuze, the launch distance and the timing of the attack.<sup>210</sup> In particular, when choosing means and methods of warfare, parties to a conflict should take into account the specific effects that explosive weapons have on children.<sup>211</sup> Children's unique anatomy and physiology mean that explosive devices designed to wound an adult combatant can more easily kill a child.<sup>212</sup> For example, in an attack on a school that qualifies as a military objective, the attack must be carried out when no students are present and direct-fire weapons such as rifles must be preferred over indirect-fire explosive weapons, if those precautions are feasible.<sup>213</sup>

Unless circumstances do not permit, effective advance warning must be given of attacks that may affect the civilian population,<sup>214</sup> such as those against schools and universities. The warning should reach and be understood by as many civilians as possible among those who may be affected by the attack, including students and education personnel, and should enable them to adequately protect themselves, such as by providing enough time to evacuate or otherwise seek shelter. The effectiveness of the warning should be assessed from the perspective of affected civilians, including those with sensory, psychosocial, intellectual or physical disabilities.<sup>215</sup> Advance warnings do not relieve the attacker from the obligation to take other precautionary measures, and students and education personnel who remain in the school do not lose their protected status merely because they did not heed a warning or evacuate.<sup>216</sup> This means their presence still counts fully in the proportionality assessment.

<sup>207</sup> Arts 57(2)(a)(i) and 57(2)(a)(iii) of Additional Protocol I; and Henckaerts and Doswald-Beck, cited in footnote 75 above, Rules 16 and 18.

<sup>208</sup> Art. 57(2)(b) of Additional Protocol I; and Henckaerts and Doswald-Beck, cited in footnote 75 above, Rule 19.

<sup>209</sup> Art. 57(2)(a)(ii) of Additional Protocol I; and Henckaerts and Doswald-Beck, cited in footnote 75 above, Rule 17.

<sup>210</sup> ICRC, cited in footnote 49 above, p. 50; Sandoz, Swinarski and Zimmermann, cited in footnote 62 above, p. 682, para. 2200; Quéguiner, "Precautions under the law", cited in footnote 91 above, p. 801; and ICRC, *Explosive Weapons with Wide Area Effects*, cited in footnote 92 above, p. 104.

<sup>211</sup> See, for example, Save the Children, *Blast Injuries: The Impact of Explosive Weapons on Children in Conflict*, Save the Children, London, 2019.

<sup>212</sup> See ICRC, *Childhood in Rubble*, cited in footnote 17 above, p. 8. Regarding children, letter (a) of Guideline 4 also recalls that parties to a conflict should take into consideration children's special respect and protection.

<sup>213</sup> See ICRC, *Explosive Weapons with Wide Area Effects*, cited in footnote 92 above. When indirect-fire weapons are employed, all fire should be directed and observed by forward observation officers in the case of artillery, or mortar fire controllers in the case of mortars, even when it has been ascertained that no students or education personnel are present.

<sup>214</sup> Art. 57(2)(c) of Additional Protocol I; and Henckaerts and Doswald-Beck, cited in footnote 75 above, Rule 20. According to the ICRC Commentary on the Additional Protocols, the qualifier "unless circumstances do not permit" was included to account for situations where loss of necessary surprise would jeopardize the success of the attack (see Sandoz, Swinarski and Zimmermann, cited in footnote 62 above, p. 686, para. 2223). However, not every loss of tactical initiative or military disadvantage justifies dispensing with the requirement to give effective advance warning. Rather, as reflected in military practice, exceptions are understood to cover "cases where the element of surprise is essential to the success of an operation or to the security of the attacking forces or that of friendly forces" (Henckaerts and Doswald-Beck, cited in footnote 75 above, Rule 20 and commentary, p. 64). Advance warning is therefore required unless, in the circumstances, providing it would compromise the mission to the extent that it creates a genuine risk of failure. Notably, commanders should be trained to assume that warnings will be provided and to require significant tactical and operational justification for dispensing with them. See ILA Study Group, cited in footnote 82 above, pp. 387–388.

<sup>215</sup> For advance warnings to be effective for civilians with disabilities, parties to a conflict should communicate such warnings in a variety of accessible formats such as Braille, text messages and simplified language. Attackers should also take into account the fact that persons with disabilities need more time than others to leave, access shelter and take other protective measures. See ICRC, cited in footnote 43 above, p. 34.

<sup>216</sup> ICRC, *International Humanitarian Law and the Challenges of Contemporary Armed Conflicts*, cited in footnote 17 above, p. 17; and ICRC, *Explosive Weapons with Wide Area Effects*, cited in footnote 92 above, p. 104.

### “[A]LL FEASIBLE ALTERNATIVE MEASURES BEFORE ATTACKING”

Guideline 4 states that parties to a conflict should consider “all feasible alternative measures before attacking” schools and universities. The term “alternative measures” refers to actions other than an attack, such as requesting the enemy to cease its military use of an educational facility or issuing an advance warning that such use will prompt an attack. Other measures that may be contemplated to bring an end to such military use include, where feasible and appropriate to the objective pursued, conducting information campaigns with tailored messaging to discourage the misuse of educational facilities, including through civil–military cooperation; cutting off electricity to the school; and carrying out cyber operations. These measures are distinct from the precautions in attack outlined above and reflect aspects characteristic of heightened protection regimes, such as those applicable to medical units and cultural property.<sup>217</sup>

With regard to warnings in particular, Guideline 4 recommends that parties to a conflict consider, “unless circumstances do not permit, warning the enemy in advance that an attack will be forthcoming unless it ceases [the] use [of a school or university]”. As under the special protection regime applicable to hospitals and other medical facilities, such a warning may, where appropriate, be accompanied by a reasonable time limit for the adverse party to end its military use of the educational facility.<sup>218</sup> The primary purpose of such a warning is to encourage the adverse party to discontinue this use, thereby preventing an attack on the facility. If the military use ceases, the school or university regains its civilian character and is protected as such under IHL.<sup>219</sup> In addition, the warning may serve to alert civilians, including students and education personnel, present in or around the facility that, should the warning go unheeded and the military use persist, an attack may follow. This may enable them to leave the vicinity and thereby reduce the risk of incidental harm to civilians.

While going beyond the requirements of the IHL rules on precautions in attack, Guideline 4 reflects good practice aimed at enhancing the protection of schools and universities by promoting alternative measures that may minimize attacks against these facilities.

### RETURN OF SCHOOLS AND UNIVERSITIES TO THEIR EDUCATIONAL FUNCTION FOLLOWING CAPTURE

Letter (b) of Guideline 4 states that “[t]he 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”. Consistent with the *Guidelines*’ broader aim of safeguarding students’ safety and education, letter (b) commits parties to a conflict not to rely on an adversary’s prior military use of an educational facility as justification for continuing such use after capture, irrespective of whether the original use was lawful under IHL.

Compliance with IHL is not subject to reciprocity. The fact that an adversary previously exposed civilians and civilian objects to risk by using a school or university for military purposes – or even violated IHL, for instance by failing to take all feasible precautions against the effects of attacks – does not relieve the party taking control of the facility of its obligations.<sup>220</sup> While neither treaty nor customary IHL specifically prohibits the military use of schools and universities, the lawfulness of any such use depends on the application of the

<sup>217</sup> For medical units, for example, see Art. 21 of the First Geneva Convention; Art. 19 of the Fourth Geneva Convention; Art. 13(1) of Additional Protocol I; and Art. 11(2) of Additional Protocol II. For cultural property, see Art. 11 of the 1954 Hague Convention on Cultural Property. See also Zwanenburg, cited in footnote 92 above, pp. 282–283; and Sheppard, cited in footnote 14 above, p. 682 and footnote 94 therein.

<sup>218</sup> It should be noted that, unlike warnings in relation to educational facilities – where the warning at issue reflects a policy commitment aimed at minimizing attacks – warnings in relation to hospitals and other medical facilities constitute a legal obligation under IHL. In such cases, a warning must be issued before any attack or other military operation may be undertaken in response to a loss of the protection of the medical facility. See footnote 129 above.

<sup>219</sup> If the adverse party complies with the warning and ceases its military use of the school or university, relocating elsewhere, the other party to the conflict may nonetheless carry out an attack against the adverse party in that new location, provided that the rules and principles governing the conduct of hostilities are respected.

<sup>220</sup> Regarding the principle of non-reciprocity, see footnote 181 above.

relevant IHL obligations (in this context, those incumbent upon the party taking control after capture) to the specific circumstances, as outlined in the commentary on Guideline 1.<sup>221</sup>

Irrespective of whether continued use by the party in control would be lawful or not under IHL, letter (b) of Guideline 4 reflects a broader commitment by endorsing states to discontinue the military use of schools and universities after capture. Read together with Guidelines 1 and 2 regulating the use of educational facilities for military purposes, this voluntary policy is consistent with – and can contribute to the improved respect for – applicable IHL obligations.<sup>222</sup>

The second sentence of letter (b) of Guideline 4, similar to letters (b) and (c) of Guideline 2, addresses the reopening of schools and universities after their military use. While Guideline 2 is directed at the party using the facility, letter (b) of Guideline 4 is directed at the party taking control after capture. The conditions to support safe reopening, however, largely coincide in both Guidelines.<sup>223</sup>

Letter (b) of Guideline 4 provides that, “[a]s soon as feasible”, the facility should be “returned to civilian authorities for the purpose of its educational function”, in order to minimize disruption to education. As noted in the commentary on Guideline 2, the feasibility and timing of reopening depend on factors such as the cessation and likely resumption of hostilities in the area, the availability of resources, technical expertise, equipment and coordination with humanitarian organizations. In some cases, reopening may also be required under IHL obligations to facilitate access to education during armed conflict.<sup>224</sup> Moreover, letter (b) commits the party in control after capture to remove “any evidence or indication of militarisation or fortification”, which should be understood as including the clearance of all weapons, munitions and ERW from the site.<sup>225</sup> This is consistent with IHL, under which parties that control areas affected by ERW must take measures to minimize the associated risks and effects in order to protect the civilian population.<sup>226</sup>

<sup>221</sup> These include the obligations to take constant care in the conduct of military operations to spare the civilian population, civilians and civilian objects; to take all feasible precautions to protect the civilian population and civilian objects under their control against the effects of attacks by enemy forces; to afford children special respect and protection; to facilitate access to education in defined circumstances; and to comply with IHL rules on cultural property whenever applicable to buildings dedicated to education. See the commentary on Guideline 1 above.

<sup>222</sup> By promoting the discontinuation of military use following capture and the restoration of educational facilities to their civilian function, letter (b) of Guideline 4 aims to safeguard students, education personnel and the facilities themselves and to reduce the disruption to education, thereby advancing the protective aims of IHL. For the IHL obligations mentioned in this text, see footnote 221 above.

<sup>223</sup> These conditions are set out in the commentary on Guideline 2 above.

<sup>224</sup> See the commentary on Guideline 1 above.

<sup>225</sup> “Evidence or indication of militarisation or fortification” includes the enemy’s barricades, weapons, munitions, military equipment, observation posts and sniper positions, which – if left in place – may expose students to physical and psychological harm and increase the risk of future attacks. See the commentary on Guideline 2 above.

<sup>226</sup> These obligations stem from the principle of precaution and are detailed in Protocol V to the CCW. See the commentary on Guideline 2 above.





## Good practice recommendations related to Guidelines 3 and 4<sup>227</sup>

Building on the recommendations in Guidelines 3 and 4, the following complementary good practice recommendations regarding attacks against schools and universities and attacks targeting enemy forces located in or around such facilities aim to mitigate harm to civilians – students and education personnel – and civilian objects, and to help ensure the continuity of education during armed conflict.

Parties to a conflict should:

- emphasize the protection of civilians and civilian objects across all types of operations, from strategic to tactical levels, ensuring that it is prioritized alongside mission accomplishment and force protection.
- identify, map and regularly update the locations of schools and universities, the access routes used by students and the schedules and routes of school transportation within the area of operations. These factors should be incorporated into the planning and execution of attacks against military objectives in the area.
- include schools and universities in no-strike or restricted target lists and continuously update those lists to include temporary or makeshift educational facilities.
- assess the civilian environment – including demographic features, risks to civilians, the humanitarian situation, patterns of life and anticipated civilian movements – when planning an attack against a school or university that has lost its protection or a military objective in the vicinity. Such assessment may include, for example, class timetables, exam periods, school holiday dates and daily arrival and departure peaks. Tailored guidance should be provided through standard operating procedures, operational orders and other relevant documentation.
- presume the presence of civilians – students and education personnel – in schools and universities unless there is clear evidence to the contrary. In particular, parties to a conflict should not assume that a school or university is empty solely based on the issuance of advance warnings or the ordering or carrying out of evacuations.
- regulate the decision-making process for attacking a school or university that has lost protection, or a nearby military objective, through standard operating procedures, operational orders and other relevant documentation, specifying the required level of authority, authorization steps and necessary conditions.
- in addition to legal advisers,<sup>228</sup> involve weapons-effects experts, structural engineers and cultural advisers in the planning and decision-making process for attacks against schools or universities that have lost their protection, or military objectives in the vicinity, particularly to assess potential damage to educational facilities and to the continued provision of education in the community. Advisers with child protection expertise should also be included in planning teams.<sup>229</sup>
- carry out collateral-damage estimates or similar assessments as part of the targeting process.

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<sup>227</sup> This non-exhaustive list of recommendations is primarily based on the ICRC's practice, observations and public documents – including training modules on access to education for the ICRC's armed and security forces delegates, the ICRC publication *Explosive Weapons with Wide Area Effects* (cited in footnote 92 above), the ICRC publication *Childhood in Rubble* (cited in footnote 17 above), and the ICRC publication *Reducing Civilian Harm In Urban Warfare: A Commander's Handbook*, ICRC, Geneva, 2021 – as well as the GCPEA publication *Toolkit to Guide Understanding and Implementation of the Guidelines* (cited in footnote 67 above).

<sup>228</sup> Each state must make legal advisers available, when necessary, to advise military commanders at the appropriate level on the application of IHL (Art. 82 of Additional Protocol I; and Henckaerts and Doswald-Beck, cited in footnote 75 above, Rule 141). State practice establishes this rule as a norm of customary international law for state armed forces in both international and non-international armed conflicts.

<sup>229</sup> In this regard, the UN Security Council has, in several resolutions, urged Member States to establish child protection units within national security forces. See UN Security Council, Resolution 2143 (2014), UN Doc. S/RES/2143 (2014), 7 March 2014, operative paragraph 13, p. 5; UN Security Council, Resolution 2225 (2015), UN Doc. S/RES/2225 (2015), 18 June 2015, operative paragraph 13, p. 5; and UN Security Council, Resolution 2427 (2018), UN Doc. S/RES/2427 (2018), 9 July 2018, operative paragraph 25, p. 6.

- whether attacking in offence or in defence, avoid using explosive weapons with a wide impact area in populated areas (where educational facilities are often located) owing to the significant likelihood of indiscriminate effects. Such weapons should not be used unless sufficient mitigation measures are taken to limit their wide area effects and consequent risk of civilian harm.<sup>230</sup>
- establish coordination measures with civilian authorities and relevant humanitarian organizations before, during and after attacks on schools and universities. Where operational circumstances permit, these entities should be granted access to assess the condition of the school or university following any attack.
- establish lessons learned, battle damage assessments and other feedback loops, as well as reporting systems and procedures to assess the impact on civilians and on education of any attack on or affecting a school or university and to investigate unlawful attacks. Lessons learned should be incorporated as soon as possible into future operations, doctrine and training.

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<sup>230</sup> States – regardless of whether they are parties to an armed conflict – should endorse, and take steps to implement, the *Political Declaration on Strengthening the Protection of Civilians from the Humanitarian Consequences arising from the Use of Explosive Weapons in Populated Areas*.







# 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.

## COMMENTARY

During armed conflict, schools and universities have too often become part of the battlefield – whether through deliberate targeting, incidental damage or military use. When commanders, as well as civilian authorities and communities, become aware of educational facilities at risk of attack, capture or military use by the adversary, their instinctive response may be to initiate or request the deployment of armed forces to protect students and education personnel. However, the presence of armed forces in or around schools and universities may have the opposite effect to that intended: it may create the perception that these facilities are military objectives, thereby increasing the risk of attack; result in incidental civilian harm in the event of an attack against the very armed forces deployed to guard the facility; expose students and education personnel to heightened danger owing to their proximity to weapon bearers; and disrupt the continuity of the learning environment.<sup>231</sup> The aim of Guideline 5 is to reduce these risks.<sup>232</sup>

## SECURITY TASKS RELATED TO SCHOOLS AND UNIVERSITIES

Guideline 5 states that “[t]he 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”. In particular, “their presence within the grounds or buildings should be avoided if at all possible”. This guidance reflects the fact that, while the mere presence of armed forces in or around educational facilities – including when tasked with guarding them – does not, in itself, render the facilities military objectives, such forces may nonetheless be subject to direct attack, thereby exposing students, staff and school buildings to the risk of incidental harm. To the extent that schools and universities are located in densely populated areas, or constitute such areas themselves, Guideline 5 aligns with the obligation under IHL to avoid, to the extent feasible, locating military objectives (in this case, the personnel of fighting forces) within or near densely populated areas.<sup>233</sup>

<sup>231</sup> Despite their differences, the presence of troops in the vicinity of schools and universities for protective purposes may have effects similar to those arising from the military use of such facilities, placing students and staff at risk and disrupting education. On the distinction between military use and the provision of security at schools, see Haines, cited in footnote 24 above, p. 599; and Zwanenburg, cited in footnote 92 above, p. 284. See also INEE, cited in footnote 3 above, pp. 111, 120 and 121.

<sup>232</sup> Notably, Guideline 5 does not aim to preclude states or other parties to a conflict from conducting stability operations in support of schools, provided that such operations are consistent with IHL and designed to safeguard – rather than compromise – the civilian character of educational facilities and avoid exposing students and staff to additional risks.

<sup>233</sup> Art. 58(b) of Additional Protocol I; and Henckaerts and Doswald-Beck, cited in footnote 75 above, Rule 23.



Additionally, the commitment to consider “evacuating children, students and staff to a safer location” is also consistent with IHL rules on precautions against the effects of attacks.<sup>234</sup> When considering such evacuations, parties to a conflict need to plan to comply with the applicable rules of IHL governing – and in some cases, limiting – evacuations, particularly the evacuation of children. These rules draw a line that separates lawful, temporary and potentially life-saving evacuations from unlawful transfer or deportation.<sup>235</sup>

Whether providing security to a specific school or university by armed forces is the only viable option must be assessed on a case-by-case basis, according to the circumstances. However, according to the general guidance contained in Guideline 5, alternative means of providing essential security should be prioritized when available. These “alternative means” may include employing “appropriately trained civilian personnel”, such as private security guards, on site; establishing a security perimeter around the vicinity of the school; and stationing readily deployable troops at pre-existing military facilities in the area. School security can also be enhanced through community-led mechanisms, such as school management committees or parent-teacher associations.<sup>236</sup> Furthermore, the security of educational facilities may be strengthened through the development of contingency plans and early warning systems that connect schools with civilian authorities, local law enforcement and armed forces in case of emergency.<sup>237</sup> Coordination with humanitarian organizations is recommended.

<sup>234</sup> Art. 58(a) of Additional Protocol I; and Henckaerts and Doswald-Beck, cited in footnote 75 above, Rule 24. For recommendations on the evacuation of children, see ICRC, *Childhood in Rubble*, cited in footnote 17 above, pp. 50–51. Notably, in line with Guideline 2, evacuations should not be followed by the use of the educational facilities by armed forces for military purposes, except in extenuating circumstances.

<sup>235</sup> Several IHL provisions deal directly with the evacuation, transfer and deportation of children. They are set out in ICRC, cited in footnote 43 above, pp. 28–30.

<sup>236</sup> Non-militarized school security and community-based risk reduction align with the INEE Minimum Standards for Education, which emphasize, as part of contingency planning for learning continuity, the importance of pre-identifying alternate learning spaces, adopting remote or double-shift educational systems and providing MHPSS to facilitate rapid transitions if a school or other learning space becomes unusable. See INEE, cited in footnote 3 above, pp. 19 and 25.

<sup>237</sup> For instance, in Brazil, the ICRC has developed a risk-management methodology to support authorities, service providers and communities in addressing disruptions caused by violence. This approach includes crisis management measures, clear protocols and adjustments to school schedules to reduce exposure to violence. While it does not reduce violence itself, it mitigates its impact on education by strengthening the resilience of the education system and reducing school closures. Although developed for situations of violence not amounting to armed conflict, and specifically for use in Brazil, the approach could be adapted to situations of armed conflict. For this and other examples of education-related operational activities undertaken by the ICRC and the broader International Red Cross and Red Crescent Movement – including risk awareness and safe behaviour training and the implementation of passive security measures in schools – see ICRC, cited in footnote 5 above. For the broader approach, see International Red Cross and Red Crescent Movement, “*Approach to Education*”, cited in footnote 51 above.



## Good practice recommendations related to Guideline 5<sup>238</sup>

Building on the recommendations in Guideline 5, the following complementary good practice recommendations regarding the provision of security for schools and universities aim to minimize risks to students and education personnel and help ensure the continuity of education during armed conflict.

Parties to a conflict should:

- cooperate with civilian authorities, education providers, community leaders, local law enforcement and other relevant individuals and entities – including humanitarian organizations and child protection agencies – to ensure the appropriate training of civilian personnel responsible for the security of schools and universities as well as the security of transit routes, playgrounds, sports fields and other facilities used by children outside school hours.
- establish reliable communication channels between school administrators, civilian authorities, local law enforcement and armed forces to enable the timely reporting of threats and concerns regarding the security of schools and universities, when necessary and if deemed appropriate by the educational institutions.
- organize observation positions and patrol patterns to monitor educational facilities and transit routes from a distance, without establishing a military presence within or near schools and universities.
- if the employment of armed forces to provide security to schools and universities is unavoidable:
  - ensure that such forces receive appropriate training and guidance, particularly regarding their interactions with children, limiting these encounters as much as possible to minimize exposure to attacks or other dangers, and
  - incorporate provisions for weapon safety in standard operating procedures, operational orders and other relevant documentation to ensure that children at school do not have access to weapons.
- ensure that advance planning is in place to enable the continuity of education in a safe environment, in accordance with applicable legal obligations and the specific needs of children, in the event that students and education personnel are evacuated for security reasons. This may include organizing temporary learning spaces in safer areas or developing distance learning programmes with limited in-person follow-up. In such instances, all necessary measures should also be taken to protect family unity and prevent the separation of children from their families or primary caregivers.
- establish a reporting system to identify best practices and make any necessary adjustments to security plans.

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<sup>238</sup> This non-exhaustive list of recommendations is primarily based on the ICRC's practice, observations and public documents – including training modules on access to education for the ICRC's armed and security forces delegates and the ICRC publication *Childhood in Rubble* (cited in footnote 17 above) – as well as the GCPEA publication *Toolkit to Guide Understanding and Implementation of the Guidelines* (cited in footnote 67 above).



# MANUEL DU SOLDAT





# 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.**

## COMMENTARY

The sixth and final guideline addresses the implementation of the *Guidelines*. It sets out a non-exhaustive list of measures by which parties to a conflict may operationalize the *Guidelines* and ensure their observance throughout the chain of command in situations of armed conflict. These measures include, for example, incorporating the *Guidelines* into doctrine, military manuals, rules of engagement, operational orders and training. Ultimately, it is for each party to a conflict to determine the most suitable means of implementation, in light of its structure, operational frameworks, procedures, resources and the specific circumstances in which it operates. The flexibility enshrined in Guideline 6 reflects the overarching aim of the *Guidelines*: to promote tangible improvements in the protection of education on the ground, irrespective of the precise means of implementation.

### EARLY IMPLEMENTATION PRIOR TO ARMED CONFLICT

Although Guideline 6 refers expressly to parties to a conflict, the *Guidelines* are intended to be implemented by all states that have endorsed the Safe Schools Declaration, including those not currently party to any armed conflict. Upon endorsement, states commit to “[u]se the *Guidelines*, and bring them into domestic policy and operational frameworks as far as possible and appropriate”.<sup>239</sup> Many of the implementation measures listed in Guideline 6 – such as the incorporation of the *Guidelines* in doctrine, military manuals and rules of engagement – can, and ideally should, be undertaken in peacetime.

Early implementation serves to strengthen the protection of education when armed conflict breaks out.<sup>240</sup> Measures that states may adopt in peacetime to this end – including updating military manuals and policies to include explicit protections for educational facilities against military use, incorporating the *Guidelines* in domestic legal frameworks and training armed forces on education-sensitive considerations – can enhance respect for IHL obligations and help prevent violations during armed conflict, ultimately minimizing the disruption of education. Notably, this approach is in line with IHL implementation more broadly.<sup>241</sup> States are indeed required, beginning in peacetime, to take all necessary measures to ensure respect for the applicable

<sup>239</sup> Safe Schools Declaration, cited in footnote 25 above.

<sup>240</sup> In this regard, see UN Security Council, Resolution 2601 (2021), UN Doc. S/RES/2601 (2021), 29 October 2021, operative paragraph 4, p. 3: “Urges Member States to develop effective measures to prevent and address attacks and threats of attacks against schools and education facilities, and, as appropriate, develop domestic legal frameworks to ensure respect for their relevant international legal obligations as applicable to them, and encourages Member States to ensure that national strategic frameworks include, as appropriate, comprehensive measures to prevent attacks and threats of attacks against schools and ensure the protection of schools and civilians connected with schools, including children and teachers during armed conflict as well as in post-conflict phases, with the support of relevant United Nations entities.” See also UN Security Council, Resolution 2143 (2014), UN Doc. S/RES/2143 (2014), 7 March 2014, operative paragraph 20, p. 6: “Recommends that Member States include child protection in military training and standard operating procedures, as well as in military guidance as appropriate.” Regarding the need to act ahead and embed anticipatory approaches within existing education policies, strategies and mechanisms to ensure the continuity of learning during crises, including armed conflicts, see Geneva Global Hub for Education in Emergencies (EiE Hub), *Acting Ahead to Protect Education Investments: Why the Need for Proactive Approaches to Crises is More Urgent than Ever*, EiE Hub, Geneva, 2025.

<sup>241</sup> The term “implementation” covers all measures that need to be taken to ensure that IHL rules are fully respected. See ICRC, Advisory Service on International Humanitarian Law, *Implementing International Humanitarian Law: From Law to Action: Factsheet*, ICRC, Geneva, 2002.



rules of IHL.<sup>242</sup> This includes adopting and implementing legislation to establish penal sanctions for grave breaches of the Geneva Conventions, training armed forces to know and be able to comply with the Conventions and disseminating knowledge of IHL as widely as possible among the civilian population.<sup>243</sup>

## STATE AND NON-STATE ARMED GROUP IMPLEMENTATION MEASURES

As of October 2025, 121 states have endorsed the Safe Schools Declaration. Over the past decade, an increasing number of these states have taken legislative, policy and operational steps to prevent, ban or criminalize the military use of schools and universities. These developments have occurred through instruments such as military manuals, orders, national legislation, jurisprudence and ceasefire agreements.<sup>244</sup>

For instance, Denmark,<sup>245</sup> Ecuador,<sup>246</sup> New Zealand<sup>247</sup> and Switzerland<sup>248</sup> have revised their military manuals to include explicit protections for schools and universities from military use during armed conflict. Norway<sup>249</sup> and the United Kingdom<sup>250</sup> have updated their military policies to give effect to their commitments under the Safe Schools Declaration, while Canada has integrated the Declaration into the operational conduct and training of its armed forces.<sup>251</sup> Spain has incorporated the Safe Schools Declaration into its military doctrine<sup>252</sup> and into specific directives<sup>253</sup> that commit the Spanish armed forces to support the implementation of the Declaration and its *Guidelines* in overseas operations, including through specialized training. Several other states, including Cameroon, the Central African Republic, Colombia, Mali, Nigeria, Yemen and Ukraine, have established – or are in the process of establishing – technical committees comprising representatives of relevant ministries, UN agencies and civil society organizations at the national or regional level to oversee the implementation of the Safe Schools Declaration and the *Guidelines*.<sup>254</sup>

<sup>242</sup> ICRC, cited in footnote 18 above, para. 178. See also Art. 2(1) common to the Geneva Conventions (“In addition to the provisions which shall be implemented in peacetime”); Art. 45 of the First Geneva Convention; Art. 46 of the 1949 Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Geneva Convention); and Art. 80 of Additional Protocol I.

<sup>243</sup> ICRC, cited in footnote 18 above, para. 232. Further IHL obligations may best be implemented during armed conflicts if preparatory steps are taken already in peacetime to execute them. In this regard, see ICRC, cited in footnote 18 above, paras 178–179 and 233.

<sup>244</sup> For a detailed overview of good practice examples – including the explicit prohibition of the military use of schools by armed forces; the incorporation of protections against military use in national policies, laws, codes of conduct, rules of engagement, military manuals and other relevant documents; and training efforts on the use of the *Guidelines* – see the Implementation Resource Bank on GCPEA’s website. This resource also highlights practices adopted by non-state entities such as the United Nations Department of Peace Operations, the African Union and the North Atlantic Treaty Organization. See also GCPEA, *Protecting Schools from Military Use*, cited in footnote 31 above, for a broader collection of recent and historical examples of laws, court decisions, military orders, policies and practice by governments, armed forces, non-state armed groups and courts aimed at protecting schools and universities from use for military purposes.

<sup>245</sup> Denmark, *Military Manual on International Law Relevant to Danish Armed Forces in International Operations*, September 2016, pp. 87 and 195.

<sup>246</sup> Ecuador, *Manual of International Humanitarian Law*, DBM-DOC-CC.FF.AA-05-2016, May 2016, Chapter VIII, sec. D, mentioned in GCPEA, cited in footnote 31 above, p. 53.

<sup>247</sup> New Zealand, *Manual of Armed Forces Law: Law of Armed Conflict*, DM 69, 2nd ed., Vol. 4, pp. 14–25 and 14–26.

<sup>248</sup> Switzerland, *Manual on the Law of Armed Conflict*, edition of 1 May 2019, mentioned in GCPEA, cited in footnote 31 above, p. 89.

<sup>249</sup> Norwegian Ministry of Foreign Affairs, *The Oslo Conference on Safe Schools: Protecting Education from Attack*, Conference Report, 2015, p. 19. See also Norwegian Ministry of Defence, *Manual i krigens folkerett*, February 2025, pp. 96, 188 and 202.

<sup>250</sup> United Kingdom, *Human Security in Defence*, JSP 985, Vol. 2, June 2024, pp. 13–14.

<sup>251</sup> GCPEA, *Practical Impact of the Safe Schools Declaration: Fact Sheet*, 2nd ed., GCPEA, New York, 2025, p. 1 and footnote 11 therein.

<sup>252</sup> Spain, PDC-02.01: *Derecho internacional humanitario (DIH) en las FAS*, 2022, pp. 48–49, 134–136 and 175.

<sup>253</sup> Spain, *National Defence Directive 2020*, 2020, p. 8. The Defence Policy Directive 2020 implements the National Defence Directive 2020, setting the objectives of Spain’s Defence Policy, which include contributing to the Safe Schools Initiative, for which contingents deployed in peace operations will receive specific training. See also Spain, *Panorama de Tendencias Geopolíticas: Horizonte 2040*, 2nd ed., Madrid, 2021, p. 73. Coordination with humanitarian organizations is carried out through the Spanish Agency for International Development Cooperation and the Spanish NGDO Platform.

<sup>254</sup> GCPEA, *Practical Impact of the Safe Schools Declaration*, cited in footnote 251 above, p. 1.

Although non-state armed groups cannot formally endorse the Safe Schools Declaration, as it is an intergovernmental political commitment, some have nevertheless committed to refraining from attacks on, and the military use of, schools and universities, including through unilateral declarations, operational orders and agreements. Notably, 31 non-state armed groups have signed the Deed of Commitment under Geneva Call for the Protection of Children from the Effects of Armed Conflict, thereby pledging to “avoid using for military purposes schools or premises primarily used by children”.<sup>255</sup>

## GOOD PRACTICE EXAMPLES

Many states, non-state armed groups and international and regional bodies are taking concrete measures to prevent and reduce attacks on, and the military use of, schools and universities, in accordance with the *Guidelines*. There is growing evidence that the implementation of the *Guidelines* can yield tangible improvements in the protection of education.

For example, in 2022, Nigeria adopted the National Plan for Financing Safe Schools and established the National Safe Schools Response Coordination Centre to oversee the security of schools across the country.<sup>256</sup> The same year, Colombia developed an action plan to implement the Safe Schools Declaration through a process of consultation with civil society organizations. The plan includes measures to raise awareness of the Declaration and the *Guidelines* among security and defence forces, the education sector and non-state armed groups.<sup>257</sup> In Ukraine, civil society organizations supported government efforts to train the armed forces on the *Guidelines*.<sup>258</sup> In 2020, the Central African Republic enacted the Child Protection Code, which criminalizes both attacks on schools and their military use.<sup>259</sup> At the time of writing, Mali was in the process of finalizing draft legislation on the protection of schools and universities during armed conflict.<sup>260</sup>

In 2015, the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA) issued a directive, drawing on the *Guidelines*, that explicitly prohibits the use of schools and universities by parties to a conflict. The directive was also implemented by MINUSCA’s peacekeeping forces. In 2015 and 2016, peacekeepers vacated schools that they were using, and in one instance they declined an offer to use a school for accommodation.<sup>261</sup>

Moreover, in Mali, some non-state armed groups that are signatories to the Algiers Peace and Reconciliation Agreement committed to complying with the principles of the Safe Schools Declaration.<sup>262</sup>

Despite the challenges, such efforts must continue. Additional work is needed to identify context-specific measures for the effective implementation of the *Guidelines* and to facilitate the exchange of best practices among endorsing states. The State-led Implementation Network on the Safe Schools Declaration, established and led by Norway with the support of GCPEA, serves as a key mechanism for technical assistance, mutual support and the peer-to-peer exchange of experiences and best practices.<sup>263</sup>

<sup>255</sup> The Deed of Commitment under Geneva Call for the Protection of Children from the Effects of Armed Conflict.

<sup>256</sup> GCPEA, cited in footnote 251 above, p. 2. For more information regarding the implementation of the Safe Schools Declaration and the *Guidelines* in Nigeria, see GCPEA, *Nigeria: A Case Study on Implementing the Safe Schools Declaration*, GCPEA, New York, 2025.

<sup>257</sup> GCPEA, cited in footnote 251 above, p. 2. See also GCPEA, cited in footnote 42 above, p. 67.

<sup>258</sup> GCPEA, cited in footnote 251 above, p. 2.

<sup>259</sup> *Ibid.*

<sup>260</sup> GCPEA, cited in footnote 42 above, p. 67.

<sup>261</sup> MINUSCA, *MINUSCA Directive on the Protection of Schools and Universities against Military Use*, Inter-Office Memorandum, December 2015. The information regarding the implementation of the directive by MINUSCA peacekeeping forces was provided by GCPEA.

<sup>262</sup> GCPEA, cited in footnote 251 above, p. 3.

<sup>263</sup> See footnote 32 above.



## Good practice recommendations related to Guideline 6<sup>264</sup>

Building on the recommendations in Guideline 6, the following complementary good practice recommendations aim to support the effective implementation of the Safe Schools Declaration and its *Guidelines*, with the objective of enhancing the protection of students, education personnel, schools and universities during armed conflict.

- States should implement UN Security Council Resolution 2601 (2021) on the protection of education during armed conflict, which urges Member States to develop effective measures to prevent and address attacks against educational facilities and, as appropriate, establish domestic legal frameworks ensuring compliance with their international legal obligations.<sup>265</sup>
- States should incorporate the principles of the Safe Schools Declaration and its *Guidelines* into national legislation, policies, training, education plans and humanitarian and other relevant frameworks, as appropriate.
- States should take concrete steps to ensure that education systems are resilient and able to continue functioning during armed conflict. In line with their international legal obligations, parties to a conflict should facilitate the continuity of education during armed conflict, including, where feasible, through temporary learning spaces, distance learning, digital technologies and community engagement.
- States and parties to a conflict should ensure that the implementation of the Safe Schools Declaration and its *Guidelines* is gender-, age- and disability-responsive and inclusive, addressing the distinct needs and intersecting risks faced by students and education personnel based on sex, gender, age, disability or migration status.
- States should, in accordance with their applicable international obligations, recognize education-related violations that constitute international crimes and ensure the accountability of perpetrators, including by criminalizing such violations in national legislation and supporting non-discriminatory access to justice, reparations and psychosocial support for victims and survivors.
- States should strengthen regional and international cooperation, mutual support and the peer-to-peer exchange of good practices on the *Guidelines'* implementation, through intergovernmental platforms and peer learning mechanisms, including the State-led Implementation Network on the Safe Schools Declaration. Coordination with other relevant stakeholders – including civil society, non-governmental and international organizations – is key to achieving effective results.
- Non-state armed groups should commit to refraining from attacks on, and the military use of, schools and universities by issuing unilateral declarations, operational orders or agreements, including by signing and implementing the Deed of Commitment under Geneva Call for the Protection of Children from the Effects of Armed Conflict.

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<sup>264</sup> This list of recommendations is non-exhaustive. Additional recommendations can be found, for example, in UN Security Council Resolution 2601 (2021), UN Doc. S/RES/2601 (2021), 29 October 2021 and in GCPEA, cited in footnote 42 above.

<sup>265</sup> UN Security Council, Resolution 2601 (2021), UN Doc. S/RES/2601 (2021), 29 October 2021, operative paragraph 4, p. 3.







# ANNEX I

## LIST OF PEER REVIEWERS

The ICRC submitted a draft of this Commentary on the *Guidelines for Protecting Schools and Universities from Military Use During Armed Conflict* to a number of peer reviewers selected for their expertise in the subject matter. The purpose of the peer review was to improve the quality and practical usefulness of this document rather than to obtain an endorsement of the legal interpretations contained in the Commentary, which is published under the sole authority of the ICRC. Peer reviewers provided comments in their personal capacity. Their feedback was essential to the drafting process.

The following individuals served as peer reviewers:

### AUSTRALIA

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### CANADA

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### FRANCE

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### **International Federation of Red Cross and Red Crescent Societies:**

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### **Watchlist on Children and Armed Conflict:**

Ms Mathilde Bienvenu, Global Advocacy Advisor

# ANNEX II

## 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.











## MISSION

The International Committee of the Red Cross (ICRC) is an impartial, neutral and independent organization whose exclusively humanitarian mission is to protect the lives and dignity of victims of armed conflict and other situations of violence and to provide them with assistance. The ICRC also endeavours to prevent suffering by promoting and strengthening humanitarian law and universal humanitarian principles. Established in 1863, the ICRC is at the origin of the Geneva Conventions and the International Red Cross and Red Crescent Movement. It directs and coordinates the international activities conducted by the Movement in armed conflicts and other situations of violence.

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