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Developing International Guidelines for Protecting Schools and Universities from Military Use During Armed Conflict

Steven Haines

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* Steven Haines, MA PhD (Aberdeen), LL.M (London), FRSA FNI is Professor of Public International Law in the School of Law and Criminology, University of Greenwich, London, and a Commander, Royal Navy (Retired List). He has worked closely with the Global Coalition to Protect Education from Attack, drafting and advocating the Guidelines that are the subject of this article. He is currently Chair of Save the Children International's Civil-Military Engagement Advisory Board and President/Chair of the UK Group of the International Society for Military Law and the Law of War.

The thoughts and opinions expressed are those of the author and not necessarily those of the U.S. government, the U.S. Department of the Navy, or the U.S. Naval War College.

I. INTRODUCTION

On November 19, 2019, President Volodymyr Zelensky of Ukraine signed a presidential decree authorizing his government to sign the Safe Schools Declaration (SSD).¹ Ukraine's endorsement was formally confirmed by the Minister of Education in Kyiv the following day, the thirtieth anniversary of the signing of the United Nations Convention on the Rights of the Child.² Ukraine was the one-hundredth State to register its support for the SSD.³ Just six months later, on May 29, 2020, in a resolution proposed by Qatar, sponsored by almost fifty other States, and adopted by consensus, the UN General Assembly declared that September 9 would in the future be designated the International Day for the Protection of Education from Attack.⁴ The first of these days was marked on September 9, 2020, and the following day the UN Security Council convened an open debate about attacks on schools as a grave violation of children's rights.⁵ These events are notable indicators of the significant influence the SSD has managed to garner in the relatively brief period since its launch at an all-States diplomatic conference hosted by Norway in Oslo in May 2015.

In less than five years, the SSD has attracted formal individual-State endorsements from over half of all UN member States, including two of the permanent members of the Security Council (France and the United Kingdom).⁶ While not yet universal, this formal support is global in reach and, as the May 2020 General Assembly resolution demonstrates, is certainly

1. *Safe Schools Declaration*, https://protectingeducation.org/wp-content/uploads/documents/documents_safe_schools_declaration-final.pdf (last visited Feb. 24, 2021).

2. Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3 [hereinafter UNCRC].

3. *Safe Schools Declaration Endorsements*, GCPEA, <https://ssd.protectingeducation.org/endorsement/> (last visited Feb. 24, 2021). Norway is the depository State for endorsements of the SSD.

4. G.A. Res. 74/275 (May 29, 2020).

5. For a recording of that debate, see *Children and Armed Conflict: Attacks against Schools as a Grave Violation of Children's Rights - Security Council, 8756th Meeting*, UN Web TV (Sept. 10, 2020), <http://webtv.un.org/search/children-and-armed-conflict-attacks-against-schools-as-a-grave-violation-of-children%E2%80%99s-rights-security-council-8756th-debate.meeting/6189598969001/?term=&lan=English&cat=Meetings%2FEvents&sort=date> [hereinafter Open Debate].

6. In November 2020, Ghana became the 106th State to endorse. See *Safe Schools Declaration Endorsements*, *supra* note 3.

globally influential. By the end of 2020, while most Asian States had yet to indicate their support,⁷ most North Atlantic Treaty Organization (NATO), European Union (EU), Organization for Security and Cooperation in Europe, and African Union States had endorsed the SSD, as had most American States.⁸ Nigeria will host the fourth safe schools conference in 2021, continuing a biennial tradition initiated by Norway in 2015 and firmly established by Argentina in 2017 and Spain in 2019.

Such rapidly achieved general support for an international instrument, while not unprecedented, is certainly notable. It is particularly so because the SSD was drafted at the State level for the purpose of advancing a set of international guidelines that were, for the most part, a civil society initiative. The heart of the SSD is a set of International Guidelines for the Protection of Schools and Universities from Military Use during Armed Conflict;⁹ the SSD's purpose has been to provide the diplomatic vehicle for obtaining international support for them.

Conceived in 2012, developed and published by the summer of 2013, the Guidelines were incorporated in the SSD in early 2015, just in time for the Oslo Safe Schools Conference hosted by the Norwegian government in May 2015.¹⁰ Since then, the SSD has been available for formal endorsement by States, as well as used by armed non-State actors (ANSAs).¹¹ The act of endorsing the SSD has the effect of formally registering support for the Guidelines. State-endorsement obviously indicates “verbal” support, but of much greater significance and importance would be evidence that the Guidelines are being implemented—by both States and ANSAs—and are having a positive effect during current armed conflicts. This seems now to be the case,

7. At the time of writing, only two of the ten Association of South East Asian States members had endorsed the SSD (Malaysia and Viet Nam). *See id.*

8. The notable American exception is the United States. Although it has not formally endorsed the SSD, it has not raised objections to it and the author is not aware of any evidence that U.S. military forces have acted in a manner inconsistent with the SSD.

9. For the text, see Part VII *infra*.

10. For a comprehensive account of the drafting of the SSD and advocacy associated with it, see Article36, *Reflections from the Safe Schools Declaration Process For Future International Political Commitments On Civilian Protection* (2019), <https://article36.org/wp-content/uploads/2019/08/SSD-process-reflections.pdf> [hereinafter *Reflections from the Safe Schools Declaration Process*].

11. States notify the Norwegian Ministry of Foreign Affairs of their endorsement of the SSD and the Guidelines therein; until now ANSAs have also been able to indicate their commitment to comply with the Guidelines through the good offices of Geneva Call, a non-governmental organization.

with evidence of application beginning to emerge, at least in prima facie terms.¹² There is, therefore, a significant story to be told of a successful process involving non-governmental organizations (NGOs) and UN agencies, together with engagement by the foreign ministries and armed forces of over a hundred States.¹³ Since State endorsements have passed into three figures, now seems to be an appropriate time to tell it.

This article recounts the narrative of the development of the Guidelines, between the formation of the Global Coalition to Protect Education from Attack (GCPEA or Global Coalition) and the formal launch of their final text in December 2014; it includes discussion of the legal and policy factors considered in their development. After describing the background, it comments on the strategic importance of education including from a military-strategic perspective. This is followed by an explanation of the relevant provisions of international human rights law (IHRL) and international humanitarian law/law of armed conflict (IHL/LOAC) applying to education in armed conflict. It then explains what is meant by “military use” and why this became the focus of a concerted campaign mounted by civil society organizations and UN agencies. Next, it describes how the Guidelines were developed between May 2012 and July 2013 and the methodology behind their preparation. We include the Guidelines’ text, briefly describe the SSD’s progress, and deal with implementation and monitoring before describing their impact and drawing some conclusions.

It is important to mention that the author was responsible for drafting the Guidelines and remains actively engaged with their advocacy. Therefore, the article is a personal account of the thinking behind the Guidelines and

12. For an update on the practical impact of the SSD, see Global Coalition to Protect Education from Attack, *Fact Sheet: Practical Impact of the Safe Schools Declaration* 3 (2019), http://protectingeducation.org/wp-content/uploads/documents/documents_ssd_fact_sheet_october_2019.pdf [hereinafter *Fact Sheet: Practical Impact of the Safe Schools Declaration*]; see also Bede Sheppard, *Keeping Schools Safe from the Battlefield: Why Global Legal and Policy Efforts to Deter the Military Use of Schools Matter*, 101 INTERNATIONAL REVIEW OF THE RED CROSS 665, 680–83 (2019).

13. ANSAs, while not directly engaged in the process, have been “represented” by the active involvement of Geneva Call.

their development, and by no means an entirely objective critique;¹⁴ that will be for others to provide.¹⁵

II. BACKGROUND

The story of the Guidelines can be traced back to 2003 and 2005. Zama Neff, of the Children's Rights Division of Human Rights Watch (HRW), paid two visits to Afghanistan during which she became seriously concerned about attacks on schools and the reasons behind them. HRW published her reports on the visits in 2006.¹⁶ Data she had gathered informed the first edition of *Education Under Attack*,¹⁷ a report on the vulnerability of education compiled and published in 2007 by the UN Educational, Scientific and Cultural Organization (UNESCO). Two years later, in 2009, Neff's HRW colleague Bede Sheppard visited areas affected by the Maoist conflict in India and, in 2010, visited the area of the separatist conflict in southern Thailand, observing the effects of military forces using schools in both countries.¹⁸ He realized that this rendered schools especially vulnerable to attack from opposing military forces, placing children and teachers at serious risk as a consequence. Even if children and staff were not present when attacks were mounted, school buildings themselves would be at risk of damage or destruction, despite ordinarily qualifying as civilian objects immune from attack. If military forces were present within them, thereby compromising their civilian status, attacks on schools would not necessarily be unlawful under

14. The author invited and received comment on an advanced draft of the article from the following colleagues with whom he worked closely on the Guidelines project: Ms. Courtney Erwin (formerly with Education Above All); Mr. Bede Sheppard (Deputy Head, Children's Rights Division, Human Rights Watch); Ms. Veronique Aubert (Save the Children, (UK)); and Ms. Zama Neff (Head, Children's Rights Division, Human Rights Watch). The usual caveat applies, of course: their comments have much improved the quality of the article and any remaining errors, omissions, and opinions expressed remain entirely the author's responsibility.

15. The Guidelines have been subject to academic comment previously. See Ashley Ferrelli, *Military Use of Educational Facilities during Armed Conflict: An Evaluation of the Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict as an Effective Solution*, 44 GEORGIA JOURNAL OF INTERNATIONAL AND COMPARATIVE LAW 339 (2016).

16. See Human Rights Watch, *Lessons in Terror: Attacks on Education in Afghanistan* (2006), <https://www.hrw.org/reports/2006/afghanistan0706/afghanistan0706brochure.pdf>.

17. MARK RICHMOND, EDUCATION UNDER ATTACK 2007 (2007).

18. See JO BECKER, CAMPAIGNING FOR CHILDREN: STRATEGIES FOR ADVANCING CHILDREN'S RIGHTS 152–53, 156–57 (2017).

IHL/LOAC. Of course, any damage to schools would seriously undermine the ability of States to deliver education, but the destruction of schools would completely deprive children of their right to education. Sheppard's logical conclusion was that a reduction in the military use of schools could have the positive effect of enhancing their protection in general.

Continuing research by Neff and Sheppard fed into the second edition of *Education Under Attack*,¹⁹ published by UNESCO in 2010. Before that report's publication, UNESCO, with financial backing from Qatar and the Doha-based foundation, Education Above All, had convened an expert workshop in Paris between September 28 and October 1, 2009, to discuss the vulnerability of schools in conflict zones and what action might be taken to enhance their security. Both Neff and Sheppard presented at the Paris workshop, as did U.S. Navy Commander Gregory Bart, whose paper reviewed the legal framework for the protection of educational facilities. This prompted some consideration of how legal protections could be enhanced, with Education Above All seeing this as having scope for development.²⁰ Following the Paris workshop, a particularly significant development was the proposal, strongly supported by UNESCO, to form an international coalition to work towards the protection of schools and universities during armed conflict. The result was GCPEA. The evidence of the effects of military use of educational facilities was influential in shaping the Global Coalition's mission once it was established in 2010. Reducing the military use of schools became one of its major objectives. It has been campaigning for this ever since.

The participation of UN agencies has, from the outset, been crucial to giving GCPEA's work a measure of international legitimacy. Of these agencies, the United Nations Children's Fund (UNICEF) has been the most prominent within the Global Coalition, being extremely active in advocacy. Otherwise, GCPEA's work has been driven by the civil society organizations

19. BRENDAN O'MALLEY, *EDUCATION UNDER ATTACK 2010* (2010).

20. For the proceedings of the Paris workshop, see *PROTECTING EDUCATION FROM ATTACK: A STATE-OF-THE-ART REVIEW* (UNESCO ed., 2010), <https://unesdoc.unesco.org/ark:/48223/pf0000186732>. In particular, see Zama Coursen-Neff, *Attacks on Education: Monitoring and Reporting for Prevention, Early Warning Rapid Response and Accountability*, *id.* at 111; Bede Sheppard, *Painful and Inconvenient: Accountability for Attacks on Education*, *id.* at 125; Gregory Raymond Bart, *Ambiguous Protection of Schools under the Law of War: Time for Parity with Hospitals and Religious Buildings*, *id.* at 195.

involved.²¹ A key NGO at the outset was the Qatar-based Education Above All, strongly supported by Sheikha Moza bint Nasser, the consort of the then-Emir of Qatar and UNESCO's Special Envoy for Basic and Higher Education.²² The most notable and actively involved NGOs throughout GCPEA's existence have been Education Above All (which was not only instrumental in initiating the process but also provided the bulk of the funding for GCPEA), together with HRW and Save the Children. The Global Coalition has been chaired jointly by Zama Neff from HRW and Veronique Aubert of Save the Children (UK). Its headquarters are in New York, but a significant amount of advocacy work is run out of Save the Children International's office in Geneva (with access to the UN human rights bodies and to State missions to the United Nations) and Save the Children (UK)'s London office.

Since 2010, GCPEA's purpose has been to take the lead in the coordination of data collection and reporting and raise global awareness of the situation and pursue ways of protecting education in zones of armed conflict. The Coalition's first task was to build on the previous UNESCO studies, inheriting responsibility for producing subsequent *Education Under Attack* reports. Extensive data gathering proceeded between 2010 and 2012, and GCPEA's first report was published in 2014.²³

In the years under scrutiny, attacks on education had occurred in at least seventy States worldwide. The 2014 GCPEA report profiled thirty of those States in which the most serious incidents occurred, including direct attacks

21. Since its establishment in 2010, GCPEA has been governed by a steering committee that has included UNICEF; UNESCO; the UN High Commissioner for Refugees; the Council for At-Risk Academics (CARA), which has since withdrawn; HRW; the Institute of International Education Scholar Rescue Fund; Plan International; Protect Education in Insecurity and Conflict (PEIC), a program of the Qatar-based Education Above All Foundation; and Save the Children. See *Who We Are*, GCPEA, <https://protectingeducation.org/about-us/who-we-are/> (last visited Feb. 24, 2021).

22. Sheikha Moza is especially associated with the provision of education and social reform, both in Qatar and internationally. This led to her being awarded the Chatham House Prize by the London-based Royal Institute of International Affairs in 2007. The Education Above All Foundation was her initiative and received significant funding from the government of Qatar. Her role within UNESCO was especially influential in relation to the founding of GCPEA and the initiation of the guidelines project.

23. GLOBAL COALITION TO PROTECT EDUCATION FROM ATTACK, *EDUCATION UNDER ATTACK 2014* (2014), https://protectingeducation.org/wp-content/uploads/documents/documents_eua_2014_full_0.pdf.

on schools or the killing of students, teachers, or academics. To quote from the report:

Many attacks involve bombing or burning of schools or universities, or killing, injuring or kidnapping, or illegally arresting, detaining or torturing students, teachers and academics. Hundreds have died as a result and hundreds of thousands more have missed out on the right to education. In many places, children and young people, and those who teach them, live in fear of attacks.²⁴

As the data were being gathered and analyzed, GCPEA's members had to identify what the NGOs could do to contribute to mitigating the worst effects of conflict on education. Publicizing the problem was all well and good and achieved one of the Global Coalition's stated goals, but the ultimate aim had to be to make a positive difference "on the ground" in zones of conflict. This would most certainly involve enhancing compliance with existing law and strengthening norms and standards, as well as ensuring accountability and countering impunity when the law is breached.²⁵ This was unlikely to be easily achieved.

In extreme circumstances, schools have been badly damaged or destroyed as a deliberate policy, with staff and pupils injured or killed in the process. As HRW has noted:

Both armed non-state groups and national military and security forces are attacking education to advance their own interests, the Global Coalition said. They may be retaliating against a community's perceived support for the opposition; seeking to demonstrate a lack of government control by harming schools and teachers, symbols of the state; . . . or opposing the spread of ideas deemed to be objectionable, such as the education of girls.

Often, sectarian violence is fought out in the schoolyard. In March 2013, a mob of 200 Buddhist nationalists torched a Muslim school in Meiktila, Myanmar, clubbing students, setting them on fire, and decapitating one. In total, 32 students and four teachers were killed.²⁶

24. *Id.* at 8.

25. GLOBAL COALITION TO PROTECT EDUCATION FROM ATTACK, EDUCATION UNDER ATTACK 2020, at 75–79 (2020).

26. *Attacking Education a War Tactic Globally, Study Shows*, HUMAN RIGHTS WATCH (Feb. 27, 2014), <https://www.hrw.org/news/2014/02/27/attacking-education-war-tactic-globally-study-shows>.

Unfortunately, there are many examples of both State authorities and ANSAs driven by extreme ideologies and political, sectarian, or religious views, deliberately targeting education facilities, students, and teachers, the Taliban in Afghanistan and Boko Haram in Nigeria being infamous examples. Realistically, verbal advocacy efforts by civil society organizations to persuade such groups to abandon the very core of their beliefs and motives and significantly change their behavior are unlikely to prove productive. In fact, that is an understatement. In dealing with such cases, the focus almost certainly needs to include the physical and forceful prevention of such activities and the bringing to justice of the perpetrators of violence towards education. While GCPEA may, in principle, support that approach, there was and remains little it could do directly to effect a solution. That would frequently require direct action by military forces or law enforcement agencies (preferably UN mandated) applying potentially lethal force against those posing a severe threat to education.

Nevertheless, in many conflict circumstances, damage caused to schools and universities by military forces will have been the unintended and “inadvertent” collateral effect of otherwise “legitimate” attacks on military objectives. This suggests that, while there is unlikely to be a perfect solution to the problem, there may be scope for optimism in at least some conflict circumstances. A degree of pragmatism seems appropriate, therefore. The Global Coalition concluded that there was some potential to encourage parties to conflicts—both States and ANSAs—which were not intent on deliberately targeting education to act in ways that would improve its protection.

It is by no means naïve to assume that those engaged in armed conflict are, in many cases, seeking to achieve an objective that will be both politically beneficial for them and generally regarded as legitimate. Although breaches of IHL/LOAC occur far too frequently, many parties to armed conflicts will want to be seen as complying with normative limits on the application of force as, indeed, will individual fighters, many of whom will not wish to act dishonorably. This will be the case for both States and ANSAs, with the latter often having a particular interest in achieving a measure of legitimacy and a reputation for responsible action.²⁷ With this in mind, GCPEA needed

27. The Swiss-based Geneva Call was formed to interact with ANSAs for the purpose of ensuring compliance with IHL/LOAC. It regularly conducts training for ANSA personnel, both in Geneva and in the field (something to which the author has contributed, including training on the application of the Guidelines). Those groups that have engaged with it stress their desire to be seen to be acting lawfully. They are invited to sign deeds of

to consider what it might realistically do to influence both States and ANSAs to modify their behavior in armed conflict and, by so doing, improve the protection of schools.

Important research was carried out by Bede Sheppard for HRW, covering not only his country visits (including those to India and Thailand) but also a wide-ranging study into what policies States had already adopted on military use. While most had no specific policy, a sufficient number did, demonstrating that such policies were a realistic prospect.²⁸ The analysis of the data gathered by UNESCO and GCPEA had already revealed that one important cause of attacks on education that might be reduced through a measure of international diplomacy and persuasion was military use of educational facilities.

The close proximity of military forces to these facilities, or their actual presence within school and university buildings, including their deliberate use of them for military purposes, has the effect of transforming them into legitimate military objectives and depriving them of their protected civilian status. The result may not be limited to the damaging or destruction of the buildings but might also lead to the collateral killing or serious injury of civilians, including children present at the time of the attack.

What had been revealed as the dire potential consequences attached to the presence of military forces in schools led to serious consideration being given within the civil society community to a campaign to achieve a total ban on military forces approaching schools or using them for any military purpose at any time. While existing IHL/LOAC does not impose such a ban, perhaps it should. There were certainly voices within civil society organizations that favored such an approach and who regarded it as a realistic prospect given, in particular, previous campaigns inspired by civil society such as those to ban anti-personnel landmines and cluster munitions.²⁹ Imposing

commitment to comply with legal standards—and are keen to be seen to do so, attending formal public signing ceremonies hosted by the City of Geneva.

28. Sheppard's work on this has been extremely important in pointing out what is possible and what constitutes good practice for States to consider. This has been a persuasive element of the advocacy process. This research has informed many of the publications produced in support of the SSD/Guidelines process. His latest published effort on this subject is BEDE SHEPPARD, *PROTECTING SCHOOLS FROM MILITARY USE: LAW, POLICY AND MILITARY DOCTRINE* (2019).

29. These campaigns led to the 1997 Ottawa Convention and to the 2008 Oslo Convention, the latter having entered into force in 2010. *See* Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their

a legal ban would require new law, of course, and that would involve States negotiating a new conventional agreement.

In late 2011 and early 2012, the author was engaged in discussions with Courtney Erwin of Education Above All and Bede Sheppard of HRW (co-chairs of the GCPEA Military Use Task Force). One theme of those discussions was the feasibility of negotiating and drafting new international law conventions, something they had already discussed with the staff of the International Committee of the Red Cross (ICRC). The author cautioned against the conventional law route and suggested the development of “soft law” as an alternative approach, a position that Erwin and Sheppard had, in fact, already come to favor. That came to be the eventual way forward. Guidelines would be drafted for the guidance of States and ANSAs, which, if applied, would have the potential to reduce the extent and intensity of military presence in and around schools and other educational establishments. The Global Coalition adopted this approach and, in early 2012, launched the project to produce what eventually emerged as the Guidelines at the heart of the SSD.

The first substantial step was to be an initial “brainstorming” meeting held over two days in May 2012, at the Geneva Academy of International Humanitarian Law and Human Rights (Geneva Academy). Following a discussion of why education is important from a military-strategic perspective, what relevant law applies to it during armed conflict, and what constitutes “military use,” that meeting is discussed further below.

III. THE STRATEGIC IMPORTANCE OF EDUCATION

There is a fundamental point to make about the military-strategic importance of education that explains its significance in a military doctrinal sense. The author was conscious from the beginning of his involvement with GCPEA that, given his military background and experience, as well as academic focus (a combination deliberately sought by Erwin and Sheppard), he had a potentially vital role to play that ought to prove useful and influential during discussions with military professionals. He brought with him experience in developing military-strategic doctrine within the British Armed Forces, including within their doctrinal “thinktank.” He had also experienced military

Destruction, Sept. 17, 1997, 2056 U.N.T.S. 211; Convention on Cluster Munitions, May 30, 2008, 2688 U.N.T.S. 39.

operations in areas of conflict.³⁰ If the guidelines were to be successful, they would need to be regarded sympathetically by those who would implement them “on the ground” during actual armed conflicts. The Global Coalition was convinced that an experienced military professional’s involvement in the drafting process would be invaluable in producing a document that made sense to those who would have to use it. The military angle was vital, and, accordingly, no apology is offered for what may appear to be a digression.

The years since the early 1990s have witnessed a noticeable increase in the number of conflicts, particularly those within States, with substantial evidence of atrocities against civilian populations and infrastructure. In that time, international public opinion has clearly been affected by the humanitarian consequences of war. Civil society organizations have been motivated to focus an increasing amount of attention on the disastrous consequences of the international community’s clear inability to take effective action in response.

The 1990s were dominated by the violent disintegration of Yugoslavia and the genocide in Rwanda. During the decade following, attention focused on the so-called “war on terror” following the September 11, 2001, attacks on New York and Washington, with major military interventions into Afghanistan and Iraq. The decade just ended seemed to have been dominated by Syria and Yemen. While these notable conflicts may have had particularly high media profiles in relation to the decades they seemed to dominate, they have been merely the “tip of the iceberg,” with numerous other armed conflicts experienced, all having devastating consequences for the societies they have affected. In 2018 alone, according to the *War Report* produced by the Geneva Academy,³¹ there were sixty-nine armed conflicts on the territories of thirty States, many hardly reported in the mainstream press and broadcast media.³² It came as no surprise that this Geneva Academy report reflected the UNESCO and GCPEA reports discussed above.

The effects of armed conflict on civilian infrastructure can be catastrophic and long term. This is certainly the case in relation to the functioning of schools, universities, and other educational establishments. Education is one of the vital ingredients for recovery from the effects of conflict. Failed

30. He had served for over four years in Northern Ireland between 1979 and 1982 but, more pertinently, had deployed, albeit briefly, into the Balkans and Sierra Leone, witnessing the military use of education facilities in both theaters.

31. A joint center of the University of Geneva and the Graduate Institute of International and Development Studies.

32. See ANNYSSA BELLAL, *THE WAR REPORT: ARMED CONFLICTS IN 2018*, at 19 (2019).

States and those affected by the devastating impact of prolonged periods of conflict desperately need educated and trained professionals during post-conflict reconstruction. Without the people capable of responding to crises in all sectors, the challenges of recovery can be insurmountable. In any State or society affected by conflict, education is at risk, as the UNESCO and GCPEA reports bear out. Those reports contain a mass of evidence that is not necessary to repeat in this article.

The Fourth UN Sustainable Development Goal makes it clear that education is fundamental to all sectors necessary for a fully functioning, well-governed society.³³ It is the bedrock upon which all essential services and governance functions are constructed for the simple reason that they require well educated and appropriately trained people. A society emerging from a period of conflict when those services have been disrupted and following which sound governance has to be restored is wholly reliant on an educated population. If war rages for years, disrupting education in the process, post-conflict reconstruction will be difficult, if not impossible, to achieve. All sectors require educated people to function.

This is not the place to provide a comprehensive account of the importance of education. It is, however, worth reflecting briefly on the impact of armed conflict on one of the sectors that is fundamental for human security and the stability of society. This is a sector that is unfortunately very much in the news as this article is being written. Provision of adequate health services is a vital ingredient of a fully functioning State, and this requires, above all, well-educated and trained medical professionals. A focus on one region will demonstrate the potential health consequences if education is severely disrupted during conflict.

During the 1990s and into the new century, States in West Africa, such as Liberia, Cote d'Ivoire, and Sierra Leone, were profoundly affected by conflict.³⁴ The affected States were ravaged by civil wars (non-international armed conflict (NIAC)) characterized by significant cross-border incursions from neighboring States. The United Nations, the Economic Community of

33. See *Sustainable Development Goals*, UNITED NATIONS, <https://www.un.org/sustainabledevelopment/education/> (last visited Feb. 24, 2021).

34. This is not the place to give a blow-by-blow account of the various armed conflicts in that region during those years, the various groups that fought in them, or the attempts by those who intervened seeking to bring the hostilities to an end; this would require a lengthy description and detract from the main purpose of this article.

West African States, and the United Kingdom mounted interventions in attempts to halt the violence.³⁵

It is estimated that over a quarter of a million people were killed and over a million displaced in Liberia alone. Many took refuge in neighboring States, but a significant proportion was internally displaced, with whole towns abandoned. Serious abuses of IHRL and grave breaches of IHL/LOAC were committed during the conflicts, including the widespread use of child soldiers by various warring factions.

Importantly, in the context of this article, it was estimated that over 90 percent of schools in Liberia were affected by the conflict. Over ten years after the end of these West African wars, in early 2014, the author visited the region with Veronique Aubert of Save the Children (UK) and co-chair of GCPEA. Our visit included discussions with government ministers, parliamentarians, human rights activists, educationalists, and military officers in Liberia and Cote d'Ivoire. It also included visits to educational establishments, including a school and the university in the Liberian capital, Monrovia. Despite the years that had passed since the civil war ended in 2003, neither the school nor the university was fully functional. There was broken furniture in schoolrooms, libraries were virtually empty of books, and science laboratories were devoid of the equipment necessary to support vital science education. The civil wars had ended, but the physical effects of those wars were still very much in evidence.

By coincidence, as they were visiting the region, a number of States, including Liberia, were beginning to suffer from outbreaks of Ebola. The World Health Organization described the Ebola epidemic in West Africa between 2014-16 as the "largest, most severe and most complex Ebola

35. The author, while still a serving officer in the UK's Armed Forces, deployed into Sierra Leone as part of the UK's Joint Task Force headquarters in the summer of 2001. Of particular relevance to his subsequent work with GCPEA, he witnessed conflict devastation first-hand, including in abandoned areas of the country that were still at that time under the control of the anti-government Revolutionary United Front (RUF). During a visit hosted by the United Nations Mission in Sierra Leone (UNAMSIL) to Koidu, in the diamond mining area in the east of the country, he was taken to a previously abandoned school being used as a reception area for the disarming and reintegration of former RUF child soldiers. As a part of the process of reintegration into society, the children were put into classes and taught basic subjects by soldiers from UNAMSIL. This particular abandoned school was being put to what he regarded as very good use by military forces on a humanitarian mission. This certainly influenced his position that not all military uses of schools are necessarily undesirable.

epidemic” in history.³⁶ It recorded a total of 28,616 cases, with over a third of them (11,310) proving fatal before the international community managed to contain the disease through an effective public health intervention.³⁷ The bulk of Ebola cases occurred in Liberia and its neighbors, Sierra Leone and Guinea.

Without properly functioning health infrastructure and effective early-warning systems in the region, the disease spread rapidly, and local health professionals were overwhelmed by the scale of the task facing them, revealing the failures of disjointed and under-resourced healthcare systems. An important contributory factor was a dire shortage of trained medical professionals. One of the reasons for this was Liberia’s inability through both the years of conflict and subsequently, to provide adequate facilities for the education, training, and development of sufficient medical personnel to deal with even the routine demands of a society located in a challenging environment. The problem was rendered even more acute by the emigration of educated professionals, both during the civil war and after. Ebola was an emergency that was not detected early enough due to the lack of sufficient medical providers throughout the country. Dealing with the problem once it had materialized overwhelmed Liberia’s medical staff. Containing the epidemic required substantial international intervention.

Liberia simply had no prospect of coping on its own—but it was not the worst affected State in the region. That was Sierra Leone, ravaged by years of civil war that ended in 2002 and, over a decade later, still a broken country with extremely weak infrastructure struggling to achieve some measure of post-conflict reconstruction. The World Health Organization reported 14,124 Ebola cases in Sierra Leone, 3,955 of which proved fatal.³⁸ Liberia and Sierra Leone not only had Ebola in common; their wars had been linked in the complex series of violent struggles fought across national boundaries that had destroyed the social and administrative infrastructure of the region.

Significantly, the lack of sufficient trained medical personnel in that region of West Africa meant that the health campaign against Ebola required substantial foreign intervention, with medical teams deployed from around the world. Other States supported that intervention for a combination of altruism and humanitarian necessity on the one hand and self-interest in preventing the spread of a dangerous disease to their own regions on the other.

36. *Fact Sheet: Ebola Virus Disease*, WORLD HEALTH ORGANIZATION (Feb. 10, 2020), <https://www.who.int/news-room/fact-sheets/detail/ebola-virus-disease>.

37. *Id.*

38. *Id.*

As a result, Ebola was successfully contained and did not develop into a global pandemic.

By unfortunate coincidence, this article is being written at the height of the COVID-19 pandemic, which is close to exhausting all States' medical resources, even those of the most developed States. It goes without saying that those States currently experiencing armed conflict, such as Syria and Yemen, or which have yet to recover fully from past conflicts, are extremely vulnerable to a global pandemic—which is also, of course, severely limiting the potential for foreign medical intervention.

Liberia and Sierra Leone's recent past experiences provide compelling evidence that a well-developed functioning system of education capable of serving a country's needs is an essential element of a sound, stable, and well-run society. The existence, or the re-establishing, of a sound educational system must be an essential ingredient of post-conflict reconstruction. Education will represent an essential consideration when States are contemplating financial aid to conflict-affected societies, sound education being a precondition for the successful implementation over time of viable aid programs. For this reason, education must be regarded as a significant military concern at both the strategic and tactical levels.

The legitimate use of military force is based on various criteria, including the need for what Just War theorists refer to as "right intent."³⁹ Responsible military forces intervening for humanitarian purposes clearly need to consider the ultimate aims of their presence in regions of conflict. They must include the reestablishment of sound governance within the societies and territories badly affected by conflict, and this is only possible in a well-educated society. Legitimate military campaigns today consist of various phases, from planning and preparation through deployment and intervention into the region affected, followed by a probable combat phase and, vitally, the reestablishment of a functioning society after the conflict is concluded. Armed force is an instrument of policy, and a successful and legitimate military campaign has to lead to some measure of post-conflict settlement and

39. "Right intent" is one of several criteria, the establishment of which contributes to the categorization of a war as "just" in the Just War tradition. It is not to be confused with "just cause," another separate criterion. See the explanations in, for example, ALEX J. BEL-LAMY, *JUST WARS: FROM CICERO TO IRAQ* 122–23, 211–12 (2006); CHARLES GUTHRIE & MICHAEL QUINLAN, *JUST WAR: THE JUST WAR TRADITION: ETHICS IN MODERN WARFARE* 24–26 (2007); 2 Steven Haines, *Genocide, Humanitarian Intervention and International Law*, in HUDSON PAPERS 53 (M. Mason ed., 2004).

recovery. The strategic objective will not be achieved by mere military victory over those forces engaged in the conflict. Post-conflict reconstruction will be a vital element of a sound military-strategic objective.⁴⁰

Contemporary military doctrine should, therefore, require military action during all phases of a campaign to be consistent with the military-strategic objective. The need for tactical action to be consistent with the strategic objective is a foundational rationale for the systems of rules of engagement (ROE) widely utilized by many armed forces today.⁴¹ If the strategic objective is to establish or maintain a sound and well-ordered society post-conflict—as it should be—then it is vitally important that nothing done for tactical convenience should risk undermining the strategic purpose of a military campaign. Tactical military action that adversely affects civil education will invariably fail to meet that test, even if it is not manifestly unlawful. Given that one important reason for the vulnerability of education to attack is the close proximity of military forces to schools and universities—or indeed, their use for military purpose—military commanders at all levels should exercise great caution when deploying military personnel anywhere near educational establishments and be even more circumspect if they are considering using them for military purposes.

It is vitally important to regard such caution as entirely consistent with the strategic aim of a sound and responsible military campaign. The desirable campaign end-state should be a properly functioning society. Educational provision is an important part of that and damaging schools during the combat phase would clearly work against it. The author has stressed this point whenever he has discussed the Guidelines with naturally skeptical military audiences. They are skeptical because they are wary of any new constraints on tactical action, especially constraints that seem to be stricter than the law demands. Once it is pointed out, however, that damage to schools can undermine their ultimate strategic purpose but that their use of them is

40. For more detail on the author's argument, see Steven Haines, *The United Kingdom and Legitimate Military Objectives: Current Practice . . . and Future Trends?*, in INTERNATIONAL LAW FACING NEW CHALLENGES: SYMPOSIUM IN HONOUR OF KNUT IPSEN 127, 135–41 (Wolff Heintschel von Heinegg & Volker Epping eds., 2007).

41. For information on rules of engagement, see DENNIS MANDSAGER, ALAN COLE, PHILLIP DREW & ROB MCLOUGHLIN, RULES OF ENGAGEMENT HANDBOOK (2009) [hereinafter RULES OF ENGAGEMENT HANDBOOK]. For another further “open” source of advice on ROE, see CENTER FOR LAW AND MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S LEGAL CENTER AND SCHOOL, RULES OF ENGAGEMENT (ROE) HANDBOOK FOR JUDGE ADVOCATES (2000) [hereinafter ROE FOR JUDGE ADVOCATES].

permitted in exceptional circumstances (that pragmatically that option remains available to them), they regard the Guidelines very much more favorably. This was the author's experience when discussing the Guidelines with military personnel in a wide range of circumstances—at NATO Headquarters, in ministries of defense, in military headquarters in West Africa, and, importantly, with members of armed non-State groups. Once these factors were explained, military professionals frequently became enthusiastic advocates of the thinking behind the Guidelines.

IV. INTERNATIONAL LAW AND EDUCATION IN ARMED CONFLICT

From an international legal perspective, the provision and protection of education is invariably underpinned by IHRL, which applies at all times, in both peace and war. In contrast, IHL/LOAC applies only in the context of armed conflict; it is widely (though not universally) regarded as the *lex specialis* once armed conflict has broken out. The relationship between these two bodies of law has been the subject of substantial academic legal analysis and debate, especially since the 1990s.⁴² This article is not concerned with that debate, however. We merely acknowledge it and move on. It is appropriate, though, to consider briefly what each of these distinct bodies of law (IHRL and IHL/LOAC) says about education, the rights to it, and its protection during armed conflict.⁴³

A. International Human Rights Law

Article 26 of the Universal Declaration of Human Rights declares, in its opening sentence, that: "Everyone has the right to education."⁴⁴ The Declaration itself is not legally binding, but it has been the foundation upon which

42. For a collection of essays on the relationship, see INTERNATIONAL HUMANITARIAN LAW AND HUMAN RIGHTS LAW: TOWARDS A NEW MERGER IN INTERNATIONAL LAW (Roberta Arnold & Noelle Quénivet eds., 2008).

43. Shortly after the formation of GCPEA, Education Above All (part of the Global Coalition) commissioned a legal handbook, prepared by the British Institute of International and Comparative Law between 2010 and 2012 that was published in 2012. This has since been updated and recently re-published. See KRISTEN HAUSLER, NICOLE URBAN, ROBERT MCCORQUODALE & SIOBHAN SMITH, PROTECTING EDUCATION IN INSECURITY AND ARMED CONFLICT: AN INTERNATIONAL LAW HANDBOOK (2d ed. 2020).

44. G.A. Res. 217 (III) A, Universal Declaration of Human Rights art. 28(1) (Dec. 10, 1948), https://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf.

numerous IHRL instruments have been built in the decades since 1948. These instruments include the International Covenant on Economic, Social and Cultural Rights (ICESCR)⁴⁵ and the UN Convention on the Rights of the Child,⁴⁶ as well as various regional IHRL treaties, including the African Charter of Human and Peoples' Rights (Banjul Charter),⁴⁷ the Additional Protocol to the American Convention on Human Rights (San Salvador Protocol),⁴⁸ and the First Protocol to the European Convention on Human Rights.⁴⁹ The right to education is well established in these instruments of conventional law and is now generally established in custom.

Education is empowering of those individuals who are able to benefit from it. It can also be regarded as a “multiplier” in that it enables a host of other human rights to achieve meaningful substance. To quote from two leading academics, “the right to education, as well as having intrinsic value, has great instrumental significance in relation to the enjoyment of other human rights.”⁵⁰ The denial of the right to education not only seriously undermines the potential of individuals but also has a profound collective or societal consequence. As has been argued above, societies deprived of education will have limited potential for recovery from conflict.

While there is a clear right to education, it does not apply fully across all levels. Under ICESCR Article 13, only the provision of primary education is compulsory. Secondary and higher levels of education are differentiated,

45. International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, 993 U.N.T.S. 3 (entered into force Jan. 3, 1976) [hereinafter ICESCR].

46. See UNCRC, *supra* note 2. It opened for signature on November 20, 1989, and entered into force on September 2, 1990. All UN member States are party, with the exception of the United States.

47. African Charter of Human and Peoples' Rights, June 26, 1981, 21 INTERNATIONAL LEGAL MATERIALS 59 (1982) (entered into force Oct. 21, 1986), https://au.int/sites/default/files/treaties/36390-treaty-0011_-_african_charter_on_human_and_peoples_rights_e.pdf.

48. Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, Nov. 17, 1988, O.A.S.T.S. No. 69, 28 INTERNATIONAL LEGAL MATERIALS 1621 (1989) (entered into force November 16, 1999), <https://www.oas.org/juridico/english/treaties/a-52.html>.

49. First Protocol to the European Convention on Human Rights, Mar. 20, 1952, 213 U.N.T.S. 262 (entered into force on May 18, 1954), <https://www.coe.int/en/web/echr-toolkit/protocole-1>.

50. SUSAN MARKS & ANDREW CLAPHAM, INTERNATIONAL HUMAN RIGHTS LEXICON 136 (2005) (commenting on the “multiplier” effect articulated in KATERINA TOMAŠEVSKI, EDUCATION DENIED 1(2003)).

both from primary education and between each level. Secondary education “shall be made generally available and accessible to all by every appropriate means,” while higher education “shall be made equally accessible to all, on the basis of capacity.”⁵¹ In an ideal situation, all children of primary and secondary school age⁵² would be benefiting from free education, while adults (and some older children) would have the opportunity to pursue higher (university) education if they met the necessary criteria for access, based on capacity and potential ability (typically assessed/measured by qualifications obtained during secondary schooling). While this is not the place for a discussion of the finer points of educational policy, it is pertinent to state that ideally all children should attend school. At the same time, suitably qualified adults should have access to universities and colleges for further education.

States bear a responsibility to respect human rights, to protect them, to fulfil them, and to promote them. They are under an IHRL obligation to ensure education is available for those who have a right to it. There is an obvious obligation to provide and protect education, but there is also an obligation not to deprive individuals of educational opportunities. Thus, IHRL obligations in relation to education rest on all parties during an armed conflict; there is an obligation to provide and protect it, on the one hand, and an obligation not to disrupt it on the other. Such is the education-related IHRL backdrop to the application of IHL/LOAC.

B. *International Humanitarian Law/Law of Armed Conflict*

The relevant part of IHL/LOAC concerning the protection of education in armed conflict is that dealing with the conduct of hostilities, more specifically, the law of targeting. The recognized and relevant sources of

51. ICESCR, *supra* note 45, art. 13(2).

52. See UNCRC, *supra* note 2, art. 1 (“For the purposes of the present Convention, a child means every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier.”).

IHL/LOAC include conventional law from 1907,⁵³ 1949,⁵⁴ and 1977,⁵⁵ and customary law, most recently assessed by the ICRC in 2005.⁵⁶ While the identification of what is and what is not a lawful target can appear to be a simple process (e.g., soldiers as distinct from civilians and military vehicles as distinct from public transport), the law is not entirely straightforward, especially when its complexity is compounded by the need to take into account the international or non-international character of the armed conflict in which it is to be applied. A full description of it is certainly not possible in the few paragraphs available here.⁵⁷ Fortunately, that is not necessary, and the discussion can be relatively brief.

The potential complexity of the law was an issue of slight concern when the Guidelines were being drafted. In the initial stages of the project,⁵⁸ it had been determined that they should be short and easily understood. It was also seen as important that they should be generic for application in both international armed conflicts (IACs) and NIACs, and regardless of the identity of the parties to the conflict (States and/or ANSAs). This prompted a number of questions. Should the Guidelines reflect the 1949 Geneva Conventions (including Common Article 3 in relation to NIAC⁵⁹) or the two 1977 Additional Protocols to the Geneva Conventions? The majority of armed

53. Convention No. IV Respecting the Laws and Customs of War on Land, Oct. 18, 1907, 36 Stat. 2227, T.S. No. 539.

54. Convention (I) for the Amelioration of the Condition of the Wounded and Sick in the Armed Forces in the Field, Aug. 12, 1949, 6 U.S.T. 3114, 75 U.N.T.S. 31; Convention (II) for the Amelioration of the Condition of the Wounded, Sick, and Shipwrecked Members of Armed Forces at Sea, Aug. 12, 1949, 6 U.S.T. 3217, 75 U.N.T.S. 85; Convention (III) Relative to the Treatment of Prisoners of War, Aug. 12, 1949, 6 U.S.T. 3316, 75 U.N.T.S. 135; Convention (IV) Relative to the Protection of Civilian Persons in Time of War, Aug. 12, 1949, 6 U.S.T. 3516, 75 U.N.T.S. 287 [hereinafter GCIV].

55. Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts, June 8, 1977, 1125 U.N.T.S. 3 [hereinafter AP I]; Protocol Additional to the Geneva Conventions of August 12, 1949, and Relating to the Protection of Victims of Non-international Armed Conflicts, June 8, 1977, 1125 U.N.T.S. 609 [hereinafter AP II].

56. 1 CUSTOMARY INTERNATIONAL HUMANITARIAN LAW (Jean-Marie Henckaerts & Louise Doswald-Beck eds., 2005) (the ICRC's useful, though not infallible, source of opinion on the customary law); *see also* Rome Statute of the International Criminal Court, July 17, 1998, 2187 U.N.T.S. 90.

57. For a comprehensive treatment of the subject, see WILLIAM H. BOOTHBY, *THE LAW OF TARGETING* (2012) (which covers the topic in just over six hundred pages).

58. *See infra* Part VI.

59. *See, e.g.*, GCIV, *supra* note 54, art. 3.

conflicts of concern were of a non-international character, but not all were. The Additional Protocols were not universally binding, but the four Geneva Conventions were. Did this fact necessitate the privileging of the conventional law from 1949 over more recent law dating from 1977? What might be the influence of customary law?

As the drafting commenced, the author judged it sensible to use the most recent conventional law as the guide. In the case of IAC, the legal rules to be privileged were those in the 1977 Additional Protocol I to the 1949 Geneva Conventions. In the case of NIAC, the law of reference was to be that in the 1977 Additional Protocol II rather than that derived from an interpretation of Common Article 3 of the Geneva Conventions. Notwithstanding the prevalence of NIAC, the rules in Additional Protocol I were used as the convenient first point of reference. The wording of each successive draft of the Guidelines was, however, checked by the author for consistency with the other established sources of the law. Such consistency was maintained throughout the research and development process, from the initial drafting in October 2012 in preparation for the Lucens Roundtable⁶⁰ to the final promulgation of the Lucens Guidelines in July 2013. In doing so, the rules directly relevant to the protection of schools and universities from attack—those giving substance to the principle of distinction and those to do with taking the necessary precautions in attack—did not prove difficult to reflect in the wording of the Guidelines. Ultimately, that wording managed to cover all possibilities considered during the research and development process.

The first rules to be considered were those derived from the principle of distinction. Civilian schools and other educational facilities, those attending them, and those conducting the teaching and providing support, are all protected in law from attack through their civilian/non-combatant status.⁶¹ There is clearly a need to distinguish between those individuals defined as civilians and others categorized as combatants, the latter being members of the armed forces of a party to a conflict who have the right to participate

60. *See infra* p. 603.

61. There are, of course, educational establishments that are a part of the military infrastructure of the State, including military colleges and academies. While these are clearly military establishments and may qualify as military objectives, attacks on them would need to satisfy the condition of military necessity under precautions in attack, so they may not invariably be subject to lawful attack. It was never intended, however, that the Guidelines be applied to such military establishments.

directly in hostilities.⁶² All civilians are protected persons unless they directly participate in hostilities, in which case they lose protection and can be subject to lawful attack.⁶³

Civilian objects are defined as all objects not classified as “military objectives,” the latter being defined as “[t]hose objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage.”⁶⁴

As will be obvious from this definition, a civilian school would ordinarily not be a military objective and would, therefore, be a civilian object protected from attack. If, however, it started to be used by the military forces of one of the parties to a conflict, it would cease to be a protected civilian object and would become a military objective potentially subject to lawful attack. The next Part of the article will discuss what is meant by military use, but it is by no means necessarily the case that the presence or close proximity of military personnel or equipment will transform a civilian school into a military objective. A school may remain a civilian object even if a soldier or a military vehicle is present within it. The presence may be merely the result of a brief visit by military personnel, for example, to check on the status of the building and arrangements for its security. In these circumstances, the visiting soldier or military vehicle will remain a military objective subject to attack, but the school itself most certainly will not. The result may be the targeting of the soldier or the military vehicle within the school but not of the school itself. In these or similar circumstances (in which there may be a significant amount of ambiguity as to the reason for the military presence), the school may be vulnerable to damage as the collateral effect of the lawful targeting of the military objective located within it.

It is in these circumstances, in particular, in which precautions in and against attack are of crucial importance. The military forces of all parties have an obligation to take precautions to avoid injury to civilians and damage to

62. See AP I, *supra* note 55, art. 43(2). Medical personnel and chaplains serving with the armed forces are excluded from this definition. *Id.*

63. *Id.* art. 51(3). The question about what constitutes “direct participation in hostilities” (DPH) is especially important in NIACs. Although it is not uncontroversial, for a significant reference in relation to determining DPH see INTERNATIONAL COMMITTEE OF THE RED CROSS, INTERPRETIVE GUIDANCE ON THE NOTION OF DIRECT PARTICIPATION IN HOSTILITIES UNDER INTERNATIONAL HUMANITARIAN LAW (2009) [hereinafter INTERPRETIVE GUIDANCE].

64. AP I, *supra* note 55, art. 52(2).

civilian objects. This means taking precautions to protect civilians and civilian objects from the effects of an attack.⁶⁵ It also means taking precautions when launching an attack.⁶⁶

The former obligation has to do with avoiding, *to the maximum feasible extent*, locating military forces in close proximity to civilian populations and taking other necessary precautions to protect the civilian population, individual civilians, and civilian objects under their control against the dangers resulting from military operations. In relation to schools and other educational establishments, this obligation amounts to not using them for a military purpose, to not basing military forces in or around them, and not using them in any other way for military benefit. Significantly, it is not an absolute ban on the military use of schools or placing military forces within or in close proximity to them; if it is not feasible to avoid doing so, then it is not unlawful to do so. What is and what is not feasible is a matter of judgment in the circumstances; there is no objective test to be applied.

If a school or a university appears to be being used for a military purpose, apparently depriving it of its civilian protection and rendering it a military objective, the opposing military force may legitimately target it. Any attack must be subject to precautions in attack, however. Targeting law stipulates that, “In case of doubt whether an object which is normally dedicated to civilian purposes, such as . . . a school, is being used to make an effective contribution to military action, it shall be presumed not to be so used.”⁶⁷ Precautions require *doing everything feasible* to verify the loss of its protected status and to confirm it as a military objective. Once that requirement is satisfied, a judgment has to be reached about whether an attack on it would cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof that would be excessive in relation to the concrete and direct military advantage anticipated in launching the attack. What is “excessive” and how that is measured against “military advantage” is a matter of judgment; there is no objective test. It is possible that a military commander could decide to mount an attack on a school using these criteria, determining that the military advantage to be gained exceeds the cost in civilian lives likely to be lost, including those of children present in the school at the time of the attack.

Finally, in this necessarily cursory treatment of the law relating to the protection of schools and universities during armed conflict, it is worth

65. *Id.* art. 58.

66. *Id.* art. 57.

67. *Id.* art. 52(3).

mentioning the obligations placed on occupying powers during IACs, and on national authorities during NIACs. Occupying powers are under an obligation to cooperate with national and local authorities to “facilitate the proper working of all institutions devoted to the care and education of children.”⁶⁸ During NIACs, authorities are under an obligation to provide children with “an education, in keeping with the wishes of their parents.”⁶⁹ The protection of education is a legal obligation in all circumstances during armed conflict.

V. THE MILITARY USE OF SCHOOLS AND EDUCATION

The military use of schools and military engagement with education is not uncommon. Indeed, in some States a measure of military presence in schools and universities is routine at all times. In the UK, for example, there are military cadet units in many schools and universities, providing popular extracurricular activities for pupils and students.⁷⁰ In a stable society in peacetime, a low-level military presence of this sort need not be either problematic or controversial (although some civil society groups believe any military interaction with civil education is inappropriate). If a State is engaged in an armed conflict, however, especially a NIAC on its own territory, the presence of military personnel in educational establishments or their close proximity to them should most certainly become a matter of general concern, for the legal reasons outlined above.

The military use of schools is the focus in the Safe Schools context because it is the principal reason why educational establishments are rendered vulnerable to legitimate attack during armed conflict. The GCPEA explanation of military use has been based on the significant research into military engagements with schools carried out by Sheppard for HRW, by UNICEF, and subsequently by the Global Coalition itself. Its understanding of “uses in support of the military effort” include:

68. GCIV, *supra* note 54, art. 50.

69. AP II, *supra* note 55, art. 4(3)(a).

70. The author was the academic chair of the Military Education Committee that oversaw the activities of military units, from all three Services within the University of London. Those included a dedicated Royal Navy patrol craft and a Royal Air Force University Air Squadron provided with training aircraft fully funded by the Ministry of Defence. He had also previously acted as liaison officer with a school in London that had a Combined Cadet Force unit sponsored by the Royal Navy and the British Army; the school even had an armory containing an array of firearms used by the cadets.

[T]he broad range of activities in which the fighting forces of parties to armed conflict may engage with the physical space of a school or university in support of the military effort, whether temporarily or on a long-term basis. The term includes, but is not limited to, the following uses: as barracks or bases; for offensive or defensive positioning; for storage of weapons or ammunition; for interrogation or detention; for military training or drilling of soldiers; for military recruitment of children contrary to international law; as observation posts; as a position from which to fire weapons (firing position) or to guide weapons onto their targets (fire control).⁷¹

Schools can be ideal physical locations for military use as bases or headquarters and will be particularly attractive if they have been abandoned. A military commander, operating in an area from which the civilian population has been evacuated, could well look upon an abandoned school as the perfect solution to his need for a base. Typically, they are located in tactically significant built-up areas. The better examples often have areas of land around them conveniently available for parking military vehicles. They may even have perimeter fences enclosing them for reasons of security. They will almost certainly have good sized rooms and plenty of them, often with larger halls for sizeable gatherings and spaces suitable for use as barrack accommodation. The better situated will have connected utilities and may even have showers associated with sporting facilities that can be used by accommodated military personnel. When the author visited the school in Monrovia still affected by military use ten years after conflict ended in Liberia, he deliberately sized it up as a potential military base; it was close to being physically perfect. It is not surprising that abandoned schools have been used by military forces in the past; they are likely to be considered seriously for military purposes into the future.

With abandoned schools, military use, while problematic, does not place children, their teachers, or support staff at immediate risk of injury or death from enemy targeting. Functioning schools are obviously a different matter. Any military presence will invite attack from opposing military forces, even if children and staff are present. It is unlikely, of course, that those involved in education will be physically present in schools or universities at all times,

71. GLOBAL COALITION TO PROTECT EDUCATION FROM ATTACK, COMMENTARY ON THE “GUIDELINES FOR PROTECTING SCHOOLS AND UNIVERSITIES FROM MILITARY USE DURING ARMED CONFLICT” 8 (2015), http://protectingeducation.org/wp-content/uploads/documents/documents_commentary_on_the_guidelines.pdf. The *Commentary* repeated the explanation of “Use in Support of the Military Effort” contained in the Lucens Guidelines published in 2013. See LUCENS GUIDELINES, *infra* note 78.

day and night. Educational establishments will ordinarily not be occupied overnight, over weekends, or during holidays (notwithstanding some educational institutions having a residential dimension, with boarding schools and university halls of residence being prominent examples). During longer periods of vacation, they may be closed for extended periods. While it may appear unnecessary to state this, it is important to appreciate that an empty school is not necessarily abandoned. While it may be thought generally acceptable for a military force to take advantage of an abandoned school for a limited period, it will be very much less so if the school is still in regular use but briefly and routinely closed in the normal course of its operation. Any use of the school during such times would render its status profoundly ambiguous; is it a protected civilian object or a legitimate military objective—and at what point precisely does it transition from one status to the other? The dual use of buildings in this way risks completely undermining the principle of distinction at the very heart of IHL/LOAC.

The use of schools—and other educational institutions—in support of the military effort is not, however, the only reason why military forces may be present in and around them. As GCPEA has acknowledged, the term military use does not include instances in which forces are present in the vicinity of schools and universities to provide for the school's protection—or as a security measure when schools are being used as election polling stations (a common occurrence) or for other non-military purposes. Military commanders are faced with a genuine dilemma if they are operating in a conflict zone, in a location that is on the “front line” and subject to attack from opposing forces. If they become aware of a still-functioning school vulnerable to attack, their instinctive response may well be to provide security to the school and to protect the children being educated as well as the teaching and support staff. Placing guards around the school (even inside it) may seem to be the obvious action to take. Yet, it may actually have the opposite effect to that intended. Military forces providing security to the school will remain military objectives, as far as opposing forces are concerned, and their presence may render the school and those in it vulnerable to the collateral effects of an attack. This situation is almost certainly the most difficult requiring a decision to be made about military engagement with education facilities. While the military defense of a school may undermine its protected civilian status in most situations, it may become an imperative in others when, for example, the opposing forces are ideologically committed to disrupting education, especially that of girls. Every set of circumstances will be unique, with each needing to be dealt with on its merits.

VI. DEVELOPING THE GUIDELINES

Having discussed background factual, military-strategic, and legal factors, we can now proceed with an account of the development of the Guidelines. Apart from the exploratory discussions within GCPEA, which had lasted from 2010 to the beginning of 2012, the process leading to the publication of what became known as the Lucens Guidelines in July 2013 was initiated in May 2012 by the convening of a workshop in Geneva. The exploratory discussions had eventually favored the promulgation of guidelines on military use, rather than the development of new conventional law. As the ICRC representatives during the process pointed out, the core of the problem concerning the protection of schools was not a shortage of law but a failure on the part of parties to armed conflict to comply adequately with both the letter and spirit of the law that already existed. Nevertheless, there were other considerations as well. These included the difficulties likely to be experienced in getting States engaged in treaty negotiations, the length of time these were likely to take (even if they proved feasible), and the likelihood that the text eventually arrived at would contain too many compromises and ambiguities in the quest for broad international agreement. Any convention/treaty was also unlikely to be “user friendly” for those military personnel making decisions “on the ground” in challenging situations. They would need sound but concise guidance, with guidelines tailor-made for ease of reference. Producing them would not need to involve States in complex and protracted negotiations and they could be created by a process involving a select and specialist group of experts. While relying on existing law, they could lead over time to a change in behavior more protective of education than current law demanded—and that might even lead to a shift in the law itself through developing custom.

By 2012 there was sound evidence that “guidelines” had value as a means of obtaining compliance with international law and as a means of improving regulatory regimes in general. Often referred to as “soft law,” guidelines seemed capable of being deployed effectively to “plug gaps” in the law, to clarify it when the conventional law was vague or ambiguous, and to act as an aid to compliance with the law. Pertinent examples included instruments like the *Montreaux Document* on private military security companies⁷² and the

72. See INTERNATIONAL COMMITTEE OF THE RED CROSS & DIRECTORATE OF INTERNATIONAL LAW, SWISS FEDERAL DEPARTMENT OF FOREIGN AFFAIRS, THE MONTREAUX

associated Code of Conduct for Private Security Providers,⁷³ the UN *Guiding Principles on Business and Human Rights*,⁷⁴ and *Internal Displacement*,⁷⁵ and the ICRC's *Interpretive Guidance on Direct Participation in Hostilities*.⁷⁶

Although favoring the guidelines approach, GCPEA considered it sensible to obtain the views of a select group of experts drawn from civil society organizations, the ICRC, UN agencies, and a small number of States. This was just one of several reasons why Diya Nijhowne, the chief executive of GCPEA, Courtney Erwin of Education Above All, and Bede Sheppard of HRW organized an expert workshop at the Geneva Academy in May 2012. It was hosted and partly facilitated by the Academy's joint directors, Andrew Clapham and Paola Gaeta, and their colleague Stuart Casey-Maslen, all of whom are leading specialists in both IHRL and IHL/LOAC. The other attendees included representatives of the armed forces of the Philippines and Qatar, the ministries of foreign affairs of the Netherlands, Philippines, and Switzerland, UNICEF, UNESCO, the UN Department of Peacekeeping Operations (UNDPKO), the ICRC, and the NGOs Protect Education in Insecurity and Conflict, Education Above All, HRW, and Geneva Call.

At the beginning of the workshop, GCPEA revealed the results of research it had commissioned on the military use of education facilities, which confirmed the importance of the subject. Over the course of the two days, a number of conclusions and principles were arrived at and generally acknowledged by the majority of those present. There was, deliberately, no attempt to arrive at a formal agreement, and no individual attendee was obliged to declare their support. This was particularly important for those State officials who had agreed to participate; they were attending in their personal capacity and certainly not committing their State to any position through either their attendance or contribution. What might be described as a general consensus emerged. The meeting's sense was that the conclusions and principles

DOCUMENT (2008), <https://shop.icrc.org/the-montreux-document-on-private-military-and-security-companies-pdf-en>.

73. See *International Code of Conduct for Private Security Providers*, ICOCA, <https://icoca.ch/the-code/> (last visited Feb. 24, 2021).

74. See OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, *GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS* (2011), https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf.

75. See OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, *GUIDING PRINCIPLES ON INTERNAL DISPLACEMENT* (2d ed. 2004), <https://www.unhcr.org/uk/protection/idps/43ce1cff2/guiding-principles-internal-displacement.html>.

76. INTERPRETIVE GUIDANCE, *supra* note 63.

discerned should serve as the backdrop to the drafting of a set of voluntary guidelines that States and ANSAs would be encouraged to adopt and apply.

The author contributed to these discussions and noted the principal themes that emerged. The Global Coalition also produced a paper summarizing the workshop discussions and conclusions.⁷⁷ Apart from general support for the important decision to produce guidelines rather than new conventional law, the conclusions and principles can be summarized as follows:

- The guidelines were to reflect international law as it stood; they would not propose changes to it or set out to develop the law. While consistent with existing international law—both IHL/LOAC and IHRL—they were not to be legally binding in themselves. They would most certainly not affect existing obligations under international law.

- The guidelines were to be drafted to encourage a shift in military behavior leading to better protections for schools and universities in times of armed conflict. In particular, they were to encourage a reduction in the use of schools by the fighting forces of parties to armed conflict in support of their military effort.

- The intention was to produce a document containing the guidelines that States and ANSAs would be invited to adopt and which they would be able to promulgate in a manner to suit their specific circumstances.

- The guidelines were to be based on what was practically achievable. They were to acknowledge that parties to armed conflict are invariably faced with difficult dilemmas requiring pragmatic solutions. They were not to be markedly prescriptive.

- The guidelines were to reflect evidence of good practice already applied by some parties to armed conflict for the protection of schools and universities during military operations. These included statements of intended practice in such documents as training handbooks, promulgated doctrine, and legal manuals.

- The guidelines were to be produced for the use of all parties to armed conflict, both States and ANSAs, and for wide dissemination and implementation.

- The guidelines were to be generic, if possible, to be applied in both IACs and NIACs.

77. The paper was circulated by GCPEA to attendees of the workshop (on file with author).

- While the guidelines were to be produced specifically for application during armed conflict, they were also to be crafted in a way that would render them useful and instructive for post-conflict and other comparable situations—including those tense but non-conflict situations with the potential to cross the threshold into armed conflict.⁷⁸

- They were to be brief and expressed in simple and easily understood language; they were to be accessible, avoiding legal and other specialist jargon.

There were significant ideas that were rejected. These included a suggestion that the application of the proposed guidelines be extended to include non-armed conflict situations. Another was to encourage the complete avoidance of any military interaction with education. The author raised examples of positive interactions, including during conflicts, to persuade attendees that a complete ban was not only unnecessary but undesirable in some exceptional situations. (I was able to quote the example from my own experience with the United Nations Mission in Sierra Leone of the use of an abandoned school as a reception point for child soldiers⁷⁹). The author also believed it would be unrealistic, in the sense that it would almost certainly have resulted in very few States agreeing to adopt the guidelines. A complete ban would also have gone well beyond the legal requirement.

The final agreement to emerge was that which approved the author as a suitable legal and military “expert” to draft the proposed guidelines. His initial remit was to prepare a discussion document (essentially a first draft of the proposed guidelines) to be reviewed and “brainstormed” during a further expert workshop to be convened in November 2012 at Château de Lucens in the Canton of Vaud (referred to since as the Lucens Roundtable).

As the author was preparing the discussion document, an event occurred in Pakistan which would have a major influence on the campaign to protect schools. On October 9, 2012, a fifteen-year-old schoolgirl, Malala Yousafzai, was traveling on a bus heading home from school. She was in conversation with her friends about schoolwork. Two members of the Taliban stopped the bus intending to kill Malala and her friends to put an end to Malala’s

78. These assumptions and principles were listed in the eventual document published by GCPEA in 2013. GLOBAL COALITION TO PROTECT EDUCATION FROM ATTACK, DRAFT LUCENS GUIDELINES FOR PROTECTING SCHOOLS AND UNIVERSITIES FROM MILITARY USE DURING ARMED CONFLICT 3 (updated Oct. 2014), https://protectingeducation.org/wp-content/uploads/documents/documents_draft_lucens_guidelines.pdf [hereinafter LUCENS GUIDELINES].

79. See *supra* note 35.

outspoken public advocacy for education for girls. They boarded the bus, found her, and shot her, but their murder attempt failed. Malala survived and was eventually flown to the United Kingdom for emergency medical treatment. She subsequently made a remarkable recovery. She became a global figure overnight and was the recipient of the 2014 Nobel Peace Prize for her continuing advocacy for safe education for girls. The GCPEA campaign to protect education was timely indeed.

The author delivered the discussion document to GCPEA in late-October 2012, and it was circulated to participants in advance of the roundtable the following week. The group of experts gathered in Château de Lucens was larger than that which met the previous May in Geneva, although it did not include all of the May attendees. In putting together this group, GCPEA's aim was to have a collection of specialists from a range of relevant backgrounds that would bring different perspectives to the workshop. The gathering proved to be challenging and stimulating, and it more than satisfied the need to adequately critique the discussion document. Those present included armed forces representatives from Finland and Qatar; State officials from the Canadian Department of National Defence, the ministries of education in Côte d'Ivoire, Liberia, and Nepal, the ministries of foreign affairs of Argentina, Norway, Germany, and Switzerland, and the Office of the President of the Philippines; UN officials from the Office of the UN Secretary General's Special Representative on Children in Armed Conflict, UNICEF, and UNDPKO; staff of the ICRC; and civil society representatives from Amnesty International, Education Above All, Geneva Call, HRW, the Inter-Agency Standing Committee Education Cluster and, of course, GCPEA itself. Arguably, the author added to the mix of perspectives through his former official role within the UK Armed Forces and Ministry of Defence. An expected participant from the Dutch government was forced to cancel due to other commitments. There were also apologies from the South Sudan Ministry of Education, Geneva Academy, and Save the Children International.

As with the Geneva meeting, individuals attended in their private capacity but, very obviously, were involved because of their State, institutional, or organizational association and the consequential expertise and perspectives they brought to Lucens. They were not committing their parent institutions or organizations to any position relative to the outcome of the process and the discussions were conducted under strict Chatham House rules (no views were to be attributable).

Nobody drafting a discussion document in these circumstances and submitting it for debate can afford to be sensitive to criticism. The author's discussion document was debated with rigor, with almost every sentence, as well as its structure and overall content, subjected to intense criticism.⁸⁰ The robust challenge to which the document was subjected was a wholly necessary part of the process of producing guidelines that would reflect the need to both protect schools (and universities) from military use and provide a practical framework that States (and ANSAs) would be prepared to adopt. The end result needed to be robust and capable of standing up to challenge, especially from those expected to apply them and respect their value from a military perspective. The methodology adopted by the author was intended with precisely this objective very much in mind.

Over the two days of intensive discussion, many points were raised that fed into the post-Lucens process. The author was also most grateful for valuable comments forwarded in their absence by the Dutch colleague who had been unable to travel to Switzerland.⁸¹ The development of the subsequent text between the Lucens meeting in November 2012 and the publication of the Lucens Guidelines in July 2013 was the outcome of a research process involving an expert reference group of selected individuals commenting on subsequent iterations of a set of draft guidelines. The author had initial post-Lucens discussions with Diya Nijhowne, Bede Sheppard, and Courtney Erwin and produced a fresh draft for GCPEA consideration; this was circulated to them and other GCPEA colleagues on January 28, 2013. It was then forwarded for comment to the expert reference group, which included government, NGO, ICRC, and academic representatives. After their comments were received, a further iteration was circulated for comment on March 28. This process was repeated with yet another iteration circulated on April 19 and a final version in May.

The process of drafting, circulating, and receiving comments and then taking account of those comments to produce further drafts was by no means a smooth one. While consensus was arrived at immediately on the

80. Fortunately, the author had served for a number of years within the UK Ministry of Defence and was well conditioned to its instinctively critical culture that almost demanded that no draft paper should survive "first contact with the enemy" (with "enemy" being a synonym for those invited to comment!). This is not a flippant point.

81. The discussion document had included a set of ROE, which the author suggested would be a useful mechanism for applying the guidelines. The Dutch comments included the recommendation that the guidelines should avoid that level of prescription, especially as it was more than likely that many non-Western militaries and ANSAs would not routinely employ ROE. This made sense and ROE were removed from subsequent drafts.

structure and the general content of six guidelines, there was a significant degree of disagreement on the detail, with often two quite opposing views about detailed elements of the draft. Sentences and even single words were subjected to critique. The author examined every comment and attempted to reflect them all in the draft as it developed. Inevitably, however, he had to choose between opposing opinions, using his judgment to arrive at a form of words that he hoped would obtain agreement at each stage.

In all, four iterations were produced. The development was moving towards an agreed text, but there remained disagreement about some of the detail. To complete the process, therefore, in May 2013, the author circulated what he referred to as a “Red Card Draft.”⁸² What he requested from those making comments was that they restrict themselves to raising a “red card” only to those elements of the draft they could not endorse. If they could live with an aspect of the text, they should refrain from registering their opposition even if they would have preferred different wording. This proved to be a very successful way of bringing the drafting process to a close. It resulted in no dissenting views being expressed, and a consensus was finally reached over the wording of the draft guidelines. These were published by GCPEA on July 8, 2013, as the Draft *Lucens Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict*.⁸³

The document published under that title consisted of more than the Guidelines themselves. It opened with a preface introducing the Guidelines, followed by a section providing definitions of “Schools and Universities,” the “Fighting Forces of parties to armed conflict,” and what constituted “Use in support of the military effort.” Then came the six Guidelines, which occupied just two of the document’s eighteen pages. Finally, there were two substantial annexes, one detailing the “Applicable International Legal Framework” and the other providing “Examples of Good Domestic Law, Guidance and Practice.”⁸⁴ There was much of value in the document as a whole, but the most significant part was the two-page presentation of the Guidelines themselves; they were the central feature.

Despite their publication by GCPEA, the Guidelines remained merely a draft. Their designation as such was deliberate. The purpose of the published

82. The term “red card” was borrowed from sport—a red card indicating an immediate sending off for a foul committed during play and used in this drafting context as a veto.

83. *LUCENS GUIDELINES*, *supra* note 78.

84. The two annexes were researched and drafted by Bede Sheppard; the rest of the document was the work of the current author.

document was to take the draft up to the next higher and very necessary level. The Global Coalition well recognized that if its efforts to protect education from attack were to achieve a real difference on the ground in areas of armed conflict, the Guidelines would need widespread acknowledgement and acceptance at the State level. To achieve that would require States to take a genuine interest and for some to assist by advocating for their acceptance. This demanded exposure at the international level and a diplomatic effort beyond the capability of civil society organizations. While GCPEA had initiated and taken the process thus far, with some useful engagement and assistance from States, for the Guidelines to succeed would require States to take the lead, with GCPEA in a supporting role. An overly defensive attitude to the Guidelines' text by GCPEA would have been inappropriate in the context of a bid to obtain State support; the door was deliberately left open for further development of the text.

The process of developing the Guidelines having commenced in Geneva in the spring of 2012, it made absolute sense to focus future advocacy and development effort on the international community within that city; indeed, there was no better place to do this. The term "International Geneva" in many ways defines the city. The size of the UN footprint in Geneva is larger than that in New York, with a number of key UN agencies headquartered there. There are numerous State missions permanently located in the vicinity of the Palais des Nations, the forum for much of the UN's humanitarian work. Geneva is the center of gravity for the UN's human rights bodies and their activities. The ICRC headquarters is a short walk from the Palais. A significant number of humanitarian NGOs maintain a presence in Geneva, including Save the Children International, one of the members of the Global Coalition. Save the Children's Geneva office, headed by former Danish International Development Minister Anita Bay, spearheaded the advocacy effort with the numerous State missions. As advocacy was pursued in Geneva, key GCPEA staff members (especially Sheppard, Erwin, and Aubert) engaged in a substantial global effort involving numerous visits to State capitals in most regions to convince governments, their officials, and their militaries that the Guidelines made sense and deserved to be adopted.

In Geneva, Bay's efforts and those of her staff eventually led to the Norwegian Mission in Geneva taking a close interest in the Guidelines. This came as a slight surprise to the author as the Norwegian Ministry of Defence had firmly declined an invitation to be involved in the drafting process because it believed such guidelines to be unnecessary given the existence of adequate IHL/LOAC. The Norwegian Permanent Representative to the

UN, Ambassador Steffen Kongstad (a veteran of the Oslo Convention on Cluster Munitions negotiations), took a different view, however. He seized the moment and also persuaded his Argentine colleague to add that State's support. This engagement by Norway and Argentina transformed the campaign. Between July 2013 and December 2014, the Draft Lucens Guidelines were transformed from a worthy civil society initiative into a serious candidate for substantial international endorsement.

In being thus transformed, however, they ceased being merely a draft; their wording was slightly amended (although they remained the same in terms of substantive content), "Lucens" was dropped from their title, and the additional content of the GCPEA published document was eventually rejected in favor of a new document, the Safe Schools Declaration, drafted under Norwegian Ministry of Foreign Affairs auspices. This declaration was to prove a most effective diplomatic "vehicle" in the international campaign to obtain broad State-level endorsement of the Guidelines.

VII. THE CONTENT OF THE GUIDELINES

What follows is the Guidelines' final text, publicly launched under their current title, at the UN Headquarters in Geneva on December 16, 2014.⁸⁵ They were then incorporated in the Safe Schools Declaration and launched formally at the inaugural Safe Schools Conference in Oslo in March 2015. Except for Guideline 6 (which has to do with their promulgation and implementation), the Guidelines have a threefold purpose in providing tactical-level guidance on the military use of education (Guidelines 1 and 2); attacks on educational facilities used by opposing forces (Guidelines 3 and 4); and

85. The launch should have been a positive event at the United Nations in Geneva but it was overshadowed by the news that reached attendees during the event of the Peshawar school massacre in Pakistan. This terrorist atrocity left 145 people dead, including 132 uniformed school children. To quote the *New York Times*:

During an eight-hour rampage . . . a team of nine Taliban gunmen stormed through the corridors and assembly hall, firing at random and throwing grenades. Some of the 1,100 students at the school were lined up and slaughtered with shots to the head. Others were gunned down as they cowered under their desks, or forced to watch as their teachers were riddled with bullets.

Declan Walsh, *Taliban Besiege Pakistan School, Leaving 145 Dead*, NEW YORK TIMES (Dec. 16, 2014), <https://www.nytimes.com/2014/12/17/world/asia/taliban-attack-pakistani-school.html>.

the defense and security of educational facilities (Guideline 5). The following is their text in full:

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.

- This principle extends to schools and universities that are temporarily closed outside normal class hours, during weekends and holidays, and during vacation periods.
- 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.

- Any such use of abandoned or evacuated schools and universities should be for the minimum time necessary.
- 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.
- 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.

- Prior to an 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.
- 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. 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.

VIII. THE SAFE SCHOOLS DECLARATION

This article is not about the Safe Schools Declaration as a whole, but about the Guidelines at its core. Nevertheless, it is certainly appropriate to offer some comment on the SSD because it has been crucial to the Guidelines' success. Comment can be brief, however, not least because a full account of the process by which the SSD was drafted under Norwegian leadership is already available and readily accessible online.⁸⁶

Norway had been keen to project the Guidelines as part of a broader Norwegian initiative on the protection of education. Ambassador Konstad and his foreign ministry colleagues had been considering how best to project the Guidelines since Norway took on the lead role in advocacy in 2014. The bulk of the drafting effort for the SSD only occurred, however, after the Guidelines were launched at the UN in Geneva in December of that year. An intense process of negotiation and drafting was conducted in the first five months of 2015, finishing just in time for the Oslo Safe Schools Conference at the end of May. By then, "ownership" of the Guidelines had effectively been transferred from GCPEA to Norway. To reflect this, the name had been changed, and reference to Lucens was removed.⁸⁷ The additional material in the GCPEA document published in July 2013 was also dispensed with, leaving just the six guidelines for incorporation in the SSD.

Significant effort under Norwegian auspices went into crafting the SSD around the Guidelines in early-2015. The Guidelines were the inspiration behind the SSD, which was drafted to accommodate them and which had no intended purpose separate from that. Nevertheless, the SSD became the only internationally agreed statement dedicated to the protection of education in armed conflict. It is essentially an inter-governmental political document that outlines a set of commitments to strengthen the protection of

86. See *Reflections from the Safe Schools Declaration Process*, *supra* note 10. Prepared by Richard Moyes, the managing director of Article36, who played an important role in developing the SSD. He had worked previously with Norwegian Ambassador Steffen Kongstad on the cluster munitions ban. Article36 is partly funded by the Norwegian Ministry of Foreign Affairs.

87. The author resisted this at the time. By the summer of 2014, the Lucens Guidelines had gained a profile, certainly within Geneva, but also internationally. The author freely admits also that he was emotionally attached to the name, having personally founded the Lucens Roundtable and the subsequent drafting process was an intensely rewarding experience. The lesson here is to avoid at all costs allowing personal inclinations to cloud one's judgment on what makes practical, political sense in relation to the ultimate aim.

education from attack and restrict the use of schools and universities for military purposes. It seeks to ensure the continuity of safe education during armed conflict and contains a series of statements that have attracted widespread agreement.⁸⁸

The SSD has been critical to the success of the Guidelines. Without the SSD and the full force of State-level diplomacy led by Norway and partnered by Argentina, the Guidelines probably would have failed to achieve substantial international endorsement. The text of the Guidelines and the SSD together have had a substantial impact internationally; therefore, viewed separately, one suspects few would today be aware of either, each having been an essential partner for the other.

The Oslo conference was the first of a series of biennial Safe Schools conferences, the highlight of which was a passionate address by Ziauddin Yousafzai, father of Malala Yousafzai. Oslo was followed in 2017 by Buenos Aires, hosted jointly by the Argentine foreign and defence ministries. In May 2019, the Spanish government hosted the third Safe Schools Conference in Palma, Mallorca. As with the previous conferences, it attracted many State, UN, and civil society organization representatives, typically at ministerial and equivalent senior levels. Eighty States and all relevant UN agencies were formally represented, as were over thirty NGOs. An indication of the degree of diplomatic and policy importance Spain attached to the conference was the presence of Her Majesty Queen Letizia, who also delivered the closing address. The fourth Safe Schools Conference is due to take place in 2021, hosted by Nigeria.

Each of these conferences has been accompanied by a round of focused diplomatic effort to encourage further States to endorse the SSD. One feature of their proceedings has been formal State announcements to that effect. Beyond the conferences, some of the State endorsements have been at the highest level. In February 2017, for example, French endorsement was announced personally by President Hollande during the opening session of the Protect Children from War inter-ministerial conference co-organized by France and UNICEF. The French decision came after several months of advocacy efforts by UNICEF, HRW, and Save the Children.⁸⁹ The author

88. For the full text, see *Safe Schools Declaration*, *supra* note 1.

89. See *France: Positive Move to Protect Schools*, HRW (Feb. 21, 2017), <https://www.hrw.org/news/2017/02/21/france-positive-move-protect-schools>. The effort to persuade France to endorse included a visit to Paris by the author and his Save the Children (UK) colleague Veronique Aubert for valuable discussions with French government officials in the Quai d'Orsay.

was much involved in attempts to obtain UK endorsement, with differences of opinion between the Foreign and Commonwealth Office and the Department for International Development, on the one hand, and the Ministry of Defence, on the other. United Kingdom endorsement required a cross-government agreement, which was only arrived at in 2018, allowing then Foreign Secretary Boris Johnson to announce UK endorsement during the Commonwealth Heads of Government Conference in London.⁹⁰ Throughout the period since 2015, GCPEA and its leading members have worked to advance the cause of the SSD. In-country representatives of UNICEF, Save the Children, and HRW, in particular, have continued their work to persuade governments of the value of the SSD and the Guidelines.⁹¹ Sheppard, Aubert, and Neff have also been heavily engaged in advocacy visits globally. The process has been strongly supported within the UN, with the previous and current Special Representative to the Secretary-General for Children in Armed Conflict (Leila Zerrougui and Virginia Gamba) both personally committed to advancing the cause of the SSD and the Guidelines, including through regular mention of them during UN Security Council open debates (the most recent held on September 10, 2020).⁹² Another strong supporter has been former UK Prime Minister Gordon Brown, currently UN Special Envoy on Global Education. He was an early advocate of the Lucens Guidelines, urging their endorsement in 2014, shortly after it was announced that Norway would be leading advocacy at the State level.⁹³ Since then, Norway's diplomatic leadership and the SSD's significance have been crucial in the

90. The campaign in the United Kingdom took longer than the author imagined it would, with significant opposition to the Guidelines from elements within the Ministry of Defence. Even a personal exchange of letters between the author and Prime Minister David Cameron (who happened to be the author's Member of Parliament) failed to have the desired effect.

91. The author has worked closely with Save the Children colleagues on this advocacy, in particular paying visits to West Africa, NATO Headquarters, Japan, and Ukraine, and also with Save the Children (UK) to persuade the British government to endorse (finally achieved when then British Foreign Secretary Boris Johnson announced UK endorsement during the Commonwealth Heads of Government meeting in London in 2019).

92. For a recording of that debate, see *Open Debate*, *supra* note 5. More generally, see *Children and Armed Conflict*, UNITED NATIONS, <https://childrenandarmedconflict.un.org/> (last visited Jan. 18, 2021).

93. See *The Office of the UN Special Envoy for Global Education*, <https://educationen-voy.org/what-we-do/> (last visited Jan. 18, 2021); see also Gordon Brown, Opinion, *We Must Ensure Places of Education Are Never Targeted in Conflicts*, GUARDIAN (July 27, 2014), <https://www.theguardian.com/commentisfree/2014/jul/27/schools-never-targeted-armed-conflict-gaza>.

advocacy efforts. The undoubted success of the Guidelines has been substantially delivered as a result of their incorporation within the SSD.

IX. IMPLEMENTATION AND MONITORING

The sixth and final guideline focuses on how the Guidelines as a whole might be promulgated by States and ANSAs for application by their military forces. It was always considered vital for the Guidelines to be concise, clearly stated, and capable of being promulgated in ways that military forces could readily comprehend.

In producing the discussion document for the Lucens Roundtable, the author had included draft ROE developed around the Guidelines' text as a potential means of applying them. The promulgation of ROE is an important, widely used operational mechanism, particularly by Western militaries, to ensure that tactical action is consistent with the military campaign's strategic objective. Rules of engagement are a command and control mechanism, whose content is determined by high-level commanders (and, ultimately, political decision-makers), to restrict subordinate commanders' actions at the tactical level to those consistent with the strategic purpose. It is worth adding that, while ROE should be legally reviewed in the drafting and promulgation processes to avoid any manifest illegality, it is a common misperception that they are a watertight means of ensuring legal compliance at the tactical level. They most certainly are not; a defense that one complied with the ROE is no defense to a breach of the law.

In the Lucens discussion document, the author employed a format based on generic ROE compiled under the auspices of the International Institute for Humanitarian Law in San Remo, Italy.⁹⁴ While the example ROE included were intended as a suitable aid to promulgation and implementation, the dominant feeling of those present in Lucens was that the eventual version of the Guidelines should avoid being too prescriptive in relation to internal promulgation. It was argued convincingly that even the suggestion of reliance on ROE could be off-putting rather than encouraging, especially to States and ANSAs that did not ordinarily employ such a sophisticated command and control mechanism. While ROE were not entirely inappropriate, they were but one means of applying the Guidelines. As the sixth guideline eventually went on to state: "doctrine, military manuals, rules of engagement,

94. RULES OF ENGAGEMENT HANDBOOK and ROE FOR JUDGE ADVOCATES, *supra* note 41.

operational orders, and other means of dissemination, [are all potential ways] to encourage appropriate practice throughout the chain of command.” It was to be left to individual States and ANSAs—and their military forces—to determine for themselves their most appropriate means of promulgation.

While the Guidelines themselves were not prescriptive, GCPEA has since provided a great deal of advice and guidance to assist all States and ANSAs in their approaches to their incorporation in military processes. Training is, of course, vital in this context. The mention of “doctrine” in Guideline 6 is especially pertinent here. The definition of doctrine is “that which is taught”—military doctrine is fundamental to military training. With this in mind, in 2017, GCPEA published two documents to inform both the development of policy on protecting schools and the training to be provided to militaries likely to be operating in conflict zones: *The Safe Schools Declaration: A Framework for Action*⁹⁵ and *Implementing the Guidelines: A Toolkit to Guide Understanding and Implementation*.⁹⁶ The latter was produced for the Global Coalition by the Roméo Dallaire Child Soldiers Initiative, the Canadian-based organization hosted by Dalhousie University and set up in 2007 by General Dallaire (who had commanded the United Nations Assistance Mission for Rwanda, during the 1994 Rwanda genocide).⁹⁷

HRW, Save the Children, and GCPEA have trained personnel from armed forces and police forces on the Guidelines. This has included training under UNDPKO auspices for military forces forming part of UN peace-keeping operations. Save the Children successfully advocated for the military use of schools and attacks on education to be included in NATO training scenarios. The ICRC has offered technical advice to all interested parties regarding how they might best implement the SSD and the Guidelines in specific contexts.⁹⁸

95. GLOBAL COALITION TO PROTECT EDUCATION FROM ATTACK, *THE SAFE SCHOOLS DECLARATION: A FRAMEWORK FOR ACTION*, http://protectingeducation.org/wp-content/uploads/documents/documents_a_framework_for_action.pdf (last visited Feb. 24, 2021).

96. GLOBAL COALITION TO PROTECT EDUCATION FROM ATTACK, *IMPLEMENTING THE GUIDELINES: A TOOLKIT TO GUIDE UNDERSTANDING AND IMPLEMENTATION* http://protectingeducation.org/wp-content/uploads/documents/documents_toolkit.pdf (last visited Feb. 24, 2021).

97. See *THE DALLAIRE INITIATIVE: STRATEGIC PLAN 2019–2020*, DALHOUSIE UNIVERSITY, https://dallaireinstitute.org/wp-content/uploads/2020/01/RDCSI_strategic_plan-2.pdf (last visited Feb. 24, 2021).

98. See *Fact Sheet: Practical Impact of the Safe Schools Declaration*, *supra* note 12.

While States are obvious participants in the Safe Schools process, with the ability to formally endorse it through registration with the Norwegian Ministry of Foreign Affairs, it is vitally important to recognize also the importance of ANSA involvement, including in the implementation of the Guidelines. The NGO Geneva Call was involved in the drafting process from the outset, which ensured that the Guidelines contained nothing that would be a generic barrier to ANSA action in support. The draft was discussed with ANSAs at Geneva Call's third meeting of signatories in late 2014, at which participating ANSAs agreed to consider the Guidelines. The author spoke at that meeting and was subsequently invited by Geneva Call to contribute to IHL/LOAC training for ANSA fighters, during which he provided sessions on the Guidelines and how they could be implemented by ANSAs during armed conflict. Geneva Call noted that the Guidelines "represent a new way to engage with ANSAs, starting first with the less contentious issue of military use of schools, then moving to 'harder' issues like child recruitment and sexual violence."⁹⁹

The monitoring of promulgation and implementation is now a permanent process, with Global Coalition members playing an important role in collecting data on the protection of schools during armed conflicts. Those NGOs, such as Save the Children and HRW, that deploy into armed conflict States, as well as relevant UN agencies, are fundamentally important sources of data relating to implementation. The biennial Safe Schools conferences also provide an opportunity for endorsing States to report on any actions they have taken themselves consistent with their commitment to the Guidelines. Advocacy in relation to the Guidelines focused initially on obtaining State endorsement of the SSD; increasingly now it has to concentrate on ensuring behavior is shifting in favor of protecting educational facilities from military use. Fortunately, there is increasing evidence that the SSD and the Guidelines are having an impact.

99. See PROTECT EDUCATION IN INSECURITY AND CONFLICT, REPORT: PEIC/GENEVA CALL WORKSHOP ON EDUCATION AND ARMED NON-STATE ACTORS: TOWARDS A COMPREHENSIVE AGENDA 13 (2015), <https://educationandconflict.org/publications/publications/4/Report.pdf>.

X. THE IMPACT OF THE SSD AND GUIDELINES

In October 2019, GCPEA published a report on the practical impact of the SSD.¹⁰⁰ This report was based on data provided principally by UN agencies, NGOs, the media, and States. Most of the data was made available at the 2019 Safe Schools Conference in Palma. The reporting period extended from the launch of the SSD in May 2015 to the end of 2018, with the report structured under four headings: “Downward Trends in Incidents of Military Use of Schools”; “Heightened International Standards on Military Use of Schools”; “Increased Protection of Schools from Military Use in National Policy and Practice”; and “Increased Dialogue and Engagement, Particularly with Military Actors, Regarding Protecting Schools.”¹⁰¹

The overall reported incidents of military use of schools and universities had declined between 2015 and 2018 in those States that had both endorsed the SSD in 2015 and experienced armed conflict during the same period. These were Afghanistan, the Central African Republic, Iraq, Kenya, Lebanon, Mozambique, Niger, Nigeria, Palestine, Somalia, South Sudan, and Sudan. (It is important to note that this data capture concentrated on States that had endorsed the SSD/Guidelines in 2015 and, for that reason, neither Syria nor Yemen were included in the survey.¹⁰²) Overall, reported incidents had halved, from around 160 in 2015 to just over eighty by 2018. The decrease was admittedly not as dramatic in all of those States. In both Palestine and Sudan, for example, reported incidents remained at about the same level throughout the period. In Kenya, Lebanon, and Mozambique, incidents were so few and infrequent that no reliable conclusion was possible but, in Niger, incidents increased. Despite this, the overall figures were most encouraging. Of course, it is impossible to prove, beyond doubt, the existence of a direct link between the endorsement of the SSD/Guidelines and reductions in incidents of both military use and attacks on education

100. See *Fact Sheet: Practical Impact of the Safe Schools Declaration*, *supra* note 12. The Fact Sheet is extensively referenced to sources, which it is not thought necessary to repeat here.

101. *Id.* at 1–3.

102. Yemen did endorse the SSD in October 2017, however, and in 2019 the Group of Experts on Yemen informed the Human Rights Council that “sources reported that the Yemeni armed forces have commenced to withdraw from some schools as per the commitments taken under the Safe Schools Declaration.” See Group of Eminent International and Regional Experts on Yemen, *Situation of Human Rights in Yemen, Including Violations and Abuses since September 2014*, ¶ 722, U.N. Doc. A/HRC/42/CRP.1 (Sept. 3, 2019). The Yemeni Ministry of Education has also established a safe schools committee.

establishments. Arguably, this will never be possible, but the balance of probability seems to suggest such a link.

In June 2015, a month after the launch of the SSD, and again in July 2018, the UN Security Council encouraged all member States “to take concrete measures to deter . . . use of schools by armed forces and armed groups.”¹⁰³ By the time of the launch, UNDPKO had already developed a child protection policy banning the use of educational facilities by peacekeepers.¹⁰⁴ Forces on UN operations today are under an obligation to promote and adhere to the Guidelines; GCPEA has stated that there have been no reported incidents of UN military forces using schools or universities since early 2017.

The Lucens Guidelines had been presented to the Committee on the Rights of the Child in June 2013. Since then, UN treaty bodies have made frequent recommendations on strengthening protections for schools from military use. These had focused on sixteen States in all, including the Central African Republic, the Democratic Republic of Congo, Pakistan, and Thailand.

The remainder of the GCPEA report contains a wealth of detail on the development of States’ policy and practice, as well as examples of increased dialogue with military actors from both States and ANSAs. It is not necessary to repeat in full all of that detailed evidence to convey the fact that the SSD and the Guidelines have achieved a remarkable international profile in the five years since their launch in Oslo in 2015. Nevertheless, and paraphrasing the GCPEA report, the following provides a flavor of that profile:

- In 2018 alone, the Global Coalition and its member organizations conducted over 120 advocacy meetings with State representatives of more than seventy-five States in Geneva, New York, Brussels, Addis Ababa, and various national capitals. Even when States do not endorse the SSD, the meetings result in officials being briefed about attacks on education facilities and personnel and cause them to engage with the SSD and the Guidelines contained therein.

103. S.C. Res. 2225, ¶ 7 (June 18, 2015).

104. When the author first became engaged with GCPEA in late 2011, he discussed military use of schools with a Geneva colleague who had previously served at the special representative of the Secretary-General level within UN peacekeeping operations. He confirmed that UN peacekeepers had routinely used abandoned schools for UN force purposes during his time in Africa. The author’s own witness to UNAMSIL’s use of a school in Sierra Leone is evidence of this former UN practice.

- The SSD has been highlighted during a number of UN Security Council open debates on the protection of civilians, on children and armed conflict, and on women, peace, security, and at meetings of the Human Rights Council. The Global Coalition estimates that around fifty States delivered approximately 230 individual statements in these contexts positively referencing the SSD between 2017 and 2019.

- High-level UN officials have frequently expressed support for the SSD/Guidelines. They include Secretary-General António Guterres (who urged all States to endorse the SSD/Guidelines in his 2018 and 2019 annual reports on Children and Armed Conflict); the Secretary-General's Special Representative for Children and Armed Conflict, Virginia Gamba (who regularly calls for endorsement of the SSD/Guidelines and conducts bilateral advocacy with States to encourage endorsement and implementation); and the High Commissioner for Human Rights, Zeid Ra'ad Al Hussein (who recommended endorsement in his report on Protecting the Rights of the Child in Humanitarian Settings).

- The African Union's Peace and Security Council welcomed the SSD/Guidelines, urged all African Union member States to endorse and strengthen support for the Guidelines, and called on members to "comply with International Humanitarian Law and ensure that schools are not used for military purposes."¹⁰⁵

- In its first "Education in Emergencies" policy communication, the European Commission voiced support for the SSD/Guidelines, announced that the EU "will support initiatives to promote and roll out the SSD," and acknowledged that military use of schools increases violence in educational settings, negatively affecting access to education.¹⁰⁶

For the future, the intention currently is for a Safe Schools conference to be held every two years, hosted by endorsing States from different regions. So far, European and Latin American States have hosted conferences, and Nigeria will host the 2021 conference. These conferences have been a great boost for advocacy, with States in attendance announcing new endorsements of the SSD. In the future, the agenda focus will increasingly be on endorsing

105. *See* Press Release, African Union, Press Statement of the Peace and Security Council (PSC) of the African Union (AU) at its 597th meeting on the theme: "Children in Armed Conflicts in Africa with particular focus on protecting schools from attacks during armed conflict," Press Statement PSC/PR/BR (DXCVII) (May 10, 2016).

106. European Commission, Communication from the Commission to the European Parliament and the Council on Education in Emergencies and Protracted Crises, COM (2018) 304 (May 18, 2018).

States' reports on what they have done to implement the Guidelines. There will also be independent reports from NGOs and UN agencies on military use during current armed conflicts.

XI. CONCLUDING COMMENTS

The account of the Guidelines related in this article is an undoubted success story. When the author sat down to draft the initial version prior to the Lucens Roundtable in 2012, he most certainly did not imagine that the eventual text would be endorsed by over a hundred States and cause the UN to declare an annual day of reflection on the need to protect schools from attack. At the heart of the success story are the Guidelines themselves, whose text has been persuasive and convincing to those government officials who have recommended its endorsement. Those words would not have been possible without the input of all who attended the formative meetings in Geneva and Lucens and who contributed to the research and review process in 2013. Yet, the Guidelines, good as they were, would not have gained acceptance if they had not been taken up with enthusiasm by the members of the Global Coalition and by key people working tirelessly to achieve greater protection for schools and universities and for the children and staff who occupy them. In turn, their efforts would surely not have delivered the results outlined if it had not been for enthusiastic leadership at the State level by Norway, in partnership with Argentina, whose missions in Geneva spearheaded the international diplomatic campaign. There was clear momentum generated by the Oslo Safe Schools Conference in 2015 and maintained through the subsequent conferences in Buenos Aires and Palma. The Guidelines were well packaged within the Safe Schools Declaration, the combination of the two amounting to a form of diplomatic symbiosis. Despite all of these positive features of the story, however, what has more than anything else been responsible for the success of the Guidelines has been the profoundly unfortunate situations in which children and their teachers find themselves in the never-ending series of wars that blight international society. It is a matter of profound regret that the Guidelines are considered necessary.