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Military use of schools and universities: changing behaviour

Research shows it is common for state military forces and armed groups to use schools and universities as bases, barracks, night shelters, fighting positions and detention centres during conflict, often with serious consequences. It makes them a target for the enemy, it causes damage and destruction of facilities, it can put students, teachers and academics at risk from incoming fire or soldiers' misconduct and it can deprive students of classes for long periods or lead to their dropping out of education. How can a change in military behaviour be achieved? This chapter explores why an effective approach to better protecting schools and universities from military use is through the adoption and implementation of international guidelines

In March 2010, Human Rights Watch researchers visited a government elementary school for Muslim children in the southern Thai village of Ban Klong Chang. The Royal Thai Army Ranger force had been using the grounds of the school for the previous two years, occupying about half of the school playing field. The paramilitary soldiers were armed with pistols and military assault rifles. One of the children at the school told the researchers that they were allowed to touch the weapons but were not allowed to carry them. Despite the apparently friendly atmosphere, with soldiers playing with students, some of the students expressed fears. They said they worried that the guns might hurt them. They also said that they were frightened because the presence of the soldiers meant that they and their friends might be hurt if fighting broke out between the Rangers and the opposing forces.

Both the students and their parents were concerned that the teachers were unable to do their jobs as successfully as they would if the school was just being used as a school. There was a strong awareness in the small village community of the extent to which the soldiers' presence was adversely affecting the children's schooling. Some of the girls were worried about the soldiers touching them and one of them said she was not happy that the soldiers asked her if she had an older sister. The possibility of sexual harassment of the girls was a general fear for both parents and students, and one mother expressed concern that her daughter might become pregnant by the soldiers. The Rangers brewed and drank an herbal narcotic drink in the school and some of the students had apparently tried it themselves. The games that students played also became increasingly militarized. Inevitably, given their concerns, some parents removed their children from the school but attendance at an alternative school required the children to travel an extra hour each day. There was no general opposition to the soldiers' presence in the locality – just a widely held feeling that they should not be using the school and that their presence was having a bad effect on education.[361]

As this single example illustrates, during armed conflict there is the potential for considerable interaction between those delivering and receiving education and those doing the fighting, be they members of states' armed forces or those belonging to armed non-state groups. This chapter discusses the various forms military use of schools and universities can take and considers ways in which the behaviour of military forces might be changed to reduce that use, including through the development of international guidelines. It describes the content of Draft Guidelines developed last year under the auspices of GCPEA and how these are being taken forward for adoption. It concludes with a brief discussion of how different states and armed non-state actors might choose to implement them.

Military commanders or the leaders of armed non-state groups may regard school buildings as ideal for use as headquarters, barracks or stores for military equipment. Schools often have fenced or walled perimeters making security relatively straightforward. During active hostilities, their buildings can be used as defensive positions, as good locations from which

to launch attacks or as observation posts. Their use for such purposes may have a profound impact on educational provision, even to the extent that it may result in the destruction of essential educational infrastructure.

Some acts that might seem positive to a military commander, such as deploying a fighting force to provide much needed security for a school, may actually have negative consequences; the presence of fighters in or around a school may render it a legitimate target for opposing forces. The close proximity of military forces guarding a school may actually attract the very assault they are attempting to prevent.

Armed conflict is an enduring feature of the international system. It should be possible, however, to mitigate its worst effects by modifying the behaviour of the fighting forces of parties to conflict. Their actions can have profoundly damaging effects and there is a responsibility on all concerned to take measures to mitigate these negative impacts. Action of any sort to reduce the effects of armed conflict on education should be accorded a high priority. It is necessary, however, to be realistic and pragmatic about what is possible in that regard.

The military use of schools and universities today

The GCPEA report *Lessons in War: Military Use of Schools and Other Education Institutions during Conflict* (2012) reveals clear evidence of the use of educational institutions by the forces of parties to conflict in armed conflicts in at least 24 countries in Africa, Asia, Europe, the Middle East and South America from 2005 to 2012.[362] In all 24 of these countries, state armed forces were among those using schools and universities, non-state actors used schools and universities in 17 of these countries, and other international actors used schools and universities in at least five of these countries.[363]

The evidence, however, almost certainly underrepresents the extent of military use of schools and universities. For instance, not all 'conflicts' were included in *Lessons in War*. 'Criminal insurgency'[364] has frequently been excluded from legal definitions of armed conflict because it is motivated by greed rather than a political objective. Importantly, however, International Humanitarian Law says nothing about the motives driving rival forces – something acknowledged by the International Committee of the Red Cross (ICRC)[365] – so criminal gangs may be engaged in a form of armed conflict if the intensity of armed violence reaches a threshold level, as it has done in Mexico, for example.

There is also a degree of under-reporting of military use of schools and universities. This is not always deliberate and can be related to the difficulties of data capture in conflict zones. Nevertheless, governments have suppressed information.[366] Community leaders may also fail to report such use for fear of retribution. In any case, it is clear that military use of education institutions has disrupted education provision in many regions affected by conflict.

This is a serious problem. Military use of educational institutions occurs in most regions affected by armed conflict and assumes several forms. For these reasons, GCPEA initiated a project to mitigate the worst effects of military use of schools and universities by setting new standards to guide parties to armed conflict.

Lessons in War analysed the military use of schools and universities, categorizing the use to which they are routinely put. The following seven different categories of military use were identified:[367]

Bases and barracks

Bases or barracks are set up in school or university buildings and grounds to accommodate fighters for the medium to long term, providing them with access to such amenities as cooking spaces, washing facilities and lavatories. Examples include:

- Across India, government paramilitary police occupied schools. In 2010, before forces began complying with court orders to vacate schools, approximately 130 schools were being used, particularly in states most affected by the Maoist insurgency – Bihar, Chhattisgarh and Jharkhand – but also in the country's north-east, in Tripura, Manipur, Nagaland and Assam.[368]

- In Syria, schools have been used as barracks for government forces with tanks at the school gates and snipers posted on rooftops. Anti-government forces have also used schools as bases.[369]

Defensive and offensive positions or staging areas

Troops use school or university buildings as defensive positions providing protection from enemy fire, observation posts, firing positions or locations from which to direct attacks on opposing forces.

- During Ramadan in 2010, Al-Shabaab fighters entered a school in Mogadishu and told the students to stay in their classrooms. The fighters set up a surface-to-air rocket launcher and fired from inside the school compound at territory held by the Somali government. Government forces responded and one rocket hit the school just as the students were finally released, killing eight on their way home.[370]
- For six months in 2011, Yemeni government forces occupied the Superior Institute for Health Science, a school for pharmacists and physicians' assistants on high ground in the city of Ta'izz. Dozens of troops occupied the medical laboratory and the pharmacology department, as well as the roof. A machine gun was mounted on an armoured vehicle in the yard and machine gun and mortar rounds were fired from the school while classes were in session.[371]

Weapons and ammunition storage

In order to hide or simply store weapons and ammunition, armed forces and armed groups have stockpiled weapons and ammunition in schools and school grounds.

- In 2010, the Armed Forces of the Philippines and their irregular auxiliary force (the Citizen Armed Force Geographical Units) used functioning public schools to store weapons and ammunition.[372]
- During an international assessment in 2011 in Côte d'Ivoire following the arrest of former President Laurent Gbagbo and the cessation of hostilities, three schools were found to contain firearms and ammunition.[373]
- In 2012, the UN verified 36 incidents of schools in Yemen being used for weapons storage, sometimes resulting in their closure.[374]

Detention and interrogation centres

Armed forces and armed groups have converted schools into sites of detention and interrogation. Sometimes, classrooms are used temporarily to hold or interrogate individuals, possibly in connection with other military activities in or around the school.

- In Syria in 2011, government authorities established numerous temporary holding centres in schools during massive detention campaigns while anti-government demonstrations were underway. While in the schools, some detainees were subjected to torture during interrogation.[375]
- The Israeli Defence Forces have used schools in the West Bank for detention and interrogation while arresting anyone in the community aged between 17 and 50.[376]
- During the armed conflict in Libya in 2011, schools were converted into improvised detention centres. Tajura Primary School, for example, became a prison for several hundred combatants who fought in support of the Gaddafi regime.[377]

Military training

Schools and universities make ideal locations for military training, fitness programmes and weapons training for new recruits.

- In 2011, anti-Gaddafi forces in Libya conducted training in schools. Journalists documented at least one instance of rebel leaders using a secondary school to instruct soldiers in the use of anti-aircraft guns.[378]
- During 2012, Islamist armed groups controlling northern Mali trained new recruits, including children, in both private and public schools as well as in Koranic schools.[379]

- Children have reported receiving military training in madrassas (Islamic schools) in the border areas of Afghanistan and Pakistan from armed groups active in these areas.[380]

Illegal recruitment of child soldiers

Many non-state armed groups have taken advantage of schools as locations where children gather, to recruit them into their forces.

- In April 2012, mutineers under General Bosco Ntaganda rounded up over 30 male students at Mapendano secondary school, in Masisi territory, DRC. The boys and young men were tied up, taken to a military camp and inducted into Ntaganda's forces.[381]
- The Revolutionary Armed Forces of Colombia (FARC) engaged in child recruitment campaigns in schools. In September 2008, they entered a school in the department of Cauca where 800 students were studying and invited the children to join the group.[382]
- In Somalia, Al-Shabaab militants have systematically used schools as recruiting grounds. They have regularly visited schools and forcibly removed children from classrooms, often at gunpoint. They have lined up students, selected those they deem fit to serve as fighters and suicide bombers, and taken them back to their training camps.[383]

Temporary shelter

Armed forces and armed groups sometimes use schools and university buildings as temporary shelter, either from incoming attacks or simply for protection from the elements.

- In Colombia, army helicopters occasionally use school playing fields and playgrounds as landing sites for the unloading of personnel and weapons.[384]
- In July 2010, the Myanmar government's armed forces temporarily sheltered from the rain in a school in the village of Tha Dah Der, in the north-eastern Karen state. Local residents had already fled the area and the soldiers had burned most of the buildings in the village. They also tried to burn down the school buildings.[385]
- In South Ossetia, Georgia in 2008, a kindergarten teacher reported to Human Rights Watch that volunteer militias had been hiding in her kindergarten and that Georgian government forces had attacked the building with rockets.[386]

As the preceding analysis shows, educational facilities are used regularly by armed forces in various ways. While temporary physical occupation is the most widely reported form of military use, other overt and indirect forms of use are common. There are instances where schools and universities are being used militarily and educationally at the same time; in other circumstances, military use spells the end of all educational activities. In either case, the effects of military use on education functions are typically adverse.

The negative consequences of military use are many and various. Students and teachers come under fire and are often exposed to physical injury and sexual violence. Students drop out of school or are removed by worried parents who are frightened about the risks to which their children are exposed. School and university buildings are damaged and destroyed – both by attacks precipitated by their use and by the actions of armed forces and groups using them – with many being altered in some way to make them even more suitable for military use. Course notes, textbooks, classroom furniture and a great deal of other educational material are damaged or lost. Students, teachers and support staff may suffer trauma when schools are attacked; merely the fear of attack can undermine the feeling of security that is necessary for a good teaching and learning environment. Schools and universities that are used by the military while carrying on their educational function become overcrowded; there are consequential lower rates of enrolment; the quality of education that is still delivered declines; and the presence of soldiers can seriously undermine general personal security, with girls and women being especially vulnerable.

Provision of security for educational institutions

Not all forms of military interaction with education are motivated purely by military imperatives, nor are they necessarily negative in their impact. Schools and universities in conflict zones are in need of security and protection. Their administrators and military commanders may judge it necessary for military personnel to guard them. Military commanders with a specific mandate to protect civilians as part of a humanitarian mission, for example, may well regard school security as an essential mission objective. Education institutions damaged in war may need rebuilding and essential services may need to be restored. Military units could be physically capable of providing the sort of support necessary to maintain the infrastructure vital for schools to operate effectively. Indeed, military personnel may be the only source of such support during conflict and its immediate aftermath.

There is, however, a fundamental dilemma to be faced. Military personnel providing the support and security necessary for a school to function could compromise that school's status and lead to it becoming a target for opposing military forces. This may be the case even when a military force is acting in a conflict zone under a humanitarian mandate. The provision of support by the military could have exactly the opposite effect of that intended.

Whether military interaction with education is essentially for military purposes or for the apparent benefit of education itself, it is important that military commanders are aware of the serious dilemmas that result. Their decisions should be consistent with the need to mitigate the impact of conflict on education. Clearly, those decisions need to be informed by an understanding of the relevant legal rights and obligations; military action must remain within legal limits. It is also desirable, however, to do more to protect education than the minimum required by the law. Any military interaction with education should be reduced as much as possible to maximize the benefit to education and to minimize the damage to it.

Options for changing behaviour

Changing military behaviour, especially in order to impose additional constraints on military activity, is a major challenge. The use of educational establishments is a sorry feature of modern warfare. What the law demands is known and it is vitally important that all fighting forces, both those belonging to states and those making up armed non-state groups, are sufficiently well-disciplined and trained to comply. Even if the law as it stands were to be fully complied with, however, it would not result in education obtaining the degree of protection it deserves and requires. Even lawful behaviour by fighting forces can result in serious damage to education. Better behaviour than the current law demands is therefore needed.

A change in the law might be one way forward. Would an education-specific treaty or convention be a sensible step and could the process of achieving this be initiated by a coalition of international organizations and NGOs rooted in civil society? There is evidence that the contemporary normative climate is becoming increasingly conducive to civil society-inspired changes to the law governing the conduct of hostilities and the development of means and methods of warfare. Both the Ottawa and Oslo processes, on anti-personnel landmines and cluster munitions respectively, were initiated by civil society groups, as was the process resulting in the UN negotiations for an Arms Trade Treaty, successfully concluded in early 2013. A convention restricting military use of schools and universities is, therefore, a serious option to consider.

The need to persuade states formally to engage in negotiations and then agree to be bound by resultant treaty provisions may, however, be a challenge too far. Such an approach is likely to result in many powerful or influential states either distancing themselves from the process of negotiation or engaging with the intention of preventing progressive rules that would impose more constraints on military forces. Many states would simply argue that the protection of education is already adequately provided for in existing treaty law. The risk is that states would not be willing to commit in law to a more restrictive set of rules even if they might be prepared generally to adopt

practices that would have the same result while preserving their legal rights.

There has been evidence recently of the advantages of taking a softer and more pragmatic approach that might have a greater chance of succeeding than trying to change the law. An obvious example is the production of both the Montreux Document regulating the activities of Private Military and Security Companies[387] and the subsequent Code of Conduct for Private Security Service Providers.[388] Another is the establishment of Guiding Principles on Internal Displacement.[389] Such documents are not treaties; they are not, therefore, a source of international law and are consequently not legally binding on states – although they do have the potential to change or improve behaviour.[390] Treaty negotiations would be difficult to initiate; by comparison, developing and seeking the adoption of voluntary guidelines would be more achievable, could change the law over time and ultimately might be more effective.

Developing international guidelines

Following wide consultations with states representatives and other experts, GCPEA decided to develop guidelines rather than attempt to initiate international negotiations for a convention that would change the applicable law. A workshop attended by a number of experts was convened at the Geneva Academy of International Humanitarian Law and Human Rights in early 2012. The workshop recommended the development of a set of guidelines for protecting schools and universities from military use during armed conflict. The draft that eventually emerged was shaped around several considerations, namely:

- While any guidelines should aim to effect a change of behaviour, they should respect international law as it stands and not propose changes to it. They should not be legally binding in themselves or affect existing obligations under international law.
- The guidelines should reflect what is practically achievable and acknowledge that parties to armed conflict are invariably faced with difficult dilemmas requiring pragmatic solutions.
- The guidelines should reflect good practice already applied by some parties to armed conflict.
- The guidelines should be produced for the use of all parties to armed conflict, both states and armed non-state actors.
- While the guidelines should be produced specifically for application during armed conflict, they should also be useful and instructive for post-conflict and other comparable situations, including those with the potential to turn into armed conflict.

An initial draft set of guidelines was discussed by representatives of a number of states from regions around the world, as well as UN organizations and NGOs, at a workshop in Lucens, Switzerland, in late 2012. All those who attended were invited on the understanding that their identities would not be disclosed and their input would not be directly attributed to the states and organizations they represented. The states included a cross-section of the international community, ranging from NATO members to developing states that had experienced, or were still experiencing, armed conflicts within their borders.

Content of the Draft Lucens Guidelines

Further drafts and discussions resulted in Draft Guidelines published in July 2013.[391] They remain in draft form and may be amended slightly before being finalised (at some point in 2014). There are six guidelines, as follows:

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

Guideline 1: Functioning schools and universities should not be used by the fighting forces of parties to armed conflict in any way in support of the military effort, either for immediate tactical advantage or for longer term purposes.

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

(b) Parties to armed conflict should neither use force nor offer incentives to education administrators to evacuate schools and universities in order that they can be made available for use in support of the military effort.

Guideline 2: Abandoned schools and universities should not be used by the fighting forces of parties to armed conflict for any purpose in support of the military effort except when, 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. Appropriate alternative premises should be presumed to be a better option, even if they are not as convenient or as well positioned for the desired military purpose, although all feasible precautions should be taken to protect all civilian objects from attack. The fighting forces of parties to armed conflict should be mindful that they may not have full knowledge of the potential negative consequences of their use of a school, including its effect on a civilian population's willingness to return to an area.

(a) Any such use should be for the minimum time necessary.

(b) Abandoned schools and universities that are used by the fighting forces of parties to armed conflict in support of the military effort should always remain available to allow educational authorities to re-open them as soon as practicable, provided this would not risk endangering the security of students and staff.

(c) Any evidence or indication of militarization or fortification should be completely removed following the withdrawal of fighting forces, and any damage caused to the infrastructure of the institution should be promptly and fully repaired. All munitions and unexploded ordnance or remnants of war must be cleared from the site.

Guideline 3: Schools and universities – be they in session, closed for the day or for holidays, evacuated, or abandoned – are ordinarily civilian objects. They 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.

Guideline 4: Use of a school or university by the fighting forces of parties to armed conflict in support of the military effort may 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 a school or university that has become a military objective, including warning the enemy in advance that an attack will be forthcoming unless it does not cease its use.

(a) Prior to any attack on a school that has become a military objective, the parties to armed conflict should take into consideration the duty of special care for children, and the potential long-term negative effect on a community's access to education posed by the damage or destruction of the school.

(b) The use of a school or university by the fighting forces of one party to a conflict in support of the military effort should not serve as justification for an opposing party that captures it to continue to use it in support of the military effort. As soon as feasible, any evidence or indication of militarization 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 generally not be employed on security tasks related to schools and universities except when the risk to those institutions is assessed as high; if alternative means of reducing the likelihood of attack are not feasible; if evacuation from the high risk area is not feasible; and if there are no alternative appropriately trained civilian personnel available to provide security.

(a) If such fighting forces are engaged in security tasks related to schools and universities, their presence within the grounds or buildings of the school should be avoided if at all possible, to avoid compromising its 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 their doctrine, military manuals, rules of engagement, operational orders and other means of dissemination, to encourage appropriate practice throughout the chain of command.

Raising awareness of the Lucens Guidelines

Securing implementation of the Guidelines requires a powerful campaign to raise awareness. This needs to reach out to both states and armed non-state actors. Increased awareness of the practice and consequences of the military use of schools and universities is vital — to prompt recognition of the need for guidance and to increase the political will to secure buy-in from government decision-makers and key stakeholders from the wider domains of both government and civil society.

How will the Guidelines be dealt with by military forces and by relevant government departments in states? Different states will approach the process of implementation, promulgation and achievement of an appropriate degree of compliance in different ways. There will be no hard and fast or universally acceptable means of achieving these things. Civil society organizations will be key partners in this endeavour, alongside those states willing to champion both the reasoning behind the Guidelines and their content. Supportive states will be important but so too will armed non-state actors who will be made aware of the benefits of compliance through support from NGOs.

Implementing the Lucens Guidelines

Each state will have its own ways of applying the Guidelines. This is the case even for NATO members. While NATO is the most sophisticated multinational military organization in the world, with military doctrine, tactics, techniques and procedures promulgated in Allied Publications, individual member states retain publications for exclusively national use. Each will decide how best to ensure compliance and, although there will be similarities, one cannot assume that all will do this in the same way. Some may choose to incorporate the Guidelines into doctrine, some to include them in relevant manuals (including those dealing with the law of armed conflict) and some might favour reflecting them in command and control arrangements (such as rules of engagement).

Doctrine is essentially 'that which is taught'. It is a guide for military commanders about ways of achieving tactical and operational success. It establishes ways of thinking about operations and also acts as a way of promulgating procedures necessary to make a military force work as a coherent whole. It is important at all levels, from military-strategic to tactical, but for the Guidelines the tactical level will be especially significant. Since doctrine provides the framework and content of tactical training, it would be a good way of ensuring compliance with the Guidelines.

Another way to promulgate Guidelines would be in legal manuals. The Guidelines are not law, however; indeed, they are an attempt to provide more protection for education than the law currently demands. For this reason, some states may include them in legal manuals; others may not. Importantly, many states do not have legal manuals of their own.[392] The more sophisticated military powers do, but most states do not and often rely on commercially published versions – including versions produced by the more established military powers,[393] such as the United Kingdom and German armed forces, for example, which reflect the views of those governments.[394] It would be useful if states with their own legal manuals could be persuaded to adopt the Guidelines and reflect them in their manuals, but it may take some time – the UK's manual was first published in 2004 and is only now undergoing its first review.

A further suggestion is to reflect them in rules of engagement (ROE). There is value in this approach because ROE are a command and control mechanism giving precise instructions to those operating at the tactical level about what they can and cannot do. For example, if a state had adopted the Guidelines and, in so doing, had agreed not to use school buildings for military purpose except in extreme circumstances, high-level commanders could use ROE to either

restrict a tactical commander's choices or allow him to use a school exceptionally if the situation demanded it.

Another issue to consider is enforcement. No international agreement is automatically enforceable, even if it is agreed in a treaty. The Guidelines will not be binding internationally – but this does not mean they cannot be legally binding domestically. Breaches of the Guidelines would be unlawful if they contravene orders issued through the military chain of command. Non-compliance would then represent an offence under the military justice arrangements in the states that adopt them.

Armed non-state groups are most unlikely to use the range of publications and command and control mechanisms common within the armed forces of states. Such groups often emerge or coalesce during crises within states and their command arrangements will often be informal. Although some groups exist for extended periods, many are short-lived coalitions of disparate elements. The most effective and organized will have a command and control process of some sort, however. The Guidelines will require implementation through that. A number of organizations work with armed non-state groups to promote their compliance with international law; these organizations could be encouraged to include the Guidelines in this work.

Conclusions

It is evident that a great deal needs to be done to protect education – students, teachers, academics, administrators and the schools, universities and other establishments in which education is delivered – from the effects of armed conflict. This is particularly the case when it comes to military use of schools and universities. The Draft Lucens Guidelines are consistent with the law but are intended to lead to behaviour on the ground that should provide a greater degree of protection than even the law demands. The Guidelines have been produced through a process that has involved substantial input from the military and defence and foreign ministries of a range of interested states. The process has also taken into account the special demands of the armed non-state actor community. The Guidelines are pragmatic, realistic and capable of implementation through a range of mechanisms that are already employed to achieve compliance with the law.

Once the final version of the Lucens Guidelines has been produced, they will require endorsement or adoption, implementation and some measure of compliance and enforcement. As GCPEA and other bodies take the Guidelines forward, additional thought needs to be devoted to how the least capable states and armed non-state actors might be advised to proceed and what mechanisms they will need to put in place to ensure compliance.