

# PROTECTING EDUCATION IN COUNTRIES AFFECTED BY CONFLICT

PHOTO: BAS CZERWINSKI POOL / CORBIS



**BOOKLET 2**

## **Legal Accountability and the Duty to Protect**

**Global**  
Education Cluster

### Front cover

Gambian war crimes lawyer Fatou Bensouda takes the oath during a swearing-in ceremony as its new prosecutor in The Hague, Netherlands, 15 June 2012. She was tasked with trying to bring to justice alleged war criminals, including Uganda's Joseph Kony and Libya's Seif al-Islam Gadhafi

# Foreword

This booklet is one of a series of booklets prepared as part of the Protecting Education in Conflict-Affected Countries Programme, undertaken by Save the Children on behalf of the Global Education Cluster, in partnership with Education Above All, a Qatar-based non-governmental organisation. The booklets were prepared by a consultant team from Search For Common Ground.

They were written by Brendan O'Malley (editor) and Melinda Smith, with contributions from Carolyne Ashton, Saji Prelis, and Wendy Wheaton of the Education Cluster, and technical advice from Margaret Sinclair. Accompanying training workshop materials were written by Melinda Smith, with contributions from Carolyne Ashton and Brendan O'Malley. The curriculum resource was written by Carolyne Ashton and Margaret Sinclair.

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## Booklet topics and themes

<b>Booklet 1</b>	<b>Overview</b>
<b>Booklet 2</b>	<b>Legal Accountability and the Duty to Protect</b>
<b>Booklet 3</b>	<b>Community-based Protection and Prevention</b>
<b>Booklet 4</b>	<b>Education for Child Protection and Psychosocial Support</b>
<b>Booklet 5</b>	<b>Education Policy and Planning for Protection, Recovery and Fair Access</b>
<b>Booklet 6</b>	<b>Education for Building Peace</b>
<b>Booklet 7</b>	<b>Monitoring and Reporting</b>
<b>Booklet 8</b>	<b>Advocacy</b>

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The booklets should be used alongside the Inter-Agency Network for Education in Emergencies (INEE) *Minimum Standards for Education: Preparedness, Response, Recovery*. References to the most relevant standards for the content of each booklet are given in the resources section.

There is also a supplementary booklet, Curriculum Resource: Introducing Humanitarian Education in Primary and Junior Secondary Schooling, which can be used with Booklet 6.

Please feel free to share these booklets with interested professionals working in ministries of education or non-governmental organisations, and others concerned with education for populations affected by armed conflict or insecurity.

If referenced, please use the following text: Global Education Cluster, Booklet 2: Legal Accountability and the Duty to Protect, Protecting Education in Countries Affected by Conflict series (2012)

## Introduction

This series of eight booklets is designed to provide:

- an overview of the problem of conflict-related threats to education
- a range of responses that can be made by education clusters, and ministries, non-governmental organisations (NGOs) dealing with education, security, protection, psychosocial support and legal accountability issues.
- a tool to be used with an accompanying set of workshop materials for use in training people in aspects of protecting education in conflict-affected countries.

This booklet focuses on legal accountability and the duty to protect.

## Key messages

- Governments and the military have a legal duty to protect education and ensure that those who do harm are punished.
- The content of education and protect education and ensure that those who do harm are punished.
- Governments should adopt legislation in line with international law that protects students, education staff and education facilities and bring any violations to court.
- Governments should ban military use of schools and other education facilities to minimise harm to students, staff and the facilities or to the quality of education provided. Until a ban is achieved, develop strict rules for military use of education facilities.
- National and international organisations, Education Cluster members and human rights groups should advocate for states, military personnel and armed groups to comply with international law, and monitor this.

# Background



Judges at the International Criminal Court, where war crimes cases can be tried

## Attacks on education violate international law because:

- human rights law includes the right to education and to life
- humanitarian and criminal laws protect civilians and civilian buildings from attack during armed conflict.

## Attacks on education have serious long-term consequences, including:

- death and injury to students and staff
- harm to students' physical and mental health and development (and harm to the mental health of staff)
- degradation of education systems over the long term (loss of buildings, teachers, management structures and capacity)
- reduction in numbers of skilled people to rebuild the country after a conflict (due to many children being denied access to good-quality education, often for years).

These reasons amount to a powerful argument as to why governments and the international community should expose and punish those who attack education.

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## Who can be prosecuted for attacks on education?

Individuals who commit crimes such as arson, assault and murder against students, staff or education facilities can be prosecuted under national criminal law.

Political leaders and commanders of state and non-state armed groups or forces, who make decisions about the conduct of war, can be prosecuted under international humanitarian or criminal law<sup>1</sup>.

Individual soldiers of armed forces and armed groups can be prosecuted under both national and international law.

Commanders can be held criminally responsible for violations committed by personnel under their command.

This can happen if they knew, or should

have known, about an attack in advance but failed to stop it, or if they failed to investigate and prosecute violators.<sup>ii</sup>

### International Criminal Court (ICC)

The ICC was established under the Rome Statute, an international treaty which has been signed by 121 states, as of July 2012. The Statute is relevant to attacks on education since it covers the following war crimes<sup>iv</sup>:

- attacks on buildings dedicated to education (if they are not a military objective<sup>v</sup>)
- conscripting children aged under 15, enlisting them or using them to participate actively in hostilities
- grave acts of sexual violence
- attacks on civilians and civilian objects (eg buildings).

The ICC uses its influence nationally and internationally to encourage and support national prosecutions. It can also prosecute when states are unwilling or unable to do so.

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### What duties do national officials, commanders and soldiers have under international humanitarian law?

The state has a duty to instruct soldiers in international humanitarian law (also referred to as the laws of armed conflict or the laws of war) and provide commanders with legal advice.

It has an obligation to investigate grave violations and bring suspected perpetrators to trial. It also has a duty to cooperate with



A student leaves al-Furadh school in Yemen after soldiers have occupied it

other states about extradition (handing over of alleged violators to other countries to face trial) and other aspects of prosecuting grave crimes.

Commanders have a duty to prevent violations, to make sure their troops know their obligations, and to initiate disciplinary action or punishment whenever laws are violated.

The legislature has a duty to provide effective penal sanctions for grave breaches of international humanitarian law.<sup>vi</sup>

### Duties when using education buildings for military purposes

International humanitarian law does not specifically prohibit armed forces from using education buildings for military purposes.

However, each party to a conflict (military forces and armed groups) must take all feasible precautions to protect the civilian population and civilian objects – such as schools – against attacks.

All parties must also evacuate civilians from buildings or areas which are to be

## CASE STUDY I

### DRC rebel leader sentenced for child recruitment and use

In the first case tried by the International Criminal Court, in 2011 Thomas Lubanga Dyilo, leader of the Union of Congolese Patriots (UPC), was found guilty of conscripting and enlisting children under the age of 15 and using them to actively participate in armed conflict in the Democratic Republic of Congo (DRC) during 2002 and 2003.

At the sentencing hearing in June 2012, the prosecutor highlighted the impact on children's education as one of the reasons why he was requesting a severe sentence, the maximum of 30 years for the rebel leader.

He said four aggravating factors should be considered. These were Lubanga's responsibility for UPC actions as its top leader; the cruelty of the treatment of child soldiers, who were trained to kill and rape and were sent

into battle zones and instructed to kill people; the rape and abuse of all girls who were recruited and their use as sex slaves; and the impact on children's education.

He said the crime of recruiting children as soldiers denied these children and their generation their right to education.

"Victims and those close to them repeatedly identified the loss of education as their immediate reality and one of their greatest concerns," the prosecutor said.

"The interruption, delay, and/or denial of education to child soldiers deeply affect their lives for ever. Other families did not send their children to the schools for fear of the recruitment. Schools were attacked. Mr Thomas Lubanga's crimes affected the education system in its entirety."

However, Lubanga, leader of the Patriotic Force for the Liberation of Congo (FPLC) was sentenced to 14 years.<sup>iii</sup>

used for military operations or are likely to be attacked to achieve military gain, whenever feasible.

It is therefore unlawful to use a school both as an armed base and as an educational centre at the same time.

International human rights law continues to apply during an armed conflict.

If extended use of a school by government security forces affects children's ability to learn, this is a violation of children's right to education.

## How to ensure accountability

### Processes for holding individuals accountable:

- prosecution in national civilian or military courts, civilian criminal trials held in other jurisdictions or civil suits
- national 'truth commissions' or similar traditional mechanisms
- ICC prosecution, or prosecution in other international tribunals
- handing over of individuals to other

countries to face trial, bans on them leaving the country or denial of access to international bank accounts.

### Processes for holding states (and sometimes non-state armed groups) accountable:

- reports to and from the Committee on the Rights of the Child, other treaty bodies, the Human Rights Council (HRC) (see Case Study 2), and the UN Security Council
- sanctions or embargoes (such as forbidding imports from or exports to a country)<sup>vii</sup>
- civil claims and public interest litigation regarding the right to education under human rights law
- cases for violations of other laws that have an impact on education (eg murder, torture, sexual violence) brought against them in domestic and regional courts
- constitutional claims and litigation in national courts in countries where education is guaranteed by the national constitution; and in regional courts where the region's human rights treaties guarantee the right to education.

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## Protecting the right to education and avoiding harm

### The right to education

Under international human rights law, states must make primary education compulsory, free and available to all. Secondary education should be made available and accessible, and higher education should be provided on the basis of capacity. This means that schools must be

kept open or alternative safe places of learning must be provided.

### Physically protecting both people and places

The best ways to protect education involve all actors working together. This means national ministries, secretaries of education, armed forces and community representatives.

The role of the community, in particular, is important (see Case Study 3). A range of military and police protection measures have been used in different countries. Military or local police actions have included patrolling roads leading to education facilities to find and clear bombs or other explosive devices before students and teachers leave or arrive.

Armed escorts for students and teachers travelling to and from school can deter attacks. Armed guards outside school buildings or at nearby checkpoints can also stop attackers approaching.

However, be aware that these actions can also lead to attacks on both soldiers and teachers, so in some situations it may be best to avoid involvement by the armed forces or police.

It is important to avoid the use of school or university buildings or facilities by armed forces to defend students and staff, because this can:

- increase the risk of the facilities becoming a target
- damage classrooms, buildings and education materials through wear and tear
- cause students to drop out due to actual or feared coercion or sexual harassment by occupying forces

## CASE STUDY 2

### Israel/occupied Palestinian Territories: HRC investigates war crimes

The Human Rights Council (HRC) was set up in 2006. It holds states and, in some cases, armed groups accountable for their actions. One of its most high-profile investigations was into the military operation conducted in Gaza in the occupied Palestinian Territories (oPt) during December 2008 and January 2009, known as Operation Cast Lead. The findings were published in September 2009 and adopted by the HRC the following month.

According to the Ministry of Education and Higher Education, 250 students and 15 teachers were killed during this period. Another 656 students and 19 teachers were injured. Ten schools, eight kindergartens and six university buildings were destroyed. A further 262 schools and kindergartens and 16 university buildings were damaged, according to the Office for the Coordination of Humanitarian Affairs (OCHA). In Israel, Palestinian rocket attacks forced schools to close and left children traumatised, diminishing their ability to learn.

The attacks on schools and other acts on both sides were reported by the HRC as war crimes. The HRC also suggested that crimes against humanity may have been committed.<sup>viii</sup> It urged Israel and Hamas to launch independent investigations according to international standards into their own violations

within three months; and to inform the UN Security Council within a further three months of any planned or existing action taken to investigate and prosecute serious violations.

The HRC also recommended establishing a committee of experts to monitor if and how Israel and Hamas were investigating alleged violations by their own forces. Political opposition to the report constrained attempts to fulfil the recommendations.

An independent committee of experts reported back to the HRC<sup>ix</sup> in March 2011 on its attempts to monitor and assess the investigations by both sides. But it had not been granted access to Israel, the West Bank or Gaza.

It found that Israeli authorities had investigated 400 allegations of operational misconduct but made no indication that it had opened investigations into the actions of those who designed, planned, ordered and oversaw Operation Cast Lead.

The authorities in Gaza had made efforts to provide specific information concerning criminal investigations into alleged human rights violations committed by their security forces.

However, there had been no investigations into the launching of rocket and mortar attacks against Israel.

In March 2012 a General Assembly motion was adopted requesting the Secretary General to present a detailed report to the HRC on the implementation, especially the non-implementation, of the recommendations.<sup>x</sup>

- reduce the overall quality of education that the school/place of learning can provide, for instance by putting facilities out of use or making students fearful.

### The negative effects of building physical defences around schools

Digging perimeter ditches, sand-bagging the tops of walls, and installing gun turrets or sentry posts can increase the likelihood of schools being seen as legitimate military targets – and they would still be seen as targets after the military had left if the sand bags and gun turrets were not taken away. This can also increase fears among pupils, teachers and parents and lower the quality of education.

### Preventing conscription, enlistment or use of children in hostilities

Children who are recruited into armed groups or forces are at grave risk from:

- conflict itself ie risk death or permanent injury
- threats such as physical violence, sexual abuse and forced use of drugs
- psychosocial trauma from conflict, being forced to kill and hurt others
- separation from their family and/or traumatising experiences that desensitise them to violence
- their education being severely disrupted during, and also after, the conflict due to stigmatisation and psychosocial trauma.

### Avoiding sexual violence and torture

These crimes have been used as tactics by armed forces or armed groups against students and education personnel as part of a strategy to destabilise and destroy

communities or quell resistance. They also result from serious breaches of discipline or abuse of power.

Sexual violence causes deep pain and psychosocial trauma.

In many cultures, it can also stigmatise victims and lead them to become ostracised by their partner, family or community.

### Armed forces' involvement in reconstructing education buildings

If armed personnel help to reconstruct and repair schools, it can in some cases increase the risk of attack.

This is because the buildings can be seen as a symbol of government or international influence. In Afghanistan, schools funded by Provincial Reconstruction Teams, which included international military personnel, were perceived to be at a higher risk of attack, according to one study<sup>xi</sup>.

In neighbouring Pakistan, schoolchildren have been killed in attacks targeting US forces helping to reconstruct or build schools.

### Governments protecting human rights

Students, professors or trade unionists working in higher education are often attacked because they are – or are perceived to be – involved in politics. Such attacks occur both in conflict-affected countries and in many non-conflict situations. Government concern about possible links between higher education, opposition groups and 'subversive' activities can lead them to close education institutions or unions.

Governments sometimes also restrict human rights, such as freedom of speech, association and assembly.

The right to work, to intellectual

inquiry and scientific research, can also be curtailed. Individuals can face persecution, arbitrary imprisonment, torture or disappearance as a result of their real or suspected activities. Governments should avoid such measures and instead work with civil society organisations to protect human rights.

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### **Actions to consider**

How can teachers, students and education institutions be protected from attack, and perpetrators held to account? The following guidance is aimed at national officials, state and non-state actors, national courts, international actors, and communities.

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### **I End impunity**

#### **Criminalise attacks on education**

Governments should ensure that national laws criminalise all attacks on education, including murder, torture and arson, in line with international law.

The government as well as civil society should also work to bring cases to court.

The recruitment of children under the age of 15 is banned under international criminal law and international humanitarian law. Governments should criminalise the recruitment of children aged under 18. They should sign up to the Optional Protocol to the United Nations Convention of the Rights of the Child, on the involvement of children in armed conflict. This obliges states to raise the recruitment age from 15, to ensure that armed forces personnel aged under 18 do

### **CASE STUDY 3**

#### **Thailand: How military use of schools affects education**

In 2010, Human Rights Watch reported that paramilitary ranger forces armed with pistols and assault rifles had occupied part of the grounds of a school in Pattani, southern Thailand, for two years.

Students said they feared their school might be attacked because soldiers were there, and that teachers and students would get hurt.

Parents reported a lower quality of teaching because teachers were unable to focus on their work.

Parents also feared that their children, especially girls, would be sexually harassed or badly influenced by the rangers' abuse of a local narcotic drink.

Many parents decided to remove their children – up to 80 out of 170 students, according to one estimate – from the school as a result.

not take a direct part in hostilities, and that under-18s are not compulsorily recruited into the armed forces.

#### **Bring cases to court and monitor legal compliance**

Governments should bring cases to national civilian and military courts.

They should also bring, or co-operate with efforts to bring cases to the International Criminal Court. Education clusters and other coordination mechanisms should provide support where

possible. Education clusters should also provide the appropriate authorities with information about how collateral damage, attacks and military use or occupation of schools disrupt education.

Monitoring should include both the short-term and longer-term effects of conflict on education.

### **Strengthen international reporting of education attacks and accountability**

Accountability measures should be supported by reporting and advocacy through international channels such as the ICC, the HRC, the UN Security Council Working Group on Children and Armed Conflict, UN treaty bodies including the Committee on the Rights of the Child and the Committee on Economic, Social and Cultural Rights, and the UN's Special Country Rapporteurs and Thematic Rapporteurs on particular issues, such as the Special Rapporteur on the Right to Education.

Education-oriented and human rights organisations should report attacks on education through the Monitoring and Reporting Mechanism (MRM) on Children and Armed Conflict and other channels mentioned above. For instance if their country is not participating in the MRM, monitoring, they can report through the voluntary Working Group on Children and armed conflict, if it exists; or by setting up a partnership of UN agencies, INGOs, NGOs and education departments or the education ministry, under the leadership of the education cluster. (See Booklet 7: Monitoring and Reporting)

Include basic principles of international humanitarian and human rights law in school curricula. This should include

information about how these principles apply to education; and spell out which actions are grave violations of international humanitarian and human rights law, such as the recruitment of children under 15 into armed groups or forces.

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## **2 End military use of schools**

Governments and communities should seek to prohibit use of education buildings by military, security and armed groups.

Any 'no use' policy should also cover attempts to use schools for recruitment.

While working to secure agreement to end military use of schools, as an interim step develop and implement strict regulations that establish:

- the circumstances (if at all) in which an education building can be used
- prohibition of simultaneous use of schools for education and military purposes
- appropriate planning and logistics required prior to military or security operations, in order to minimise such use of education institutions
- a requirement to give prior notice to education providers of any intention to use/occupy, as well as a justification for, and extent of, the use/occupation, and a planned exit date
- how alternative sites and shelter will be provided in order for education to continue
- a requirement to remove military equipment and structures (eg, barbed wire, tower for guns) and damage repair, on departure



Ahangaran school, Afghanistan, 2005, armed guards offer protection as four hundred children are taught in a lay-by

- what actions will be required by the government to ensure civilians' safety and protecting students' right to education
- appropriate penalties for violating these regulations.

### Monitor military use of schools and universities

Education ministries should monitor incidents of armed forces using school or university buildings, including the impact of this use on education; and use the information to advocate for a ban and immediate restrictions on use until a ban is in place.) The information collected when monitoring should include the school name, location, number of students and staff in the school, the type of military use and the dates and length of time of military use. It should include any information on incidents in which this military use led to attack or closure, whether temporary or permanent.

This information is vital to demonstrate the extent to which the right to education has been interrupted.

### 3 Ensure access to education and protect students, staff and facilities from attack

#### Incorporate the right to education into national law

Governments have a duty to protect education in accordance with the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the United Nations Convention of the Rights of the Child (UNCRC) and national law should reflect this.

#### Train the military and security forces

Armed personnel should be trained in how to protect people and buildings from attack without endangering them or negatively affecting the learning environment. Such training should include different ways of guarding schools, universities and related transport.

It should also cover demilitarising campuses and handling student protests without endangering lives. Security forces using education buildings while protecting them should first evacuate all civilians to keep them safe and then coordinate the arrangement of an alternative place to provide good-quality education.

#### Inform and consult about security measures

Education staff should be regularly and formally informed and consulted about the protection provided for facilities, staff and students.

Teachers, for instance, should be given the freedom to choose whether or not to travel to and from work under the protection of a security convoy.

#### CASE STUDY 4

### A new way for non-state actors to commit to international norms

Geneva Call is an organisation that works with armed non-state actors (NSAs) to encourage them to publicly commit themselves to increasing their adherence to international humanitarian law and making themselves accountable. In 2010, Geneva Call launched its Deed of Commitment under Geneva Call for the Protection of Children from the Effects of Armed Conflict. This includes protection for schools from attacks and against child soldier recruitment. It also includes a commitment to “avoid using for military purposes schools or premises primarily used by children”.

Geneva Call says the international legal framework does not provide NSAs, such as rebel groups, with opportunities to express their willingness to abide by international norms. NSAs cannot negotiate or become parties to international treaties, which limits their incentive to respect them.

The organisation talks to NSAs about issues relating to children and armed conflict and raises their awareness of international norms. Via the deed of commitment, it provides them with a universal, standard mechanism for demonstrating their accountability.

Ten years ago, Geneva Call promoted a deed of commitment to abide by the ban on anti-personnel mines. By the end of 2010, 41 NSAs worldwide had signed up to it.

#### Ensuring recovery

States have a duty under international human rights law to protect the right to education. They therefore have a duty to restore the full provision of education after attacks on facilities. This includes the repair and rehabilitation of facilities and the provision of education materials.

#### 4 Do no harm

Minimise military harm or risk to students, staff and education buildings  
‘Do no harm’ measures should include:

- strengthening and enforcing military rules for protecting education
- training for military personnel and

lawyers in how education institutions, staff and students are protected under international and national laws

- preventing recruitment of child combatants
- ensuring that arrests and/or detention of students or education staff are carried out according to international legal obligations
- avoiding military involvement in reconstructing or building schools, if this is likely to provoke further attacks.

Urge non-state armed groups to avoid harming students, staff and education buildings. Such advocacy work should include not targeting civilians or civilian buildings, not putting them at risk, nor recruiting children. Such groups should



An armed child soldier carrying his AK-47 during Somalia's ongoing civil war

also avoid using or hiding weapons or explosives on school or university premises.

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## 5 Monitor and advocate

National and international organisations, Education Cluster members and human rights groups should:

- monitor soldiers' and officers' compliance with international humanitarian and human rights law, providing guidelines and training if necessary.
- initiate dialogue with military and security forces about the potential impact of conflict on education systems, stability, recovery and development. A better understanding of the longer-term effects of attacks on education can influence battlefield decisions about targets and potential collateral damage.
- encourage a sense of 'honour' among

the military, eg that attacking a school or teacher is dishonourable, and undermines the nation's future development.

Note that laws aren't just about taking people to court. They can be a good advocacy tool, and can be used to prevent violations. In the Philippines, for instance, headteachers who were previously afraid of challenging military commanders' decision to use their school as a base have found it easier to raise the issue since a law was passed against military use.

This is because they can now say it is not simply their personal request but the order of the government, and neither the school nor the commander would want to be seen to have broken the law.

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## 6 Negotiate with potential attackers

Make agreements or covenants with non-state armed actors not to attack education. These can be negotiated by independent individuals or organisations to avoid direct talks. They can be joint agreements about adhering to a code of conduct, such as the Schools as Zones of Peace agreements in Nepal. Maoist rebels and Nepalese government forces agreed not to attack schools or use them for military or indoctrination or recruitment.

Likewise, in Afghanistan, consultations between local leaders, armed opposition groups and the government have allowed schools to reopen without being attacked.

Another strategy is to urge individual parties to a conflict to make a unilateral or joint public declaration or commitment to protect education, including students, staff, buildings and processes such as exams.

## Resources

The INEE Minimum Standards most relevant to this booklet are:

- Access and Learning Environment  
Standard 1: Protection and Well-being
- Education Policy Standards 1 and 2: Law and Policy Formulation, and Planning and Implementation.

The Introduction to the INEE Minimum Standards Handbook contains important information about the protection of education in international law.

UNESCO (2010) *Protecting Education from Attack: A State-of-the-art-Review*, Chapters 8 to 11.

## Useful contacts

Committee on the Rights of the Child  
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# Notes

<sup>i</sup> International humanitarian law (IHL) does not apply to situations of violence not amounting in intensity to an armed conflict. Cases of this type are governed by the provisions of human rights law and such measures of domestic legislation as may be invoked.

<sup>ii</sup> Office of HH Sheikha Mozah Bint Nasser Al-Missned, Planning and Programming Directorate, 'International Law and the Protection of Education Systems', in *Protecting Education from Attack: A State-of-the-art-Review*, UNESCO, 2010

<sup>iii</sup> 'Prosecutor's address at Lubanga sentencing', Trial Reports, The Lubanga Trial at the International Criminal Court, June 18, 2012

<sup>iv</sup> Article 8 of the Rome Statute dealing with war crimes prohibits the intentional direction of attacks against the civilian population (Art. 8(2)(b)(i) and Art. 8(2)(e)(i)), and against civilian objects (Art. 8(2)(b)(ii)), in times of international and non-international armed conflict. There is also a specific reference to the prohibition of intentionally directing attacks against buildings dedicated to education (Art. 8(2)(b)(ix) and Art. 8(2)(e)(iv)). An attack intentionally directed at a school as well as the civilians inside it would be prohibited both in terms of the general prohibition against attacking civilians and civilian objects, as well as the specific prohibition against attacking educational buildings.

The only caveat is that the building must not be a military objective and the civilians must not be directly taking part in hostilities.

<sup>v</sup> According to the International Committee of the Red Cross, the definition of a military objective in customary international humanitarian law is as follows: (Rule 8) "In so far as objects are concerned, military objectives are limited to those objects which by their nature, location, purpose or use make an effective contribution to military action and whose partial or total destruction, capture or neutralisation, in the circumstances ruling at the time, offers a definite military advantage." An example would be if a school was being used as a base for military operations.

<sup>vi</sup> These are obligations under the Geneva Conventions (First, Second, Third and Fourth); see *Ibid*

<sup>vii</sup> B Sheppard, 'Painful and inconvenient: Accountability for attacks on education', in *Protecting Education from Attack: A State-of-the-art-Review*, UNESCO, 2010, pp 127

<sup>viii</sup> Report of the United Nations Fact-finding Mission on the Gaza Conflict, 2009;

<sup>ix</sup> UNISPAL, Council holds interactive dialogue with Committee of Independent Experts on follow-up to

recommendations in the Goldstone Report, March 21, 2011

<sup>x</sup> General Assembly Resolution A/HRC/19/L.36, March 19, 2012, 'Follow-up to the report of the United Nations Fact-Finding Mission on the Gaza Conflict', adopted March 22 2012

<sup>xi</sup> Marit Glad, *Knowledge on Fire: Attacks on Education in Afghanistan; Risks and Measures for Successful Mitigation*, CARE/World Bank/Ministry of Education, 2009





**Project partners**

**Education Above All**

**Education Cluster**

**Child Protection  
Working Group**

**Inter-Agency Network  
for Education in  
Emergencies (INEE)**

**Mental Health and  
Psychosocial Support  
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