

EXAMPLES OF DOMESTIC LAW, GUIDANCE, AND PRACTICE

Legislation

“Public forces cannot enter the national universities without prior written order from a competent court or a request from the lawfully constituted university authority.” – Higher Education Act, Law No. 24,521, July 20, 1995, art. 31 [Argentina].

“[N]o property which is bona fide used ... as an educational institution ... shall be requisitioned.” – Acquisition and Requisition of Immovable Property Ordinance, 1982, art. 18(1) [Bangladesh].

“The campuses of universities and polytechnics are inviolable... When the protection of public forces is needed, the legal representative of the institution will request the relevant assistance... Those who violate these campuses will be sanctioned in accordance with law.” – Higher Education Law, 2010, art. 19 [Ecuador].

“[N]o property or part thereof ... exclusively used ... as a school, ... or for the purpose of accommodation of persons connected with the management of ... such school, ... shall be requisitioned.” – Requisitioning and Acquisition of Immovable Property Act, Act No. 30 of 1952, March 14, 1952, art. 3 [India].

“Nothing in this section [on military manoeuvres] shall authorize ... the entry on or interference with (except to the extent of using any road) any ... school...[or] ground attached to any ... school...” – Defence Act, May 13, 1954, art. 270 [Ireland].

“Autonomy confers ... [t]he inviolability of the university campuses. The public forces can only enter them with written authorization from the competent university authorities.” – Law on Autonomy for Institutions of Higher Education, 1990, art. 9 [Nicaragua].

“Public infrastructure such as schools ... shall not be utilized for military purposes such as command posts, barracks, detachments, and supply depots...” – RA No. 7610, An Act Providing for Stronger Deterrence and Special Protection against Child Abuse, Exploitation, and Discrimination, Providing Penalties for its Violation and Other Purposes, June 17, 1992, art. X(22)(e) [Philippines].

“The following types of real property are not subject to temporary quartering: ... real property of institutions of higher education...” – Armed Forces of Poland Accommodation Act, No. 86, item 433, June 22, 1995, as amended, chapter 7, art. 64(1) [Poland].

“The term ‘protected property’ means property specifically protected by the law of war (such as buildings dedicated to ... education...), if such property is not being used for military purposes or is not otherwise a military objective... Any person ... who positions, or otherwise takes advantage of the location of, protected property with the intent to shield a military objective from attack, or to shield, favor, or impede military operations, shall be punished...” – Military Commissions Act of 2006, sec. 3, sec. 950(v)(a)(3)&(b)(10) [United States].

“The university grounds are inviolable. The monitoring and maintenance of order within them falls within the competence and responsibility of the university authorities; it may only be searched to prevent a crime or to enforce decisions of the courts.” – Universities Act, September 8, 1970, art. 7 [Venezuela].

Peacekeeping Doctrinal Guidance

“Schools shall not be used by the military in their operations.” - United Nations Infantry Battalion Manual, 2012, section 2.13 [**United Nations Department of Peacekeeping Operations**].

Guidance in Military Manuals and Doctrine

“The property ... of institutions dedicated to ... education ... is treated as private property and any seizure ... of that property is prohibited. If that property is located in any area which is subject to seizure or bombardment, then it must be secured against all avoidable damage and injury.” – Manual on Law of Armed Conflict, 2006, sec. 7.44 [**Australia**].

“Considering International Humanitarian Law norms, it is considered a clear violation of the Principle of Distinction and the Principle of Precaution in attacks and, therefore a serious fault, the fact that a commander occupies or allows the occupation by his troops, of ... public institutions such as education establishments...” – General Commander of the Military Forces, order of July 6, 2010, official document Number 2010124005981 / CGFM-CGING-25.11 [**Colombia**].

“Both sides agree to guarantee that the right to education shall not be violated. They agree to immediately put an end to such activities as capturing educational institutions and using them, ... and not to set up army barracks in a way that would adversely impact schools...” – Comprehensive Peace Agreement concluded between the Government of Nepal and the Communist Party of Nepal (Maoist), 2006 [**Nepal**].

“To attain this objective, all [Armed Forces of the Philippines] personnel shall strictly abide and respect the following: ... Basic infrastructure such as schools, hospitals and health units shall not be utilized for military purposes such as command posts, barracks, detachments, and supply depots.” – Armed Forces of the Philippines Letter Directive No. 34, GHQ AFP, November 24, 2009, para. 7 [**Philippines**].

“The AFP [Armed Forces of the Philippines] strictly abide and respect the following: ... Public infrastructure such as schools ... shall not be utilized for military purposes such as command posts, barracks, detachments, and supply depots...” – Human Rights-Based Intelligence Operations: Rules of Behavior for Military Intelligence Personnel, 2011, ch. 3.6 [**Philippines**].

“All SPLA members, personnel, and units are unconditionally prohibited from ... [o]ccupying schools, interfering with or disrupting school classes or activities, or using school facilities for any purpose, to include but not limited to storing equipment, billeting, or taking cover from ongoing or prospective enemy attack... [A]ll incidents of ... school occupation shall be investigated with a view to severe judicial and administrative action resulting in imprisonment, fine, and punitive or administrative discharge from active duty service in the SPLA.” – General Order No. 0001, Chief of General Staff, August 14, 2013 [**South Sudan**].

“This act of occupation [of schools by our army] is deplorable and it is [in] violation of our law of land. Besides, you are depriving our children from the much needed education... I hereby order you to urgently evacuate the ... schools occupied by the forces under your direct commands... Failure to evacuate the above mentioned schools will lead to severe disciplinary actions and the act is a serious violation of the law of our land which shall bear regrettable implications...” – Order from Deputy Chief of General Staff for Moral Orientation, April 16, 2012 [**South Sudan**].

“[S]chool buildings occupied by either Party shall be vacated and returned to their intended use.” – Ceasefire Agreement concluded between the Government of Sri Lanka and the Liberation Tigers of Tamil Eelam, 2002, art. 2.3 [**Sri Lanka**].

“The parties specifically commit themselves to... refrain from endangering the safety of civilians by ... using civilian facilities such as ... schools to shield otherwise lawful military targets...” – Agreement between the Government of the Republic of Sudan and the Sudan People’s Liberation Movement to protect non-combatant civilians and civilian facilities from military attack (2002) [**Sudan**].

“[T]he better view is that the law also prohibits: ... the use of cultural property for purposes which are likely to expose it to destruction or damage in armed conflict, unless there is no feasible alternative to such use... Cultural property includes ... institutions dedicated to ... education...” – United Kingdom Ministry of Defence, Joint Service Manual of the Law of Armed Conflict, Joint Service Publication 383 (2004) [**United Kingdom**].

“The United States and certain of the American Republics are parties to the so-called [Roerich] Pact, which accords a neutralized and protected status to ... educational ... institutions in the event of war between such States.” – Field Manual 27-10: The Law of Land Warfare, Department of the Army Field Manual, July 18, 1956, para. 57 [**United States**].

“Any school falling within the Northwest Zone and the Armored Division shall be swiftly and decisively evacuated of any military presence.” – Order of Commander of the Northwest Zone, April 9, 2011 [**Yemen**].

Jurisprudence

“[T]he city’s mayor should prevent members of the State security forces from entering the school premises to conduct practices, trainings or to mount weapons, ammunition or deploy armed personnel, as this would increase the danger to the student community.” – *Yenys Osuna Montes v. the Mayor of Zambrano Municipality*, SU-256/99, Constitutional Court, April 21, 1999. See also *Wilson Pinzón and others v. the Mayor of La Calera*, T-1206/01, Constitutional Court of Colombia, November 16, 2001 [**Colombia**].

“[W]e ... direct[] the State/respondents to deliver back the possession of the ... schools... [T]he cost of consumption of the electricity in those schools by the police personnel will be borne out by the State Government in no time.” – *Paschim Medinipur Bhumij Kalyan Samiti v. West Bengal*, W.P. No. 16442(W) of 2009, High Court at Calcutta, judgment of November 24, 2009 [**India**].

“[I]t should be ensured that the school buildings and hostels are not allowed to be occupied by the armed or security forces in future for whatsoever purpose...”
– *Exploitation of Children in Orphanages in the State of Tamil Nadu v. Union of India and others*, W.P. (Criminal) No. 102 of 2007, Supreme Court of India, order of September 1, 2010 [**India**].

“There shall be a direction ... to ensure that the security forces vacate all the educational institutions, school buildings and hostels...” – *Nandini Sundar and others v. The State of Chhattisgarh*, W.P. (Civil) No. 250 of 2007, Supreme Court of India, order of January 18, 2011 [**India**].

“[T]he schools should not be closed for the reason that the classrooms have been converted into barracks. Why should this happen? This is depriving a generation and a class of children from education to which they have a right.” – *Inqualabi Nauzwan Sabha and others v. The State of Bihar*, C.W.J.C. No. 4787 of 1999, High Court of Patna, order of January 2, 2001 [**India**].

Governmental Guidance

“[A]ll those found guilty of one of the following shortcomings will face severe criminal and disciplinary sanctions: ... requisition of schools ... for military purposes.” Ministerial Directive on the implementation of the Action Plan, Department of National Defence and Veterans, NoVPM/MDNAC/CAB/2089/2012, November 3, 2012 [**Democratic Republic of Congo**]

“In order to assure the learning rights of students and provide easier access to a well-managed and peaceful environment as well as the continuous operation of schools without hindrance to learning, implement according to the decision [it is decided to] declare schools a ‘Zone of Peace.’” – Decision of the Government of Nepal, May 25, 2011 [**Nepal**].

“To keep the school free from armed activities and other kinds violence refers to the following conditions: (a) No armed activities in the school premises and in its periphery; (b) No presence of armed group or conflicting parties in the school premises; (c) No use of school for any armed activities.” – Schools as Zones of Peace National Framework and Implementation Guideline, Ministry of Education, promulgated under rule no. 192(3) of Education Regulation (2002), 2011 [**Nepal**].

Practice of Non-State Parties to Armed Conflicts

“We will ... avoid using for military purposes schools or premises primarily used by children.” – Geneva Call, Deed of Commitment under Geneva Call for the Protection of Children from the Effects of the Armed Conflict (2010), art. 7. As of July 18, 2014 the following parties have signed this instrument: the Karenni National Progressive Party/Karenni Army (KNPP/KA), the New Mon State Party/Mon National Liberation Army (NMSP/MNLA) [**Burma/Myanmar**]; Government of the Peoples’ Republic of Nagaland/National Socialist Council of Nagaland (Khole-Kitovi) (GPRN-NSCN-KK) [**India**]; Democratic Party of Iranian Kurdistan (PDKI), Komala Party of Iranian Kurdistan (KPIK), Komala Party of Kurdistan (KPK), Komalah-The Kurdistan Organization of the Communist Party for Iran [**Iran**]; People’s Protection Units (YPG), Women’s Protection Units (YPI) and Democratic Self-Administration in Rojava [**Syria**]; Kurdistan Worker’s Party/People’s Defence Forces (HPG/PKK) [**Turkey**].

“[O]ccupation [of schools] by military forces represents a direct violation of domestic and international law... The Free Syrian Army fully supports the demilitarization of all schools ... used for military purposes. We stand ready to work with the international community to ensure the immediate and complete demilitarization of all schools ... under our jurisdiction. To support these efforts, the Free Syrian Army today states its official position prohibiting the militarization of schools and... and will amend its Proclamation of Principles to reflect the same. This statement will be circulated among all of our battalions and guide the actions of our members. Any individuals found to violate the principles listed in our proclamation will be held accountable, in accordance with international law.” – Declaration signed by President of Syrian Opposition Coalition and Chief of Staff of Supreme Military Council, Free Syrian Army, April 30, 2014 [**Syria**].

“We affirm our responsibility to respect International Humanitarian Law at all times including ... the responsibilities to ... [r]espect and protect schools and hospitals, and refrain from using in them in support of the military effort, including by locating military objectives within or near them.” – National Coalition of Syrian Revolution and Opposition Forces, Declaration of Commitment on Compliance with IHL and the Facilitation of Humanitarian Assistance, 2014 [**Syria**].

“Children’s right to education will not be restricted.” – Kurdistan Workers’ Party/People’s Defence Forces (PKK/HPG), Rules for the Conduct of Warfare, 2011 [**Turkey**].