

PROTECT SCHOOLS + HOSPITALS

Guidance Note
on Security Council
Resolution 1998

#ACTtoPROTECT



Office of the Special Representative
of the Secretary-General for
**CHILDREN AND
ARMED CONFLICT**



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Office of the Special Representative of the Secretary-General for
CHILDREN AND ARMED CONFLICT

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END ATTACKS ON EDUCATION AND HEALTHCARE

**Guidance Note on
Security Council Resolution 1998**

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Blackboard in school damaged by attack in Sirte, Libya.
@UNICEF/GIOVANNI DIFFIDENTI.

Preface

Attacks on schools and hospitals during armed conflict are alarmingly widespread and carry grave risks for children. These facilities save and sustain the lives of children and yet, during my field visits, I hear from victims, witnesses and field colleagues how schools and hospitals are damaged in crossfire and targeted attacks; how children, especially girls, are attacked on their way to school; how teachers and medical personnel are abducted and killed because of their work; and how schools and hospitals are closed due to looting, threats and military use. This is a daily reality for tens of thousands of children, standing in sharp contrast to the idea that schools and hospitals must remain safe places for learning and healing, most especially in times of armed conflict.

I cannot stress enough that schools, teachers, hospitals and medical personnel play a crucial role in providing children with a degree of normalcy and protection when they need it the most. I am pleased to see that the international community has put this firmly on its agenda. In July 2011, the Security Council adopted landmark resolution 1998, which highlights the impact of attacks on schools and hospitals on the safety, education and health of children during armed conflict, and calls for greater action to ensure that schools and hospitals have no part in warfare. Therefore, I encourage all United Nations partners, international organizations and civil society to work closely together on the implementation of this resolution. This Guidance Note was drafted in close cooperation with UNICEF, UNESCO, and the World Health Organization, and consulted broadly with pertinent actors, including with the United Nations Office of Legal Affairs. It is my hope that it will be a useful contribution towards the effective implementation of Security Council resolution 1998.

LEILA ZERROUGUI

*Special Representative of the Secretary-
General for Children and Armed Conflict*

1. Introduction

This Guidance Note and its annexes provide practical guidance for UN and NGO partners in the field on the implementation of SCR 1998 (2011), which further strengthens the Security Council Children and Armed Conflict agenda in highlighting the issue of attacks on schools and hospitals. With this in mind, the Guidance Note on SCR 1998 has the following objectives:

1. To enhance understanding of the *Security Council's framework* to address issues concerning children and armed conflict, with particular reference to attacks on schools and hospitals;
2. To strengthen *monitoring and reporting* on attacks on schools and hospitals by providing key definitions and practical advice;
3. To promote *advocacy and dialogue* with parties to conflict on attacks on schools and hospitals, including an action plan template with concrete measures to halt and prevent violations;
4. To *increase partnerships* between various stakeholders for the implementation of SCR 1998 in relation to monitoring and reporting, as well as advocacy and dialogue;

This Guidance Note builds on and complements the MRM Field Manual and the MRM Guidelines, which include more information on the establishment, structure and functioning of the MRM, as well as procedures for monitoring violations and advocacy. Particular reference is also made to previous guidance on the implementation of SCR 1882 (2009) on killing and maiming of children and rape and other forms of sexual violence.



A school principal shows bullets that hit his school, endangering the lives of school children.
@UNICEF/OPTA2004-01339/SABELLA.

2. Security Council framework

2.1 Attacks on schools and hospitals as one of the grave violations against children

SCR 1998 builds upon a strong framework for the Council's action on children and armed conflict. In several resolutions, including SCR 1261 (1999), 1379 (2001), 1539 (2004), 1612 (2005) and 1882 (2009), the Security Council provided UN actors with a range of tools to address grave violations against children during armed conflict. This included the Council's request that the Secretary General report on the implementation of its resolutions and presidential statements, and include annexed lists of parties to armed conflict who are responsible for violations against children. In addition, the Council requested the establishment of a country-specific MRM on grave violations against children in situations where such parties are listed, established a Security Council Working Group on Children and Armed Conflict (SCWG-CAAC) to review reports and formulate country-specific recommendations; and called for dialogue between the UN and listed parties on the development of concrete and time-bound Action Plans to halt and prevent violations.

In the implementation of the Children and Armed Conflict mandate, the Secretary-General identified six grave violations committed against children during armed conflict:

1. Recruitment and use of children
2. Killing or maiming of children
3. Sexual violence against children
4. Attacks against schools or hospitals
5. Abduction of children
6. Denial of humanitarian access

Of the six grave violations, the Security Council has instructed the Secretary-General to list parties for 4 of the 6 violations. The Council initially requested the Secretary-General to attach to his report a list of parties to armed conflict that recruit or use children. In its resolution 1882 (2009), the Council expanded the trigger to include patterns of killing and maiming of children in contravention of international law and rape and other forms of sexual violence against children. SCR 1998 (2011) instructed the Secretary-General to list parties to conflict who attack schools and/or hospitals and attack or threaten to attack protected persons in relation to schools or hospitals. The legal basis for these violations lies in relevant international law, which in turn encompasses international humanitarian law (IHL), international human rights law (IHRL), international criminal law (ICL) and customary law.

2.2 Key SCR 1998 provisions in relation to attacks on schools and hospitals

In Resolution 1998, the Security Council further highlighted the violation of attacks on schools and hospitals, providing clear direction on its understanding of the violation's subcategories and expanding the trigger for listing of parties to the conflict in the Annual Report's annexes:

In paragraph 3 of SCR 1998, the Security Council specifically requested *"the Secretary-General to also include in the annexes to his reports on children and armed conflict those parties to armed conflict that engage, in contravention of applicable international law:*

- (a) *In recurrent attacks on schools and/or hospitals;*
- (b) *In recurrent attacks or threats of attacks against protected persons in relation to schools and/or hospitals [...]"*

In paragraphs 6(c) and (d) of its resolution 1998, the Council further called upon those parties listed in the annexes of the Secretary-General's Annual Report that commit such attacks or threats of attacks, *"to prepare without delay concrete, time-bound action plans to halt those violations and abuses"* and *"undertake specific commitments and measures in this regard."*

Further, in paragraph 4 of the resolution, the Council explicitly urged *"parties to armed conflict to refrain from actions that impede children's access to education and to health services"* and requested *"the Secretary-General to continue to monitor and report, inter alia, on the military use of schools and hospitals, in contravention of international humanitarian law, as well as on attacks against, and/or kidnapping of teachers and medical personnel."*

In summary, in SCR 1998 the Security Council puts forward the following subcategories of recurrent attacks on schools and hospitals by parties to conflict as a trigger for listing:

- ▶ *Attacks against schools and/or hospitals;*
- ▶ *Attacks against protected persons in relation to schools and/or hospitals;*
- ▶ *Threats of attacks against protected persons in relation to schools and/or hospitals.*

The Security Council also urged parties to armed conflict to refrain from actions that impede children's access to education and health services, including the *military use of schools and/or hospitals*, requesting the Secretary-General to continue to monitor and report, *inter alia*, on the military use of schools and hospitals in contravention of international humanitarian law in his Annual Report. In Resolution 2143 (2014), the Security Council further elaborated on this issue, expressing *"deep concern at the military use of schools in contravention of applicable international law, recognizing that such use may render schools legitimate targets of attack, thus endangering children's and teacher's safety as well as children's education"*. Furthermore, it urged *"all parties to conflict to respect the civilian character of schools"* and encouraged Governments *"to consider concrete meas-*

ures to deter the use of schools by armed forces and armed non-State groups". It specifically called upon United Nations country task forces *"to enhance the monitoring and reporting on the military use of schools"*. However, the Council did not include the military use of schools and hospitals *per se* as a criterion for listing in line with SCR 1998, and it therefore falls outside the SCR 1998 action plan process. Therefore, reporting on military use of schools and hospitals should be reported upon in detail, but separately.

2.3 International law applicable to attacks on schools and hospitals

During armed conflict, international humanitarian law (IHL) and international human rights law (IHRL) must be respected, with special regard to the needs and welfare of children. The full range of children's rights—economic, social and cultural, as well as political and civil—must be respected, protected and fulfilled in accordance with international obligations. It is generally recognized that the Security Council based its resolutions on children and armed conflict on applicable international law and that *"violations"* in the Council's language are actually violations of international legal protections afforded to children. Four bodies of law form this legal framework: IHL (in times of armed conflict), IHRL (both in times of peace and armed conflict), international criminal law and national law, and customary law. While distinct from each other, they generally apply concurrently and mutually reinforce each other. It is important to note, however, that international obligations may vary on a case-by-case basis, depending on the nature of the armed conflict and the applicable legal framework, including treaty law and national law, in a given country situation.

In *Annex I* of this Guidance Note, the legal framework regarding the violation of attacks on schools and hospitals is presented in more detail, with a view to supporting the advocacy of child protection partners in the field.

3. Monitoring and reporting

The monitoring and reporting mechanism was laid out in the Secretary-General's report to the Security Council (S/2005/72) and endorsed in SCR 1612. For clarity, the structure of the country task forces and the reporting requirements are laid out in abbreviated form below.

3.1 Country Task Forces on Monitoring and Reporting

The Monitoring and Reporting Mechanism (MRM) is a Security Council mandated structure to monitor and report on the six grave violations against children during armed conflict. In the 14 countries where the MRM is implemented as of 2013 (S/2013/245), it is done through a Country Task Force on Monitoring and Reporting (CTFMR), co-chaired by the highest UN authority in country (Special Representative of the Secretary-General or Resident Coordinator) and the UNICEF country representative. The CTFMR's composition is decided upon at country level and is generally composed of representatives of various UN entities, including UNICEF, DPKO, DPA, WHO, UNESCO OHCHR, UNHCR and ILO, as well as international and local NGOs.

The UNICEF, DPKO and DPA child protection sections usually convene the CTFMR, take the lead in monitoring and reporting activities and manage the MRM database on grave violations against children, in cooperation with the other members of the CTFMR. The CTFMR is also responsible for entering into dialogue with parties to conflict, both armed forces and armed groups, to halt and prevent grave violations against children, including through the development and implementation of Action Plans in line with SCRs 1612, 1882 and 1998, consisting of concrete and time-bound activities to be undertaken by listed parties.

3.2 Secretary-General's reports on Children and Armed Conflict

The CTFMR, in MRM country situations where parties are listed, or the United Nations Country Teams, in other situations, provide inputs to the Office of the Special Representative for Children and Armed Conflict (OSRSG-CAAC) in preparation of the:

1. Secretary-General's Annual Report on Children and Armed Conflict to the Security Council;
2. Secretary-General's country-specific reports to the Security Council Working Group on Children and Armed Conflict resulting in the adoption of recommendations directed at parties to conflict, UN actors and the donor community;
3. Quarterly Global Horizontal Notes (GHN) providing regular updates to the SCWG-CAAC on violations and progress on dialogue and Action Plans in MRM country situations and other emerging situations.

3.3 SCR 1998 Monitoring and Reporting Definitions

This section clarifies the subcategories of attacks on schools and hospitals and the type of information needed for monitoring and reporting on these violations. While previous Security Council resolutions on children and armed conflict generally included attacks on schools and hospitals as one of the six grave violations against children, SCR 1998 provided more detail on the scope of this violation. "Attacks on schools and hospitals" serves as an umbrella term for those acts which put at risk the integrity of schools, hospitals, education and medical personnel, as well as children seeking medical care or education, and undermine the basic right to education and health care in times of armed conflict.

Annex II provides a glossary of useful definitions relevant to monitoring and reporting, advocacy and dialogue on attacks on schools and hospitals in accordance with SCR 1998 and which apply to all sections of this Guidance Note.

The general notion of attacks on schools and hospitals will be further disaggregated for monitoring and reporting purposes into “education-related” and “health care-related” incidents. **However, it is important to note that not all acts affecting education and health care during armed conflict are violations of international law and that not all such acts are criteria for listing in line with SCR 1998.** For example, the shelling of schools, targeted attacks against teachers, and the use of schools as military barracks are all “education-related” incidents that should be monitored, but only some meet the criteria for listing. This equally applies to, for example, the looting of hospitals, targeting of ambulances and coercion of medi-

cal personnel, which are all “health-related” incidents, but which may not all qualify for listing. Some of these acts normally constitute violations of international humanitarian law, but if the schools or hospitals were used to launch military operations and civilians, in particular education personnel were directly participating in hostilities or medical personnel committing acts harmful to the enemy, outside their humanitarian function, they may be considered as lawful targets. Therefore, each incident should be carefully examined to determine whether it constitutes a basis to list parties in line with SCR 1998.

With a view to increasing clarity in monitoring and reporting, depicting a more accurate image of the diversity of incidents included in “attacks on schools and hospitals”, and ensuring more effective advocacy with Governments and armed groups, it is crucial to integrate these important distinctions into the ongoing monitoring and reporting work. **This Guidance Note therefore suggests differentiating violations according to the following breakdown structure:**

Monitoring & Reporting on Attacks on Schools & Hospitals	
<p>Education-Related Incidents</p> <ul style="list-style-type: none"> • Attacks on Schools • Attacks on Education Personnel • Threats of Attacks • Military Use of Schools • Other Interference with Education 	<p>Health Care-Related Incidents</p> <ul style="list-style-type: none"> • Attacks on Hospitals • Attacks on Medical Personnel • Threats of Attacks • Military Use of Hospitals • Other Interference with Health Care

3.3.1 Attacks on schools and hospitals

Physical attacks on schools and hospitals can have devastating consequences not only on the lives of children, patients, education and medical personnel, but also on the ability of those facilities to function properly. Such attacks may therefore compromise the fundamental right to education and health. Attacks often reduce the capacity of schools and hospitals, limit safe access to education or medical care, and sometimes render these facilities completely unusable leading to their

forced closure. **For monitoring and reporting purposes, further disaggregation is made into the following three subcategories:**

(1) Targeted/deliberate attacks

Gathering details on the intention of parties to deliberately target schools or hospitals may be difficult. However, it is sometimes possible to ascertain whether the school or hospital was the object of attack, particularly when it is directly hit by shells or mortars. Targeted/deliberate attacks on schools and

hospitals constitute a violation even when such facilities are closed overnight, during weekends or holidays, or abandoned for other reasons, provided that they were not used for military purposes. Schools and hospitals used for military purposes by a party to conflict can be considered targets that may be lawfully attacked by the opposing party to conflict. This is of particular concern when schools or hospitals are used while children, education or medical personnel are present in the facilities alongside the party using the school or hospital for military purposes. **Annex I provides further details on the criteria under which schools and hospitals may lose their protected status.**

(2) Indiscriminate attacks/crossfire incidents

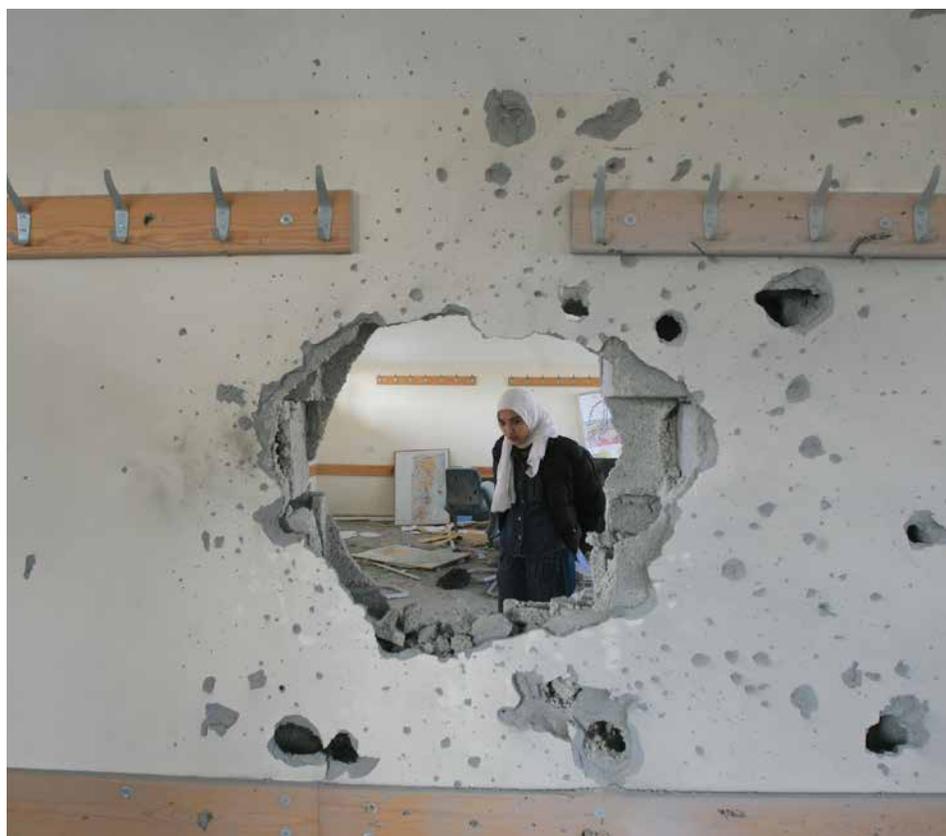
Indiscriminate attacks that are not directed at a specific military objective; employ a method or means that cannot be directed at a specific military objective or employ a method or means of combat the effects of which cannot be limited as required under international humanitarian law. For example, if a party to conflict shells a sniper position without forewarning or precautions to protect civilians from incidental harm in relation to the concrete and direct military advantage in a densely populated town, killing civilians and damaging a nearby school, it is considered an indiscriminate attack. When two or more parties to conflict are engaging in hostilities and fighting inside or near schools, these facilities may be inadvertently caught in crossfire, which may not constitute an indiscriminate attack. International humanitarian law accommodates certain incidental civilian deaths and injuries and damage to civilian objects if they are not excessive in relation to the concrete and direct military advantage anticipated from an attack. In such cases, it is suggested to gather details in the same manner as for targeted/deliberate attacks, while making sure to clearly understand the circumstances and the duration of the incident. The information to be collected may include at what distance the hostilities took place, the means and methods used, and which parties were involved. Mobile medical units and ambulances may sometimes be in proximity of hostilities to exercise their medical and humanitarian functions because of

fluid frontlines. While the parties may not be able to completely eliminate the effects of hostilities, certain deaths and injuries of medical personnel and damage to medical objects may therefore not constitute a violation. Such incidents should be still reported and feed into advocacy.

(3) Looting/ pillaging, and extensive destruction and appropriation of property, not justified by military necessity and carried out wantonly

Looting/pillaging and *destruction, not justified by military necessity* (wanton destruction) during armed conflict are violations within the meaning of attacks on schools and hospitals. This applies to all schools and hospitals at all times: whether open or closed; permanent, temporary, makeshift or mobile, including medical and school transports; during the course of military use of the facilities or in the course of “hit and run” attacks. When, looting/pillaging or wanton destruction occurs, it is necessary to catalogue what and how much was taken or destroyed and how essential those items are to the continued functioning of the school or hospital. In some cases, such acts may lead to closures or reduced school attendance or patients’ access after an attack. It would be important to investigate whether these acts are linked to political or ideological motives.

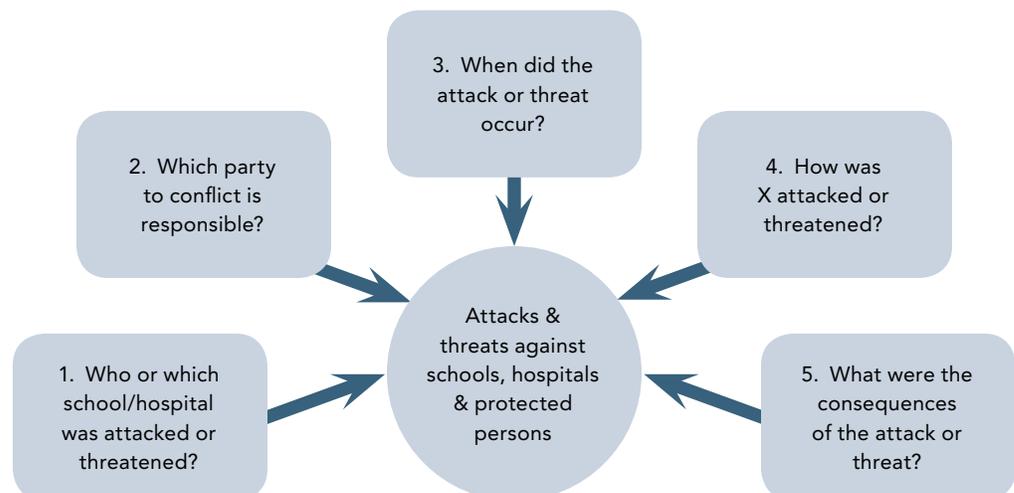
A girl looks through a hole in a wall in her school, in the Tal Al Hawa neighbourhood of Gaza City.
@UNICEF/NYHQ2009-0062/
EL BABA.



Examples of attacks on schools and hospitals	MRM reporting	Listing violation	Advocacy point	IHL violation
1. An armed group attacks a makeshift clinic and loots all furniture and medical supplies.	X	X	X	X
2. Crossfire from a party to the conflict damages school infrastructure.	X		X	
3. A school is destroyed during indiscriminate bombing of a residential area.	X	X	X	X
4. An armed group detonates an improvised explosive device at a military unit at the entrance of a hospital without giving a prior warning with an appropriate time-limit for the military unit to leave.	X	X	X	X
5. An armed group conducts a raid on a school, abducting and forcibly recruiting children.	X	X	X	X
6. During fighting in a village, an abandoned school is damaged in the crossfire.	X		X	

With regard to physical attacks on schools and hospitals, the following information is crucial in order to fully document specific incidents:

- ▶ *What* school or hospital was targeted, including school or hospital name, location (province, town/village, street or local descriptive), administration (public/private), type (fixed, temporary, mobile), and whether it was used for military purposes;
- ▶ *Which* party to conflict is responsible, including, where possible, unit and commanders involved, as well as patterns of attacks from particular units or commanders;
- ▶ *When* the attack occurred, including date, time of day, whether the facility was open, closed, abandoned or used for military purposes, and whether children, education or medical personnel were present during the attack;
- ▶ *How* the facilities were attacked, including means and methods of warfare, length of the attack, any warnings given, as well as a preliminary determination whether the attack was deliberate or indiscriminate;
- ▶ *Consequences* of the attack, including on the physical structure, its resources and ability to function following the attack, numbers of children taught or treated before and after the attack, and displacement caused by the attack.



3.3.2 Attacks on related protected persons. Who are they?

Under Security Council Resolutions 1998 and 2143, protected persons are considered to be teachers, doctors as well as other educational personnel, but also students and patients. Attacks against protected persons in relation to schools and hospitals include the killing, maiming, injuring, abduction, and use as human shields of education and medical personnel. In recording and verifying information on specific incidents, it is essential to know as much as possible about the identity of the victims, including, whether they were directly participating in hostilities or committing acts harmful to the enemy, respectively, and, as appropriate, their age, gender, ethnicity, religion, minority status, socio-economic background, perceived connections with parties to conflict, possible prior threats or other incidents involving any of the parties to conflict. In addition, when a person has survived an attack, it is important to note the gravity of the injuries, the ability or willingness of the person to continue to pursue their educational or medical profession, and

whether the persons were displaced due to the attack.

To be considered a violation under SCR 1998, an attack on related protected persons, must bear a clear link to the act of providing education or medical care. For instance, a targeted attack on a vaccination worker owing specifically to his or her work as a health provider is a violation. A teacher, however, who participates in combat in support of one of the parties to the conflict may be lawfully targeted during his/her engagement in combat and therefore, attacking such person is not a violation under SCR 1998. Annex I provides further details on the criteria under which education and medical personnel may lose their protected status. While challenging, it is important for monitoring and reporting purposes to ascertain whether the provision of education or health care was the factor that precipitated the attack. In such cases where it is not possible to determine the link between the attack and the targeted person's role as a provider of education or health care, the incident should not be included as an attack on related protected persons.

Examples of attacks on protected persons	MRM reporting	Listing violation	Advocacy point	IHL violation
1. An armed group loots a medical transport and kills one of the doctors in the course of the attack.	X	X	X	X
2. A teacher participated in political protests and is afterwards arrested in his/her classroom.	X		X	
4. A teacher not directly participating in hostilities is killed by an improvised explosive device on his or her way to school.	X	X	X	X
5. A teacher is targeted and killed for fulfilling his or her legal duty to participate in election polling.			X	X

3.3.3 Threats of attacks on schools, hospitals and related protected persons

Explicit threats

Another subcategory of attacks on schools and hospitals is recurrent threats of attacks against protected persons in relation to

schools and/or hospitals.. In order to qualify as a violation for monitoring and reporting purposes and in line with SCR 1998, a threat must be:

1. **Directed** toward a particular individual or group of persons related to the seeking or provision of education or health care;

2. *Credible*, in that there is reasonable likelihood to believe that such attacks could be carried out.

Threats can be public or private, written or oral, addressed to an individual or a group of persons, directly addressed to the education or medical facility, and can span a wide range of forms, including, for instance, letters targeting girls' education or radio mes-

sages vilifying vaccination workers. When monitoring and reporting on such threats, it is important to note the alleged source, exact contents and form of the threat as well as details of the target. It is also useful to determine if any protective measures were taken in response to the threat and the consequence of the threat including the targeted person's flight or reduced access to schools or hospitals.

Examples of threats of attacks	MRM reporting	Listing violation	Advocacy point	IHL violation
1. Members of an armed group circulate messages threatening to attack girls for going to school.	X	X	X	X
2. An armed group vocally opposes and threatens to attack schools providing secular education.	X	X	X	X
3. Polio vaccination workers are targeted in attacks across the country.	X	X	X	X
4. Government forces coerce medical personnel to withhold health care from children.	X	X	X	X

General climate of fear and insecurity

While a general volatile security climate can certainly impact access to schools and hospitals for education and medical personnel, as well as children and their families, this sort of *implicit threat* is not necessarily linked to concrete incidents and does not fall within the SCR 1998 framework. However, it is important to be aware of the effects of a more generalized climate of fear to better understand the challenges to ensure accessible education and health care. When a pattern of such fear consistently blocks children's access, it is crucial to note as part of the overall context of other violations. Advocacy and response should then be adjusted accordingly.

3.4 Other interferences with education and health

Military use of schools and hospitals

Armed forces and armed groups may use schools and hospitals for a variety of mili-

tary purposes, including as barracks, sniper or defensive positions, munitions depots, detention centers, recruiting grounds, and training facilities. This can include parts of facilities that are central to the functions of schools and hospitals, such as classrooms, or peripheral, like playgrounds or water and sanitation facilities. There is no explicit prohibition on military use of civilian objects in applicable international law and military use is not a criterion for listing parties in the Annual Report for attacks on schools and hospitals. However, SCR 1998 explicitly mentions the use of schools and hospitals for military purposes as a concern and an integral part of monitoring and reporting. Furthermore, SCR 2143 expresses deep concern at the military use of schools and recognizes that such use may render schools legitimate targets of attack, endangering children's and teacher's safety. Governments are encouraged to consider concrete measures to deter the military use of schools.

**Terminology:
"occupation" vs. "military use"
of schools and hospitals**

When armed forces or armed groups fully or partially take over a school or hospital, it is sometimes colloquially referred to as "occupation." However, it is important to make a clear distinction between such "occupation" of schools and hospitals by parties to conflict, and the legal notion of "occupation" under the Fourth Geneva Convention which relates to "belligerent occupation" of a territory during an international armed conflict. In order to avoid confusion and to ensure clarity regarding the obligations of parties to conflict, the term "military use of schools and hospitals" should be used instead of "military occupation of schools and hospitals."

Regarding military use of schools and hospitals, the following information is considered essential during the data gathering exercise to feed into reporting, advocacy and remedial action. Although much of this mirrors the information required regarding attacks and threats, there are some particular nuances to monitoring and reporting on the use of schools and hospitals for military purposes.

- ▶ *What was used for military purposes, including school or hospital name, location (province, town/village, street or local descriptive), administration (public/private),*

and type (fixed, temporary, mobile), previous military use;

- ▶ *Which party to conflict is responsible, including, where possible, unit and commanders involved, as well as patterns of military use from particular units or commanders or other armed actors present in the area;*
- ▶ *When and for how long the military use occurred, including starting and ending date, length in hours/days/weeks/months/years, whether the facility was functioning at the time the military use commenced (even if it was during a school vacation, the weekend or at night) or was closed or abandoned, and whether the school remained open during the military use;*
- ▶ *Whether children were present during the military use, including interaction between children and members of armed forces or armed groups, and the occurrence of other grave violations against children;*
- ▶ *How it was used, including purpose and methods of use, physical damage or fortifications to the facilities, medical supplies or education materials, and checkpoints placed in the vicinity;*
- ▶ *Consequences for the right to education or health, including the number of children taught or treated including any gender or community-specific drop in school attendance, during and after military use, access to and quality of alternatives provided, remedial action by authorities.*

Examples of military use of hospitals	MRM reporting	Listing violation	Advocacy point	IHL violation
1. Armed forces are positioned at the entrance of a hospital to filter patients in search of wounded armed group members.	X		X	
2. Armed forces or armed groups prevent passage of wounded seeking health care in a clinic nearby.	X		X	X
3. An armed group locates its operational center in a fully functioning hospital.	X	X	X	X
4. An armed force uses a hospital as a weapons depot.	X		X	X

Examples of military use of schools	MRM reporting	Listing violation	Advocacy point	IHL violation
1. A military detachment frequently uses a nearby school's water and sanitation facilities.	X		X	
2. Armed forces use the school grounds as storage and ammunition depot during school holidays.	X		X	
3. Armed forces forcibly enter a school while in session to establish an observation post.	X		X	
4. An armed group deliberately attacks a school inside of which a military outpost is stationed.	X		X	
5. With consent of the school, armed forces conduct civil-military exercises with children.	X		X	
6. On request, armed forces escort teachers on their way to school to protect them.	X		X	
7. An abandoned school is used as a military barracks, preventing its return to civilian use.	X		X	
8. Military installations are placed inside functioning schools to shield the bases and weaponry from attack.	X	X	X	X

Use of schools for alternative civilian purposes

Sometimes schools may be used for other civilian purposes, such as temporary shelter for internally displaced persons or as polling stations during elections. While this is not a violation of international law, this may be a concern in certain conflict contexts and may affect children's access to education. The association of schools with Government activities or political events may lead to targeting and put children, schools and teachers at risk of attack not only during its civilian use,

but also thereafter. In some cases, the use of schools for such purposes may lead to increased police presence or military protection in or around the school, which can result in an increased risk of attack and impact on the children's right to access education under IHRL. **While these types of incidents may be monitored and raised in advocacy with the Government or non-State armed groups, the use of schools for civilian purposes is not a violation in the framework of SCR 1998 nor is it a violation of international humanitarian law.**

Examples of use of schools for civilian purposes	MRM reporting	Listing violation	Advocacy point	IHL violation
1. Schools are used, in accordance with national law, for the organization of elections.			X	
2. Schools and hospitals are, on instruction of the Government, used as IDP shelters.			X	

Sub-violations serving as triggers for listing

While “attacks on schools and hospitals” serves as an umbrella term for a number of subcategories of this violation, SCR 1998 identified three specific “sub-violations” as criteria for listing in the Annual Report.

Notion of “recurrent” attacks or threats of attacks

The Security Council specified in its resolution 1998 that parties to conflict should be listed for “recurrent” attacks or threats of attacks on schools, hospitals and related protected persons, as applicable. The term “recurrent” signifies that, for listing purposes, it should be established that a party to conflict has committed such attacks or threats of attacks several times during one reporting pe-

riod; this excludes single, isolated incidents or the random conduct of an individual acting alone. The concept of “recurrent” connotes a multiple commission of such acts.

Annex III contains a series of Questions and Answers on the listing, de-listing and Action Plan process, as well as more information about the roles of both the UN and the listed party in the SCR 1998 Action Plan development and implementation. Together with the template for a SCR 1998 Action Plan in Annex IV, these two annexes are specific for UN actors involved in the negotiation and follow-up on such Action Plans.

A boy treated at Malakal Teaching Hospital in South Sudan.
UN PHOTO/TIM MCKULKA.





LEBANON: Children sit by a shrapnel-riddled wall during an arts-and-craft session at a school in the southern village of Barrachit. UNICEF/HQ07-0795/NICOLEB TOUTOUN.

4. Advocacy and dialogue with Parties to Conflict

This section aims to provide general guidance for advocacy on attacks on schools and hospitals and related protected persons by providing a series of key messages for interaction with Governments, armed forces and armed groups; clarifying the process for listing and de-listing parties to conflict for attacks on schools and hospitals in accordance with SCR 1998; and proposing concrete measures to address the issue of military use of schools, short of the SCR 1998 Action Plan process.

Advocacy on attacks on schools and hospitals occurs in many places, by a variety of UN and other international and local actors, by way of prevention and long before any party to conflict is listed in the Annual Report. The points outlined below are intended to summarize some of the main messages regarding the protection of schools, hospitals and related protected persons, to be used by child protection actors involved in advocacy and dialogue with parties to conflict before and during the negotiation of a SCR 1998 Action Plan.

1. Distinction

Parties to conflict should at all times distinguish between civilians and combatants, as well as between civilian objects and military objectives. They should not target civilians, including education personnel unless and for such time as they participate directly in hostilities nor target schools unless in the prevailing circumstances at a certain time their use makes an effective contribution to military action and their total or partial destruction, capture or neutralization offers a definite military advantage, and thus constitute legitimate military objectives. Parties to conflict should not target medical personnel or hospitals, unless they are committing acts harmful to the enemy, outside their humani-

tarian function, after a warning coupled with a time-limit in appropriate cases has not been complied with.

2. Precautions in attack

Even when a party to conflict believes that civilians, including education or medical personnel are directly participating in hostilities, or that a civilian object, including schools or hospitals, has lost its protected status owing to military use, the attacking party must still take precautions in attack, including taking all feasible measures to limit the effects on civilians, especially children.

3. Compromised functioning

Parties to conflict are prohibited from unduly/arbitrarily interfering with or obstructing the provision of education or health care for children, including by threats against, intimidation, coercion or abduction of protected persons or the pillaging and wanton destruction and other interferences resulting in the compromised functioning or forced closure of schools or hospitals.

4. Partial military use of schools

To avoid putting children and teachers at risk of attack, parties to conflict should fully comply with the obligation to take precautions against the effects of attacks on schools or hospitals, and therefore avoid partially using schools for military purposes at the same time as children and education personnel are present.

5. Full military use of schools

While there is no explicit general prohibition on military use of schools in international law, all parties to conflict have the obligation under IHRL to, at a minimum, not interfere with or obstruct the right of children to education, and should therefore only re-

move children and use schools for military purposes as a measure of last resort, for the shortest time and in the least disruptive and damaging way possible; Where full use occurs, access to alternative forms of education should be provided by the Government and not interfered with by armed groups.

6. Special status of hospitals, medical transports and medical personnel

Above and beyond the general protections afforded to civilian objects, hospitals benefit from specific protection under IHL. This includes the additional obligation to issue a warning by an attacker to enable those committing acts harmful to the enemy, outside their humanitarian function, to cease such acts. Only upon noncompliance with such a specific warning, an attack on a hospital that has lost its protection may take place. Furthermore, to increase visibility of such specifically protected objects, medical units, including hospitals are entitled to use one of the distinctive emblems of the red cross, the red crescent or the red crystal.

7. Responsibilities of Governments

All parties to conflict must comply with IHL. Governments must also respect, protect and fulfill human rights consistent with their international legal obligations, including the minimum essential levels of the rights to education and health for children, and to ensure accountability for violations of the right to education and health. Various Ministries,

including Education, Health, Defense, Social and Interior Affairs have a role to play in this regard.

8. Obligations for armed groups

Organized non-State armed groups, like States, must comply with IHL. While Governments have the sole responsibility to enact legislation and to prosecute violations of international law, non-State armed groups should respect human rights and not interfere or obstruct in any way in the enjoyment of human rights, including access to education and health.

9. Raising awareness of legal protections

Parties to conflict are encouraged to undertake concrete and pro-active measures in order to meet their international obligations regarding the protection of schools, hospitals and related protected persons, including by raising awareness among the rank-and-file, as well as inclusion of child protection measures in military training and standard operating procedures.

10. Remedial and protective measures

Parties to conflict should respect the civilian status of schools and hospitals, including by vacating and de-militarizing schools and allowing communities, the UN and other international and local actors to provide for reparative and protective measures, including repairing damage, clearing military hazards for reopened schools and hospitals.

5. SCR 1998 Action Plans on attacks on schools and hospitals

One of the main elements in SCR 1998 is the expansion of the criteria for the listing of parties to conflict in the Secretary-General's Annual Report on Children and Armed Conflict, to include recurrent attacks on schools and hospitals. In line with previous resolutions, the Council called upon listed parties to enter into dialogue with the UN to develop and implement Action Plans with concrete and time-bound activities to halt and prevent attacks and threats of attacks on schools, hospitals and protected persons in relation to schools and hospitals.

Annex IV of this Guidance Note provides a template for a SCR 1998 Action Plan between a listed party and the UN on attacks on schools, hospitals and related protected persons. While this Action Plan could apply to both Government armed forces and non-State armed groups, some of the highlighted provisions only apply to one of these parties to conflict.

A classroom in the Gaza Strip. A wall has been built in front of the windows to protect children from stray bullets.
© UNICEF/OPTA2004-01309/
SABELLA.





A mother and her child at the Halabja Maternity and Child Hospital, Iraq.
UN PHOTO/BIKEM EKBERZADE.

6. Advocacy to prevent and reduce the military use of schools

While the Security Council in Resolution 1998 urged parties to conflict to refrain from actions that impede children's access to education in times of armed conflict, such as the military use of schools, and requested the Secretary-General to continue to report on this issue, such use is not a criterion for listing. Acknowledging, however, in SCR 2143, that military use of schools may result in increased risk of attack, as well as harm to children's education, the Council urged all parties to armed conflict to respect the civilian character of schools and encouraged Governments to consider concrete measures to deter the military use of schools. In this regard, this section suggests a number of avenues for advocacy to prevent military use of schools, which include practices set by some Governments, the development of the *Lucens Guidelines*, and the proposed draft Operational Strategy for engaging with armed forces and armed groups.

Annex V proposes a draft Operational Strategy, short of SCR 1998 Action Plans, for engaging armed forces and armed groups in a voluntary commitment to take practical steps to further prevent military use of schools. Implementation of such a commitment would be driven by the party and supported by the UN.

Examples of good practices in addressing military use schools by State Forces

Due to the threat that the military use of schools poses to children and their access to education, some Governments have begun to take action to restrict the military use of schools by armed forces. Examples of best practices may be found in national legislation, military orders, military manuals and

doctrine and jurisprudence. Here are some examples of such best practices:

1. National legislation: "Public infrastructure such as schools, hospitals and rural health units shall not be utilized for military purposes such as command posts, barracks, detachments and supply depots." (*Special Protection of Children against Abuse, Exploitation and Discrimination Act, Philippines*)
2. Military orders: "I am hereby once again repeating my message to all of you about occupation of schools by our army. This act of occupation 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 following 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 on each of you" (*Order from the Office of the Deputy Chief of General Staff for Political Military Operations, Deputy Chief of General Staff for Moral Orientation, 16 April 2012, South Sudan*)
3. Military manuals and doctrine: "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 6 July 2010, Colombia*)
4. Jurisprudence: "It should be ensured that the school buildings and hostels are

not allowed to be occupied by the security forces in the future for whatsoever purpose." (*Exploitation of Children in Orphanages in the State of Tamil Nadu v. Union of India, Writ Petition, No. 102 (2007), Indian Supreme Court, 1 September 2010*)

"Lucens Guidelines" for protecting schools from military use during armed conflict

The Global Coalition to Protect Education from Attack (GCPEA), created in 2010 and composed of UN agencies and civil society organizations, spearheaded a process, in close consultation with representatives from ministries of foreign affairs, defense and education, as well as military experts, child protection actors, education specialists, and international humanitarian and human rights lawyers, to devise guidelines for protecting schools from use by armed forces and armed groups in support of their military effort, otherwise known as the "Lucens Guidelines." This initiative is aimed at increasing knowledge and understanding, improving monitoring and reporting, and **advocating for clear and explicit domestic legislation or military doctrine and policies on the interaction of military forces with schools and school children** aiming at the reduction and eventual elimination of this practice.

Member States are encouraged, both in times of conflict and peace, to support and adhere to this set of principles, and to integrate them in a practical way into their national policies and legislation, as well as their military doctrine, manuals and training. While the *Lucens Guidelines* have been produced specifically for armed conflict, they may also be instructive in other situations, including post-conflict situations. **The UN presence in country may wish to advocate with Governments as well as regional political and military organizations to incorporate the *Lucens Guidelines*.**

Global Coalition to Protect Education from Attack, "Draft Lucens Guidelines for Protecting Schools and Universities from Military Use," 2013. http://www.protectingeducation.org/sites/default/files/documents/draft_lucens_guidelines.pdf

Operational Strategy for the prevention of military use of schools

The annexed Operational Strategy to reduce the military use of schools aims to address the concern raised by the Security Council in SCR 1998 and 2143 over the military use of schools by Government armed forces and non-State armed groups, and the impact thereof on the safety of schoolchildren and their teachers as well as the right to education. Complementing and building on the principles outlined in the *Lucens Guidelines*, the Operational Strategy provides a number of concrete, practical activities that can be voluntarily undertaken by parties to conflict, both State and non-State, with a view to follow up on the Council's encouragement to consider concrete measures to deter the military use of schools by all parties to conflict. **It is crucial to note that this Operational Strategy is separate and distinct from the listing and de-listing process in accordance with SCR 1998, and is not an Action Plan. The Operational Strategy, however, may be used by the UN presence in country as a tool and a voluntary rider in its advocacy with parties to conflict to deter the military use of schools, outside of the SCR 1998 Action Plan process.**

7. Strengthening partnerships

The concern regarding attacks on schools and hospitals and the impact of such attacks on the safety of children, as well as their right to access education and health care, is of relevance not only to the child protection community, including UNICEF, DPKO, DPA, ILO and other traditional actors in this field, but also to the larger UN system and civil society. This section puts forward concrete suggestions for further strengthening this network in relation to SCR 1998 on attacks on schools and hospitals, aiming at expanding monitoring capacity and increasing expertise in education and health care, within respective mandates and resources. Although this section focuses on UN agencies and partners with specialized health and education mandates, any additional partners who can add value should be encouraged to assist the CTFMR in the implementation of SCR 1998.

7.1 Protection, Education and Health Clusters

The Clusters have extensive networks of NGOs and other local partners, which could, with due respect for the distinct mandates and resources, feed information into the regular MRM process by “alerting” on incidents that would be verified by members of the CTFMR. It would be useful to mainstream monitoring and reporting on attacks on schools and hospitals in the existing work of the Clusters, and devise an efficient way to ensure linkage between the CTFMR and members of the Clusters on Protection, Education and Health as well as the Child Protection and Gender-Based Violence Sub-Clusters, through the respective lead agencies: UNHCR, UNICEF/Save-the-Children, WHO and UNFPA. In this regard, the CTFMR is encouraged to actively reach out to members of the Clusters, where present, to develop education and health expertise within the MRM and to enable the Clusters to utilize MRM reporting and advocacy opportunities. The CTFMR could also

assist the Clusters through its advocacy and dialogue with parties to conflict to raise sensitive issues of concern.

7.2 UNICEF education and health programs

UNICEF is the lead agency for education in emergencies at global level and co-leads the Education Cluster together with Save the Children, working to ensure schools are safe and provide protective spaces for learning. The flagship *Back to School* campaign is a community-owned initiative that brings attention to the importance of education in crisis and post-crisis contexts. A key area of collaboration with Governments is to ensure that education is included in sector response plans and monitoring frameworks are conflict-sensitive. In conflict situations, Education Cluster members actively collect MRM-related information and develop key messaging for advocacy. The Education Cluster has developed tools for cluster partners to report attacks on schools and maintain a regular dialogue with community networks, education stakeholders, parents and teachers.

UNICEF plays a critical role at both global and national levels by providing technical assistance, building capacity of Governments and communities, delivering supplies and developing interagency guidance and tools to increase access to health care in conflict settings. UNICEF supports innovative strategies to ensure safe access to health care in times of conflict including support to the WHO Safe Hospital initiative.

7.3 WHO and UNESCO

WHO and UNESCO are part of the HQ task force on Children and Armed Conflict which convenes twice a year in preparation of the Secretary-General’s annual Report on Children and Armed Conflict to the Security Council. Both agencies play a complementary role in the implementation of SCR 1998.

WHO and UNESCO often have entry points with the Ministries of Health and Education respectively, civil society and community networks, especially in view of awareness raising and needs assessments. Aside from global advocacy on normative and policy issues, both specialized agencies continue to support the implementation of SCR 1998 in the following ways.

WHO has been mandated by World Health Assembly resolution 65.20 to *“provide leadership at the global level in developing methods for systematic collection and dissemination of data on attacks on health facilities, health workers, health transports, and patients in complex humanitarian emergencies, in coordination with other relevant United Nations bodies and inter-governmental and nongovernmental organizations, avoiding duplication of efforts”*. In response, WHO is seeking options for the creation of a support group for the development of such methods at the global and field levels. This close coordination with relevant stakeholders is meant to avoid duplication. Special efforts are being made to ensure that the MRM and WHO proposed methods for data collection are compatible and mutually reinforcing. The data is intended to inform policy makers both at global and national levels on the trends and consequences of attacks against health service delivery and to identify and promote policies and mitigation measures for the safe/safer delivery of essential health services in emergency settings. Where health-related violat **WHO should be encouraged to join the CTFMR.**

UNESCO has been instrumental in preparing thematic advocacy reports, including the 2011 Education For All Global Monitoring Report on “The hidden crises: armed conflict and education”, “Education under Attack” (in 2007 and 2010) and “State-of-the-Art Review” on measures to protect education in times of armed conflict. In relation to the children and armed conflict mandate, UNESCO focuses on prevention through its peace, human rights and global citizenship education programs, working with Member States and civil society actors. UNESCO supports the implementation of SCR 1998 through its global advocacy and awareness raising activities towards Governments, communities and

NGOs. UNESCO can also contribute, where appropriate, as part of its program work at the country level. **UNESCO should be encouraged to join the CTFMR as appropriate.**

7.4 Civil Society Partners

In a number of MRM country situations both international and national NGOs play an active role in the work of the CTFMR. The composition of each CTFMR is decided upon at country level and largely depends on the security situation and how the CTFMR is perceived by the parties to conflict. In some cases, NGOs support the monitoring and reporting activities of the CTFMR, but do so in an informal way due to political sensitivities, in the interest of the safety of their staff and concerns regarding impartiality. NGO partners and others may report to the CTFMR as an “alert system” regarding specific incidents. In addition, education and medical personnel themselves are often best placed to provide first alerts on incidents of attacks on schools and hospitals for follow-up and verification by the CTFMRs. The CTFMR, as with the Global Clusters, are therefore encouraged to actively reach out to relevant partners and networks, with due consideration for protection concerns, to set up and expand this first alert network.

7.5 Communities

Local communities can play a very important role in preventing attacks on schools and hospitals, as well as the use of those facilities for military purposes. In some situations, community leaders have effectively negotiated with armed forces and armed groups to vacate or reopen schools and hospitals, or have successfully established safe access routes. In other situations, however, communities have offered schools to parties to conflict as, for example, places to stay overnight without realizing the possible risk of attack. Complicated dynamics are at play, including the need to avoid perceived association with, or threats to the legitimacy of leaders, parties to conflict and the Government. Advocacy, protection and negotiation by communities regarding attacks on or use of schools and hospitals may prove useful but must be approached with caution and in accordance with the principle of “do no harm”.

8. Useful resources

- British Institute of International and Comparative Law, "Education and the Law of Reparations in Insecurity and Armed Conflict," 2013. <http://www.educationandconflict.org>
- Geneva Academy of International Humanitarian and Human Rights Law, "United Nations Human Rights Mechanisms and the Right to Education in Insecurity and Armed Conflict," 2013. <http://www.educationandconflict.org>
- Global Coalition to Protect Education from Attack, "Draft Lucens Guidelines for Protecting Schools and Universities from Military Use," 2013. http://www.protectingeducation.org/sites/default/files/documents/draft_lucens_guidelines.pdf
- Global Coalition to Protect Education from Attack, "Education Under Attack 2014," 2014. Forthcoming.
- Global Coalition to Protect Education from Attack, "Lessons in War: Military Use of Schools and Other Educational Institutions during Conflict," 2012. http://www.protectingeducation.org/sites/default/files/documents/lessons_in_war.pdf
- Global Coalition to Protect Education from Attack, "Study on Field-based Programmatic Measures to Protect Education from Attack," 2011. http://protectingeducation.org/sites/default/files/documents/study_on_field-based_programmatic_measures_to_protect_education_from_attack_0.pdf
- Global Education Cluster, "Protecting Education in Countries Affected by Conflict," 2012. <http://education.humanitarianresponse.info/resources/protecting-education-countries-affected-conflict>
- Guidance Note on SCR 1882 (2009) on killing and maiming of children and sexual violence against children, OSRSG-CAAC.
- Hausler, K., Urban, N. and R. McCorquodale. *Protecting Education in Insecurity and Armed Conflict: An International Law Handbook*. British Institute of International and Comparative Law & Education Above All, 2012. <http://www.educationaboveall.org/legalresources>
- Health Care In Danger. International Committee of the Red Cross. <http://www.icrc.org/eng/what-we-do/safeguarding-health-care/index.jsp>
- Human Rights Watch, *Schools and Armed Conflict: A Global Survey of Domestic Laws and State Practice Protecting Schools from Attack and Military Use*, 2011. Available at: <http://www.hrw.org/reports/2011/07/20/schools-and-armed-conflict-0>
- Inter-Agency Network for Education in Emergencies, "Minimum Standards for Education: Preparedness, Response, Recovery," 2010. http://toolkit.ineesite.org/toolkit/INEEcms/uploads/1012/INEE_GuideBook_EN_2012%20LoRes.pdf
- MRM Field Manual: Monitoring and Reporting Mechanism on Grave Violations Against Children in Situations of Armed Conflict. OSRSG-CAAC, UNICEF & DPKO, April 2010. <http://www.unicefemergencies.com/downloads/eresource/docs/2.6%20Child%20Protection/Monitoring%20and%20Reporting%20Mechanism%20Guidelines.pdf>
- United Nations Security Council Resolution 1998. UN Doc. S/Res/1998 (2011). <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/411/18/PDF/N1141118.pdf?OpenElement>
- United Nations Secretary-General's Annual Report on Children and Armed Conflict. UN Doc. A/67/845-S/2013/245. 15 May 2013. <http://www.refworld.org/docid/51b9864e4.html>
- World Health Organization Resolution 65.20, WHO Doc. WHA65.20, 26 May 2012. http://apps.who.int/gb/ebwha/pdf_files/WHA65/A65_R20-en.pdf

Annex I: Questions and Answers on the legal protection for schools, hospitals, education and medical personnel

1. Which international humanitarian law instruments provide protections for schools, hospitals and related protected persons, and when do they apply?

International humanitarian law (IHL), laid out in the Geneva Conventions, Additional Protocols and customary rules, regulates the conduct of hostilities and limits the effects of armed conflict on civilians and civilian objects. Two types of armed conflict exist: international armed conflicts between States, regulated by the Geneva Conventions and Additional Protocol I; non-international armed conflicts between States and non-State armed groups, or among armed groups themselves, regulated by Common Article 3 to the Geneva Conventions and Additional Protocol II. IHL applies equally to States and non-State armed groups in situations of armed conflict. It does not apply during situations of internal disturbance, which come under the purview of international human rights law (IHRL). However, the fact that there are fewer provisions in IHL regarding non-international armed conflict, gives IHRL a greater role in protecting civilians during such conflicts. IHL and IHRL have mutually reinforcing and complimentary roles in times of armed conflict.

2. Which international human rights law instruments ensure children's rights to education and health, and when do they apply?

IHRL is enshrined in a body of international and regional treaties and instruments, including the Convention on the Rights of the Child (CRC), its Optional Protocol on the involvement of children in armed conflict, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Universal Declaration of Human Rights,

much of which is considered customary international law. Articles 25 and 26 of the Universal Declaration provide general provisions on the right to a standard of living adequate for the health and well-being as well as the right to education. IHRL applies at all times, including during armed conflict. However, IHL operates as the "specific law" in situations of armed conflict. While States must respect (not interfere), protect (from interference by third parties), and fulfill (facilitate and provide) the human rights of those within its territory and jurisdiction, non-State armed groups are also encouraged to respect human rights and refrain from abuses. States may, to some extent, limit their obligations under IHRL during public emergencies such as armed conflict. However, the CRC has a no derogation clause.

3. What is the role of international criminal law and national law, especially with a view to ending impunity?

International criminal law (ICL) establishes individual criminal responsibility for international crimes that come within the jurisdiction of national courts and various international criminal tribunals, such as the International Criminal Court or *ad hoc* tribunals and mixed courts. Under ICL, individuals, not parties to conflict *per se*, may be held accountable for the commission of acts, considered war crimes in both international and non-international armed conflicts. This includes "*intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives*" as well as "*buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in con-*

formity with international law." National law may provide additional obligations for States and non-State armed groups within its jurisdiction, in particular under national criminal law, which is crucial for accountability.

4. *What are the protections afforded to school and hospitals under international humanitarian law?*

Under IHL, schools and hospitals qualify as civilian objects and are afforded general protection from deliberate attack, owing to their civilian status. Parties to conflict must at all times make a distinction between civilian objects and military objectives, and may only target military objectives. The term "military objectives" is defined in IHL as "objects which by their nature, location, purpose or use make an effective contribution to the military action and whose partial or total destruction, capture or neutralization, in the circumstances ruling at the time, offers a distinct military advantage." Even when a party to conflict has an objective in its sights which appears to be a military objective, the party must take all feasible precautions to verify that the target is in fact a military objective. In case of doubt, there must be a presumption that the object is a civilian object. The prohibition against attacking civilian objects is so fundamental that such an attack is considered a war crime. Medical units (including hospitals) and medical transportation are specifically protected under IHL.

5. *When do schools and hospitals lose their protected status? Can they become legitimate targets of attack?*

Civilian objects are not protected from attack in all circumstances. Schools and hospitals may lose their protected status, if and for such time as they qualify as "military objectives", as defined in IHL. Civilian objects can become military objectives through their military use, which may transform their status from protected civilian objects to legitimate military targets for such time as they, by their nature, location, purpose or use, make an effective contribution to military action and whose partial or total destruction, capture, or neutralization, in the circumstances ruling at the time, offers a definite military advantage. It is important to note that military use

of schools or hospitals itself is not necessarily a violation of IHL. Parties to conflict may, in certain circumstances, use schools when required by military necessity. However, even when a school is used for military purposes, it may only be attacked by the opposing party to conflict if its destruction would provide a definite military advantage at the time of the attack; if the attack would not cause excessive civilian deaths and injuries and damage to civilian objects in relation to the concrete and direct military advantage anticipated; and if all feasible precautions are taken to limit the attack's effects on civilians and civilian objects.

6. *What are the protections afforded to education and medical personnel under international humanitarian law?*

Civilians, including children, education and medical personnel, are entitled to general protection from attack and shall not be the object of attack. Wherever there is doubt about an individual's status, there must be a presumption of civilian status. In addition, medical personnel are specifically protected by separate provisions in the Geneva Conventions, Additional Protocols and customary international law. The implementation of the principle of distinction entails positive obligations to take precautions in attack and obligations to refrain from acts that would cause harm to civilians. This may require the removal of civilians from the vicinity of military objectives, including by evacuation. This element of distinction is particularly relevant regarding the military use of schools and hospitals. However, certain incidental civilian deaths and injuries and damage to civilian objects are not prohibited where precautions were taken and the deaths, injuries and damage were not excessive in relation to the concrete and direct military advantage anticipated.

7. *When do education and medical personnel lose their protected status? Can they become legitimate targets of attack?*

Civilians benefit from general protection from attack unless and for such time as they directly participate in hostilities. The notion of "direct participation in hostilities", in accordance with ICRC interpretative guidance,

suggests the following criteria for loss of protection for civilians:

- ▶ The acts of the individual must be likely to adversely affect the military operations or capacity of the opposing party to conflict;
- ▶ There must be a direct causal link between these acts and the harm caused to the opposing party to conflict;
- ▶ The acts must be specifically designed to cause the intended harm in support of a party and to the detriment of the opposing party to conflict.

Where the conduct of a civilian, including education or medical personnel, meets the above criteria, they lose their protection from attack until and for such time as they participate in hostilities.

8. What are the special protections afforded to hospitals and medical personnel under international humanitarian law?

Beyond the general protections afforded to civilians and civilian objects, medical units, transports and personnel are entitled to additional protections. This special status can only be lost if these entities are used to commit, outside their humanitarian function, "acts harmful to the enemy". However, the loss of protection given to medical units occur only after warning has been given, setting, whenever appropriate, a reasonable time-limit for, for example, evacuating patients or returning the medical facility to its civilian use. Only after such warning has remained unheeded can the special protection be considered lifted. The distinctive emblem of the Geneva Conventions signifies that the medical personnel/units/transports are legally protected under international humanitarian law. However, medical units, transports and personnel that do not bear the symbol are also afforded this highest level of protection. Any violation of this elevated protection constitutes a war crime.

9. How is military use of schools and hospitals dealt with in international law? What is the difference between "partial" and "full" use of schools and hospitals?

In IHL, there is no legal prohibition against military use of civilian objects, such as schools or hospitals *per se*, provided that

there is military necessity for the use and all feasible precautions are taken to avoid or minimize the effects of attacks on civilians and civilian objects. However, the use of one classroom or floor for military purposes, for instance, while the remainder of the school or hospital continues to function as a place of education or health care, would violate the obligation to take all feasible precautions. Simply put, "partial" military use of schools and hospitals may put the lives of children, education and medical personnel at risk of attack as the school may be considered a military objective. Schools and hospitals can also be used for military purposes at times when no children, education or medical personnel are present, and therefore the risk of attacks on civilians and civilian objects is significantly reduced. Such "full use" of schools and hospitals for military purposes, however, may impact children's rights to education or health under IHRL and IHL.

10. What is the legal basis for other interferences resulting in the forced closure and compromised functioning of schools and hospitals?

Schools and hospitals are often forced to close or operate at limited capacity due to acts that inhibit their ability to function properly, including looting, pillaging, wanton destruction and threats. These violations of IHL can severely reduce access to education and health services, as required in IHRL. Even during public emergencies and situations of resource constraints, States are obligated to respect, protect and fulfill the minimum essential levels of these rights. The destruction and seizure of property is clearly prohibited under IHL, unless required by military necessity. Looting and pillaging refer to the individual or collective appropriation and use of goods or property by combatants for personal purposes without the owner's consent and with increasing levels of organization and aggression. IHL also clearly prohibits threats of violence against civilians. In respect of the special status of hospitals, parties to conflict are bound by the principle of non-interference: they may not interfere with the treatment of the wounded or sick. Any threat or act of intimidation with the purpose of interfering with medical care would be a violation under IHL.

Annex II: Glossary of definitions relevant to SCR 1998 (2011)

Schools

"Schools" refer to all learning sites and education facilities, as determined by the local context, including both formal and informal, secular and religious, providing early childhood, primary and secondary education, as well as vocational training to children. "Schools" include all school-related spaces, structures, infrastructure and grounds attached to them, such as water, sanitation and hygiene facilities, which are recognizable and known to the community as such, but may or may not be marked by visible boundaries or signage.

Hospitals

"Hospitals" refer to all health care facilities, including medical units and services, whether military or civilian, fixed or mobile, permanent, *ad hoc* or temporary, aiming at the delivery of preventive and/or curative medical care. The term includes, for example, hospitals in the strict sense of the word, medical depots, maternity wards, medical transports, blood transfusion centers, mobile vaccination and community-based services. Such health care facilities are known to the community as such and are not required to be recognized or authorized by parties to conflict; they may or may not be marked with the distinctive emblem of the Geneva Conventions or other context-specific identification.

Protected persons in relation to schools or hospitals

"Protected persons in relation to schools or hospitals" refer to education and medical personnel, unless and for such time as such persons directly participate in hostilities. For the purpose of monitoring and reporting, and advocacy and dialogue with parties to conflict in accordance with SCR 1998 and

previous resolutions on children and armed conflict, attacks against such protected persons must have a clear link with the act of providing education or health care.

Attacks on schools and hospitals

"Attacks on schools and hospitals" is an umbrella term in respect of both indiscriminate and direct attacks against schools and hospitals that are civilian objects, resulting in their compromised functioning, partial damage or total destruction, as well as against related protected persons. In the case of schools and hospitals, such incidents include: physical attacks, looting, pillaging and wanton destruction. In the case of related protected persons, such incidents include: killing, injuring, abduction, and use as human shields.

Threats of attacks

"Threats of attacks" against schools, hospitals or related protected persons include the explicit declaration of a plan, intention or determination to inflict harm, whether physical or psychological, related to the seeking or provision of education or health care. For the purpose of monitoring and reporting, and advocacy and dialogue with parties to conflict in accordance with SCR 1998 and previous resolutions on children and armed conflict, the threats need to be plausible.

Military use of schools

"Military use of schools" refers to a wide range of activities in which armed forces or armed groups use the physical space of a school in support of the military effort, whether temporarily or for a protracted period of time. The term includes, but is not limited to, the use of schools as military barracks, weapons and ammunition storage, command centers, defensive positioning, observation posts, firing positions, interro-

gation and detention centers, training facilities, and recruiting grounds.

Military use of hospitals

“Military use of hospitals” refers to a wide range of activities in which armed forces or armed groups use the physical space of a hospital in support of the military effort, whether temporarily or for a protracted period of time. The term includes, but is not limited to, the use of hospitals as command centers, interrogation and detention centers, firing positions, or for activities including the filtering, detaining or extracting of patients or medical personnel at the entrances of health facilities on the suspicion of association or sympathy with a party to conflict.

Military objectives

“Military objectives” are limited to objects, which by their nature, location, purpose or use make an effective contribution to military action and whose partial or total destruction, capture or neutralization, in the circumstances at the time, offers a definite military advantage. Civilian objects benefit from the general protections of the rules on distinction, proportionality and precautions, even while closed or empty owing to evacuation or abandonment. However, if civilian objects are turned into military objectives, notably by being used for military purposes, they lose their protection against attacks.

Annex III: Questions & Answers on the SCR 1998 Action Plan template

1. What are the key features of Security Council Resolution SCR 1998 related to attacks on schools and hospitals?

Effective July 2011, SCR 1998 added recurrent attacks on schools and/or hospitals, and recurrent attacks and threats of attacks against protected persons in relation to schools and hospitals to the existing “triggers” for listing of parties to conflict in the Annexes of the Secretary-General’s Annual Report on Children and Armed Conflict (recruitment and use of children; patterns of sexual violence against children; and patterns of killing and maiming of children in contravention of international law). The Security Council also requested listed parties to enter into a dialogue with the United Nations with the aim of negotiating action plans containing concrete and time-bound activities to halt and prevent future attacks and threats of attacks on schools, hospitals and related protected persons. Alongside this, the Council also requested the Secretary-General to develop listing and de-listing criteria for parties to conflict perpetrating attacks or threats of attacks on schools, hospitals and related protected persons. In addition to the provisions concerning attacks on schools, hospitals and related protected persons, the Council requested continued monitoring of military use of schools and hospitals, and, in SCR 2143, expressing deep concern, requested United Nations country task forces to *enhance* this monitoring. The Council also requested continued monitoring of other violations that may prevent children’s access to education and health care in times of armed conflict.

2. What are the triggers for listing under SCR 1998?

For the purpose of listing and de-listing parties to conflict in accordance with SCR 1998,

the following subcategories of “attacks on schools and hospitals” are triggers for listing

Recurrent attacks against schools and hospitals, including indiscriminate and direct attacks against, as well as the looting, pillaging and wanton destruction of schools and hospitals that are civilian objects, resulting in their compromised functioning, partial damage or total destruction;

Recurrent attacks against related protected persons, including the killing, injuring, abduction and use as human shields of education and medical personnel unless and for such time as such persons directly participate in hostilities;

Recurrent threats of attacks against related protected persons, including explicit declarations of a plan, intention or determination to inflict harm, which are plausible to execute, such as but not limited to public statements or targeted letters.

The **military use of schools or hospitals**, however a serious concern regarding access to education and health care in times of armed conflict as well as the physical safety of children, medical and education personnel, is not identified as a “trigger” for listing and falls outside the scope of the listing of parties in accordance with SCR 1998. The Council expressed deep concern at the military use of schools in SCR 2143, urged all parties to conflict to respect the civilian character of schools, encouraged Member States to consider concrete measures to deter military use of schools, recognized that such use may lead to attacks by opposing parties, and requested the country task forces for enhanced monitoring of this issue. However, in SCR 2143, the military use of schools or hospitals is still *not* a trigger for listing.

3. *How can a party to conflict be de-listed for attacks and threats of attacks on schools, hospitals and protected persons in line with SCR 1998?*

In its resolutions 1539, 1612, 1882 and 1998, the Security Council calls upon parties listed in the Annexes of the Secretary-General's Annual Report on Children and Armed Conflict for at least one of the four "trigger" violations to prepare concrete and time-bound Action Plans to halt and prevent those violations. The Council introduced the Action Plan as a tool for parties to conflict to address violations against children and to be de-listed upon full implementation. Action Plans are negotiated between a listed party and the United Nations in country according to a standard template. Action Plans are composed of a series of commitments as well as concrete and time-bound measures for the party to undertake to halt and prevent violations. The main interlocutor of the party to conflict in the negotiation of an Action Plan is the CTFMR, with the support of the Office of the SRSG-CAAC. While a listed party is responsible for the implementation of the Action Plan, the United Nations in country stands ready to actively support, and must verify all aspects of compliance with the action plan.

4. *What if a party to conflict has been listed for multiple "trigger" violations? How does a SCR 1998 Action Plan relate to SCR 1612 and 1882 Action Plans?*

The Security Council, in paragraph 6(b) of its resolution 1998, calls upon those parties that have an existing Action Plan with the United Nations on one of the "trigger" violations and have since been listed for another "trigger" violation to prepare and implement separate action plans. However, when a party is listed for multiple violations, the United Nations presence in country may consider negotiating one comprehensive action plan which covers all violations that have triggered the listing of the party to conflict, for reasons of practicality and expediency. However, while the structure and process of SCR 1612, 1882 and 1998 Action

Plans are similar, the respective legal obligations and activities to be undertaken by the party to conflict are separate and distinct for each of the violations and all need to be adequately addressed in the case of multiple violations. A party can also have multiple concurrent Action Plans for different violations. While focused on specific violations, obligations and activities, the development and implementation of such Action Plans could mutually reinforce each other. De-listing for a particular violation takes place when the commitments and activities related to that violation have been fulfilled and implemented, compliance has been verified by the United Nations, and the violation has ceased for a period of at least one year after full implementation of the Action Plan commitments and activities. A party will be completely removed from the Annexes only when all "trigger" violations have undergone this same process.

5. *What is the role of the CTFMR in the negotiation and implementation of a SCR 1998 Action Plan?*

The CTFMR takes the lead in monitoring and reporting on violations against children, in conducting dialogue with listed parties on the development of Action Plans, in providing United Nations operational support to the implementation of Action Plans, as well as in monitoring compliance with Action Plans. Accordingly, the highest United Nations authority in country (SRSG or RC) and the UNICEF Representative in country together represent the United Nations in the development and implementation of Action Plans in accordance with SCR 1998. Information on violations, progress and challenges in the development and implementation of Action Plans are shared on a regular basis with the Office of the SRSG-CAAC for reporting in the Secretary-General's Annual Report, country-specific reports and quarterly updates to the SCWG-CAAC. While the CTFMR stands ready to support the full implementation of the Action Plan, the party to conflict is responsible to undertake the activities in a timely and transparent manner.

6. *What is the role of the SRSG-CAAC in the negotiation and implementation of a SCR 1998 Action Plan?*

The SRSG-CAAC serves as a global advocate and moral voice for children affected by armed conflict, acts as a convener of the United Nations system to respond to grave violations against children, and undertakes diplomatic initiatives to foster protection of children in times of armed conflict. The Office of the SRSG-CAAC, in close collaboration with UNICEF, DPKO/DPA, WHO, UNESCO and other United Nations partners, serves as a resource and focal point within the United Nations system to advise on the development and implementation of Security Council-mandated Action Plans, as well as the listing and de-listing process in accordance with SCR 1612, 1882 and 1998. As stipulated in SCR 1460, the SRSG-CAAC serves as a liaison between the United Nations child protection partners in the field and the Security Council, through regular reporting to the Council and its Working Group on progress and challenges in dialogue with parties to conflict and the implementation of Action Plans. In some situations, the SRSG-CAAC has contributed through field visits and high-level advocacy to reach agreements on Action Plans. The SRSG also serves as witness to the signing of Action Plans, as part of the liaison function towards the Security Council.

7. *How is a SCR 1998 Action Plan structured? Which elements in a SCR 1998 Action Plan are mandatory and which are optional?*

The SCR Action Plan template can be found as Annex IV to this Guidance note. The template comprises of a series of commitments and concrete and time-bound activities, including: (1) cooperation with the United Nations; (2) dissemination of the Action Plan and international obligations; (3) capacity building and awareness raising; (4) protection of schools and hospitals in the conduct of military operations; (5) reparative and protective initiatives; (6) and criminalization, accountability and legal enforcement. Each section is comprised of a more detailed description of the respective activities, including the responsible authority and expected

timeframe. Every single concrete and time-bound activity listed in SCR 1998 Action Plans is mandatory for the listed party without derogation, from the time of signature to full compliance. The implementation of each activity, however, requires flexibility and customization to the local context and capacity of the listed party. During the development and implementation phases, the CTFMR needs to give careful thought, in consultation with the Office of the SRSG-CAAC, to the various ways that mandatory commitments can be translated into concrete activities in a given situation.

8. *How are SCR 1998 Action Plans with Government armed forces and with non-State armed groups different?*

While the commitment to halt and prevent attacks and threats of attacks on schools, hospitals and related protected persons is identical for all parties to conflict, the activities to implement this commitment may differ for Government armed forces and non-State armed groups. Governments, for example, bear the responsibility to enact legislation for the protection of children, schools, hospitals, and related protected persons; to respect, protect and fulfill the rights to education and health at all times; and to criminalize, prosecute and punish violations contrary to applicable international law and national law. In addition, a wide range of Government stakeholders, including the Armed Forces, and the Ministries of Defense, Education, Health, Justice, Social and Interior Affairs have a role to play in halting and preventing attacks and threats of attacks on schools, hospitals and related protected persons. However, *all* parties, State and non-State, are bound by international humanitarian law and must abide by the principles of distinction, proportionality and precautions. While the commitments and activities apply equally to Government armed forces and non-State armed groups, Governments have a higher threshold of responsibilities under international human rights law, which needs to be reflected in the Action Plan. Non-State armed groups nevertheless should be encouraged to respect international human rights law and refrain from abuses.

9. *How is the Security Council's concern over the military use of schools addressed outside of a SCR 1998 Action Plan?*

While the Security Council in its resolution 1998 urged parties to conflict to refrain from actions that impede children's access to education in times of armed conflict, such as the military use of schools, and requested the Secretary-General to continue to report on this issue, the military use of schools is generally not a violation of international humanitarian law and has not been taken up as a criterion for listing parties to conflict for attacks on schools and hospitals. Recognizing, however, in its resolution 2143, that the military use of schools may result in increased risk of attack by opposing forces, the Council urged all parties to armed conflict to respect the civilian character of schools and encouraged Governments to consider concrete measures to deter the military use of schools. Two tools have been developed in this regard;

1. In November 2012, an expert group of Member States, regional organizations, military legal advisors and child protection and education specialists convened and drafted the *Lucens Guidelines* to protect schools from military use, outlining a series of principles for endorsement by Governments, and ultimately non-State armed groups.
2. Complementing the *Lucens Guidelines*, and distinct from the SCR 1998 listing and Action Plan process, the Office of the SRSG-CAAC prepared an Operational Strategy to reduce military use of schools and mitigate its impact on children, providing a number of concrete, practical measures for Governments or armed groups to undertake, as a separate volun-

tary commitment to prevent military use of schools.

10. *How does the listing and de-listing process in accordance with SCR1998 work?*

The United Nations Country Teams (UNCT), in non-MRM situations, and the Country Task Forces on Monitoring and Reporting on grave violations against children, in MRM situations, are critical to the listing of parties in the Secretary-General's Annual Report. In their yearly contribution to the draft Annual Report, the UNCTs and CTFMRs may recommend the listing of parties based on UN verified information on a party committing one or more "trigger" violations. This detailed account is further discussed during the annual meeting of the Headquarters Task Force on Children and Armed Conflict, which is composed of senior representatives of relevant UN entities in New York, and may subsequently be taken further by the SRSG-CAAC as a recommendation to the Secretary-General, who takes the final decision on listing. The listing mandates the establishment of an MRM and a CTFMR, which takes the lead in monitoring and reporting, as well as in dialogue with parties on action plans to halt and prevent violations against children. The listing also initiates country-specific reporting to the SCWG-CAAC. In its yearly contribution to the draft Annual Report, the CTFMR may recommend the de-listing of parties, based on a comprehensive overview of the implementation of the Action Plan, following the same exercise as for the listing process. Any de-listing must be approved by the Headquarters Task Force and recommended by the SRSG on Children and Armed Conflict to the Secretary-General

Annex IV: SCR 1998 (2011) Action Plan to halt and prevent attacks on schools and hospitals and attacks or threats of attacks against protected persons in relation to schools and/or hospitals

[This draft Action Plan template relates to both Government armed forces and non-State armed groups. Some of the provisions, however, may differ, as Governments have a higher threshold of responsibilities, which needs to be reflected as such. Blue is specific for Governments; green for armed groups.]

I. Preamble

Stressing the commitment of the *Government of [xxx] / [armed group]* to fully comply with its obligations under international humanitarian law, including the Geneva Conventions, their Additional Protocols (*where applicable*) and customary international humanitarian law; *international human rights law, including the Convention on the Rights of the Child and its Optional Protocol on the involvement of children in armed conflict, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights (where applicable);* and relevant national law in line with international norms and standards (*specify where applicable*);

Noting relevant United Nations Security Council Resolutions (SCR) on children and armed conflict, including SCR 1612 (2005) and SCR 1882 (2009), and in particular SCR 1998 (2011), in which the Security Council expressed *“deep concern about attacks as well as threats of attacks in contravention of applicable international law against schools and/or hospitals, and protected persons in relation to them as well as the closure of schools and hospitals in situations of armed conflict as a result of attacks and threats of attacks, and called upon all parties to armed conflict to immediately cease such attacks and threats”;*

Also noting that the Security Council, in SCR 1998 (2011), called *“upon those parties listed in the annexes of the Secretary-General’s global Annual Report on Children and Armed Conflict, that commit, in contravention of applicable international law, recurrent attacks on schools and/or hospitals, recurrent attacks or threats of attacks against protected persons in relation to schools and/or hospitals in situations of armed conflict, to prepare without delay concrete, time-bound action plans to halt those violations and abuses, and undertake specific commitments and measures in this regard”;*

Mindful of the commitments made (*specify if any*) to the Special Representative of the Secretary-General for Children and Armed Conflict on (*date of SRSR-CAAC mission, if any*), and/or any other commitments made on the protection of children within ceasefire agreements and peace processes, or other written commitments on children affected by armed conflict to the United Nations;

Working in close collaboration with the United Nations Country Task Force on Monitoring and Reporting on grave violations against children (hereafter “CTFMR”), and in cooperation with relevant United Nations agencies and departments, and international and local civil society partners, as well as the Office of the Special Representative of the Secretary-General for Children and Armed Conflict (hereafter “OSRSG-CAAC”);

The [Government](#) / *[armed group]* hereby undertakes to implement the following Action Plan to halt and prevent attacks and threats of attacks on schools, hospitals and protected persons in relation to schools and/or hospitals (hereafter “Action Plan”).

II. Scope and purpose

1.1 This Action Plan applies to the [Government of \[xxx\]](#) (hereafter the “Government”), and its *armed forces [spell out name]* (hereafter the “Armed Forces”), and/or other related security forces *[spell out name of paramilitary groups, auxiliary forces, etc.] (where relevant) / [armed group]*, and its political wing (*where relevant*), which is listed in the Annexes of the Secretary-General’s global Annual Report on Children and Armed Conflict to the Security Council [S/xx/xxx] for “recurrent attacks on schools and/or hospitals, and attacks and threats of attacks against protected persons in relation to school and/or hospitals”.

1.2 The [Government](#) / *[armed group]* shall be eligible for de-listing from the Annexes of the Secretary-General’s Annual Report on Children and Armed Conflict to the Security Council upon fulfilment of the general commitments and completion of the concrete and time-bound activities outlined in the Action Plan, as well as upon United Nations verification that attacks on schools and/or hospitals and attacks and threats of attacks against related protected persons have ceased for a minimum of one year following full implementation of all provisions of the Action Plan spelled out in below.

III. Applied definitions

For the purpose of this Action Plan, the following definitions will be applied:

(1) “*Schools*” refer to all learning sites and education facilities, as determined by the local context, including both formal and informal, secular or religious, providing early childhood, primary and secondary education to children. “*Schools*” include all school-related spaces, structures, infrastructure and grounds attached to them, such as water, sanitation and hygiene facilities, which are recognizable and known to the community as such, but may or may not be marked by visible boundaries or signage.

(2) “*Hospitals*” refer to all health care facilities, including medical units and services, whether military or civilian, fixed or mobile, permanent, *ad hoc* or temporary. Health care facilities are known to the community as such and are not required to be recognized or authorized by parties to conflict; they may or may not be marked with the distinctive emblem of the Geneva Conventions or other context-specific identification.

(3) “*Protected persons in relation to schools and/or hospitals*” refer to education and medical personnel, unless and for such time as such persons directly participate in hostilities. For the purpose of this Action Plan, attacks against such protected persons must have a link with the act of seeking or providing education and/or health care.

(4) “*Attacks on schools and hospitals*” is an umbrella term for both indiscriminate and direct attacks against schools and hospitals that are civilian objects, resulting in their compromised functioning, partial damage or total destruction, as well as against related protected persons. In the case of schools and hospitals, such incidents include: physical attacks, looting, pillaging and wanton destruction. In the case of related protected persons, such incidents include: killing, injuring, abduction and use as human shields.

(5) “*Threats of attacks*” against related protected persons include the explicit declaration of a plan, intention or determination to inflict harm, whether physical or psychological, related to the seeking or provision of education or health care. For the purpose of this Action Plan, the threats need to be plausible.

IV. General commitments

4.1 In its effort to protect schools, hospitals and related protected persons from the impact of armed conflict, the [Government](#) / *[armed group]* commits to take measures to immediately halt and prevent attacks on schools and/or hospitals and attacks and threats of attacks against related protected persons, including to:

(1) Establish mutually agreeable, practical *modalities for cooperation with the United Nations*, ensure unhindered access to relevant locations and persons without any

adverse action, and share verifiable information on Action Plan implementation;

(2) Issue a *military order/political directive to the military rank-and-file and relevant Government Ministries / political actors* on the contents of the Action Plan and the protections afforded to schools, hospitals and protected personnel;

(3) Design and implement *capacity building and awareness raising strategies*, with a view to enhancing understanding among the military rank-and-file and affected communities on the protection of schools, hospitals and related protected persons;

(4) Integrate *precautionary measures* for the protection of schools, hospitals, and related protected persons, in overall military doctrine, as well as the planning, preparation and conduct of operations;

(5) *Devise methods / allow for and do not obstruct in any way measures to mitigate the impact of attacks on schools and hospitals on children's right to education and health;*

(6) Investigate incidents of attacks on schools and/or hospitals or attacks or threats of attacks against related protected persons which may be contrary to applicable interna-

tional or national law, or in breach of the order/directive, and *ensure accountability for perpetrators*, including commanders;

4.2 The CTFMR, in cooperation with the *Government / [armed group]* and relevant international and national child protection partners, commits to support the day-to-day implementation of the Action Plan by providing technical expertise and supporting programmatic initiatives ensuring children's right to education and health care, including through assisting in the provision of remedial and alternative schooling and health care, demilitarization, rehabilitation and reconstruction of schools, mine clearance and mine risk education, and psycho-social support for children. The CTFMR also commits to monitor compliance by the Government with the Action Plan and verify implementation measures for subsequent reporting to the OSRSG-CAAC.

4.3 The OSRSG-CAAC commits to support the implementation of the Action Plan by providing technical advice on Security Council Resolutions on children and armed conflict, and reporting on progress and challenges in the implementation of the Action Plan to the Security Council and its Working Group on Children and Armed Conflict.

V. Concrete and time-bound activities

Cooperation with the United Nations

Activity

Timeframe and responsible authority

1. Engage with the CTFMR on the practical implementation of the Action Plan by:

- Immediately and on a monthly basis
- *Government and Armed Forces / [armed group]*

(a) Appointing *high-level military and civilian focal points / focal points in the military and political structures of the [armed group] to develop operational modalities and measures for the implementation of the Action Plan and to ensure communication with the CTFMR on a regular basis;*

(b) Establishing *an inter-ministerial committee, composed of the Ministries of Education, Health, Defense, Justice, Social and Interior Affairs and national human rights mechanisms / a Coordinating Body of members representing the various military and political structures of the [armed group], to oversee and coordinate Action Plan activities;*

(c) *Nominating technical-level focal points within the Ministries of Education, Health and Defense to coordinate preventive and remedial activities regarding the provision of education and health to displaced and conflict-affected communities.*

Cooperation with the United Nations

Activity

Timeframe and responsible authority

2. **Provide** / allow the CTFMR safe and unimpeded access for the purpose of monitoring and reporting violations as well as verifying implementation of the Action Plan:

- Immediately and ongoing
- **Government and Armed Forces** / [armed group]

(a) To any relevant locations (i.e. education centers, health care facilities, military training facilities, operation commands, battle sites, IDP camps and detention facilities);

(b) To any relevant persons (i.e. children, education and medical personnel, witnesses, civil society members, displaced persons, local communities, military personnel and regional/operational military commanders).

3. Issue a clear written military order / political directive to the **Armed Forces** / **relevant Government Ministries** / non-military persons associated with the [armed group] stating:

- Immediately
- **Armed Forces and Government** / [armed group], in consultation with the CTFMR

(a) The precise terms and aims of the Action Plan;

(b) The obligations under international law to protect schools, hospitals and related protected persons;

(c) Roles, responsibilities, practical measures, as well as the timeframe for implementation of the Action Plan;

(d) Sanctions for breaches;

(e) The requirement to report any such breaches to **appropriate authorities** / through the military chain-of-command.

4. Widely disseminate the military order / political directive both in writing and through other effective means of communication, and ensure the inclusion of its contents, as well as practical measures for its implementation, in overall **military doctrine, Standard Operating Procedures and Rules of Engagement, military manuals and trainings** / military rules, procedures and trainings.

- Immediately and ongoing
- **Armed Forces and Government** / [armed group], in consultation with the CTFMR

5. **Conduct an internal analysis** / support and allow for a situational analysis to identify the nature of incidents of attacks and threats of attacks on schools, hospitals and related protected persons, including the circumstances, motivations, frequency, methods, perpetrators, and impact on children's education and health, psycho-social needs, as well as possible protective measures to halt and prevent such violations, including civilian protection initiatives.

- Within 3 months
- **Government, with a particular role for the Ministries of Defence, Education and Health** / [armed group], in cooperation with the CTFMR

6. Develop specific child protection training modules, conduct training sessions and closely monitor awareness among **all levels of the Armed Forces** / military rank-and-file of the [armed group] on:

- Within 3 months and ongoing
- **Government, with a particular role for the Ministries of Education, Health and Justice** / [armed group], with the support of the CTFMR

(a) The legal protections afforded to schools, hospitals and related protected persons;

(b) Measures for the implementation of the Action Plan.

Cooperation with the United Nations

Activity

7. Conduct a nation-wide awareness campaign directed toward the affected communities, including children and their families, education and medical personnel:

(a) Informing them of the measures taken to halt and prevent attacks and threats of attacks on school, hospitals and related protected persons;

(b) Stating sanctions for perpetrators;

(c) Announcing the establishment of and detailing how to access an independent community complaints mechanism for remedial action.

Timeframe and responsible authority

- Within 3 months and ongoing
- [Armed Forces and Government, with a particular role for the Ministry of Defence / \[armed group\]](#), with the support of the CTFMR

Protection of schools and hospitals in the conduct of military operations

Activity

8. Ensure the mainstreaming and respect for the protection of schools, hospitals and related protected persons, in the planning, preparation and conduct of military operations, including the following precautionary steps:

(a) Take constant care to distinguish between civilians/civilian objects and combatants/military objectives, and to spare civilians and civilian objects unless and for such time as they constitute military objectives;

(b) Take all feasible measures prior to the attack to verify that the objectives to be attacked are not civilians/civilian objects; in case of doubt, they shall be presumed not to make a contribution to military action;

(c) If a school is identified as a military objective, give an effective advance warning of the attack; *always* give such an advance warning in the case of hospitals, including with a reasonable time-limit to heed the warning;

(d) Refrain from launching / immediately suspend an attack which may be expected to cause loss of civilian life or damage to civilian objects which would be excessive in relation to the direct military advantage anticipated;

(e) Take all feasible precautions prior to an attack in the choice of means and methods of attack with a view to avoiding or minimizing disproportionate loss of civilian life, injury to civilians and damage to civilian objects.

Timeframe and responsible authority

- Immediately and ongoing
- [Armed Forces and Government, with a particular role for the Ministry of Defence / \[armed group\]](#)

9. Establish a review board composed of [military, education and health experts](#) / trained military commanders to act as an internal oversight mechanism on the conduct of operations; design and review operational procedures; and assess incidents for remedial action by the military chain-of-command.

- Within 3 months and ongoing
- [Armed Forces and Government, with a particular role for the Ministries of Defence, Education and Health / \[armed group\]](#), for sharing with the CTFMR

Protection of schools and hospitals in the conduct of military operations

Activity	Timeframe and responsible authority
<p>10. Undertake / allow and do not obstruct or delay in any way reparative measures to mitigate the impact of incidents of attacks on schools and hospitals, including:</p> <p>(a) Repairing damage;</p> <p>(b) Clearing military hazards;</p> <p>(c) Providing remedial education courses / emergency medical care;</p> <p>(d) Establishing safe routes and alternative learning spaces / medical facilities.</p>	<ul style="list-style-type: none"> • Within 3 months and ongoing • Government, with a particular role for the Ministries of Education and Health / [armed group], with the support of the CTFMR and other international and national child protection partners
<p>11. De-militarize / vacate any schools and hospitals which are being used for military purposes; avoid labelling schools as associated with any parties to conflict, including through independent civilian initiatives to protect schools and hospitals, and civilian protective presence by civil society partners or community members.</p>	<ul style="list-style-type: none"> • Within 3 months and ongoing • Government, Armed Forces and other related security forces / [armed group]
<p>12. Initiate a process for enacting domestic legislation integrating relevant international law protecting schools, hospitals and related protected persons and criminalizing violations under applicable international law and/or in breach of the military order.</p>	<ul style="list-style-type: none"> • Immediate and ongoing • Government, with a particular role for the Ministry of Justice and parliamentary committees, in consultation with the CTFMR
<p>13. Establish an independent complaints mechanism known and accessible to communities, education and medical personnel, children and their families to confidentially file complaints regarding incidents of attacks or threats of attacks on schools, hospitals and related protected persons, with consideration of potential protection concerns for victims and witnesses, for swift remedial action by the military chain-of-command.</p>	<ul style="list-style-type: none"> • Within 3 months and ongoing • Ministries of Education and Health, in cooperation with the Armed Forces / [armed group], with the support of civil society partners and for sharing with the CTFMR
<p>14. Investigate, in a timely and transparent manner, each incident of attacks or threats of attacks on schools, hospitals and related protected persons which may be in violation of applicable international or national law or the military order / political directive; prosecute and punish those responsible in line with international standards, including by imposing appropriate punitive sanctions or disciplinary measures on perpetrators, as well as putting in place remedial measures.</p>	<ul style="list-style-type: none"> • Within 3 months and ongoing • Armed Forces and the Government, with a particular role for the Ministries of Defence and Justice / [armed group]
<p>15. Review progress made and identify remaining issues towards full compliance through report cards for each operational / regional military commander, tracking steps taken (trainings, awareness raising sessions, engagement with the United Nations), any further incidents and remedial action taken, allowing for the leadership of the <i>[armed group]</i> to follow up on non-compliance by specific military commanders.</p>	<ul style="list-style-type: none"> • Within 6 months and ongoing • <i>[armed group]</i>, for sharing with the CTFMR

VI. Timeframe and applicability

6.1 The Action Plan takes effect on the date of signature and will be ongoing until and for such time as all provisions of the Action Plan

are fully implemented by the **Government / [armed group]** and monitored for compliance and verified by the CTFMR.

6.2 This Action Plan may be amended or revised at any time by written mutual consent of the [Government](#) / *[armed group]* and the CTFMR, in conjunction with the OSRSG-CAAC. Any dispute arising out of or in connection with the Action Plan will be resolved amicably between the Government / *[armed group]* and the CTFMR. The parties may seek the advice of the OSRSG-CAAC in the event of a need for clarification.

VII. Signatures

In witness whereof, the duly authorized representatives of the parties to this Action Plan have put their signatures on this day, being [xx/xx/xxxx]:

For and on behalf of

[Government of \[xxx\]](#) / *[armed group]*

Name:

Title:

Signature:

Date:

For and on behalf of the CTFMR

(SRSG or UN Resident Coordinator)

Name:

Title:

Signature:

Date:

Special Representative of the Secretary-General for Children and Armed Conflict

Title:

Signature:

Date:

CTFMR Co-Chair

(UNICEF Representative)

Name:

Title:

Signature:

Date:

Annex V: Draft Operational Strategy for the prevention of military use of schools

[This draft Operational Strategy relates to both Government armed forces and non-State armed groups. Some of the provisions, however, may differ, as Governments have a higher threshold of responsibilities which needs to be reflected as such. Blue is specific for Governments; green for armed groups.]

1. Background

The draft Operational Strategy aims at addressing the concern raised by the Security Council in its resolution 1998 (2011) over the military use of schools by Government armed forces and non-State armed groups, its effects on the safety of children and education personnel, as well as the right to education during armed conflict. This was further stressed in SCR 2143 (2014).

Complementing the principles outlined in the *Lucens Guidelines*¹ on the military use of schools, the Operational Strategy provides a number of concrete, practical activities to be undertaken with a view to reduce the military use of schools and mitigate its impact on children.

2. Definitions

For the purpose of this Operational Strategy, the following definitions will be applied:

"Schools" refer to all learning sites and education facilities, as determined by the local context, both formal and informal, secular or religious, providing early childhood, primary and secondary education as well as vocational training to children. *"Schools"* include all school-related spaces, structures, infrastructure and grounds attached to them, such as water, sanitation and hygiene facilities.

¹ Draft Lucens Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict.

ties, which are recognizable and known to the community as such, but may or may not be marked by visible boundaries or signage.

"Military use of schools" refers to a wide range of activities in which armed forces or armed groups use the physical space of a school in support of the military effort, whether temporarily or for a protracted period of time. The term includes, but is not limited to, the use of schools as military barracks, weapons and ammunition storage, command centers, defensive positioning, observation posts, firing positions, interrogation and detention centers, training facilities, and recruiting grounds.

3. Commitments

In its effort to protect children, schools and education personnel from the effects of armed conflict, to avoid putting at risk the physical safety of children and related personnel, and to ensure the civilian status of schools as safe learning environments for children, the *[party to conflict]* commits to *take all feasible measures to refrain from using schools for military purposes*. Acknowledging that the military use of schools may result in increased risk of attack by opposing armed forces or armed groups and may impact access to education for children, *[the party to conflict]* further commits to:

(I) *Prevent the military use of schools*: Fully comply with the principles of distinction between civilians/civilian objects and combatants/military objectives and the principle of precautions against the effects of attacks, as provided in international humanitarian law, and therefore avoid the military use of schools. Should schools be used by any party, a full investigation with a view toward immediate cessation of such use should be undertaken.;

(II) Issue a military command order to bring effect to the commitment as laid out in paragraph one above providing a clear prohibition of the military use of schools.

(IV) *Awareness raising and capacity building:* Disseminate widely the norms and standards on the protection of schools from use for military purposes, including through a clear written military order, awareness-raising among the military rank-and-file and affected communities, as well as inclusion in military training and operational practices;

(V) *Mitigating the impact:* Take all feasible measures not to endanger the lives and safety of children, teachers and other education personnel, as well as the physical structure and functioning of schools, including by undertaking precautionary, protective, reparative, and accountability initiatives mitigating the effects of military use of schools on children.

4. Practical roadmap

In implementing the commitments outlined above, *[the party to conflict]* will undertake the following concrete and action-oriented measures:

Dissemination of clear norms and standards

(1) Formulate clear and explicit rules for protecting schools from military use thereby protecting children from attack, and issue such rules in a military order/political directive to the military rank-and-file/political actors;

(2) Ensure the inclusion of the military order on military use of schools in all military doctrine, manuals and training throughout the military chain-of-command, as well as Standard Operating Procedures, operational orders, and Rules of Engagement;

(3) Reach out to local communities and inform education personnel, children and their families on the military order/political directive, and establish an independent community alert mechanism to trigger remedial action in case of violations;

(4) Enact domestic legislation codifying relevant international law protecting schools from military use and aiming at the highest degree of legal protection for children,

schools and education personnel, including full prohibition and criminalization of such use of schools.

Precautionary measures in the conduct of military operations

(5) Integrate the military order/political directive on military use of schools in overall military planning, preparation and conduct of military operations in order to identify alternatives and thus avoid using schools for military purposes;

(6) Conduct an assessment of all risks posed to children, education personnel, the school itself and children's education, whenever considering the placement of military installations/detachments in the vicinity of schools and along routes to schools;

(7) In areas of combat operations, where schools may be exposed to danger, endeavor to provide advance warning to children and education personnel to allow them time to relocate;

(8) Avoid utilizing military personnel to protect schools. When possible, consider alternatives to military protection of schools.

Protective, reparative and accountability measures

(9) Demilitarize / vacate schools currently being used for military purposes and allow schools to be reinstated as secure learning environments for children, including by repairing / allowing the repair of all damage and clearing military hazards from schools and routes to schools;

(10) Investigate all cases of military use of schools, and when incidents amount to breaches of the military order/political directive, impose punitive sanctions or disciplinary measures on perpetrators, including commanders; and, when incidents amount to violations of applicable international or national law, investigate, prosecute and punish in line with international standards.



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