

## Central African Republic, No Class: When Armed Groups Use Schools

*INTRODUCTORY TEXT: This case discusses attacks against and military use of schools by different actors in the CAR conflict, including use by international peacekeeping forces.*

**N.B. As per the disclaimer <sup>[1]</sup>, neither the ICRC nor the authors can be identified with the opinions expressed in the Cases and Documents.** Some cases even come to solutions that clearly violate IHL. They are nevertheless worthy of discussion, if only to raise a challenge to display more humanity in armed conflicts. **Similarly, in some of the texts used in the case studies, the facts may not always be proven;** nevertheless, they have been selected because they highlight interesting IHL issues and are thus published for didactic purposes.

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### A. No Class, When Armed Groups Use Schools in the Central African Republic

[Source: Human Rights Watch, “No Class, When Armed Groups Use Schools

in the Central African Republic”, March 2017. Available at:  
<https://www.hrw.org/report/2017/03/23/no-class/when-armed-groups-use-schools-central-african-republic> <sup>[2]</sup> (footnotes omitted)]

[...]

## Summary

[...]

[1] Four years after the start of the conflict in the Central African Republic—notwithstanding the return of an elected government to power—many children are still prevented from getting an education because armed groups have occupied or destroyed schools. The problem is most acute in the central and eastern provinces where fighting continues.

[2] [...] [T]his report documents the occupation of schools for military purposes, such as for barracks or bases. Further, the report outlines how abuses by fighters in and around schools are threatening the safety of students and teachers, as well as children’s ability to learn.

[3] In the majority of cases documented by Human Rights Watch and other international organizations, including the United Nations, Seleka fighters were the ones who looted and occupied schools; however, anti-balaka fighters have also repeatedly committed such harmful acts. The Seleka (or “alliance” in Sango, the main national language) was a loose coalition of largely Muslim armed actors, aggrieved by years of impoverishment, insecurity and weak social services from the government of Francois Bozizé, the president from 2003 to 2013. The anti-balaka are Christian and animist militias who originally emerged to fight the Seleka, but in recent months some anti-balaka have made alliances with some Seleka

splinter groups.

[4] Fighters occupying schools expose students and teachers to risks. The military use of schools deteriorates, damages, and destroys an already insufficient and poor quality infrastructure as fighters who occupy schools often burn the desks and chairs for cooking fuel.

[5] The use of a school by an armed group can also make the building and grounds a legitimate target for enemy attack. Even once vacated, the school may still be a dangerous environment for children if fighters leave behind unused munitions or other military equipment. In several instances documented in this report, schools that were vacated continue to be affected by the close proximity of fighters to the school grounds, restricting the ability of students to attend class.

[6] As a country in conflict that poses serious threats to children's health, safety and well-being, the continued military use of schools directly hampers their right to education.

[7] During times of conflict and insecurity, maintaining access to education is of vital importance to children. If they remain safe and protective environments, schools can provide a sense of normalcy that is crucial to a child's development and psychological well-being.

[8] Violence by armed groups and attacks on civilians have risen sharply since October 2016, particularly in the central and eastern provinces of the country. Fighting between two Seleka factions in the Ouaka and Haute-Kotto provinces led to increased attacks on civilians, displacing tens of thousands of people, and shows no signs of abating. In these areas, the government of President Faustin-Archange Touadéra is struggling to maintain stability and has little presence in areas controlled by armed groups. In most parts of the country, UN peacekeepers are the only force with the capacity to protect vulnerable groups.

[9] The gravity of the crisis in the Central African Republic has resulted in an overwhelming burden on the national government, UN agencies, and humanitarian groups. The country continues to receive inadequate funding to address multiple humanitarian emergencies, with only 4.7 percent of the \$399.5 million UN appeal met.

[10] Some children in the Central African Republic continue to suffer the negative effects of fighting and displacement, others struggle with the trauma of violence in their villages, homes, and schools. The government has the primary responsibility to ensure that communities have the resources to repair and rebuild schools that have been damaged due to fighting. This effort will require close collaboration with international partners.

[11] In line with UN Security Council Resolution 2225 on children and armed conflict, the Central African government should take concrete measures to deter the military use of schools, including requesting assistance from the UN peacekeeping mission. In June 2015, the Central African Republic endorsed the Safe Schools Declaration [See Document B hereafter], which commits governments to protect schools from attack and military use. This was an important step that spurred the UN peacekeeping mission in the country to begin clearing schools occupied by militias. Although the UN mission had a number of successes in 2016, progress was undermined by cases of peacekeeping forces themselves using school buildings as bases and barracks, in violation of UN rules.

[12] On December 2, 2016, the Security Council Working Group on Children and Armed Conflict issued a public statement calling on all armed groups, including UN peacekeeping forces, to comply with international law and to respect the civilian character of schools.

[13] For too many children in the Central African Republic, a safe and reliable education is not possible. In a crisis neglected on many fronts, children's access to education should be a priority. Efforts to establish a safe environment for students are key to achieving a durable peace.

[...]

## **I. Background**

### **Seleka and Anti-Balaka**

[14] The origins of the current conflict in the Central African Republic begin in late 2012 with the establishment of the Seleka rebel group in the northeast. [...]

[15] On March 24, 2013, the Seleka seized Bangui, the capital, and ousted Bozize<sup>9</sup> and his government. The Seleka said their aim was to liberate the country and to bring security and development; however, within days, Seleka fighters unleashed waves of violence against those they perceived to have been Bozize<sup>9</sup>'s supporters, killing hundreds of civilians, possibly many more, in Bangui and across the country. The Seleka rule was violent, disorganized and marked by total impunity for serious crimes.

[16] In late 2013, Christian and animist militias known as anti-balaka began to organize counterattacks against the Seleka. (The term "anti-balaka" means "anti-balles," or bullets, from a Kalashnikov assault rifle). In response to the Seleka attacks, and with support from former government soldiers, the anti-balaka quickly grew into a loosely organized and violent militia. The group frequently targeted Muslim civilians, associating all Muslims with the Seleka.

[17] On December 5, 2013, the Security Council authorized the deployment of African Union (AU) peacekeepers and French forces already on the ground. The two forces effectively pushed most Seleka fighters out of Bangui and the country's southwest. Most Seleka fighters moved east, where the group established strongholds and split into numerous factions.

[18] The most significant Seleka factions are the Union for Peace in the Central African Republic (l'Union pour la Paix en Centrafrique, UPC) led by Ali Darassa Mahamat in the Ouaka province; the Popular Front for the Renaissance of Central Africa (Front Populaire pour la Renaissance de la Centrafrique, FPRC), led in the Nana Gre?bizi province by Moussa Maloud and Lambert Lissane (but with ties to Seleka leaders Michel Djotodia and Nouredine Adam, who live outside the country); and the Central African Patriotic Movement (Mouvement Patriotique pour la Centrafrique, MPC), led in the Nana Gre?bizi province by Idriss Ahmned El Bachar. In late August 2016, the Seleka announced a conference to unify the branches. The unification was short-lived: in November 2016, the FPRC and the UPC fought each other in the central town of Bria. Conflict there spread to the Ouaka province in December 2016 as the FPRC and MPC allied with anti-balaka forces in the area. Fighting between these groups remains a serious threat to the civilian population in the center of the country.

## **MINUSCA**

[19] In April 2014, the UN authorized a peacekeeping mission, MINUSCA, with 11,820 military personnel to take over from the AU mission. MINUSCA has a mandate to protect civilians, when necessary by force, to facilitate a political transition, and to create a secure environment for humanitarian assistance. As of February 2017, 10,750 peacekeepers and 2,080 police were deployed in the country.

## **Attacks on Schools and Military Use of Schools by Armed Groups**

[20] The Seleka offensive adversely affected an already weak education system. Before the crisis began, the Central African Republic was ranked by one organization as one of the worst places to be a student, due to weak infrastructure, a chronic lack of teachers and disparities between the number of boys and girls.

[21] As the Seleka moved out of the northeast of the country, they looted and occupied schools. By late 2013, schools across the country had lost an average of 25 weeks of the school year. Looting became so severe that in many schools there was nothing left to steal. Anti-balaka groups similarly looted schools as they became more active in 2013.

[...]

[22] From 2014 to late 2016, the intensity of the violence declined but the problem of attacking or occupying schools remained. [...]

[...]

## **II. Use of Schools by Armed Groups Impairs or Denies Education**

[23] The practice by armed groups, of looting schools, or using them for military purposes has been a common feature of the crisis for the past four years. Members of the Seleka and anti-balaka have used schools as lodging and military positions and taken furniture for firewood.

[24] At times, peacekeeping forces have also used schools in their operations, contrary to both local directives and international standards from the UN Department of Peacekeeping Operations. The education cluster received 11 reports of schools occupied by African Union or UN peacekeepers between 2012 and January 2015. The 2015 report by the UN Secretary General on Children and Armed Conflict reported that AU and French forces had used five schools in 2014. The 2016 report on Children and Armed Conflict in the Central African Republic said that two contingents of the AU's Central Africa Multinational Force had occupied two schools, in Sibut and Damara, in 2013.

[25] At times, fighters converted an entire school into a barracks or military base. In other

cases, they seized control of part of a school campus.

[...]

### **Use of Schools as Places of Accommodation and Detention**

[26] Since the crisis began, multiple armed groups have used schools as temporary bases, usually when they seek shelter from rains during the rainy season, and the trend continues today. [...]

[27] In October 2016, an armed group in the west of the country, the Central African People's Democratic Front (*Front démocratique du peuple centrafricain*, FDPC), vacated a school in Zoukombo, in the Nana-Mambéré province, at the insistence of MINUSCA, but it has threatened to reoccupy the school during the upcoming school holidays. The FDPC had occupied the school since May 20, 2016. FDPC spokesperson Gustav Guingi justified the school occupation to Human Rights Watch: "We want to be moved somewhere comfortable while we wait for DDR [Disarmament, Demobilization and Reintegration]. Now we are in huts and life is not good. We won't live in the school again, but we may occupy it during the school holidays as it is not in use."

[...]

### **MINUSCA Use of Schools**

[28] Since 2013, Human Rights Watch has documented five occasions in which armed international peacekeepers from the AU mission, MISCA, and the UN mission, MINUSCA, used schools as bases, including two cases from late 2016. In November 2016, Human Rights Watch visited a school in De Gaulle in the Kouï sub-prefecture in the Ouham-Pende? province and observed how MINUSCA peacekeepers from the Republic of

Congo had occupied the town's primary school and grounds. Locals said the armed peacekeepers had been there for several weeks. The commanding officer told Human Rights Watch that they were going to leave the school soon, but that it was the community's wish for the peacekeepers to use the school. The peacekeepers did leave the school in November 2016 after Human Rights Watch contacted MINUSCA staff in Bangui.

[29] Since December 2016, Mourouba, a small town in the Ouaka province, has seen clashes between the UPC and FPRC in the area. UPC fighters took control of the town in December and killed at least three civilians, a father and his two sons, aged 10 and 16. They also ransacked the school and burned documents, residents said. The town's population fled and when they returned in January, the school was occupied by MINUSCA peacekeepers.

[...]

[30] Human Rights Watch informed MINUSCA authorities of the occupied schools in De Gaulle and Mourouba and both were subsequently vacated. However, these recent occupations are troubling violations of MINUSCA's own directive "not to use schools for any purpose" [...] that show how orders from Bangui are not getting implemented in the provinces.

[...]

### **Seleka Response**

[31] Of the 12 schools visited by Human Rights Watch in November 2016 and January 2017, eight were either occupied or continued to be affected by the occupation of Seleka fighters from the UPC, MPC, or FPRC. Commanders from the different Seleka factions did not see how the presence of their fighters at or around the schools could negatively affect

children's ability to attend school.

[32] In Mbéré, where Seleka fighters from the MPC and FPRC occupied schools as recently as December 2016, and continue to be based meters from school grounds, the zone commander Anour Djima said:

I don't know why parents are scared to send their kids to school. Since 2016, we have not been inside a school or taken material, so they have no reason to be afraid of us. Also, we are here for their protection. I have now said our elements can't sleep in schools, but yes they are stationed near them for protection.

[33] None of the three schools in Mbéré have operated since 2013.

[34] The commander of the UPC, General Ali Darassa Mahamant, told Human Rights Watch on January 23, 2017 that his men do not occupy schools but that they may be in close proximity to schools in order to protect the population. Darassa's men continue to occupy the kindergarten and are based on school grounds in Ngadja. Local UPC commanders in Ngadja told Human Rights Watch that despite their presence on the school grounds, it was their adversary, rather than the UPC, that negatively affected schools. "It is the anti-balaka who threaten the school, not the UPC," said Raul Antoine Oubandi, the group's local general secretary. "It is the UPC that protects the school and allows students to study."

[35] According to local residents, hundreds of children do not attend school in Ngadja due to the UPC's presence.

[36] In Zoumanga, where MPC fighters occupied the primary school until late October 2016, Seleka commanders told Human Rights Watch that their roadblock, along a road on the school grounds, serves to protect the population.<sup>58</sup> However, several residents of

Zoumanga said fighters used the roadblock to extort money and often fired their guns on school grounds.

[...]

## **B. Safe Schools Declaration**

[Source: Safe Schools Declaration, Global Coalition to Protect Education from Attack, opened for endorsement as of May 29, 2015. Available at: <http://www.protectingeducation.org/guidelines/support>] <sup>[3]</sup>

### **SAFE SCHOOLS DECLARATION**

[1] The impact of armed conflict on education presents urgent humanitarian, development and wider social challenges. Worldwide, schools and universities have been bombed, shelled and burned, and children, students, teachers and academics have been killed, maimed, abducted or arbitrarily detained. Educational facilities have been used by parties to armed conflict as, inter alia, bases, barracks or detention centres. Such actions expose students and education personnel to harm, deny large numbers of children and students their right to education and so deprive communities of the foundations on which to build their future. In many countries, armed conflict continues to destroy not just school infrastructure, but the hopes and ambitions of a whole generation of children.

[2] Attacks on education include violence against educational facilities, students and education personnel. Attacks, and threats of attack, can cause severe and long lasting harm to individuals and societies. Access to education may be undermined; the functioning of educational facilities may be blocked, or education personnel and students may stay away, fearing for their safety. Attacks on schools and universities have been used to promote

intolerance and exclusion – to further gender discrimination, for example by preventing the education of girls, to perpetuate conflict between certain communities, to restrict cultural diversity, and to deny academic freedom or the right of association. Where educational facilities are used for military purposes it can increase the risk of the recruitment and use of children by armed actors or may leave children and youth vulnerable to sexual abuse or exploitation. In particular, it may increase the likelihood that education institutions are attacked.

[3] By contrast, education can help to protect children and youth from death, injury and exploitation; it can alleviate the psychological impact of armed conflict by offering routine and stability and can provide links to other vital services. Education that is ‘conflict sensitive’ avoids contributing to conflict and pursues a contribution to peace. Education is fundamental to development and to the full enjoyment of human rights and freedoms. We will do our utmost to see that places of education are places of safety.

[4] We welcome initiatives by individual States to promote and protect the right to education and to facilitate the continuation of education in situations of armed conflict. Continuation of education can provide life-saving health information as well as advice on specific risks in societies facing armed conflict.

[5] We commend the work of the United Nations Security Council on children and armed conflict and acknowledge the importance of the monitoring and reporting mechanism for grave violations against children in armed conflict. We emphasize the importance of Security Council resolution 1998 (2011), and 2143 (2014) which, inter alia, urges all parties to armed conflict to refrain from actions that impede children’s access to education and encourages Member States to consider concrete measures to deter the use of schools by armed forces and armed non-State groups in contravention of applicable international law.

[6] We welcome the development of the *Guidelines for protecting schools and universities from military use during armed conflict*

. The Guidelines are non-legally binding, voluntary guidelines that do not affect existing international law. They draw on existing good practice and aim to provide guidance that will further reduce the impact of armed conflict on education. We welcome efforts to disseminate these guidelines and to promote their implementation among armed forces, armed groups and other relevant actors.

[7] We stress the importance, in all circumstances, of full respect for applicable international law, including the need to comply with the relevant obligations to end impunity.

[8] Recognizing the right to education and the role of education in promoting understanding, tolerance and friendship among all nations; determined progressively to strengthen in practice the protection of civilians in armed conflict, and of children and youth in particular; committed to working together towards safe schools for all; we endorse the *Guidelines for protecting schools and universities from military use during armed conflict*, and will:

- Use the *Guidelines*, and bring them into domestic policy and operational frameworks as far as possible and appropriate;
- Make every effort at a national level to collect reliable relevant data on attacks on educational facilities, on the victims of attacks, and on military use of schools and universities during armed conflict, including through existing monitoring and reporting mechanisms; to facilitate such data collection; and to provide assistance to victims, in a non-discriminatory manner;
- Investigate allegations of violations of applicable national and international law and, where appropriate, duly prosecute perpetrators;

- Develop, adopt and promote conflict-sensitive' approaches to education in international humanitarian and development programmes, and at a national level where relevant;
- Seek to ensure the continuation of education during armed conflict, support the re-establishment of educational facilities and, where in a position to do so, provide and facilitate international cooperation and assistance to programs working to prevent or respond to attacks on education, including for the implementation of this declaration; position to do so, provide and facilitate international cooperation and assistance to programmes working to prevent or respond to attacks on education, including for the implementation of this declaration;
- Support the efforts of the UN Security Council on children and armed conflict, and of the Special Representative of the Secretary-General for Children and Armed Conflict and other relevant UN organs, entities and agencies; and Children and Armed Conflict and other relevant UN organs, entities and agencies; and
- Meet on a regular basis, inviting relevant international organisation and civil society, so as to review the implementation of this declaration and to the use of the guidelines.

## **C. Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict**

[Source: Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict, Global Coalition to Protect Education from Attack, December 2014. Available at:

[http://protectingeducation.org/sites/default/files/documents/guidelines\\_...](http://protectingeducation.org/sites/default/files/documents/guidelines_...) [4]

**Parties to armed conflict are urged not to use schools and universities for any purpose in support of their military effort. While it is acknowledged that certain uses would not be contrary to the law of armed conflict, all parties should endeavour to avoid**

**impinging on students' safety and education, using the following as a guide to responsible practice:**

**Guideline 1:**

Functioning schools and universities should not be used by the fighting forces of parties to armed conflict in any way in support of the military effort.

- a. This principle extends to schools and universities that are temporarily closed outside normal class hours, during weekends and holidays, and during vacation periods.
- b. Parties to armed conflict should neither use force nor offer incentives to education administrators to evacuate schools and universities in order that they can be made available for use in support of the military effort.

**Guideline 2:**

Schools and universities that have been abandoned or evacuated because of the dangers presented by armed conflict should not be used by the fighting forces of parties to armed conflict for any purpose in support of their military effort, except in extenuating circumstances when they are presented with no viable alternative, and only for as long as no choice is possible between such use of the school or university and another feasible method for obtaining a similar military advantage. Other buildings should be regarded as better options and used in preference to school and university buildings, even if they are not so conveniently placed or configured, except when such buildings are specially protected under International Humanitarian Law (e.g. hospitals), and keeping in mind that parties to armed conflict must always take all feasible precautions to protect all civilian objects from attack.

- a. Any such use of abandoned or evacuated schools and universities should be for the minimum time necessary.
- b. Abandoned or evacuated schools and universities that are used by the fighting forces of parties to armed conflict in support of the military effort should remain available to allow educational authorities to re-open them as soon as practicable after fighting forces have withdrawn from them, provided this would not risk endangering the security of students and staff.
- c. Any traces or indication of militarisation or fortification should be completely removed following the withdrawal of fighting forces, with every effort made to put right as soon as possible any damage caused to the infrastructure of the institution. In particular, all weapons, munitions and unexploded ordnance or remnants of war should be cleared from the site.

**Guideline 3:**

Schools and universities must never be destroyed as a measure intended to deprive the opposing parties to the armed conflict of the ability to use them in the future. Schools and universities—be they in session, closed for the day or for holidays, evacuated or abandoned—are ordinarily civilian objects.

**Guideline 4:**

While the use of a school or university by the fighting forces of parties to armed conflict in support of their military effort may, depending on the circumstances, have the effect of turning it into a military objective subject to attack, parties to armed conflict should consider all feasible alternative measures before attacking them, including, unless circumstances do not permit, warning the enemy in advance that an attack will be

forthcoming unless it ceases its use.

a. Prior to any attack on a school that has become a military objective, the parties to armed conflict should take into consideration the fact that children are entitled to special respect and protection. An additional important consideration is the potential long-term negative effect on a community's access to education posed by damage to or the destruction of a school.

b. The use of a school or university by the fighting forces of one party to a conflict in support of the military effort should not serve as justification for an opposing party that captures it to continue to use it in support of the military effort. As soon as feasible, any evidence or indication of militarisation or fortification should be removed and the facility returned to civilian authorities for the purpose of its educational function.

#### **Guideline 5:**

The fighting forces of parties to armed conflict should not be employed to provide security for schools and universities, except when alternative means of providing essential security are not available. If possible, appropriately trained civilian personnel should be used to provide security for schools and universities. If necessary, consideration should also be given to evacuating children, students and staff to a safer location.

a. If fighting forces are engaged in security tasks related to schools and universities, their presence within the grounds or buildings should be avoided if at all possible in order to avoid compromising the establishment's civilian status and disrupting the learning environment.

#### **Guideline 6:**

All parties to armed conflict should, as far as possible and as appropriate, incorporate these Guidelines into, for example, their doctrine, military manuals, rules of engagement, operational orders, and other means of dissemination, to encourage appropriate practice throughout the chain of command. Parties to armed conflict should determine the most appropriate method of doing this.

## Discussion

### I. Classification of the situation

1. (*Document A, paras [3], [8], [14]-[19]*)

- a. (*Paras [14]-[15]*) How would you classify the situation in the Central African Republic between 2012 and early 2013? If, in your opinion, the situation amounted to an armed conflict, who were the parties to the conflict? (GC I-IV, Arts 2 (1) <sup>[5]</sup> and 3 <sup>[6]</sup>; P II, Art. 1 <sup>[7]</sup>)
- b. (*Para. [17]*) Do you think the involvement of African Union (AU) peacekeepers and French forces in 2013 affected the classification of the situation? Does the fact that these forces were deployed by the UN Security Council have a bearing on your answer? Were the French forces or AU peacekeepers parties to the conflict?
- c. (*Para. [19]*) Did the deployment of MINUSCA, a United Nations peacekeeping mission, affect the classification of the conflict? Could a UN peacekeeping mission become a party to a conflict? How would one classify MINUSCA troops in this situation? As combatants? Civilians? Other?
- d. What is the applicable law in this situation? Does international humanitarian law bind AU troops? UN troops? How do you support your answer?

### II. Protection of Schools

2. Can schools be attacked under IHL? Are they specially protected? When is a school considered to be a military objective? Does the presence of fighters or soldiers in schools suffice to turn a school into a military objective? In case of doubt that a school is being used to make an effective contribution to military action, can it still be attacked? How can military objectives that are defined as such because of their use

regain civilian status? May schools be considered cultural property? Is attacking a school a war crime? Under what circumstances? (P I, Art. 52 <sup>[8]</sup>; CIHL, Rules 8 <sup>[9]</sup>, 38 <sup>[10]</sup>, 39 <sup>[11]</sup>, 40 <sup>[12]</sup>; ICC Statute, Arts 8(2)(b)(ix) and 8(2)(e)(iv) <sup>[13]</sup>)

3. What constitutes military use of schools? When a school is used for temporary accommodation, military training or stockpiling of military resources? When a school is used by armed groups as shelter from the rain (*Document A, para. 26*)? Does it matter whether a school is used for a long or short period of time? Does IHL expressly prohibit the military use of schools? What principles of IHL could be applied to prevent the military use of schools? If the school is only partially occupied after school hours or when students are not in session, and no students or teachers could be expected to be present and injured in any fighting that may occur (*Document A, para. [27]*) is or should the military use of the schools nevertheless be prohibited by IHL? (P I, Art. 58 <sup>[14]</sup>; P II, Arts 4(2)(g) <sup>[15]</sup> and 4(3)(a) <sup>[15]</sup>; CIHL, Rules 22 <sup>[16]</sup>, 23 <sup>[17]</sup>, 24 <sup>[18]</sup> and 52 <sup>[19]</sup>)

4. (*Document A, paras [32] and [34]; Document C, Guideline 5*) Is it lawful under IHL to employ armed forces for the protection of school premises? Which disadvantages do you see arising from this measure? Which advantages? (P I, Art. 58 <sup>[14]</sup>; P II, Arts 4(2)(g) and 4(3)(a)); <sup>[20]</sup> CIHL, Rules 22 <sup>[21]</sup>, 23 <sup>[22]</sup> 24 <sup>[23]</sup> and 52 <sup>[24]</sup>)

5. (*Document A, paras [12], [24], [28]-[30]*) Does it make a difference under IHL whether military use of schools occurs at the hands of a) armed groups, b) Governmental forces c) regional peacekeeping forces d) United Nations peacekeeping/peace enforcement forces?

6. Do parties to the conflict need to respect the proportionality principle while attacking a school that is being used for military purposes? What must be taken into account in the proportionality evaluation?(P I, Art. 51(5)(b); <sup>[25]</sup> CIHL, Rule 14 <sup>[26]</sup>)

7. On what IHL rules could Guideline 4 of Document C be based? Even when a school has become a military objective? (P I, Art. 57 <sup>[27]</sup>; CIHL, Rules 18 <sup>[28]</sup> and 20 <sup>[29]</sup>)

8. (*Document A, paras [28]-[34]*) What do you make of the arguments advanced by both the Seleka forces and the UN peacekeeping forces that their members were stationed in or near schools either at the request of the local population or to protect the local population?

9. (*Document A, paras [2], [4]-[13]*) Why does Human Rights Watch consider it important to discourage military use of schools? Do you agree? What would you say to

the argument that discouraging military use of schools tips the balance between humanity and military necessity unfairly towards the side of the former?

10. (*Document A, paras [21] and [23]*) What IHL provisions, if any, are applicable to the cases involving looting material and firewood from schools? How, if at all, are these rules different from those applicable to other civilian objects? (Hague Regulations, Arts 46(2),<sup>[30]</sup> 53(2)<sup>[31]</sup> and 56<sup>[32]</sup>; CIHL, Rules 40 (A<sup>[12]</sup>), 49<sup>[33]</sup> and 51(c)<sup>[34]</sup>).

11. (*Document A, para. [11]*) The Government of CAR has signed the Safe Schools Declaration. Is that Declaration legally binding? Does it result in obligations for the Government of CAR regarding the protection of educational facilities? Does it bind or does it otherwise have implications for the other parties involved in the conflict?

### III. Protection of Children

12. Are children specially protected under IHL? Only when in the power of a party or also against the effects of hostilities? Why/Why not? In which respects are they better protected than the rest of the civilian population? Does IHL guarantee a right for children to receive an education during armed conflicts? Do you believe there is an obligation for belligerents to provide education during armed conflicts? If so, do you think this obligation applies to both States and armed groups? (GC IV, Arts 23<sup>[35]</sup>-24<sup>[36]</sup>, 38<sup>[37]</sup>, 50<sup>[38]</sup>, 76<sup>[39]</sup> and 89<sup>[40]</sup>; P I, Arts 70<sup>[41]</sup>, 77<sup>[42]</sup>-78<sup>[43]</sup>; P II, Arts 4 (3)<sup>[20]</sup> and 6 (4)<sup>[44]</sup>; CIHL, Rule 135<sup>[45]</sup>)

### IV. Implementation and Enforcement of IHL

13. How could the respect of IHL be ensured in such a conflict? Who is responsible for ensuring respect? Who is in a position to ensure respect?

14. (*Document A, para. [11]*) Is the government obliged to protect schools? Under IHL? Under Human Rights Law? (P II, Art. 4(3)(a);<sup>[20]</sup> CIHL, Rules 22<sup>[21]</sup>, 23<sup>[22]</sup>, and 135<sup>[45]</sup>; P I, Art. 58(b)<sup>[14]</sup>)

15. (*Document A, para. [11]*) Is the government obliged to protect the students? Does IHL guarantee a right for children to receive an education? (P I, Art. 58(a);<sup>[14]</sup> CIHL, Rule 24<sup>[23]</sup>)

16. How could armed groups be prevented from occupying schools for their military activities? What could CAR forces have done better regarding the protection of

schools?

17. (*Document B*) The CAR has signed the Declaration on Safe Schools.

- a. According to the Declaration, what can the government of CAR do on a national level to stop the occupation of schools by armed forces?
- b. How does this declaration help them to protect schools from occupation by armed groups? Is this declaration enforceable?

18. (*Document C*) The Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict:

- a. What impact do you think these guidelines might have on the use and occupation of schools by armed forces? They are not legally-binding in and of themselves but draw upon existing obligations under IHL and IHRL: which guideline(s) is/are based upon IHL? Which has/have no basis in IHL, but in IHRL? Are there any which have, in your view, no basis in either IHL or IHRL?
  - b. The guidelines are modelled after existing examples of good practice. Does this help parties to the conflict when they are faced with difficult dilemmas that require pragmatic solutions? Or did the transformation of good practice into guidelines made them too abstract?
  - c. How can these guidelines be implemented in conflicts? By one party? By both parties together?
- 

**Source URL:** <https://casebook.icrc.org/case-study/central-african-republic-no-class-when-armed-groups-use-schools>

**Links**

[1] <https://casebook.icrc.org/disclaimer-and-copyright>

[2] <https://www.hrw.org/report/2017/03/23/no-class/when-armed-groups-use-schools-central-african-republic>

[3] <http://www.protectingeducation.org/guidelines/support>

[4] [http://protectingeducation.org/sites/default/files/documents/guidelines\\_en.pdf](http://protectingeducation.org/sites/default/files/documents/guidelines_en.pdf)

[5] [https://ihl-](https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=28F3D027685B77D2C12563CD005)

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[7] [https://ihl-](https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=93F022B3010AA404C12563CD005)

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- [9] [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule8](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule8)
- [10] [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule38](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule38)
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- [14] <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=C995BF5C5BCFB0E2C12563CD00>
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- [34] [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule51](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule51)
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