## Contents

### Part I  Re-Examining the Role of Education Aid as a Component of the ‘Humanitarian’ Agenda in Conflict-Affected States

1  **Introduction** .......................................................... 3  
References ................................................................. 20

2  **Paradoxes Resulting from the Militarization of Education Aid** ........ 21  
2.1  **Education and Politics (Paradox One)** ................................. 51  
2.1.1  Education as Apolitical and Tolerant ................................ 51  
2.1.2  The Politicization of Education ...................................... 52  
2.2  **Education and Security (Paradox Two)** ............................... 52  
2.2.1  Education as a Benchmark for Security ............................ 52  
2.2.2  Education as a Benchmark for *Lack* of Security ............... 52  
2.3  **Education and Basic Human Rights for Women and Girls**  
(Paradox Three) .......................................................... 53  
2.3.1  Education as a Route to Gender Equity ............................ 53  
2.3.2  Education in the Context of Insecurity as a Facilitator of Gender Inequity ............................................. 53  
2.4  **Education and Development (Paradox Four)** .......................... 53  
2.4.1  Education Aid Interventions as the Pathway to Development .......................................................... 53  
2.4.2  Aspects of Education Aid Interventions Blocking Development .......................................................... 54  
2.5  **Education and Militarization (Paradox Five)** .......................... 54  
2.5.1  Education Aid Intervention as Allegedly Non-Partisan ......... 54  
2.5.2  The Militarization of Education Aid ................................... 54  
References ................................................................. 55

### Part II  Attacks on Education: The Scope of the Problem and the Unwitting Complicity of CAFS, their Coalition Allies and the International Aid Community
3 Schooling as Counter-Terrorist Strategy ........................................ 59
  3.1 The Scope of the Problem of Terror Attacks on Basic Education .... 65
  3.2 On the Issue of Negotiating with the Taliban Regarding
      Schools as ‘Safe Zones’ ......................................................... 66
  3.3 Protocol II Additional to the 1949 Geneva Conventions
      and Its Implications for Protecting Schoolchildren Living
      in Hot Conflict Zones Within Afghanistan ........................... 67
      3.3.1 The Applicability of Protocol II Additional to the 1949
           Geneva Conventions to the Conflict in Afghanistan
           Since 2004 ................................................................. 68
  3.4 Ethical and Legal Obligations Relating to Humanitarian
      Educational Aid Interventions in the Midst of Ongoing
      Armed Conflict ............................................................... 69
  3.5 “Hearts and Minds” Campaigns in Their Various Forms
      in Conflict-Affected States: The Role of Humanitarian
      Aid/Human Rights Organizations ........................................... 72
      3.5.1 Counter-Terrorism as Theatre and the Symbolic Function
           of Children Attending School Despite the Risk of Targeted
           Terror Attacks on Education ......................................... 77
  3.6 Monitoring Targeted Terror Attacks on Education .................... 81
  3.7 More on Counter-Terrorism Strategies That Include the Basic
      Education of Schoolchildren as a Component ....................... 83
  3.8 Performance Indicators for the Implementation of the Right
      to Education Grounded on Respect for Fundamental Human
      Rights: Relevance to Education in a Conflict-Affected State ... 86
  References ............................................................................... 93

4 Analysis of UN and NGO Rights Rhetoric in Addressing Terror
  Attacks on Education: The Implications for Schoolchildren’s
  Security Interests .................................................................. 95
  4.1 Schoolchildren Exploited for Propaganda Purposes: Education
      Initiatives Framed as a Component in Counterinsurgency
      Strategy ............................................................................... 95
      4.1.1 Excerpts of Typical News Reports Regarding Attacks
            on Girls’ Education in Afghanistan ................................. 99
      4.1.2 International Aid Organizations and the Promotion
            of Schooling Across Both Secure and Insecure Zones
            in Conflict-Affected States .................................. 108
  4.2 Challenging the Legitimacy of School Attendance and Greater
      Access to Education as Indicia of Level of Overall Security
      in States Currently Immersed in the ‘War on Terror’ ............. 109
  4.3 The February 2010 Mission to Afghanistan of the Special
      Representative of the UN Secretary General for Children
      and Armed Conflict: Assessment of Security Issues in Relation
      to Education ................................................................. 123
4.4 Revisiting the Topic of Community-Based Schools ................. 132
References ............................................................................. 135

Part III Attacks on Education: Issues of Accountability for Both Sides in the ‘War on Terror’

5 International Humanitarian Law and the Protection of Education in Conflict-Affected States .................................................. 139
5.1 The Protected Status of Civilian Schools Under International Humanitarian Law .................................................. 139
  5.1.1 The Entitlement of Children to ‘Special Protection’ Under IHL and the Implications for the Protection of Civilian Schools from Attack and for the Absolute Prohibition on Their Use for a Military Purpose .......... 139
  5.1.2 Challenging Status Quo Interpretations of IHL on the Alleged Less Privileged Status of Civilian Schools ......... 142
  5.1.3 Civilian Schools Used for a Military Purpose: The Intransgressible ‘Principle of Distinction’ Undermined ..... 144
  5.1.4 The Use of Civilian Schools for Counter-Terrorist Propaganda as a ‘Military Purpose’: Negating the ‘Principle of Distinction’ .................................................. 146
  5.1.5 More on the IHL Protection Guarantees for Civilians ..... 155
  5.1.6 Non-Governmental Actors and Their Potential Culpability Under IHL for Indirectly Facilitating Terror Attacks on Education .................................................. 156
  5.1.7 The Privileged Protected Status of Civilian Schools: Safeguarding Tangible and Intangible Cultural Property/Heritage .................................................. 165
  5.1.8 Examining the Implications of Articles 52 and 53 of Protocol I Additional to the 1949 Geneva Conventions for the Unqualified Protection of Civilian Schools Against Military Use During Armed Conflict ............. 171
  5.1.9 The Rome Statute and the Protection of Civilian Schools in Armed Conflict: Interpreting Article 8 ................. 177
  5.1.10 The Protection of Civilian Schools in Armed Conflict: More on the Implications of Article 53 of Protocol I Additional to the 1949 Geneva Conventions ................. 181
  5.1.11 Use of Unoccupied Civilian Schools for a Military Purpose and the Issue of ‘Human Shields’ ................. 182
  5.1.12 Lessons Embedded in Article 52(3) of Protocol I on Whether Unoccupied Civilian Schools May be Lawfully Used for a Military Purpose ................. 184
  5.1.13 Additional Considerations Regarding IHL and the Prohibition on the Use of Civilian Schools for Military Purposes .................................................. 186
5.1.14 More on Schools as Cultural Objects That Serve
Important Humanitarian Purposes ............................ 189
5.1.15 IHL and the Use of Schools for Propaganda Purposes 191
5.1.16 Use of an Occupied or Unoccupied Civilian School
for a Military Purpose as Unlawful Under IHL ............. 192
5.1.17 The Martens Clause and Its Application to the Issue of
Protection of Unoccupied Civilian Schools from Attack
or Use for a Military Purpose ................................. 195
5.1.18 More on the Basic ‘Principle of Distinction’, ‘Military
Necessity’ and the Scope of IHL Protection for
Civilian Schools .................................................. 198
5.1.19 The IHL Criteria for Military Necessity as Involving
Only Lawful Measures ........................................ 200
5.1.20 The Hague Convention Article 56 and Its Implications
for the Protection of Civilian Schools ....................... 204
5.1.21 Further Issues Regarding the Protected Status of
Civilian Schools Against Use for a Military Purpose
During Armed Conflict ....................................... 206
5.2 Prosecuting Armed Perpetrators of Attacks on Education
and Those Who Intentionally Allow Schoolchildren
to Become Easy Targets for Terrorists ....................... 209
5.2.1 The ‘Grave Breaches’ Versus the ‘Serious Violations’
Designation of War Crimes Under IHL: Implications
for the Protection of Schools and Schoolchildren ......... 211
5.2.2 Individual States’ Handling of Accountability for
International Crimes Involving Attacks on Education or
Unlawful Use of Civilian Schools for a Military Purpose ... 213
5.2.3 The Worsening Plight of Schoolchildren in Afghanistan .... 215
References ......................................................... 219

6 Schoolchildren Knowingly Placed at Risk of Terror Attack:
The Complicity of High Profile Human Rights Gatekeepers .... 221
6.1 The Six Grave Violations of Children’s Fundamental Human
Rights During Armed Conflict and a Significant Omission .... 224
6.2 The Response of High Profile Gate-Keeper to Attacks
on Education ........................................................ 225
6.3 Eric H. Holder, Jr. (Attorney General) et al. v. Humanitarian
Law Project et al.: The Question of Potential Culpability
of NGOs in Allegedly Facilitating Terrorist Objectives ....... 232
6.3.1 Dissenting Opinion of Justice Breyer, with Whom
Justices Ginsburg and Sotomayor Join Dissenting ........... 234
6.3.2 Analysis of the Dissenting Opinion ....................... 234
6.4 Humanitarian/Human Rights Rhetoric as a Smokescreen
for Non-Humanitarian Objectives? ............................ 245
6.5 Combined Development-Military Tactics and the Consequences for School Security ................................................... 249
References ........................................................................ 253

7 Concluding Remarks ........................................................ 255
7.1 A Summary .................................................................. 255
  7.1.1 The Organizational Accountability of NGOs, States and the UN and Its Organs for Violations of International Law ..... 261
7.2 Final Reflections ......................................................... 267
  7.2.1 The Six Grave Violations Against Children Affected by Armed Conflict ......................................................... 270
References ........................................................................ 275

Index .................................................................................. 277
Schoolchildren as Propaganda Tools in the War on Terror
Violating the Rights of Afghani Children under International Law
Grover, S.C.
2011, XIX, 279 p., Hardcover
ISBN: 978-3-642-17899-3