

31

Internal Control Codes of Conduct within Insurgent Armed Groups

By Olivier Bangarter



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Contents

List of boxes and tables	viii
List of abbreviations	ix
About the author	xi
Acknowledgements	xii
Introduction	1
I. Measures to define and control behaviour	4
Political documents	4
Public statements	4
Manifestos and decrees	6
Agreements	7
Internal regulations	9
Codes of conduct	10
Oaths	16
Standing orders and standing operating procedures	17
Operation orders	19
Military manuals	21
Internal organization documents	23
Penal or disciplinary codes	25
Measures linked to respect for rules	27
Practical measures	28
Indirect measures	32

II. Codes of conduct: defied or respected?	36
Defying the code: the RUF in Sierra Leone	38
Respecting the code: the PLA in Nepal	43
What makes a code of conduct effective?	51
III. Codes of conduct and weapons	59
Implicit mention of weapons	59
Explicit mention of weapons	60
Measures regarding weapons	61
Weapons transfers to armed groups	65
Conclusion	66
Annexes	70
I. The ‘Three Main Rules of Discipline and Eight Points for Attention’ family	70
I.1. Workers’ and Peasants’ Red Army/People’s Liberation Army (PLA), China, 1947	70
I.2. Conseil National de Libération (CNL), Democratic Republic of the Congo, 1963	71
I.3. New People’s Army (NPA), Philippines, 1969	71
I.4. Revolutionary United Front (RUF), Sierra Leone, no date	73
II. Codes dating from 1945 to 1989	74
II.1. Armée de Libération Nationale (ALN), Algeria, 1956	74
II.2. Irish Republican Army (IRA), Northern Ireland, 1956	74
II.3. Viet Cong, Vietnam, no date	75
II.4. Sendero Luminoso (Shining Path), Peru, possibly 1981	75
II.5. Sendero Luminoso (Shining Path), Peru, possibly 1982	76
II.6. National Resistance Army (NRA), Uganda, 1982	76
II.7. Frente Farabundo Martí de Liberación Nacional (FMLN), El Savador, 1985	79
II.8. Holy Spirit Movement (HSM), Uganda, 1987	81

III. Codes dating from 1990 to 2011	83
III.1. Ejército de Liberación Nacional (ELN), Colombia, 1995	83
III.2. Ejército de Liberación Nacional (ELN), Colombia, 1996	85
III.3. Ejército de Liberación Nacional (ELN), Colombia, possibly 1998	85
III.4. Sudan People's Liberation Army (SPLA), Sudan, 2003	88
III.5. Ejército Zapatista de Liberación Nacional (EZLN), Mexico, 2003	90
III.6. Lord's Resistance Army, Uganda, 2005	91
III.7. United Jihad Council (UJC), Pakistan–India (Kashmir), 2005	92
III.8. Taliban, Afghanistan, 2009	94
III.9. Taliban, Afghanistan, 2010	94
III.10. Libyan National Liberation Army, Libya, 2011	95
IV. Oaths	98
IV.1. Haganah, Israel, 1920	98
IV.2. Viet Cong, Vietnam, no date	98
IV.3. Ejército Guerrillero de los Pobres (EGP), Guatemala, possibly 1983	99
IV.4. Ejército Guerrillero de los Pobres (EGP), Guatemala, possibly 1983	100
IV.5. Kosovo Liberation Army (KLA), Kosovo, 1998	100
IV.6. Mouvement des Nigériens pour la justice (MNJ), Niger, possibly 2006	101
IV.7. Local Coordination Committees, Syria, 2012	101
V. Standing orders	104
V.1. People's Liberation Army, China, 1928	104
V.2. African National Congress (ANC), South Africa, 1985	104
V.3. New People's Army (NPA), Philippines, 1988	106
V.4. Revolutionary United Front (RUF), Sierra Leone, no date	107
V.5. Kosovo Liberation Army (KLA), Kosovo, 1998	108
V.6. Moro Islamic Liberation Front (MILF), Philippines, 2000	109
V.7. Moro Islamic Liberation Front (MILF), Philippines, 2006	110
V.8. Moro Islamic Liberation Front (MILF), Philippines, 2010	112

V.9. Naxalites, Communist Party of India (Marxist–Leninist), India, no date	116
V.10. Fuerzas Armadas Revolucionarias de Colombia (FARC) and Ejército de Liberación Nacional (ELN), Colombia, 2009	116
V.11. National Transitional Council (NTC), Libya, 2011	118

Endnotes	122
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Bibliography	130
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List of boxes and tables

Boxes

1. Standing orders: Roger's Rangers

Tables

1. Armed groups that use or used codes of conduct, per continent
2. Number of rules in codes of conduct, by selected armed forces, armed groups, and gangs and mafias

List of abbreviations

AFRC	Armed Forces Revolutionary Council
ALN	Armée de Libération Nationale
ANC	African National Congress
CARHRIHL	Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law between the Government of the Republic of the Philippines and the National Democratic Front of the Philippines
CDF	Civil Defence Forces
CNDP	Congrès National pour la Défense du Peuple (National Congress for the Defence of the People)
CNF	Chin National Front
CNL	Conseil National de Libération
CPN–M	Communist Party of Nepal–Maoist
EGP	Ejército Guerrillero de los Pobres
ELN	Ejército de Liberación Nacional
ERP	Ejército Revolucionario del Pueblo
EZLN	Ejército Zapatista de Liberación Nacional
FARC	Fuerzas Armadas Revolucionarias de Colombia
FDLR	Forces démocratiques de libération du Rwanda
FDN	Fuerza Democrática Nicaragüense (also know as Contras)
FES	Fuerzas Especiales Selectas
FMLN	Frente Farabundo Martí para la Liberación Nacional
HSM	Holy Spirit Movement
ICRC	International Committee of the Red Cross
ICTY	International Criminal Tribunal on former Yugoslavia
IHL	International humanitarian law

JEM	Justice and Equality Movement
KLA	Kosovo Liberation Army
KNO	Kuki National Organisation
KNU	Karen National Union
LCC	Local Coordination Committees
LNLA	Libyan National Liberation Army
LRA	Lord's Resistance Army
LTTE	Liberation Tigers of Tamil Eelam
LURD	Liberians United for Reconciliation and Democracy
MILF	Moro Islamic Liberation Front
MPCI	Mouvement patriotique de Côte d'Ivoire
NDFP	National Democratic Front of the Philippines
NGO	Non-governmental organization
NLA	National Liberation Army
NPA	New People's Army
NRA	National Resistance Army
NTC	National Transitional Council
ONLF	Ogaden National Liberation Front
PARECO	Patriotes Résistants Congolais
PKK	Kurdistan Workers' Party
PLA	People's Liberation Army
RCD–Goma	Rassemblement Congolais pour la Démocratie–Goma
RUF	Revolutionary United Front
SLM–Unity	Sudan Liberation Movement–Unity
SPLA	Sudan People's Liberation Army
SPLM/A	Sudan People's Liberation Movement/Army
UJC	United Jihad Council
UN	United Nations
YCL	Youth Communist League

About the author

Olivier Bangerter holds a PhD in theology from Geneva University. He worked for the International Committee of the Red Cross (ICRC) between 2001 and 2011 and served as an ICRC adviser on dialogue with armed groups from 2008 to 2011. He subsequently became a senior researcher at the Small Arms Survey, where he focused on issues related to Libya, Sudan, and regulations of armed groups. Through his work, he has met current and former members of about 60 armed groups around the world.

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Introduction

An armed group's capacity to control the behaviour of its fighters is key to its survival and the attainment of its goals.¹ While insurgents establish hierarchies that may seem familiar to any other organization, they have to contend with particular challenges. These include the covert nature of most of their operations, the pressure and actions of the enemy that tend to weaken the group's structure, and, perhaps most importantly, the strategic effect of behaviour at a tactical level, such as when an isolated incident at a very low level harms the group's reputation, leading the population or foreign actors to withhold or withdraw support.

Some armed groups are more effective than others at controlling their members. When control is firm, it can be used to humanitarian ends, such as the protection of civilians, but it can also be used to perpetrate unlawful acts. In the Lord's Resistance Army (LRA), for instance, 'fighters are tightly controlled in their actions, [even though] they have great freedom of action in conducting campaigns of violence' (Bevan, 2006, p. 278). On the other hand, armed groups that exert poor control over their members tend to be less successful at delivering on humanitarian commitments or executing decisions taken by the leadership.

Whatever their objectives, armed groups in various contexts tend to rely on similar mechanisms to control their fighters. These include a recruitment process that aims to provide the group with the appropriate human resources in quantity and quality; a socialization process for new recruits (such as through oaths and initiation rituals);² and the elaboration of internal regulations and their dissemination among the rank and file. An armed group must be able to offer rewards and mete out punishment based on members' adherence to the rules.³ If the group has a *laissez-faire* attitude, fighters may not feel obligated to follow the group's rules. Enforcing rules is a complex task and requires a robust strategy. Codes of conduct are key elements in this regulatory framework; they contribute to defining and enforcing proper conduct and to a fighter's understanding of the group's regulations and the way they are put into practice.

The past few years have witnessed a surge of interest in codes of conduct, but confusion persists regarding their role and significance. Some humanitarian actors have suggested that armed groups adopt a 'generic' code of conduct based on international humanitarian law.⁴ Yet this proposal does not appear to be based on an in-depth analysis of what codes of conduct are, or of how they relate to other measures that armed groups can take to enforce compliance. Without such analysis, it is impossible to determine whether a generic code of conduct would actually be useful in advancing humanitarian norms.

The term 'code of conduct' is a loose concept that lacks a universal definition. Across armed groups, codes of conduct share few commonalities. Some are oral, some are written; some are short and some are very long; some are entitled 'code of conduct' while others have entirely different names, such as 'creed' or 'rules and points for attention'. What they do have in common is that they constitute part of the internal regulations of armed groups, defining the type of behaviour that the leadership expects from all of its members.

This Occasional Paper sets out to define more methodically what constitutes a code of conduct, and how it compares to other types of internal regulations known to have been used by armed groups. Using case study analysis, it then reflects on the conditions under which codes of conduct are effective in controlling the behaviour of fighters. Finally, the report examines whether codes of conduct are a potential tool for enhancing respect for humanitarian norms, with a particular focus on weapons control. The annexes provide examples of 22 codes of conduct and 18 other internal regulations.

The report's main conclusions include the following:

- It is important not to group all internal regulations together under the label 'codes of conduct'. Different regulations have discrete uses and provide distinct pieces of information on an armed group.
- Based on available documentation, armed groups have issued no fewer than seven distinct types of internal regulations of varying lengths and purposes. These include oaths, codes of conduct, standing orders, operation orders, military manuals, internal organization documents, and penal codes.
- Many factors help explain the effectiveness of codes of conduct. To be effective, their content must be clear, short, relevant, and written in a language that is understandable by fighters. Regulations have more impact when they

are generated from within the group, are widely disseminated to fighters, and benefit from the strong backing of the group's leadership.

- The content of a code of conduct is by definition general and rarely addresses weapons control issues explicitly. Armed groups appear to rely on standing and operation orders to regulate the management and use of arms by their fighters.

The findings of the report are significant on three levels:

- **International criminal courts:** Internal regulations are part of the evidence international criminal courts may use to determine whether an armed group is party to a non-international conflict—a legal qualification that has important implications with respect to the obligations and rights of armed groups as defined in international law.⁵
- **The humanitarian sector:** Humanitarian actors have identified codes of conduct as central measures that armed groups can take to improve their compliance with international humanitarian law and human rights law. But this approach has often concentrated on tools expressing a general commitment to international law, and much less on policy measures intended to translate this commitment into action.⁶
- **The research community:** Codes of conduct are a primary source of information for researchers who focus on the internal mechanisms, regulations, and values of armed groups. While armed groups tend to be secretive about most of their regulatory documents, they are sometimes willing to share codes of conduct with the outside world.⁷

This report is intended as a reference document to assist all three groups in deepening their understanding of codes of conduct, and of the utility of these regulations in furthering their respective mandates. 📄

I. Measures to define and control behaviour

This section examines the full spectrum of measures armed groups can take to define and enforce behaviour standards. No single measure can achieve this goal on its own;⁸ only the consistent and sustained application of a variety of different measures is likely to show results.

Political documents

Produced by high-level members of the group, including its highest echelon, political documents have a bearing on the whole movement, including its non-military parts (Bangerter, 2010, p. 195). As such, they can define conduct in conflict at a strategic level.

Political documents may take the shape of public statements, manifestos, programmes or decrees, or agreements with third parties. Since they may be used as propaganda tools, they should be assessed with some caution.

Public statements

Armed groups routinely issue public statements on various issues. Whether vague or precise, narrowly focused or wide-ranging, these statements can spell out the organization's standards on behaviour and its respect for rules or laws, such as international humanitarian law (IHL). A statement's level of detail and conformity to legal standards can help to indicate a group's actual level of commitment to IHL.

Public statements can serve as a valuable means of communication for newly established insurgencies in particular, as these may not be in a position to distribute internal documents to all their fighters. A case in point is the 29 April 1998 'Political Statement Number Two' of the Kosovo Liberation Army (KLA) general staff, which recognizes the applicability of the conventions on war (ICTY, 2008a, paras. 69, 471). The statement made on 30 July 2012 by the leader of the Farouk Brigade in Homs, Syria, on behalf of the Free Syrian Army plays a similar role (Farouk Brigade, 2012).

As noted above, such statements must be taken with some caution, as they do not necessarily reflect a group's true intentions or positions. They may simply express the wishes of exiled political leaders who have no real control over military commanders or the rank and file. Even so, public statements should not be dismissed, as they can create standards by which armed groups can be judged from the outside.

During the 1980s and 1990s, numerous armed groups issued formal unilateral declarations of undertaking of the Geneva Conventions, addressed to the Swiss government, the International Committee of the Red Cross (ICRC), or the United Nations (UN). Many armed groups claimed to submit these declarations under the 1977 Additional Protocol I to the Geneva Conventions, intending them to carry weight at the international level; in reality, most did not adhere to the guidelines in the relevant article.⁹ Examples of unilateral declarations include the following:

- **1977**
African National Congress–Zimbabwe African People's Union (ICRC, 1978, p. 16);
African National Congress (ANC) in South Africa (ICRC, 1981, p. 14);
- **1980**
União Nacional para a Independência Total de Angola (UNITA) (ICRC, 1981, p. 14);
- **1981**
South West Africa People's Organization (Ewumbue-Monono, 2006, p. 909);
- **1989**
Palestine Liberation Organization (ICRC, 2005);
- **1995**
Kurdistan Workers' Party (PKK) in Turkey (PKK, 1995);
- **1996**
National Democratic Front of the Philippines (NDFP) (NDFP, 2005); and
- **1997**
Revolutionary People's Front Manipur in India (RPF Manipur, 1997).

Both the NDFP¹⁰ and the PKK¹¹ declarations of undertaking contain a list of persons the groups consider legitimate military targets under international

humanitarian law. The two documents are very similar, possibly reflecting a common inspiration or endorsement of PKK categories by the NDFP, after due adaptation to the Philippine context.

By the end of the 1990s, the practice of issuing unilateral declarations had largely given way to less formal and more ad hoc statements. Some of these statements are so vague on IHL as to be questionable. In one such declaration, Hamas Prime Minister of Gaza Ismail Haniya affirmed commitment to respect ‘international law and international humanitarian law insofar as they conform with our character, customs and original traditions’ (UNHRC, 2008, para. 9).

Nevertheless, some groups have released statements that are quite detailed about their commitment to respect the rules of war. These include:

- Coordinadora Guerrillera Simón Bolívar in Colombia;¹²
- Ogaden National Liberation Front (ONLF) in Ethiopia;¹³
- National Transitional Council (NTC) in Libya;¹⁴
- Communist Party of Nepal–Maoist (CPN–M) in Nepal;¹⁵
- Justice and Equality Movement (JEM) in Sudan;
- Sudan Liberation Movement–Unity (SLM–Unity) in Sudan;¹⁶
- the Tawhid Brigade in Syria;¹⁷ and
- the Huthis in Yemen.¹⁸

To promote respect for IHL, the NGO Geneva Call has urged armed groups to sign unilateral declarations entitled ‘deeds of commitment’. In the past ten years, 41 armed groups have co-signed such deeds with Geneva Call and the Government of the Republic and Canton of Geneva, thereby committing themselves to avoiding the use of anti-personnel landmines as a step towards respecting IHL and human rights law. Geneva Call monitors compliance with the deed, while the Republic and Canton of Geneva acts as the guardian of the signed documents.¹⁹

Manifestos and decrees

Armed groups may issue documents to define their goals and their identity. Such texts—often known as *manifestos* or *political programmes*—can also specify how a group intends to fight during a conflict. If a group has a parliament or a general council, that body may release *resolutions* or *decrees* to similar effect.

Since these documents tend to target group members and external audiences simultaneously, they do not usually include detailed standards of behaviour. Instead, they generally provide justifications for the use of force against the enemy.²⁰ One of the few exceptions is the ONLF's political programme, which contains a short section on human rights, in which the group affirms that it will:

adhere to all relevant international agreements on human rights including the Universal Declaration on Human Rights. As such, the ONLF as a matter of policy shall not engage non-combatants or civilian targets. In addition, the ONLF shall not indefinitely detain innocent civilians. Further, the ONLF shall offer clemency to all combatants who surrender on the battlefield and willingly comply with international norms of battlefield combat (ONLF, 1984).

Agreements

Common belief has it that parties in non-international armed conflict loathe each other and thus avoid coming to the negotiating table until they are truly exhausted from the fighting. The reality is quite different: talks are ongoing, even during the bitterest of fighting. They happen at ground level, with fighters sometimes fraternizing 'out of hours' or commanders agreeing on local ceasefires or rules of coexistence. They also happen at the highest level, sometimes with concrete results. Such was the case in October 2011, when Hamas agreed to release Israeli soldier Gilad Shalit in exchange for around 1,000 prisoners held in Israeli custody.

More often than not, parties go beyond the mere resolution of a single issue and also agree to define rules of behaviour during the conflict. Examples include the following:

- In Africa, the Sudanese government concluded several agreements with armed opposition groups, the most important of which is the March 2002 'Agreement between the Government of the Republic of Sudan and the Sudan People's Liberation Movement to Protect Non-combatant Civilians and Civilian Facilities from Military Attack' (GoS and SPLM, 2002).
- In the Americas, the Salvadoran government and the Frente Farabundo Martí para la Liberación Nacional (FMLN) concluded the 'San José Agreement on Human Rights' in July 1990, two years before the Chapultepec Peace Accords

ended the war (Government of El Salvador and FMLN, 1990). By signing this document, both parties defined the rights to be protected and accepted international verification.

- In Asia, the Government of the Philippines and the NDFP (on behalf of the New People's Army, or NPA) concluded the 'Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law between the Government of the Republic of the Philippines and the National Democratic Front of the Philippines', better known by the acronym CARHRIHL, in March 1998 (NDFP, 2005, pp. 129–43). By signing this document, both parties defined the rights to be protected and agreed on a joint monitoring mechanism. This agreement is unusual in that it includes a monitoring role for civil society.
- In Europe, in May 1992 representatives of the Presidency of the Republic of Bosnia and Herzegovina, the Serbian Democratic Party, the Party of Democratic Action, and the Croatian Democratic Community signed an agreement to 'respect and to ensure respect for Article 3 of the four Geneva Conventions' (Sassòli, Bouvier, and Quintin, 2011, vol. 2, pp. 115–19).
- In the Middle East, the Israeli government and Hezbollah entered into two informal agreements on the protection of civilians: 1) the July 1993 'Understandings', also known as the 'Damascus Agreement' (Hiltermann, 1996, pp. 55–69); and 2) the 1996 'April Understandings', also known as the 'Grapes of Wrath Understanding' (Government of Israel and Hezbollah, 1996). In both cases, a third party brokered the agreements, such that the Israeli government and Hezbollah never actually met or even signed a public document.

Agreements can contain provisions similar to those usually found in codes of conduct or standing orders (which are specific to only one party in the conflict). An example is an agreement reached between the Government of the Philippines and the Moro Islamic Liberation Front (MILF) in October 2009. Recognizing 'their obligations under humanitarian law and human rights law to take constant care to protect the civilian population and civilian properties against the dangers arising in armed conflict situations', the parties agreed to undertake the following five actions, all of which were to be monitored by an International Monitoring Team (GRP and MILF, 2009).

- a. Refrain from intentionally targeting or attacking non-combatants, prevent suffering of the civilian population and avoid acts that would cause collateral damage to civilians;
- b. Refrain from targeting or intentionally attacking civilian properties or facilities such as schools, hospitals, religious premises, health and food distribution centres, or relief operations, or objects or facilities indispensable to the survival of the civilian population and of a civilian nature;
- c. Take all necessary actions to facilitate the provision of relief supplies to affected communities;
- d. Take all precautions feasible to avoid incidental loss of civilian life, injury to civilians, and danger to civilian objects;
- e. Ensure that all protective and relief actions shall be undertaken in a purely non-discriminatory basis covering all affected communities (GRP and MILE, 2009, emphasis added).

While most agreements are signed between parties to a conflict, some are made between armed groups and humanitarian organizations, especially since the establishment of the humanitarian consortium Operation Lifeline Sudan (Bradbury, Leader, and Mackintosh, 2000). Most of these agreements do not go beyond rules for the provision of humanitarian assistance, although the UN—and UNICEF in particular—have signed a growing number of action plans and memorandums of understanding on the issue of child soldiers. These documents specify the obligations of the UN and of an armed group, and, in the case of action plans, also of the state authorities that co-sign them. One recent example is the memorandum of understanding with JEM in Darfur (JEM and UN, 2010).

Internal regulations

Internal regulations—provided they are genuine and not masquerading as such—can provide insight into a group’s true position. The leadership has a strong incentive to enforce such regulations, not least to maintain or earn internal credibility.

It is important not to group different internal regulations together under one label, such as ‘codes of conduct’; doing so can obscure the fact that armed

groups generally use several types of internal regulations. As discussed in this section, they can also take the form of oaths, standing or operation orders, military manuals, internal organization documents, or penal codes. A solid understanding of their particularities and commonalities should underpin policy-making as well as negotiations or interaction with armed groups.

Internal regulations tend to have clear links with each other, so as to be mutually reinforcing. As suggested by the military proverb ‘order, counter-order, disorder’, consistency across various documents is an essential precondition for the effective shaping and enforcement of standards of behaviour.

Codes of conduct have particularly strong links with oaths, which fulfil a similar function. While oaths are much less detailed, they do act as tools for shaping behaviour of all the members of an organization, if only with respect to essential issues. Codes of conduct and standing orders also share similarities, such as defining standards of behaviour for the leadership. Yet codes of conduct distinguish themselves from other internal regulations in that they play a more enduring role and take a more general approach. In contrast, standing orders can be changed frequently, which could make them useful for those who engage in dialogue with armed groups for humanitarian purposes.

Organization documents, military manuals, and penal or disciplinary codes are aimed at certain categories of fighters (usually mid-level commanders and above); their distribution is thus more limited. Nevertheless, overlap may exist between these documents and codes of conduct. Indeed, sections of a code of conduct may be embedded in a penal code, as is the case with the National Resistance Army (NRA)²¹ of Uganda and the Sudan People’s Liberation Movement/ Army (SPLM/ A),²² or, in organization documents, as evidenced by the Taliban 2009 and 2010 *layhas*²³ and MILF General Order No. 1.²⁴ In the same way, passages of standing orders may be embedded in penal codes (SPLM/ A, 1994) and even in public statements (NDFP, 2005; PKK, 1995).

Codes of conduct

Research has shown that more than 30 groups currently use or have used codes of conduct, many of which have been partly or completely disclosed. These documents are spread across four continents and span more than 60 years (see Table 1). Available evidence suggests that codes of conduct are the internal regulations most commonly used by armed groups to shape the behaviour of their members.

Table 1 Armed groups that use or used codes of conduct, per continent

Continent	Country of origin	Armed groups
Africa	Algeria	Armée de Libération Nationale (ALN)
	Côte d'Ivoire	Mouvement patriotique de Côte d'Ivoire (MPCI)
	Democratic Republic of the Congo (DRC)	National Congress for the Defence of the People (Congrès National pour la Défense du Peuple, CNDP) National Liberation Council (Conseil National de Libération, CNL) Mai Mai* Mai Mai Patriotes Résistants Congolais (PARECO) Rassemblement Congolais pour la Démocratie–Goma (RCD–Goma)
	Liberia	Liberians United for Reconciliation and Democracy (LURD)
	Libya	Libyan National Liberation Army (LNLA)
	Sierra Leone	Revolutionary United Front (RUF)
	Sudan/South Sudan	SPLM/A
	Uganda	Holy Spirit Movement (HSM) LRA* National Resistance Army (NRA)
Americas	Colombia	Ejército de Liberación Nacional (ELN)
	El Salvador	FMLN
	Mexico	Ejército Zapatista de Liberación Nacional (EZLN)
	Nicaragua	Fuerza Democrática Nicaragüense (FDN)
	Peru	Shining Path
Asia	Afghanistan	Taliban***
	China	People's Liberation Army (PLA)
	India	Kuki National Organisation (KNO)* Nationalist Socialist Council of Nagaland–Isak Muivah faction

	Myanmar	Chin National Front (CNF) KNO*
	Nepal	People's Liberation Army/Communist Party of Nepal–Maoist (PLA/CPN–M)
	Philippines	Moro Islamic Liberation Front (MILF) New People's Army/National Democratic Front of the Philippines (NPA/NDFP) Rebolusyonaryong Partido ng Manggagawa–Mindanao
	Vietnam	Viet Cong
Europe	Turkey	Kurdistan Workers' Party (PKK)
	United Kingdom	Irish Republican Army (IRA)*

Notes:

* Oral codes of conduct.

** Although the document is called *Manual de Combatiente* (Combatant's Manual), it is actually a code of conduct.

*** The six rules appended to the *layhas* in 2009 and 2010; see Clark (2011b).

Source: Bangerter (2012)

Academic literature and UN documents often use a very broad definition of the term *code of conduct*, thereby including almost any internal regulation an armed group can have. While this approach may reflect how some armed groups themselves use the term, it obscures the fact that codes of conduct represent only one of numerous types of internal regulation. This collapsing of categories can lead individual regulations to be overlooked and opportunities to be missed, especially if armed groups could use these internal regulations as tools to address issues such as the protection of civilians or the use of small arms and light weapons.

Codes of conduct form part of a group's *doctrine*, or 'fundamental principles by which [they] guide their actions in support of [their] objectives' (USDOD, 2010, p. 104). More specifically, they are a 'the set of rules an organization expects its members to respect under all circumstances' (Bangerter, 2010, p. 202); as such, they express the group's minimum standards. This narrow definition situates codes of conduct among other internal documents and helps to identify their links to regulatory measures taken by an armed group. In this sense, they are similar to oaths, standing orders, and military manuals.

Table 2 Number of rules in codes of conduct, by selected armed forces, armed groups, and gangs and mafias

Number of rules	Armed forces	Armed groups	Gangs and mafias
5		ELN: 1996 (Colombia)	
6	India United States	Taliban: 2009 and 2010 (Afghanistan) ²⁶	
7	France: Foreign Legion		
8		CNL (DRC) RUF (Sierra Leone) Shining Path fighters (Peru)	Border Brothers (US)
10	United Kingdom ²⁷ UN Blue Helmets	ALN (Algeria) CNF (Myanmar)	Cosa Nostra Sicilian mafia (Italy) Sigie Sigie Sputnik (Philippines)
11	Canada France: Land Army	CPN–M (Nepal) Naxalites (India) NPA (Philippines) PLA (China) ²⁸ Shining Path commanders (Peru) SPLA (Sudan)	Aryan Brotherhood (US)
12	Nigeria: 1967 ²⁹	FDN (Nicaragua) LNLA (Libya) Viet Cong (Vietnam)	Las Águilas (US)
13	Israel ³⁰ United States Soldier's Creed: 2003 ³¹		
15	South Africa ³²	FMLN (El Salvador)	
16			Primeiro Comando da Capital (Brazil) Black Gangster Disciples (US)
17		LRA (Uganda)	

18			Thieves in law (Russian Federation) ³³
20		HSM (Uganda) NRA (Uganda)	
22	Nigeria: 2010 ³⁴	ELN: 1995 (Colombia)	
29		SPLA (Sudan)	
34		ELN: 1998 (Colombia)	
37	Mali		
47	Madagascar		
48		RCD Goma (DRC) ³⁵	
53			Knights Templar of Michoacán (Mexico)

Notes:

Publication dates are indicated whenever more than one code of conduct has been produced. While the documents listed in the last five rows are called ‘codes of conduct’, they do not actually fit the definition used in this report.

Sources:

Armed forces: Canada (OJAG–Canada, 2005); France: Foreign Legion (French MoD, 2010); France: Land Army (French Land Army, 2010); India (Indian Army, 2004); Israel (IDF, 2012); Madagascar (MFA–Madagascar, 2011); Mali (MFAAC–Mali, 1997); Nigeria (NAF, 1967; 2010); South Africa (DoD–SA, 2009); UN Blue Helmets (UNCDDU, 1998); United Kingdom (British Army, 2008); United States (USDOD, 1988); United States Soldier’s Creed (US Army, n.d.)

Armed groups: Bangerter (2012)

Gangs and mafias: Bangerter (2011a), Valentine (1995; 2000)

For pedagogical reasons, codes of conduct tend to be short. If the organization intends all its members—regardless of rank—to apply the rules, they must be understandable by the least educated members and must be learned by heart. Regardless of whether codes of conduct are used by armed groups or armed forces, their average length is strikingly similar: 5–22 vs. 6–22 rules, respectively.²⁵ Even codes of gangs and mafias tend to have a comparable number of rules (8–18). As shown in Table 2, some codes are quite a bit longer, but these are unusual.

Most known codes of conduct are written, although some armed groups use exclusively oral rules of behaviour, including the LRA³⁶ and some pro-government armed groups, such as the Civil Defence Forces (CDF) in Sierra Leone and the Autodefensas Unidas de Colombia (AUC) in Colombia (SCSL,

2005, pp. 29–32; OPDDR, 2009, pp. 18–21). Even if a code of conduct is written, fighters do not usually receive a printed version of it; rather, they are taught the code orally. Written codes may not be necessary within armed groups, but they can facilitate the work of researchers and advocates who seek to understand the contents and assess compliance with rules (Geneva Academy, 2011, p. 34).

The target audience of a code of conduct is an armed group's membership, even if the group's leaders sometimes use a code's public disclosure as a public relations tool. Maoist groups, for instance, tend to follow the Chinese People's Liberation Army's (PLA) practice of publicly advertising the 'Three Main Rules of Discipline and Eight Points for Attention'. The group leadership assumes that, if the population knows the rules, they are more likely to report breaches to the leaders, thus strengthening oversight over the fighters. The codes available for this study were not designed by armed groups as public statements, even if they may eventually have been used as propaganda tools.

Once group leaders finalize and disseminate a code of conduct, they will find it difficult to change these fundamental rules of behaviour. Other internal documents lend themselves more easily to amendments than do codes of conduct (or oaths). A succession of different codes of conduct is more likely to create confusion than to promote standardized behaviour. The Taliban *layhas* are a case in point. While the group's leaders changed their minds several times within a few years regarding the organization's operations, they have barely altered their six basic rules since 2009. The permanence of codes of conduct allows both members and external observers to keep track of whether they are being adhered to.

This permanence generally sets in once rules have had a chance to evolve and mature, as was the case with the 'Three Main Rules of Discipline and Eight Points for Attention', which were first drafted in 1928, either by Mao Tse-tung himself or with his signature. They underwent minor changes until the final version was produced in 1947 (Xiaodong, 2001, pp. 143–44).³⁷ Amendments tend to be perceived as clarifications rather than inconsistencies; a completely new code of conduct, however, would be seen as incongruous.

Armed groups use codes of conduct to regulate a wide array of issues. They cover military topics such as the duty of obedience, the prohibition of treason, the use of weapons, and relations among fighters as well as between commanders

and fighters. Many groups also use codes of conduct to regulate behaviour linked to IHL, such as the treatment of enemies hors de combat, the relationship with the population in general, and the prohibition of plunder and sexual violence. Finally, codes of conduct sometimes regulate the moral behaviour of fighters, such as by requiring them to be faithful to their partner.

Oaths

An oath is a pledge by the new combatant to the organization he or she is about to join. It summarizes what an armed group stands for and what its fighters must do—or not do. The fact that it is taken at a crucial juncture of the socialization process, namely at the moment when the prospective member becomes a full member of the group, only adds to its force. It can also be taken under dramatic circumstances, as was the case for a former Haganah member who took his oath in 1934, when he was 14 years old:

It was in the cellar of the Mizrahi school in Jerusalem. The cellar was lit by a candle. Around the table were sitting 3 commanders of the Hagannah (one of them a friend of my father) on the table was a parabelum pistol. I had to put my hand on the pistol and read the oath (Zionism–Israel Information Center, n.d.).

Oaths are widespread regulatory tools among armed actors in general, not only among insurgents. Yet armed groups rarely publicize oaths, such that only a few are available. Examples of groups that have used oaths since the 1970s include the Ejército Guerrillero de los Pobres (EGP) in Guatemala,³⁸ the KLA in Kosovo,³⁹ the Mouvement des Nigériens pour la Justice in Niger,⁴⁰ the Viet Cong in Vietnam,⁴¹ and various brigades of the Free Syrian Army.⁴²

There are two possible explanations for the dearth of publicly known oaths. One is that, since oaths are often oral, they are not disseminated. The other reason relates to the way many armed groups socialize their fighters. As opposed to the armed forces, which only allow recruits who have successfully concluded their training to be sworn in, armed groups usually cannot afford such a two-tiered system.⁴³ Once new members have been recruited, they are part of the organization although they still need to be socialized within it; in this type of system, oaths may not always be appropriate.

Oaths tend to be very short, much shorter than the average code of conduct. As a result, they focus on a few basic, relatively constant requirements, such as fighting for a certain aim, being ready to die for the cause, obeying commanders, and being loyal to the organization. Some oaths include the notion of protecting the people on behalf of whom the group is fighting. This content does not vary much across cultures, time, space, or even rival organizations. The 1920 Haganah oath, for example, shares many features with the more recent Irgun oath.⁴⁴

Standing orders and standing operating procedures

Standing orders specify which type of behaviour is expected of all group members in a given situation, though not necessarily at all times. They tend to be more precise and have a narrower focus than codes of conduct; such an order might relate to members' interaction with the local civilian population. During the US Civil War, General Order No. 100, better known as the 'Lieber Code', defined the laws of war president Lincoln wanted to be respected (Civil War Home, 2002).

Standing operating procedures, sometimes called *standard* operating procedures, are a subset of standing orders, defined as a 'set of instructions covering those features of operations which lend themselves to a definite or standardized procedure without loss of effectiveness' (USDoD, 2010, p. 319). They spell out what fighters or units must do each time they are confronted with a given challenge. In the armed forces, they tend to be issued by lower-ranking authorities for lower-ranking bodies; among armed groups, however, the difference between standing orders and standing operating procedures is not obvious, which is why this report groups both types of documents under a single heading.⁴⁵ Standing orders issued by armed groups are usually shorter than their equivalent in the armed forces.

Armed groups and irregular forces have long used standing orders to regulate their members' activities. The founder of the US Rangers, Maj. Robert Rogers (1731–95), authored standing orders that were used in the French and Indian War as well as on the insurgents' side during the American Revolution; they are still quoted today in the US Army's *Ranger Handbook* (US Army, 2006; see Box 1).

Box 1 **Standing orders: Roger's Rangers**

1. Don't forget nothing.
2. Have your musket clean as a whistle, hatchet scoured, sixty rounds powder and ball, and be ready to march at a minute's warning.
3. When you're on the march, act the way you would if you was sneaking up on a deer. See the enemy first.
4. Tell the truth about what you see and what you do. There is an army depending on us for correct information. You can lie all you please when you tell other folks about the Rangers, but don't never lie to a Ranger or officer.
5. Don't never take a chance you don't have to.
6. When we're on the march we march single file, far enough apart so one shot can't go through two men.
7. If we strike swamps, or soft ground', we spread out abreast, so it's hard to track us.
8. When we march, we keep moving till dark, so as to give the enemy the least possible chance at us.
9. When we camp, half the party stays awake while the other half sleeps.
10. If we take prisoners, we keep 'em separate till we have had time to examine them, so they can't cook up a story between 'em.
11. Don't ever march home the same way. Take a different route so you won't be ambushed.
12. No matter whether we travel in big parties or little ones, each party has to keep a scout 20 yards ahead, 20 yards on each flank, and 20 yards in the rear so the main body can't be surprised and wiped out.
13. Every night you'll be told where to meet if surrounded by a superior force.
14. Don't sit down to eat without posting sentries.
15. Don't sleep beyond dawn. Dawn's when the French and Indians attack.
16. Don't cross a river by a regular ford.
17. If somebody's trailing you, make a circle, come back onto your own tracks, and ambush the folks that aim to ambush you.
18. Don't stand up when the enemy's coming against you. Kneel down, lie down, hide behind a tree.
19. Let the enemy come till he's almost close enough to touch, then let him have it and jump out and finish him up with your hatchet.

Source: US Army (2006, p. i)⁴⁶

Armed groups use standing orders to regulate a wide array of military issues—such as the handling and use of weapons (ANC,⁴⁷ Naxalites), tactical considerations (Naxalites), and guard duty (RUF)⁴⁸—as well as concerns linked closely to IHL, such as the following:

- the choice of targets (NTC and MILF);⁴⁹
- the relationship with the population (Fuerzas Armadas Revolucionarias de Colombia or FARC, ELN, KLA, and RUF);⁵⁰
- the treatment of prisoners (NPA, MILF, PLA in China, and NTC);⁵¹ and
- the question of recruitment—including the prohibition of recruitment of minors (MILF and NTC).⁵²

Operation orders

In military terms, operation orders are ‘directives issued by a commander to subordinate[s] for the purpose of effecting the coordinated execution of an operation’ (USDoD, 2010, p. 251). In armed forces, they are formalized and usually in written form. Some armed groups adopt structures for orders that are similar to those of the armed forces, often through the influence of former military personnel among their ranks. Yet most armed groups are reluctant to write orders down, generally due to security concerns.

That said, all armed groups give orders when it comes to operations. These orders are among the most direct influences on the behaviour of their members, who are literally told what to do. If an order is precise and relevant to the situation, the odds are that it will be followed; if the order is unclear, irrelevant, or open to interpretations, subordinates will tend to improvise, usually to the detriment of the general efficiency of the group. Unclear orders are also among the causes of violations of IHL and of poor weapons management.

Very few operation orders are publicly available, partly because armed groups are rarely able to keep records of documents beyond the most fundamental—and the actions of a certain unit are usually not considered fundamental enough. In addition, putting orders in writing can place the group’s security at risk, as written orders can be seized by the enemy. Among the few examples of available operation orders are those of the FMLN and of the Nepal PLA (CPN–M), both of which are very detailed.

The FMLN order—‘Combat Order No. 1’ from 1985—concerns the attack of a command post in the department of La Unión. This operation involved one battalion of the Rafael Arce Zabla Brigade, supported by a company of FMLN special forces platoon (Fuerzas Especiales Selectas, or FES) (Moroni Bracamonte and Spencer, 1995, pp. 85–87).

The FMLN order represents only a fraction of the whole operation, with an 11-member FES platoon and a seven-member support squad. Composed of nine short paragraphs, the order begins by stating the platoon’s mission and then outlines the missions of the platoon’s two teams as well as those of their individual members. It also addresses communication with the commander, marching orders, and the general tactics to be used.

Operation orders are ideal for specifying the choice of weapons as well as their use in an operation. In this particular case, the FES platoon was issued with some of the best weapons available to the FMLN, including assault rifles such as the M16, G3, and Galil, each with 175 rounds of ammunition. In addition, the platoon was issued with explosive charges made of sticks of dynamite and 800-gram charges, as well as an RPG-7 launcher with four rockets and one pistol with 18 rounds. The order states that big explosive charges were supposed to be thrown into buildings and trenches to clear them, while smaller charges were to be reserved in case there was still resistance; similarly, two rocket-propelled grenades were to be fired to suppress the enemy.

The Nepalese examples of operation orders were written down by a prominent PLA (CPN–M) commander. They concern a number of raids undertaken towards the end of hostilities; the relevant text appears after personal notes on specific events, but the content seems accurate. The latest operation is the one with the most developed operation order: the raid on Beni Bazar in Myagdi district on 20 March 2005. It contains the following 14 parts:

- Foreword [the operation in its historical context]
- The objective reality and our obligation
- The enemy’s fortification
- Our situation
- The force division as per geography
- The military coaching
- The stage and method of the raid

- For the health post and health workers
- Information and communication set
- Second planning
- Retreat
- Some of the things of consideration
- Alternative strategy
- Conclusion (Pasang, 2008, pp. 189–212).

This example is instructive with respect to the ways armed groups can use operation orders to promote respect for IHL. In the sixth and longest part—on military coaching—Pasang refers to the immediate treatment of enemy prisoners and explicitly forbids murdering prisoners, indecent behaviour, and even verbal abuse (Pasang, 2008, p. 206). This approach is in keeping with other orders, some of which stipulate that the prisoners must receive a political education session on the CPN–M before being freed. Decent treatment of prisoners was part of the CPN–M’s policy; there is no doubt that systematic orders given to this effect served to implement this policy and contribute to its respect. Similarly, the eighth part of the order insists that medical treatment be provided according to medical needs and not in a ‘sentimental and competitive manner’ (Pasang, 2008, pp. 207–08).

Operation orders among armed groups are usually much shorter than the CPN–M example. Fidel Castro’s famous order instructing Che Guevara’s column to wage guerrilla warfare in Las Villas province comprises no more than seven sentences (CEDEMA, 2006a). It was certainly written to assist the column leader in proving to other revolutionary units that he was indeed in charge of all operations in the province, an action that would probably not have been accomplished without a written order.

Military manuals

Contrary to what may be expected, military manuals are not the preserve of state armed forces. A number of armed groups also use this tool to promote standard military behaviour at the tactical, operational, and strategic levels. Although military manuals are usually aimed at leaders rather than the rank and file, they have a direct influence on the behaviour of all group members, through orders given by commanders at the tactical level.

Military manuals can be quite generic or extremely specialized. They are seldom publicly available, as armed groups tend not to publicize their methods for fear of having their enemies learn from them. When intelligence agencies manage to get their hands on an armed group's manual, they usually refrain from publishing it, for fear of giving other groups ideas.

The lack of access to manuals is thus not a sign of their rarity. In several cases, evidence strongly suggests that an armed group has developed a body of military manuals. The Salvadoran armed forces seized many such manuals from the FMLN and its components,⁵³ including the following:

- *Special Forces Training* (ERP, seized in 1988);
- *Combat against Enemy Aircraft* (ERP, published in 1985);
- *The People's Weapons: Launching Ramp Manual* (FMLN, published in 1987);
- *Combat against Aircraft* (FMLN, published in 1987);
- *Guide of Tactical Procedures to Weaken Enemy Forces* (FMLN);
- *Combatant's Guide: Combat Use of Mines* (FMLN, published in 1987);
- *Home-made Weapons Manual* (FMLN);
- *Training Manual for Individual Combatants* (FMLN, published in 1986);
- *Instruction Manual for Urban Commandos* (FMLN, at least four volumes, published in 1987);
- *Tactics of Urban Combat* (FMLN, published in 1989);
- *The People's Artillery Workshop* (FMLN, published in 1989);
- *Anti-aircraft Combat No. 5* (FPL, published in 1986);
- *Military Strategy* (RN) (Moroni Bracamonte and Spencer, 1995, pp. 188–90).

More recently, the documents seized by the Colombian military from Raúl Reyes mention a FARC *cartilla militar*, a 'military primer outlining the principles of military tactics, operations, and strategy' (IISS, 2011, II.2 of the Ecuador Archive).⁵⁴

Documents seized by Indian security forces from the Naxalites include a 332-page manual and an air defence manual (Deccan Chronicle, 2011). The former contains 'detailed descriptions about aspects like principles of war zones, troupe formation, firing area, deployment, command, control, communication, identifying of targets and such aspects' (Bose, 2009). Both were written by the group's Central Military Commission.

The Afghan Taliban boast a 158-page military manual, the *Military Teachings for the Preparation of Mujahidin* (Ali, 2008). *Jihadi* (or *takfiri*⁵⁵) groups typically

have similar manuals, or longer ones, many of them available on the Internet. In 2011, the Haqqani network published 10,000 copies of a 144-page manual (Moreau and Yousafzai, 2011).

In addition to formal manuals, some armed groups use more general publications to share knowledge about weapons or tactics. *Inspire*, a magazine allegedly published by Al Qaeda in the Arabic Peninsula, includes regular 'how to' sections, such as how to make explosives or bombs or how to use an AK-47 (*Inspire*, 2010a; 2010b; 2011a; 2011b). Similarly, the Indian Naxalites publish *Awami Jung*, a magazine that features reviews of particular raids or ambushes. In addition to being recommended reading for members of the People's Liberation Guerrilla Army, issues of this magazine are also part of the syllabus in their central school and serve as reference documents for Naxalite military schools (CPI-M CMC, 2005).

The Communist Party of the Philippines published an after-action review of an NPA ambush in their magazine, *Ang Bayan* (CPP, 2011). It explains the concept of the operation, its planning, its execution, and its weaknesses; it also provides details on the use of command-detonated explosives and on the division of roles among the attackers. Such publications therefore also function as basic military manuals.

Internal organization documents

Many armed groups use 'regulations' or other documents to explain to their members how the group functions. Issues that need defining include the command structure, the process of taking decisions, and who has the power to take which decision, as well as the delimitation of responsibilities in processes that involve several members. Such guidance is designed to allow a certain predictability in the group's work, simplifying decision-making and limiting the need for internal discussions or even negotiations. It is especially useful to groups that are a federation of previously independent units, such as the Chadian Union des Forces de la Résistance, which has felt the need to specify its internal organization through both statutes and internal regulations (UFR, 2009a; 2009b).

In Kosovo the KLA adopted 'Provisional Regulations for the Organization of the Army's Internal Life', also called 'KLA Regulations', and distributed them to various units by the general staff (ICTY, 2005, paras. 98, 110–12).

These regulations:

established several ranks of KLA servicemen, defined the duties of the unit commanders and deputy unit commanders, as well as the duties of the company, platoon, and squad commanders, and created a chain of military hierarchy between the various levels of commanders. It was declared in the Regulations that 'obedience, respect and orders strictly follow the chain of military hierarchy' (ICTY, 2005, para. 111).

In Macedonia the National Liberation Army (NLA) copied these regulations but did not put them into effect (ICTY, 2008b, paras. 273–74).

The Taliban *layhas* are telling examples of internal organization documents (Clark, 2011b). They were published in quick succession—in 2006, 2009, 2010, and 2011⁵⁶—which earned them some publicity but also proved to be a risky decision. The documents suggest that the Taliban seem incapable of fully enforcing their own rules among their fighters, which can justify serious criticism. Yet the Afghan government, the international military forces, and the International Security Assistance Force (ISAF) have not engaged in such criticism with any consistency, which may vindicate the risk taken by the Taliban. As one observer writes:

The rulebook is a rich area for analysis. It provides observers with insight into Taliban weak points, vulnerabilities and fears currently entrenched within the Taliban organization and its top leadership. It also provides Coalition Forces a handy reference document to catalog Taliban transgressions against the very people they are trying to win over [. . .]. This document, if properly analyzed and understood by Coalition and Afghan authorities, presents a compelling opportunity to exploit an organizational control weakness within the Taliban structure and create a focused and comprehensive IO [information operations] campaign against them by pointing out to the Afghan people Taliban hypocrisy in each and every instance of barbarity that expressly contradicts their own doctrine (Kleponis, 2010, pp. 2–3, emphasis added).

The *layhas* have increased in length over the years, from 30 to 67 to 85 articles. While they are presented as codes of conduct, or as rules that the rank and file must respect, they are actually:

a set of written standards [. . .] for mid- to senior-level commanders and strategists. It is more than straight propaganda: it is a rule book that is also aspirational, detailing how the leadership would like the 'jihad' to be run, or be seen to be run (Clark, 2011a, p. 6).

The 2009 and 2010 versions even contain a section entitled 'Internal issues for the mujahedin' (section 7). The 2006 *layha*—the shortest—is misleading in its claim to be aimed at every fighter. As noted in the preamble:

It is clear that the goal will be achieved if it is worked towards in the light of God's orders and in the framework of the appointed principles [the layha itself], so every mujahed must abide by the following rules (Clark, 2011b).

The document concludes on the same note:

This Code of Conduct is intended for the mujahedin who dedicate their lives to Islam and Almighty God. This is complete guidance for the progress of the jihad and every mujahed must keep these rules; it is the duty of every jihadi and true believer (Clark, 2011b).

A closer look at the 30 rules quickly yields a different view. Fifteen of the 30 rules state the responsibilities of Taliban 'officials', namely persons with more authority than field commanders. Nine rules describe the sharing of responsibilities between various categories of persons within the movement. Curiously, several rules describe what the enemy (rule 4), ordinary people (rules 24 and 25), and NGOs (rule 26) may or may not do.

The Taliban seem to have recognized the need for more generic instructions to their members. In the 2009 and 2010 editions of their 'code of conduct', they appended six rules for all members, printed on the back cover of the booklet; they are not numbered and thus distinct from the rest of the document.⁵⁷ In effect, these rules are the actual Taliban code of conduct.

Penal or disciplinary codes

Armed groups cannot hope to enforce standards of behaviour without control processes that result in rewards and punishment. Punishment needs to be meted out as fairly as possible, and not depend (only) on the whim of a commander.

Disciplinary sanctions are usually decided by the commander with or without a court martial; penal sanctions are meted out by an armed group court. Functioning courts tend to be limited to groups with a strong organization and stable control over territory.⁵⁸

Among the requirements for disciplinary punishment and penal courts are standards by which individuals are to be judged; such standards clarify which types of behaviour will be sanctioned. Most armed groups use some or all of the internal regulations discussed above to this effect. Some have adopted more developed regulations to facilitate disciplinary responses. These penal or disciplinary codes have been adopted by groups as varied as the following:

- the ANC in South Africa;
- the CNF in Myanmar;
- the FARC in Colombia;
- the Forces pour la Défense de la Démocratie in Burundi;
- the FDN in Nicaragua;⁵⁹
- the Karen National Liberation Army in Myanmar;
- the SLM–Unity leadership in Sudan;
- the SPLM/A in Sudan; and
- the Zomi Re-unification Organisation in India and Myanmar.

The SPLM/A even issued three different penal codes—in 1984, 1994, and 2003 (Gurtong, 2012). Very few of these documents have been published or distributed outside of the groups that authored them.

The link between codes of conduct and penal or disciplinary codes is much tighter than might be expected. In addition to describing offences similar to those contained in the former, the latter often contain codes of conduct, as is the case with the CNF, the NRA, and the 2003 SPLA codes.

The 1984 ‘Penal and Disciplinary Laws’ of the SPLM/A also contain what is in essence a standing order on legitimate targets. They state that the following are ‘declared enemies of the people and therefore target of the SPLA/SPLM’:

- a) The incumbent administration of Jaafer Mohammed Nimeiri, its appendages and supporting institutions.
- b) Any subsequent reactionary administration that may emerge while the revolutionary war is still being waged.

- c) Any individual or group of individuals directly or indirectly cooperating with the autocratic regime in Khartoum in order to sustain or consolidate its rule and to undermine the objectives and efforts of the People's Revolution.
- d) Any individual or group of individuals who wage counter-revolutionary war against the SPLA/SPLM or who circulate any subversive literature, verbally or in written form against the SPLA/SPLM with the intent to discredit it or turn public opinion against it.
- e) Persons acting as agents or spies for the Sudan Government.
- f) Armed bandits that operate to rob ordinary citizens, rape their women or commit any other crime against them, their movable or immovable properties or any other property of the People's revolution.
- g) Individuals or groups of people who propagate or advocate ideas, ideologies or philosophies or organize societies and organizations inside the country or abroad that tend to uphold or perpetuate the oppression of the people or their exploitation by the Khartoum regime or by any other system of similar nature (Henckaerts and Doswald-Beck, 2005, pp. 126–27).⁶⁰

Some armed groups go one step beyond having penal or disciplinary codes for their fighters; they also adopt penal codes for the population under their control. The CPN–M in Nepal and the Liberation Tigers of Tamil Eelam (LTTE) in Sri Lanka both did so (Sivakumaran, 2009, pp. 492–95). This seems to be the exception rather than the norm as most groups tend to use local justice mechanisms or pre-existing bodies of law to provide the population with justice. According to the *layhas*, the Taliban in Afghanistan have only recently established sharia courts and previously relied on local tribal leaders, or *ulema*, to settle disputes at the local level (Clark, 2011b, p. 20, art. 32; p. 27, art. 28).

Measures linked to respect for rules

Political documents and internal regulations are not the only tools available to armed groups. If a group's leaders wish to shape their fighters' behaviour, they need to complement these documents with a number of other measures. It is only through a cumulative effect of both policy documents and practical measures that they can hope to have some kind of effect. Such measures must be applied consistently if an armed group wants to see results.

Practical measures

As noted by the UN Secretary-General, dissemination, training, and sanctions are widely seen as the main measures linked directly to the respect for norms (UNSC, 2009).⁶¹ The first—and only indispensable—practical measure is to make sure the norms are known and understood. It is obvious that fighters will not take notice of a group's strategic choices or policies if they are not aware of them; it is no less obvious that if rules are misunderstood, they will not have the intended effect.

Dissemination. Disseminating norms is a challenge; it requires time and personnel—and possibly printed material. When a group boasts thousands of fighters scattered over a wide area, the challenge is significant. It is not only a matter of imparting knowledge, but also of convincing the fighters that they must abide by the norms. This may be done through reasoning, teaching, or threats, but it has to be done.

Most armed groups deal with this challenge in similar ways: they appoint specific categories of persons to disseminate the norms. Those who have weaker structures, especially at the time of the foundation of their organization, tend to rely on commanders themselves, as was the case with the KLA. In November 1998, the KLA high command issued an 'Order Not to Exceed Authority and Cease Abusing Command Position', which clearly states that 'unit commanders are responsible for the implementation of this order'.⁶² More established groups may use different categories of officials, such as political officers (NPA), chaplains (the MILF's *alim*), or legal advisers (various Sudan Liberation Army factions in Darfur). The NRA's political commissars were 'expected to guide the army in accordance with the political line of the movement, to educate the fighters and supporters in the reason of the war, and to keep them in touch with developments' (Ngoga, 1998, p. 101).⁶³

In the end, the function of the individuals in charge of disseminating does not matter as much as their credibility in the eyes of the fighters. Political officers who are backed up by the leadership can do this job well, but if they do not enjoy this internal support, or if the lower level leadership is at odds with the superiors, their efforts may be undermined. The particular ethos of a given unit is as important in this process as the surrounding culture, both in the organization and in the wider society.

The effectiveness of practical measures is reinforced by rites of passage, such as oath taking, induction ceremonies, and tests to be passed before becoming a full-fledged member. A fighter is likely to witness such rites several times—as a participant and as a spectator—which reinforces their effect. Fighters may be asked to undertake some actions to prove their resilience, and thus their worthiness as a group member. Armed groups can use these rites to instil absolute obedience, as well as to introduce the recruits to a new ethos. In extreme cases, as in the RUF and LRA, newly abducted recruits may be forced to commit atrocities. Being forced to kill under the threat of being killed is a powerful tool; these recruits certainly have no doubts as to their organization’s norms.

Training. Once the norms are known and understood, the armed groups need to train their fighters accordingly and incorporate the norms into their formal education programme, if they have one. The FMLN even developed a literacy programme to support these efforts (Hammond, 1996, pp. 438–39). In 2010, the ‘Kifah al-Musallah’, the security forces in Palestinian refugee camps in Lebanon, incorporated into its curriculum a Geneva Call training module on humanitarian standards in situations of armed violence (Geneva Call, 2011, p. 13).

Training should allow fighters to connect the group’s norms with the practical skills they are developing. Such skills may include:

use of [improvised explosive devices] to repulse attacks on our forces, ambushes and raids to annihilate our enemy and snatch weapons [. . .]. Good snipers and grenadiers should be prepared during the training. The importance of initiative, tact, team spirit, planning, and leadership to gain victory in the battlefield should be emphasised. We can bring about qualitative change in the war field by extensive training to our three types of forces (CPI–M CMC, 2005).

But training will not engender respect for internal rules unless it is geared to do so. In this sense, training goes beyond imparting mere ‘neutral’ skills, such as handling and assembling a weapon; indeed, it must transmit values, the most important of which is discipline. As Uganda’s current president, Yoweri Museveni, recalls:

I took personal charge of the Montepuez group and stayed with the boys during the training months in Mozambique because I feared that some of the recruits

might be undisciplined bayaaye, like those of 1973, and they might have caused us problems. With my presence in the camp, however, we were able to suppress most of their negative tendencies and attitudes (Museveni, 1997, p. 90).

The importance of values should not be underestimated. There is no logic in telling fighters not to kill civilians and simultaneously training them to shoot first and ask questions later. The handling of weapons and tactics—to state but two important areas—must be taught in ways that are compatible with group norms.

Group leaders may find it difficult to integrate some of the norms into the training, such as teaching fighters *not* to do something. The negative rules—the do not’s—must therefore be associated with a behaviour that can be trained. Training not to kill an enemy who surrenders is difficult unless the training addresses the wider issue of how to treat this person.

Commanders reinforce the effect of pre-combat training when they conduct post-combat debriefings, expressing approval or disapproval of actions taken. This allows for corrections of behaviour that could lead to violations of the group’s rules if left unchecked. Combatants heed such instructions or corrections better when they are a regular feature and not an exceptional occurrence, which may be seen as expressions of arbitrariness. Post-combat debriefings allow fighters to learn lessons from military mistakes; the inclusion of rules in this context lends them even more credibility.⁶⁴ Commanders may express approval or disapproval during combat, but usually in a less structured way due to the circumstances.

Commanders must also teach fighters the role of norms in terms of planning operations, possibly through their inclusion in the standard planning mechanisms, such as seems to have been the case with the CPN–M in Nepal. In the absence of such training, the armed group would not be in a good position to enforce its own norms.

As is the case with dissemination, training varies widely across armed groups. Some have weak training capacities and do not go much beyond weapons handling; others entrust the training and education to local unit commanders and provide them with a programme that needs to be covered. Still others have military academies or sets of courses, with their own curricula and required readings. Hamas, the Forces démocratiques de libération du Rwanda

(FDLR), and the Naxalites in India have allegedly developed elaborate training systems.⁶⁵

Sanctions. Dissemination of the rules and training in keeping with them are important steps, but they do not resolve the issue of breaches. Armed groups also need to establish a working sanctions system, one that covers disciplinary action while providing uniformity in meting out punishment. That is, an armed group that is serious about upholding its norms also must aim to ensure that these are enforced in a consistent way, not at any one commander's discretion. As one observer notes: 'Desire and ability to carry out internal discipline and respond to civilian grievances are fundamental to the usefulness of any code of conduct' (Clark, 2011a, p. 19).

All armed groups must be able to rely on an enforcing mechanism. Even groups with noble aims and high ideological standards—such as the ANC in South Africa—have had to apply sanctions:

A soldier who breaks discipline, disobeys commands or by improper conduct betrays the high moral standards of our army will be punished. Such punishment is necessary to maintain the qualities expected of a people's army. Every attempt is made to correct bad behaviour and rehabilitate members who violate the army's code. But punishment is severe in cases of serious crimes, treachery and criminal neglect endangering the safety of others and the security of the army (ANC, 1985).

The way a group punishes says volumes about what it holds dear. Punishment can antagonize many individuals, including those who are punished and their friends, who may not understand the reason for a sanction. It is not a simple affair for the group, as disgruntled fighters may choose to rebel, desert, or even join the enemy.⁶⁶ All these actions put the group's very existence at risk, and the leadership will avoid provoking them, unless they are firmly convinced that inaction is worse.

The main sign of a working sanctions system is that credible punishment is meted out. It must be credible in at least two domains. First, it must be relevant and proportionate to the severity of the offence. Should a fighter sell military secrets to the enemy and be sentenced only to a night watch, the system would lose credibility. The same result could be expected if the sanction were to be perceived as extreme compared to the offence, such as the death penalty for

smoking a cigarette. Second, punishment must be reasonably swift. Should a fighter not be punished for a certain action, it is more than likely that he will consider this action is condoned by the group, and continue to engage in that behaviour.

Sanctions systems are often embodied by military courts. Their members need to be trained in the movement's rules, although they may build on prior legal experience. The prime example of such a court system is that of the LTTE, namely the:

courts enforced the Tamil Eelam Penal and Civil Codes, both of which were enacted in 1994. These codes, like the rest of the LTTE legal system, were based on a mix of Sri Lankan, Indian and British law. The LTTE also established a 'law college'. Initially open to LTTE cadres alone, it was later opened to the wider population. The course was of 5 years duration, consisting of 3-years academic study and a 2-year apprenticeship (Sivakumaran, 2009, p. 494).

Indirect measures

While some measures seem to have no direct link to rules, they do influence respect for them. Indeed, some of them can enhance respect for elements of international humanitarian law. This section examines examples of such measures in three areas: the control of fighters' actions, the prevention of pillaging, and safeguards for the civilian population.

Controlling fighters. Many groups put in place a careful vetting system for their recruits, mainly to prevent the enemy from infiltrating the group. This system has a positive side effect: it is difficult for common criminals to exploit the group as a safe haven. In 2010, the Taliban realized—or dared to state publicly—that their reputation could be stained by such criminals and asked some of their officials to screen their recruits more effectively:

The provincial and district commissions, in addition to their other work, will also monitor, so that bad people do not get into the mujahedin fronts, and if they see such people, they shall report them to the governor (Clark, 2011b, p. 9, art. 47).

Another means of enhancing control is to ask external players to monitor the group's performance, or to use ongoing external monitoring as a source

of information for the leadership. There is no shortage of organizations ready to provide this service, be it in public reports such as those issued by Human Rights Watch, through verification missions such as those undertaken by Geneva Call, or within a confidential dialogue such as with the ICRC. The MILF, for instance, agreed to let at least two organizations monitor its fighters' behaviour. The International Monitoring Team was asked to 'monitor, verify and report non-compliance by the Parties to their basic undertaking to protect civilians and civilian communities' (GRP and MILF, 2009, art. 2). Geneva Call conducted a verification mission in 2009 to investigate allegations of violations of the group's deed of commitment (Geneva Call, 2011, p. 21).

Preventing pillaging. Populations whose possessions have been appropriated become very vulnerable to extreme poverty, loss of livelihood, and hunger; moreover, they are often pushed to leave their home areas. Armed groups know that they cannot expect much support from people who have left the area under their control, and that initial neutrality or even favour will quickly turn into overt or passive hostility if pillaging is not checked. The PLA, for one, underscores the need to rein in pillaging in its 'Three Main Rules of Discipline and Eight Points for Attention'; no fewer than six rules out of 11 deal with the issue. The use of various terms to refer to forceful appropriation reflects fighters' many excuses for this misconduct, including 'asking for material', 'borrowing', and 'using' (commandeering) without returning or in a way that is destructive.⁶⁷

Armed groups that view themselves as the legitimate or incumbent government may decide to tax people living in areas under their control. They may develop strategies to prevent these taxes, which they consider legitimate, from being perceived as arbitrary claims, extortion, or pillaging. Such measures include the following:

- paying restitution (PLA in China);
- ordering commanders to pay for everything in cash (NRA in Uganda);
- providing fighters with salaries or covering their needs and providing some 'pocket money' (FARC in Colombia);
- providing written proof of payment of the revolutionary tax (Front de Libération Nationale in Algeria and Forces Nationales de Libération in Burundi);⁶⁸
- centralizing all proceedings (ELN in Colombia); and

- establishing a civil administration—which could entail mechanisms by which civilians can complain to the group (CPN–M in Nepal).⁶⁹

The establishment of a civil administration has been advocated by a number of theorists of insurgency, such as Mao and Che Guevara, with the aim of controlling the population. The FARC laws are a case in point (FARC, 2009, pp. 200–07). This approach introduces an intermediary between the people and the fighters, who could otherwise extort what they want by sheer force. The intermediary can mediate in disputes, sheltering the population from direct demands. Groups such as Hezbollah, the LTTE, RCD–Goma, and the Taliban have all established one form or another of civil administration, or at least an intermediary between the fighters and the population (Mampilly, 2011).

Protecting civilians. Armed groups need to go beyond a mere intention to safeguard the civilian population if they want to prevent ‘accidents’ from derailing their aims. In this context, grey areas—such as those surrounding the definitions of ‘civilian’ or ‘collateral damage’—can contribute to a gradual but quick erosion of standards.

The first series of measures taken by armed groups can involve warning the population of dangers. The FMLN, for instance, published a list of nine behaviours that would lead civilians to be at risk, including boarding military vehicles or aircraft, living within 50 metres of army installations, and serving as guides for the army (FMLN, 1988, pp. 22–23).⁷⁰ Armed groups can also warn a population that mines have been laid in certain areas; the FMLN did so through radio announcements and the ELN requires the population to be informed, without any further precision (FMLN, 1988, p. 24; Arce Rojas, 1998, pp. 143–47).

Most armed groups assume that the civilian population includes individuals who are in fact enemy combatants, especially those who provide intelligence to the enemy (spies); some groups intend to target such enemies. Whether an armed group’s definitions reflect international humanitarian law may be debatable, but if its fighters begin to kill people in plain clothes (regardless of whether these individuals can be considered civilians), a downward spiral almost always ensues. The first killings are usually undertaken based on discernable reasons and evidence, while later ones tend to be justified using increasingly incomplete evidence, if any. In such cases, it is extremely difficult for the leadership to regain control.

Unless a group intends to engage in terror campaigns, placing organizational restraints on killings is therefore necessary. Some groups choose to submit information on planned killings to a type of review board. The NPA and the Taliban have chosen to do so, the former with a review by a People's Court and the latter with a two-layer system:

The provincial or district judge or, in the absence of a judge, the provincial official, has the authority to issue a verdict. The authority to execute a spy lies with the Imam, his Nayeb or the provincial judge, or if no judge has been appointed, it lies with the authority of the provincial governor. No one else has the authority to order an execution (Clark, 2011b, p. 5, art. 17).

If such checks function, they can help to lower the incidence of killings. Indeed, political documents, internal regulations, and practical measures all contribute to the establishment and enforcement of rules of behaviour among armed groups. It is not sufficient for a group to state and promote the rules; the whole machinery of the group must be brought into conformity with the rules such that they might be applied with consistency. 🗨️

II. Codes of conduct: defied or respected?

To understand what makes a code of conduct an effective tool for regulating behaviour, this section compares two different armed groups that were militarily active for about ten years and that adopted the same text. The case of the Revolutionary United Front in Sierra Leone demonstrates that such codes can fail to produce effects; in contrast, the case of the People's Liberation Army (Communist Party of Nepal–Maoist) in Nepal shows that the use of codes can indeed yield benefits.

In evaluating the impact of any code of conduct on the behaviour of a group's fighters, observers should keep the following three factors in mind:

- 1) **Codes of conduct are aspirational.** Unless it is a mere propaganda ploy—a rare use judging by the documents reviewed for this study⁷¹—a code of conduct is not a description of *what is*, but of *what should be*, what the group *wants to be*. The insistence of the 'Three Main Rules of Discipline and Eight Points for Attention' on banning theft, extortion, plunder, and pillaging in all their forms does not reflect the Chinese PLA's ability to successfully prevent such acts from ever taking place. On the contrary, it is a clear sign that the leadership saw these issues as key challenges in terms of their members' behaviour. These 'rules' and 'points' were thus adopted as parts of various measures designed to curb such misconduct. The recurrence of proscribed behaviour is not necessarily evidence of the failure of a code of conduct; a decline in the incidence of misconduct over time is a better indicator.
- 2) **Some people do not follow rules.** At some point, some fighters will disobey group rules, as they remain human beings with a margin of decision-making power, however limited that may be. While they may value the training and education they received and they may be under the impression that transgression will cost them dearly, not all fighters will suppress personal initiatives. Even the repressive LRA—with its elaborate, ruthless control methods and serious deterrence with respect to desertion—suffered numerous

defections. Plentiful anecdotal evidence suggests that fighters regularly disobey direct orders, a reminder that even the best-conceived code of conduct will not succeed in eliminating the role of individuals. It may thus be more useful to focus on indicators of a group's efforts and willingness to curb violations, rather than on the successful eradication of the same.

- 3) **Some actors impersonate their enemies.** People who are not under the control of the group may use its guise to commit actions to tarnish the group's name or to advance their own interests. The armed group may thus be blamed for acts committed by people whom it does not control. *False flag* operations—operations carried out by a party pretending to be the enemy—are a reality in non-international armed conflicts. Insurgents, pro-government armed groups, and state forces can commit them.

On the government side, the use of 'pseudo-gangs', military units impersonating armed bands in order to create confusion and gather intelligence, was developed in the 1950s.⁷² On the armed group side, false flag operations are rarely documented by their authors for fear of reprisals; they often go undetected because the victims attribute them to the wrong party. In Sierra Leone, there is a solid body of evidence regarding their use, including by the RUF. The RUF commander, Mohamed Tarawallie—alias Zino or CO Mohamed—was:

*responsible for the policy of 'false flag' operations. This policy sowed considerable mayhem and bitter distrust of the [Sierra Leone Army]. Tarawallie was the main and most frequent perpetrator of attacks in which the whole troop under his command wore full [Sierra Leone Army] uniforms (SLTRC, 2004, vol. 2, ch. 2, para. 146).*⁷³

In Nepal, both government forces and the PLA have impersonated the other, which contributed to a climate of fear, but also makes the attribution of particular killings difficult (HRW, 2004, p. 55).

In view of these factors, an assessment of a code of conduct's effectiveness should entail a critical examination of the evidence of behaviour; such analysis should help reveal whether respect and violations are due to the text and its accompanying measures, or whether they have to be ascribed to other causes.

Defying the code: the RUF in Sierra Leone

The RUF waged war in Sierra Leone from 1991 to 2002. Their military ideology comprised a number of regulations, including what they called the 'Three Discipline Factors' and the 'Eight Codes of Conduct'.⁷⁴ Under these unusual names, the RUF had 'adopted' the 'Three Main Rules of Discipline and Eight Points for Attention' (SCSL, 2009, p. 217, n. 1202).

In a conflict known for its brutality and the targeting of civilians by all factions, the RUF have been deemed the 'primary violator of human rights in the conflict', committing 60.5 per cent of the 40,242 violations identified by the Truth and Reconciliation Commission (SLTRC, 2004, vol. 2, paras. 106–07).⁷⁵ The sheer amount of recorded violations renders the possible misattribution to the RUF of acts committed by another party immaterial. Even if some of the witnesses attributed actions by others—generally the Armed Forces Revolutionary Council (AFRC)—to the RUF, these claims would not change the big picture:

The RUF's terror tactics included the widespread abduction of children and their forced enlistment into the RUF movement under threat of death; massacres of entire communities and the targeting of traditional figureheads and influential persons; campaigns of amputations; public and brutal executions; and the destruction and looting of property.

The RUF carried out widespread rapes and acts of sexual violence against women and girls (SLTRC, 2004, vol. 2, paras. 117–18).

The RUF actions during the war were so widespread that they reflected a lack of respect of the 'Three Discipline Factors' and the 'Eight Codes of Conduct' that cannot be attributed to a lack of control by the leadership over isolated individuals or even to acts made necessary by the military situation. Nor can their pillaging be explained away as a forced expropriation of goods for the benefit of the struggle. It is safe to say that the RUF violated both sets of its own rules:

In the 'run', or flight from a target, the RUF systematically accrued 'resources' for its sustenance as a guerrilla fighting force. Hence the RUF habitually captured civilians and took them unwillingly from their communities, often torturing them and forcing them into carrying pillaged properties (SLTRC, 2004, vol. 2, para. 136).

Their regular ill treatment of prisoners—both fighters and civilians—and widespread acts of rape and sexual violence against women also contradict their ‘Eight Codes of Conduct’. Lastly, their campaigns of amputations of civilians did not display any respect for the ‘masses’ on whose behalf the group claimed to be fighting. It is self-evident that the RUF code of conduct was disregarded by the fighters; the causes behind this disrespect are multiple.

The first cause is the RUF’s **political ideology**. The movement did not portray itself as fighting for the population—which would have been in keeping with the ‘Three Discipline Factors’ and the ‘Eight Codes of Conduct’—but as fighting against the government. This goal was documented and comprised a key part of the training of new recruits at Camp Naama, Liberia, during the early years of the movement (SCSL, 2009, paras. 651–52). In later years, the depth of ideological training varied substantially from recruit to recruit and a number may have had little idea of why they were fighting. Nevertheless, a key aspect of the RUF’s political ideology was ‘the notion that the people of Sierra Leone were tasked with helping the revolution to succeed. [. . .] Civilians who did not support the movement were perceived as enemies and therefore legitimate targets’ (SCSL, 2009, paras. 654, 709). Moreover, many former RUF fighters are not even aware of the existence of the ‘Three Discipline Factors’ and the ‘Eight Codes of Conduct’.⁷⁶

The second cause is the **lack of consistency in the RUF doctrine**. At the level of fighters’ conduct, the doctrine consisted of at least four different sets of rules: the ‘Three Discipline Factors’, the ‘Eight Codes of Conduct’, the ‘Eleven General Orders’, and the ‘Twenty-Five Standing Orders’. In addition, the RUF also boasted ‘Eleven Principles of Leadership’ (SCSL, 2009, p. 217, n. 2102). This variety did nothing to provide clarity to the fighters and produced confusion among RUF recruits, most of whom were young and barely literate—only one-third had completed more than a primary education. The adoption of so many rules was nothing more than a formality—a copy-paste—rather than a true appropriation of the contents of these texts and of their military-ideological underpinnings. Simply put, the RUF seems to have guided its doctrine by the principle, ‘the more texts, the better’. Such a haphazard collection failed to clarify what type of behaviour leaders actually sought from the rank and file.

The third cause was the **selective use of punishment** to repress violations of the RUF rules regarding ways to deal with the population. In theory, the group prided itself on a developed military structure with a staff system as well as several security units, known as the Internal Defence Unit, the Intelligence Officers branch, G5s, military police, and Black Guards (SCSL, 2009, pp. 223–24). These had the power to start or request investigations on alleged misconduct. In parallel, there were several reporting systems allowing the high command to know what happened on the ground. Punishment could, and occasionally would, be meted out for wrongdoings, including rape, looting, and arson. In practice, however, this system was not able to enforce respect for the codes of conduct.

On the one hand, discipline and obedience were deemed critical in maintaining the RUF as a cohesive military organization, and this message was instilled into recruits. Junior fighters who disobeyed commanders' orders risked being beaten at best and killed at worst. Yet on the other hand, punishment of abuses involving civilians was only systematic 'in locations where the RUF had a relatively stable control over that territory and [where] the objective of such actions was [to] secure the loyalty of civilians for the success of their operations' (SCSL, 2009, para. 107). In fact, the disciplinary process was used only to reinforce RUF control over their own fighters; provided the latter obeyed orders, they would be granted virtual immunity. Even if the security apparatus started an investigation, serious punishment would have to be decided by the high command (SCSL, 2009, p. 269, para. 841). This process effectively created immunity for acts short of insubordination.⁷⁷

The fourth cause was a **weak and informal chain of command**. Commanders had to rely on their 'status' to determine their positioning within the organization; their superiors and others could easily overturn their decisions if this status was insufficient. Status was determined mostly by the person's training background. The Special Forces trained in Libya had more prestige than the Vanguarders, who trained in Camp Naama. Yet the Vanguarders had a higher status than junior commanders who had joined during the conflict; any vanguard could give orders to a junior commander. Status was further determined by the number of bodyguards an individual commander had, officially according to their rank, but in practice according to their status and authority within

the movement (SCSL, 2009, paras. 666–71). By giving precedence to ‘old hands’, this system helped to maintain a certain unity of purpose within the RUF—despite major defections, such as the one of Commander ‘Superman’ (Denis Mingo). In practice, it also meant that low- and mid-level commanders were stripped of disciplinary authority over their fighters for offences that did not imply insubordination. The arrest of RUF leader Fodey Sankoh in 1997 only complicated matters; a power vacuum emerged because the high command was non-existent for several months, allowing local commanders and powerbrokers more leeway.

The fifth cause was the **example and orders given by commanders**. At all levels of the RUF, commanders ordered violations of the ‘Three Discipline Factors’ and the ‘Eight Codes of Conduct’, setting precedents that their subordinates would emulate. The prime example is ‘Operation Pay Yourself’. In 1998, when RUF and AFRC fighters retreated from Freetown, they were told to loot as a way to get their salaries. The order was first given by Johnny Paul Koroma of the AFRC, but was quickly confirmed by Sam Bockarie, the RUF’s highest authority. The Chamber of the Special Court for Sierra Leone finds that looting was systemic from this point onwards (SCSL, 2009, paras. 783–84). Pillaging was very much to the advantage of the commanders. In a survey, more than 70 per cent of former RUF fighters stated that appropriated valuable goods were shared with the commander, kept by the commander, or sent out of the unit (to higher echelons). In contrast, most of the appropriated food was either kept by the individual fighter or divided among the unit (Humphreys and Weinstein, 2004, pp. 27–28). In April 1998, Sam Bockarie ordered a subordinate commander to burn Koidu Town to the ground (SCSL, 2009, para. 813). In addition, the RUF perpetrated amputations as part of a movement policy, either to make a political point during elections—such as during the 1996 ‘Operation Stop Elections’—or as a way to attract international attention to the conflict. In other words,

the perpetrators themselves were acting under strictly enforced orders or other forms of compulsion. For example, the children were instructed that they would be killed if they did not act as their commanders wished. This applied to all violations, but was more prominent in amputations where the children were given different noms de guerre such as ‘Cut Hand’ (SLTRC, 2004, vol. 3A, para. 32).

The sixth cause relates to **training**. The Special Forces, which formed the basis of the RUF, had been trained in Tajura, Libya, with mixed results.⁷⁸ Their training had not taught them respect for the ‘masses’; on the contrary, the trainees who withstood their Libyan instructors’ disregard for their life and well-being actually developed contempt for the weak. When these young recruits subsequently trained the Vanguard, they used the same exercises and philosophy that their instructors had inflicted on them. These included the notorious *halaba*, a run during which trainees who were too slow or unable to continue would be beaten and flogged (SCSL, 2009, paras. 1640–41). Such exercises were designed to create resilient fighters; they instilled a conviction in the fighters that they were the elite and that any weaker person was subhuman, and thus not worthy of consideration. While this training did not aim to teach members to violate the ‘Three Discipline Factors’ or the ‘Eight Codes of Conduct’, it undermined these rules even before the conflict began. The practice of Liberian combatants fighting alongside the RUF in 1991–93 also seems to have had a negative impact as it was emulated by their Sierra Leonean comrades in arms (SCSL, 2009, para. 724); although this is not training per se, its effect cannot be underestimated.

Recruitment methods may also have undermined the potential effectiveness of the codes of conduct. One study reveals that 85 percent of former RUF fighters had been recruited by strangers and 87 per cent had been abducted; in contrast, only 9 per cent had joined because they supported the RUF ideology (Humphreys and Weinstein, 2004, pp. 24–25). Such coercive recruitment is largely at odds with the concept of defending the community. If the same level of coercion had been used to train recruits to abide by rules, they may have shown respect for the ‘Three Discipline Factors’ and the ‘Eight Codes of Conduct’.

The mechanisms to enforce such respect were in place. Abducted fighters—mostly minors—were screened for combat suitability before undergoing training, including weapons handling and basic tactics, as well as ideology. Throughout the process, reports on the trainees’ performance were compiled. Once the training was completed, however, the fighters became more—not less—ruthless, often viewing civilians as no more than ‘chickens’. The RUF sought to amplify this development by providing fighters with drugs, so that they could feel like ‘big persons’ and ‘become bloody’ (SCSL, 2009, pp. 482–86). The use of alcohol—

sometimes known as ‘Dutch courage’—or drugs to help fighters to cope with combat stress and feel better about risking their lives is neither new nor specific to the RUF. It does not in itself explain why command and control systems did nothing to curb violations of the rules. In fact, as one witness recalled, control mechanisms were effective at keeping fighters obedient:

Then he [the RUF commander] also said that if at all anyone had [. . .] gone through the training, if you go to the front line to the battlefield, whatever you were told to do is what you will do. If you failed to do it, like, he himself, he will not accept that. He even set an example, he said he would execute you if you failed to do what you were told to do (SCSL, 2009, para. 1643).

Simply put, the main single reason why the ‘Three Discipline Factors’ and the ‘Eight Codes of Conduct’ were ineffective in the RUF is that they were ‘adopted’ without being integrated. They remained foreign to the group’s political ideology, were part of a confused military doctrine, and were systematically disregarded by the whole chain of command in its orders and decisions, including with respect to training and discipline. Ultimately, the RUF had not correctly understood the ‘Three Main Rules of Discipline and Eight Points for Attention’; by separating the ‘Three Rules’ from the ‘Eight Points for Attention’, they demonstrated a lack of appreciation of their underlying links. It is not surprising that these rules remained widely unknown to RUF fighters and the public before the RUF case at the Special Court for Sierra Leone. The real question is not why they were not respected, but why the RUF adopted them in the first place.

Respecting the code: the PLA in Nepal

The Communist Party of Nepal–Maoist waged war in Nepal between 1996 and 2006. During this time, under the leadership of Prachanda (Pushpa Kamal Dahal), they managed to take control of most of the country, even if greater towns and the capital remained in government hands. In 2001, the People’s Liberation Army was formally created as the armed wing of the party.⁷⁹ The war ended with a peace agreement at a time when the PLA controlled most of the national territory (HRW, 2004, pp. 9–15; ICG, 2005).

The conflict in Nepal was brutal, on both sides. Even before the war officially started, the Nepalese Police had launched Operation Romeo, which ‘resulted in gross violations of human rights, including the arbitrary arrest and detention of hundreds of left-of-center parties, rapes, executions and “disappearances”’ (HRW, 2004, p. 10). The conflict intensified with the deployment of the Royal Nepalese Army in 2001 and the Terrorist and Disruptive Activities (Control and Punishment) Act, better known as TADA, in 2002. Despite the fact that forces under state control committed most of the abuses reported by organizations such as Human Rights Watch, the PLA was not blameless when it came to respecting international standards:

As part of their ‘people’s war’, they have deliberately targeted and killed civilians suspected as informers. Most of the victims are members of opposition political parties, persons suspected of having informed against them, and persons who oppose them in any other way. The Maoists often torture and execute their victims in public, to show civilians what can happen to those who dare stand against the Maoists [. . .]. Human Rights Watch has documented summary executions, torture and disappearances by the Maoists [. . .]. There has been no accountability for any of these abuses [. . .]. The Maoists have recruited children and used them for logistical support in front line combat, for carrying ammunition and supplies, and as cooks and porters (HRW, 2004, pp. 15–16).

The PLA was responsible for significantly fewer violations of human rights than the government. In 2004, for instance, the National Human Rights Commission recorded 197 complaints against the Maoists and 747 against state forces. Of the 1,083 total complaints for that year, the PLA is cited in around 18 per cent of conflict violations (NHRC, 2004, p. 43).⁸⁰ The figures provide an indication that the PLA’s conduct was not faultless.

The PLA followed Maoist military doctrine, especially regarding three-stage war. As part of this doctrine, the PLA adopted the ‘Three Main Rules of Discipline and Eight Points for Attention’, which they viewed as consistent with the aim that ‘people should be harmed to the minimum extent possible’ (BBC News, 2006). The fact that the PLA was responsible for a low proportion of acts that led to complaints in 2004 is testimony to the effect of these efforts; nevertheless, the PLA was involved in the killing of civilians, torture, extortion,

and recruitment of children. Since the recruitment of children is not mentioned in the 'Three Main Rules of Discipline and Eight Points for Attention', this section examines only the killing of civilians and extortion.

The killing of civilians. In the majority of cases, the CPN–M claimed responsibility for killing civilians, 'explaining that the executed individuals were "informers", a vague charge which encompasses any act which defies Maoist dictates' (HRW, 2004, p. 54). The party leadership made it very plain that informants of the army should not expect to be left alone. As Prachanda told the BBC:

We have not killed people or anyone when army surrounds the village and forces people to support and help them. The policy of our party is that informants of the army, the ones who work as spies, and have committed the crime of killing people, then there would be action against them. There is a policy to act against them. But there is no policy that we kill people generally on the basis that they have helped the royal army [. . .]. Our policy is that if he is an informer, we'd capture him, stand him in front of the people's court, and take action as per the verdict of the court. Considering the degree of the crime, he could be given a labour punishment for a certain time, or for a while kept under the custody of people, and if the crime is big, he could even be executed. The party policy is to follow this process (BBC News, 2006, emphasis added).

Given the heavy reliance of Nepali government forces on local informants to identify, locate, capture, and even kill suspected Maoists, it seems logical from a tactical point of view that local informants, being a main security threat for the Maoists, would become a target for attacks (HRW, 2004, p. 55). After all, if these informants were looking for and transmitting information allowing for the killing or capture of PLA fighters, the PLA could not easily consider them civilians.

In fact, neither the PLA nor its code of conduct advocated respect for civilians, which is a legal category; instead, they called for respect for the *people*, as stated in Point 5, 'Do not hit or swear at people'. The CPN–M definition of the enemy did not only encompass armed and security forces, but also the 'clique of feudal elements', which could include people with a different political ideology (BBC News, 2006). Although the 'feudal elements' were not defined clearly,

the term comprised supporters of the monarchy, large landowners, and, more generally, the Kathmandu elites, which were perceived as oppressing 'the people'. The group thus felt they had grounds to kill key persons seen as counter-revolutionary or as informants. This position is not contradictory to the 'Three Main Rules of Discipline and Eight Points for Attention' and the PLA pursued this course of action throughout the war.

In the first year of the war, the Maoists killed six times more civilians than police personnel; with fewer than 50 deaths, however, overall death figures remained low (ICG, 2005, p. 21). Between 1996 and July 2000, the CPN-M killed 178 political activists. These murders reflect a careful targeting of political victims in such a way as to undermine the control of the state in the countryside as well as possible political competition (ICG, 2005, p. 21). Human Rights Watch identified 11 civilians killed by the CPN-M in nine incidents between 15 June 2003 and 8 March 2004; these figures certainly suffer from undercounting as information was difficult to access in Maoist-held areas, but they confirm that the extent of killings by CPN-M agents was limited (HRW, 2004, pp. 53-60).

The leadership had managed to put a number of mechanisms in place to prevent individual killings from being used to justify wide-scale murders. These mechanisms also prevented the emergence of large-scale patterns of abuse of prisoners (Point 8: 'Do not ill-treat captives'). While CPN-M fighters often killed people in gruesome ways, they generally treated captured enemy personnel with restraint, disarming them and lecturing them about the revolution. These prisoners were generally protected from the population or were held in villages under the care and control of local communities (Pasang, 2008, pp. 31, 98). In the same way, sexual violence against women was very rarely reported (Point 7: 'Do not take liberties with women').

However, PLA officials up to the highest level were ready to admit mistakes. Prachanda himself made several rueful statements, asserting that the movement was not 'happy about 13,000 people being killed. For sure, we are saddened by it' (BBC News, 2006). He also argued, 'Because we are at war, I can't rule out mistakes. But we try to correct them' (*Time*, 2005). In addition, Prachanda pointed out that whenever 'a mistake is made and someone loses their life outside of our policy, we have asked for a pardon from the *people*' (BBC News, 2006, emphasis added).

Extortion. Unlike the killing of civilians, ill treatment of prisoners, and sexual violence, extortion happened on a wide scale. The CPN–M viewed this practice not as ‘extortion’, but rather as the collection of taxes, levies, and more or less voluntary contributions. Specifically, by 2005:

Secret contributors to the Maoists include not only businessmen, industrialists and traders but also senior politicians and civil servants. In the rural areas under their sway, the Maoists collect ‘taxes’ from individuals with a cash income, such as teachers, and seasonal donations in kind, such as portions of the harvest, from farmers. Rates of ‘tax’ on incomes vary from 5 to 25 per cent. Tourism has also become a source of cash for the Maoists, who levy compulsory contributions on trekkers of most popular mountain routes (ICG, 2005, p. 17).

In the area under the CPN–M’s control, people could not avoid making these payments without risking death (HRW, 2004, p. 56). The taxes were applied selectively, with varying rates and higher demands on those with salaries:

the main source of our income is the same people we are fighting for. As a secondary source, we used to extract from our enemies; but now, our main source is the support of the people (BBC News, 2006).⁸¹

Some commodities proved especially profitable for the CPN–M. In 2004, in one district alone, the tax on yarcha gumba⁸² exported to India provided the group with USD 600,000, a hefty sum (ICG, 2005, p. 18).

Based on their tax plan and their efforts at land reform, the Maoists could argue that their system was fair to the people, as the privileged classes and big businesses bore a greater portion of the burden. While data is scarce, destitution in Maoist-held areas does not appear to have been caused or exacerbated by the group, but rather by pre-existing systemic conditions and a war-induced slowing of trade. Given that pillaging by fighters was virtually unknown, the CPN–M could also argue that its taxation system respected the ‘Three Main Rules of Discipline and Eight Points for Attention’.⁸³

Six factors help explain how the CPN–M generally managed to shape the behaviour of its fighters according to its chosen code of conduct.

The first factor was that the CPN–M chose to rein in its fighters as part of a **long-term strategy**. The movement had a relatively clear vision of what it wanted

and then chose how to achieve it. Its strategy—known as protracted people’s war—was adopted five years *before* the start of the conflict (ICG, 2005, p. 21). Baburam Bhattarai, a member of the group’s standing committee, provides some insight into this approach:

We basically decided to follow Mao’s strategy. However, [. . .] as the situation in Nepal at this time was quite different from that in China half a century earlier, we thought it necessary to develop both the ideology and military strategy in our own unique way (Ogura, 2008, p. 12, emphasis added).

Chandra Prasad Gajurel, a CPN–M Central Committee member, points out that, prior to the conflict, the CPN–M had interaction with the Shining Path in Peru and the Indian Maoists. They studied these groups with an eye to selecting their own course of action:

By analysing those documents and the examples available in India, we also thought that although the ‘mass line’ was missing in Peru, the military plan and basic principles of the People’s War adopted by the Shining Path nevertheless could be applicable in Nepal (Ogura, 2008, p. 9).

Within their chosen strategy, the role of fighters was clearly subordinate to the ultimate goal. Similarly, short-term decisions were subordinate to the long-term goal; in other words, the end did not justify all means. The code of conduct was a part of this long-term vision.

The second factor was that the CPN–M made **ongoing organizational improvements**. The year 2001 was key, marking both the intervention of the Royal Nepalese Army in the conflict and the creation of the PLA. This escalation from guerrilla units to a regular force allowed for attacks on harder targets. As Gajural notes:

Before, we used mobile warfare tactics against the police, that is, ‘hit and run’ tactics with relatively small forces. But after the Ghorahi attack [in November 2001], we entered into a stage of highly mobile warfare and began to develop a positional warfare strategy, using larger PLA forces against our government targets (Ogura, 2008, p. 18).

This shift also seems to have allowed for better control of fighters' actions, as 'the Maoists concentrated their attacks on military targets and *the proportion of civilian killings fell*' (ICG, 2005, p. 21, emphasis added). The original People's militias formally depended on local CPN-M leadership and not on the PLA structure; they continued their activities, but the creation of the PLA with a clearer chain of command was a major factor in shaping behaviour both for PLA units and for the militias.

The third factor was **training and political education**. The CPN-M designated 'political commissars' to lecture their fighters, the people, and even enemy prisoners; these trainers were present at all levels, from the divisions down (ICG, 2005, p. 19; Pasang, 2008). Apart from being a tool to ensure control of the party over the gun, a typical Maoist concept, political commissars were in charge of disseminating the rules and of explaining them. They also acted as a control mechanism over commanders, advising them on their planned actions and reporting any suspected deviation to party officials.⁸⁴ This system was not without flaws, but it ensured that fighters at all levels—in the PLA, in guerilla units, and in people's militias—would know what was required from them.

Yet the system was put under severe strain in 2005 and right after the peace agreement in 2006. In both cases, many new recruits joined at the same time, posing serious challenges in terms of integration. In 2005, the PLA increased the number of its divisions from three to seven and prepared for urban uprisings (Ogura, 2008, p. 21). After the peace agreement, the Youth Communist League expanded rapidly, mostly in urban areas where the CPN-M had previously failed to create a mass organization. As one observer reports:

Despite frequent declarations by Maoist leaders on their commitment to control the activities of the Maoist youth organisation, the YCL, cases of violence committed by its members frequently still are being reported. During the latest Central Committee meeting (which started on January 5, 2008), Prachanda admitted the party's failure to control the YCL and asserted that their activities have actually damaged the Maoists' image. But due to a rapid expansion of the organisation, especially in urban areas, where thousands of youths have recently joined the YCL and the Maoist-affiliated trade union, it will be quite difficult for the party to fully control their cadres (Ogura, 2008, p. 47).

The fourth factor was the **punishment of offenders**. Sanctions were instituted once the Maoist leadership admitted that there were failures. Weaknesses and shortcomings of military operations were routinely assessed, such that lessons could be learnt (Pasang, 2008).

In contrast to other armed groups, which frequently blame their enemies for any actions that may have attracted negative media coverage, the CPN–M showed readiness to acknowledge at least some mistakes.

From this position flowed a system whereby fighters could be disciplined. Little is known about the internal workings of this process, but some details have emerged. One case concerns the apparently unauthorized June 2005 Maoist bombing of a bus in Madi, which killed nearly 40 civilians and several soldiers. As Prachanda reported, an internal review process took place and the offenders were punished:

Our party workers who were involved in it, they were expelled from the party and the army, and the report on how this expulsion was carried out was given to the UN. We informed them about who was sentenced, who had committed what crime, the nature of the crime, and the kinds of punishment given to them. All this information was given (BBC News, 2006).

The fifth factor was ensuring that the **code of conduct was upheld in operational orders**. Pasang, a former PLA commander, provided insight into this process by reconstructing a number of these orders. The preparation of operations was quite thorough, with reconnaissance of the targets, elaboration of a plan, and, time permitting, the construction of a sand model that could be as big as 25 m². It also involved what Pasang calls ‘coaching of the assault force’. The coaching was an in-depth briefing on the aim of the operation, the plan, and the structure of the force. Crucially, it involved orders for the use of weapons, for the care of the sick, for the protection of private property, and for the treatment of prisoners (Pasang, 2008, pp. 199–209). It may also have entailed rehearsals for the smaller operations, or for smaller parts of a larger operation. In all cases, issues regarding the fighters’ behaviour had to be defined in the coaching.

The sixth factor was the creation of a **civil administration and civil laws**. The CPN–M aimed to set up a structure parallel to the state, thus effectively ensuring control of the countryside and facilitating the attainment of some of

its goals, such as land reform (Ogura, 2008, p. 19). They also allowed for some representation of the people at the local level, albeit under the control of the party, and created an effective control over the role of PLA commanders. The civil administration reinforced these checks and balances, thus limiting the need for interaction between fighters and the population.

What makes a code of conduct effective?

As described above, codes of conduct are only one among many measures an armed group can take to regulate its fighters' behaviour. The cumulative effects of such measures can include respect for norms.

The FMLN is among armed groups that have taken a series of measures to produce cumulative effects. Their measures encompass four very different areas:

- public statements (see below);
- an 'internal military normative', that is, internal regulations, such as their code of conduct entitled 'Fifteen Principles of the Guerrilla Combatant';
- practical measures directly linked to the norm, such as providing training;
- practical measures with only an indirect link to the norm, such as freeing most of their prisoners.

The linchpin of these four measures is the 'internal military normative', as is true for all insurgent armed groups. The following is among the FMLN's public statements:

[The FMLN] has taken concrete measures to protect the civilian population and guarantee respect for the government troops wounded in combat or that are under its control as prisoners of war. Some of these measures are:

- 1) *To urge compliance with an internal military normative on how the combatants should behave in their interaction with the civilian population. This set of norms:*
 - *Includes preventive measures to prevent the troops from taking abusive attitudes against the civilian population or behaving towards it in a manner similar to that of the government army.*

- Gives guidance so that each combatant, by his own conviction, will inspire respect, protect the life and property of the people; especially defend the elderly, women and children; and respect the popular customs and beliefs.
 - Establishes sanctions against those who it is proven do not comply with this set of norms. According to the seriousness of the case, the sanctions can be admonishment, detention, demotion, removal of rank, or expulsion.
- 2) To designate and train militia dedicated exclusively to the protection of the non-combatants who live in zones under the control of the FMLN. [. . .]
 - 4) To take effective precautions to spare the civilian population during the attacks carried out by the FMLN. [. . .]
 - 5) To treat prisoners of war well even though the government do not do the same. To free the majority of them. To give wounded government troops the same medical care that the FMLN combatants receive (FMLN, 1988, pp. 6–7, emphasis added).

As noted above, the cumulative effect of all measures is key to shaping behaviour, as is illustrated by the NPA in the Philippines. After taking a decision to adopt IHL rules, the whole movement issued not one but two unilateral declarations,⁸⁵ made several public statements, issued two booklets repeating this stance, and concluded the CARHRIHL with the government (NDFP, 2005; 2009). It also issued at least one standing order in 1988,⁸⁶ put the ‘three–eight’⁸⁷ into force, disseminated these rules, integrated them into training, set up people’s courts and spelled out some judicial guarantees to apply, and set a minimum age for recruitment (NDFP, 2005, pp. 148–50, 160–61; 2009, pp. 92–93; Santos and Santos, 2010, p. 269). On its own, each of these measures would have had little impact; together, they reinforced each other, even if the result is not ideal.

While codes of conduct are most effective if they form part of a series of coherent, interrelated measures, a few of their inherent characteristics can also be conducive to effectiveness. Although they are not necessary to prescribe behaviour, codes of conduct have great potential because they define standard behaviour as the *ethos* of the organization. Yet unless a code of conduct is known (disseminated) or taught as well as supported by orders and sanctions, it will be an empty shell. As is apparent from the case of the RUF, the mere existence of a code of conduct is not sufficient for it to have an effect.

In addition to being one of a series of harmonized measures, an effective code of conduct should have particular characteristics and embody certain principles. As explained below, these include being understandable to fighters; being short, clear, and relevant; being able to translate standards into action; providing a sense of ownership; enjoying the backing of the group leadership; and being known by fighters.

To have some prospects of effectiveness, a code of conduct should first be **understood by fighters**. Some activists may wish to lobby armed groups to adopt a code of conduct that cites international humanitarian law. While such intentions are commendable, they may not realize that few fighters have serious knowledge of international law and that they will not heed a document that seems to have no visible link to their everyday life. Recognizing this fact, the Libyan NTC complemented its code of conduct with guidelines. While the code quotes some articles of the Geneva Conventions and its Protocols, it remains very general; in contrast, the guidelines, which were distributed to fighters during the conflict, provided practical instructions. The NTC had tasked the NGO Lawyers for Justice in Libya to draft the guidelines, also known as the *Front Line Manual*. One of the drafters recalls:

We were asked to focus on two areas: guidelines for the detention of captured Qadhafi forces, and guidelines on targeting. Our brief was to provide concise guidance which would set out basic legal standards with the aim of advising how the dissident forces could avoid breaching the law of armed conflict or, for that matter, expose themselves to liability under international criminal law [. . .]. The guidelines are perhaps over-determinative as they leave little room for the use of discretion in their application. This was inescapable given the conditions in which they are intended to be used. The untrained fighter in the field, we thought, needed clear and relatively unequivocal guidance. This was done using two formats: a flowchart to provide clarity in deciding whether someone should be detained; and a set of fairly simple propositions to govern matters such as the treatment of the dead, the wounded and the sick, conditions of detention, and basic rules on targeting (Scobbie, 2011).

Moreover, a code of conduct must be **short, clear, and relevant**. It must respond to challenges experienced by fighters or address actual behaviour the

leadership intends to correct. If an armed group has no intention—let alone the capacity—to use nuclear weapons but includes a rule prohibiting their use into its code of conduct, the document will seem irrelevant and thus lose credibility in the eyes of fighters. The fighters—not external activists or observers—are the audience that matters, as clearly expressed by the CNF:

The objective of writing this law is to let all the CNF members understand it. In other words, this law is meant for the people who practice it. The Geneva Agreement [that is, Conventions] is written by international legal experts using relevant legal terms. Therefore, translating the original version of the Geneva Agreement into Burmese and distributing among the CNF members would be lengthy and boring and would not help in practical usage. If the members are to be made aware of the precepts of the Geneva Agreement and made to follow it, then it is necessary to make it easy to read and understand and present it in a practicable way. [. . .] As it is irrelevant to the present situation of war in Burma, some articles from the Geneva Agreement were omitted. This is done in order to avoid 'the longer the code the lesser the practices' effect. In order to shorten the code as much as possible, only those parts of the Geneva agreement relevant to the situation in Burma and that are necessary to be practiced, were chosen and erected as law (CNF, 1995, emphasis added).⁸⁸

A code of conduct must **translate group standards into action**, both positive and negative. The ‘Three Main Rules of Discipline and Eight Points for Attention’ devote six rules to the general issue of pillaging, but never even say the word. These rules are both positive (do) and negative (don’t), addressing specific behaviour that could lead to undue appropriation from the people.

Further, fighters must see a code of conduct as belonging to their group; that is, they must have a sense of **ownership** over the document. The RUF experience is a stark warning, highlighting that codes of conduct drafted and proposed by outsiders will have a limited impact if they are not integrated into a group’s ethos and doctrine. Fighters will soon know if a text has been adopted only for public relations purposes. In addition, they are more likely to respect a code of conduct that regulates their daily military activities (such as ‘rule 1: Obey orders in all your actions’) than one that deals exclusively with legal issues. Rather than adopting an ‘IHL-only’ document, an armed group should thus:

internalise its international obligations and other commitments by ‘translating’ norms into internal codes of conduct. There may be a need for outside technical assistance or support for the effective implementation of undertakings. Care should, however, be taken to ensure that the relevant [armed non-state actor] assumes the responsibility for adoption, dissemination, and implementation of applicable norms (Geneva Academy, 2011, p. 35).

To create ownership, the leadership must put its full weight behind the code of conduct; without **leadership backing**, this regulation will be disregarded. If it is promulgated by people with real internal power, at the highest possible level, ownership will be almost automatic. If, in addition, fighters see that the same people who promulgated the code are the ones ensuring its dissemination and enforcement (through monitoring and sanctions), effect is almost guaranteed.

The opposite will be true if top leaders do not back measures aimed at enforcing a certain type of behaviour; in that case, even a series of documents will have little impact, as was the case with the FDN, better known as the Contras. Indeed, the Contras had at least one combatant’s manual, a code of military conduct, a manual of conduct, plus several military manuals such as the infamous *Psychological Operations in Guerrilla Warfare* and the *Freedom Fighter’s Manual* (FDN, 1980; CIA, 1983a; 1983b). The FDN also published *Comandos*, a monthly information bulletin that may have been used to prescribe behaviour in ways similar to *Awami Jung* and *Inspire*. The documents contradicted each other, however. Most of these guides—which contain rules that would further the protection of civilians—originated with the political direction, while real power rested with the military leadership. Edgar Chamorro, an FDN director from 1982 to 1984, claims he had very little influence on the military wing of the movement (Chamorro and Morley, 1985). The manuals, which feature instructions that would lead civilians to be harmed, had the backing of those truly in charge of the movement, the military leadership. Fighters quickly understood which documents would be enforced.

Leadership backing is tested in two ways. Throughout the hierarchy, commanders must 1) respect the rules themselves in the orders they give, and 2) enforce that respect by applying sanctions whenever necessary. If commanders fail to do so, the code of conduct will be applied inconsistently, if at all. The RUF case is an extreme illustration of such a situation, as the code of conduct was not disseminated in the first place. Yet the same mechanisms are likely to

apply in groups that are much more serious about their own rules, as revealed by combatants of the RCD–Goma and Patriotes Résistants Congolais (PARECO):

Two former corporals in RCD–Goma reported that they followed only one rule: ‘Do what you are told by your superiors’. These corporals said that regulations [including the code of conduct] were for high-ranking officers and their job was only to follow the orders given to them verbally at a particular moment. Low-ranking PARECO combatants told a similar story. These individuals explained that although general regulations did exist in PARECO, these rules were broken when commanders ordered them to be broken. As a former PARECO corporal put it, ‘If the commander ordered you to steal, you stole’. If a rank-and-file combatant stole without authorization, this action would be severely punished; however, if a combatant refused to steal while under orders to do so, this was insubordination and would be met with much harsher treatment. In this way, codes of conduct were broken while orders were obeyed (Richards, 2011).

Finally, a group’s code of conduct can only be applied if its **fighters are informed**, that is, if it is disseminated (UNSC, 2009, para. 42). In this sense, the extent and quality of dissemination is a predictor of effectiveness. In an ideal world, each fighter should have a copy of his group’s code of conduct in his pocket and use it as a guide for his actions (FMLN, 1985, p. 1).

Some factors seem to have no real influence on a code of conduct’s effectiveness. Perhaps surprisingly, motivations behind a code of conduct are only secondary. Provided a group’s leadership truly respects the code, the motivation for prescribing certain norms to the fighters—be it self-interest or a humanitarian ideology—is irrelevant.⁸⁹ The Taliban *layha* is a case in point; it was not adopted because the movement wanted to abide by international standards. Rather, it stemmed from three major issues:

the need to curb problematic behaviour of certain prominent commanders, to reiterate the Movement’s Emirate-era self-identity as a bringer of security and justice and to deal with practical issues of rule given the increasing amount of territory coming under the movement’s direct control (Clark, 2011a, p. 3).

Whether the code is written or oral also seems to have little influence on a code’s impact. In many cases, fighters will know written codes of conduct only orally, especially if they are illiterate. For the Taliban,

[t]he Layha is like a decree from Amir ul-Mu'minin [mullah Omar]. Seniors send it to the mid-level commanders and they [in turn] describe it to the juniors and then foot soldiers. But it changes a lot by the time it reaches the fighters' level. Of course, it's not delivered to the fighters or even the junior commanders, who are illiterate. However, if they know the rules, they will obey Amir ul-Mu'minin (Clark, 2011a, p. 16, emphasis added).

The strength of the chain of command does not seem to be a determining factor either. If a group's command system is strong from the beginning, a code of conduct can be implemented more easily. Yet as mentioned above, every code of conduct is *aspirational* in nature; it states what the armed group wants to be, or how it wants to appear. As such, it is a tool to create compliance, to shape reality. In that sense, it can also be used as a tool to reinforce the chain of command—by creating standards that justify central intervention into local issues, or by creating a common understanding among like-minded commanders that contributes to a better standardization of acceptable behaviour. A code of conduct and a chain of command tend to strengthen each other, though one does not necessarily precede the other.

The experience of the Ugandan NRA is instructive with reference to links between conduct and discipline. According to its former leader, Yoweri Museveni, the NRA code of conduct was written and went into force as a tool to redress some wrongs, although it also contributed to a strengthening of the group's military organization:

Wherever I went, we held leaders' meetings at which there was strong criticism of the wrongs that had taken place. I came back from Singo to hold a meeting in the Lutta unit around Christmas 1981. [. . .] While in London, I had drafted a 'code of conduct' for the NRA, and a Ugandan student there named Edith Nyugunyū had typed it for me. At Kanyanda we adopted this NRA code of conduct and we put in place all the structures that guided us from then on. In fact the army continues to use this same code of conduct today.

The essentials of the code dealt chiefly with the relationship between the freedom-fighters and members of the public, especially the crucial importance of protecting civilians' lives and property. The need for personal discipline amongst combatants, and maintenance of good relationships between officers and men was another

important factor highlighted in the code. Political education was to become mandatory in order that cadres and soldiers would understand the purpose of the struggle.⁹⁰ The code also sought to instil leadership qualities in the soldiers by admonishing them to eschew cheap popularity, intrigue and double-talk, tribalism, corruption and liberalism. 'Liberalism' was defined as a situation in which a person in authority knew what was right and what was wrong, but because of his weak leadership, he would not stand firmly on the side of right. The following methods of work were to be used in correcting mistakes within the army: open criticism—holding regular meetings at which all complaints could be heard and settled; and distinguishing between and meting out due punishment for errors which were caused by indiscipline, corruption or subversion. The formation of cliques within the army was strictly forbidden and there was to be no soliciting of information for its own sake. Thus, the principle of 'the need to know' was established. Regular tactics were to be known to all officers, cadres and combatants, but operational matters were restricted only to those who needed to know them (Museveni, 1997, pp. 146–47).

As has been demonstrated, codes of conduct and other internal regulations can be effective tools in shaping behaviour; however, external factors may thwart efforts in this direction. When enemy activity disrupts the chain of command by forcing commanders to move constantly, by intercepting communications, and by killing or capturing key leaders, a group is much less likely to be able to enforce its own codes.⁹¹ 📌

III. Codes of conduct and weapons

In humanitarian terms, weapons in the hands of armed groups pose three different problems. First, they may be used to attack civilians. Second, they may be used under substandard supervision or stored in inadequate facilities, which may lead to firing incidents or stockpile explosions that can injure or kill people in their vicinity, threatening both civilians and fighters themselves. Third, they may be diverted or transferred to ‘problematic recipients’, such as other armed groups or criminal groups. In this context, the way armed groups:

regulate—or fail to regulate—the use and management of small arms by their fighters can diminish or exacerbate violence against civilians. Regulation can also affect the incidence of casualties caused by accidental small arms use, and condition the likelihood of ammunition depot explosions. In other words, dialogue with armed groups on the small arms issue during the conflict phase can help save civilian lives (Florquin, Bongard, and Richard, 2010, p. 305).

Implicit mention of weapons

Codes of conduct typically make implicit reference to the use of weapons in general and small arms in particular. They aim to prohibit certain acts that can only be committed with weapons.

If combatants use their weapons to threaten or make demands of unarmed civilians or prisoners, these victims have very little choice but to comply with their demands. As a former fighter in Myanmar has noted:

[W]e say the civilian population supports us by giving us food. But I’m carrying an AK-47—who is going to refuse me a chicken? The moment we pick up a gun we become an abuser of other people’s human rights.⁹²

In some cases, armed groups acknowledge the asymmetric nature of the power relationship between armed fighters and their prisoners. The CNF code of conduct, for example, implicitly recognizes that prisoners are in no position

to choose whether to have a sexual relationship with their captors, which may be forced on them with or without the threat or use of overt violence. It thus prohibits both rape as well as ‘adultery’ with prisoners.⁹³

The same is true of pillaging. Farmers and displaced persons generally are in no position to prevent armed groups from taking their possessions—sometimes at a level that threatens their very survival. In the same way, individuals who act as human shields have generally been coerced to do so—often in view of the presence of small arms or threats to use them.

Explicit mention of weapons

While codes of conduct may contain specific provisions on small arms, they generally do not cover all the key aspects related to weapons, such as procurement, stockpiling, distribution, maintenance, and use.

Although armed groups tend to be short of weapons and ammunition, such that it would behove them to regulate the use of such assets in their codes of conduct, the practice appears to be rare. The following are among the few armed groups whose codes of conduct contain regulations on weapons:

- Armée de Libération Nationale (ALN) in Algeria: ‘Aim to destroy enemy forces and recover as much materiel as possible’ (Benabdellah, 1982, emphasis added).⁹⁴
- CNF in Myanmar: ‘Members of Chin National Front must not use *landmines* or anti-personal mines if there is the possibility of civilian casualties’ (CNF, 1995).
- FMLN in El Salvador: ‘We will do our utmost to guard our weapons and ammunition. We will admonish and punish harshly those who are careless with weapons or waste ammunition’ (FMLN, 1985).⁹⁵
- NRA in Uganda: ‘Never kill any member of the public or any captured prisoners, *as the guns should only be reserved for armed enemies or opponents*’ (Weinstein, 2007, pp. 371–74).⁹⁶

Similarly, oaths rarely make explicit mention of weapons. Exceptions are the oaths of the Viet Cong, the EGP, and the Local Coordination Committees (LCC)/Free Syrian Army:

- Viet Cong in Vietnam: ‘I swear to maintain and protect my weapons, ensuring they are never damaged or captured by the enemy’ (USDoD, 1966, p. 15).⁹⁷
- EGP in Guatemala: ‘Use weapons only against our enemies and never against our people or peers’ (Andersen, 1983).⁹⁸
- LCC and Free Syrian Army in Syria: ‘I pledge not to use my weapon against activists or civilians, whether or not I agree with them; and I pledge to not use my weapon against any other Syrian citizen. I pledge to limit my use of weapons to the defense of our people and myself in facing the criminal regime’; ‘I pledge to surrender my weapons to the Transitional Authority, which will manage the country’s affairs during the transitional period after the fall of the regime’ (LCC, 2012, arts. VIII, X).⁹⁹

In the same way, armed forces make limited use of codes of conduct to regulate the use of weapons.¹⁰⁰ Of those listed in Table 2, South Africa’s is the most specific on the handling of weapons: ‘I will not alter weapons or ammunition for the deliberate purpose of increasing suffering’ (DoD–SA, 2009). Mali’s code of conduct has three rules (of 37) dedicated to the use of weapons during internal troubles (MFAAC–Mali, 1997, arts. 12, 34–35), inspired by the UN’s ‘Basic Rules for the Use of Force and Firearms’ (OHCHR, 1990). Among the others, the ones that mention weapons take a general approach, such as the US ‘Soldier’s Creed’, which states: ‘I always maintain my arms, my equipment and myself’ (US Army, n.d.). Israel’s document contains a prescription on ‘Purity of Arms’, which states that materiel must be used for the purpose of the mission and not to harm non-combatants or prisoners of war; this rule elaborates on other prohibitions but is not expressly designed to regulate weapons use (IDF, 2012).

Measures regarding weapons

Although armed groups do not generally use codes of conduct to regulate weapons use, storage, or transfers, they have five other types of internal regulations at their disposal to do so, namely standing orders and standing operating procedures, military manuals, penal or disciplinary codes, internal organization documents, and operation orders.

Standing orders and standing operating procedures. Because they focus on specific issues or units, standing orders can provide details regarding the procurement, stockpiling, maintenance, distribution, storing, and use of weapons. They may target specific layers of the leadership, partly to avoid burdening fighters with concerns over which they have little influence. Even a few relevant precautions may dramatically reduce the incidence of injuries or fatalities. Examples include the following:

- The ANC 'Rules and Regulations Covering the Handling of Weapons and Explosives of our Movement' regulate the possession, distribution, handling, recording, and maintenance of weapons, as well as safety measures.¹⁰¹ They are the prime example of how armed groups can try to shape their members' behaviour regarding all issues linked to weapons, and not only the use of force.
- The Naxalites' 'Standing Orders for Squads' regulate the use of weapons in general.¹⁰²
- The MILF's 'Internal Regulations on Use, Stockpiling, Production and Transfer of Anti-Personnel Mines' is an example of how an armed group can regulate the use of a specific weapons category.¹⁰³
- Although armed groups have not adapted Geneva Call's manual *Implementing the Deed of Commitment for Adherence to a Total Ban on Anti-Personnel Mines and Cooperation in Mine Action*, they have responded positively to this endeavour (Geneva Call, n.d.). The manual uses the ten-rule format typical of an internal order, which a group's leadership might use if it were to issue an order on landmines. The rules include the prohibition of use (rule 1), production (rule 2), transfer (rule 3), and stockpiling (rule 4) of landmines.

Military manuals. In describing tactics and actions to be taken, military manuals effectively prescribe standard actions regarding weapons. The unofficial Swiss manual for armed resistance against occupation is replete with such indications. It describes ways to secure and store supplies of weapons, ammunition, and explosives (von Dach, 1965, pp. 14–18, 104–05); the type of weapons to use in an ambush or in urban combat as well as methods for starting a fire (pp. 33, 150–54); what types of mines to use to block roads and dangers posed by uncontrolled mines (p. 29); and the use of explosives in sabotage (pp. 46–71).

Although this is not technically an armed group manual, it reflects requisite knowledge and thinking of armed group leaders. Moreover, it has most probably landed in the hands of armed groups since its release more than 50 years ago.

Penal or disciplinary codes. Since they specify which behaviour the leadership is unwilling to tolerate among its fighters and link these rules to punishment, penal codes can act as complements to standing orders. Simply put, they allow the leadership to control what they have commanded. Unsurprisingly, in the SPLA and ANC codes, weapons are secondary to issues such as disobedience to orders or desertion:

- The now-superseded SPLA Act of 1994 defines a number of offences linked specifically to firearms, such as theft and negligent loss (paras. 4(d), 4(f), 15). In the 2003 SPLA Act, these rules have all but vanished, appearing only in a few vague references and one passage on an offence involving the abandonment of weapons and ammunition before the enemy.
- The ANC 'Military Code' only addresses 'negligence in handling, using or storing and loss of weapons' (ANC, 1985, Military Code, General Regulations, 4d).

Internal organization documents. Given that they focus on internal processes and decision-making, internal organization documents can address the issue of responsibilities for procuring, stockpiling, distributing, maintaining, and—to a lesser extent—using weapons. The Taliban *layhas* do not devote much space to these concerns, except when it comes to the sharing of weapons captured from the enemy and to transferring weapons from one group to another (Clark, 2011b). This approach reveals that some weapons-related issues may need to be regulated together with the internal processes of armed groups.

Operation orders. In providing details on a given tactic, operation orders must specify the selection of weapons and the conditions of their use.¹⁰⁴ For armed groups, they represent the best tool for balancing military needs against precautions designed to minimize collateral damage. They also allow an armed group commander to define behaviour regarding scattered weapons and ammunition after an operation, which can have a protective effect regarding unexploded ordnance.

To armed groups, standing and operation orders are the most appropriate tools for regulating any issue linked to weapons. Humanitarian organizations involved in related negotiations should note that, of the two, standing orders are the best tool for the provision of general regulations. Compared to codes of conduct, standing orders can be more detailed and are also easier to issue and change. Consequently, an armed group is more likely to discuss the issuing of such an order than the possibility of making changes to its code of conduct. In discussions with representatives of armed groups, humanitarian actors should thus be particularly aware of the distinctions between orders and codes of conduct, in addition to understanding the specific characteristics of all internal regulations.

For an order to be effective, however, the individuals who are to execute it must undergo weapons training. If the fighters are not trained, they will not respect a group's regulations. Such was the case during the civil war in the Republic of the Congo; in 1997 in Brazzaville, both state forces and armed groups distributed AK-47s among villagers and urged them to join the fighting at the front lines (Biddle, Demetriou, and Muggah, 2002, pp. 4–5, 10).

Training can be especially effective with regard to the handling and combat use of weapons. While it is difficult to train fighters *not* to mistreat a prisoner or rape a civilian, it is possible—and even relatively easy—to train them to load, unload, secure, and fire a small arm with accuracy. It is also possible to train them to use firearms purposefully and to avoid wasting ammunition. In the Democratic Republic of the Congo, fighters of the National Congress for the Defence of the People (CNDP) were taught during their training ‘not to leave bullets in the firing chamber of their rifles or to leave the chamber open, particularly when no longer engaged in combat’ (Richards, 2011). Similarly, RCD–Goma fighters reported basic training of around six months. Indeed, a former sergeant major of the RCD reported that his movement had gone to considerable lengths to standardize the use of their weapons:

*We had military regulations for the handling of the M16, SMG, revolvers, rockets, grenades, bombs, etc.*¹⁰⁵

Training can also yield results when it comes to stockpile management, particularly with respect to safety procedures designed to prevent accidents in storage. Such training was evident in the CNDP:

prior to distributing weapons, a record would be kept. The registration number of the weapon would be written down next to the name of the combatant receiving it. The number of cartridges handed out to this individual would also be noted. When the combatant returned from his mission he would bring the weapon back to the depot (Richards, 2011, p. 6).

Weapons transfers to armed groups

States sometimes transfer weapons and military equipment to armed groups. A recent, well-documented case is that of the National Transitional Council in Libya. At various stages of the 2011 conflict, several governments provided the NTC and local brigades with weapons and training. Qatar seems to have played a prominent role in this regard (ICG, 2011, p. 21).

One of the criteria used to assess arms transfers by a state is the recipient's respect for IHL. Indeed, participants in the 2003 International Conference of the Red Cross and Red Crescent adopted by consensus a humanitarian goal stating that 'States should make respect for international humanitarian law one of the fundamental criteria on which arms transfer decisions are assessed' (ICRC, 2007, p. 3). The ICRC published a practical guide that identifies key indicators to guide such an assessment. These include:

- Whether a recipient which is, or has been, engaged in an armed conflict has taken all feasible measures to prevent violations of IHL or cause them to cease, including by punishing those responsible; [. . .]
- Whether the recipient disseminates IHL, in particular to the armed forces and other arms bearers, and has integrated IHL into its military doctrine, manuals and instructions; [. . .]
- Whether accountable authority structures exist with the capacity and will to ensure respect for IHL (ICRC, 2007, p. 5).

An assessment of whether an armed group respects IHL should review both implicit and explicit prohibitions on the use of weapons. While political documents may be very telling, internal regulations shed light on a group's actual use of weapons. A state that is planning to transfer weapons to an armed group should thus view these documents as indispensable to any evaluation of the group's position on IHL. 📄

Conclusion

Codes of conduct play a key role in defining an armed group's ethos and identity; they can also provide unusual insight into an armed group's internal structure, aims, weaknesses, and respect for IHL and human rights. In the past few years, they have attracted increasing attention, leading some humanitarian actors to suggest drafting a generic code of conduct that embraces international humanitarian norms and encouraging armed groups to adopt such a document.

Yet, as this report shows, codes of conduct represent only one among many types of internal regulations through which a group can exercise control. Together with political documents, these tools prescribe and shape the behaviour of the rank and file as well as the leadership. Focusing exclusively on codes of conduct in an effort to enhance respect for IHL among armed groups thus has both pros and cons.

The pros. A model code of conduct that armed groups across the world, or across a region, could adopt may help promote generic standards—and ensure that they are consistent with international law. It could also create momentum for enhanced respect for certain norms, as groups that refuse to adhere to a generic text upheld by the international community could be shunned according to the content of this document. Such an environment might strengthen the impact of 'terrorist lists', which many armed groups currently view as opaque and politically motivated. Removing an organization from a terrorist list based on its compliance with a generic code of conduct would provide new incentives for armed groups to comply with international standards.

At the group level, codes of conduct tend to be used with more regularity than other internal documents; the inclusion of IHL rules in this document—rather than in other internal regulations—may thus have more of an impact on a group's members. Codes of conduct are also often easier to obtain from an armed group than other internal regulations; members of armed groups tend to be willing to discuss these rules if they are asked to do so.

The cons. Since armed groups write and fine-tune their own rules, they tend to have well-developed internal regulations by the time they engage in dialogue with any external actors. Once a code of conduct has been issued, it is challenging to amend or replace it. Unless an armed group is engaged in talks at a very early stage in its formation or while it is in the process of amending its rules, a generic code of conduct could clash with its existing regulations, representing a challenge rather than a benefit.

A second obstacle to the adoption of a model code of conduct concerns the limited odds that an armed group will respect rules proposed by external actors, who may attempt to offer armed groups unsolicited—and perhaps unwelcome—advice. Successful integration of such rules—as by the CNF in Myanmar and the NTC in Libya—remains rare, as a code of conduct must reflect a group’s culture, ideology, and system of operation. If it does not, the risks are high that it will only serve as window dressing. Indeed, as the examples of the CPN–M in Nepal and the RUF in Sierra Leone demonstrate, fighters are not likely to respect a code of conduct unless its rules are locally relevant and the group leadership adopts and enforces them. Given that group members must feel a sense of ownership if they are to respect a code of conduct, a generic code would have very little legitimacy if it were to replace a home-grown regulation, effectively supplanting part of the group’s identity. Even worse, combatants are likely to view the adoption of an ‘IHL-only’ code as a move to ‘please the foreigners’ and thus completely disregard the rules.

What is true of ‘IHL-only’ codes also applies to external rules. The International Criminal Tribunal for the former Yugoslavia finds that most of the internal regulations of the NLA of Macedonia, for example, were ‘merely KLA documents with an NLA heading or front cover’ (ICTY, 2008b, para. 273). The court bases that judgement on two main findings: first, that several NLA documents still contain references to Kosovo instead of Macedonia and, second, that these regulations were not widely known below the level of brigade commanders. As the court concludes: ‘[T]here is no direct evidence that these rules and regulations were distributed and implemented throughout the NLA units and structures’ (ICTY, 2008b, para. 274). The same risks apply in the case of a generic code of conduct. Moreover, armed groups may exploit such a code to present themselves as conforming to IHL even though they pay no heed to its regulations.

Another obstacle concerns the actual drafting of a model code of conduct. Who would decide what issues are worthy of inclusion and how best to cover their key aspects? Certain issues may be obvious candidates, such as the interdiction of anti-personnel landmines; a ban on the recruitment of children; and the protection of women, the wounded, the sick, and 15–25-year-old men.¹⁰⁶ A code might also usefully prohibit pillaging, forced displacement, attacks on the health care system, torture, and hostage-taking while calling for respect for military discipline—including regarding the use and storage of weapons—and loyalty to the cause. While this list is not exhaustive and would grow considerably in response to feedback from armed groups themselves, it suggests that the drafting of a coherent, clear, and relevant model code of conduct is likely to be extremely complicated.

A final point to note is that codes of conduct are typically general in nature and thus not adequate tools for commitments to IHL and human rights. Armed groups can more appropriately make humanitarian pledges through public statements and unilateral declarations, which can be generic and initiated from the outside.

The humanitarian community should thus also consider drafting another type of generic document to enhance respect for international rules. While questions would remain regarding authorship and contents, other obstacles could be avoided. As Geneva Call has already demonstrated, armed groups have been willing to sign its generic deed of commitment, largely because it spells out generally accepted rules that do not require tailoring to reflect local conditions and circumstances. The NGO has observed that some signatories even use their own experiences to persuade non-signatory groups to take the same step, as when the SPLM/A wrote to the ELN on the matter in June 2004 (Geneva Call, 2005, p. 6).

Regardless of which type of document is the focus of discussion, humanitarian actors may find that an armed group has drafted rules that are contrary to international standards. Instead of demanding that such rules be replaced, which is unlikely to produce the desired effect, negotiators should point out how the rules contravene international norms, or which rules require clarification because they can be interpreted too widely. This type of negotiation is much more likely to support protection work effectively.

Humanitarian actors could bolster this approach by holding up examples to reveal that respect for international standards contained in IHL is not incompatible with winning a war, as evidenced by the FMLN experience. To wit, the Truth Commission for El Salvador received more than 22,000 complaints, of which only five per cent concern the FMLN (UNCT, 1993, p. 43). The FMLN's 'Fifteen Principles' were not their only measures, but they were indicative of the group's rules, such as a humane treatment of prisoners and of the people (FMLN, 1985).

Once an armed group adopts international norms, these must be translated into practical rules. Yet the protection work does not end there: the application of these rules must be monitored throughout the lifetime of the armed group. The process is thus an ongoing one, and one that requires great familiarity with each group's internal regulations and aims. Further research into the existence and effectiveness of codes of conduct would represent a significant contribution towards this end. ☑

Annexes

I. The 'Three Main Rules of Discipline and Eight Points for Attention' family

Originally devised by Maoist forces in China, this code of conduct has been used all over the world. It has been taken up by the CPN–M in Nepal, the Naxalites in India, the NPA in the Philippines, and the RUF in Sierra Leone. The CNL in the Democratic Republic of the Congo has adapted it, incarcerated FARC and ELN members have studied it,¹⁰⁷ and it was also part of the SPLA's universe of accepted rules.¹⁰⁸

I.1. Workers' and Peasants' Red Army/People's Liberation Army (PLA), China, 1947

The 'Three Main Rules of Discipline and the Eight Points for Attention' were first written as 'Three Main Rules of Discipline' (1927) and 'Six Points for Attention' (1928). They took their final form in 1947 (Xiaodong, 2001, pp. 143–44).

The Three Main Rules of Discipline

1. Obey orders in all your actions.
2. Do not take a single needle or piece of thread from the masses.
3. Turn in everything captured.

The Eight Points for Attention

1. Speak politely.
2. Pay fairly for what you buy.
3. Return everything you borrow.
4. Pay for anything you damage.
5. Do not hit or swear at people.
6. Do not damage crops.
7. Do not take liberties with women.
8. Do not ill-treat captives.

Source: Mao Tse-Tung (1963, pp. 343–44)

1.2. Conseil National de Libération (CNL), Democratic Republic of the Congo, 1963

The Eight Commandments of the People's Army

The weakness of the reactionary army resides in the fact that it oppresses the masses and mistreats soldiers. Conversely, the key to our victory lies in the organization and education of the masses and the politicization of the soldiers. The leaders and combatants pursue the same objective, which is to serve the masses. For this reason, in the revolutionary army, officers and soldiers are politically equal.

The officers must live and fight alongside their men and care about them.

To face the enemy, the revolutionary army must be sufficiently disciplined to meet any challenge.

The rules must be strictly observed and the orders of superiors strictly obeyed.

The fundamental way to inculcate this iron discipline is through ideological and political education.

The eight commandments of the partisans are as follows.

1. Show respect for all men, even bad men.
2. Buy things honestly from villagers and do not steal.
3. Return borrowed items in good time without causing problems.
4. Pay for objects you have destroyed and do it willingly.
5. Do not strike or insult other people.
6. Do not destroy and do not trample other people's property, do not march across the villagers' fields.
7. Respect women and do not take liberties with them.
8. Do not mistreat those you take prisoner in combat, do not confiscate their personal property such as rings, money, or watches.

Source: Sondji and Mayengo (2003, p. 12, translation by Patricia Brutus)

1.3. New People's Army (NPA), Philippines, 1969

The 'Basic Rules of the New People's Army' incorporate the 'Three Main Rules of Discipline and Eight Points for Attention', sometimes simply called the 'Three-Eight', within the wider framework of military discipline.

PRINCIPLE IV

Discipline

Point 1. The discipline of all officers and men of the New People's Army is a conscious discipline guided by Marxism–Leninism–Mao Zedong Thought, the Communist Party of the Philippines and the organizational principle of democratic centralism. The Party committees in the army shall see to it that the line, policies and decisions of the Party are implemented by the military command at all levels.

Point 2. The New People's Army adheres to the following discipline:

- a. An individual is subordinate to the whole army;
- b. The minority is subordinate to the majority;
- c. The lower level is subordinate to the higher level;
- d. All members are subordinate to the Military Commission and the Central Committee.

Point 3. All officers and men are prohibited from committing the slightest damage against the interest of the masses and they are always subject to the Three Main Rules of Discipline and the Eight Points of Attention of Comrade Mao Zedong so as to always advance their revolutionary integrity.

- a. The Three Main Rules of Discipline are:
 1. Obey orders in all actions.
 2. Do not take even a single needle or thread from the masses.
 3. Turn over everything confiscated to the proper body.
- b. The Eight Points of Attention are:
 1. Be polite in speech.
 2. Pay all purchases with the appropriate amount.
 3. Return everything borrowed.
 4. Compensate all damages.
 5. Do not hurt or curse anybody.
 6. Do not destroy the people's crops.
 7. Do not take liberties with women.
 8. Do not be cruel to captives.

Point 4. All officers are strictly prohibited to use bourgeois and feudal ways in dealing with the fighters and the masses.

Point 5. All officers and men are strictly prohibited from gambling and drunkenness.

Point 6. The Party committee in the army in the appropriate level or the military court that can be created by it shall conduct the trial and shall decide on the cases filed against officers and men at the level where the error or crime was committed. The following penalties shall be meted out based on the gravity of the crime:

- a. Strong warning
- b. Strong warning and transfer to another area of work
- c. Demotion
- d. Suspension
- e. Expulsion
- f. Expulsion and death

Point 7. In all types of penalties, except for expulsion, and expulsion and death, the erring individual or group shall be reeducated for a definite period of time and shall also apologize to the aggrieved party in public.

Point 8. The most severe punishment of expulsion and death shall be imposed to those proven to have committed treachery, capitulation, abandonment of post, espionage, sabotage, mutiny, inciting for rebellion, murder, theft, rape, arson and severe malversation of people's funds.

Point 9. All cases shall be thoroughly investigated and all accused shall be given a just trial.

Source: NDFP (2005, pp. 90–91, emphasis added)

I.4. Revolutionary United Front (RUF), Sierra Leone, no date

Eight Codes of Conduct

To speak politely to masses.

To pay fairly for all you buy.

To return everything that you borrow.

To pay for everything that you demand or damage.

Do not damage crops.

Do not take liberty from women.

Do not ill-treat captives.

Do not hate or swear people.

Source: SCSL (2009, para. 705)

II. Codes dating from 1945 to 1989

II.1. *Armée de Libération Nationale (ALN), Algeria, 1956*

There are a number of variations on this text, but they have no bearing on the general meaning.

Ten Commandments

1. Pursue the fight for liberation until total independence.
2. Pursue the destruction of enemy forces and recover as much equipment as possible.
3. Develop the material, moral, and technical potential of the units of the ALN.
4. Encourage the troops to move as much as possible, to regroup whenever they have been scattered, and to engage in offensive moves as often as they can.
5. Strengthen the links between the command posts and the various units.
6. Develop the intelligence network among enemy ranks and the general population.
7. Develop the National Liberation Front's network of influence among the people to secure reliable and constant support.
8. Strengthen discipline in the ranks of the ALN.
9. Develop a sense of fraternity, sacrifice, and team spirit among the combatants.
10. Follow the principles of Islam and international law in the destruction of enemy forces.

Source: Benabdellah (1982, translated by Patricia Brutus)

II.2. *Irish Republican Army (IRA), Northern Ireland, 1956*

This 'Guerrilla Code' appears in the *Green Book* (IRA, 1956).

- b. Instead of discipline of the regular army type there will be a more stern battle discipline: agreement on the job to be done, and the need to do it, and obedience to the guerrilla code, these take the place of the unthinking army type discipline.
- c. Breaches of the guerrilla code—desertion, betrayal, breach of confidence in any way—must be severely dealt with on the spot.

Source: IRA (1956, p. 13)

II.3. Viet Cong, Vietnam, no date

Code of Discipline

1. I will obey the orders from my superiors under all circumstances.
2. I will never take anything from the people, not even a needle or a thread.
3. I will not put group property to my own use.
4. I will return that which is borrowed, make restitution for things damaged.
5. I will be polite to the people, respect and love them.
6. I will be fair and just in buying and selling.
7. When staying in people's houses I will treat them as I would my own house.
8. I will follow the slogan: All things of the people and for the people.
9. I will keep unit secrets absolutely and will never disclose information even to closest friends and relatives.
10. I will encourage the people to struggle and support the Revolution.
11. I will be alert of spies and will report all suspicious persons to my superiors.
12. I will remain close to the people and maintain their affection and love.

Source: USDoD (1966, p. 16)

II.4. Sendero Luminoso (Shining Path), Peru, possibly 1981

This code of conduct for Shining Path members was captured in 1981.

1. Do not steal.
2. Do not help the police or the military.
3. Return what you borrow.
4. Be faithful to your partner.
5. Do not lie or insult others.
6. Do not mistreat prisoners.

7. Respect the property of farmers.
8. Maintain good moral conduct.

Source: Weinstein (2007, p. 152)

II.5. Sendero Luminoso (Shining Path), Peru, possibly 1982

This text addressing Shining Path unit commanders was captured in 1982, a rare example of a code of conduct for a specific category within an armed group.

Norms of behaviour for a Sendero Luminoso commander

1. Know your function.
2. Know yourself and work to improve yourself.
3. Know your men and look after their well-being.
4. Keep your men well informed.
5. Act as an example to your men.
6. Ensure that orders are understood, controlled and followed.
7. Train your men as a team.
8. Take decisions correctly and in a timely manner.
9. Act with initiative and develop a sense of responsibility among your subordinates.
10. Employ their unity and agreement to achieve all that is possible.
11. Assume the responsibility for their actions.

Source: Weinstein (2007, p. 375)

II.6. National Resistance Army (NRA), Uganda, 1982

Despite its title, this document is a unique mixture of a code of conduct and a disciplinary code. It played a role in the NRA's general effort to enforce standards of behaviour among its fighters and shows the interface between general rules and the need for internal sanctions in cases of non-compliance.

The National Resistance Army Code of Conduct¹⁰⁹

A. Dealing with the Public

1. Never abuse, insult, shout at or beat any member of the public.
2. Never take anything in the form of money or property from any members of the public, not even somebody's sweet bananas or sugar-cane on the grounds that it's mere sugar-cane, without paying for the same.

3. Pay promptly for anything you take and in cash.
4. Never kill any member of the public or any captured prisoners, as the guns should only be reserved for armed enemies or opponents.
5. Return anything you borrow from the public.
6. Offer help to the members of the public who may be in the territory of your unit.
7. Offer medical treatment to the members of the public who may be in the territory of your unit.
8. Never develop illegitimate relations with any woman because there are no women as such waiting for passing soldiers yet many women are wives, or daughters of somebody somewhere. Any illegitimate relationship is bound to harm our good relations with the public.
9. There should be no consumption of alcohol until the end of the war. Drunken soldiers are bound to misuse the guns which are given to them for the defence of the people.

B. Relationships among the Soldiers

1. The lower echelons of the army must obey the higher ones and the higher echelons must respect the lower ones.
2. In decision making, we should use a method of democratic centralism where there is democratic participation as well as central control.
3. Every officer, cadre or militant must strive to master military science in order to gain more capability so that we are in a position to defend the people more efficiently.
4. The following tendencies can be injurious to the cohesion of the army and are prohibited:
 - i. Quest for cheap popularity: on the part of officers or cadres by tolerating wrongs in order to be popular with soldiers.
 - ii. Liberalism: which entails weak leadership and tolerating of wrongs and mistakes. In case of liberalism, the person in authority knows what is right and what is wrong, but due to weak leadership, he does not stand firmly on the side of right.
 - iii. Intrigue and double talk: this can cause artificial confusion even when there is no objective basis for confusion.

5. The following methods should be used in correcting mistakes within the army:
 - i. Open criticism of mistakes instead of subterranean grumbling which is favoured by reactionaries.
 - ii. The holding of regular meetings at which all complaints are heard and settled.
 - iii. A distinction should always be made between errors due to indiscipline, corruption or subversion and treatment of each should be different.
6. All commanders should ensure that all soldiers, depending on particular circumstances, should at any one particular time either be fighting, studying military science or undertaking self-improvement in academic work, taking part in recreational activities, or resting. There should be no idleness whatsoever which breeds mischief.
7. Political education should be mandatory every day so that the cadres and militants can understand the reasons for the war as well as the dynamics of the world we live in. 'Conscious discipline is better than mechanical discipline.'
8. Formation of cliques in the army is not allowed, at the same time the principle of compartmentalization should be strictly adhered to and understood. We should adhere to the principle of the 'need to know' and avoid the mistake of soliciting information for its own sake. The strategy of the NRA and the regular tactics should be known to all officers, cadres, and combatants. But operational matters should be known to those who need to know.
9.
 - i. There shall be a High Command consisting of the Commander-in-Chief, who shall be Chairman, and eight other members to be appointed by the Commander-in-Chief.
 - ii. All members of the High Command shall be members of the Army Council.
 - iii. The High Command shall perform such functions as may be conferred upon it by any law in force in Uganda; or as the President may direct.
10.
 - i. There shall be a General Court-Martial, which shall be the supreme trial organ under this Code.
 - ii. This General Court-Martial shall consist of
 - a. Chairman;
 - b. two senior officers;

- c. two junior officers;
 - d. one Political Commissar; and
 - e. one non-commissioned officer.
11. i. There shall be a Unit Disciplinary Committee for each Army Unit which shall consist of:
- a. the Second in Command who shall be the Chairman;
 - b. the Administration Officer of the Unit;
 - c. the Political Commissar of the Unit;
 - d. the Regimental Sergeant-Major or Company Sergeant-Major of the Unit;
 - e. two junior officers;
 - f. one private.
- ii. The Unit Disciplinary Committee shall have powers to try all combatants below the rank of Provisional Junior Officer II for all offences except the following:
- a. murder;
 - b. manslaughter;
 - c. robbery;
 - d. rape;
 - e. treason;
 - f. terrorism;
 - g. disobedience of lawful orders resulting in loss of life.
- iii. A Unit Disciplinary Committee may refer any case in which its opinion is of a particularly complex nature to the General Court-Martial.

Source: Weinstein (2007, pp. 371–74)

II.7. Frente Farabundo Martí de Liberación Nacional (FMLN), El Salvador, 1985

The FMLN printed the ‘Fifteen Principles’ in 1985 in difficult conditions. Most surviving booklets are incomplete, as is the one housed in the Museo de la Palabra y la Imagen of San Salvador, which serves as the source of the following text.

The Fifteen Principles of FMLN Guerrilla Combatants

- The members of the five organizations that make up the FMLN shall become familiar and fully comply with the Fifteen Principles of FMLN Guerilla Combatants.
- Each combatant shall keep and preserve a copy of this set of principles.
- During political or military meetings or gatherings, these 15 [corrected by hand, original obscured] principles shall be used as guidelines for fraternal and constructive criticism and self-criticism.
- Upon accomplishment of each political or military mission, we shall determine whether, as an organization, we are fully complying with these principles.
 1. We struggle to destroy the Capitalist exploitation of our Nation, and to build a workers' society. We struggle for SOCIALISM.
 2. [missing; Hammond (1996, p. 439) quotes it partially in English: 'We live to struggle, we struggle to win']
 3. [missing]
 4. Our means of warfare are valuable, and gaining access to them has involved bloodshed and great sacrifices on the part of our forces. We shall take great care of our guns and ammunition. Those who neglect their guns and waste ammunition shall be strongly criticized and punished.
 5. We shall be aggressive and brave in combat. We shall show discipline in executing every order and accomplishing every mission. We shall tirelessly march wherever necessary. We shall turn all hatred of exploiters into courage.
 6. We shall treat prisoners with respect. We shall always strive to persuade enemy soldiers to leave the army of the rich. We are not an avenging army. Our goal is to build the future of the poor.
 7. We shall struggle against ignorance and permanently strive for cultural self-improvement. By doing so, we shall further strengthen our convictions and be more useful in our struggle.
 8. We shall be the friends of the people: we must have deep knowledge of their problems, guide them, and include them in our struggle everywhere. By doing so, we will transform our Nation into an immense sea of guerilla groups and organized people.

9. We shall support, guide, and encourage the workers' struggle and demonstrations for their demands to be met. The revolutionary war is the one waged by the peoples and their will to struggle in all possible ways.
10. We are a very united Revolutionary Army. Social equality and mutual respect among chiefs and combatants are both cornerstones of such unity.
11. We shall always promote revolutionary values such as austerity, simplicity, unselfishness, humbleness and honesty. We shall condemn conceit- edness and individualism.
12. [missing]
13. [missing]
14. We are patriots fighting for our independence. In this battle, US Impe- rialism is our enemy. We shall not rest until our land is completely free from this form of domination.
15. We shall honour our heroes and martyrs' memory. We will proudly shed our blood if necessary, if that is the price for achieving our Liberation.

Source: FMLN (1985, translated by Edith Vilela)

II.8. Holy Spirit Movement (HSM), Uganda, 1987

Francis Ongom, the chief clerk of the HSM's leader, Alice Lakwena, dictated the 'Holy Spirit Safety Precautions' to missionaries in June 1987. This reproduction of the text retains the original, somewhat erratic punctuation and references to verses of the Bible. The text represents a blend of Christian and animistic elements typical of the HSM and its successor, the Lord's Resistance Army. Inexplicably, the document does not mention the Quran, which HSM members read as part of a daily routine (Behrend, 1999).

The causes and the solutions of all the problems in Uganda can only be biblically explained and resolved by turning to Our Lord Jesus Christ and becoming God-fearing people. See: Jo.14,1,5-6; 14,12-21; 2 Cor.5,11-21; 2 Cor.6,1-18; 7,1; Prov.17,11,14-17,21-24; Eccl.7,1,8-14; Prov.1,7; 1 Cor.1,18-31;Ex.23,20-22. (Francis Ongom)

As a result, the chief commander, his holiness the lakwena issued the Holy Spirit safety precautions which are 20 in number:

1. Thou shalt not have any kind of charms or remains of small sticks in your pocket, including also the small piece used as a tooth brush. (Lev.19,4,31; Is.3,18-20; Ez.13.17-23).
2. Thou shalt not smoke cigarettes. (1 Cor.3,16-20)
3. Thou shalt not drink alcohol (Prov.21,1; 23,20-21; Is.5,11-12,20-22; Num.6,1-4)
4. Thou shalt not commit adultery or fornication (Deut.5,18; Gal.5,19)
5. Thou shalt not quarrel or fight with anybody. (Prov.17,12-13)
6. Thou shalt not steal (Lev.19,11; Deut.5,19; Rm.13,9)
7. Thou shalt not have envy or jealousy (Lev.19,17; Prov.27,3-4).
8. Thou shalt not kill (Lev.19,16; Deut.5,17; Rm.13,9)
9. You will execute the orders and only the orders of the Lakwena (Deut.5,7)
10. Thou shalt not carry any walking stick in the battle field.
11. Thou shalt not take cover on the ground, in the grass, behind trees, ant-hill or any obstacle there found. (Deut.7,21-24; Ex.23,27-28)
12. Thou shalt not pick from the battle field any article not recommended by the Lakwena. (Deut.5,21; 6,25-26; Jos.7.10-11.19-26)
13. Thou shalt not kill prisoners of war. (Lev.19,18.33-34; Mt.6,14-15)
14. Thou shalt follow the right words of command, and never argue with the commander. (Lev.19,2-4; Deut.5,20; 1Cor.4,1)
15. You shalt love one another as you love yourselves. (Lev.19,18; Mt.22,37-39; Rom.13,8-10; Gal.5,14-15)
16. Thou shalt not kill snakes of any kind. (Ex.7,8-13; 8,1-4; Os.2,18)
17. Thou shalt not eat food with anybody who has not been sworn in by the holy spirit.
18. Thou shalt not branch off to any home or shake hands with anybody while on route to the battlefield.
19. Thou shalt not eat pork or mutton or oil of the same. (Ex.12,14-18; Lev.1,10-11; 7,11; 19,26; Lk.8,32-33).
20. Thou shalt have two testicles, neither more nor less.

Source: Behrend (1999, pp. 46-47)

III. Codes dating from 1990 to 2011

III.1. *Ejército de Liberación Nacional (ELN), Colombia, 1995*

Code of War

The Camilist Union–National Liberation Army, member of the Simón Bolívar Guerilla Coordinating Board, acting on behalf of a certain number of Colombians, exercises its right to rebellion against foreign dependence and oligarchic dominance.

With such causes and goals in mind, the Camilist Union–National Liberation Army conducts this liberation war and, therefore, organizes its military forces under the authority of responsible leaders who observe discipline and comply with the International Humanitarian Law norms that have been included in this Code:¹¹⁰

Respect for the civilian population

- Civilians shall not be used as human shields during combat.
- When the enemy takes civilians hostage in its movements, efforts shall be made to avoid harming them during attacks on enemy forces.
- Military operations shall be carried out against enemy forces in such a way as to avoid indiscriminate attacks.
- Efforts shall be made to avoid damage to civilian property and installations resulting from military operations and to make reparations where possible.
- The civilian population shall be informed of the location of mined areas.
- No acts shall be undertaken with the sole purpose of spreading terror among the population.
- There shall be no forced displacement of the civilian population from combat zones.
- Those under the age of 15 shall not be recruited into the permanent military force. They may be involved in revolutionary activities other than participation in hostilities.
- Individuals who join paramilitary groups and their possessions shall cease to be seen as civilians and civilian property.
- The organization holds certain persons captive for political reasons, with the aim of making their demands known. Such persons shall be treated with due respect and their families shall be informed of their situation.

Limits on the methods and means of warfare

- When carrying out acts of sabotage, our forces shall not target installations more useful to the community than the enemy.
- Acts of sabotage shall, as far as possible, avoid causing environmental damage.
- Religious sites, cultural objects, and installations containing dangerous forces such as dams or nuclear material shall not be attacked.
- Poisonous gases shall not be used and water supplies shall not be poisoned.
- In combat zones, vehicles and facilities bearing the Red Cross emblem shall be respected. It is forbidden for our forces to use this emblem to mislead the enemy.
- Our commanders shall prevent looting and pillaging once the enemy surrenders its position. They shall arrange for the retrieval of objects needed by our forces.

Dignified treatment of prisoners

- It is prohibited to kill or injure an adversary who has surrendered or is hors de combat.
- Prisoners of war shall be treated humanely and receive medical assistance. Their belongings shall be confiscated.
- Information about the rank and name of those captured shall be made public.
- Efforts shall be made to hand prisoners over to the Red Cross after a brief period of captivity.
- Neither mercenaries nor spies shall be granted the protection guaranteed to prisoners of war. They shall be treated humanely.

[. . .]

we long for peace, we struggle for peace, we struggle while trying to make conflict more humane, we struggle while complying with International Humanitarian Law, we feel we must respect human rights and always consider them as the guiding principles of our lives, we want the prioritization of human dignity, and we focus our efforts on finding a way to make conflict more humane by taking into account the underlying objectives and revolutionary ideals of our struggle.

—Manuel Pérez Martínez

Camilist Union–National Liberation Army, Member of the Simón Bolívar
Guerilla Coordinating Board

15 July 1995

Source: CEDEMA (2006b, translated by Edith Vilela)

III.2. Ejército de Liberación Nacional (ELN), Colombia, 1996

In 1996, barely one year after the previous document, the ELN Central Command issued another text stating limits to its actions.

1. In times of war, [the ELN] will work to reduce to the maximum unnecessary human sacrifice and suffering by the enemy; this is because combatants will limit their actions to complete only the mission they have been entrusted with; and at all times, they will respect the combatant's ethical code, specifically the rules of behaviour of the International Committee of the Red Cross.
2. [The ELN] will give humanitarian treatment to enemies who have surrendered or been wounded in combat and will respect their dignity and provide them with the aid necessary for their condition.
3. Within our ranks, we will not permit or tolerate abuses against the population; they are our reason for being and our relationship with them should be above reproach.
4. Our revolutionary ethic obligates us to be rigorous in avoiding military actions that can harm civilians and our people. This is the essence of our ethics and behaviour.
5. It is important to underscore that during armed conflict there are unforeseen circumstances and critical situations that can overcome the best intentions. But we, the ELN, are willing to discuss attitudes that, after appropriate analysis, may be punishable if they merit such action, in accordance with our rules of conduct and internal regulations.

Source: HRW (1998, p. 163)

III.3. Ejército de Liberación Nacional (ELN), Colombia, possibly 1998

Code of War

The ELN, member of the CGSB (Simón Bolívar Guerilla Coordinating Board), acting on behalf of a certain number of Colombians, exercises its right to rebel-

lion against foreign dependence and oligarchic dominance. With such causes and goals in mind, the Camilist Union–National Liberation Army conducts this liberation war and, therefore, organizes its military forces under the authority of responsible leaders who observe discipline and comply with the International Humanitarian Law norms that have been included in this Code:¹¹¹

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- Individuals who join paramilitary groups and their possessions shall cease to be seen as civilians and civilian property.
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- Information about the rank and name of those captured shall be made public.
- Efforts shall be made to hand prisoners over to the Red Cross after a brief period of captivity.
- Neither mercenaries nor spies shall be granted the protection guaranteed to prisoners of war. They shall be treated humanely.

Executions

- The death penalty shall be applied to those responsible for war crimes.
- Those accused of war crimes shall be guaranteed due process.
- Minors, pregnant women, and mothers with young children shall not be sentenced to death.
- Executions shall be carried out in such a way as to avoid unnecessary suffering.
- Efforts shall be made to inform family members of the location of the remains.

War taxes

- To fund the war of liberation and help to establish popular power, the ELN imposes war taxes and social taxes, the latter to promote development in the areas under its influence.
- These taxes and other demands made shall be focused on transnational companies with local monopolies and individuals who have made themselves rich through corruption and violating the people's interests. They shall also

be imposed on those who collaborate unconditionally with the armed forces of the government and with paramilitary forces.

- Capital invested in development in areas under guerrilla influence shall be respected and these areas shall be subject to a contribution stipulated by common agreement.
- Through its governing bodies the ELN takes responsibility for the rational, collective use of the resources generated from the collection of these taxes, which shall be centralized under the authority of the National Directorate.
- In order to pressure them into paying these taxes and meeting other demands, the ELN shall temporarily hold captive individuals representing the aforementioned sectors. They shall be released once the amount demanded by the ELN has been paid.
- Captives shall be treated humanely and their families kept informed of their situation.
- The ELN shall try to avoid holding pregnant women, minors, elderly people, and those in delicate health in captivity.
- As part of its policy of categorically disassociating itself from the drug-trafficking mafia, the ELN shall not impose any kind of taxes or demands on this sector for their activities. The ELN shall not permit the growing of crops, creation of laboratories, or building of landing strips related to this sector in the areas under its control. The trade in drugs shall also be banned.

Source: Arce Rojas (1998, pp. 143–47, translated by Edith Vilela)

III.4. Sudan People's Liberation Army (SPLA), Sudan, 2003

This code of conduct is an annexe to the SPLA Act of 2003 (SPLM/A, 2003a). The Act itself has provisions regarding destruction and theft of public property and offences of a cruel, indecent, or unnatural nature (ch. V, paras. 33c–d, 33g). This act is an expanded version of the 1994 SPLA Act, which did not include a code of conduct (SPLM/A, 1994).

Code of Conduct of the SPLA

1. Helping members of the public

A member of the SPLA shall:

- a. offer help to members of the public when he finds them engaged in productive work, whenever he has time;

- b. offer medical assistance to members of the public who are in the territory of his unit;
- c. offer any other form of assistance to members of the public.

2. Relationship with the public

A member of the SPLA shall not:

- a. abuse, insult, shout at, beat or in any way annoy any member of the public;
- b. steal any property or obtain goods by false pretenses;
- c. take anything from a person without paying for it unless it is a gift;
- d. retain anything he borrows from any member of the public;
- e. develop any illegitimate or irresponsible relationship with women;
- f. consume alcohol in a public drinking place while he is on duty or in uniform or in possession of a weapon;
- g. take drugs or be found in possession of drugs;
- h. kill any person by taking law into his own hands;
- i. trespass on any person's property;
- j. make public statements to journalists without proper authorization;
- k. attend diplomatic parties or deal with a foreign mission without proper authorization;
- l. give public speeches or broadcast public statements without permission from the appropriate authorities.

3. Higher and lower ranks of the SPLA

The lower ranks of the SPLA shall obey the higher ranks and the higher ranks shall respect the lower ranks.

4. Administration of SPLA units

In the administration of any SPLA unit, democratic centralism, participation and central control shall be followed and without limiting the generality of the foregoing methods, the following methods shall be used:

- a. holding regular meetings whereby officers and men can air their views and grievances;
- b. allowing open criticism of mistakes so as to avoid subterranean grumbling;
- c. different mistakes or errors should be treated differently depending on the causes thereof.

5. Tendencies injurious to the cohesion of the SPLA

The following tendencies are injurious to the cohesion of the SPLA and are prohibited:

- a. quest for cheap popularity on the part of officers or militants by tolerating wrongs in order to be popular with soldiers;
- b. liberalism whereby the person in authority knows what is right and what is wrong, but due to weakened leadership, he does not stand firmly on the side of right;
- c. intrigue and double talk;
- d. tribalism, nepotism or any other form of acctarianism [sectarianism?];
- e. formation of cliques in the SPLA;
- f. any form of corruption.

6. Education in the SPLA

1. Political education shall be mandatory so that officers and militants can understand the reasons for the struggle as well as the dynamics of the world, taking into consideration the fact that conscious discipline is better than mechanical discipline.
2. Every officer or soldier shall strive to master military science in order to gain capability, so that the SPLA is in a position to defend the people more effectively.
3. All commanders shall ensure that all soldiers depending on particular circumstances shall at any one time either be fighting, studying improving their academic standards, taking part in recreational activities, engaged in productive work or resting so that there is no idleness which breeds mischief.

7. Political commissars

It shall be the duty of the political commissars headed by the Director for Political and Moral Orientation to implement the provisions of section 6 of this schedule.

Source: SPLM/A (2003a, pp. 54-55)

III.5. Ejército Zapatista de Liberación Nacional (EZLN), Mexico, 2003

Our struggle relies on a code of honour inherited from our warrior ancestors that calls for values such as: respecting civilians (although they may be part

of the governments that oppress us); not resorting to crime to obtain resources (no robbery, not even in a grocery store); and not responding to words by opening fire (no matter how much they hurt us or lie to us).

Some people might think that not resorting to these traditionally 'revolutionary' methods means giving up on our struggle. In the light of our history, however, it seems that we have gone further than those who resort to such methods (and for whom showing their radical nature and its consequences has taken priority over effectively serving their cause).

Our enemies—who are not few in number and live not only in Mexico—want us to resort to these methods. Nothing would be more pleasant for them than to see the EZLN become the Mexican indigenous version of ETA. As a matter of fact, ever since we took a stand on the Basque people's struggle, we have been compared to them.

Unfortunately for them, this is not the case and it will never be.

By the way, in the language of the warriors of the night, 'Fight with honour' is 'PASC 'OP TA SCOTOL LEQUILAL'.

Source: Marcos (2003, translated by Edith Vilela)

III.6. Lord's Resistance Army, Uganda, 2005

In 2005, Lt. Col. R.W. Skow, the then US Defense attaché in Kampala, Uganda, compiled a study on the LRA's religious beliefs. This document is the result of interviews with three LRA members; it contains a section on the spirits that use Joseph Kony, the LRA's leader, to communicate messages or orders. One of these spirits, named Sally Salinidi or Malia Mackay, was in charge of the LRA's military duties; 'she' dictated rules for the LRA to obey, in essence a code of conduct that is reproduced below. The document contains other rules, such as those related to food or to women, that have not been identified by the respondents as dictated by Malia Mackay (Skow, 2005).

As these rules were only transmitted orally, it is doubtful that they faithfully reflect a current LRA code of conduct, even though various defectors or captured LRA fighters have referred to one rule or the other.

- Do not smoke.
- No sex except when allowed.

- Don't drink.
- When crossing rivers, make the sign of the cross with water on your head and pray, 'Water, you are superior to me, have mercy on me.'
- When on a rock, make the sign of the cross (but you are not allowed to stand on a rock since 1986 because the rocks made a covenant with Lakwena [Alice Auma, Kony's predecessor] in assisting in passing judgement on people] [. . .]. When fighting, if there is a rock nearby, make the sign of the cross and pray, 'Rock, you are superior to me, have mercy upon me.'
- When fighting and you come across a tree or an ant hill, make the sign of the cross and pray, 'Please respect me.' People are superior to trees and ant hills and therefore don't have to ask for mercy but merely respect.
- When on standby for battle after being cleansed, you cannot sit or touch the ground, nor touch any person so as not to get their sins on you.
- Don't kill innocent people (unarmed people on the battlefield).
- The LRA should not bring too many women among them as they will impair operations.
- Don't eat too much food. Don't love food so much.
- You are not soldiers but rather teachers to teach God's message.
- Although you are few your message will be known worldwide.
- Don't fear human beings, but fear the Lord.
- Don't be ambitious, that is, don't want to be a commander.
- Remember to pray three times a day.
- When you go home you will find some people who have killed your relatives, but don't take revenge.
- Don't mourn for those who die; we don't know why God has called them.

Source: Skow (2005)

III.7. United Jihad Council (UJC), Pakistan–India (Kashmir), 2005

2005 UJC Code of Conduct

1. Each constituent group of the UJC shall believe its aims and objectives and abstain from all kinds of activities that go against it.
2. Each constituent group shall abide by the purpose and conduct of Jihad in the way of Allah and shall implement the same in letter and spirit during operations.

3. Each constituent group will ensure that its Mujahideen shall observe the fundamentals of Islamic teachings and keep away from sinister evils.
4. Each constituent group shall abstain from taking any action against any Muslim unless proved to as an Indian agent/informer.
5. Each constituent group will ensure that its Mujahid/Mujahideen shall not target any non-combatant; non-Muslim men, women, and children.
6. Each constituent group shall respect and observe all the decisions taken by the UJC.
7. Each constituent group shall cooperate in the light of commandments of Allah with other outfits and shall abstain from indulging in any kind of activity that may directly/indirectly harm them.
8. Each constituent group will not speak against any of the co-constituent groups from any platform or public/private forum and would consult General Council in case of disputes, which shall decide the issues in the light of Quran and Sunnah.
9. If any Mujahid of any constituent group is found guilty of sinful acts that are immoral and un-Islamic, the authority of decision regarding his punishment or otherwise shall lie with UJC which shall conduct these affairs according to Shariah.
10. Each constituent shall abstain from targeting any public places like, schools, religious places, hospitals, markets and population settlements in any case.
11. Each constituent group shall ensure that it will target India's defence installations and economic assets/places/sites.
12. Groups shall not strike near human settlements, public places where people lives could get harmed.
13. It is obligatory for each group to ensure that the code of conduct be observed by its Mujahideen failing which the Mujahid shall be taken to task by the concerned group.
14. Each group shall strictly ensure the awareness and implementation of the aims & objectives and code of conduct and organize special sessions in presence of UJC observer wherein the Mujahideen be enforced to promote brotherhood, cooperation and harmony among themselves so that their character reflects the unity of purpose.

Source: Supplied to the author by Yeshua Moser-Puangsuwan, Landmine and Cluster Munition Monitor, 8 June 2012

III.8. *Taliban, Afghanistan, 2009*

The second publicly available *layha* dates from 2009 and is the first version to include a short code of conduct at the end, with six rules taken from Mullah Muhammad Omar's speeches.

[On back cover]

Respected Mujahedin Brothers!

- All your actions and positions must be according to the orders of God and the guidance of His Prophet.
- Stand against the enemy, committed like steel; incidents and propaganda must not shake your will.
- Place your friends and nation inside your heart; keep them fixed in brotherhood and faithfulness, so that the enemy will not be able to carry out his ominous goal—which is disunity.
- In your activities and operations, use consultation, caution, planning and cleverness.
- When punishing someone, do not make a decision based on personal grudge, sensitivity, carelessness or the urgency [of the situation].
- Taking care of the lives and property of the people is considered one of the main responsibilities of a mujahed; you must try very hard to carry out this responsibility and not allow those opportunists and materialists, those armed people who are interested in material gain, to harm or bother the people.

From the statements of his Excellency, Amir-Al-Mu'minin

Source: Clark (2011b, pp. 23–24)

III.9. *Taliban, Afghanistan, 2010*

The 2010 *layha* was longer than the previous editions, but it maintained the same six rules with minor changes. For the reader's sake, we have highlighted these changes.

[On back cover]

Respectable mujahed brothers

- All your intentions *and activities* must be according to the orders of God and the guidance of his Prophet.

- Stand against the enemy, committed like steel; incidents and propaganda must not shake your will.
- Place your *mujahed brothers* and your nation inside your hearts; keep them fixed in brotherhood and faithfulness, so that the enemy will not be able to carry out his ominous goal—which is disunity.
- In all your *jihadi* activities and operations, use consultation, caution, planning and cleverness.
- When punishing someone, do not make a decision based on personal grudge, sensitivity, carelessness or the urgency [of the situation].
- Taking care of *public property* and the lives and property of the people is considered one of the main responsibilities of a mujahed; you must try very hard to carry out this responsibility and not allow those opportunists and materialists, those armed people who are interested in material gain, to harm or bother the people or destroy their assets.

Statement of the honourable *Amir ul-Mu'minin*

Source: Clark (2011b, pp. 13–14, emphasis added)

III.10. Libyan National Liberation Army, Libya, 2011

This document is originally in Arabic, but its authors have also issued a French version.

To the members of the Libyan Liberation Army

Code of rules and attitudes of the organization for the successful conduct of fighting

Article 1

This code affirms the universal human rules that apply to all fighting by which the members of the Libyan Liberation Army must abide, and which may never be broken.

Article 2

1. All persons, including prisoners, have the right to respect for their person and to freedom of thought. They must be treated with humanity in all situations, without unfair discrimination.

2. The following acts are totally prohibited in all situations:
 - a. Attempts on the life, health, physical, or mental integrity of persons, by murder, torture, mutilation, or rape; inhuman or humiliating penalties or coercive operations; all attacks on human dignity.
 - b. Collective sanctions imposed upon persons or their property.
 - c. The taking of hostages.
 - d. The practice or acceptance of, or permission for, enforced disappearances, such as abduction or detention without informing the detainee's relatives.
 - e. Intentional deprivation of food, drinking water, and indispensable medicines.

Article 3

1. All persons deprived of their liberty must be held in a place that is known to be used for that purpose. Detailed information about the detainees must be made available for their families, their lawyers, and any person having a constitutional or legal interest in the case. Detainees must also be allowed to have contact with the outside world, particularly with the person charged with their defence.
2. The right to complain must also be guaranteed, which means that any person who has been deprived of his or her liberty must have the right, after his or her release, to commence proceedings in which his or her detention will be subject, rapidly, to legal examination.
3. All persons who have been deprived of their liberty must be treated humanely. They must be supplied with food and drinking water in sufficient quantities, with shelter, and with appropriate clothing, and sanitation must be guaranteed.

Article 4

Persons who do not take part in the fighting must not be attacked and it is forbidden to spread terror among the population. It is not permitted to use weapons of any kind that are prohibited by national legislation.

Article 5

Requests for protection from enemy soldiers must be respected, and fighting must not be pursued relentlessly when the enemy has withdrawn.

Article 6

Populations or sections of populations must not be moved, unless their safety is threatened, or in situations of force majeure. People who have been moved

must be allowed to return to their own country as soon as the situation that required them to leave has returned to normal.

Article 7

Each individual's right to life is guaranteed and protected by the law. No human being may be deprived arbitrarily of his or her life, and mass exterminations are prohibited.

Article 8

No child under the age of 15 years may enlist. Similarly, they are not authorized to join the military forces, nor take part in fighting. Every effort must be made to prevent any young person under the age of 18 years from taking part in the fighting.

Article 9

In all cases, the wounded and sick must be protected, regardless of whether they took part in violent action. They must be treated humanely, and must be provided with the medical care required by their state of health to the degree required and as quickly as possible. No distinction must be made between the sick other than through medical criteria.

Article 10

All steps must be taken without delay to search for the wounded, the sick, and persons who have disappeared, in order to protect them from detention or mistreatment. They must be provided for appropriately.

Article 11

Medical personnel must be respected and protected. They must be provided with the assistance they need in order to practise their profession, and they must not be forced to carry out acts that are in conflict with their code of conduct. They must not be prevented from exercising their profession, regardless of who might be the beneficiary.

Article 12

The work of humanitarian organizations must be facilitated to the extent possible.

Source: Alkarama (2011, translated by Patricia Brutus)

IV. Oaths

IV.1. Haganah, Israel, 1920

This oath was first instated in 1920 and stayed in use until 1948, when the Haganah formally dissolved (Zionism–Israel Information Center, n.d.).

I hereby declare that of my own free will and in free recognition I enter the Jewish defence organization of the Land of Israel (Irgun Haganana Haivri Be'Eretz Israel).

I hereby swear to remain loyal all the days of my life to the defence organization, its laws, and its tasks as defined in its basic regulations by the High Command.

I hereby swear to remain at the disposal of the defence organization all my life, to accept its discipline unconditionally and without limit, and at its call to enlist for active service at any time and in any place, to obey all its orders and to fulfil all its instructions.

I hereby swear to devote all my strength, and even to sacrifice my life, to defense and battle for my people and my Homeland, for the freedom of Israel and for the redemption of Zion.

Source: Catling (n.d.)

IV.2. Viet Cong, Vietnam, no date

Viet Cong Oath of Honour

1. I swear I am prepared to sacrifice all for Vietnam. I will fight to my last breath against imperialism, colonialism, Vietnamese traitors, and aggression in order to make Vietnam independent, democratic, and united.
2. I swear to obey absolutely all orders from my commanders, executing them wholeheartedly, promptly, and accurately.
3. I swear to fight firmly for the people without complaint and without becoming discouraged even if life is hard and dangerous. I will go forward in combat without fear, will never retreat regardless of suffering involved.
4. I swear to learn to fight better and shape myself into a true revolutionary soldier battling the invading American imperialists and their servants, seeking to make Vietnam democratic, wealthy, and strong.

5. I swear to preserve organizational secrecy, and to keep secret my unit's plans, the name of my unit commander, and all secrets of other revolutionary units.
6. I swear if taken by the enemy I will not reveal any information even under inhuman torture. I will remain faithful to the Revolution and not be bribed by the enemy.
7. I swear in the name of the unit to love my friends in my unit as myself, to work cooperatively with them in combat and at all other times.
8. I swear to maintain and protect my weapons, ensuring they are never damaged or captured by the enemy.
9. I swear that in my relationships with the people I will do three things and eschew three things. I will respect, protect, and help the people; I will not steal from them, threaten, nor inconvenience the people. I will do all things to win their confidence.
10. I swear to indulge in self-criticism, to be a model soldier of the Revolution, and never to harm either the Liberation Army or Vietnam.

Source: USDoD (1966, p. 15)

IV.3. Ejército Guerrillero de los Pobres (EGP), Guatemala, possibly 1983

Oath of allegiance for EGP Army combatants

I solemnly swear that:

- I will fiercely fight against the enemy until final victory and will defend the revolution with my own life.
- I will unquestioningly execute any orders from my superior officers.
- I will respect our people, their property, and their customs.
- I will protect our leaders from any danger.
- I will take up arms only against our enemies and never against our people or our brothers.
- I will not leave my assigned battle station, in compliance with my superior officers' orders.
- I will protect the secrets of the revolution with my life, if necessary.
- I will fight anywhere in the country where the Peoples' Revolutionary War needs to be encouraged.

TOGETHER WITH THE PEOPLE AND FOR THE REVOLUTION, UNTIL
VICTORY, FOREVER!

Source: Andersen (1983, translated by Edith Vilela)

IV.4. Ejército Guerrillero de los Pobres (EGP), Guatemala, possibly 1983

Oath of allegiance for EGP Army officers

I, officer of the Guerrilla Army of the Poor,
On behalf of my people, Guatemala,
On behalf of the victims of exploitation, oppression, and discrimination,
Committed to the struggle of all the poor around the world,
Do solemnly swear that:

- As long as I live, I will incessantly fight for the Guatemalan revolution serving in the ranks of our glorious EGP.
- I will fiercely, courageously, and relentlessly fight against the enemy until final victory, and will strongly defend the revolution.
- I will always act in compliance with the discipline of our Army, and will demand the same compliance from my subordinates.
- I will act according to the EGP guidelines and revolutionary ideology.
- I will be willing to fight against the enemies of humanity anywhere in the world, in compliance with of our Commander in Chief's orders.

TOGETHER WITH THE PEOPLE AND FOR THE REVOLUTION, UNTIL
VICTORY, FOREVER!

Source: Andersen (1983, translated by Edith Vilela)

IV.5. Kosovo Liberation Army (KLA), Kosovo, 1998

As a member of the Kosovo Liberation Army, I hereby swear that I will fight for the liberation of the occupied territories of Albania and their unification, that I will always be a loyal soldier, a worthy soldier of freedom, vigilant, brave, and disciplined, ready at all times, even unto death to struggle to protect the sacred interests of the Fatherland. If I break this oath, may I be punished by the most severe martial law and if I commit treason may my blood be spent. I swear!

Source: ICTY (2009a, p. 2450)

IV.6. Mouvement des Nigériens pour la justice (MNJ), Niger, possibly 2006

As this oath was oral, it does not exist in a single version; several authors have reported on its content.

First version:

[The] recruits' oath is threefold: they promise to obey their chiefs, never to attack civilians nor to loot.

Source: Dandois and Creisson (2008, p. 143, quoted in Guichaoua, 2009, p. 21)

Second version:

Before entering military bases, the combatants have all sworn on the Koran that they will never harm civilians or their property, national unity, or the territorial integrity of Niger.

Source: Maha (2008, translated by Patricia Brutus)

IV.7. Local Coordination Committees, Syria, 2012

The following pledge was published in early August 2012 in a news release by the Local Coordination Committees, a network linked to the Free Syrian Army. At the time of writing, it was difficult to assess how representative this pledge was or would be. It seems to enjoy some sort of consensus in different regions; it mirrors other similar statements, such as those made by the Farouk Brigade in Homs (Farouk Brigade, 2012). It is called a code of conduct but more closely resembles an oath, showing that the distinction between these two types is not absolute.

The Syrian Revolution erupted in Mid-March 2011 against a corrupt and despotic regime that weakened a country and humiliated its people, raising a small group of elites above the Syrian general public. From the very beginning, the regime responded to popular protests with violence and hatred, and pitted the national army against the revolutionary citizens to protect the oppressive regime.

The Free Syrian Army was formed by honorable officers, junior officers, and soldiers who defected from the regime because they refused to kill their fellow citizens. They were joined by brave civilians whose families and homes were destroyed by Assad's aggression.

Today, the Free Syrian Army plays a genuine military role in the glorious Syrian revolution. Therefore, the values and goals of the revolution (freedom, dignity, and justice for Syria and the Syrian people, and the protection and unity of the country), must serve as the military doctrine and governing principles for the Army's actions and the behavior of its members.

The Free Syrian Army looks forward to the day when Syria will be free, so that it might be at the core of a new national army that protects the country's independence, sovereignty, constitution, and democratic institutions. The Free Syrian Army is sacrificing its blood in order for that day to come.

Article I

In the Free Syrian Army, as an independent, defected soldier, or civilian volunteer, my first responsibilities are to:

Defend Syrian revolutionaries in the face of tyranny and ensure the continuation of the revolution to oust the regime. I will direct my weapons exclusively against Assad aggressors. I will serve my nation, Syria, and the freedom of the Syrian people. I am a fighter in the battle to defend my people.

I will use my weapons to overthrow the criminal regime that has been imposed upon us.

Article II

I pledge to my people and my revolution that I will refrain from any behavior or practice that would undermine the principles of our revolution: the principles of freedom, citizenship, and dignity. I will respect human rights in accordance with our legal principles, our tolerant religious principles, and the international laws governing human rights—the very human rights for which we struggle today and which we intend to implement in the future Syria.

Article III

Any person who takes up arms in the name of the regime, regardless of their rank, should be arrested and remain in the custody of the Free Syrian Army. In the event that an individual is arrested, and it is determined that the individual was working for the regime, voluntarily or for payment, to supply information about revolutionary activists, that individual shall be considered a prisoner and treated in accordance with laws governing prisoners of war.

Article IV

I pledge not to practice any form of torture, rape, mutilation, or degradation. I will preserve prisoners' rights and will not exercise any of the above practices in order to obtain confessions.

Article V

I will not issue any executive orders, particularly with regard to death or corporal punishment. Only an appropriate legal authority, with relevant expertise, may conduct trials and find perpetrators guilty.

Article VI

I will not engage in any practice that leads to the physical torture or murder of prisoners or informants, and I will not participate in any public execution.

Article VII

I pledge not to engage in any form of theft or looting on the pretext that I am helping to finance the armed struggle. I pledge not to take any person hostage for ransom.

Article VIII

I pledge not to use my weapon against activists or civilians, whether or not I agree with them; and I pledge to not use my weapon against any other Syrian citizen. I pledge to limit my use of weapons to the defense of our people and myself in facing the criminal regime.

Article IX

I pledge not to exercise reprisals on the basis of ethnicity, sect, religion, or any other basis, and to refrain from any abusive practices, in word or in deed, against any component of the Syrian people.

Article X

I pledge to surrender my weapons to the Transitional Authority, which will manage the country's affairs during the transitional period after the fall of the regime.

Article XI

If found guilty of violating any of these articles, I agree to submit to a fair trial undertaken by specialized committees formed under the supervision of the Free Syrian Army's leadership and monitored by an independent judiciary body.

Source: LCC (2012)

V. Standing orders

V.1. *People's Liberation Army, China, 1928*

Policies for the treatment of captives:

In 1928, four policies for the lenient treatment of captives were also laid down. They were: 'Do not hit, swear at, kill or maltreat captives'; 'Do not search captives' pockets'; 'Give medical treatment to wounded captives' and 'Let captives stay or set them free at their own will.'

These rules were later developed into 'Five Policies for Lenient Treatment of Captives': 'Do not kill or injure captives'; 'Do not hit, swear at, maltreat or insult captives'; 'Do not confiscate the private property of captives'; 'Give medical treatment to sick and wounded captives' and 'Set the captives free.'

Source: Xiaodong (2001, p. 145)

V.2. *African National Congress (ANC), South Africa, 1985*

This document was released at the ANC National Consultative Conference at Kabwe in June 1985. As an annexe to the 'Umkhonto we Sizwe Military Code', it was part of a larger document entitled *Report of the Commission on National Structures, Constitutional Guidelines and Codes of Conduct* (ANC, 1985). It was also submitted as an appendix to the 'ANC Statement to the Truth and Reconciliation Commission' in August 1996.

Rules and Regulations Covering the Handling of Weapons and Explosives of Our Movement

Introduction

Amongst the most sacred duties of a soldier in MK [Umkhonto We Swize, the armed forces of the ANC] is to protect and preserve the weaponry and other war material of our army—in certain circumstances even with his life. The loss of a weapon would be regarded in the same light as the loss of a limb and has serious consequences for the body of our army.

Our weaponry and other war materials are there to be used against our enemy and must, at all times, be maintained in a proper state of combat readiness and must only be used to further our revolution. This is the duty of every organ and individual soldier entrusted with the task of handling such material.

In the interests of our revolution the following rules and regulations will be strictly enforced:

1. The Politico–Military Council under the direction of the NEC [National Executive Council] shall be the organ which decides on the distribution and use of all weapons and explosives in any given area.
2. All members of the ANC who possess a personal weapon or weapons are under obligation to declare it or them to the authorised organs or persons in the Movement for registration and for determining whether the comrade should be authorised to keep the weapon or surrender it.
3. All weapons not supplied by authorised persons in the hands of individuals or groups must be reported and declared immediately. Failing to fulfil this requirement constitutes a serious offence against the Movement and carries with it a heavy punishment.
4. Unauthorised possession and use of weapons is strictly prohibited.
5. It is strictly forbidden to point a weapon, loaded or otherwise, at any person other than our enemy.
6. It is a serious offence to abandon without proper cause, lose, misuse, neglect or damage weapons, ammunition and explosives.
7. Unauthorised exchange, barter or transfer of a weapon(s) is strictly forbidden.
8. All weapons, ammunition and explosives must be handled by authorised persons and must be totally concealed in public except during combat marches in our training camps and schools and where permission is granted to have weapons for the defence of ANC personnel and property.
9. All records, inventories of all war materials have to be kept by Ordnance, Security and by any organ entrusted with such material.
10. The use of war materials for emergency purposes has to be reported to the appropriate authority.
11. The security and care of weapons shall be the responsibility of those entrusted with them.
12. All transfer and movement of war materials from one area to the other shall be entrusted to the Ordnance Department.
13. Safety measures must be observed when handling weapons and explosives.
14. Authorised persons are not allowed to handle weapons under the influence of liquor.

Source: ANC (1985)

V.3. New People's Army (NPA), Philippines, 1988

Memo of Melito Glor Command on Policy towards Prisoners of War

Memo to: Molave Detention Center
Ref: Memo No. 8806-03
Date: 18 June 1988
From: Melito Glor Command
Subject: Proper Treatment of POWs

POWs of the NPA are captives from among the AFP and other enemy combatant forces. The conditions of war require that, for as long as necessary and feasible, we secure them and neutralize their capability of inflicting further harm to the revolutionary forces and the people.

At the same time, POWs under custody shall be given their due as human beings and accorded their human rights, given the limits of our conditions and all efforts shall be made to convince them to rectify and desist from doing further harm to the revolutionary forces and the people.

In accordance, therefore, with the Three Main Rules of Discipline and The Eight Points for Attention, standing policies and memoranda on the handling of POWs and the international norms of war, including civil war, as specified in Protocols I and II additional to the Geneva Conventions, the following guidelines in regard to proper treatment of POWs are reiterated for strict compliance.

1. In safeguarding the lives, health and welfare of POWs, they shall be accorded the following to the best of our ability:
 - a. regular and proper meals, which shall be the same as those provided to the officers and men of the detention center; POWs may be allowed to purchase additional goods.
 - b. availability of a resident medical or paramedical officer, regular medical check-up and whatever medication is required, especially in case of illness;
 - c. regular schedule of sunning and outdoor physical exercises;
 - d. decent and human living and sleeping quarter within the limits of the guerrilla conditions;
 - e. decent toilet facilities;
 - f. communication with, and when security conditions permit, visits by their immediate relatives and loved ones, including conjugal visits;

- g. newspapers and other reading material, whenever available and under supervision; and
 - h. respect of their personal belongings.
2. In no case shall any act of physical violence or any hostile act against POWs be tolerated.
 3. In case of enemy assault upon the detention center, the POWs shall be immediately removed from the area and line of fire and their lives continued to be safeguarded as much as possible.

Source: NDFP (2009, pp. 92–93)

V.4. Revolutionary United Front (RUF), Sierra Leone, no date

The Special Court for Sierra Leone admitted a booklet in possession of Morris Kallon—one of the defendants in the RUF trial—as exhibit 339, a document that quotes several RUF documents. Although this exhibit is not publicly available, the minutes of the trial quote the RUF’s 11 general orders and provide some insight into the 25 standing orders (SCSL, 2008, pp. 56–57).

The 11 general order was an order given by Corporal Sankoh that this will be a guiding order for the military operation of the RUF for—in whatsoever point RUF personnel you deploy, this will be your—your guide point [. . .]. The 25 standing order, these were the order governing all RUF in terms of crime themselves, civilians and Sierra Leone as a whole [. . .]. The 25 standing order is the one more or less the RUF and what we—you are to deal with the civilians. More the crime like raping, because it be specific on raping; killing of innocent—I mean civilians; taking away of civilian properties, you know. And then to be polite with the general masses, especially those within your controlled territory, the civilians. You are to be polite to them and you are to be in friendly manner with them [. . .]. According to the ideology, we are fighting for the repression [*sic*] of the people of Sierra Leone. That’s why the leadership work on this standing order and give us, and this standing order were weapon governing all protracted RUF fighters to make sure to obey.

Source: SCSL (2008, pp. 56, 59)

Reconstructed from the testimony of the accused, the 11 general orders are:¹¹²

1. Take charge of this post and all government property in view.
2. Work my post in a military manner, staying alert and observing anything that takes place within the range of hearing or sight.
3. Report all violations of order that I am instructed to reinforce.
4. Respect all calls from my post more distant from the guard house than my own.
5. Quit my post only when I am properly released.
6. Receive and obey and pass on this certain of the list name of all order [sic] from the commissioned officers.
7. Talk to no one in the line of duty.
8. Give alarm in case of firing or disorder.
9. Call the corporal of the guard in case not covered by my instructions.
10. Salute all colour [sic] commissioned officers.
11. Be watchful, especially at night, during the time of challenge.

Source: SCSL (2008, p. 57¹¹³)

V.5. Kosovo Liberation Army (KLA), Kosovo, 1998

KOSOVO LIBERATION ARMY

GENERAL STAFF

No. 6-3/33-03 dated 28 November 1998

Order not to exceed authority
and cease abusing command position

— to: —

ZO /Operational Zone/ Shala

Pursuant to ShP /General Staff/ Regulations items 1, 2 and 9, and pursuant to the Internal Regulations of the KLA, initiating the necessary measures to improve military discipline in all operational unit commands, and undertaking disciplinary and penal measures to stamp out negative tendencies:

ORDER

1. ZO commanders are to increase checks, engaging members of the command, PU /Military Police/ commanders, who will immediately stamp out negative tendencies and the abuse of persons and private property.

2. The engagement and mobilisation of material assets and confiscation without an order or without the permission of a ZO commander is prohibited.
3. Improper behaviour with respect to the civilian population is to be prevented in all KLA units.
4. The arrest, detention or imprisonment of persons without an order from a commander of a brigade or above is prohibited, except in the case of a critical military situation or when various criminal offences are being committed against members of the KLA, against individuals and the civilian authorities.
5. Opening fire unnecessarily is prohibited.
6. Immediate measures of isolation, disarmament and escort to the KLA organs of military justice are to be undertaken against the perpetrators of criminal offences or violations of military discipline.
7. KLA units commanders are responsible for the implementation of this order.

SV/FE

To:

- Archives –
- ZO Commanders –

KLA CHIEF OF THE SHP

Colonel

/Bisli/m ZYRAPI

/signed and stamped/

Source: ICTY (2009b)

V.6. Moro Islamic Liberation Front (MILF), Philippines, 2000

Internal Regulations on Use, Stockpiling, Production and Transfer of Anti-Personnel Mines

21 March 2000

The MILF use, stockpiling, production, and transfer of anti-personnel mines are strictly in accordance with Islamic rules and disciplines. The MILF has thus adopted the following internal regulations:

- I. The MILF has strictly prohibited the indiscriminate use of anti-personnel mines even during armed conflict.

- II. The MILF has prohibited the participation of minors, women, and unauthorized members or civilians in the use, stockpiling, production, and transfer of anti-personnel mines.
- III. The MILF has prohibited the use, stockpiling, production and transfer of antipersonnel mines near population centers, places of worship, schools, business establishments, residential areas, farms and farm-to-market roads, and even areas inhabited by working animals.
- IV. There shall be no use, stockpiling, production and transfer of anti-personnel mines without order or clearance from MILF commander on the ground during actual combat when the enemy attacks MILF camps.
- V. There shall be no use, stockpiling, production and transfer of anti-personnel mines outside MILF camps, except when needed for the defense of MILF camps and upon clearance from the Chief of Staff of Bangsamoro Islamic Armed Forces (BIAF).
- VI. The use of anti-personnel mines during actual combat shall be strictly monitored with the use of location maps, and visible marks shall be placed on the ground indicating it as a 'Mines Areas—Keep Out'.

Ghadzali Jaafar

Vice Chairman for Political Affairs

MILF Central Committee

Source: MILF (2000)

V.7. Moro Islamic Liberation Front (MILF), Philippines, 2006

Bismillaahir Rahmaanir Rahiem

In the name of Allah,

the Beneficent,

the Merciful

General Order No. 2

An order amending articles 34 and 36 of the code of conduct of the Bangsamoro Islamic Armed Forces and for other purposes.

Moro Islamic Liberation Front

General Headquarters

Bangsamoro Islamic

Armed Forces

Rules of engagement in Islam (Nidhamul harb fil Islam)

Article 34 (shall read):

1. **Troop behavior**—worship does not cease in times of war, and whatever is prohibited during peace is also prohibited during war (Al-Hadith).
2. **Object of the fight**—It is directed only against fighting troops and not to non-fighting personnel (Al-Baqarah: 190).
3. **Civilian people**—Old people, children; and women shall not be harmed or killed, and those people in convents (Al-Hadith).
4. **Wounded enemy combatants**—Never betray or be treacherous or vindictive. Do not mutilate. Don't cut or burn palm trees or fruitful trees or ruin dwellings. Don't slay sheep, a cow, camel or other animals except for food (Al-Hadith).
5. **Surrendered enemy combatants**—Maintain and observe justice at all times and avoid blind retaliation. Protect and treat them humanely (Al-Maaidah: 8).
6. **Prisoners of war or captives**—Be kind at all times to captives or prisoners of war. Collect and care for wounded combatants (Al-Insan: 5–9).
7. **Medical or distinctive signs**—Respect personnel and facilities or persons bearing an object marked with signs as Red Cross or Red Crescent, including religious persons, military or civilians carrying white flag used for negotiations, truce or surrender.
8. **Treaties and international conventions**—Abide and respect covenants, conventions, treaties and agreements including laws of international and local application (Al-Maaidah: 1).

Recruitment and Selection in the Bangsamoro Islamic Armed Forces

Article 36 (shall read):

1. In the recruitment for selection of candidates for commission, preference shall be given to those who possess Islamic values and morality, good morale [sic] character and images, competence and capability.

2. Recruitment for regular membership in the BIAF, preference shall be given to those who possess Islamic values and morality, good morale, physically and mentally fit, matured and above eighteen (18) years of age at the time of his admission.
3. No child shall be admitted into the BIAF.
4. The General Staff of Bangsamoro Islamic Armed Forces shall take feasible measures to ensure protection and care of children who are affected by the armed conflict.
5. The Director of Bangsamoro Islamic Armed Forces Military Academy (BIAFMA) in coordination with the General Staff shall formulate training policies and standards in the selection and recruitment of candidates for commission in the BIAF.

Approved and adopted
this 14th day of June, 2006
at Camp Abubakre As-Siddique
Bangsamoro Homeland.

Certified True and Correct:

Sammy Al-Mansur
Chairman, General Staff

Approved:
Al Haj Murad Ebrahim
Chairman/Commander-in-Chief

Source: MILF (2006)

V.8. Moro Islamic Liberation Front (MILF), Philippines, 2010

In the Name of God Most Gracious, Most Merciful

Supplemental General Order for General Order Nos. 1 & 2; and in support of the Action Plan between the Moro Islamic Liberation Front (MILF) and the United Nations in the Philippines Regarding the Issue of Recruitment and Use of Child Soldiers in the Armed Conflict in Mindanao

- Guided by the acceptance and commitment of the Moro Islamic Liberation Front (MILF), to the obligations under International Humanitarian Law,

International Human Rights Law, specifically the Optional Protocol to the Convention on the Rights of the Child (CRC) on the involvement of children in armed conflict, and relevant UN Security Council Resolutions, particularly Security Council resolution 1539 (2004), 1612 (2005) and 1882 (2009);

- Stressing the importance of implementing General Order Number 1, 'An order promulgating a code of conduct regulating the affairs of the Bangsamoro Islamic Armed Forces, prescribing its powers, duties and functions, and other related purposes.' of 2005, and General Order No. 2, 'An order amending Articles 34 and 36 of the Code of Conduct of the Bangsamoro Islamic Armed Forces and for other purposes.' of 2006, which directs MILF-BIAF's base commands to ensure that no child is recruited with its armed forces;
- In support of the implementation of the time-bound Action Plan between the Moro Islamic Liberation Front (MILF) and the United Nations in the Philippines regarding the Issue of Recruitment and Use of Child Soldiers in the Armed Conflict in Mindanao;
- The MILF-Bangsamoro Islamic Armed Forces (BIAF) hereby reaffirms its strict policies to ensure the compliance of all commanders and officers of the MILF-BIAF, that no child shall be admitted into the BIAF;
- This supplemental general order reiterates General Order Nos. 1 and 2, particularly Article 36 (As amended by G.O. No. 2), clarifies the policy on non-recruitment of children within the MILF-BIAF, and provides the necessary sanctions for non-compliance.

Policy on Non-Recruitment of Children. Reaffirming General Order Nos. 1 and 2, particularly Article 36 (as amended by G.O. No. 2), this supplemental general order clarifies the policy on non-recruitment of children within the MILF-BIAF.

xxx xxx xxx

3. No child shall be admitted into the BIAF.

- The BIAF shall not, under any circumstances, recruit or use in hostilities persons under the age of 18 years.
- The BIAF shall ensure that persons under the age of 18 years who were recruited or used in hostilities are officially released from service. The BIAF

shall, when necessary, accord to these persons all appropriate assistance for their physical and psychological recovery and their social reintegration.

- In no circumstances shall displaced children be recruited nor be required or permitted to take part in hostilities.
- Internally displaced persons shall be protected against discriminatory practices of recruitment into the BIAF or other groups as a result of their displacement. In particular any cruel, inhuman or degrading practices that compel compliance or punish non-compliance with recruitment are prohibited in all circumstances.

xxx xxx xxx

Sanctions for Non-Compliance. This supplemental general order also further strengthens General Order Nos. 1 and 2, particularly Article 36 (as amended by G.O. No. 2), to provide the necessary sanctions for non-compliance.

ARTICLE 64-A. Recruiting Children. Any person who recruits or uses in hostilities, or permits to take part in hostilities, a person or persons under the age of 18 years shall, upon conviction, suffer the penalty of dismissal from the service, a fine of Php 3,000, and imprisonment of 3 months, or both as may be determined by the MILF–BIAF leadership. The same penalty shall be imposed upon any person who compels compliance or punishes non-compliance with recruitment of a person or persons under the age of 18 years.

Grace Period. Setting the age of maturity at the onset of puberty is a religious practice among the MILF. However, for the purpose of the UN–MILF Action Plan, ‘a child’ has been defined as any person below 18 years of age. As such, it is anticipated that there may be children that may be found in the ranks of the MILF–BIAF. Disciplinary attention shall be administered to MILF–BIAF commanders and officers who would knowingly recruit and use children, after the designated grace period of six months (180 days), which would start a day after the receipt of the supplementary general order pack and orientation on the UN–MILF Action Plan.

Child Protection Units (CPUs) within the MILF–BIAF. Pursuant to Article 2.1 paragraph f of the UN–MILF Action Plan, this supplemental general order provides for the establishment of Child Protection Units (CPUs) within the

ranks of the MILF–BIAF. The details of which shall be dealt with by the General Staff.

Procedure for Handling Children. MILF–BIAF commanders and officers, who upon inspection of their ranks, with the help of mutually agreed entities, would find that certain members of their command are below eighteen years of age, and are thereby considered as children based on the UN–MILF Action Plan, are requested to:

1. Register the MILF–BIAF members who may be found to be below eighteen years of age using the Rapid Registration Forms;
2. Inform the concerned front commander of the results of the rapid registration, and the names and camp/location of children that may be found in their ranks;
3. Bring the completely filled-out Rapid Registration Forms to the mutually agreed coordinating office of the parties, for prompt endorsement via fax and/or email to UNICEF Office in Manila; and
4. Until joint notice is received and/or joint field assessment is conducted by UN and MILF teams, keep these children who may be found, within the communities they were located. Ensure that these children are no longer involved in combat and ancillary duties.

The MILF, in partnership with the United Nations, shall provide necessary rehabilitation and reintegration services to the said children, and basic services to all children in the communities and camps of the MILF–BIAF.

Approved and adopted this 20th day of January 2010, at Camp Abubakre As-Siddique, Bangsamoro Homeland

Certified True and Correct:

SAMMY AL-MANSUR

Chairman, General Staff

Approved:

AL HAJ MURAD EBRAHIM

Chairman/Commander-in-Chief

Source: MILF (2010, pp. 15–18)

V.9. Naxalites, Communist Party of India (Marxist–Leninist), India, no date

Standing Orders for Armed Squads

1. Abide by squad discipline. Do not function according to one's wish.
2. Squad must move only in the formation that has been decided.
3. As soon as the squad reaches its den, the sentry must be posted and protective covers must be immediately taken.
4. Weapons must be cleaned every day in a proper order.
5. Roll call must be conducted every day and necessary matters must be instructed in brief.
6. Protective patrolling must be taken up every day around the den.
7. Everybody must keep their respective weapons by their side. It must not be given to civilians.
8. Only those who can throw grenades beyond 20 metres must be provided with them.
9. Read Jung. Get others to read it on one's behalf.

Central Committee, CPI (ML) People's War

Source: Chakravarti (2008, p. 21)

V.10. Fuerzas Armadas Revolucionarias de Colombia (FARC) and Ejército de Liberación Nacional (ELN), Colombia, 2009

In December 2009, both organizations sent a message to their militants, signed by the FARC secretary of Central Staff and by the ELN Central Command. The message contains this annexe:

Rules of conduct with the masses

In the belief that we should embody new men and women, setting a revolutionary example to our people while behaving in an unassuming way, in order to rally them to our cause, the commanders of the Simón Bolívar Guerilla Coordinating Board [Coordinadora Guerrillera Simón Bolívar, CGSB], gathered at its first 'Jacobo Arenas' summit, call upon Bolivarian combatants to abide by the following rules of conduct with the masses.

1. Our daily behaviour, and the purpose underlying our activities, should be borne in the people's interests.

2. We should respect the political, philosophical, and religious ideas and attitudes of the population, and in particular the culture and autonomy of indigenous communities and other ethnic minorities.
3. We should not prevent people from exercising their right to vote, nor force people to vote.
4. The safety of working people and their homes and property should be taken into account when planning and executing political and military activities, and in our daily movements.
5. We should respect the various measures taken by collaborators to keep their links to us secret.
6. Care should be taken to maintain internal discipline when working with the masses, in order to protect innocent people and those friendly to our cause, ensuring that our mistakes or failures do not make them a target of terrorism and hatred at the hands of the official army and its paramilitary forces.
7. Wherever and whenever the masses are under attack from the official army and its paramilitary forces, subjected to bombardment and the destruction of their property, we must actively denounce and counter these terrorist activities so that the people feel supported by us.
8. Murder and any kind of proven outrages committed against the population should be seen as a crime.
9. We should not impose on the masses. We should try to ensure that they see our weapons as their own.
10. Accusations made by communities about attacks by combatants and other individuals should be investigated exhaustively with input from the community.
11. Leaders and combatants should study and comply with the rules of international humanitarian law that are applicable to our revolutionary war.
12. If it should prove necessary to detain a militant or supporter of a sister organization for alleged or proven wrongdoing, the case and, if possible, the individual should be handed over to the said organization.
13. Our founding principle in all circumstances is respect for the right to life.
14. Leaders and combatants should bear in mind that executions may only be carried out for very serious crimes committed by enemies of the people and with the express authorization in each case of each organization's senior governing body. In all such cases, evidence must be examined and

decisions taken collectively. The leadership must produce a written record setting out the evidence.

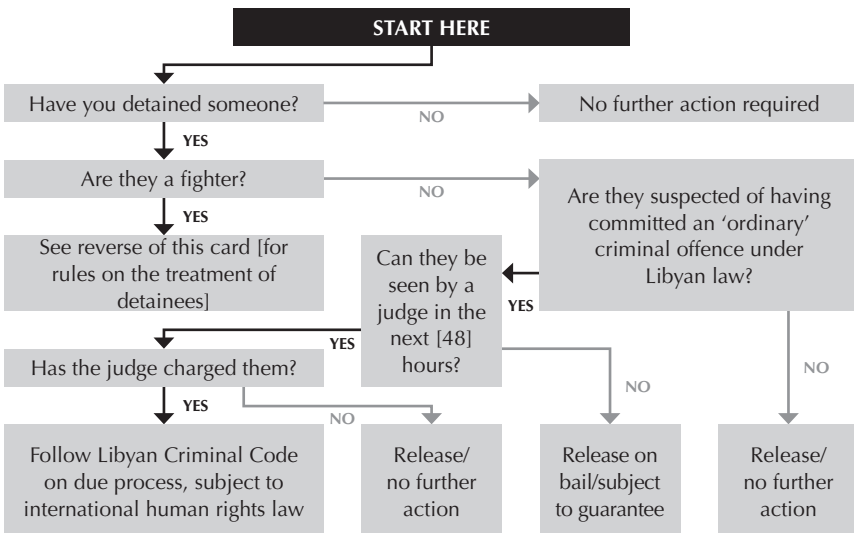
15. Alcoholism, drug addiction, theft, and dishonesty are counterrevolutionary vices that damage people’s trust in us.
16. We must avoid abusing people’s trust and generosity. We must not demand goods and property for our personal gain.

Source: Red Barrio (2009; translated in ICRC, 2011b)

V.11. National Transitional Council (NTC), Libya, 2011

Arguing that it did not want to ‘act like Qadhafi and his forces’, the NTC asked the NGO Lawyers for Justice in Libya to provide advice on the applicable rules of the law of armed conflict. The NGO assembled a small group based at the School of Oriental and African Studies, University of London, to draw up basic guidelines for use in the field. They were asked to focus on two areas: guidelines for the detention of captured Qaddafi forces, and guidelines on targeting. These guidelines have two functions: to set out basic standards of behaviour and to provide standards of accountability. These guidelines were promoted as the ‘Frontline Manual’ by the NTC (Scobbie, 2011).

Procedure on detaining or capturing people



Rules on the treatment of detainees

Detainees must receive humane treatment AT ALL TIMES, from the moment of capture. DO respect detainees and protect them from harm

Humane Treatment:

- **DO NOT** use any form of physical, sexual or mental violence against any detainee. No form of torture or intimidation is allowed.
- **DO NOT** subject detainees to humiliating or degrading treatment such as displaying them in a publicly humiliating fashion.
- **DO NOT** take revenge on detainees.
- **DO NOT** hold individuals answerable for acts for which they are not personally responsible.
- **DO NOT** remove personal property from the detainees unless this is for security reasons. If any property is removed, a receipt must be provided to the detainee.
- **DO NOT** obey an order to carry out any of these prohibited acts. That order is unlawful.
- **REPORT ANY INCIDENTS OF INHUMANE TREATMENT TO A SUPERIOR OFFICER**

1. Give immediate medical treatment/first aid to anyone who needs it. There is a duty to search for, collect, and aid the injured and wounded from the battlefield of both sides. The dead must also be collected, treated with respect, and buried.



Medical treatment:

- Necessary and additional medical treatment should be available and accessible.
- Attempt to identify the dead. If this is not possible, then record (and if possible, photograph) the personal possessions with which the body is buried. This is to help with subsequent attempts to identify the person. Records of the dead and the location of their burial should be sent to the ICRC.

2. Take detainees to a safe place of detention.



Detention Centres must:

- Be located away from the battlefield, be healthy and hygienic
- Be segregated according to gender and age (children (people under 18 years of age) must not be held with adults) and criminal offenders must be held separately
- Provide sufficient food, water, clothing and medical treatment to ensure the health of the detainees

3. Once at a place of detention follow these steps:

a: Provide any further necessary medical treatment.

b: A capture card must be made and a copy sent to the ICRC.

c: Interrogate if necessary. HUMAN TREATMENT must be observed at ALL times



Capture Card:

- This is necessary to safeguard you from war crimes charges (enforced disappearance of detainees)
- Any change in the detainee's place of detention and/or date of release must be recorded and notified to the ICRC
- Captured fighters have no obligation to give any information beyond name, rank (if military), date of birth and identification number.

Interrogation:

- Any physical or mental coercion is prohibited to obtain statements. Detainees must not be subjected to violence or intimidation of any kind.

Rules on targeting and the use of violence

- **ONLY** target Qadhafi forces and others using force against you. Permissible targets include fighters, buildings, facilities and means of transportation being used or could be used for a military purpose.
- **DO NOT** allow persons who are less than 18 years of age to fight, even if they have volunteered to do so.
- **AVOID** as far as possible any effect on civilians of an attack against Qadhafi forces.
- **DO NOT** target fighters who are surrendering or are no longer fighting.
- **DO NOT** target civilians or places where there are only civilians.
- **DO NOT** target medical personnel, facilities, transports or equipment. These may be searched if you need to verify they are genuine, but **REMEMBER** that medical personnel are allowed by law to carry small arms to protect their patients.
- **DO NOT** target religious personnel.
- **DO NOT** target UN / ICRC / Red Crescent personnel or facilities.
- **DO NOT** harm cultural, educational and religious buildings and historic sites unless Qadhafi forces are using them for hostile purposes, and such harm is absolutely necessary.
- Only use the Red Crescent symbol to indicate medical personnel, facilities and transport and under direction of the competent authorities.

REMEMBER! FIGHT ONLY FIGHTERS. ATTACK ONLY MILITARY TARGETS. SPARE CIVILIANS.

Protection of detainees

Summary of requirements to be observed by the detaining authority

Detainees are entitled to:

- Adequate medical care
- Access to exercise
- Freedom to practice their religion
- Family contact
- Food and water sufficient for good health
- Safe and adequate housing
- Adequate sanitary facilities
- A procedure to register complaints regarding conditions of their captivity (see following card)
- An independent agent to monitor compliance with these guidelines

The detaining authority must ensure detainees are not subjected to:

- Any acts of violence, intimidation, or humiliation
- Cruel, inhumane, humiliating, or degrading treatment
- Slave labour
- Dangerous work (for example, mine clearing)
- Any work which assists your military effort

SPECIAL PROVISIONS FOR WOMEN:

- Female prisoners **MUST** have separate accommodation under female supervision
- Female prisoners may be searched **ONLY** by females
- Female prisoners **MUST** be especially protected against sexual violence

SPECIAL PROVISIONS FOR CHILDREN (PEOPLE UNDER 18 YEARS OF AGE)

- Children **MUST** have accommodation apart from adults unless with their families
- Children **MUST** have food, hygiene and medical care suited to their age
- Children **MUST** be able to continue their schooling

REMEMBER! THE PURPOSE OF DETENTION IS NOT TO PUNISH BUT TO PREVENT FROM FIGHTING

Procedure in the case of suspected breaches of the rules set out in these guidelines

Anyone who wishes to complain about a suspected violation of these rules, and in particular the mistreatment of detainees or the use of fighters who are less than 18 years of age, should be told the name and contact details of the person who has been designated to deal with complaints.

The complaints will be made in confidence. The person providing the information will be informed before being called as a witness.

Complaints must be investigated promptly, thoroughly, and in an impartial manner by an independent body.

Source: Scobbie (2011)

Endnotes

- 1 In this report, ‘armed groups’ refers to a variety of non-state armed actors, including insurgents, pro-government armed groups, gangs, and some criminal organizations. The term is not intended pejoratively; the author recognizes that some reviewed groups have taken on legitimate government roles while others have been described as national liberation movements or belligerents.
- 2 Forcing new recruits to commit abuses is sometimes used to further the process of socialization. Yet, as evidenced by defections from the LRA, even a group that relies on the perpetration of heinous crimes is not necessarily able to control a recruit (Bevan, 2006, p. 278).
- 3 Rewards may include the care provided by the group to a fighter, promotion, and symbolic gestures. When a fighter thinks that he is appreciated, he is more likely to persevere in the behaviour that has caused this appreciation (Haer, Banholzer, and Ertl, 2011, pp. 418–20).
- 4 Several representatives of humanitarian organizations have made this proposal to the author.
- 5 Whether a ‘non-international armed conflict’ exists is determined based on two criteria: the intensity of the conflict and the organization of the parties. With respect to the second criterion, the International Criminal Tribunal on former Yugoslavia considers five areas: 1) the existence of a command structure; 2) the capacity to carry out military operations in an organized manner; 3) logistical capacity; 4) the level of discipline; and 5) the ability to speak with one voice (ICTY, 2008b, paras. 199–203).
- 6 The United Nations Secretary-General makes this point in his reports on the protection of civilians: ‘Indeed, while armed groups are diverse in their motivations and conduct, there are those which have shown a readiness to *establish and implement commitments* in conformity with their obligations under international humanitarian law and with human rights law. Some non-State armed groups have been receptive to training on these topics. Some have adopted codes of conduct, unilateral declarations and special agreements, as envisaged under international humanitarian law, through which *they commit to comply with their obligations or even undertake commitments that go beyond those required by the law*’ (UNSC, 2010, para. 53, emphasis added). See also UNSC (2009, para. 42).
- 7 The Swiss-based NGO Geneva Call, for instance, has produced a searchable database of armed groups’ regulations and policies as they relate to international humanitarian law (Geneva Call, forthcoming).
- 8 This point is demonstrated in the case of the Frente Farabundo Martí para la Liberación Nacional (FMLN) in El Salvador (discussed below).
- 9 The relevant language—Article 96, Paragraph 3 of Additional Protocol I—requires declarations to address the Swiss Government as the exclusive depository of the Conventions; many of these universal declarations mistakenly address the UN or the ICRC.
- 10 ‘The NDFP regards as legitimate targets of military attack the units, personnel, and facilities belonging to the following:

1. The Armed Forces of the Philippines;
2. The Philippine National Police;
3. The paramilitary forces; and
4. The intelligence personnel of the foregoing.

Civil servants of the [Government of the Republic of the Philippines] are not subject to military attack, unless in specific cases they belong to any of the four above stated categories' (NDFP, 2005, p. 13).

- 11 'To end any doubt, the PKK regards the following groups as part of the Turkish security forces and, therefore, as legitimate targets of attack:
- a. members of the Turkish armed forces;
 - b. members of the Turkish contra-guerrilla forces;
 - c. members of the Turkish Intelligence Service (MIT);
 - d. members of the Turkish gendarmerie;
 - e. village guards.
- The PKK does not regard civil servants as members of the security forces, unless they come within one of the above categories' (PKK, 1995).
- 12 'We commit ourselves to respecting and complying with the law of peoples, the Geneva Conventions establishing humane rules of war. [...] We commit ourselves to treating enemies captured on the battlefield in a humane and dignified manner, and to respecting civilians and their property during war. We strongly condemn practices such as torture, abductions, and hit lists' (*La Semana*, 1987, translation by Edith Vilela).
- 13 'The ONLF as a matter of policy and principle does not practice or condone the deliberate targeting of civilians under any circumstances. This is both unethical and counterproductive to our political aims and objectives and only serves the interests of the illegitimate regime of Melez Zenawi an his Tigray Peoples Liberation Front (TPLF) clique' (ONLF, 2008).
- 14 'All prisoners and detainees will be provided with food, water and necessary medical assistance and will be treated humanely, without the use of aggression in any form. The [NTC] will vow to punish those who violate this code and will allow local and international human rights organizations to freely visit and talk to the detainees and prisoners at any time' (NTC, 2011).
- 15 One example is a statement made by CPN-M leader Prachanda in March 2004: 'Our Party has been committed to the fundamental norms of human-right and Geneva Convention since the historic initiation of the People's War. Anyone who without prejudicially judges the facts of eight years can find that our People's Liberation Army has been providing a respectful behaviour, treatment to the injured and release in good conditions of the prisoners of war who have been arrested from the army and police of the enemy combatant. Our Party has been expressing its commitment not only on the Geneva Convention in relation to the war but also on the international declarations in relation to the human rights' (HRW, 2004, pp. 22-23, n. 58).
- 16 'We reaffirm our commitment to refrain from targeting or forcibly displacing civilian populations, destroying civilian infrastructure, recruiting children for military operations, and to hold to account perpetrators of acts of rape and other forms of gender based violence' (CHD, 2008).
- 17 The Tawhid Brigade's leadership has gone to great lengths to standardize the group's rules of engagement and its role in bringing members of the regime and *shabiha* (pro-government militia) to justice. In their first statement, the leaders of the Tawhid Brigade established the

following rules of engagement: ‘Brigade commanders will make sure not to destroy any residence or business place. Those who blackmail or harm innocents will be punished like shabiha. Rebels are not permitted to act by themselves and judge civilians by their own hands. No rebels are allowed to kidnap civilians and accuse them of being shabiha. There will be official judges [for this matter]. If we act like the regime, why should we fight it? We are fighting against 40 years of heinous acts, so why allow our members to do the same?’ (Bolling, 2012, p. 6).

- 18 A fax sent by Abd al-Malik Badr al-Din Al-Huthi to Human Rights Watch in June 2009 reads: ‘[W]e are very careful with the treatment of civilians, and we treat them humanely in a manner that protects their rights mentioned in international humanitarian law and international human rights law [. . .]. We also confirm being keen to keep civilians neutral and spare them conflict. We also work laboriously towards supporting their protection and saving their lives, possessions and dignity’ (HRW, 2010, p. 34).
- 19 Some insurgents—such as the Chin National Front and the Karen National Union—have issued formal statements, also called deeds of commitment, on the recruitment of children, declaring their adherence to the principles of the Optional Protocol to the Convention on the Rights of the Child (UNGA, 2000). While these deeds were not signed before a third party, their importance is not diminished.
- 20 The 1961 ANC ‘Manifesto of Umkhonto we Sizwe’ is a case in point. See ANC (1961).
- 21 See Weinstein (2007, pp. 371–74).
- 22 See SPLM/A (2003a).
- 23 Research on Taliban internal regulations—the *layhas*—has largely eclipsed their military manual, and potentially other Taliban regulations; see Kleponis (2010) and Clark (2011a; 2011b). Ali (2008) is the main exception to this trend.
- 24 See MILF (2005).
- 25 In recent years, a number of (mostly West African) armed forces have adopted codes of conduct based on or inspired by the ICRC publication *Code of Conduct for Combatants* (ICRC, 2011a). These include Côte d’Ivoire (2005), Cyprus (2007), Nigeria (2006), Senegal (2006), Sierra Leone (2006), and Togo (2008). The ICRC publication lists four ‘combat rules’, one rule on respect of the Red Cross and Red Crescent emblem, four rules on wounded enemies, four rules on wounded and shipwrecked enemies at sea, four rules on prisoners, and four rules on civilians, for a total of 21 rules.
- 26 While they are sometimes referred to as ‘codes of conduct’, the *layhas* are actually internal organization documents; see Clark (2011b). Nevertheless, the 2009 and 2010 versions include a code of conduct with six articles.
- 27 The UK code of conduct comprises six values and four standards.
- 28 The CPN–M, Naxalites, NPA, and SPLA also use the PLA document.
- 29 In 1967, as commander-in-chief of the armed forces, Major-General Yakubu Gowon issued a directive on the conduct of operations, known as the ‘Operational Code of Conduct for the Nigerian Army’ (NAF, 1967). Strictly speaking, it is a standing order rather than a code of conduct.
- 30 The Israeli code of conduct comprises three ‘basic values’ and ten ‘values’.
- 31 Other, shorter creeds of the US Armed Forces include the ‘Rifleman’s Creed’ (US Marines), the ‘Sailor’s Creed’ (US Navy), the ‘Airman’s Creed’ (US Air Force), and the ‘Creed of the United States Coast Guardsman’ (US Coast Guard).

- 32 The 15th rule reads: 'In situations of armed conflict I will abide by the rules of international humanitarian law as contained in the Geneva Conventions' and goes on to enumerate 11 rules of war.
- 33 This code of conduct is oral and thus has several versions, most often with 18 or 22 rules. A 'thief in law' is ascribed high status in the world of post-Soviet organized crime.
- 34 In November 2010, the Nigerian Armed Forces published a code of conduct specifically addressing the issue of elections; 22 rules address the behaviour of soldiers in that context.
- 35 See Richards (2011).
- 36 See Annexe III.6.
- 37 See Annexe I.1.
- 38 See Annexes IV.3 and IV.4.
- 39 See Annexe IV.5.
- 40 See Annexe IV.6.
- 41 See Annexe IV.2.
- 42 See Annexe IV.7.
- 43 Most armed forces require recruits and officers to swear an oath at various stages of their career. Some gangs, including the Aryan Nation, also have oaths; see Valentine (2000, p. 56).
- 44 The Hagannah oath is reproduced in Annexe IV.1. See Save Israel (n.d.) for the Irgun oath.
- 45 In some cases, commentators use the expression 'rules of engagement' to describe standing orders, but this usage only creates confusion. In all the materials reviewed for this report, the expression only appears once, namely in MILF's General Order No. 2, where the term is not used the way the armed forces usually use it. The military definition of rules of engagement has a very narrow focus; the rules 'provide authorisation for and/or limits on, among other things, the use of force, the positioning and posturing of forces, and the employment of certain specific capabilities'—nothing more (IIHL, 2009, para. 3).
- 46 This version is often considered the original, but it actually comes from Kenneth Roberts' novel, *Northwest Passage*, in which the orders are explained to the narrator (Roberts, 1937). The original 28-article 'plan of discipline' can be found in the journals of Maj. Rogers and dates back to 1759; see Roger's Rangers (1998).
- 47 See Annexe V.2.
- 48 See Annexe V.4.
- 49 See Annexes V.7 and V.11.
- 50 See Annexes V.4, V.5, and V.10.
- 51 See Annexes V.1, V.3, V.7, and V.11.
- 52 See Annexes V.7, V.8, and V.11.
- 53 The FMLN was formed as an umbrella group comprising five left-wing guerrilla organizations: the Fuerzas Populares de Liberación (FPL), Ejército Revolucionario del Pueblo (ERP), the Resistencia Nacional (RN), the Partido Comunista Salvadoreño (PCS), and the Partido Revolucionario de los Trabajadores Centroamericanos (PRTC).
- 54 Translation by Edith Vilela. A version of this manual was captured by the Colombian police in Puerto Tejada, Caquetá Department, in December 2011; a few pages were shown on Caracol TV on 10 December 2011 (*Noticias Caracol*, 2011).
- 55 A *takfiri* is a Muslim who accuses another Muslim of apostasy.
- 56 Except for the date of publication, the 2011 version is identical to the 2010 edition (author correspondence with Kate Clark, 16 December 2011).

- 57 Some articles that appear in these editions are also included in the code of conduct: in the 2009 *layha*, rules 11, 34, and 49–54; in the 2010 *layha*, rules 40 and 67–73. Rules 34 (2009) and 40 (2010) contain the duty of obedience, which is present in many codes of conduct of other armed groups (Clark, 2011b).
- 58 The issue of rebel courts and rebel legislation is often hotly debated, as they infringe on what is seen as a state prerogative—the judiciary. Yet any insurgency, by its mere existence, already infringes on the state’s monopoly on the legitimate use of force. The fear that rebel courts would essentially be *kangaroo courts*, disrespecting even the most basic standards of fair trial, is even more widespread. Nevertheless, it should be kept in mind that these courts exist and that they are among the measures insurgents may use and often do use to enforce behaviour. See Sivakumaran (2009) and Somer (2007).
- 59 The names of FDN documents are confusing: their ‘Código de conducta’ is actually a penal code, which also encapsulates norms of behaviour for the groups’ ‘commandos’, that is, a standing order. It was completed through a ‘Manual de conducta’ (Manual of Behaviour), which explains some of its notions. Their code of conduct was the ‘Manual de combatiente’ (*Combatant’s Manual*) (FDN, 1980).
- 60 These categories are much wider than those established in the NDFP and PKK unilateral declarations.
- 61 The Secretary-General’s report states that: ‘Member States, as well as non-State parties to conflict, as appropriate, should: (a) Provide *training* to combatants on international humanitarian law and human rights law, including refresher training; (b) *Issue manuals, orders and instructions* setting out their obligations and ensure the availability of legal advisers to inform commanders on the application of the law; (c) Ensure that orders and instructions are observed by establishing effective *disciplinary procedures*, central to which must be strict adherence to the principle of command responsibility’ (UNSC, 2009, para. 65, emphasis added).
- 62 See Annexe V.5.
- 63 See also Museveni (1997, p. 90).
- 64 The author thanks Yezid Arteta Dávila for this observation. Arteta is a former FARC commander who has become a researcher in the Peace Processes Programme at the Escola de Cultura de Pau at the University of Catalonia, Barcelona.
- 65 According to an Israeli source, Hamas operates a Gaza-based military academy that teaches bomb making, self-defence, raids on Israel Defense Forces posts, and weapons handling (ITIC, 2009). In 2009, the FDLR still operated a training school in the Democratic Republic of the Congo, near Karongi (ICG, 2009, p. 34). The Naxalites address internal organization as well as ‘military formation’, outlining a rough syllabus and the reference material needed (CPI–M CMC, 2005).
- 66 See also Bangerter (2010, pp. 206–09).
- 67 There may be an unspoken agreement between the leadership and its fighters: provided they are loyal, the fighters may help themselves to the population’s possessions. This would undermine any attempt by the same leadership to instil a respect for the population; Weinstein (2007) makes this case for the Resistência Nacional Moçambicana (RENAMO) in Mozambique.
- 68 In both cases, such receipts were found by security forces, but it is difficult to assess how widespread the practice was.

- 69 The CPN–M ‘was very effective and successful in dealing with people at the village level. They were also very good at speaking with respect, something the security forces [did not do]’ (author correspondence with an authoritative source, 12 December 2011).
- 70 In Colombia, the FARC issued similar but less detailed instructions in 2000 and then again in 2011, in their message to the population of Toribio (FARC, 2000; 2011).
- 71 Among gangs and mafia organizations reviewed for this report, one case does appear to be a public relations move. In 2011, the Knights Templar of Michoacán, a Mexican drug cartel, published a 22-page code of conduct and distributed it in various locations in and around Michoacán (*Daily Mail*, 2011).
- 72 See, for example, Kitson (1960).
- 73 There were also instances of RUF fighters claiming to be with the Economic Community of West African States Monitoring Group (ECOMOG) and executing those who showed happiness as collaborators (author correspondence with an authoritative source, 24 November 2011).
- 74 See Annexe I.4.
- 75 A number of doubts have been raised as to the precision of the results of the Truth and Reconciliation Commission report, for instance because both RUF and CDF leaders asked their former followers not to collaborate (author correspondence with an authoritative source, 24 November 2011). On the whole, however, the large sample of violations reveals that the RUF was the main violator in the conflict.
- 76 Author correspondence with an authoritative source, 24 November 2011.
- 77 This paragraph is based on SCSL (2009).
- 78 See also Abdullah (1998, p. 219). There was a significant dropout rate among trainees, during and after their time in Libya, and only a few Libyan-trained fighters actually joined the RUF (author correspondence with an authoritative source, 24 November 2011).
- 79 Unless specified otherwise, this section uses the acronym PLA for military units that depended on the CPN–M.
- 80 While the reports of the National Human Rights Commission do not lend themselves to comparison, especially for earlier years, it is clear that this proportion has varied over time. The killing of civilians increased dramatically in 2002. Between 1996 and 2002, ‘the State carried out nearly double the killings (4,457) than the Maoists (2,237)’; the CPN–M was identified as responsible for 33 per cent of the killings reported during the period (NHRC, 2003, p. 15). These numbers are not entirely reliable, however. Various observers have remarked that the Commission did not have access to the whole country and that it was very close to the monarchy; in addition, they argue that victims of the Maoists could be kept from declaring violations (author correspondence with an authoritative source, 12 December 2011). In the absence of a commission of enquiry following the end of the conflict, figures and responsibilities in the Nepalese Civil War will remain difficult to establish with any precision.
- 81 In typical Maoist fashion, the CPN–M seized land from landowners and redistributed it to their supporters (author correspondence with an authoritative source, 12 December 2011).
- 82 This rare species of fungus is used both in clinical medicine and as a household remedy.
- 83 Relevant rules were Rule 2: ‘Do not take a single needle or piece of thread from the masses’; Rule 3: ‘Turn in everything captured’; Point 2: ‘Pay fairly for what you buy’; Point 3: ‘Return everything you borrow’; Point 4: ‘Pay for anything you damage’; and Point 6: ‘Do not damage crops’.

- 84 In addition to their training roles, political commissars could be entrusted with the care of the wounded during operations or be placed in charge of the supply of weapons and ammunition (Pasang, 2008, p. 205).
- 85 The two unilateral declarations were issued in 1991 and 1996, representing a very unusual step.
- 86 See Annexe V.3.
- 87 The term is local shorthand for the 'Three Main Rules of Discipline and Eight Points for Attention'.
- 88 The original is in Burmese and the translation is of dubious quality. The author is indebted to Sandesh Sivakumaran, who pointed out this quote.
- 89 Motivations to respect IHL may vary, although self-image and military interest are usually important (Bangerter, 2011b).
- 90 This point is reflected in the NRA code of conduct: 'Political education should be mandatory every day so that the cadres and militants can understand the reasons for the war as well as the dynamics of the world we live in.'
- 91 See, for example, Clark (2011a, p. 17).
- 92 Author correspondence with Yeshua Moser-Puangsuwan, Landmine and Cluster Munition Monitor in Myanmar, 8 June 2012, quoting a fighter.
- 93 Author interview with a CNF official, Geneva, 2010.
- 94 See Annexe II.1.
- 95 See Annexe II.7.
- 96 See Annexe II.6.
- 97 See Annexe IV.2.
- 98 See Annexe IV.3.
- 99 See Annexe IV.7.
- 100 By the same token, civil defence groups set up by armed forces rarely address weapons issues in their codes of conduct. Out the 14 rules that comprise the 'Civil Patrol Code of Conduct' in Guatemala, only one relates to the subject: 'I will not misuse the arms and munitions given to me for use in the Civil Patrol' (Americas Watch, 1986, pp. 95–96).
- 101 See Annexe V.2.
- 102 See Annexe V.9.
- 103 See Annexe V.6.
- 104 See, for example, Pasang (2008, pp. 204–07).
- 105 Author correspondence with Joanne Richards, researcher on small arms issues in the DRC, 9 December 2011, translation by Patricia Brutus.
- 106 Young men are vulnerable to forced recruitment, but also to summary execution, because they are able-bodied enough to fight for one or the other party.
- 107 The author owes this information to Yezid Arteta Dávila.
- 108 In 2004, Zachariah Mampilly observed a poster listing Mao's 'Golden Rules' in a SPLM administrative office (Mampilly, 2011, p. 12). Mampilly adds: 'The case I'm referring to was a CANS office in Nimule in 2004. The poster was made by hand and listed Mao's eight points. I did ask the administrator in the office why it was there, and he said it was to ensure that the cadre did not misbehave towards the peasantry, a particularly salient issue in Equatoria' (author correspondence with Zachariah Mampilly, 10 October 2011).
- 109 This text has been abridged; for the complete document, see Ori Amaza (1998, pp. 246–51).
- 110 The translation of this paragraph is drawn from ICRC (2011b).

- 111 The translation of this paragraph is drawn from ICRC (2011b).
- 112 These points are an obvious copy of the US Marines, Navy, and Coast Guard's 'General Orders for Sentries', otherwise known as the '11 General Orders' (Marines, n.d.). As with the 'Three Main Rules of Discipline and Eight Points for Attention', the RUF do not seem to have understood what these orders are really about, and Morris Kallon himself does not recognize that this order is directed only at guard duty.
- 113 The witness attempted to reconstruct the orders from notes and from memory. The passage has been edited for clarity.

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