

A collection of codes of conduct issued by armed groups*

Foreword

This issue of the International Review of the Red Cross addresses the importance of understanding armed groups and the norms by which they are bound. One way of gaining insight into armed groups and engaging with them on improving respect for the law is to examine the rules and decisions that they choose to adopt.

In 2008, the International Committee of the Red Cross (ICRC) published a study on increasing the respect for international humanitarian law (IHL) in non-international armed conflicts.¹ The study identified codes of conduct as one of the legal tools to improve compliance of armed groups with IHL.² While they do not guarantee respect for the law, codes of conduct provide an important glimpse into the ideological and organizational structure of an armed group, its chain of command, and the rights and obligations that the hierarchy of the armed group chooses to bestow on its members. Furthermore, codes of conduct can provide a basis upon which legal representations can be made and accountability required regarding norms of IHL.³

Several authors in this edition of the Review discuss the importance of codes of conducts for understanding and engaging with armed groups.⁴ The Review has thus decided to include a collection⁵ of codes of conduct, or relevant extracts thereof.⁶ All materials in this collection are publicly available.⁷ They originate from various geographic areas and time periods – from China in 1947 to Libya in 2011 – and provide an insight into different armed groups' views of and appreciation of humanitarian norms.⁸ The publication of these codes of conduct does not in any way imply endorsement by the Review of the content of these documents.

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* This selection is based on the ICRC collection compiled by Olivier Bangerter, former ICRC Advisor for Dialogue with Armed Groups. The present selection was assembled and introduced by Nelleke van Amstel, ICRC Unit for Relations with Arms Carriers.

What constitutes a ‘code of conduct’?

The term ‘code of conduct’ is hereby used to refer to documents that, albeit different in length and form, contain at their core lists of rules and responsibilities that armed groups’ hierarchies set out for their members. These rules aim to regulate both the members’ internal behaviour and their relations outside the group. As one author in this edition of the *Review* remarks, rules contained in a code of conduct may repeat existing obligations of international humanitarian law (IHL), fall short of it, or extend beyond it.⁹ Codes of conduct rarely specify whether a particular rule is derived from a certain branch of law – such as IHL or human rights law – or whether they stem from other ethical or social norms. The content of these documents demonstrates the *acceptance* of the included norms, rather than their concrete foundations in law.

Codes of conduct are not the only documents that include behavioural norms adopted by armed groups: agreements between parties to a non-international armed conflict (NIAC), unilateral declarations, and statements are examples of other such documents. The present collection, however, focuses on codes of conduct in order to shed light on this relatively little explored category of documents.¹⁰

The legal significance of codes of conduct

The choice of an armed group to adopt a code of conduct including rules of IHL does not affect the applicability of IHL to an armed group involved in an NIAC. As a party to the conflict, the said group will be bound by the relevant rules of NIAC (Common Article 3 to the Geneva Conventions, customary IHL, and Additional Protocol II, where applicable), regardless of the content of its own code of conduct.

1 Michelle Mack, *Increasing Respect for International Humanitarian Law in Non-international Armed Conflicts*, ICRC, Geneva, February 2008.

2 Other tools mentioned in the study include special agreements, unilateral declarations, and inclusion of humanitarian law in ceasefire or peace agreements (*ibid.*).

3 *Ibid.*, p. 16.

4 In particular, see Sandesh Sivakumaran, ‘Lessons for the law of armed conflict from commitments of armed groups: identification of legitimate targets and prisoners of war’, and Olivier Bangerter, ‘Reasons why armed groups choose to respect international humanitarian law or not’, in the present issue.

5 A broader collection of documents relating to issues of IHL (including unilateral declarations, deeds of commitment, codes of conduct, special agreements, and memoranda of understanding) will soon be made available online by Geneva Call (see <http://www.genevacall.org> (last visited 16 December 2011)).

6 Codes of conduct are often introduced by political statements, which have not been reproduced here.

7 The present collection is in no way exhaustive, owing largely to the fact that not many codes of conduct are publicly available or disseminated.

8 Additionally, for the code of conduct of the Taliban, see the annex to Muhammad Munir, ‘The Layha for the Mujahideen: an analysis of the code of conduct for the Taliban fighters under Islamic law’, in *International Review of the Red Cross*, Vol. 93, No. 881, March 2011, p. 103.

9 See S. Sivakumaran, above note 4.

10 The ELN and FARC declarations of behavioural norms are exceptionally included in the present collection because they serve the purpose of codes of conduct.

Furthermore, the adoption of codes of conduct should not be assumed to guarantee compliance with IHL by armed groups. As previously discussed, such an adoption presents one way for armed groups to indicate their willingness to be bound by a norm in an international legal environment that does not allow them to sign or ratify treaties.

While the practice of organized armed groups may contain evidence of the acceptance of certain rules in NIAC, the ICRC Customary Law Study has considered the legal significance of such practice to be unclear.¹¹ It has been argued that the practice of armed groups (through their acts or omissions) should also be considered as contributing to the formation of customary rules on NIAC.¹² At present, it is uncertain to what extent this role would be accepted by states or international courts and tribunals.

Codes of conduct as tools for respecting the law

The potential of codes of conduct to increase respect for the law cannot be overlooked. As described in the ICRC Study, 'codes of conduct that are consistent with IHL provide a concrete mechanism for persons to respect the law'.¹³ First, codes of conduct have the advantage of being short and simple texts. If integrated properly, IHL rules can be stated in a way that is easy to understand and to be followed by members of the armed group. Complex legal texts are unlikely to capture the attention of fighters.

Second, discussions on, and the drafting of, codes of conduct may cause groups to reflect on IHL and on their behaviour in comparison to it. In some cases, the inclusion of norms of IHL in codes of conduct may mean that the leadership of an armed group expresses its willingness to recognize IHL as the applicable law. Even when an armed group chooses to do so purely for reasons of propaganda, the passing of a code of conduct can represent a first step towards the group's improved 'ownership' of rules originally created by states, and towards ensuring respect for the mentioned provisions of IHL.¹⁴

Acceptance of a code of conduct containing IHL norms may lead to further preventative steps within the group, such as the dissemination of the code

11 See Jean-Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law*, Vol. 1, Cambridge University Press, Cambridge, 2005, p. xxxvi.

12 See Marco Sassòli, 'Taking armed groups seriously: ways to improve their compliance with international humanitarian law', in *International Humanitarian Legal Studies*, Vol. 1, 2010, pp. 20–26; Jonathan Somer, 'Jungle justice: passing sentence on the equality of belligerents in non-international armed conflict', in *International Review of the Red Cross*, Vol. 89, No. 867, 2007, pp. 661–662; Sandesh Sivakumaran, 'Binding armed opposition groups', in *International & Comparative Law Quarterly*, Vol. 55, No. 369, 2006, pp. 374–375; Andrew Clapham, *Human Rights Obligations of Non-state Actors*, Oxford University Press, New York, 2006, pp. 28–29.

13 See M. Mack, above note 1, p. 22.

14 See Geneva Academy of International Humanitarian Law and Human Rights (ADH), 'Rules of engagement: protecting civilians through dialogue with armed non-state actors', October 2011, p. 6, available at: <http://www.adh-geneva.ch/docs/publications/Policy%20studies/Rules%20of%20Engagement.pdf> (last visited 6 December 2011).

itself or the instruction and training of the members in its rules. It is to be hoped that a better overall knowledge of the rules of IHL will induce better compliance with IHL.

Finally, the potential of these instruments lies in the reality that armed actors who commit violations in NIACs are not acting completely autonomously. They are usually part of a hierarchical structure, and their actions depend, at least in part, on orders and rules passed on by the hierarchy. As an expression of such rules, codes of conduct can be a powerful tool for compliance. In many instances, the perceived deterrent value of punishment for violations of rules stipulated by the group itself may be greater than the threat of international prosecution for violations of IHL.

Codes of conduct as tools for humanitarian actors

External actors such as humanitarian workers and academics can benefit from studying the adoption of codes of conduct by armed groups. These documents can provide an entry point for substantive dialogue on the law, and a basis for engaging armed groups in addressing violations.¹⁵ Additionally, the content of these documents can reveal the views of armed groups on humanitarian standards. As will be discussed later in this issue with regard to, for example, rules on the treatment of prisoners, the practice of armed groups as reflected in their codes and agreements with other parties can highlight their equivalence to or disparity with IHL.¹⁶ The rules chosen to be included and the discussions surrounding the adoption of these documents can provide further insight into the reasons why armed groups decide to respect, or not, certain rules.¹⁷

15 See Olivier Bangerter, 'Disseminating and implementing international humanitarian law within organized armed groups: measures armed groups can take to improve respect for international humanitarian law', in International Institute of Humanitarian Law, *Non-state Actors and International Humanitarian Law: Organized Armed Groups – A Challenge for the Twenty-first Century*, FrancoAngeli, Milano, 2010, pp. 187, 192, 196; see also M. Sassòli, above note 12.

16 See S. Sivakumaran, above note 4.

17 See O. Bangerter, above note 4.

CODES OF CONDUCT

Workers' and Peasants' Red Army / People's Liberation Army (PLA) – China

The PLA was first formed in 1927 as the Red Army. With the founding of the People's Republic of China in 1949, the PLA became the national armed forces.

The 'Three Main Rules of Discipline and the Eight Points for Attention' were drawn up by Mao Zedong and others during the Second Revolutionary Civil War (1927–37). Although at times different units had varying versions, in 1947 a standard version was issued and is now the principal set of disciplinary regulations and basic code of conduct for every member of the PLA.

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.

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 maltreat captives.

In 1928, four policies for the lenient treatment of captives were also laid down. They were:

1. Do not hit, swear at, kill, or maltreat captives.
2. Do not search captives' pockets.
3. Give medical treatment to wounded captives.
4. Let captives stay or set them free at their own will.

These rules were later developed into Five Policies for Lenient Treatment of Captives:

1. Do not kill or injure captives.
2. Do not hit, swear at, maltreat, or insult captives.
3. Do not confiscate the private property of captives.
4. Give medical treatment to sick and wounded captives.
5. Set the captives free.

In 1937, three main principles for political work were put forward; among them was a mandate to give lenient treatment to captives. In October 1947, Mao Zedong said in the *Manifesto* of the CPLA that ‘our army will not kill nor insult any of the Guomindang soldiers and officers who have laid down their arms. We will collect those who are willing to stay and repatriate those who are willing to leave’.¹⁸

New People’s Army (NPA) – Philippines

The New People’s Army was formed in 1969. Their ‘Basic Rules’ were issued in the same year and also include the ‘Three Rules and Eight Principles’, following the example of the Chinese PLA.¹⁹

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.

18 Reproduced in He Xiaodong, ‘The Chinese humanitarian heritage and the dissemination of and education in international humanitarian law in the Chinese People’s Liberation Army’, in *International Review of the Red Cross*, Vol. 83, No. 841, pp. 141–153.

19 Declaration of Undertaking to Apply the Geneva Conventions of 1949 and Protocol I of 1977, Annex C – Basic Rules of the New People’s Army, pp. 90–91.

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 from using 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 re-educated 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 on those proven to have committed treachery, capitulation, abandonment of post, espionage, sabotage, mutiny, incitement to 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.

National Liberation Army (ELN) – Colombia

The National Liberation Army (*Ejército de Liberación Nacional*, ELN) came into existence in 1964 and is still active in Colombia. The exact date of this code of conduct is unknown.

Code of war²⁰

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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.

²⁰ Published in David Arce Rojas, *Petróleo y Derecho Internacional Humanitario*, Pontificia Universidad Javeriana, Santa Fe de Bogotá, 1998, pp. 143–147.

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.

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 used 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 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 pressurize them into paying these taxes and meeting other demands, the ELN shall temporarily hold captive individuals representing the aforementioned sectors. The latter shall be immediately 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.

Revolutionary Armed Forces of Colombia, People's Army (FARC-EP) and ELN – Colombia²¹

The message below containing rules of conduct was signed and sent to their militants by the FARC Secretary of Central Staff and by the ELN Central Command in 2009.

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 Simon Bolivar 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.

21 Source: annex to a message from both organizations to their militants, November 2009, available at: <http://redbarrio.wordpress.com/2009/12/22/farc-y-eln-detienen-la-confrontacion-entre-las-dos-fuerzas/> (last visited 30 September 2011).

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.

National Redemption Army (NRA) – Uganda

The National Redemption Army was founded in 1981 and became the national armed forces of Uganda in 1986.

The National Resistance Army Code of Conduct²²

[abridged]

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.

²² Reprint with permission from Jeremy Weinstein, *Inside Rebellion: The Politics of Insurgent Violence*, Cambridge University Press, New York, 2007, pp. 371–374. The complete document is printed in Ondaña Ori Amaza, *Museveni's Long March from Guerrilla to Statesman*, Fountain, Kampala, 1998, pp. 246–251. The exact date of signing is unknown.

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:
 - a) Quest for cheap popularity: on the part of officers or cadres by tolerating of wrongs in order to be popular with soldiers.
 - b) 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.
 - c) 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:
 - a) Open criticism of mistakes instead of subterranean grumbling which is favoured by reactionaries.
 - b) The holding of regular meetings at which all complaints are heard and settled.
 - c) 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) 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.

Revolutionary United Front (RUF) – Sierra Leone

The RUF was involved in the conflict in Sierra Leone from 1991 until 2002. The 'Eight Codes of Conduct' govern the RUF fighters' interactions with civilians.

The Codes provided in part:

- To speak politely to masses.
- To pay fairly for all [that] 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 [*sic*] people.²³

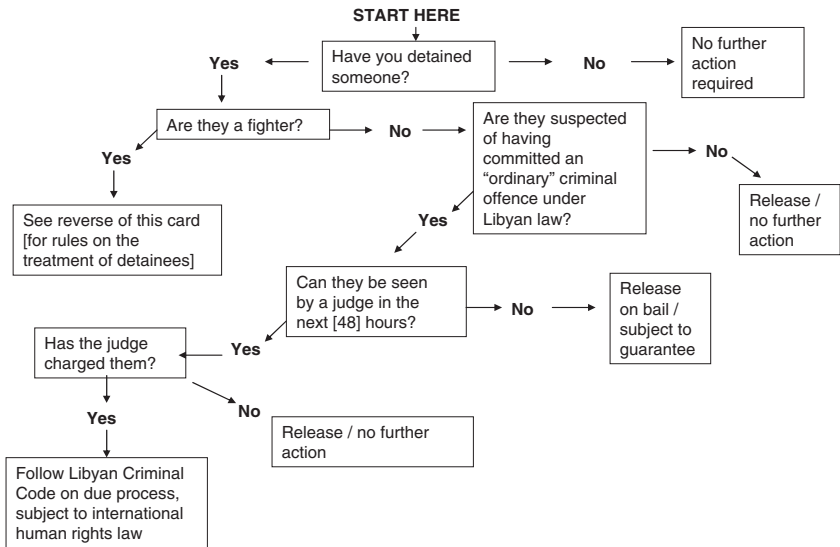
National Transition Council (NTC) – Libya

The National Transition Council was formed in February 2011, with the National Liberation Army as their military arm. At the time of writing, the NTC is in the process of forming a government, and the National Liberation Army is expected to become the national armed forces. The documents below are a set of guidelines issued by the NTC.²⁴

23 Special Court for Sierra Leone, *Prosecutor v. Issa Hassan Sesay, Morris Kallon and Augustine Gbao (the RUF accused)*, Case No. SCSL-04-15-T, Judgment (Trial Chamber), 2 March 2009, available at: <http://www.sc-sl.org/CASES/ProsecutorvsSesayKallonandGbaoRUFCase/TrialChamberJudgment/tabid/215/Default.aspx> (last visited 24 October 2011).

24 Source: text adapted from slides available at: <http://www.ejiltalk.org/wp-content/uploads/2011/08/Final-Libyan-LOAC-Guidelines-17-May-2011.ppt> (last visited 30 September 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:

→ **Capture Card:**

a: Provide any further necessary medical treatment.

- This is necessary to safeguard you from war crimes charges (enforced disappearance of detainees)

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

- Any change in the detainee's place of detention and/or date of release must be recorded and notified to the ICRC

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

→

- 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.

Protections 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

Source – adapted from: http://ehl.redcross.org/curriculum/module5/downloads/M5_Exp5C_re1.pdf

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.