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Tamil Eelam

by

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Abstract

International norm echoing in rebel groups:

The cases of the Kosovo Liberation Army and the Liberation Tigers of Tamil Eelam

by

Jennifer A. Mueller

Advisor: Professor Susan L. Woodward

This research demonstrates that rebel groups use international norms in their discourse and echo patterns in the discourse of states and that they do so to promote their own legitimacy at key turning points in their conflicts. Which international norms rebel groups use most frequently is partially determined by the congruence of those norms with their local norms and beliefs and the degree to which a group's internal structure has become more hierarchical and specialized. Two rebel groups are examined in this study over the course of their conflicts: the Kosovo Liberation Army (KLA) and the Liberation Tigers of Tamil Eelam (LTTE). The international norms under analysis are human rights, international humanitarian law, genocide, and norms against terrorism.

Rebel groups echo the broad pattern of change in discourse and behavior exhibited by states: as states increasingly turned to human rights discourse and focused on the protection of civilians in conflict during the 1990s, rebel groups did so as well in their discourse. These non-state actors, however, are not merely echoing the discourse from the international level as passive recipients: they adopt international norms into their discourse for strategic reasons, namely to increase their legitimacy with local and international audiences. By tracing the patterns of norm adoption throughout the course of the conflict and matching peaks of fluctuation with events on

the ground, this research demonstrates that rebel groups increase the frequency of their use of international norms at key turning points in the conflict, such as during negotiations for ceasefire or peace agreements, and do so to boost their legitimacy. The research examines the effect of two additional variables on the changes in the discourse of the groups: the normative culture of the groups and the internal hierarchical structure. Findings demonstrate that the normative culture of a rebel group partially determines which international norms are adopted by the group and that a precondition of a high level of internal hierarchy is necessary before a group echoes international norms consistently.

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Acronyms

ACTORD	NATO activation order
ACTWARN	NATO activation warning
BBC	British Broadcasting Corporation
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CDHRF	Center for Defending Human Rights and Freedom
CFA	Ceasefire Agreement
CNDD	Conseil National Pour la Défense de la Démocratie
CSCE	Conference on Security and Co-operation in Europe
EOKA	National Organization of Cypriot Fighters
EPRLF	Eelam People's Revolutionary Liberation Front
EROS	Eelam Revolutionary Organization of Students
FKP	Red Popular Front
FMLN	Farabundo Marti National Liberation Front
FRY	Federal Republic of Yugoslavia
FTO	Foreign Terrorist Organization
FYROM	Former Yugolsav Republic of Macedonia
HRW	Human Rights Watch
ICBL	International Campaign to Ban Landmines
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social, and Cultural Rights
ICFY	International Conference on Former Yugoslavia
ICG	International Crisis Group
ICTY	International Criminal Tribunal for the Former Yugoslavia
IHL	International humanitarian law
IPKF	Indian Peacekeeping Force
IRA	Irish Republican Army
JVP	Janatha Vimukthi Peramuna
KDOM	Kosovo Diplomatic Observer Mission
KFOR	Kosovo Force (approved by UN, and consisted of troops from NATO countries, partner countries and other non-NATO countries under unified command and control.)
KLA	Kosovo Liberation Army
KPC	Kosovo Protection Corps
KVM	Kosovo Verification Mission
LDK	Democratic League of Kosovo
LKCK	National Movement for the Liberation of Kosovo
LNCKVSHJ	National Liberation Movement Kosovo and the other Albanian Regions in Yugoslavia
LPK	People's Movement for Kosovo
LPRK	People's Movement for a Republic Kosova
LTTE	Liberation Tigers of Tamil Eelam

MILF	Moro Islamic Liberation Front
MNC	Multinational corporation
MUP	Serbian Ministry of Interior's Special Police
NAC	North Atlantic Council
NATO	North Atlantic Treaty Organization
NGO	Non-governmental organization
OMLK	Marxist-Leninist Organization Kosova
OSCE	Organization for Security and Cooperation in Europe
PDK	Democratic Party of Kosovo
PKMLSHJ	Communist Marxist-Leninist Party of Albanians in Yugoslavia
R2P	Responsibility to protect
RKL	Radio Free Kosovo
RMAU	Revolutionary Movement for Albanian Unity
RTVP	Radio and Television Pristina
SAJ	Serbian Ministry of Interior Special Anti-Terrorist Unit
SFRY	Socialist Federal Republic of Yugoslavia
SLMM	Sri Lankan Monitoring Mission
SPLA	Sudan People's Liberation Army
TEEDO	Tamil Eelam Economic Development Organization
TMVP	Tamil Makkal Viduthalai Pulikal
TULF	Tamil United Liberation Front
UÇK	Ushtria Çlirimtare e Kosoves
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNITA	National Union for the Total Independence of Angola
UNPROFOR	United Nations Protection Force
UPSUP	Independent Student's Union of the University of Pristina
USSR	Union of Soviet Socialist Republics
VJ	Yugoslav Army
VOA	Voice of America

Introduction

Over the course of the 1990s, the polarizing Cold War debates that dominated global thinking were supplanted by increased attention to the importance of human rights, the protection of civilians in conflict, and the redefinition of human rights violators as threats to international peace and security. Parallel to the increasing use of human rights language and human rights-influenced behavior on the part of states, this period saw a marked increase in the use of such language on the part of armed opposition groups—actors not bound by international conventions governing human rights law and responsible for a great deal of the human rights law violations during times of conflict. How did international norms that were intended to change the behavior of states come to have such an effect on the discourse of such non-state actors?

Over the last twenty years, we have seen evidence across the globe of the beginning of the incorporation of international norms in the discourse of armed opposition groups. For example, in January 1994, in the jungles of Chiapas, the Zapatistas launched a global campaign to draw attention to human rights violations in Mexico; in Burundi in February 1995, Jerome Ndiho of the Conseil National Pour la Défense de la Démocratie (CNDD) framed the organization's struggle in terms of human rights violations; in Kosovo in 1998, the spokesman for the Kosovo Liberation Army (KLA) publicized the KLA's struggle by claiming human rights violations had been perpetrated by the Yugoslav state in Kosovo and Bosnia; and the Liberation Tigers of Tamil Eelam (LTTE) in Sri Lanka, after years of claiming human rights violations as a motivating factor for their struggle, formed a human rights organization themselves in 2005 to document human rights violations.[1]

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[1] See, for example, "Rebels Determined 'to Build Socialism' in Mexico," January 4, 1994, *New York Times* (front page); Jerome Ndiho on *Radio France International*, Broadcast February 23, 1995; Jakup Krasniqi, quoted on ARTA news agency web site, Pristina, August 10, 1998; and (Stokke 2006).

While a great deal of scholarly attention has been focused on how and why states shift their discourse and respond to international norms, very little scholarly attention has been paid to how these norms affect the discourse and behavior of non-state actors. This dissertation addresses this gap by focusing on the changes in discourse of rebel groups, with the KLA as the primary case. A second case, the LTTE, is also explored to test the generalizability of the hypotheses developed and to provide a limited comparison between the two groups.

The norms under examination are human rights, behaviors during armed conflict (which fall broadly but not exclusively under international humanitarian law), and the use of certain types of violence (which may be termed terrorism). These groups of norms taken together address the types of behavior parties might exhibit during violent contestations of power and, between them, produce expectations of which sorts of behavior are condemned and which sorts of behavior are legitimate—or at least, not prohibited.

The argument

Norms change over time at the state level, and these changes are reflected in the discourse and behavior of states. International norms also have an effect on the discourse of rebel groups. Drawing on constructivist theories, which suggest that state interests may be shaped by norms and cultural factors, this dissertation offers explanations for the changes in the discourse of rebel groups, suggesting that these actors may equally find their interests shaped by international norms and change their use of language accordingly.

Are the changes in international norms at the state level recognized and mimicked at the non-state level among rebel groups and, if so, why? Not all groups adopt international norms in their language and those that do, do so to varying extents. What variables might explain why

groups adopt these norms and which norms are adopted? The following hypotheses examine these questions.

First, I hypothesize that rebel groups pay attention to the changes in the hegemonic discourse and change their discourse to match the changes at the state level. When states incorporate a specific norm into their language, armed groups do so as well. In this regard, they can be considered norm echoers. I tested this hypothesis by comparing the mention of international norms in the discourse of two groups, the KLA and the LTTE, over the course of each of their conflicts and comparing the patterns observed with changes at the international level.

A further hypothesis is that rebel groups decide to change their discourse in response to changes at the state level for strategic reasons, which suggests that the armed groups are not passive recipients of these norms but are active participants who engage with these norms when it is in their interest to do so. Thus, adopting international norms into their discourse is a strategy to increase their legitimacy. This hypothesis can be operationalized by examining in detail when in the course of the conflict the groups chose to incorporate these norms into their discourse. If groups increase the frequency of the use of international norms at key turning points when the groups' legitimacy is most under scrutiny, it is more likely that the adoption of the norm is undertaken to boost that legitimacy. Key turning points include: stepping into the public eye for the first time and announcing their goals to domestic and international audiences; being monitored by outside observers, such as during ceasefire agreements; negotiating agreements with the host state when third parties are involved; and seeking significant outside support.

The evidence from the discourse of the two rebel groups under study shows that, broadly speaking, these groups did echo changes in discourse observed at the international level. The

evidence further shows much higher levels of use of international norms during key turning points in the conflict, indicating that the norm usage was intentional, and therefore of a strategic nature. However, the patterns observed in the discourse of the two groups do not mirror the changes at the international level exactly, and, further, the patterns vary among norms and between cases indicating that other variables are also at play.

Drawing on research with rebel groups, such as Macartan Humphreys and Jeremy Weinstein's work in Seirra Leone and Marie Joelle Zahar's work in Bosnia and Lebanon, which shows that the internal structure of a group has an effect on the behavior of the group, this research examines the evolving structure of the rebel groups over time and compares the changes in structure with the observed changes in the discourse (Humphreys and Weinstein 2006; Zahar 1999). Thus, the internal structures are investigated to determine if greater hierarchy within the group is a precondition for the group's ability to reliably incorporate international norms into the discourse. This leads to a third hypothesis: that groups with a high level of hierarchy will more likely be able to see value in following international norm usage by states and more likely be able to do so. Groups whose structure is more diffuse are less likely to incorporate international norms into their discourse.

Structure may affect discourse in two ways. The first is through the mechanism of control—a more hierarchal group will be able to exert more control over the public pronouncements made by its members and will have greater ability to shape the discourse. The second mechanism by which structure may affect discourse is through increased specialized knowledge: as an organization grows more hierarchical and complex, individuals within the organization are able to specialize and grow more competent in one area (or alternatively, the organization is able to recruit individuals with more specialized knowledge). My research

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suggests that armed groups do require a certain level of hierarchical structure before international norms enter their discourse in a significant way. The evidence in the case of the KLA (the case in which the structure evolved significantly over the conflict) points to the second mechanism having the greatest effect on the discourse. The evidence for the first mechanism of control was much weaker.

Finally, drawing on previous literature, such as Jeffery Checkel's work on Eurpean norms on national membership, Margaret Keck and Kathryn Sikkink's work on transnational actors, and Jeffrey Legro's study of military culture, which argues that the congruence of a norm with the local culture is a vital component in determining whether a state (or organization) adopts a norm, I hypothesize that the internal normative culture of a rebel group determines which international norms are adopted by the group (Checkel 1999; Keck and Sikkink 1998; and Legro 1997). If certain features of an international norm are reflected in some way in the internal culture of the rebel group or the culture within which the group operates, the international norm will more likely be adopted by the group. Conversely, if the international norm is not congruent with the local norms, it is unlikely to be adopted, or adopted with any frequency, into the discourse of the group. Thus, we can expect that groups with widely divergent cultural norms will exhibit widely divergent patterns of adoption of international norms.

Significance

Why do we care about armed resistance groups adopting human rights norms or international norms at all?

If we can identify a pattern of adoption of the language of human rights, international humanitarian law norms, or the norms against terror by rebel groups, a number of avenues become available for both influencing these groups' actions and diminishing the level of human

rights violations in conflict, in general. It will be useful, for example, to have evidence of incentives to which a rebel group may respond that will move it toward more acceptable behavior. Offering legitimacy in negotiations is standard, but knowing more about what a group might consider to be true measures of legitimacy and under what conditions they might pursue them could lead to greater success.

Given that armed resistance groups are major perpetrators of human rights and international humanitarian law violations, setting aside the issues of legitimacy for the moment, the findings in this study suggest opportunities for encouraging these groups to reduce their violations. A better understanding of why groups do adopt these norms points to levers that could be applied by monitors, watch dogs, and others: for example, looking for congruence with local norms; and highlighting the payoffs others have gained when strategic turning points proved positive as a result of norm adoption. In addition, recognizing the central role rebel groups have in human rights and international humanitarian law violations, there has been a trend in recent years to prod rebel groups to acknowledge officially treaties and human rights norms, by encouraging the signing of unilateral statements, treaties such as the Mine Ban Treaty, and bilateral agreements with, for example, bodies such as the United Nations Children's Fund (UNICEF) to end the use of child soldiers.[2] Knowing why some groups may engage with certain international norms (and not others), and when they might be amenable to negotiations of this sort, will aid groups seeking to bring non-state actors into the international human rights regimes.

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[2] The Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (known as the Mine Ban Treaty) was open for signature in December 1997 and went into force in March 1999. In addition to having state parties sign the Mine Ban Treaty, the International Campaign to Ban Landmines (ICBL), the force behind the Mine Ban Treaty, sought out negotiations with groups such as the LTTE in Sri Lanka and the Moro Islamic Liberation Front (MILF) in the Philippines, to encourage their signing of a Deed of Commitment to the treaty.

A significant problem may be that by using the language of international norms to boost their legitimacy while not necessarily abiding by those norms, rebel groups may be contributing to the tarnishing of the human rights discourse itself and the diminishment of the value of those norms in the public sphere.

Finally, this study contributes to the literatures on both international norms and rebel groups. The literature on norms has only just begun to address the effect of international norms on non-state actors and this research helps open up this area of investigation. The research on rebel groups is rich, but it is limited mainly due to the difficulties and the dangers researchers face in accessing these groups during a conflict and immediately thereafter. By approaching the study of rebel groups through a previously under-explored area—that of the discourse of these groups during conflict—this research sheds more light on rebel groups' strategies during conflicts and points to a path of fruitful research in the future.

The first chapter, Chapter 1, "Theoretical Framework and Methodology," provides the theoretical underpinnings using literature from four different areas: international norms, legitimacy, social movements, and civil wars. The literature provides a guide for how the norms may come to affect the actions and discourse of rebel groups, offers insight into the potentially strategic thinking and cost-benefit analysis behind the adoption of certain norms in the discourse, and suggests why rebel groups may adopt the language of international norms to frame their struggle. Chapter 1 also outlines the methodology employed in this study.

Chapter 2, titled "Background on the Kosovo and Sri Lanka cases," offers the reader an overview of the conflicts in the two cases with details of the origins of each of the two groups under study: the primary case, the KLA; and the secondary case, the LTTE. It includes an

examination of the structure of each organization and the normative environments of each group, and looks at the congruence of international norms with local culture in each case.

Chapter 3, "Patterns of change: A state to non-state level comparison," reviews evidence that armed resistance groups follow changes in the hegemonic discourse and behavior and change their discourse to echo the changes at the state level. It compares the patterns in the changes in the discourse of these groups with the changes observed at the state level over the course of the 1990s and throughout the period during which the two groups were active. The international norms analyzed are human rights, international humanitarian law, humanitarian intervention, genocide, and the norm against the use of terrorism. It further examines the evidence for the effect that changes in structure have on a group's use of international norms in its discourse.

Chapter 4, "Human rights and international humanitarian law: Evidence of incorporation of norms into the discourse of rebel groups," looks more closely at the changes in the discourse related to two particular groups of norms—human rights and international humanitarian law—comparing the changes between the use of these norms in each group, and between the two groups. This chapter focuses on the micro-patterns observed in the discourse and ties these patterns to events on the ground. It also examines evidence for how the international norms may resonate with local norms.

Chapter 5, "'We were fighting a clean war': Rebel groups and the norm against the practice of terrorism," examines how rebel groups talk about terror and terrorism and when they are most likely to do so. It explores how groups contest the label of terrorist and try to label their host states as terrorist states, and analyzes the effect of an abrupt change in states' discourse on a

rebel group's discourse after the events of September 11, 2001. Finally, Chapter 6,

"Conclusions," summarizes the evidence presented in each of the preceding chapters.

Chapter 1: Theoretical framework and methodology

How and why do non-state actors, in particular rebel groups, use international norms in their discourse? What are the patterns of that usage? These are the main questions under examination in this study, which lies at the nexus of several fields of research, drawing its concepts and theories from each of these. The four sets of literature that provide the theoretical framework for this research are: international norms, legitimacy, social movements, and civil wars. There has been some scholarship looking at non-state actors and international norms, but very little which looks specifically at rebel groups and those norms. This chapter draws together these four bodies of work in a new way to cast light on how norms might affect the discourse of rebel groups, how the incorporation of norms changes over time, what factors might instigate this change, and finally, whether rebel groups' adoption of norms is strategic in nature.

Before examining the literature, the following section reviews definitions.

1.1 Definitions

The definitions for core concepts used in this study—rebel groups, international norms, human rights, and international humanitarian law—are contested and often ambiguous, so clarifying these terms is necessary.

Rebel groups

Throughout this research, the terms rebel groups, insurgencies, and armed opposition groups are used interchangeably to refer to groups that are armed, not under state control, and use force as part of their strategy to challenge the state. These groups act in opposition to the government or state in control of the territory, or, where there is no government to oppose (like Somalia), use force against other groups contending for power. The following terms will not be used to

describe the groups in question: militias, a broader term that includes all armed groups, including those working alongside the state, or under loose control of the state, such as paramilitary groups; guerrillas, a subset of rebel groups more indicative of their preferred tactics; and freedom fighters and terrorists, which denote a certain political bias. The name or label applied to a group can threaten or bolster its legitimacy as naming and labeling are connected to power—those with power can change how others perceive groups by labeling them a certain way (Bhatia 2005). This study tries to choose the more neutral terms.

Norms and international norms

How and why non-state actors use international norms in their discourse, and the patterns of usage, are the main questions under examination in this study. What, exactly, are international norms? Using a constructivist approach, I consider international norms to be an understanding of standards of behavior appropriate for international actors shared by states and international organizations. Constructivists have defined a norm to be a "shared understanding of standards of behavior" (Klotz 1995) and "a standard of appropriate behavior for actors with a given identity" (Finnemore and Sikkink 1998: 891). A core feature of a norm is that it has legitimacy—meaning it is widely accepted and viewed as appropriate.

Norms also change over time, and it is the pattern of change to which scholars have drawn much attention, as will be discussed below. International norms include prohibitions against such diverse behaviors by states as slavery, colonialism, and the use of certain weaponry or tactics during war, such as chemical weapons or attacks on civilians. All of these forms of behavior were deemed legitimate at one time. States once considered trafficking in slaves, for example, to be appropriate behavior.

The norms under particular examination in this study deal with human rights, behaviors during armed conflict (which fall broadly but not exclusively under international humanitarian law), and the use of certain types of violence (which may be termed terrorism). These groups of norms taken together address the types of behavior parties might exhibit during violent contestations of power and, between them, produce expectations of which sorts of behavior are condemned and which sorts of behavior are legitimate – or at least, not prohibited.

Human rights

Human rights are the basic freedoms to which all humans are entitled regardless of their race, gender, nationality, age or ethnicity. Alyson Brysk summarizes, "human rights may be conceived as a set of entitlements to the social prerequisites to human development: protection, security, freedom, and community" (Brysk 2004: 23). While the modern concept of human rights has its roots in the writings of Western political philosophers such as Jean-Jacques Rousseau, John Locke, and Immanuel Kant, our understanding of human rights today is derived from international human rights conventions and declarations that have been in force since the 1940s. The central agreement from which other human rights conventions flow is the Universal Declaration of Human Rights (UDHR), adopted by the United Nations (UN) General Assembly on December 10, 1948, which declares that "all human beings are born free and equal in dignity" (Article 1); and stipulates that everyone "has the right to life, liberty and security of person" (Article 2) and further has the right to be free of slavery, torture, and arbitrary arrest and detention, among other rights.

Human rights, as defined by the UDHR, thus provide us with the template for conceiving of how an individual has rights vis-à-vis the state. Human rights serve in some way as a power equalizer in the relationship between the all-powerful state and the much weaker individual. In

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addition to the UDHR, the International Covenant on Civil and Political Rights (ICCPR) and the

International Covenant on Economic, Social, and Cultural Rights (ICESCR)—which together are

considered the international bill of rights—and a host of other conventions and treaties, such as

the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or

Punishment (CAT), and the Convention on the Prevention and Punishment of the Crime of

Genocide (Genocide Convention), further clarify the internationally protected rights of

individuals and, concomitantly, the responsibilities of states. Nine international treaties together

make up the core of human rights treaties.[3] As treaties, they carry more weight than norms or

rules and have international committees that monitor state compliance (Finnemore 1996). An

individual's human rights can only be violated by a state, while similar actions by individuals are

deemed to be crimes. For example, if a state kills an individual, it deprives that individual of his

or her right to life—a human rights violation—while if an individual kills another, that is a

crime—murder. While human rights law does not traditionally apply to non-state actors, the

norms embodied in the laws have begun to be applied to non-state actors such as rebel groups

and multinational corporations (MNCs).

International humanitarian law

International humanitarian law (IHL) is the branch of international law that provides the

rules that regulate conduct during times of war. Also called *jus in bello*, it has a long history of

development, building on centuries of interaction between states at war. IHL delineates the

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[3] The nine core human rights treaties are the International Convention on the Elimination of All Forms of Racial
Discrimination (ICERD), the International Covenant on Civil and Political Rights (ICCPR), the International
Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of
Discrimination against Women (CEDAW), the Convention against Torture and Other Cruel, Inhuman or Degrading
Treatment or Punishment (CAT), the Convention on the Rights of the Child (CRC), the International Convention on
the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW), the International
Convention for the Protection of All Persons from Enforced Disappearance (CPED), and the Convention on the
Rights of Persons with Disabilities (CRPD). The treaty texts, as well as their classification as core treaties, may be
found at the Office of the United Nations High Commissioner for Human Rights,
http://www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx, accessed September 11, 2012.

acceptable behavior of all parties in a conflict (including both states and non-state armed actors) and circumscribes how these parties may conduct war with each other. While the laws provide for the protection of individuals not actively involved in the fighting of war, such as civilians or wounded soldiers, from the worst effects of war itself, they do have modest aims: merely to restrain the parties of an armed conflict from "wanton cruelty and ruthlessness" (Kalshoven and Zegveld 2011). International humanitarian law can be divided into two related but conceptually distinct areas of law: the law of The Hague (based primarily on two international treaties signed in the Hague in 1899 and 1907), which deals primarily with the conduct of war and with permissible means and methods of war; and the law of Geneva (based on the 1949 Geneva Conventions, their two 1977 Additional Protocols, and a third 2005 Additional Protocol) which is primarily concerned with the protection of civilians and those who are no longer able to fight. The Geneva Conventions spell out the commitments of states for the protection of civilians, the security of belligerent populations, the treatment of the wounded, sick and shipwrecked, and the treatment of prisoners of war during armed conflict. In contrast to human rights law, IHL does directly address non-state armed groups, spelling out their rights and obligations. Rules applicable in non-international armed conflicts include Common Article 3 to the four Geneva Conventions, and the 1977 Protocol II relating to the protections of vicitims of non-international armed conflict.[4,5]

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[4] A non-international armed conflict is an armed conflict which takes place within a state, and may involve the forces of the state and a non-state actor, or two or more armed groups. Common Article 3 of the Geneva Conventions includes requirements that the non-state actors have an organized military force and an authority responsible for its acts, act within a determinate territory, and have the means of respecting and ensuring respect for the Convention. The conflict must also reach a certain intensity and be of a certain duration, which distinguishes the conflict from events such as riots.

[5] The laws which apply in non-international armed conflict are the following: Common Article 3 of the Geneva Conventions; Additional Protocols II of 1977; Article 19 of the 1954 Cultural Property Convention (relating to respect for cultural property); the 1999 Second Protocol to the 1954 Hague Convention on Cultural Property; the 1977 United Nations Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques; amended Protocol II of 1996 to the 1981 Certain Conventional Weapons Convention

Human rights vs. International humanitarian law

Despite the clear-cut distinctions between human rights law and international humanitarian law, there exists a significant confusion between the two bodies of law in practice, and the question of which applies during times of conflict is still not adequately resolved. Several reasons for why this might be the case have been suggested by scholars and include: the nature of modern warfare, which has blurred the demarcation of the battlefield and the soldier (Kennedy 2006); the difficulty in agreeing on when the threshold of conflict has been reached and the resultant confusion over which body of law to apply (Tomuschat 2010); and the tendency of recent treaties to draw from both human rights law and international humanitarian law (Droege 2007).

The confusion also exists at the sub-state level. Nongovernmental organizations (NGOs), such as Human Rights Watch (HRW) and Amnesty International, do most of the human rights law violation monitoring and their reports are relied upon by states and the media to inform both policy toward and the framing of specific conflicts (Lutz 2006: 25). These groups have extended their mandate from pure human rights investigations to researching IHL violations as well. In addition, individual actors involved directly in conflicts themselves play a great role in how the framing of the conflict is perceived by outsiders (Bob 2005). Thus, how non-state actors understand and use these terms may have an effect on how the events are perceived by other actors such as states, NGOs, or the media.

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concerning landmines; the 1993 Chemical Weapons Convention; and the 1997 Mine Ban Treaty. In addition, the statute of the permanent International Criminal Court (ICC) gives the Court jurisdiction over violations of international humanitarian law whether committed in international or non-international armed conflicts.

Terrorism

What constitutes terrorism is continually debated in political and academic circles. As a term, terrorism has eluded a concrete definition. This is due in part to the way the word has evolved since it was first introduced during the French Revolution in 1793-4, and in part to a debate over the politics of self-determination, where terrorist and freedom fighter can be used to describe the same individual (Hoffman 1998). Academics have struggled to clarify the concept of terrorism in different ways: some mapped the consensus among researchers (Weinberg, Pedahzur, and Hirsch-Hoefler 2010); some identified commonalities of those using violence (Tilly 2004); and some identified the goal of the actors involved (Hoffman 1998). Governments also have difficulty with defining terrorism. One researcher, for example, determined that the US Government uses 22 different definitions of terrorism (Perry 2004). There is currently no consensus over the definition of terrorist or terrorism, but the debate over the term has moved from the center stage of international politics (where it had produced a deadlock at the United Nations) to the wings, and one scholar has argued that there now appears to be a loose agreement that a particular act of violence can be described as terrorism whenever a large group of states regard that act as illegitimate (Keohane 2002).

While there is no broad consensus, it is still useful to identify what may be called terrorism for the purposes of this study. One widely used definition of terrorism which offers some basic parameters of what is meant by the term "terrorism" is Bruce Hoffman's: "Terrorism is violence—or, equally important, the threat of violence—used and directed in pursuit of, or in service of, a political aim…it is a planned, calculated, and indeed systematic act" (Hoffman 1998: 15). This definition does not specify the types of violence included in the definition (bombings, kidnappings, and so forth), who may commit terrorism (for example, whether

terrorism can only be committed by non-state actors, or whether state actors may commit terrorism as well), and leaves out acts which serve no political agenda.

1.2 Theoretical framework

There are four areas of literature most relevant to this study: international norms, legitimacy, social movements, and civil wars.

International norms

Explanations for why armed resistance groups may adopt the discourse of human rights and other international norms can be drawn from two different traditions: the constructivist tradition, which emphasizes the importance of ideas, norms, and social actors, and the rational-materialist tradition, which emphasizes power and self-interest. Both approaches offer explanations primarily for the behavior of states, but we can assume that some aspirations and pressures faced by states, such as the desire for legitimacy or prestige or fear of sanctions, may also be faced by non-state actors, allowing us at least to find a theoretical foundation for the behavior of armed resistance groups. The explanations they offer are also not mutually exclusive and can both be applied to gain a better understanding of the behavior and discourse of non-state actors. As Martha Finnemore and Kathryn Sikkink argue, "rationality cannot be separated from any politically significant episode of normative influence or normative change, just as the normative context conditions any episode of rational choice" (Finnemore and Sikkink 1998: 888).

Early works on international law and institutions posed the question of why states abide by international norms. Scholars provided a variety of answers including a reduction of transaction costs (Keohane 1984), the resolution of coordination problems (Martin 1992), and the provision of a language for international politics (Kratochwil 1989). Following on from these original theories, in the late 1980s and early 1990s constructivist theory began to challenge realist and

neoliberal institutional approaches by seeking explanations for the behavior of states that draw on non-material factors, such as ideas and culture. Constructivism is about "human consciousness and its role in international life" (Ruggie 1998).

Both realist and neoliberal theories explain state behavior based on the fixed, material interests of states. Constructivist theories challenge these approaches by suggesting that the interests themselves are not simply a given, but may be shaped by norms, ideas, and/or cultural factors (Ruggie 1998; Kratochwil 1989). Scholars first began to focus beyond the state on non-state actors, norms, transnational networks, and transnational relations starting in the mid-1990s. The literature has explored: how norms might be transmitted from state to state by looking at how states adopt certain new bureaucratic structures after other states have done so (Finnemore 1996); how specific norms such as nuclear deterrence and the taboo against the use of chemical weapons alter states' use of weapons in war (Price and Tannenwald 1996; Price 2008); the change in the norms of opposition to slavery, decolonization and apartheid (Klotz 1995; Crawford 1993); how norms may shape US foreign policy, for example, the use of bilateral agreements to enforce human rights norms in Latin America (Sikkink 2004); and the adaptation of norms to new situations, such as the evolution of the norm for humanitarian intervention (Finnemore 2003). Scholars have also argued that international norms affect state behavior via domestic political processes (see for example, Cortell and Davis 1996). More recently Risse, Ropp, and Sikkink examined under which conditions actors move from commitment to international norms to compliance with them (Risse, Ropp, and Sikkink 2013).

The question of how to explain the variation in the level of adoption of different international norms among states has been answered in a number of different ways. Cortell and Davis argue that two national-level factors affect the influence of international norms on domestic political

processes: first, the domestic salience or legitimacy of the norm; and second, the structural

context within which domestic policy debate occurs (Cortell and Davis Jr. 2000). They define

salience in this way: "salient norms give rise to feelings of obligation by social actors and, when

violated, engender regret or a feeling that deviation or violation requires justification" (Cortell

and Davis Jr. 2000: 69). At a state level, the measures of salience of a norm to a particular state

include an examination of: first, changes in national discourse; second, changes in the state's

institutions; and finally, changes in the state's policies, with the changes in the discourse being

the most important. As they state, "paradoxically, the most salient norms will be most evident

when they are violated, as actors will feel a strong need to justify or apologize for

noncompliance" (2000: 71). Theorists suggest that the examination of how international norms

may become salient domestically should take into account at least four different factors: the level

of cultural match or congruence between the international norm and domestic norms; the rhetoric

of leaders; domestic interests; and domestic institutional structure. In terms of the cultural

match, Jeffrey Checkel argues that preexisting domestic understandings or social conditions alter

the effect that international norms can have domestically (Checkel 1999). He argues that

international norms need to resonate with local culture—widely held domestic beliefs,

understandings, and obligations—in order to gain traction at the local level. When there is a so-

called cultural match, local actors are much more likely to take the international norm as a given,

recognizing obligations associated therewith and speaking and acting accordingly. When there is

no cultural match, the adoption of an international norm will be much more difficult. Margaret

Keck and Kathryn Sikkink reach a similar conclusion: they argue that transnational advocacy

networks "are more likely to be influential if they fit well with existing ideas and ideologies in a

particular historical setting" (Keck and Sikkink 1998: 204).

The salience of a norm may also be affected by rhetoric. If leaders repeatedly use the language of certain norms in speeches, statements, or pronouncements, the cumulative weight of those pronouncements may shift public sentiment towards acceptance of the norm (Cortell and Davis Jr. 2000). Even if the use of the norms in the discourse is in a cynical bid to add legitimacy to the speaker, that usage may alter the discourse around the norm from questioning its legitimacy to a discussion about its applicability in particular cases (Risse 1998). In addition to government leaders, societal leaders may also increase the rate of rhetoric around a norm, thereby altering its salience in political debates (Boli and Thomas 1997).

In their search for explanations for variations between states, some scholars have also examined differences in domestic structures. Jeffrey Legro explains variations in different countries' continued adherence to international norms during the Second World War (drawn from international humanitarian law), such as the prohibition against the use of chemical weapons and the use of submarines to attack civilian shipping, with differences in the political cultures and structures of the militaries in each of three countries—Great Britain, Germany, and the Soviet Union (Legro 1997). In addition, some scholars have found that if a norm is not present in existing domestic structures, it will be much harder for that norm to gain salience domestically. For example, Kevin Hartigan found that the domestic laws of Mexico and Honduras have no concept of a refugee, resulting in the weak enforcement of international norms regarding the protection of refugees (Hartigan 1992).

Non-state actors are prominent in this literature mainly as advocates or norm entrepreneurs promoting new norms, often through transnational networks of NGOs, to affect state behavior (Keck and Sikkink 1998). Keck and Sikkink argue in *Activists Beyond Borders* that domestic NGOs are able to put pressure on their states by working through these transnational networks,

which have activists at the international level who can lobby international organizations (IOs) and other powerful states, and which in turn put pressure on the host state, a process Margaret Keck terms the "boomerang effect." They study these transnational networks through an analysis of the evolution of the adoption of human rights norms and environmental protection norms in particular countries (Keck and Sikkink 1998). An alternative approach is to observe the impact of one non-state actor: Ann Marie Clark's study of Amnesty International's work since 1961 traces this organization over time and finds that Amnesty International has had a significant impact on the discourse surrounding human rights (Clark 2001). Some scholars are beginning to look beyond the effect of non-state actors on the behavior of states and are analyzing the interaction of norms on non-state actors themselves. Giovanni Mantilla, for example, examines how transnational corporations have begun to comply with international human rights norms through a variety of mechanisms including voluntary standards of behavior (Mantilla 2009).

There are two dominant theoretical models in this body of literature which propose to explain norm development and internalization at the state level: the norm cascade model (Finnemore and Sikkink 1998; Sikkink 2011) and the spiral model (Risse, Ropp, and Sikkink 1999).[6] Other models, such as the evolutionary model suggested by Ann Forini comparing norms to genes, appear to have been less persuasive (Florini 1996: 363). Recent studies have added additional models for norms that do not seem to fit these dominant models—for example, a diffuse signaling model for the spread of the norm of election monitoring (Hyde 2011), or suggestions of alternative ways the spiral model may work—for example, arguing for the importance of

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[6] These are in addition to theories which stressed the institutional cooperative aspect of norms and argued that norms are embedded in international institutions and are generated along with them usually as a result of demand for interstate cooperation (Keohane 1984; Axelrod 1986; Keohane 1986). This study is not engaging with this literature as the mechanisms of cooperation within international institutions are too distant from the world of non-state actors to have direct applicability.

contestation in the establishment of the norm of the responsibility to protect (R2P) (Badescu and Weiss 2010).

The norm cascade, introduced by Finnemore and Sikkink, suggests a model to explain the change of norms over time. Finnemore and Sikkink argue that norms have a life-cycle, and while each norm may follow its own trajectory, broadly speaking, norms cycle through stages from emergence to internalization. The first stage is "norm emergence"; the second stage is the period of broad norm acceptance, which they term "a norm cascade"; and the third stage involves internalization (1998: 869).

During the first stage, norm entrepreneurs are very active, seeking to convince states to adopt or embrace a new norm. These individuals, such as Henry Dunant and his campaign for more humanity during conflict which led to the establishment of the International Committee of the Red Cross (ICRC) and the adoption of the Geneva Conventions, act through organizational platforms to convince states to embrace a new norm.

The second stage, or the norm cascade, is characterized by a period in which early adopting states attempt to socialize other states to become norm followers. Once a "tipping point" of a critical number of states has been reached, the norm goes from being something adopted by a few to something adopted by the majority of states. The process from going from a norm adopted by few to one adopted by many is termed the "norm cascade" (1998: 901). After the tipping point has been reached, states need very little pressure to adopt the norms, socialization itself the dominant mechanism that causes states to adopt new norms. For Finnemore and Sikkink, socialization is an active process of international pressure brought to bear on non-conforming states by other states or non-state actors, which may involve diplomatic praise or criticism, either bilateral or multilateral, and which may be reinforced by material sanctions and incentives. The

third and final stage is the norm internalization where the states internalize the norms through domestic legislation and they acquire a "taken-for-granted quality" (1998: 895). Finnemore and Sikkink argue that the motive for actors engaged in adopting a norm (in their model this is states, international organizations, and transnational networks) is primarily international and domestic legitimation. They also argue that desire for esteem (which is related to legitimacy) can explain norm following in some actors.

In Risse, Ropp, and Sikkink's *The Power of Human Rights* (1999), the authors introduce a different theoretical model, the norm spiral, which outlines the relationship between international norms and domestic human rights practices. They trace the shift in a state's behavior from non-compliance with human rights norms to internalization of the norm through the ratification of human rights treaties and institutionalization of human rights norms in domestic practices and laws. The spiral model suggests there are five stages in this process. In the first stage, the human rights violations of a state are brought to the attention of other states and international organizations by transnational advocacy networks, such as Amnesty International or Human Rights Watch. Under pressure from these reports, states enter into the second stage, denial, and invoke counter-claims of sovereignty and nonintervention. In the third stage, violating states begin to make concessions or "cosmetic changes to pacify international criticism" (1999: 25) and as part of the process begin to undergo some degree of socialization into the global human rights regime. Even though these concessions may be merely window-dressing, the state, by offering any concessions at all, acknowledges the validity of the human rights norm itself, and begins the process of socialization. The fourth and fifth stages, Risse et al. argue, are the final stages of socialization and internalization as the state begins to ratify human rights treaties, and

incorporate the language of human rights norms into its domestic discourse and legal frameworks, and finally, adopt rule-consistent behavior.

This model does have some shortcomings, for example, by suggesting that once states embark on this route there is no turning back. However, it does offer a starting point for examining how non-state actors might be affected by human rights norms, passing through similar stages of violation, denial, concessions, socialization, and eventual internalization. It is necessary to look for indicators other than ratification of treaties and incorporation of human rights legislation into domestic law to determine to what extent these non-state actors might have progressed along the spiral. In this study, the analysis of a group's discourse offers insight into the progress, if any, along the spiral, and when situated in the context of the events surrounding the group's activity, provides a deeper understanding of how norms may affect such a non-state actor's behavior.

Scholarship in this area has also identified imitation as a mechanism which influences states in certain areas. For example, research has shown that a state will ratify treaties in the areas of children's rights, civil and political rights, and freedom from torture if their neighbors have done so. However, this imitation appears to be issue specific, as it does not extend to other areas, such as economic, social, and cultural rights or outlawing of discrimination against racial minorities or rights of women (Simmons 2009).

A second group of scholars tackling international norms comes from the rational-materialist tradition, which emphasizes power and self-interest. In general, interest-based approaches offer explanations for changes in behaviors, such as the adoption of a particular discourse or the emergence of a new norm or code of behavior, based on the assumption that target actors act rationally, with a set of ordered preferences, and calculate the costs and benefits of adopting a

new behavior. They act in order to maximize their utility in view of their stated or assumed preferences. Scholars have analyzed why states adopt certain treaties based on the "anticipated positive and negative effects of international laws on states" (Hathaway 2007, 588-621). In this line of thinking, states conduct cost-benefit analyses in order to determine whether or not to sign up to international treaties, such as human rights treaties (see for example, Goodliffe and Hawkins 2006; Cole 2005; Vreeland 2008; Simmons 2000; Smith-Cannoy 2012). Beth Simmons argues that states follow a logic of consequences: states commit to norms in order to establish credibility or legitimacy in a certain area (Simmons 2000). Once established, the credibility allows the state to access benefits from other states or non-state actors such as multinational corporations (MNCs) or NGOs in the form of investments, trade, aid, or close political ties. Looking more specifically at human rights treaties, Jay Goodliffe and Darren Hawkins (2006) identify three main costs governments incur for ratifying one human rights treaty, the Convention Against Torture (CAT): policy change, unintended consequences, and limited flexibility. These costs are balanced against the benefits of norm conformity. Oona Hathaway (2007) argues that states commit to human rights treaties based on a cost-benefit analysis without a real commitment to the norms themselves—states may, she says, join human rights regimes as a panacea to relieve pressure for real change by offering a signature on a treaty as a concession to domestic groups lobbying for change without any accompanying behavioral changes. Heather Smith-Cannoy (2012) similarly argues that many commitments made by states to human rights treaties are insincere, but that those commitments may backfire if local groups are able to hold their governments accountable for treaty violations.

Using this approach for understanding the adoption of international norms, particularly human rights norms, in the language of armed resistance groups would suggest that these groups

adopt these norms in their language when it is in their interest to do so, with or without commitment to the norms themselves. Thus, calculating that the adoption of human rights discourse, for example, would bring benefits such as increased legitimacy and support from international actors—greater than costs, such as increased pressure to live up to international norms of behavior and a curtailing of military tactics—armed groups would similarly begin to use such language and reference treaties.

From the literature on international norms, we have both a model of how norms may come to affect the actions and discourse of non-state actors from outside of the group, through the norm spiral, and an insight into the possibly strategic thinking and cost-benefit analysis behind the adoption of certain norms in the discourse from within groups. Increased legitimacy is a major benefit driving many states' behavior and discourse and we can assume that this is a significant factor for rebel groups as well. In addition, the literature addresses the question of which norms get accepted pointing to the need for salience of the norm locally and congruence of the norm with the local normative environment.

Legitimacy

One problem rebel groups struggle with is that of legitimation—how can they make the use of political violence acceptable and become a legitimate actor? As Inis Claude reminds us, a struggle over legitimacy is an essential part of a political struggle: "politics is not merely a struggle for power but also a contest over legitimacy, a competition in which the conferment or denial, the confirmation or revocation, of legitimacy is an important stake" (Claude 1966: 368). David Beetham argues that an understanding of legitimacy "helps to explain the erosion of power relations, and those dramatic breaches of social and political order that occur as riots,

revolts and revolutions" (Beetham 1991). The concept of legitimacy remains slightly slippery, however, partly due to its subjective nature (Luck 2001).

Most discussions of legitimacy tackle two areas in which legitimacy is of primary importance—the rightfulness of rulers or of a state to rule, and the strength of institutions and norms. The question of legitimacy has been at the heart of philosophical debate for centuries. Niccolo Machiavelli argues in *Discourses* and *The Prince* that pure power is impotent and that the stability of a government rests not on its power, but on the voluntary acceptance of that power. The voluntary acceptance is predicated on perceived legitimacy. Jean-Jacques Rousseau similarly argues in *The Social Contract* that a stable order rests on consent, which is a direct function of the legitimacy of the government (Zelditch 2001). In more recent times, Max Weber's typology of social authority—rational-legal; traditional; and charismatic—is based on different types of legitimacy. And we need look no further than Weber's famous definition of the state to understand what he considers to be the central role of legitimacy to the state: "[The state is] the human community which (successfully) claims the monopoly of legitimate coercion" (Weber 1948: 78). As some scholars have argued, with the use of the term legitimacy Weber was not referring to an abstract quality, but to the very act of legitimation itself (Barker 2001). As Rodney Barker points out, "what characterizes government, in other words, is not the possession of a quality defined as legitimacy, but the claiming, the activity of legitimation" (2001: 12). All rulers, thus, engage in acts of legitimation, hoping to cloak themselves with the mantle of authority. The process of this legitimation requires "defensible criteria for legitimacy," which Beetham argues must identify a rightful source of authority and rightful ends or purpose of the exercise of political power (Beetham and Lord 1998).

In terms of the rightfulness of rulers, Barker also provides the following definition of legitimacy: it is "the belief in the rightness of a state…so that commands are obeyed not simply out of fear or self-interest [but] because subjects believe that they ought to obey" (Barker 1990: 11). Thus, just having the power over subjects is not enough—the power must be considered to be legitimate. Again, Claude argues that "among statesmen, the lovers of naked power are far less typical than those who aspire to clothe themselves in the mantle of legitimate authority; emperors may be nude, but they do not like to be so, to think themselves so, or to be so regarded" (1966: 368). Ian Hurd argues that states act strategically in their pursuit of legitimacy, but they act within a socially constructed context (Hurd 2008). Legitimacy, Hurd states, is "a socially constructed phenomenon, [which] affects the strategic calculations and self-conceptions of [states]. The payoffs sought by actors through strategic behavior might be material or symbolic and in either case they depend significantly on sociological processes related to legitimation" (2008:16).

Theo Van Leewen argues that there are four main strategies for legitimation: authorization (legitimation by reference to the authority of tradition, custom or law); rationalization (legitimation by reference to the utility of institutionalized action); moral evaluation (legitimation by reference to value systems), and mythopoesis (legitimation conveyed through narrative) (Van Leewen and Wodak 1999). These different forms of legitimation may be analyzed through discourse analysis (Fairclough 2003).

On the question of the legitimacy of institutions and norms, Alexander Wendt places the level at which legitimacy is created at the individual level—each actor within a specified community determines whether the norm is legitimate or not and each of these individual acts determines the legitimacy of the norm for the community as a whole. For Wendt "to say a norm

is legitimate is to say that an actor fully accepts its claim on itself" (Wendt 1999: 272). Thus, the consent of individual actors makes a norm legitimate. Others, such as Thomas Franck, offer a more legalistic interpretation, arguing that "legitimacy is that attribute of a norm which conduces the belief that it is fair because it was made and applied in accordance with right process" (Franck 1995: 26). Thus, the process by which the norm is applied can make the norm legitimate, not an attribute of the norm itself or the level of acceptance of the norm by the community. While Adam Przeworski argues that legitimacy is reducible to fear or self-interest (Przeworski 1986), others, such as Hurd, argue that legitimacy is a theoretically distinct mechanism that induces compliance because complying is considered to be the appropriate thing to do (Hurd 1999).

As this study examines insurgent groups, which are by definition non-state actors, a final area in the literature on legitimacy that is relevant looks beyond the legitimacy of the state to the legitimacy of organizations. Legitimacy is essential to most organizations and most particularly to organizations with international reach (Suchman 1995; Suddaby and Greenwood 2005). Recent work on the legitimacy of transnational groups provides some insights. For example, David L. Brown argues that transnational organizations such as NGOs may have a credibility gap and thus need to make strategic choices to enhance their own legitimacy and accountability (Brown 2008). To do so, they engage in certain activities, among them complying with regulations, associating with other legitimate actors, embodying key values and norms, and associating themselves with practices and actors to confer legitimacy (2008: 11). In particular, such organizations may try to establish six different types of legitimacy: regulatory, associational, performance, political, normative, and cognitive, and will perform different acts to increase these different types of legitimacy (2008: 35).

Social movements

From the social movements literature, there are two areas most helpful for thinking about the discourse of armed opposition groups: the literature on framing and the literature on the mechanisms which groups may employ, particularly in the process of legitimation.

The concept of framing is pivotal in research on social interaction among sociologists, anthropologists, psychologists, linguists, and political scientists. It features prominently in the social movement literature and is here described as a process by which meaning is assigned to objects, events, and experiences by groups or individuals in an interactive manner. It is an "active, processual phenomenon that implies agency and contention at the level of reality construction" (Benford and Snow 2000: 614). The literature on social movements (which also include violent groups) suggests that these movements use framing to position themselves with multiple audiences: "they frame, or assign meaning to and interpret relevant events and conditions in ways that are intended to mobilize potential adherents and constituents, to garner bystander support, and to demobilize antagonists" (Snow and Benford 1988:198). According to David Snow and Robert Benford, frames have three core framing tasks: "diagnostic framing" (identification of the problem); "prognostic framing" (what can be done about the problem); and "motivational framing" (encouraging action on the problem). Benford further determines that frames employed by groups vary across many dimensions including problem identification, the flexibility or rigidity of the frame, the interpretive scope, and the degree of resonance (Benford and Snow 2000). The success of the framing depends on three attributes: frame consistency, empirical credibility of the frame, and the credibility of the frame articulators (2000: 620). For the frame to have empirical credibility, it need not be believable by everyone, but it does need to be believable by the target segment of the population the group intends to persuade. Thus,

credibility has a subjective quality (Jasper and Poulsen 1995). James Jasper and Jane Poulsen further argue that "moral shocks" serve as essential moments in the time of the recruitment to a movement and that these shocks may be actual events or generated by the movements themselves—in either case, these shocks need to be reflected in the framing activities (1995). Movements also may try to extend the framing of the issue to appeal to a wider audience (Snow and Benford 1992). Examples of the latter are armed opposition groups that tailor their message to appeal to international actors (Bob 2005) or rights groups which shift their frames from local to international issues such as women's rights (Tsutsui 2006). Kiyoteru Tsutsui argues that the movement to assist former "comfort women" in Asia who had suffered abuse at the hands of the Imperial Japanese army was able to make headway more than 40 years after the end of the Second World War by adopting the frame of international human rights and women's rights in the mid-1990s.

How do the processes of framing work in the context of rebel groups? Again, drawing from the social movement literature, I argue that the processes of contention can be broken down into mechanisms such as boundary-making, claims making, and strategic self-representation, which may be linked together in various complex combinations (McAdam, Tarrow, and Tilly 2001; Tarrow and Tilly 2006). Charles Demetriou's study of the National Organization of Cypriot Fighters (EOKA) draws on the work of Doug McAdam et al., and argues that the process of legitimation requires the mechanisms of boundary-making (identification of the "in-group") and certification (validation by outside parties) and suggests that an additional mechanism, which he terms valorization, is needed to legitimize political violence (Demetriou 2007). Valorization, or "positive representations of performances or performers" (2007: 173), is a critical mechanism for

violent movements seeking legitimacy. Thus, an essential part of legitimization of rebel groups is their own use of positive stories about their own actions.

Rebel groups and civil war

The fourth group of relevant literature concerns civil war and armed opposition groups. This literature addresses issues such as insurgent recruitment (Gates 2002; Weinstein 2007; Humphreys and Weinstein 2008), violence against civilians (Kalyvas 2006; Kalyvas 2003; Humphreys and Weinstein 2006; Zahar 2001), and rebel governance (Mampilly 2011; Mampilly 2007). It offers different theories on how armed opposition groups develop their strategies and identifies the goals of opposition groups, the structure of the groups, and the environments in which they arise as the most important variable in determining the variation among the different techniques employed by armed opposition groups. For example, a group with a more structured hierarchy is more likely to have greater control over its members than one without.

Whether the goal of the opposition groups is secession, outright replacement of the state, or resource accumulation, the goal has been identified as likely to determine the development of the groups' strategy (Weinstein 2007; Collier and Hoeffler 2000; Collier, Hoeffler, and Rohner 2006). However, Marie-Joelle Zahar argues that strategies change over time—the institutionalization of armed groups (the gradual increase of their internal structures) over the course of the conflict, undertaken to increase their legitimacy, leads to a change in their strategies (Zahar 1999).

Based on this literature, I theorize that groups struggling to increase their legitimacy in the face of international prohibition will need to show that they can take on responsibilities of states (including an awareness of international norms and an understanding of how these norms should alter their behavior), both to civilians within the territory they hope to control and to outside

actors. Further, a group with a more hierarchical structure will have more control over its

discourse, and therefore be able to use discourse strategically.

The subset of literature on the effect of the involvement of international actors on armed

opposition groups suggests that international actors have an effect on these groups and that

different types of actors have different effects (Nordstrom 2004). Carolyn Nordstrom argues that

extra-state actors, ranging in her account from international arms dealers to international

organizations and humanitarian NGOs, may be the causal agents of conflict or the agents of its

continuation. Jean-Francois Bayart argues that in Africa, state elites seek to increase their power

by interacting with international agencies or transnational actors (Bayart 1993). Interactions

with the UN and the World Bank shape the strategies of armed groups (Barnett 2001) as groups

may seek to boost their legitimacy by their association with international actors (Zahar 2001).

Additionally, armed groups may actively seek to market themselves to NGOs or non-state actors

(Bob 2005). NGOs may also act as witnesses, pressuring armed opposition groups to abide by

human rights or humanitarian laws (Zahar 2001). Arguments in the literature on transnational

actors suggest that the engine of transmission of norms is not states, but the networks of

transnational actors (Risse, Ropp, and Sikkink 1999; Thomas 2001; Smith, Chatfield, and

Pagnucco 1997). Thus, the degree to which these outside actors have engaged directly with the

insurgents will affect the degree to which these groups may alter their behavior.

The study of the presence of human rights language or international norms in the discourse or

action of resistance groups has been somewhat limited. Some scholars have found the effect of

international norms on discourse and behavior to be less significant than expected. Two cases

from Africa point in this direction. For example, Mariane Ferme and Danny Hoffman suggest

that the massive intervention by international actors in Sierra Leone spread human rights

discourse to the Kamajors, or civil defense forces. However, they found that the spread of human rights discourse was limited to areas where there was considerable overlap between the international norms and discourse and the local ethical codes (Ferme and Hoffman 2004). Claire Metelits found in Southern Sudan that the supposed pressure of international norms on the Sudan People's Liberation Army (SPLA) pushing it towards democratization actually inhibited the state-building efforts of the organization (Metelits 2004). Metelits argues that the need to unify the diverse populations of southern Sudan against northern Sudan in order to create a state was in opposition to the pressures to build democratic institutions, which fostered differences, rather than unity. In order to successfully build a state, Metelits contends that the SPLA needed to pass through a unifying authoritarian stage, which was at odds with the effects of the contemporaneous democratization efforts. Other scholars have found the effect to be significant. For example, Deepa Prakash has found that the Tamil Tigers in Sri Lanka responded to the international sea change in the application of the term "terrorism" after September 11, 2001 (Prakash 2008). In the cases of Bosnia and Kosovo, Alan Kuperman argues that the emergence of the norm of humanitarian intervention created a moral hazard by encouraging rebels to place civilians at risk in order to increase the likelihood of an intervention by outside actors on the rebels' behalf (Kuperman 2006). However, others have argued that attacks by the state on civilians, which can enhance a rebel group's standing with local communities, may have long been part of rebel groups' strategies to mobilize the population in favor of the rebels (Andreopoulos 1994).

Some have argued that international norms form an integral part of rebel groups' identity. For example, Kimberly Jones argues that the Irish Republican Army (IRA), the Egyptian Muslim Brotherhood, and Hamas have all used human rights violations strategically in the forging of a

national identity by defining and reinforcing in-group and out-group boundaries (Jones 2010). More recently, Dale Walton argues that insurgent groups increasingly have an advantage over government forces in their ability to harness modern media techniques to spread war crimes accusations more widely than before in their efforts to delegitimize the state they are fighting (Walton 2012).

1.3 Methodology

This study is both theory-testing, in that it tests theories created to answer questions about states in order to answer questions about non-state actors, and theory-proposing, in that there are new hypotheses generated to explain the behavior of these non-state actors. Case studies are the preferred methodology when testing to see *why* a hypothesis holds, rather than a large-N study, which would test *if* a hypothesis holds (Van Evera 1997). This research uses primarily one case study, that of the Kosovo Liberation Army (KLA) in Kosovo, using a process-tracing methodology. However, a second case of the Liberation Tigers of Tamil Eelam (LTTE) in Sri Lanka is also explored, showing that the hypotheses developed in this research have generalizability to other rebel groups, and allowing for a limited comparison between the two groups.

Case selection

The primary case was used to allow the in-depth study of the changing patterns of norm usage of one case, the KLA and Kosovo from 1995 to 1999. This case provides a good test case for this research for several reasons. First, the KLA adopted numerous international norms in their discourse, each of which shows a different pattern of use over time, which differences need to be explained. Second, a variety of outside actors were present in Kosovo at different times

during the period in which the KLA was active, thus allowing for the examination of the role of these actors, if any, in affecting change in KLA's discourse. Third, knowledge about human rights and its discourse was already present in Kosovo at the time of the conflict, which suggests the adoption of such language by the KLA was less a matter of discovering this language than a strategic decision to use it.[7] Fourth, the conflict in Kosovo was broadly framed by the outside world as being about the violation of the international norms of human rights.[8] Examining KLA discourse may reveal to what extent, if any, that framing was being driven by the KLA's portrayal of the conflict. Finally, the study of the KLA's discourse is possible because of the practice of the KLA to issue press releases at intervals throughout the conflict, even before the organization was widely known, allowing a longitudinal study as well.

Data from the secondary case were used to test the correlation between the norm usage of the rebel groups, on the one hand, with the changes in norm discourse at the state level, on the other. The LTTE's long history (founded in 1976, the LTTE was defeated militarily by the Sri Lankan government in May 2009 after 33 years of struggle) offers a chance to analyze the transmission of the effect of norm change from the international to the non-state level over a long period of time. Second, the LTTE was able to establish a form of governance over the territory it held in the north and east of Sri Lanka, functioning more like a state with its own bureaucracy and providing public services. Third, the different internal normative environments between the KLA and the LTTE allow for a comparison to be made between the two and their different

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[7] The two Kosovar human rights organizations operating throughout the 1990s were The Council for the Defense of Human Rights and Freedoms, headed by Adem Demaci, and the Kosova Helsinki Committee for Human Rights, headed by Gazmend Pula. Both had grass-roots networks throughout the region for discussion of human rights and for the collecting of information about human rights violations.

[8] The conflict was framed as both a violation of international human rights norms and of international humanitarian law and both bodies of law are frequently mentioned together. See, for example, the UN Security Council Resolutions 1160, 1199, and 1203, which state the UN is "deeply concerned by the reports of increasing violations of human rights and of international humanitarian law."

patterns of discourse. And finally, the LTTE leader Vellupillai Prabhakharan made annual

speeches on Hero's Day, November 27, which allows for a systematic discourse analysis at

regular intervals.

Research design

The methodology combines discourse analysis of existing documents from the period with

interviews with KLA members and other individuals, such as human rights activists and

journalists who were present and active in Kosovo during the period of study.

While discourse analysis has been questioned by some IR theorists as not an appropriate

method for international relations research (see for example, Keohane 1988), it has begun to be

more widely embraced by the discipline (Milliken 1999). For this project on the spread of norms

in language, it presents itself as an excellent method of study. Discourse analysis serves to

"illustrate how… textual and social processes are intrinsically connected and to describe, in

specific contexts, the implications of this connection for the way we think and act in the

contemporary world" (George 1994: 191). Discourse constructs social realities as people

construct meaning using sign systems, which are predominantly linguistic (Milliken 1999).

For the primary case, the research examines the period between June 1, 1995 (the date of the

first press release of the KLA[9]) and June 12, 1999, when Kosovo Force (KFOR) troops entered

Kosovo with authorization from the UN.[10] This is the period in which the KLA was actively

framing their struggle in the public arena. While the KLA was in existence beginning in

December 1993 (when it chose "Kosovo Liberation Army" as its name), between 1993 and June

1995 it had not yet begun to announce itself as an entity and was yet to publicly put forward

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[9] The first publicly released press release was numbered Communiqué No. 13. Communiqués No. 1 – 12 were
not published but circulated among KLA members themselves.

[10] KFOR consisted of troops from NATO countries, partner countries, and other non-NATO countries under
unified command and control.

reasons for resistance or an agenda (Judah 2000: 115). June 12, 1999 marks the end of the period

of study with the arrival of KFOR ground troops on this date, following the adoption of UN

Security Council Resolution (UNSCR) 1244 on June 10, 1999. While the KLA remained in

existence until disbanding or re-forming as the Kosovo Protection Corps (KPC) on September

21, 1999 (Bideleux and Jeffries 2007: 562), after June 12, the KLA can no longer be classified as

an opposition group because Yugoslav troops no longer had authority to act in the region and

had begun withdrawing. The Yugoslav withdrawal of troops was complete by June 20.

For the secondary case, the research examines the period from 1992 (the year the first Hero's

Day speech was made) until 2007, the last year the speech was made. The LTTE was founded in

1976, and its first large scale attack was in 1983. However, the speeches available from the

earlier years are sporadic, and some have a particular focus, such as women's day, or address a

particular military campaign. It is not until Prabhakaran began issuing regular speeches

addressing the overall position of the LTTE in 1992 that there is a regular, repeated speech

available for analysis.

Discourse analysis

Documents (press releases, political declarations, speeches, and interviews) were obtained

from each of the rebel groups under study. Each of the documents was coded for its use of

international norms—both the mention of the norms themselves and the context within which the

norms were mentioned.[11] The norms under study were human rights, international humanitarian

law, humanitarian intervention, and the norm against terrorism. Some of these norms were

analyzed in greater detail. For example, under the human rights coding, the mention of the

following specific references were tracked: human rights conventions, the right to life, torture,

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[11] A code book is attached as Appendix 1.

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arbitrary arrest and detention, genocide, and social/cultural/economic rights. Thus, a statement referring to killings committed by, or deaths at the hands of, members of the state apparatus, such as the police force, was coded as a human rights reference, and specifically as a violation of the right to life. Statements referring to killings by the army were coded as humanitarian law references. In each case, coding was determined by the words of the speaker, i.e., the speaker's representation of the situation, which is necessarily a subjective perspective, rather than trying to code based on the historical record or an objective perspective. For example, if the speaker mentioned that a civilian was killed, it was coded according to the context and frame given by the speaker, rather than investigating whether the killing had actually occurred or who might have been responsible.

Given the broader confusion regarding human rights vs. humanitarian law violations, I took particular care when determining to code a loss of life as a human rights event (violation of right to life) using a human rights framework, or a humanitarian law event (harm of civilians) using a humanitarian law framework. For the purposes of this research, it was assumed that human rights law and IHL might be in effect during the conflict for the periods under study.[12] If the death of an individual was mentioned within the context of military action, it was coded as the harm of a civilian, which invokes humanitarian law. If a death was attributed to troops, or any military action in the sentence or the context of the sentence, it was also coded as a humanitarian law violation. However, if the death of an individual was mentioned separately from any military

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[12] The International Court of Justice (ICJ) has addressed the issue of which body of law may take precedence on two occasions, in 1996, with its Advisory Opinion on Nuclear Weapons, and in 2004, with its opinion on the Wall in Occupied Palestinian Territory. While the ICJ does say that both may apply at one time, in neither case does it specify what rights fall into what categories in what contexts. Two states, Israel and the United States, have long maintained that human rights law does not apply in times of war (Hampson 2008). These persistant objections not withstanding, however, most states have accepted the ICJ proposition that international humanitarian law and human rights law can exist concurrently.

action or discussion of troops, or was attributed to the actions of the civilian police force, it was coded as a human rights law violation invoking human rights law.[13]

To test for coding bias, a possibility because the same researcher both created the coding methods and completed the coding, a random sample of the documents was recoded afresh. The result of the coding test was an overlap of 92 percent, which is a high degree of overlap, allowing for confidence in the coding methods.

For the main case study, the KLA, three types of documents were analyzed: press releases and political declarations issued by the armed opposition group; print and radio interviews given by its members; and radio broadcasts by the KLA. Included in this study are 66 press releases, dating from June 1, 1995 to May 26, 1999, 11 political declarations dating from March 22, 1998 to February 27, 1999, five other statements and speeches, 77 interviews or interview segments in the local media, and five months of radio broadcasts.[14] These data were primarily collected from archives in Kosovo, although some material had been published in book form. All of these materials contain words spoken by or written by a member of the KLA. No articles written by non-KLA journalists about the KLA, without direct quotes from KLA members, are included. Articles written by KLA members, however, are included. By ensuring that only words spoken by KLA members are subjected to analysis, this safeguards that the material analyzed contained the actual discourse of the group's members, rather than words or motives attributed to them.

The data collection in the KLA case was exclusively from Albanian language media, rather than including all international press material. This sampling method was chosen to avert any potential contamination of the discourse by international journalists who might be more likely to

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[13] The state is the only party able to violate an individual's human rights, while a resistance group such as the KLA may conduct human rights abuses.

[14] A full list of these documents is attached as Appendix 2.

frame the interview with terms from international discourse, including international norms. In addition, there is a risk that an international journalist might have adopted a particular normative framework external to the norms in current use by the interviewees and shape the interview accordingly.

Local newspapers used for this research are four Pristina-based newspapers: *Kosova Sot*, *Koha Ditore, Bujku*, and *Rilindja*, and an Albanian language newspaper published by the diaspora community and available underground in Kosovo, *Zeri I Kosoves*, as well as *Kosova Press*, a KLA-sponsored news-service, available online, founded on January 4, 1999. The radio broadcasts were collected from the archives of Radio Kosova e Lire (RKL), a radio station sponsored by the KLA, which was broadcast from KLA-controlled territory from January 4, 1999 and continued for many months after the end of the conflict in June 1999. The broadcasts included in this study are up until June 12, 1999.

For the secondary case, the LTTE, 19 speeches and two interviews by Thiruvenkadam Velupillai Prabhakaran, the founder and leader of the Tamil Tigers, were analyzed. These speeches spanned the period from March 1992 to November 2007 and were given at regular annual intervals allowing for a longitudinal study with evenly spaced data points. Each speech was considered to be a significant document summarizing the LTTE's position and views on important issues and provided a policy statement for the upcoming year (Manoharan 2003). The speeches were collected from the Tamil Eelam news site.[15]

Interviews

In addition to document analysis, interviews were conducted with 26 people, 17 former members of the KLA, including four members of the central command, four Kosovar human

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[15] A list of the LTTE speeches is included as Appendix 4.

rights activists who were active during the war, and two Kosovar journalists who covered the war. There were also supplemental interviews with non-Kosovar actors present at the time, such as members of Human Rights Watch and the Organization for Security and Cooperation in Europe (OSCE) cease-fire verification mission. The interviews provided more context for the textual discourse analysis. In addition, interviewees provided background and personal thoughts, and elaborated on strategies hinted at in the texts. The main interviews were targeted interviews with senior members of the KLA who were approached directly. Interviews with rank and file members of the KLA were planned using the snow-ball method. The interview format was loosely structured, allowing for respondents to elaborate and supplement the interview with additional material.

Chapter 2: Background on the Kosovo and Sri Lanka cases

The religion of the Albanian is the Albanian cause.

--Pashko Vasa, 1878-1890

This chapter gives an overall background to the conflict in two cases: Kosovo, as the main case, and Sri Lanka as the supplementary case. It provides a brief overview of each of the conflicts, describes the origins of both the Kosovo Liberation Army (KLA) and the Liberation Tigers of Tamil Eelam (LTTE), and details the structure of the organization and normative environments of each group.

2.1 Background on the conflict in Kosovo[16]

At the time of the conflict, Kosovo was a province of Serbia within the Federal Republic of Yugoslavia (FRY) with a majority of ethnic Albanians and minorities of Serbs and other ethnicities, namely Bosniaks, Goranis, Turks, Roma, Egyptians, and Ashkalis.[17] Kosovo is approximately 4,200 square miles (or slightly smaller than Connecticut), landlocked, and almost entirely surrounded by mountain ranges, with the Sharr mountains in the southeast, the Kopaonik mountains in the north, and the Albanian Alps (known locally as the Cursed Mountains) in the south and west. Located along the southwestern flank of Yugoslavia, Kosovo borders Albania. It also shares borders with Montenegro to its north, and Macedonia to the southeast. Historically,

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[16] For the purposes of this research, the conflict in Kosovo refers to the armed conflict between the Kosovo Liberation Army (KLA) and forces of the Federal Republic of Yugoslavia (FRY). The KLA began using violent tactics against the state in 1993 and continued to do so until June 1999. Other discussions of the conflict in Kosovo refer to the conflict between the North Atlantic Treaty Organization (NATO) and Yugoslav forces, beginning with the NATO air attacks of March 1999 and ending with the arrival of NATO-led Kosovo Force (KFOR) ground troops in June 1999. However, the focus of this study is on the conflict between the non-state actor, the KLA, and the forces of the state actor, the FRY.

[17] In 1992, Serbia and Montenegro formed a federation, the FRY, which lasted until 2003 when Serbia and Montenegro each became independent states from one another. From 1945 to 1963, Serbia was part of the Federal People's Republic of Yugoslavia (FPRY), which was renamed the Socialist Federal Republic of Yugoslavia (SFRY) in 1963.

Kosovo was located at the crossroads of empires and trade routes, and was a strategic prize for a succession of invaders throughout its history.

Kosovo was for centuries under the control of the Ottoman Empire (1392 to 1912).[18] After the defeat of the Ottoman Empire by Montenegro, Serbia, Bulgaria, and Greece in the First Balkan War in 1912, the territory came under Serbian rule. At the end of World War I in 1918, Kosovo became part of a new Yugoslav state, the Kingdom of Serbs, Croats, and Slovenes. It remained part of the different iterations of the Yugoslav state until it declared independence in February 2008.[19]

The main armed group using violence to challenge the state in Kosovo in the 1990s was the Kosovo Liberation Army (KLA). They were founded in at the end of 1993 at a meeting in Drenica in rural Kosovo west of Pristina. The KLA began activities in 1993 and continued targeting police stations, policemen, and other individuals sporadically over the next three years although some founding members, such as the Jasharis, were involved in several attacks on police in Kosovo before 1993.[20] The first multi-city attacks did not occur until 1996. While there were other armed groups in Kosovo, primarily the National Movement for the Liberation of Kosovo (LKCK) and the FARK (Armed Forces of the Republic of Kosovo), the KLA emerged as the main rebel group during the conflict.

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[18] The well-known Battle of Kosovo in Kosovo Polje (or, the Field of the Blackbirds) in 1389 between Prince Lazar at the head of the Serbian army, joined by a coalition of Hungarians, Albanians, Bulgarians, and Bosnians, and Sultan Murad at the head of the Ottoman army was fought to a draw, with neither side emerging a clear victor. It pre-dated the eventual victory of the Ottoman Empire over all the Serb territory in 1455. See (Fine 1987) for more detail on the battle.
[19] The Kingdom of Serbs, Croats, and Slovenes was renamed Yugoslavia in 1929. Yugoslavia became known as the Federal People's Republic of Yugoslavia (FPRY) in November 1945 and was renamed the Socialist Federal Republic of Yugoslavia (SFRY) in 1963.
[20] For example, members of the Jashari and Lladrofci families shot policemen in Drenas in March 1992.

Members of the KLA point to events at the beginning of the twentieth century as significant to the development of Albanian resistance to Serbian rule of Kosovo.[21] In particular, the December 1912 conference in London, attended by the Great Powers (Austria-Hungary, Britain, France, Germany, Italy, and Russia) at which the borders of the new state of Albania were discussed with parts of Kosovo designated as falling under Serbian control, is considered to be a significant turning point for one senior KLA member.[22] The KLA believed that these decisions imposed by outside actors lacked legitimacy and date the Albanian resistance to Serbian rule to this time. Some historians considered that the decisions made at the conference regarding the borders of Albania marked the beginning of the movement in search for a Greater Albania (see, for example, Batt et al. 2008; McMahon 1998).

Following the outcome of the London Conference, resistance by rural Albanians to Serbian rule, known as the Kaçak movement, began in 1913. The KLA considered the antecedents to their struggle to be found in the Kaçak movement. This movement opposed the policy of Serb colonization of the region that was begun with the enactment of the Regulation for the Settlement of Southern Regions that helped settle almost 18,000 Slavic families on land taken from local farmers between 1920 and 1939 (Banac 1984: 300). The Kaçaks fought the authorities and attacked settlers throughout Kosovo, in parts of Macedonia, and in Montenegro. The movement was brought to an end with the capture and killing of its leader, Azem Bejta from Drenica, in central Kosovo in 1924. The Drenica region, a rural region in the hills west of Pristina, was also one of the strongholds of the KLA, and prominent leaders of the KLA, such as Hashim Thaçi, Adem Jashari, Fatmir Limaj, and Jakup Krasniqi hailed from the villages of the

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[21] Author interview with Dr. Ram Buja, senior member of the KLA (Director for Civilian Affairs of its General Staff) and later Minister of Education of the Republic of Kosovo, Pristina, Kosovo, October 2010.
[22] Ibid.

region. Adem Jashari, known as the "legendary commander," was one of the original members of the KLA, and the stories of his individual acts of resistance to Serbian rule were said by fellow members of the KLA to be inspirational.[23] A "modern Kaçak" (Judah 2000), Jashari and the story of his life and his death in a massacre at his family compound in Prekaz in March 1998, took on mythical significance for the Albanian Kosovars.[24] It became a central theme of the narrative of the KLA and later for Kosovo itself after 1999 (Lellio and Schwander-Sievers 2006).

The outbreak of violence in the mid-1990s was not the first expression of resistance to Belgrade's control of Kosovo; however, previous periods of violence were short-lived and directly related to demonstrations. For example, in the spring of 1981, student demonstrations in Pristina turned violent. The demonstrations initiated by students in Pristina in late March quickly spread to the urban population and demonstrators made broader political demands and began condemning the political system as a whole. Thousands of troops were called in on April 2, a state of emergency imposed, and a province-wide curfew was enforced. The death toll numbers varied greatly from official Yugoslav numbers of 11 fatalities (Malcolm 1998: 334), to 120 fatalities reported by Albanian sources (Pajazit 1996: 150), to as many as 300 reported dead according to Amnesty International (Amnesty International 1985: 12). Numerous students and participants in the demonstrations, fleeing arrest, were forced into exile and many found work abroad among the tightly-knit expatriate communities in Germany and Switzerland. Those who fled abroad formed a core group from which the KLA could draw a decade later. In addition, many of the students jailed in 1981 for lengthy periods experienced harsh conditions in prison and were primed to join the resistance on their release.

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[23]Interviews with the author of various KLA members in Kosovo, October 2010.
[24] Not all Albanian Kosovars were taken with the myth of Jashari. One LDK member said confidentially: "Adem Jashari was not a 'legendary commander.' He commanded no one. He was a rural ruffian who was killed in a botched attempt to arrest him" (Perritt 2008: 35).

Over the course of the 1980s, the relations between the Albanians and the Serbs in Kosovo deteriorated. Events such as the leaking of a draft "Memorandum" of the Serbian Academy of Sciences and Arts, the most prominent academic body in Yugoslavia, which portrayed the Serbs as the only nation in Yugoslavia without their own state, served only to exacerbate the already tense relations between the two ethnic groups in Kosovo.[25] It called the March and April 1981 demonstrations in Kosovo a declaration of "open war" on Serbs. It dubbed the creation of autonomy in Vojvodina and Kosovo a dismembering of Serbia and called for the revoking of the autonomy granted to these provinces in the 1974 constitution (Vickers 1998: 221). In November 1988, the federal parliament in Belgrade adopted amendments that allowed for the changes in the Serbian constitution, which included reducing the autonomous regions' powers in the field of legislation and imposing republican law from Belgrade over provincial law from Pristina. The changes in Kosovo were met with protests and massive strikes throughout the region, which were countered with the declaration of a state of emergency.

On March 28, 1989, with Kosovo under emergency rule, the Assembly of Serbia met to revoke the autonomy granted to Kosovo in 1974 and to restore Kosovo to Serbian control. Kosovo Albanians protested throughout the province, marching in the streets and chanting slogans supporting independence for Kosovo and unification with Albania: "We are Albania," "Kosova is ours!" (Sullivan 2004: 53). At least 28 Kosovo Albanians were killed in the protests (Bideleux and Jeffries 2007: 532), although the total might be as high as 100 (Malcolm 1998: 344).

New legislation went into effect and Kosovo Albanians across the region were dismissed from their jobs. The medical system was revamped with 1,855 Albanian doctors and medical

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[25] The full text was eventually published in 1989.

staff losing their jobs (Judah 2000: 62). The main Albanian language daily newspaper, *Rilindja*, was shuttered along with the province's Albanian language radio and television stations, as was the Kosovo Academy of Arts and Sciences (Vickers 1998: 24). Schools were forced to stop teaching in Albanian and offer courses only in Serbian. When most teachers refused, police went into the schools and physically removed the teachers and 21,000 teachers lost their jobs as a result (Vickers 1998: 247). The University of Pristina was declared a Serbian language institution and 863 professors were dismissed from their posts (ibid.: 247). In total, approximately 80,000 Kosovo Albanians lost their jobs (ibid.).

By 1990, the situation for Kosovo Albanians was grim. A journalist from the *Washington Post* who visited the province in February 1990 described the situation as a "minority . . . sitting on a seething majority, using tanks, tear gas, and helicopter gunships to keep the lid on" (Harden 1990, 33). In July 1990, the provincial assembly in Pristina was physically forced from the building and on July 2 the delegates, locked out of their building, assembled on the steps and declared the Republic of Kosovo within the SFRY. Most likely invalid on procedural grounds, nevertheless, it prompted the Serbian authorities to respond by formally dissolving the government of Kosovo.

Kosovo's declaration of independence and the non-violent approach

In September 1991, Kosovo Albanians held a referendum and voted overwhelmingly for independence. The balloting was held in the open in rural areas, and in private homes in urban areas. The results declared were that 99.87% of the eligible voters supported independence and the Kosovo parliament, which had continued to meet despite its official dissolution by the

Serbian authorities, declared independence on October 19, 1991 (Vickers 1998: 251).[26] While

the Yugoslav government did not recognize the referendum and the newly declared independent

state of Kosovo was recognized by only one country, Albania, the outlawed Kosovo parliament

set up a shadow state led by its elected president and leader of the political party, the Democratic

League of Kosovo (LDK), Ibrahim Rugova.[27] The Prime Minister, Bujar Bukoshi, was in exile,

based in Bonn, Germany. Rugova's position on the future of Kosovo was clear: while

Yugoslavia still existed, Kosovo should be awarded equal status to its other republics, but once

Yugoslavia disintegrated, the only way forward was independence (Rugova 1994: 172).

From April 1990 onwards, the majority of the population had embraced non-violent resistance,

which became the center-piece of the LDK policy. The majority of Kosovo Albanians believed

in this approach and in the assurances of its champion, Rugova, who whole-heartedly advocated

it as the way forward for Kosovo (Stephan 2005). In April 1992, he argued: "We have no chance

of successfully resisting the army. In fact the Serbs only wait for a pretext to attack the Albanian

population and wipe it out. We believe it is better to do nothing and stay alive than to be

massacred." (Vickers 1998: 264).

Coupled with the non-violent approach, the LDK urged Kosovo Albanians to refuse to

recognize the legitimacy of the Serbian state in Kosovo. In practice, this meant that Kosovo

Albanians stopped participating in any official state elections and they set up a virtual parallel

state, with education and medical care continuing partly outside official state-led education and

medical systems.

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[26] The LDK won 96 of 100 single constituency seats. Two of the remaining seats were won by "independents" (who were members of the LDK), one by the Bosniak party, and one by the Turkish People's Party. Of the 42 seats distributed by proportional representation, 12 went to the Turkish party, seven went to the Christian Democrats, one to the Social Democrats, three to the Bosniak party and 13 seats reserved for Serbs and Montenegrins were left empty (Independent International Commission on Kosovo 2000: 45).

[27] Rugova was elected as president in the clandestine elections held in Kosovo on May 24, 1992.

Despite this approach, however, there was a continuing decline in the human rights situation in Kosovo throughout the 1990s.[28] By 1995, virtually all Albanians in Kosovo wanted to separate from Serbia: a 1995 survey found 43% favored joining Albania, while 57% wanted independence (Mertus 1999: 316). There was also a rejection of the pacifist approach from certain sectors of Kosovo Albanian society, some of whom turned to violent means to bring about the end of Serbian rule in Kosovo.

The pacifist approach touted by Rugova did not end the frustration and anger in Kosovo. Shkelzen Maliqi, a leading Kosovo Albanian intellectual and political analyst, and a member of the Kosovo Helsinki Committee in the 1990s, said of the situation in the mid-1990s in Kosovo:

> [It] has turned into a kind of intense war of nerves, in which one side stops at nothing, committing the most brutal violations of human rights and civil liberties, completely ignoring the protests of the international organizations which for a while kept monitoring teams in Kosovo, while the other side bottles up its humiliation, despair, fury, rage and hatred—but for how long before it explodes? (Maliqi 1998)

Already by the end of 1993, living conditions in Kosovo had deteriorated significantly— there was very little to buy in any shops, tanks surrounded Pristina, and Serbian military presence in the province increased. The judiciary in Kosovo was almost entirely in Serbian control and the concept of a fair trial was largely abandoned (International Helsinki Federation for Human Rights 1993). Previously preventable or treatable diseases were on the rise, incidents of polio, tetanus, tuberculosis were increasing, and infant mortality rates were rising (Vickers 1998: 275). Mother Teresa Society calculated that the number of people receiving humanitarian

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[28] The human rights violations in Kosovo were documented by international human rights groups, such as Human Rights Watch (which published 18 reports on the human rights situation in Kosovo between 1990 and 2000), Amnesty International, Helsinki Committee for Human Rights in Serbia, International Helsinki Federation, and the Society for Threatened Peoples, as well as local human rights organizations, the Council for the Defense of Human Rights and Freedoms and Kosova Helsinki Committee for Human Rights. The majority of the reports, however, do not focus on statistics as the main goal—they are for the most part narrative, and focus on communicating the nature and variety of human rights abuses. Therefore, statistics on the abuses, including the number of killings prior to 1998, are not possible to assemble (Independent International Commission on Kosovo 2000: 302).

aid was over 370,000, or about 20% of the population (ibid.: 276). It was in this environment
that the KLA arose.

Emergence of the KLA

Formed in 1993, the KLA was in its early days and was in a largely diffuse form (see the
section below "The Establishment of the KLA" for more detail). In 1995 it began taking
responsibility for violent attacks on Serbian police within Kosovo and occasional attacks against
Macedonian police in Macedonia.[29]

At the negotiations for the Dayton Peace Agreement for Bosnia negotiated in Dayton,
Ohio, in November, 1995, the thorny issue of Kosovo was largely ignored, which was a blow to
Rugova who had attached a great deal of importance to the inclusion of Kosovo in the
negotiations. This outcome gave credibility to the KLA's argument that the international
community only listened to violence. Veton Serroi, then a journalist and political commentator in
Kosovo, commented, "for many Albanians, one conclusion was inescapable: only violence gets
international attention" (Surroi 1996). A KLA fighter later recounted for Western journalists:
"The so-called pacifist way failed and finally Albanians were convinced that they had to
organize armed resistance….From 1996 we had some movements or groups who didn't approve
any more Rugova's peaceful way" (Sell 2002: 274).

Prior to Dayton, violence was sporadic and isolated. For example, in April 1995, a border
post on the border between Kosovo and Albania was attacked, killing a guard and injuring two
others, and in August 1995, a police station in Decan had a bomb thrown inside it, wounding two
police officers. Following Dayton, the violence increased. In April 1996, five Serbs were killed

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[29] The first press release, Communiqué 13, taking responsibility for violence within Kosovo was released on June 1,
1995.

and four were wounded in what appeared to be coordinated attacks in different towns across

Kosovo.

The violence increased throughout 1996 and 1997 as the KLA became more organized

and able to coordinate simultaneous attacks in different locations. As neighboring Albania

descended into chaos in 1997 following the implosion of a pyramid scheme, vast numbers of

weapons, raided from unprotected military stores, were freely traded on the open market and

made their way across the mountains into Kosovo and into the hands of the KLA (Dannreuther

2001). The organization, however, remained a small one, with about 150 men fighting towards

the end of 1997 (Bardhyl Mahmuti quoted in (Judah 2000: 106). And despite their regular press

releases, the wider Albanian population in Kosovo remained unaware of who the KLA were.

Escalation of violence

In February 1998, the Serbian forces began moving against the KLA in earnest. Serbian

forces in Kosovo, including the Yugoslav Army (VJ), the Serbian Ministry of Interior's special

police (MUP), and its Special Anti-Terrorist Unit (SAJ), had reached as many as 50,000 troops

(SIPRI 1999). Attacks in the Drenica region, known to be a center of KLA resistance, included

attacks on the villages of Likoshan and Qirez, and were followed by the massacre of the entire

Jashari family in Prekaz in March 1998. These three attacks marked a turning point in the

perception in Kosovo of the use of violence in the struggle in Kosovo (Perritt 2008: 38; and

Xharra 2000). The dead Adem Jashari, writes Howard Clark, "became a more potent symbol in

1998 than the passive Rugova or the erratic Demaci" (Clark 2000). After the massacre in Prekaz,

the cost of the non-violent path advocated by Rugova and the leading political party, the LDK,

seemed too high for many to pay. As a result, the KLA was overwhelmed with volunteers eager

to join and their operation expanded rapidly, thereafter (Krasniqi 2006).

Labeled a terrorist group by the government in Belgrade since its inception, the KLA was labeled as a terrorist organization by outside actors for the first time in 1998. Robert Gelbard, the US special envoy to the region, called the KLA, "without any questions, a terrorist group" in February 1998 (Agence France Presse, February 23, 1998). This label was seen by some to be a nod to Belgrade that actions against the KLA would not be opposed by the US (Kola 2003: 334). The UN Security Council also condemned acts of terrorism employed by the KLA, putting in place an arms embargo against both the KLA and the Serbian regime.[30] The same Security Council resolution also condemned the excessive use of force employed by the Serbian police forces.

International response

International efforts to bring peace to Kosovo, for years desultory, were finally beginning to gain momentum in the spring of 1998, albeit not consistently.[31] The Contact Group urged the FRY to address the status of the province of Kosovo in February 1998, sanctions against the FRY were imposed (and quickly lifted again) in May, and Milosevic and Rugova were forced to negotiate directly.[32] US special presidential envoy to the Balkans, Richard Holbrooke, succeeded in getting Milosevic and Rugova to meet in Belgrade on May 15. By June of that year, it was clear that discussions also had to include the KLA (Bellamy 2002). Holbrooke became the first foreign diplomat to meet with KLA members and to begin trying to facilitate

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[30] Security Council Resolution 1160, March 31, 1998.

[31] In 1992 and 1993, there was a period of limited engagement in Kosovo, when the Commission on Security and Cooperation in Europe (CSCE) included Kosovo in its Mission of Long Duration to Yugoslavia, and the International Conference on Former Yugoslavia (ICFY) mandated a minorities rights' working group to include Kosovo in its studies. CSCE had permanent missions in both Peja (known at that time by the Serbian name, Pec) in the west, and Prizren in the south. However, between 1993 and 1997, there was less engagement directly in Kosovo, following ejection of the Mission of Long Duration from Kosovo, and the removal of Kosovo from the ICFY working group mandate.

[32] The Contact Group was first established to mediate the peace process in Bosnia in April 1994, and consisted of representatives from Britain, France, Germany, the US, Russia, and Italy. After Dayton, the Contact Group, after some delay, turned its attention towards Kosovo. It first publicly expressed concern about the Kosovo crisis on September 24, 1997, and engaged seriously in the matter after the March 1998 killings.

negotiations between Kosovo and Serbia, bringing the KLA onboard as well. Holbrooke's first

meeting with the KLA was with a local KLA commander, Gani Shehu, and KLA member, Lum

Haxhiu, in the town of Junik, near Decani, on June 24, 1998.[33] Throughout the summer, US

Ambassador Christopher Hill engaged in shuttle diplomacy between Pristina and Belgrade and

tried to put together negotiations between the Kosovo Albanians and the Serbs. On July 29, Hill

met with KLA member and former human rights activist Shaban Shala (Judah 2000:170).

International diplomacy efforts and discussions with the KLA continued throughout the summer

months as violence escalated throughout the province, particularly in the rural areas. The

summer 1998 Serbian offensive conducted throughout Kosovo by both the military, providing

artillery and tank support, and special police forces, who went from village to village, engaging

with KLA troops, their supporters, and civilians, forced up to 250,000 Kosovo Albanians from

their homes (Sell 2002: 285).

     Not content to allow diplomatic options be the only ones explored, the North Atlantic

Treaty Organization (NATO) began flexing its military muscles. In June NATO issued a

communiqué, expressing concern at the escalating violence in Kosovo and outlined additional

military steps it planned, including air excercises over the Former Yugoslav Republic of

Macedonia (FYROM) and Albania "to demonstrate NATO's capability to project power rapidly

into the region."[34] At the same time, NATO military authorities were tasked to assess and

develop a full range of military options. On June 15 and 16, 1998, 13 NATO countries

participated in Operation Determined Falcon—a display of air force power with more than 80

war planes flying over Macedonia and Albania within 10 miles of the border of FRY. Lieutenant

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[33] Shehu was the sub-commander of the Junik area within the Dukagjini zone, interview with author, New York, June 2010.
[34] NATO's press release M-NAC- 01 (98) 77, issued on June 11, 1998.

General Michael Short said of the exercise that it "intended to demonstrate the alliance's commitment to peace and stability in the region and the alliance's ability to project power into the region" (Carassavas 1998). The exercise, intended as a threat, may not have been taken very seriously by Belgrade however—General Klaus Naumann, NATO's Military Committee chairman, conceded after the fact that Milosevic "rightly concluded that the NATO threat was a bluff…and finished his summer offensive" (Daalder and O'Hanlon 2000: 33). Operation Determined Falcon was followed by a ground troop exercise in Macedonia from September 11 to 18, termed Cooperative Best Effort 98. A Partnership for Peace exercise, it involved troops from 20 NATO and partner countries.[35] By September 24, NATO's Supreme Commander was given permission to issue an activation warning (ACTWARN) by NATO's Defense Ministers. This was the first real step in preparation for airstrikes.

By September 1998, the UN was calling for a cease-fire, which was agreed on October 16.[36] With agreement from Belgrade, the Organization for Security and Cooperation in Europe (OSCE) launched a cease-fire verification mission (KVM) on October 25, 1998, with civilian monitors patrolling Kosovo. The agreement was reached only after NATO gave an activation order (ACTORD) on October 13 to the warning issued in September to authorize air strikes against Yugoslavia. The ceasefire was shaky at best, and by the New Year both the KLA and the government forces were accusing the other side of breaking it.

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[35] The Partnership for Peace was a NATO program launched in January 1994 with the goal of promoting trust between NATO members and other European and former Soviet Union countries.

[36] UN Security Council Resolution 1199, September 23, 1998. Acting under Chapter VII of the UN Charter the Security Council members demanded that all parties cease hostilities immediately and take steps to improve the humanitarian situation on the ground. They called upon the Serbian and Albanian parties to enter immediately into a dialogue on a negotiated political solution. The resolution made four demands on Belgrade: cease hostilities against the civilian population and withdraw security units used for civilian repression; enable international monitoring in Kosovo; facilitate refugee returns; and make progress on reaching a dialogue with the Albanian parties.

Rambouillet and NATO's bombing campaign

International efforts to broker peace culminated with discussions between Serbian officials and the Albanian delegation, which included top commanders from the KLA, in Rambouillet, France, in February 1999. The two sides were given the option to sign the Interim Agreement for Peace and Self-Government in Kosovo. It called for the presence of NATO's Kosovo Force (KFOR) on the ground in Kosovo and the withdrawal (or demilitarization) of Serbian forces. The draft accord also provided for an international meeting after three years to determine the mechanism for the final solution in Kosovo. The delegation from the FRY refused to accept the demand that NATO control all FRY air space, a key NATO demand, and NATO resumed its threats of military force. After a delay, the Kosovo Albanian delegation signed the February 23 Interim Agreement on March 18 in Paris (Weller 1999). Holbrooke gave a final warning visit to Belgrade and NATO bombing began on March 24. The bombing campaign, dubbed Operation Allied Force, aimed to deter Serbian attacks in Kosovo and reduce Serbian military capability. It continued until June 11, 1999.

After the failure of Rambouillet and during the bombing campaign, the Serbian forces launched a massive offensive throughout Kosovo, creating an enormous flow of refugees. An estimated 1.5 million Kosovo Albanians were forced from their homes and approximately 800,000 fled over the Kosovo borders, primarily into Albania and Macedonia (UNHCR 1999). The conflict came to an end when, on June 3, 1999, Milosevic accepted NATO's terms for settlement presented to him by Finnish president Martti Ahtisaari and Russian envoy Viktor Chernomyrdin. Serbian popular support for the war had ebbed as the damage from the bombing of infrastructure in Serbia increasingly affected the economy and ordinary citizens' lives (Hosmer 2001). Anticipating intensified bombing and the possibility of an assault by NATO ground troops, Milosevic felt pressure to settle, particularly when the support from Serbia's long-time ally, Russia, evaporated (Hosmer 2001: 47). NATO-led KFOR ground troops entered Kosovo on June 12, 1999.

2.2 The Kosovo Liberation Army
Establishment of the KLA

Prior to the KLA's formation, there had been groups favoring violence on the radical fringes of Kosovar politics for decades. Many of the groups active in Kosovo in the 1980s and 1990s had their roots in the underground movements of the 1960s and 1970s. The groups began to coalesce after the demonstrations in 1981. The student demonstrations in March and April 1981, which led to the wave of arrests and imprisonment of young activists by the authorities, also led to exile for those who escaped arrest. Summary trials were held, and by the end of April, 194 people were sentenced to imprisonment for their part in the demonstrations and 28 others were detained for investigation as suspected organizers (Amnesty International 1981).

Many of those who fled found their way to Germany, where on February 17, 1982, four separate

movements merged into one, the People's Movement for a Republic of Kosova (LPRK), which

later became known as the People's Movement of Kosova (LPK). The four merging were the

National Liberation Movement Kosova and the other Albanian Regions in Yugoslavia

(LNCKVSHJ), the Marxist-Leninist Organization Kosova (OMLK), the Communist Marxist-

Leninist Party of Albanians in Yugoslavia (PKMLSHJ), and the Red Popular Front (FKB)

(Lipsius 1998).

The LPRK became a rallying point for students and activists involved in the

demonstrations of 1981, many of whom were jailed after the demonstrations, and only released

after years behind bars (Judah 2000). Even in Germany, however, participation in these

clandestine groups was not safe. In January 1982, the founders of the LNCKVSHJ, Jusuf and

Bardhosh Gervalla, were assassinated in Stuttgart, but it is unclear who was behind the killings,

the Serbian secret police (Lipsius 1998) or the Albanian intelligence services (Judah 2000: 105).

The LPRK began printing leaflets abroad calling for Kosovo's independence and distributing

these clandestinely within Kosovo (Sullivan 2004: 54). The LPRK was a focal point for those

seeking to resist Serbian domination of Kosovo and other Albanian-majority areas of Yugoslavia

until the formation of the LDK, and the subsequent declaration of the Republic of Kosova in July

1990. Also, by the early 1990s, activists jailed during the 1981 demonstration began to leave

prison and, radicalized by their experiences, many were willing to turn to violence (Sell 2002:

278). The members of the LPRK did accept the underground state built by Rugova and the

authority of the LDK, but some did not, and some members, such as the former OMLK leader,

Hydajet Hyseni, left the LPRK to join the LDK instead. The LPRK began publishing a weekly

newspaper, initially printed in Germany, and then Switzerland, called *Zeri I Kosoves* (Lipsius

1998). This group favored a violent solution to the repression in Kosovo and began some

military training exercises in Albania for its members. It also began connecting with militant

families within Kosovo, such as the Jasharis in Drenica (Perritt 2008). Following clandestine

meetings in Macedonia in late 1992 and Pristina in 1993, this group split into two: the Popular

Movement for Kosova (LPK) and the National Movement for the Liberation of Kosova (LKCK),

the former dedicated to a guerrilla war and the latter to advocating a mass popular uprising

through consciousness-raising.[37]

A small core group of the LPK, including Hashim Thaçi, renamed themselves the KLA at

the end of 1993. Between 1993 and 1995, the group spent time consolidating, fund raising, and

setting up connections among the small pockets of active resistance within Kosovo. Connections

were made with Adem Jashari in Drenica, the Haradinaj family and others in Dukagjini, and

Zahir Pajaziti in the Llap valley (Perritt 2008: 69). A key point person in Kosovo was Adem

Jashari from the village of Prekaz in Drenica, the region historically associated with the Kaçak

uprising, whose resistance to Serbian authority made him seem like "a kaçak for the 1990s"

(Judah 2000: 111).[38] Jashari was nominated as the head of the KLA within Kosovo, operating

out of his compound in Prekaz (Krasniqi 2006: 23).[39]

The turn towards violence was piecemeal at first, with small groups organizing their own

operations, in a guerrilla style. Groups were organized in cells, with no more than four or five

members in each cell and with very little contact between cells (Bekaj 2010). Some of the

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[37] The LKCK conducted some violent operations in Kosovo after this point and formally merged with the KLA on
May 11, 1998 (Bekaj 2010).

[38] The Kaçaks were an early twentieth century movement that resisted Serbian rule in Kosovo, active from 1913 to
1924. Kaçak, meaning outlaw, is derived from the Turkish word, *kachmak*, meaning runaway. At the height of their
activity in central Kosovo, their numbers may have been as high as 10,000 active fighters (Mulaj 2008).

[39] For the argument about the central place that Adem Jashari, his role in rural resistance, and the massacre of his
family plays in the post-conflict construction of master narrative of the Albanian experience during the conflict and
its role in the development of a Kosovo Albanian national identity, see Lellio and Schwander-Sievers 2006.

groups were drawn from single families, some of which had already been targeted by the Serbian

secret police. Ramush Haradinaj, who was the KLA Regional Commander in the Dukagjini

region, said of his choice to take up arms: "Those families were already the targets; they had to

make the choice [to fight] earlier than the others. We didn't have much choice at the time. We

knew that we could be killed one way or another—in the prisons of Serbia, by being

assassinated, or by resisting them directly" (Perritt 2008: 1).

The date at which the violent resistance started is under dispute. Jashari had begun

attacking Serbian police as early as March 1992, when members of the Jashari and Lladrofci

families shot policemen in the Drenas bus-station. Jakup Krasniqi, who later became the

spokesman for the KLA, termed this operation the first politically motivated violence by the

group (Krasniqi 2006: 21).[40] Other sources suggest the violence started later, citing the attack

against Serb policemen near Komorane in Glogovac in May 1993 as the first attack (ICG

1998b:2). In any event, the initial violence was isolated and sporadic. The KLA also conducted a

number of attacks on police outposts outside Kosovo in Macedonia.

The first planned, coordinated assaults began in April 1996. On April 22, four almost

simultaneous attacks were launched in separate locations in Stimlje, Peje, and Mitrovica (ICG

1998b). The simultaneous attacks resulted in the Serbian response being spread over several

areas (Tsekov 2002). At the same time, attacks against Kosovo Albanians who were termed

collaborators and Serbian families who had been resettled in Kosovo began as well. At this

point, the KLA was not a real threat to the Serbian forces, but the use of violence was a symbolic

act, which was used to advertise the existence of the group, raise popular consciousness, and

increase popular participation (Mulaj 2008).

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[40] In March 1992, the group was not formally known as the KLA, but the individuals engaged in these early
activities became part of the KLA when it was so named in December 1993.

By the end of the summer of 1997, the KLA had grown in size and complexity to be able to conduct a ten part operation between September 10 and 11, targeting police vehicles and barracks up to 90 miles apart in coordinated, separate attacks (Kusovac 1998). By this time, more than 13,000 armed Serbian police were stationed in Kosovo, along with 6,500 soldiers of the Yugoslav Army (VJ) (ICG 1998a). The KLA made their first public appearance in November 1997 at the funeral of a teacher in Lausha, when three members of the KLA in uniform took off their masks and spoke to the 15,000 assembled mourners (Kusovac 1998). One Kosovo Albanian journalist said the appearance of the KLA at the funeral had an electrifying effect on the population. "Ten years of so-called nonresistance resistance softened the backbone of the Albanian population. Everyone was surprised when the KLA rose up because there had been no open defiance for so long" (Stephan 2005: 199).

The ranks of the KLA greatly expanded after the massacres in Likoshane, Qirez, and Prekaz in March 1998. Some Albanian Kosovars flew back to Kosovo from abroad on hearing the news to join the fight. "I was in the US at the time, and I heard about the massacres through the American newspapers. I heard about the massacres, the burning, and the next day I bought a ticket to fly to Albania."[41] Village militias were formed and began calling themselves KLA and the KLA found itself inundated with an influx of men willing to fight. In addition, some senior LDK leaders, such as Jakup Krasniqi, announced themselves to be KLA members, and former political prisoners who were leaders in the Center for Defending Human Rights and Freedom (CDHRF) aligned themselves with the KLA (Clark 2000: 176).

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[41] Author interview with U, a KLA soldier, October 2010.

Structure of the KLA

The structure of the KLA as it grew over time is an important variable under examination. The degree of formal structure or hierarchy displayed by the KLA affected its ability to identify and use international norms in its discourse.

Initially, the KLA was made up of disparate groups with loose links between them and strong bonds of family or friendship within each group keeping each small group together. The units were very secretive and communication between them was limited. "Our unit functioned with three members. Each group knew of only one other person outside the unit. We used nick names, and had limited knowledge of other units, which was done more for our and our families' protection."[42] Most of the early attacks were separate initiatives by one of these small groups of individuals acting independently (Perritt 2008: 81). Some groups were started by the members of the group themselves, and it was only over time that these groups came together and came to be known as the KLA. "My brother established a group with his friends around 1995 and 1996, called the Eagles. [Zahir] Pajaziti came up with the idea of cooperating together and somehow establishing the KLA.[…] In 1996 we got together and joined up with the KLA."[43] Secrecy was essential to protect members, primarily from the Secret Service. "Our groups were so well-organized, so that the Secret Service of Serbia could not break it. Before there had been many people who had tried to start a resistance, but they were infiltrated."[44]

It has also been argued that this early loose horizontal structure was a clan-based structure, wherein the local leaders incorporated traditional social, cultural, and political elements into the organization (Tsekov 2002). It was not until much later in the war, in the

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[42] Author interview with G, a foot soldier in the KLA from the Dukagjini region, October 2010.
[43] Author interview with S, a foot soldier in the Llapi region, October 2010.
[44] Author interview with U, a KLA member, October 2010.

summer of 1998, that a more formal structure was established, with a hierarchical command added to the loosely formed initial horizontal structure.[45]

In November 1994, meetings were held in Tirana between the groups inside Kosovo and those in exile. A group of those in exile were given the task of representing the political platform of the KLA, fundraising, and weapons supply. They included Xhavit Haliti, Azem Syla, and Ali Ahmeti, among others (Perritt 2008: 81). These men established themselves as the General Staff, but none (apart from Ahmeti) saw any military action. Others, including Thaçi, Rexhep Selimi, and Nait Hasani, worked to coordinate activities within Kosovo, unite the disparate groups, and connect them with those in exile. Between 1994 and 1998, these three helped to forge links among the groups within Kosovo and travelled frequently in and out of Kosovo over the border into Albania to connect those groups with the exiles (ibid.). In addition, each group within Kosovo had its own links to others in Switzerland, Germany, or the US through family members in the extensive Kosovar diaspora, which had grown rapidly as the economic and security situation in Kosovo steadily worsened. The KLA was not large initially—according to Rexhep Selimi, it had only reached about 200 combatants by November 1997, along with operational and logistical support (quoted in Bekaj 2010). Selimi also said that "in the beginning, we were all equal." And that "decisions were made by consensus. We all listened until everyone was convinced."[46]

The KLA operated in regional zones throughout its development, each led by a local leader, or regional commander. These seven zones were Drenica in Central Kosovo; Llap in the northeast, bordering on Serbia and including Pristina; Dukagjini in the southwest from Peja to Decan and Gjakova, including the essential access to the border with Albania; Shala in the north;

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[45]Author interview with Jakup Krasniqi, October 2010.
[46] Author interview with Rexhep Selimi, October 2010.

Pastriku in the south from Prizren to Maleshevo; Nerodima in the south-central area, around Lipjan and Ferizaj; and Karadaku in the southeast, bordering on Macedonia (Krasniqi 2006). Coordination between zones was limited and each zone operated mostly independently (Troebst 1999). There were also significant differences in operating styles, abilities, and levels of control over the soldiers in different zones. For example, one KLA fighter who had experience in both the Drenica and Llapi zones said: "the army was much more organized in Llapi than in Drenica. It was more hierarchical, and there was more education and experience in Llapi. Many of the officers there were from the ex-Yugoslavian army."[47]

In June 1998, the KLA underwent reorganization. It established a political wing with five senior members: Hashim Thaçi, Sokol Bashota, Rame Buja, Xhavit Haliti and Jakup Krasniqi, and organized various functions, such as public relations, into a vertical structure. By the end of the war, the organization had evolved into a more recognizable army, each zone having brigades and each brigade consisting of four battalions (each battalion may have had as few as 90 to 100 men) (Perritt 2008: 83). Battalions were broken into companies, each of which was made up of three or four platoons (Perritt 2008: 71). In addition to these forces, there were irregular troops, or civilian defense militia forces, which defended home villages. There remained considerable differences between each zone, however, with each zone commander using different tactics and managing his troops differently (ibid.).

In November 1998, the KLA underwent further reorganization and stratification, with the introduction of nine departments: Personnel; Information services; Operations; Logistics; Public relations and Civil administration; Communication and Interdepartmental Relations; Finance and Economics; Public information; and Military Police (Krasniqi 2006).

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[47] Author interview with P, a KLA soldier active in both Drenica and Llapi zones, October 2010.

KLA and Media

This section outlines how the KLA worked with the media to publicize its discourse. In the early days, from 1995 to the summer of 1998, the KLA had no formal mechanism for contacting and dealing with the press and the media. Although press releases (termed communiqués) were written and faxed to both local and international press outlets with the help of the LPK in Switzerland, the authorship of the communiqués was unclear. These communiqués were transmitted by the BBC Albanian services and were printed in Albanian and foreign newspapers in Switzerland, the UK, Germany and other countries (Mulaj 2008). The communiqués were, although imperfect, the only direct method the KLA had to communicate with the public until the founding of their radio station in January 1999. Initially, communiqués gave information about all KLA activity, but by 1999, individual zones were also releasing communiqués, offering information which was zone specific.

In July 1998, Jakup Krasniqi was appointed official spokesman for the KLA and assumed responsibility for coordinating the official message released by the KLA from the General Headquarters. Each zone, however, retained its own media point person, each of whom frequently gave direct interviews themselves.[48] The net result was that while there was some oversight of press contacts about the particulars of items such as troop engagement, even after July 1998 there remained only loose oversight of how the message was framed and presented to the public at large.

By the summer of 1998, international media representatives were in Kosovo trying to identify and interview senior members of the KLA (Judah 2000: 168; and Pettifer 2004). Initially, the KLA, traditionally suspicious of outsiders, were not terribly receptive to receiving

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[48] Various author interviews, Kosovo October 2010.

members of the foreign press (Hedges 1999). Gradually, they came to realize this was the best way for them to present their case to the world at large. The interviews, however, were not tightly controlled from the General Headquarters.

Congruence of international norms with local culture in Kosovo and within the KLA

This section provides an overview of the local culture in Kosovo immediately prior to and during the conflict, with a focus on parts of the culture with which there was some overlap with the international norms under discussion (human rights, international humanitarian law, and the norm against terrorism). This overview is helpful in determining the degree to which the level of congruence between international norms and the local culture was a factor in which norms were used in the discourse, and when.

During the 1990s, Kosovar Albanians turned away from official state institutions in the areas of education, healthcare and justice. As a form of civil resistance, a parallel system of schools and clinics were set up in homes and other non-governmental buildings and were outside the control of the authorities in Belgrade. Albanian Kosovars doubting the fairness of the government became less likely to pursue justice through official channels. This withdrawal from state institutions from 1990 onwards was coupled with a suspicion of what the state offered and was accompanied by a return to more traditional modes of interaction which included a return to the oral culture which had strong historical roots in Kosovo (Krasniqi 2009; Clark 2000). Official news was no longer trusted, and instead, news was spread by word of mouth, from neighbor to neighbor. Families gathered together with neighbors to listen to the sparse news programs broadcast from Albania, jointly financed by the Albanian government and the LDK, and there was a reemergence of a communal experience.

In the field of law and justice, as Kosovars withdrew from the official state justice

institutions, they turned to alternative ways to solve disputes, mainly traditional laws and

mechanisms. In Kosovo, the traditional laws, shared orally for centuries, are known as the Kanun

of Leke Dukagjini.[49] The Kanun is comprised of 12 books and l,263 articles, which together

form a comprehensive legal framework which governs almost every aspect of rural Albanian life,

from interfamily relationships, to communal matters, to matters of life and death. The twelve

books are Church, Family, Marriage, House, Livestock and Property, Work, Transfer of

Property, Spoken Word, Honor, Damages, Law Regarding Crimes, Judicial Law, Exemptions

and Exceptions. The Kanun applies equally to Catholic and Muslim Albanians. At the heart of

the Kanun are the principles of personal honor, equality of all men, hospitality, and kin loyalty.

For some scholars, like Leonard Fox, the Code of Leke Dukagjini is "the expression and

reflection of the Albanian character, a character which embodies an uncompromising morality

based on justice, honor, and respect for oneself and others" (Fox 1989: xix.). While some dispute

the relevance of the Kanun to modern Kosovar life (see for example Pula 2006), others have

argued that the Kanun has played, and continues to play, an important role in Albanian culture in

Kosovo and northern Albania (see, for example, Mangalakova 2004, Tarifa 2008, Arsovska

2006, and Trnavci 2010).

What parts of the Kanun are relevant to this discussion of international norms? While the

Kanun does specify how disputes may be resolved peacefully, at times with mediators, it also

outlines laws of behavior for individuals involved in deadly conflict, or blood feuds. Known as

gjakmarrja in Albanian, blood feuds are derived from a social obligation to murder or take the

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[49] The laws of the Kanun of Leke Dukagjini date from the fiftheenth century and were first collected and written down in 1913 by a Catholic Albanian priest, Father Shtjefen Gjecov. They were first published in 1929. Until that time they were transmitted orally.

blood of the individual responsible for the slighting of one's honor. The murder of a member of

another family in its turn creates the obligation in that family to pursue their honor with a

retaliatory murder, and some blood feuds may continue for generations.[50] Of note is that family

members traditionally vulnerable to killing in blood feuds are adult males. Thus, certain

categories of people were immune from the threat of death, namely, children, women, the

elderly, and the mentally ill. Some individuals are, then, legitimate targets during blood feuds,

while others are not. In this specification of targets, there is a foreshadowing of which types of

individuals are considered illegitimate targets under international humanitarian law—namely,

those not directly involved in the conflict, or civilians, which often includes children, women,

and the elderly.

Blood feuds were still very much part of life and the culture in rural Kosovo in the 1990s,

as can be seen from the immense campaign conducted by Anton Cetta in 1990 and 1991 to

reconcile opposing families involved in feuds. In 1990, Cetta, a university professor and

folklorist, founded the Reconciliation Committee to Reconcile Blood Feuds in Kosovo (Komiteti

për pajtimin e gjaqeve ne Kosove). Cetta toured rural Kosovo with hundreds of volunteers,

attempting to mediate between parties, and convince families to forgive their blood feuds. His

form of mediation, outlined in the Kanun, allowed for families to negotiate a besa, or sworn

truce. It is estimated that blood feuds affected as many as 17,000 men in Kosovo at the end of the

1980s, confining many to their homes (Clark 2008: 60). Cetta said at the time: "It is not easy for

families required to draw blood to forgive, because for many centuries, families who did not take

vengeance were considered cowards" (Bytyci 2005). In a large public gathering in rural Kosovo

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[50] Blood feuds were not unique to Albanians in the region. Other scholars have documented similar behavior
patterns in non-Albanian mountain communities in neighboring Montenegro (Boehm 1984).

to "forgive the blood" on May 1, 1990, at least 100,000 people attended, although the total could have been many more (ibid: 63). Part of the civil resistance to the Serbian state at that time, Cetta said of the campaign: "The enthusiasm and sense of fraternity that spread gave courage to our politicians and also encouraged the self-organization of our population" (Clark 2008: 63). By halting the blood feuds, the attention of the Kosovo Albanians could be turned to resisting the Serbian government.

The KLA drew many of its members from rural communities, where the ties of traditional culture where strong. One Kosovo expert (who wished to remain anonymous) argued that traditions such as loyalty, honor and vigilante justice were likely to be very strong among former KLA members: "[The KLA] was rooted in a strong rural culture, and consciously invoked traditionalist concepts as a way of developing its image as a very 'Albanian' army" (as quoted anonymously in Farquhar 2005).

Another point of evidence to indicate the importance of the blood feud and the Kanun in Kosovo is the prevalence of blood feuds after the end of the conflict. Some parts of the province saw a resurgence of blood feuds after the end of the conflict in 1999, including the Dukagjini region, in the west of Kosovo (Xharra, Hajrullahu, and Salihu 2005; Xharra 2005). Some of these blood feuds were between families who were active in the KLA, such as the Haradinaj family in the west of Kosovo (Xharra 2005). One sociology professor, Fadil Maloku at Pristina University, argued that the new post-conflict legal system failed to take root in Kosovo because "it does not comply with traditional norms, so many people are turning back to old customs" (Musliu and Lani 2005).

In addition to the Kanun, another potential source of historical traditions that were revitalized during the 1990s was the signing of traditional epic ballads. These ballads, many of

which date to the fifteenth century, are known as the Songs of the Frontier Warriors, or *Kenge Kreshnikesh.* They are tales of honor, friendship, ties between brothers and blood brothers, and bravery on the battle-field, where heroes fight and win battles against dramatic odds. The kenge, or traditional ballads, were very popular with Adem Jashari, the legendary KLA commander, who, legend has it, sang the traditional songs as his home was being shelled *(Christian Science Monitor* 1999).

Other traditional folk songs were about Skanderbeg, a legendary Albanian warrior who led an uprising against the Ottomans in the fifteenth century. These songs center around the traditional themes of honor, hospitality, and revenge and celebrate one man's struggle against foreign invaders (Pistrick 2012). Both the Kenge and the songs about Skanderbeg were popular with a number of KLA leaders, some of whom vigorously embraced traditional parts of Albanian culture. Over time as one of those leaders, Adem Jashari, came to be mythologized as a heroic leader of the resistance, the songs came to be identified with the resistance itself. New folk songs, such as "A vritet pafajesa" (translated as "Should Innocence be Slaughtered"), by Leonora Jakupi, the daughter of a KLA soldier, became popular. Other songs popular in Kosovo at the time were folk songs about other Albanian leaders, notably the leaders of the Kaçak uprising at the beginning of the twentieth century, Azem Bejta and his wife, Shote Galica (Sugarman 2010). Indeed, during the conflict, multiple songs about the violence were produced in Kosovo and Albania—those produced in Kosovo with a historic tone and those in Albania explicitly celebrating the KLA and their fight (Sugarman 2010: 36).

The ballads had a number of themes which could be seen as potential sources of culture in Kosovo and contributors to the congruence (or lack thereof) with aspects of international norms: the celebration of fighting on the battlefield; the protection of guests in the home; and the

bond that exists between two people. For example, in *The Marriage of Halili,* warriors are hailed:

> To perish in bed we must not while we're sleeping
>
> But rather while brandishing swords, loudly singing.[51]

And in the ballad, *The Death of Omer,* heroes who die on the battlefield are not mourned:

> Mourn not sons who died in battle,
>
> Mourn no living who go raiding,
>
> Death's none sweeter than in warfare,
>
> To fall in battle yet unvanquished.[52]

The protection of guests and of children is also emphasized: in *Omer, son of Mujo*, Mujo tests his son's honor by pretending to attack two boys in his care. When his son shows he is prepared to fight his father to protect his guests, his father relents and recognizes him.

> With one hand he [Mujo] seized the twin sons,
>
> With the other seized his sabre,
>
> When he was about to slay them,
>
> His son jumped to his feet, protesting,
>
> Arming himself for a battle,
>
> That his guests should not be slaughtered,
>
> The two men set upon each other,
>
> But in harmony they parted,
>
> Throwing arms around each other,

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[51] Elsie and Mathie-Heck 2004, lines 598, 599.
[52] Elsie and Mathie-Heck 2004: 329, lines 14 – 17.

'Hail, my boy, that I now see you,

And you really are my true son.'[53]

Overall, in Kosovo during the 1990s there was a resurgence of traditional culture, particularly in the rural areas from which the KLA drew most of its membership. It was this more traditional culture with which international norms interacted and needed to resonate in order to be adopted into the discourse of the KLA. Three features of the traditional culture, namely the justness of the selection of targets, equality of all, and protection of guests have areas of overlap with three international norms under consideration: human rights, humanitarian law (in particular protection of civilians), and proscriptions against the selection of civilians in acts of terror. Other features of the traditional culture, for example, the importance of kin, loyalty, and the celebration of warriors fighting much larger foes all will have had an effect on the formation and functioning of the KLA in practice.

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[53] Ibid: 327, lines 258 – 267).

2.3 Background on the conflict in Sri Lanka[54]

The conflict in Sri Lanka between 1983 and 2009 was seen by many as an escalation of the communal violence that had broken out at regular intervals in Sri Lanka from 1948 onwards (Winslow and Woost 2004: 6). Previous periods of violence include the violence around the 1956 elections after the election of Bandaranaike, who ran on a pro-Buddhist and Sinhalese platform, and the period between 1974 and 1977 (during which time the Tamil Tigers were founded). Some scholars have suggested that the increasing interethnic polarization between the Sinhalese and the Tamils was driven by the nature of Sri Lanka's electoral system, bequeathed to the country by British colonialism, which magnified slender majorities of national votes into disproportionately large majority of seats in parliament (Bose 2007; O'Duffy 2007). Beyond communal violence, political violence has also been part of the landscape in Sri Lanka from the early 1970s onwards. In addition to the emergence of a movement for Tamil Eelam, with groups such as the Liberation Tigers of Tamil Eelam (LTTE), the Eelam Revolutionary Organization of Students (EROS), and the Eelam People's Revolutionary Liberation Front (EPRLF), the left wing pro-Sinhala group, Janatha Vimukthi Peramuna (JVP), also led armed uprisings in 1971 and 1987 (Gunaratna 2001).[55]

In the shadow of violence, there was a significant shift within the Tamil community towards an assertion of the right to self-determination away from demands for structural changes and constitutional reform of the mid-1970s (De Silva 1998). This shift began with the formation of the political party, the Tamil United Front (TUF) in 1972, which began to articulate the demands for Tamil rights. In 1975, the TUF changed its name to the Tamil United Liberation Front (TULF) and began calling for an independent state of Tamil Eelam. By 1977, the TULF

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[54] Please refer also to the following events in Appendix 5: A timeline for the LTTE.
[55] Tamil Eelam is the name given to the region in the north and eastern parts of Sri Lanka which some Tamils sought to establish as a separate state.

had won 17 seats in parliament, primarily in the Northeast. However, the presence of Tamil politicians in parliament calling for secession and the establishment of an independent Tamil state did little to alleviate tensions between the Tamils and the Sinhala-dominated government of Sri Lanka.

Impatient with the pace of political change and with the approach of the political parties, the LTTE and other groups began the initial stages of a violent campaign in 1977. At this point, the LTTE's self-described "national liberation struggle" was proclaimed a struggle against institutionalized racism and escalating violence against the Tamil people (Balasingham 1983). The violence was at first on a low level and included assassinations of political actors and attacks on policemen. The Sri Lankan government criminalized the LTTE specifically under the Prevention of Terrorism Act in 1979.

On July 23, 1983, the LTTE escalated the level of violence and killed 13 government soldiers in an ambush in Jaffna. Immediately thereafter there were violent anti-Tamil riots throughout the Sinhala majority areas, including the capital, Colombo. Accounts of the riots are contentious, with reports of between 350 to 2,000 Tamil deaths (depending on the source).[56] The government was seen by the Tamils as either turning a blind eye to the violence or actively encouraging it and, after this point, support for the LTTE among Tamils increased. Some point to the events of the summer of 1983 as those that "turned a conflict between the state and radical Tamil youth into an ethnic war" (Herring 2001: 163).

The unrest in 1983 was followed by an amendment to the Sri Lankan Constitution on August 8, 1983. This sixth amendment prohibited any movement for independence of any part of the Sri Lankan state. It effectively criminalized the demands of the Tamil militants. The elected

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[56] See, for example (Eller 1999; Spencer 1990; Tambiah 1986).

members of parliament of the TULF resigned in protest. The amendment stated: "No person shall, directly or indirectly, in or outside Sri Lanka, support, espouse, promote, finance, encourage or advocate the establishment of a separate state within the territory of Sri Lanka." These events marked the start of the First Eelam War and the LTTE forces in the north of the country began engaging the government troops in heavy fighting. At the same time as support for the LTTE was growing, other militant groups also enjoyed a similar flourishing of support.[57] In July 1985, peace talks were held in Thimpu, Bhutan between the Sri Lankan government and a number of Tamil groups, including the LTTE. The demands of the Tamil groups were the recognition of the Tamil people as a distinct nationality, the guarantee of an independent Tamil homeland, recognition of the right of the Tamil nation to self-determination, and safeguards for the Tamil people who were outside the independent Tamil nation (Wilson 2000). While these talks collapsed, the demands made in Thimpu remained fairly consistent as demands made by the LTTE at periodic intervals.

Initially, the LTTE received support from the Indian government and the state government of Tamil Nadu in the south of India, including military training, and shipments of arms, such as grenades and land mines. Indian support ceased in 1987 when Rajiv Gandhi was elected Prime Minister of India and signed the Indo-Sri Lankan accords on July 29, 1987. The accords were signed only days after the first suicide bomb attack by the LTTE on July 5, when an LTTE soldier from the Black Tiger unit, known as "Captain Miller," drove a truck laden with explosives into a Sri Lankan army camp in Jaffna, killing at least 40 soldiers. The accords included the establishment and deployment of the Indian Peacekeeping force (IPKF) in the north east of Sri Lanka in an attempt to disarm the LTTE. At the same time, the Sri Lankan

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[57] The LTTE established dominance through force over the other militant Tamil groups by the end of the 1980s (Nadarajah and Vimalarajah 2008).

government placed the predominantly Tamil areas in the north and east under emergency control. The IPKF maintained a front engaging in heavy fighting with the LTTE in the northeast until 1990, when they finally withdrew. Fighting between the LTTE and the government of Sri Lanka resumed, termed the Second Eelam War.

In August 1994, Chandrika Kumaratunga was elected president in Sri Lanka and, pledging an end to the war with the LTTE, announced a unilateral ceasefire. A round of peace talks with the LTTE opened in October 1994.[58] However, the peace talks made little headway and came to an end when the LTTE sank a naval war ship in April 1995, beginning the Third Eelam War.

While Jaffna fell to the Sri Lankan army in December 1995, the LTTE retaliated in the heart of the capital with an attack on the Central Bank in January 1996, killing at least 50 people and injuring 1,400 (BBC 1996), and the bombing of a commuter train near Colombo, killing 70 people and injuring 600 (*New York Times* 1996). Other significant attacks by the LTTE during this period include a suicide bombing of Sri Lanka's holiest Buddhist shrine, the Temple of the Tooth, on January 25, 1998.

In October 1997, the United States banned the LTTE under anti-terrorism legislation.[59] The Sri Lankan government subsequently launched their largest military operation in the hopes of eradicating the LTTE from their jungle positions. However, the LTTE proved to be resilient and following significant territorial gains by the LTTE, the Sri Lankan government declared a nation-wide state of emergency in August 1998. Fighting continued intermittently and the LTTE

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[58] The previous two rounds of peace talks, known as the Thimpus Talks (in 1985), and the Premdasa-LTTE talks (in 1989-1990), had ended in failure.

[59] The United States Department of State designated the LTTE a Foreign Terrorist Organization (FTO) on October 8, 1997. For the full list of FTOs see http://www.state.gov/j/ct/rls/other/des/123085.htm (last accessed June 17, 2013).

were able to regain control of most of the Jaffna peninsula by 1999, and recapture most territory it had lost since 1996.

In 1998, the LTTE approached the Sri Lankan government with an offer of ceasefire, calling for another round of peace talks (Rotberg 1999). The negotiations continued for a number of years without much result until 2002 with the signing of a ceasefire agreement between the rebel leaders and Sri Lankan Prime Minister Ranil Wickremasinghe.[60] This agreement included provisions for the LTTE to consider a federal settlement based on a unified Sri Lanka, rather than holding out for full independence. The Norwegian government played an important intermediary role in the negotiations after February 2000.

Following the ceasefire agreement, a number of steps towards normalizing relations between the LTTE-dominated parts of the country and the rest of Sri Lanka began, including the de-commissioning of weapons, the reopening of the road linking the Jaffna peninsula with the rest of Sri Lanka for the first time in 12 years, the resumption of passenger flights to Jaffna, and lifting of the Sri Lankan government ban on the LTTE. Joint committees and taskforces between the two parties were established to deal with issues such as humanitarian relief, refugee resettlement, and constitutional issues.

The ceasefire was monitored by the Sri Lankan Monitoring Mission (SLMM), staffed by monitors from Norway, Sweden, Denmark, Finland, and Iceland. While the ceasefire agreement did lead to a reduction in armed clashes between the main parties to the conflict, both the LTTE and the government forces also used the respite to consolidate and improve their positions, and human rights violations persisted.[61] The SLMM collected information about ceasefire violations,

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[60] At the time of the signing of the ceasefire, Wickremasinghe and Kumaratunga were in a power sharing arrangement, with Kumaratunga continuing as President.
[61] See the UN Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, mission to Sri Lanka November 28 to December 6, 2005 (E/CN.4/2006/53/Add.5, 27 March 2006).

which included actions such as movement in the zone of separation, hostile acts against civilians, and the illegal carrying of arms. The majority of incidents of ceasefire violations were by the LTTE (Hoglund 2005). Negotiations for a final settlement dragged on and, after six rounds of direct talks, the LTTE pulled out of the negotiations in April 2003.

In 2004, the LTTE faced a number of internal challenges. In March, an LTTE commander from the eastern part of Sri Lanka, Vinayagamoorthi Muralitharan (alias Colonel Karuna), broke away from the group's leader, Vellupillai Prabhakaran, and led a splinter group to leave the LTTE, drawing almost half of the LTTE soldiers with him. The split resulted in an outbreak of fighting between the two LTTE factions, with the north claiming victory within a month when the Karuna faction lay down their arms following the deaths of hundreds of soldiers and bystanders. While the faction went underground, Karuna never stopped resisting Prabhakaran's leadership and eventually joined forces with the Sri Lankan security forces and helped push back the LTTE's stronghold in the east in 2008. Also in March 2004, a political group, the Tamil Makkal Viduthalai Pulikal (TMVP), split from the LTTE to ally itself with the government.

In December 2004, a tsunami devastated coastal communities in Sri Lanka, many of which were in LTTE-dominated territory. In Sri Lanka, more than 30,000 people were killed by the tsunami and a further 500,000 were displaced immediately after the disaster (CNN 2005). A period of relative calm followed the tsunami as both the government and the LTTE worked to provide services to the communities most affected. However, the assassination of the Sri Lankan foreign minister, Lakshman Kadirgamar, in September 2005, allegedly by the LTTE, caused the ceasefire agreement (in place since 2002) to collapse. In addition, the LTTE had become increasingly isolated following the growing international consensus against engaging with

groups that continued to use terrorism. For example, in May 2006, the European Union officially

labeled the LTTE a terrorist organization (Council of the European Union 2006).[62]

By December 2007, the government had begun operations in the north of the country, seeking to

oust the LTTE from its stronghold. Fighting was fierce and the toll on local civilians was high.

As reported by the UN Representative of the Secretary-General on the Human Rights of

Internally Displaced Persons (RSG-IDPs), up to 70,000 civilians had been displaced by the

fighting and there were high levels of allegations of extrajudicial killings, physical assault,

abduction, disappearances, forced recruitment, the use of civilians as human shields, prevention

of civilians from fleeing hostilities, and indiscriminate shelling of civilians.[63]

On January 2, 2008, the government formally announced its withdrawal from the 2002

ceasefire agreement and the conflict worsened over the course of 2008. The government forces

advanced steadily towards the LTTE stronghold and *de facto* capital of Kilinochchi, surrounding

it by November 2008, and capturing it by January 2009.

The situation for civilians caught between the two opposing sides was grim. There are

credible reports that the LTTE used civilians as shields in order to increase civilian casualties

and attract the attention of international community to broker a ceasefire (ICG 2010). The LTTE

stopped and often shot civilians attempting to escape their area of control (UN Secretary-General

2011). The Sri Lankan government troops were accused of shelling and bombarding areas

around the fighting in which civilians were concentrated (ICG 2010) and refusing to allow

humanitarian aid to reach civilians in the conflict zone during the conflict or immediately

thereafter (ICRC 2009).

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[62] This declaration froze the funds and financial assets of the LTTE in Europe, called for the LTTE to cease its violent activities and return to the peace talks.
[63] See the Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Mission to Sri Lanka from 14 to 21 December 2007 (A/HRC/8/6/Add.4, 21 of May 2008).

The final battles between the government forces and the LTTE took place east of Kilinochchi on the eastern coast near the town of Mullivaykkal, where the LTTE was encircled and defeated on a beach between the ocean and a lagoon. The LTTE conceded defeat on May 17, 2009. "This battle has reached its bitter end," Selvarasa Pathmanathan, the Tigers' chief of international relations, said in a statement carried on the pro-rebel Tamilnet website. "We have decided to silence our guns. Our only regrets are for the lives lost and that we could not hold out for longer." The death of Vellupillai Prabhakaran was announced the following day.

2.4 The Liberation Tigers of Tamil Eelam

Establishment of the LTTE

Vellupillai Prabhakaran first founded an organization called the Tamil New Tigers in 1972. In July 1975, Prabhakaran shot and killed the Mayor of Jaffna, Alfred Duraiappah, in the first and very public major attack by the group. On May 5, 1976, he renamed the group the LTTE. Initially structured as a traditional guerrilla force, it was restructured to become a more broad-based armed resistance movement of the Tamil People (Balasingham 1983). In the beginning, the attacks by the LTTE were modest: in 1977, the LTTE attacked and shot three Tamil police officers said to be investigating the LTTE; in 1978, six more police officers were shot; and they undertook a number of robberies of banks and buses (Pathak 2005). Their first major engagement was in 1983, when the LTTE staged an ambush and killed 13 Sri Lankan government soldiers in Jaffna.

Structure of the LTTE

The LTTE had a hierarchical two-tier structure, with a military wing and a subordinate political wing, both under the supervision of the Central Governing Committee headed by the

supreme leader, Velupillai Prabhakaran. The political office was headed by Thamilchevlam (as the political leader) and Anton Balasingham (in the role of political advisor). The military wing was divided into an elite fighting unit, the Charles Anthony Regiment, an amphibious group (Sea Tigers), an airborne group (Air Tigers), and a suicide commando unit (Black Tigers). Other smaller units such as an all-female unit (Freedom Birds), a unit with recruits under the age of 16 (Baby Brigade), and a unit made up of orphans (Leopard Brigade) also existed.

The LTTE was very hierarchical and ruled by one leader, Velupillai Prabhakaran. Many of his followers hailed Prabhakaran as a hero and took an oath of loyalty to his every word (Post 2007: 92). Some have characterized the sense of personal duty and obligation to the leader felt by the LTTE cadres as a cult of personality (O'Duffy 2007). Prabhakaran characterized his stature as a choice of the people: "I cannot help this kind of projection and characterization. I am only concerned with the political liberation and social emancipation of oppressed people. My people are aware of my commitment and trust me to lead them on the right path" (Tamil National Leader Velupillai Pirapaharan's interview, March 1986, quoted in (Post 2007).

During the first years of the conflict (from 1983-1987), the LTTE faced competition from other Tamil factions and one of its objectives was the elimination of these challenges to its rule. The unified structure of the LTTE and its willingness to use violence against these competitors gave the group an advantage. This was also the period in which the LTTE first established its civil administration, which continued to develop particularly after the withdrawal of the IPKF. The first government structure established within the civil administration was the Tamil Eelam Economic Development Organization (TEEDO), in charge of economic planning and reconstruction in the region under the LTTE control (Mampilly 2011). Between 1990 and 1995, when the LTTE controlled Jaffna and parts of Vanni, they experimented with local

administrative bodies and began to build the institutional capacity for local governance (Stokke 2006). By the late 1990s, as the LTTE came to control significant parts of territory, they were able to build on these early experiences of governance, building civil administration bodies throughout the territories they controlled. Soon thereafter, the civil administration structures bloomed to cover areas such as education, health, police, judiciary, and taxation. The Sri Lankan government continued throughout most of the conflict, however, to provide services to the local population, working with and often funneling funds through the rebel group's administration structures.

Following the ceasefire in 2002, the civil administration in LTTE controlled areas changed in two ways: the easing of travel restrictions allowed for more centralization and concentration of power in the north away from the eastern area and, second, in order to manage the influx of post-conflict aid and international agencies, the LTTE created the Planning and Development Secretariat (PDS). The areas controlled by the LTTE were described by some as feeling remarkably state-like. For example, by 2005, moving across Sri Lanka and crossing from Sri Lankan government-held territory into LTTE-held territory was described by one traveler as resembling "a border crossing between two nation-states, with well-guarded border control posts where travelers are required to show identity cards, goods are inspected and customs fees are collected" (Stokke 2006).

The NGOs in the LTTE territory were able to supplement the efforts of the civil administration, thereby increasing the capacity of the LTTE's governance system significantly until the fighting recommenced in 2007. The presence of the international organizations and the aid they brought to the region allowed the LTTE to decouple their administration from Sri

Lankan government sources of funding and, perhaps inadvertently, alter the dynamics of the conflict away from negotiation towards military resolution (Mampilly 2009).

Congruence of international norms with local culture within the LTTE

In comparison with the KLA, the LTTE had a very different approach to creating their normative environment. Rather than reaching towards traditional norms like the KLA, the LTTE tried to reshape Tamil culture in a completely new way in areas under their control. Under the guidance of Anton Balasingham, a Marxist intellectual writer who became the ideologue for the organization, the LTTE created a socialist platform and planned a social revolution seeking to upend the deeply conservative Tamil society, bound by a rigid caste system (Weiss 2012). The leader of the LTTE, Prabakharan, was of lower caste himself and in many ways the LTTE represented an inversion of the traditional social hierarchy.

A second element of the culture within the LTTE that is essential to consider is the veneration of death, in particular, death for the cause. The fight for Tamil Eelam, in the LTTE's view, was one where every Tamil was expected to give everything for the struggle—money, future, and even his or her life. Parents were expected to give up their children for the national liberation struggle and threatened with violence or detention if they did not (Human Rights Watch 2004). The devotion of the Tigers to the death and to their cause was exemplified by the capsule of cyanide worn around their necks, to be drunk at the time of capture. The adoption of the cyanide capsules between 1983 and 1984 reinforced the case for suicide bombers and, after 1987, suicide bombers and assassinations became a regular part of the LTTE's tactics (Hopgood 2006). Between the first suicide attack by "Captain Miller" in 1987 and May 2009, at the end of the conflict, the LTTE sent out an estimated 273 suicide attackers on 137 missions (Pape 2009).

The importance of the celebration of death can also be seen in the example of burial. The LTTE wrought significant change on the culture in the north and east with the introduction of graveyards in which soldiers, termed martyrs, were buried. This was a significant break with the past in a culture that cremated the dead. Cemeteries began to be venerated as temples and monuments to war and struggle and the Tigers began commemorating the dead in a series of powerful rituals, including Heroes Day on November 27, and Black Tigers day on July 5 (Roberts 2006).[64] The gravestones in the graveyards were referred to as a memorial stone or hero stone and were ritually garlanded with flowers.[65] By these acts, the soldiers were both honoring the dead, and also affirming that they themselves would be so honored on their deaths.

It is important to note the significance of the celebration of death and the dead alongside the norms against terrorism and international humanitarian law which maintain the importance of not killing civilians or those not involved in the conflict.

Conclusion

This chapter has provided an overview of the conflicts in the two cases, Kosovo and Sri Lanka, outlining the development of violence in each case. It also provides a background on the establishment and structure of the two organizations, with a focus on the normative environment established and maintained by each group.

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[64] The speeches given on Heroes Day by the leader of the LTTE are those under analysis later in this work.
[65] See (Roberts 2006) for an in-depth examination of the creation of myth and meaning with the garlanding and the meaning of the selection of flowers for the ritual.

Chapter 3: Patterns of change: A state to non-state level comparison

The discourse and behavior of states change as a result of changing international norms. However, very little scholarly attention has been focused on how norms affect the discourse and behavior of non-state actors. Andrew Cortell and James Davis note that "the first sign of an international norm's domestic impact is its appearance in the domestic political discourse" (Cortell and Davis 2000). Applying that idea to non-state actors, this chapter examines international norms in the discourse of two armed resistance groups, the Kosovo Liberation Army (KLA) and the Liberation Tigers of Tamil Eelam (LTTE).

This chapter reviews evidence that armed resistance groups follow changes in the hegemonic discourse and behavior and change their discourse to echo the changes at the state level. It compares the patterns in the changes in the discourse of these groups with the changes observed at the state level over the same period. The international norms analyzed are human rights, international humanitarian law, humanitarian intervention, genocide, and the norm against the use of terrorism.

The patterns observed in the discourse of the non-state actors under examination do not mirror the changes at the international level exactly, and they vary across cases indicating that the patterns of change in rebel groups' discourse are not solely as a result of external pressures. Evidence of two other factors' effect on discourse is also explored: first, the timing of the use of international norms, and second, the degree of hierarchical structure of the group. The timing of when a group uses these norms is examined in the context of each conflict. Findings show that the groups make changes in their discourse and incorporate international norms at significant turning points during the conflict, particularly when international actors are involved in those

turning points, indicating an intentional strategic use of these norms by the groups. The second factor, structure, is investigated to determine if greater hierarchy within the group is a precondition for the group's ability to reliably incorporate international norms into the discourse. The evidence from one case, the KLA, suggests that armed groups do require a certain level of hierarchical structure before international norms enter their discourse in a significant way. Structure as a variable in the second case was inconclusive, as the hierarchical structure of the LTTE did not vary significantly over the period under examination.

The period of time under examination is from 1989 and the end of the Cold War through the early 2000s. This is a period which saw a great deal of change in the relative strength of a number of international norms, which provides for fruitful comparisons between state and non-state levels.

This chapter begins with an overview of the changes in the salience of selected international norms at the state level. It then examines how these norms might affect non-state actors or how the norms might be translated into their local sphere. The chapter offers an empirical analysis of changes observed in the use of these same norms in the discourse of the two rebel groups, the KLA and the LTTE, and charts those changes against key turning points in the conflict, such as negotiations for termination of the conflict, monitoring of the conflict by influential outside actors, or imminent ending of the conflict. (The KLA is the primary case study, and the LTTE is the secondary case.) The analysis is based on an analysis of the KLA's press releases, political statements, interviews and speeches, and LTTE leader's speeches. Finally, the chapter offers an analysis of the evolving structures of the two groups to gain insight into how the structure of the group might affect the use of international norms in the discourse.

3.1 States and international norms

International norms are not static. There is a constant interplay between state actors and norms as state behavior affects norms and, at the same time, norms affect and change state behavior and discourse. The changes in the norms may be sudden and result from a specific incident or moment in time or the changes may be the result of a slow, evolutionary process. The change may not be in the norm itself, but may be in the perception of the norm or in actors' responses to the norm.

The international norms under examination are those which, for a variety of reasons, are most relevant to armed resistance groups: human rights, because human rights violations and abuses tend to increase dramatically during times of armed struggle; international humanitarian law (IHL) and associated norms, because this body of law may be applied to all sides of an armed struggle; humanitarian intervention, because the international response to conflicts in recent years has included the option of a military intervention on humanitarian grounds; genocide, because of the increased frequency of use of this term by either party during conflicts and the connection between genocide and outside state action; and the norm against terrorism, because rebel groups are frequently branded terrorists although they may or may not resort to terrorist tactics in their struggle with a more powerful opponent. Each of these norms followed a different path of change over the course of the 1990s and beyond, although all show a strengthening of certain aspects of the norm over time. We would, therefore, expect to see different patterns reflected in the use of these norms in the discourse of armed groups over the same period.

Several of these norms are linked. For example, human rights and international humanitarian law draw from distinct bodies of law, but there is a significant overlap as both

proscribe the killing of civilians during conflict. This overlap became more significant in the 1990s when states gave increasing attention to the issue of civilian mortality during the conflict, and states and non-governmental organizations (NGOs) began drawing on both bodies of law in an effort to address the problem. Similarly, humanitarian intervention and the related responsibility to protect (known as R2P), the norm which supports military intervention in another state without that state's consent with the aim of protecting innocent individuals from death or gross human rights violations, draw from both human rights law and international humanitarian law. The norm against terrorism also proscribes the targeting of civilians for military or political objectives. Taken together, the norms of human rights, IHL, and against terrorism circumscribe how armed actors are supposed to act during conflict.

Similarly to states, non-state actors are under pressure from outside actors (states or NGOS, for example) to conform to changes in international norms. These norms might be international norms under examination in this work, or indeed other norms such as religious or cultural norms. Pressures on groups include such negative inducements like the reduction of support or embargoes, or positive inducements like the increase in support or improved legitimacy (the latter may be conferred through activities such as inclusion in negotiations or dialogues). We can, therefore, reasonably expect groups such as armed resistance groups to change their discourse as a result of that external pressure in some instances. In addition to responding to outside pressures, these groups may also be consciously choosing to echo international norms in their discourse for strategic reasons or in order to frame their conflict in a way to make their local conflict more understandable or appealing to others.

3.2 Changes in international norms

A number of factors led to the rapidly changing international environment of the 1990s, including a perceived increase in the number and length of intrastate conflicts and an increase in states' capacity and will to intervene collectively, due in part to the end of deadlock that persisted during the Cold War. These changes led directly to changes in international norms as states came to terms with a new world order.

Human rights

Between 1989 and the early to mid-2000s, activities by international organizations, human rights groups, and states strengthened international human rights norms to the point where they became a dominant theme in the discourse and actions of states. Although human rights norms began to strengthen from the mid-1970s onwards, there was a more recent and dramatic rise that was partly attributable to the post-1989 changes noted above.

The shift towards greater use of human rights language is described by legal scholar Antonio Cassese in 1999: "it is a truism that today human rights are no longer of exclusive concern to the particular state where they may be infringed. Human rights are increasingly becoming the concern of the world community as a whole" (Cassese 1999: 22).

The increased focus on human rights at the state level following the end of the Cold War can be measured in three ways: first, an increase in the accession to human rights systems, for example as seen in Europe; second, an increase in human rights concerns discussed and acted upon as international security concerns; and third, an increase in human rights enforcement measures. All of these changes were reaching a peak in the mid-1990s resulting in a strong likelihood that these changes at the state level, coming as they did within a relatively short amount of time, would have also affected non-state actors, such as armed opposition groups.

During the Cold War many states signed and ratified numerous human rights treaties; however, it was also a period in which these human rights treaties had limited impact. Some have argued that the Cold War allowed states to sign and ratify human rights treaties without expecting many consequences, such as pressure from other states to live up to the treaties, because those states could expect one of the superpowers to shield them from possible consequences (Wotipka and Tsutsui 2008; Buergenthal 1997). This comfortable state of affairs began to change with the Helsinki Final Act of 1975, which established human rights as binding on all states of Europe and as a legitimate issue between states (Thomas 2001). At the end of the Cold War, rhetoric about human rights at the state level altered: the status of human rights improved, but enforcement action continued to be infrequent. Although human rights instruments have weak or non-existent enforcement mechanisms, the treaties themselves do confer certain legitimacy and allow for legal leverage to improve human rights situations within countries (Donnelly 2006; Hafner-Burton and Tsutsui 2005). The period following 1989 saw human rights instruments begin to be more consequential as monitoring and promotional activities began in earnest.

The first indicator of change is the accession to a regional human rights system, and the expansion to the European human rights framework offers a good example. After 1990, there were significant changes taking place. The European Convention for the Protection of Human Rights and Fundamental Freedoms expanded from the original western European countries to be signed by an additional 17 countries, all of which were Eastern European states and former members of the Soviet Union.[66] This is significant from an enforcement point of view because

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[66] The Convention was originally signed by 14 members of the European Union and Turkey, so the jump in the numbers after 1990 is significant. See Convention for the Protection of Human Rights and Fundamental Freedoms signatory list. Available on-line at the Council of Europe website.

the Convention provides for adjudication of individual complaints about human rights violations at the Human Rights Court in Strasbourg. Although the primary addressee of human rights violations remains the applicant's home country where the violation takes place, the court in Strasbourg provides additional remedies for a violation of an individual's human rights.

The second indicator, the growth of human rights as international security concerns, is most apparent in the language used by the United Nations (UN) Security Council and their subsequent actions. During the Cold War, neither human rights issues nor humanitarian issues were addressed as security concerns and, therefore, not on the Security Council's agenda. Indeed, for the first two decades of the modern human rights era following the adoption of the Universal Declaration of Human Rights (UDHR) in 1948, there was no mention of any humanitarian aspect of any conflict (Badescu and Weiss 2010). Following the end of the Cold War, human rights issues, including issues such as children in armed conflict and women's rights, gradually became security issues and for the first time warranted engagement by the UN Security Council. This level of engagement by the Security Council in the post-1989 period was particularly striking given the low degree of engagement during the previous decade (during which the Security Council did not approve any peacekeeping operations).

In addition, after 1990, the UN Security Council began transitioning from discourse, or merely condemning human rights violations, to practice, increasingly using a variety of sanctions, for example, as an expression of disapproval. In the decade after the end of the Cold War, the UN Security Council imposed economic sanctions 16 times, compared to only twice in the period between 1945 and 1988.[67] These sanctions had varying levels of severity: the most

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http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=005&CM=&DF=&CL=ENG. Last accessed 12/20/12.

[67] Prior to the end of the Cold War, the two times the Security Council imposed sanctions under Chapter VII of the UN Charter were in Southern Rhodesia in 1966 (Resolution 232) and South Africa in 1977 (Resolution 418).

severe being comprehensive economic sanctions, for example in the cases of Iraq in 1990 and the

Federal Republic of Yugoslavia (FRY) in 1992; partial economic sanctions, such as in Sudan in

1996; targeted financial sanctions, for example against the National Union for the Total

Independence of Angola (UNITA) and its senior officials in 1998; and arms embargoes, such as

on the republics of the former Yugoslavia in 1991, and on the FRY in 1998. While the efficacy

of sanctions is widely debated (see, for example Cortright and Lopez 2000; De Jonge Oudraat

2001; Pape 1998), the pattern of applying sanctions continued into the first decade of the twenty-

first century, with sanctions regimes imposed in countries such as Sudan, Cote D'Ivoire, the

Democratic Republic of Congo, the Democratic People's Republic of Korea, and Libya, as well

as targeted sanctions on individuals.

The third indicator is the increase of enforceability measures; or rather a shift from principled

pronouncements to calls for more enforcement and action. Over time, there has been a move

from principled declarations (such as the UDHR) to enforceable principles. And with this move

came changes in the norm of criminal accountability for violations of human rights. These

changes are seen primarily in the kinds of prosecutions of human rights violations which took

place, namely, holding individual state officials criminally accountable for violations. This

change was termed the "justice cascade" by Kathryn Sikkink: "a justice cascade means that there

has been a shift in the *legitimacy of the norm* of individual criminal accountability for human

rights violations and an increase in criminal prosecutions on behalf of that norm" (Sikkink 2011).

According to Sikkink, in the justice cascade, there are three basic ideas: first, the most basic

violations of human rights—summary executions, torture, and disappearance—cannot be

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After 1989, the Security Council imposed sanctions in Iraq (1990), the republics of the Former Yugoslavia (1991), the Federal Republic of Yugoslavia (1992 and 1998), against the Bosnian Serbs (1994), Somalia (1992), Libya (1992), Liberia (1992), Haiti (1993, 1994), UNITA in Angola (1993 and 1998), Rwanda (1994), Sudan (1996), Sierra Leone (1997 and 2000), Taliban in Afghanistan (1999), and Eritrea and Ethiopia (2000).

legitimate acts of state and thus must be seen as crimes committed by individuals; second,

individuals who commit these crimes should be prosecuted; and third, the accused also have

rights and deserve to have these rights protected at a fair trial. This new individual accountability

does not apply to the whole range of civil and political rights, but to a small subset of rights:

"physical integrity rights," the "rights of the person," or, when violated, "core crimes." These

include prohibitions against torture, summary execution, and genocide, as well as against war

crimes and crimes against humanity (these are rights from only two or three of the 27 substantive

articles of the International Covenant on Civil and Political Rights (ICCPR)).

One visible example of change was the increased accountability of sitting heads of states. A

landmark case in the development of the norm of accountability was the indictment of Slobodan

Milosevic of the FRY in May 1999 by the International Criminal Tribunal for the Former

Yugoslavia (ICTY).[68] Milosevic was the first sitting head of state to be indicted for war crimes.[69]

Charles Taylor became the second sitting head of state indicted for war crimes, this time by the

Special Court for Sierra Leone in March 2003.

A second example of an increase in enforceability is the creation of the International

Criminal Court (ICC) in July 1998. Its founding treaty, the Rome Statute of the ICC, came into

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[68] The ICTY was established by the UN Security Council Resolution 827, on May 25, 1993. The court has jurisdiction over four types of crimes committed on the territory of the former Yugoslavia since 1991: grave breaches of the Geneva Conventions, violations of the laws or customs of war, genocide, and crimes against humanity (the latter category includes human rights violations, should they be part of a widespread or systematic practice. Some human rights violations, if isolated in nature, do not reach that threshold of being considered to be a widespread practice). The first indictment was issued in 1994. The UN Security Council has called upon the ICTY to finish its work by December 2014.

[69] Milosevic, then President of the FRY, was indicted along with four deputies, Milan Milutinovic, the President of Serbia, Dragoljub Ojdanic, the Chief of Staff of the Yugoslav army, Nikola Sainovic, the Deputy Prime Minister, and Vlajko Stojiljkovic, the Minister of Internal Affairs. The five were charged with responsibility for deporting 740,000 Kosovo Albanians and for the murder of 340 others. The indictment had four counts: deportation; murder as a crime against humanity; murder as a violation of humanitarian law; and persecution (Scharf 1999). Milosevic was arrested by Serbian authorities in April 2001, and transferred to the ICTY in the Hague two months later. In October and November 2001, Milosevic was also indicted for his actions in Croatia and Bosnia and Herzegovina respectively. His trial began in February the following year and ended in March 2006 with his death of a heart attack.

force on July 1, 2002. This court has jurisdiction over war crimes and crimes against humanity. The court represents a new embodiment of the convergence of international law, such as human rights law and humanitarian law, with domestic criminal law. The new accountability challenges sovereignty and sovereign immunity. It not only extends to individual members of government, but also extends to individual members of armed groups who may be equally accused of war crimes or crimes against humanity.

Human rights and rebel groups

For armed resistance groups, the two indicators of the change in human rights norms at the state level with the most direct effect on their operations were the growth of human rights as a security concern and the increased enforceability mechanisms as the latter began to be increasingly applied to individuals as well as states.

With the growing attention by the UN on human rights issues as security concerns, armed resistance groups found themselves under greater scrutiny. Pressure on these groups from the outside to begin to conform to the obligations inherent in these norms can be seen in the 1990s as the General Assembly and the Security Council began calling on these groups directly to stop human rights violations.[70] In addition, these exhortations were accompanied in some cases by negative enforcements such as sanctions, or positive incentives, such as support for groups' causes in public fora, inclusion in a peace process, or, in more extreme cases, military assistance. In many cases, the increased UN scrutiny was paralleled by increased scrutiny by international NGOs such as Human Rights Watch (HRW) and Amnesty International.

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[70] See, for example, resolutions on Liberia, Afghanistan, and Cote d'Ivoire, which call on parties to respect human rights law and to cease human rights violations and abuses (S/RES/1261 (1998), S/RES/1471 (2003), and S/RES/1479 (2003).

In the example of Kosovo, in 1998, the UN Security Council turned its attention to the situation in Kosovo and linked human rights violations to the security risk posed by the conflict in each of three resolutions pertaining to Kosovo (UN Security Council Resolutions 1160, 1199, and 1203, in March, September, and October respectively), and one Statement of its President (S/PRST/1998/25) in August 1999. In addition, the Secretary-General also issued his own report on October 5, 1998 (S/1998/912). These statements condemned the violence in Kosovo, mentioned human rights violations as a security problem, and drew attention to the grave humanitarian situation and impending human catastrophe. In 1999, the UN Security Council issued two resolutions on Kosovo (UN Security Council Resolutions 1239 in May 1999, and 1244 in June 1999) and two Statements of the President, both in January (S/PRST/1999/2 and S/PRST/1999/5). The volume of attention to the conflict by the UN Security Council is notable and the direct references to all parties and Kosovo Albanians to halt the violence was a direct appeal to the KLA.

Kosovo was also very much under scrutiny by NGOs, although the majority of the reports until the end of the war focused on the human rights violations of the state, rather than the KLA. This changed after June 1999 when the actions of members of the KLA vis-à-vis the local Serb and Roma populations came under investigation.

The conflict in Sri Lanka, on the other hand, was never an item on the Security Council's agenda; however, the conflict was followed closely by other parts of the UN. UN Special Rapporteurs produced regular reports on torture, involuntary disappearances, and other human rights issues in Sri Lanka, naming both the LTTE and the government of Sri Lanka as perpetrators from 1990 onwards. Sri Lanka was also on the radar for international human rights organizations from the end of the Cold War onwards. For example, HRW was reporting on

human rights violations and abuses in Sri Lanka as early as 1990.[71] Reporting in the region as Asia Watch, HRW monitored all parties to the conflict, including the LTTE, pro-government militias, and the Sri Lankan government. Their coverage used a mix of human rights law and international humanitarian law, reporting on evidence that all sides were torturing individuals, killing civilians, and executing soldiers without due process. The reports also urged the ending of aid to Sri Lanka and the LTTE as a consequence of the violations of both bodies of law. Amnesty International was also active in Sri Lanka from the late 1980s onwards, detailing incidents of human rights violations such as torture, extrajudicial killing, and disappearances (Amnesty International 1990).

The beginning of increased enforceability mechanisms would also have drawn the attention of armed resistance groups. One such mechanism which was highly visible in Kosovo would have been the ICTY: its establishment in 1993 and the subsequent indictments were followed closely in Kosovo. The ICTY was decidedly relevant to the conflict in Kosovo because its mandate covered crimes committed in Kosovo.[72] The UN Security Council drew further attention to the ICTY and the prosecutions in the Hague when it began calling for prompt and complete investigations of all atrocities in Kosovo and for the cooperation of all parties with the ICTY in the later months of 1998 (see, for example, UN Security Council Resolution 1203 of October 23, 1998).

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[71] See, for example, (Human Rights Watch 1990, 1).
[72] On July 7, 1998, the Prosecutor of the ICTY announced that the situation in Kosovo was an armed conflict within the terms of the mandate of the Tribunal.

International humanitarian law

There were two significant changes within the broader norm of international humanitarian law in the 1990s (although one began slightly earlier during the 1980s, and gained momentum during the 1990s). The first was the increasing practice of non-governmental watch-dogs, such as HRW and Amnesty International, to focus on violations of international humanitarian law in addition to human rights law. The second was a shift in which some of the laws of war—those pertaining to the protection of civilians—rose in prominence relative to others as states began increasingly focusing on them.

As HRW and Amnesty International began watching for violations of international humanitarian law, they focused in particular on violations of the laws pertaining to the protection of civilians during conflict. With states and the media relying heavily on their reporting to inform policy and frame specific conflicts, this development was significant (Lutz 2006). But this development was also notable not only for what these groups were documenting, but for which actors they were observing as well. According to international humanitarian law and the Geneva Conventions, armed groups are expected to adhere to certain standards of conduct during conflict. Thus, for the first time, armed groups themselves were under observation for their actions and treatment of civilians.

In 1982, using Common Article III of the Geneva Conventions, which applies to internal as well as inter-state war, HRW began to monitor the laws of war in addition to human rights law. This meant that, for the first time, HRW was able to talk about violations committed by non-state actors, such as armed resistance groups, as well as by governments. They first did this in Central America, which allowed them, for example, to monitor the activities in El Salvador of both the Farabundo Marti National Liberation Front (FMLN), a leftist rebel group, and the government

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for violations of international humanitarian law. Likewise, in Nicaragua, they monitored both the US-supported Contras, a collection of right-wing rebel groups, and the Sandinista Junta of National Reconstruction government (Sikkink 2011: 107). Following HRW's lead, Amnesty International began to incorporate the monitoring of international humanitarian law into their activities in the early 1990s (Weissbrodt 1984).

The second shift was the rise in prominence of the norm of the protection of civilians. The focus by the Security Council on this issue did not emerge until the late 1990s. In September 1999, the Security Council requested a report on the issue by the UN Secretary-General following the Council's strong condemnation of the deliberate targeting of civilians in situations of armed conflict.[73] Concern on the part of the Security Council over the plight of civilians in conflict had increased over the course of the 1990s with the crises in Somalia, the Balkans, and Rwanda, in particular. These crises led to concern at the Security Council level that the impact of war on civilians was of such magnitude that protection of civilians should be considered an underpinning objective of the Council's work. In late 1999 and early 2000, the Council took up the protection of civilians in conflict as a thematic issue. For example, Security Council Resolution 1296 dated April 19, 2000, states that "the deliberate targeting of civilian populations or other protected persons and the committing of systematic, flagrant and widespread violations of international humanitarian and human rights law in situations of armed conflict may constitute a threat to international peace and security."[74]

The protection of civilians stems from the 1949 Geneva Conventions and their subsequent protocols. However, both the definition of what constitutes protection of civilians and

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[73] The adoption of Security Council Resolution 1265 on September 17, 1999, called for the report, "Protection of Civilians in Armed Conflict." This was the first time the Council officially took up the issue of the Protection of Civilians as a thematic issue.

[74] Note that this resolution references both international humanitarian law and human rights law—an example of the increasing use of both bodies of law, and their overlap, in the discourse of states and international bodies.

the Security Council's role in the protection was fluid and evolved over the course of the 2000s. While it cannot be said that the norm of the protection of civilians was new in the 1990s or thereafter, given its basis in the 1949 Geneva Conventions, the attention to the issue at the state level and the international level was new. It was not until 2011 that the full force of the focus on the protection of civilians was felt with the authorization by the UN Security Council in March 2011 of the use of force in the protection of civilians in Libya. This was the first time that the Security Council authorized the invasion of a functioning state giving this reason.

The focus on this aspect of international humanitarian law at the state level would almost certainly have had an effect on non-state actors, who could also be held accountable under international humanitarian law, and whose interactions with civilians had come under increasing scrutiny.

International humanitarian law and rebel groups

After major shifts in the enforceability of human rights and humanitarian laws and the changes in individual responsibility for breaking such laws, such as the creation of the ICC in July 1998, for example, armed groups would have become more aware of the implications of continued human rights abuses, and this is likely to be reflected in the discourse after this date.

The growing focus by states and by monitoring organizations on humanitarian law and the protection of civilians—and the associated monitoring—would generate substantial pressure on armed resistance groups to be more aware of these laws and tailor their discourse, if not their behavior, to agree with these laws. While it would not be surprising for armed resistance groups to be aware of the Geneva Conventions and their obligations in general, we would still expect an increase in their efforts to incorporate these norms into their discourse and in their focus on

civilians over the course of the 1990s and particularly after 1999, once it becomes such a central issue at the state level and in international fora.

Humanitarian intervention

The norm of humanitarian intervention is quite possibly the fastest changing norm growing from a barely recognized practice at the beginning of the 1990s to receiving broad consensus among states about the importance of the responsibility to protect at the September 2005 World Summit. In a new environment where problems confronting states included "the collapse of states, humanitarian emergencies, state terror against segments of the local populations, civil wars of various types, and international terrorist organizations" (Holsti 2004): 318), states grappled for new approaches to these problems. While some have asserted that the debates around humanitarian intervention are "in many ways a continuation of arguments about colonialism" (Crawford 2002: 400), what was new was the emerging consensus behind the right of outside actors to pierce the sovereignty of the state. The International Commission on Intervention and State Sovereignty argued that "military intervention for human protection purposes is justified . . . in order to halt or avert large-scale loss of life . . . or large-scale ethnic cleansing" (ICISS 2001).

Throughout the tumultuous 1990s, states turned to intervention with varying degrees of support and success, but in an overall pattern indicating increasing acceptance of the practice. Military interventions in the 1990s occurred in: Liberia (ECOMOG 1990-97), former Yugoslavia (UNPROFOR 1992-1995, IFOR 1995-1996 and SFOR 1996-2004), Somalia (1992-1993), Rwanda (1994-1996), Haiti (1994-1997), Sierra Leone (ECOMOG 1997-1999, and UNAMSIL 1999-2005), FRY (NATO 1999), Kosovo (KFOR 1999-today), and East Timor (INTERFET

1999-2000). Some of these interventions were with UN Security Council support and some without.

Humanitarian intervention and rebel groups

The growing drumbeat towards acceptance of the norm of humanitarian intervention and the responsibility to protect by states would be very likely to be heard by armed resistance groups. Some scholars have already explored the effects of the rise of the norm of humanitarian intervention on armed groups. For example, Alan Kuperman argues that the right to intervene creates a moral hazard for armed resistance groups who are likely to engage in activities which lead to increased civilian fatalities in order to improve the possibility of a humanitarian intervention (Kuperman 2006).

Armed groups tend to be aware of events in their neighborhood (for example, the KLA demonstrated first-hand knowledge of international involvement in the conflict in Bosnia) and dramatic interventions, such as that of the North Atlantic Treaty Organization (NATO) in Kosovo, are witnessed around the globe. With the growing acceptance of the norm, armed groups would be aware that any conflict in which there might be an overwhelming number of human rights violations and abuses might also be subject to international military intervention. For some groups, this might be appealing, for others, decidedly less so. The KLA is an example of the former, as they understood that a humanitarian intervention in Kosovo would be likely to remove Serbian army from the area and thus support their cause. The LTTE, on the other hand, having experienced a military intervention by an outside party, India, which harmed their cause, found humanitarian intervention much less appealing.

Genocide

Over the course of the 1990s, discussions among states that referred to events as genocide increased compared to the Cold War Period when the term genocide was barely used.[75] Genocide is defined by the 1948 Genocide Convention as the killing or causing of serious bodily or mental harm to members of a group with the intent to destroy the national, ethnic, racial or religious group.[76] Article 1 of the Convention also assigns the signatories the duty to prevent genocide and in the 1990s, for the first time, there began to be calls for such interventions.[77]

International attention to the genocide convention and the meaning of the term genocide were sharply refocused by a number of events of the 1990s, such as the genocide in Rwanda between April and July 1994 and the killings in Srebrenica in Bosnia in 1995 (termed genocide by the ICTY). Hardly used since the signing of the Genocide Convention in 1948, the term genocide once again rose to prominence and became a significant feature of states' discourse as they grappled with their obligations under the Convention in the aftermath of the mass killings of civilians in the mid-1990s and later.

The events in Rwanda and in Bosnia contributed to the international environment which pushed states to take more concrete steps such as the enforcement measures described above, which, in turn, generated support for new emerging norms such as the responsibility to protect. The violence in Rwanda in 1994, which resulted in the deaths of at least half a million people, coupled with the lack of response from outside states was followed by soul searching in

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[75] The General Assembly only mentioned genocide once between when the Convention went into force and the end of the Cold War, in General Assembly Resolution A/RES/37/123 of December 16, 1982, which called the killing of Palestinian civilians in the Sabra and Shatila refugee camps an act of genocide.

[76] The UN Convention on the Prevention and Punishment of the Crime of Genocide (commonly referred to as the Genocide Convention) was signed in 1948, and entered into force on January 12, 1951. The full text can be found at http://www2.ohchr.org/english/law/genocide.htm.

[77] For example, in 1993 there were calls for an intervention in Bosnia by some parties (Schabas 2009).

subsequent years and a focus on the need for action when genocide occurs (Desforges 1999). The town of Srebrenica in eastern Bosnia, predominantly Bosnian Muslim, was declared a UN safe area on April 16, 1993 and guarded by a small unit of the United Nations Protection Force (UNPROFOR). In July 1995, despite its status as a safe haven, the town was attacked by the Army of Republika Srpska and more than 7,000 people, mostly boys and men, were killed (ICMP 2012). Subsequently calling the massacre at Srebrenica "the worst on European soil since the Second World War," the UN Secretary-General Kofi Annan pointed to the need for states to act collectively against crimes such as genocide, ethnic cleansing, and other crimes against humanity (United Nations 2005).

Beyond the Genocide Convention, after the events of the 1990s, genocide as a crime became a central focus of some of the new enforcement mechanisms, such as the ICTY and the ICC. The General Assembly adopted a resolution in 2005, the World Summit Outcome, giving each state the responsibily to protect its citizens from genocide (article 138), and allowing for intervention by the United Nations to stop genocide through Chapters VI and VII of the United Nations Charter (article 139).[78]Genocide is also one of the four mass atrocity crimes upon which the emerging norm of the responsibility to protect is focused. The others are war crimes, crimes against humanity, and ethnic cleansing.

Genocide and rebel groups

With the reemergence of the term genocide in the international discourse in the mid-1990s, it is likely that armed groups would be more apt to use the term after 1994 or 1995. This would be especially true for those groups for whom drawing international attention is a major objective.

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[78] See General Assembly Resolution A/RES/60/1, 2005 World Summit Outcome.

In Kosovo, the term genocide had already been in use in the 1980s by Kosovo Serbs, claiming that the Kosovo Albanians were systematically driving them from Kosovo (Smith 2010). However, the first time the KLA used the term was in March of 1998 in reference to specific events in Drenica municipality. In Sri Lanka, the LTTE used the term genocide sparingly throughout the 1990s, showing a small increase throughout the middle years of the decade.

Terrorism

The norm against the use of terror as a tactic showed a slight strengthening at the international level over the course of the 1990s. Debates on the definition of terrorism, which had begun during the anti-colonial struggles for independence, continued at the state level during this period, over the difference, or lack thereof, between a terrorist and freedom fighter. It was not until the attacks of September 11, 2001, in New York and Washington, D.C. that states engaged in a new discourse about terrorism and began taking aggressive steps against it.

Until the 1990s, terrorism at the UN was dealt with almost entirely by the General Assembly (GA). The GA was working to develop a normative framework on terrorism and to encourage cooperation among states on the development of a legal framework, establishing an Ad Hoc Committee on Terrorism in 1996. From that point on, four treaties tackling terrorism were under negotiation by the GA.[79] However, the question remained of how to define terrorism and still allow for legitimate actions by oppressed people. The UN Security Council was involved in a handful of cases of terrorist attacks, such as the downing of Pan Am flight 103 over

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[79] The treaties were the International Convention for the Suppression of Terrorist Bombings, adopted on December 15, 1997 GA Res 52/164; the International Convention for the Suppression of Financing of Terrorism GA Res 54/109 adopted on December 9, 1999; and the International Convention for the Suppression of Acts of Nuclear Terrorism, GA Res 59/290, adopted April 13, 2005; a comprehensive convention to combat international terrorism is still in negotiation.

Lockerbie, Scotland in December 1988, which led to accusations of Libyan support of terrorism and eventual sanctions against the country.

During the 1990s, states slowly began developing a consensus about the illegitimate nature of terrorism, marking the beginnings of the evolution of a norm prohibiting terrorism, which we now see occurring more vigorously in the post-9/11 world. The UN Security Council became increasingly engaged in the issue of terrorism, issuing the first sanctions for the support of terrorism against Libya in March 1992, followed by Sudan in 1996, and the Taliban in 1999. Sanctions stigmatized terrorism as an illegal activity that needed international attention and response (De Jonge Oudraat 2004). States' support of activities which can be labeled terrorism has come under more criticism than before that date. There even appears to be a loose agreement that a particular act of violence can be described as terrorism whenever a large group of states regard that act as illegitimate (Keohane 2002).

Some states, notably Algeria, India, Sri Lanka, and Turkey, pressed for terrorism to be included as a crime against humanity and subject to the jurisdiction of the ICC. This position was rejected by many states who found that terrorism was not sufficiently well defined, that its inclusion would politicize the court, and that the prosecution of terrorism would be better suited to domestic courts (Cassese 2001).

Terrorism and rebel groups

The changes in the usage of the norm of terrorism in the discourse of rebel groups should follow a different pattern than the pattern expected for human rights norms and IHL. We would expect armed resistance groups to engage moderately with this norm throughout the 1990s, refuting accusations that their actions were terroristic. And with the dramatic change in 2001 at the state level of the discourse and engagement with this norm, we would expect armed

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resistance groups' discourse to show much more engagement with terrorism, as groups become more energetic in their efforts to refute the label of terrorist.

3.3 Rebel groups and international norms

This chapter now turns to an empirical analysis of these international norms in the language of two armed resistance groups: the KLA and the LTTE. These two cases are used to test the above expectations of norm usage by armed resistance groups. This section will examine the groups' patterns of discourse to determine whether the changes correspond to local changes in the conflict or to international level events in some cases, and to what extent the structure of a group contributes to its ability to use international norms in its discourse.

The Kosovo Liberation Army and its discourse

Over the course of the four years from 1995 to 1999 that the KLA was engaged in shaping their public image, their use of international norms in general in their public discourse shifted considerably. The usage grew from very little use of any international norm at all for the first year and a half that the KLA was making public pronouncements to a significant part of their discourse by the final months of the war.

The table and chart below (Table 3.1 and Chart 3.1: <u>Change over time of the use of international norms language in KLA discourse</u>) show this evolution. This chart and table show the number of times in a given period that the KLA made a reference to human rights, international humanitarian law, humanitarian intervention, genocide, or terrorism between June 1995 and June 1999. These references are in public pronouncements made by the KLA. The public pronouncements included in this analysis are press releases, political declarations,

speeches, radio announcements on the KLA-sponsored radio station, and interviews.[80] All of these materials contain words spoken by or written by a member of the KLA. No articles written by non-KLA journalists about the KLA, without direct quotes from KLA members, are included. The total number of public pronouncements included in the analysis is 325.[81] Table 3.1 and Chart 3.1 capture the dramatic increase in the KLA's exposure in the media after December 1998 when local journalists began to interview KLA members in earnest and the KLA launched its own radio station. The increase of exposure to journalists was matched by an increase in the output of statements and press releases by the KLA. The count of media items issued by the KLA in each three-month period, expanded from single digit numbers to 136 items in the first quarter of 1999 and reached 107 between April and June 1999.[82,83] (See the first column in Table 3.1 "Number of items.")

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[80] A significant number of interviews with KLA members in local newspaper contain verbatim excerpts of the interviews, printing the KLA interviewees' answers to printed questions from the journalist.

[81] A full list of these documents is provided in Appendix 2. The radio broadcasts were transcribed and published as three volumes. These data were primarily collected from archives in Kosovo, although some material had been published in book form.

[82] The number of items between April and June 1999 most likely would have been higher but for a period during which the radio broadcasts supported by the KLA were interrupted when the building housing the radio station RKL was destroyed.

[83] For reasons explained more fully in the Methodology section in Chapter 1, this analysis does not include interviews by foreign journalists, primarily to avert any potential contamination of the discourse by international journalists and their own frames and biases.

Table 3.1: Change over time of the use of international norm language in KLA discourse

	Number of items	Human rights	Humanitarian law	Humanitarian Intervention	Genocide	Terror
Apr - June 1995	1	0	0	0	0	1
July - Sept 1995	0	0	0	0	0	0
Oct - Dec 1995	0	0	0	0	0	0
Jan - Mar 1996	1	0	0	0	0	1
Apr - June 1996	2	0	0	0	0	1
July - Sept 1996	3	0	0	0	0	2
Oct - Dec 1996	2	0	0	0	0	4
Jan - Mar 1997	5	0	0	0	0	3
Apr - June 1997	2	0	0	0	0	0
July - Sept 1997	2	2	0	0	0	1
Oct - Dec 1997	7	5	6	0	0	11
Jan - Mar 1998	8	6	6	0	3	3
Apr - June 1998	4	1	2	0	0	1
July - Sept 1998	9	4	5	1	0	3
Oct - Dec 1998	10	10	5	0	0	4
Jan - Mar 1999	136	106	94	24	5	35
Apr - June 1999	107	117	112	168	5	11
Total:	**299**	**251**	**230**	**193**	**13**	**81**

Source: Data were extracted from KLA documents listed in Appendix 2. The documents were coded for the use of the international norms by using terms listed in the coding table, in Appendix 1.

From Table 3.1 (above) and Chart 3.1 (below), it can be seen that human rights norms were introduced in the discourse in the third quarter of 1997 (specifically in August) and go on to become a significant part of the discourse by the end of 1998, with 10 mentions in the final quarter of 1998 rising more than tenfold to 117 mentions between April 1999 and June 1999.[84] Humanitarian law references also increase over time beginning with 6 references between

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[84] It should be noted that human rights mentions include references to general human rights, human rights conventions, and mentions of specific human rights such as the right to life, torture, arbitrary arrest and detention, economic, social and cultural rights, and genocide. The mentions of genocide are also considered separately in another category.

October 1997 and December 1997 and, again, showing a dramatic increase to 117 references in the final quarter of the conflict (April – June 1999).[85]
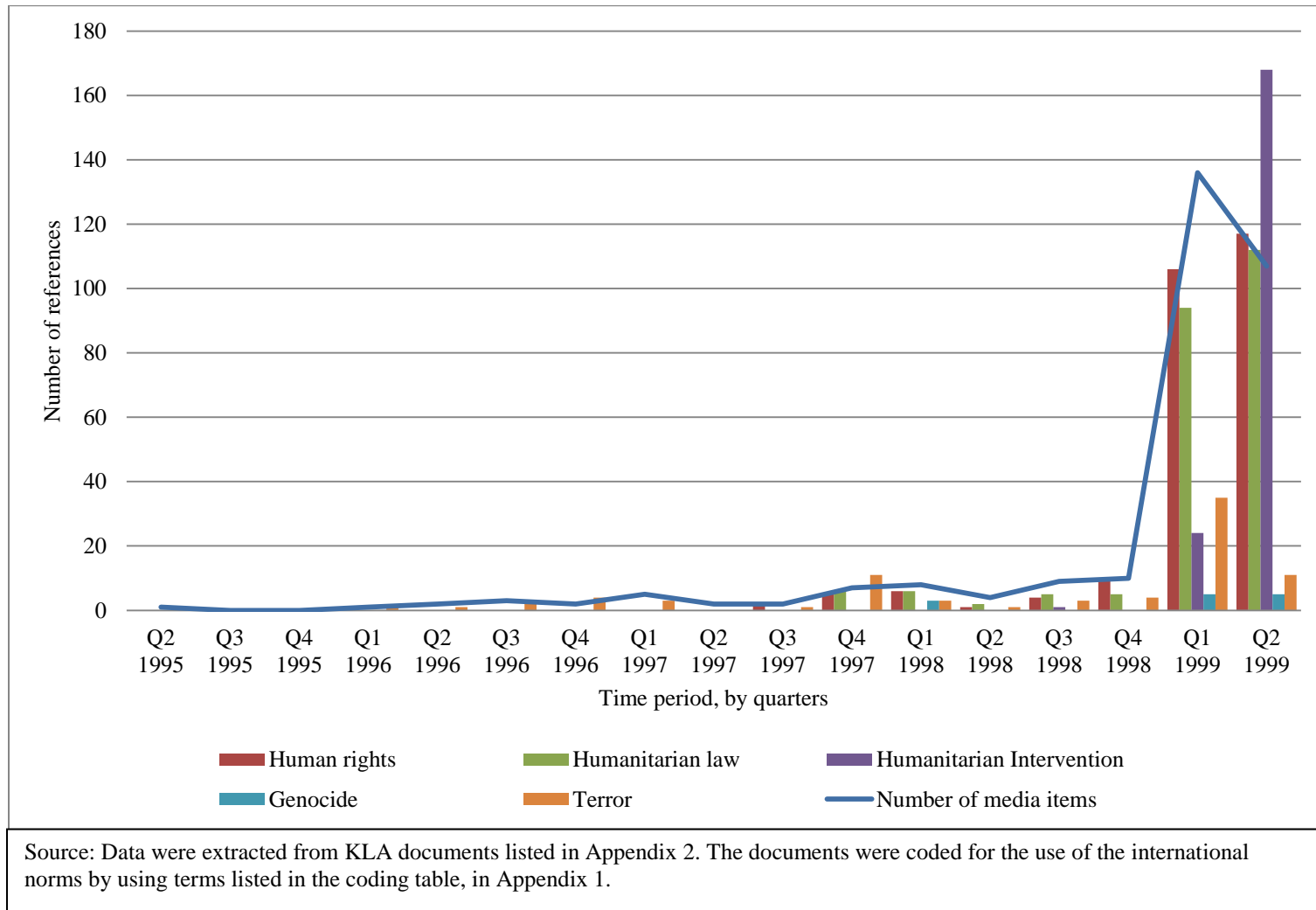
An example of the use of human rights language in the discourse of the KLA is from a speech made at a funeral in November 1997. Rexhep Selimi, a founding member of the KLA, and two other KLA members in uniform attended a funeral for a teacher, Halit Gecaj, who had been shot by the Serbian police in his village. "Our best sons and daughters of our unprotected people have been killed, imprisoned, massacred…[The Serbian invader] has killed children, youth, teachers in schools, and farmers in their fields" (Elshani 2003). Selimi's speech makes reference to the right to life and to arbitrary arrest and imprisonment and represents one of the first instances of the use of this kind of language in the KLA's discourse. Previous press releases had focused more on taking credit for activities undertaken by the KLA and using language which framed the conflict in terms of colonial suppression.

An example of the use of international humanitarian law in the discourse is from October 1997: "The occupiers are taking revenge with violence and never-before seen terror against the unprotected and unarmed civilian population. With this barbaric action, Serbia is breaking the international laws of war" (Communiqué 37, October 23, 1997). This is the first reference the KLA makes to international humanitarian law. Its use of this type of language increases significantly from the end of 1997 onwards.

References to genocide are more targeted: the term genocide is used in the first quarter of 1998 in conjunction with mentions of the three massacres in Drenica municipality in March of that year and again in the first quarter of 1999, referencing the alleged massacre in Racak.

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[85] International humanitarian law (IHL) mentions include references to IHL in general, specific mentions of IHL conventions, the protection of civilians, harm to civilians, the treatment of prisoners, rules for occupying forces, and destruction of cultural artifacts.

Chart 3.1: Change over time of the use of international norms in KLA discourse

Source: Data were extracted from KLA documents listed in Appendix 2. The documents were coded for the use of the international norms by using terms listed in the coding table, in Appendix 1.

It can also be seen that calls for or discussions of humanitarian intervention do not begin until such an intervention is imminent, in the first months of 1999, at which point references to humanitarian intervention begin in earnest. It was clear to members of the KLA that a military defeat of the Serbian forces would not be possible without outside intervention.[86] By 1999, it was also clear to the KLA that the intervention by NATO would be to their advantage. The KLA was also certainly aware of the intervention by the UN in nearby Bosnia. Kosovo Albanians had watched the unfolding of the war in Bosnia very closely in an effort to understand how a conflict would unfold in Kosovo.[87] The adoption of this language by the KLA in January 1999 indicates a perception by the KLA of the importance of echoing international positions.

References to terrorism (or the norm against the use of terror) follow a different trajectory. This norm is present in the discourse from the beginning. Mentions of terrorism continue until the end of the conflict in June 1999, with a peak in October 1997 and another around the time of the massacre in Racak in January 1999 and immediately thereafter. The KLA had been presented in the media in the FRY as a terrorist organization and some of their use of the term terrorist is in refutation of those accusations. In October 1996, for example, when the group was still small and little-known, it was engaged in refuting the charge that they were terrorists:

> The invaders can threaten to eliminate the KLA and our guerrilla units as much as they want through their spokesmen in Belgrade or the violent ones in power in Kosovo, but we are not afraid because our roots and support are with our people, who know very well that our war is not a war of terrorism, but one of liberation (Communiqué 27, October 27, 1996).[88]

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[86] Interview with Ram Buja, Kosovo October 2010
[87] Interview with Ram Buja, Kosovo October 2010.
[88] Translation from the Albanian language to English was completed by the author, with the assistance of an Albanian language expert, Blerina Xhangoli Morena, unless otherwise noted.

However, relative to the upswing in the number of references to human rights and humanitarian law language, the peak in the use of the norm against terrorism was relatively small, only tripling from 11 mentions in October 1997 to a peak of 35 in the first quarter of 1999.

One characteristic of the data that makes the comparison of the relative importance of each norm in the discourse over time more difficult is the massive uptick in the number of media items produced in the last six months of the conflict. In order to control for this change in number of press releases and interviews issued in each period, the following table and chart show mentions of international norms in terms of saturation level, i.e., as a proportion of total media items for that period (See Table 3.2 and Chart 3.2: <u>Saturation of international norms in KLA discourse</u>). For example, if there are four press releases in one period and two mentions of human rights, this will show as 0.5—half the media items in that period had mentions of human rights. Also, if there are multiple mentions of a particular norm in several press releases during the same period, the saturation will be greater than one. Controlling for the significant variation in the number of media items shows more clearly the relative importance of each norm in the discourse over time, rather than only an increase in the media exposure overall.

Table 3.2: Saturation of international norms in KLA discourse

	Human rights	Humanitarian law	Humanitarian intervention	Genocide	Terror
Apr - June 1995	0.00	0.00	0.00	0.00	1.00
July - Sept 1995	0.00	0.00	0.00	0.00	0.00
Oct - Dec 1995	0.00	0.00	0.00	0.00	0.00
Jan - Mar 1996	0.00	0.00	0.00	0.00	1.00
Apr - June 1996	0.00	0.00	0.00	0.00	0.50
July - Sept 1996	0.00	0.00	0.00	0.00	0.67
Oct - Dec 1996	0.00	0.00	0.00	0.00	2.00
Jan - Mar 1997	0.00	0.00	0.00	0.00	0.60
Apr - June 1997	0.00	0.00	0.00	0.00	0.00
July - Sept 1997	1.00	0.00	0.00	0.00	0.50
Oct - Dec 1997	0.71	0.86	0.00	0.00	1.57
Jan - Mar 1998	0.75	0.75	0.00	0.38	0.38
Apr - June 1998	0.25	0.50	0.00	0.00	0.25
July - Sept 1998	0.44	0.56	0.11	0.00	0.33
Oct - Dec 1998	1.00	0.50	0.00	0.00	0.40
Jan - Mar 1999	0.78	0.69	0.18	0.04	0.26
Apr - June 1999	1.09	1.05	1.57	0.05	0.10

Source: Data were extracted from KLA documents listed in Appendix 2. The documents were coded for the use of the international norms by using terms listed in the coding table, in Appendix 1.

From Table 3.2, and the accompanying Chart 3.2 (below), it can be seen clearly that the international norms of human rights and humanitarian law began to be used in the third quarter 1997 and become a regular part of the discourse thereafter. Human rights and humanitarian law references appear to be used with similar frequency, with both gaining roughly similar saturation levels after September 1997, despite their levels varying from quarter to quarter. Humanitarian law references lag slightly behind human rights references in terms of timing, but the pattern of change for these two norms is similar.

Chart 3.2: Saturation levels of international norms in KLA discourse
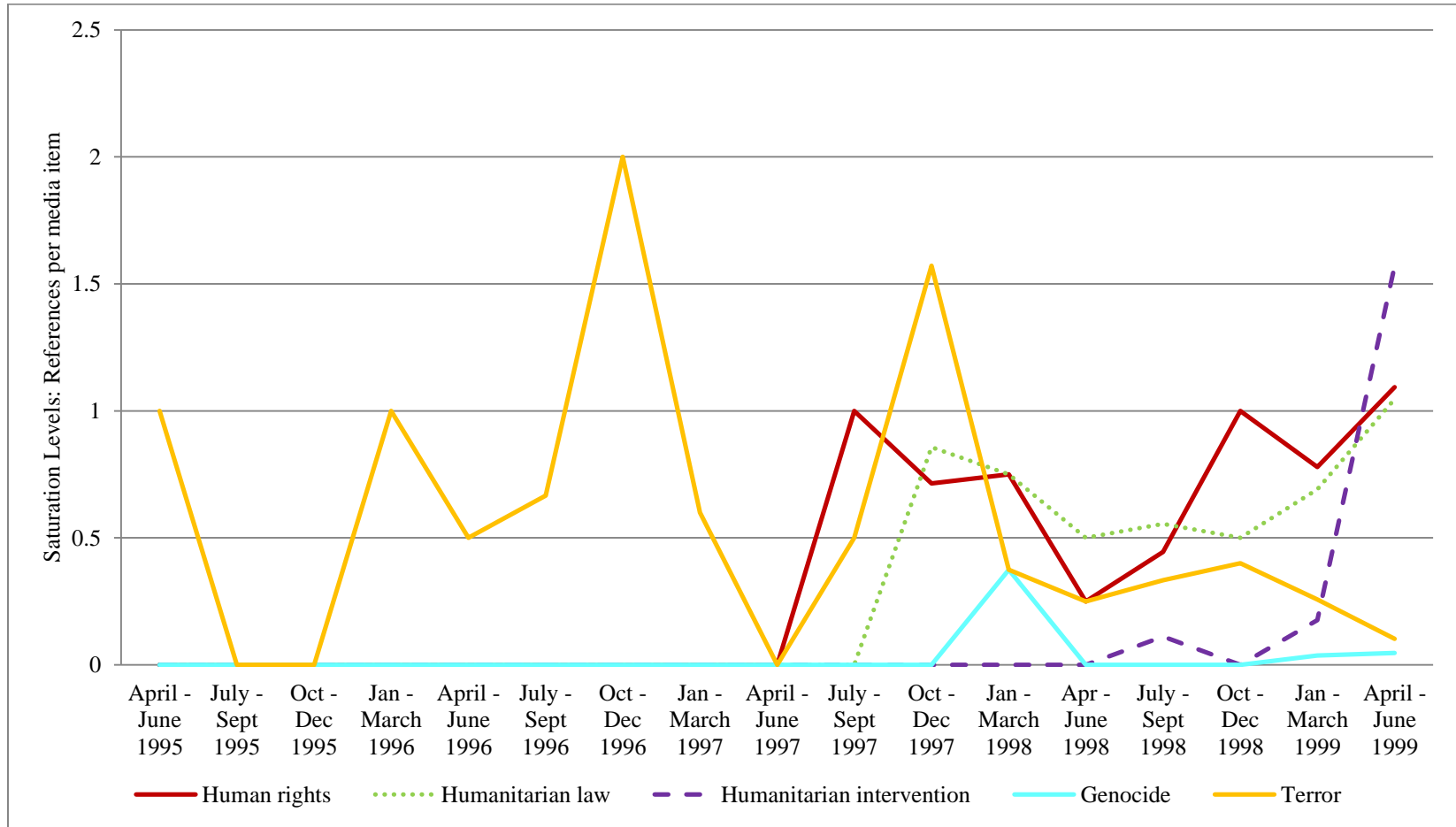
Source: Data were extracted from KLA documents listed in Appendix 2. The documents were coded for the use of the international norms by using terms listed in the coding table, in Appendix 1.

There are roughly three peaks which can be seen in the human rights and humanitarian

law language: the first in the second half of 1997, the second in October and November 1998,

and the third in April and June of 1999, right as the war was ending. All three of these points in

time were significant points in the conflict.

The first coincides with the KLA's first push to announce itself as an organization to the

world. This period was a critical period for the KLA as they emerged from their underground or

clandestine period and began to be more visible as an actor in Kosovo. The transition for the

KLA from a small, secretive organization to one which was out in the open was fraught with

danger for the survival of the organization as a whole. The secret police of the FRY were

relentless and extremely good at tracking down members or suspected members of groups

opposing the state. At this crucial point, the KLA began framing its struggle using human rights

terms.

This is also a point at which the appeal to outside actors began in earnest (see Chart 3.3

Appeals to outside actors by the KLA, below). From April 1997 to March 1998, the KLA made a

significant appeal to international actors such as other states and the UN. The appeals were

typically for outside actors to take a stance against the authorities in Belgrade, rather than for

direct support for the KLA. For example, in November 1997, the KLA General Headquarters

said the following in a press release:

> We appeal to international institutions and in particular to the members of the UN
> Security Council, to the members of UN General Assembly, European Council and
> European Parliament to take definitive position against the terrorist authority of Belgrade
> and to support realization of our aspiration for freedom and independence. Continuing
> indifference to the state terror committed against our people empowers the terrorist
> authority of Belgrade to continue the ethnocide and genocide in Kosovo (Communiqué
> 44, November 22, 1997).[89]

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[89] Translated from the original Albanian by Gezim Visoka.

Chart 3.3: Appeals to outside actors by the KLA
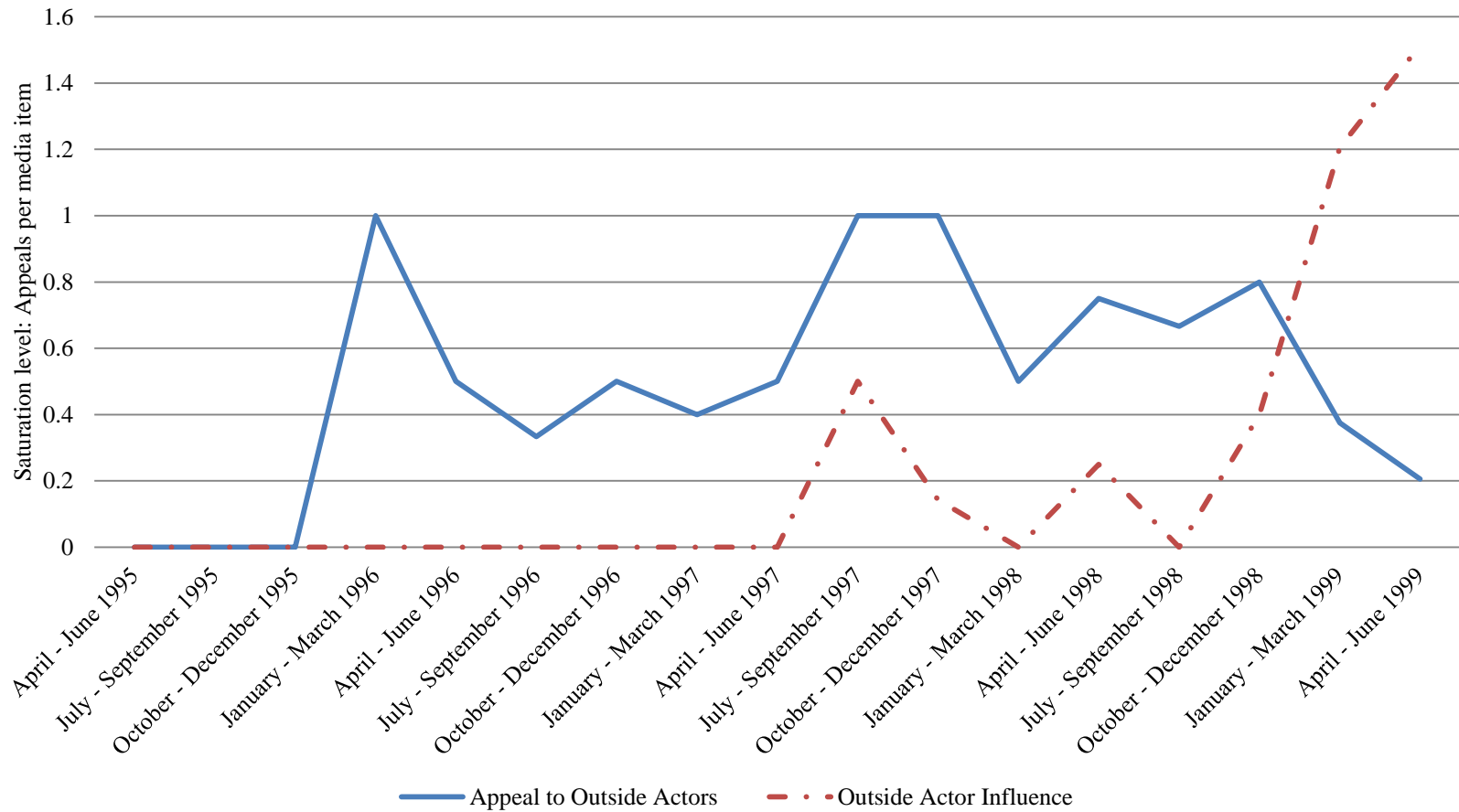
Source: Data were extracted from KLA documents listed in Appendix 2. The documents were coded for the use of the international norms by using terms listed in the coding table, in Appendix 1. "Appeal to outside actors" refers to a direct appeal made by the KLA to actors outside of Kosovo. "Outside Actor Influence" refers to a KLA mention or discussion of the influence of outside actors on the events within Kosovo. This chart shows the saturation of this language in the KLA's discourse, showing the number of references per media item.

The use of the term genocide in this communiqué was atypical as it referred to a general state of genocide in Kosovo rather than referencing a specific event, which was more frequently the case. The appeals to actors beyond the borders of Kosovo coincided with the transition of the KLA from a shadowy, secretive organization to one willing to act in the open and included human rights language, and is indicative of the KLA's ability to use international norms strategically when framing their struggle as one which echoed the concerns of states at the international level.

A second peak appears in October and November 1998. This was the period in which the negotiations for a ceasefire between the Serbian forces and the KLA, urged on by the UN, were concluded on October 16, and after which the Organization for Security and Cooperation in Europe (OSCE) Kosovo Verification Mission (KVM) force began its work. During this period the KLA was engaged in negotiating an agreement and was having repeated interactions with diplomats, OSCE monitors, and international human rights advocates. The nature of many of these interactions reinforced the importance of international norms and emphasized the need for the KLA to behave a certain way to be taken seriously as a legitimate player in Kosovo during the conflict—and as a potential political leader after the conflict. One KLA leader, Rame Buja, talked about a meeting with European diplomats in late 1998 that he attended alongside Jakup Krasniqi (the KLA spokesman) and Fatmir Limaj (one of the KLA commanders in Drenica) and the pressure they felt from outside actors.

> They were there to test our willingness, our intentions to take part in a conference to end the war. They thought we were only fighting to enrich ourselves, and they provoked us quite straightforwardly. They said, "The Yugoslav Army is the third largest military in Europe, you can fight it for a few days, but it will beat you." I asked if any of them knew world history and could tell us of any case over the whole world where a regular army could win over a guerrilla force. None of them could. I said we were guerrillas, and we are not going to put down our arms for a thousand years. They asked if we were ready to

come to an international conference for Kosovo. Krasniqi replied that we were ready to go beyond the sun to reach it.[90]

Towards the end of 1998, the UN Security Council was addressing the KLA in its resolutions (for example, UN Security Council resolution 1199 in September which condemns all violence by all parties). By the end of 1998, the UN Security Council was also drawing attention to the ICTY as it began calling for complete investigations into all atrocities in Kosovo, and for all parties to cooperate with the ICTY at this time. The ICTY had announced in July 1998 that it considered the conflict in Kosovo to fall under its jurisdiction. The KLA leadership was most certainly aware of these developments and the implications for its soldiers as highly publicized trials were underway in the Hague. Valon Murati, a member of the KLA in the Llap region, and press officer for that region, said:

> The higher ranks knew about the Geneva Conventions, UDHR, and about international conventions. They were aware of the Tribunal—and we knew we would be watched in retrospect… It was much harder to be part of it when everything was going on, children being killed, homes burned…overall, I think we did better than I hoped.[91]

The ordinary soldier, however, was not aware of the developments in the Hague. Rexhep Selimi, a KLA leader, said:

> More than 90% of the fighters did not know about the Hague during the war. It was not yet so famous. There hadn't been any of the big trials yet. Also many of the guys were not convinced that they would survive the war. The Hague was not a topic of the war.[92]

The third peak in the use of human rights and international humanitarian law language is seen at the end of the war, increasing from approximately February 1999 until June 1999. This is the period during the run up to the international conference held in Rambouillet, France, and the subsequent NATO bombing campaign which lasted from March 24 to June 11, 1999. This was

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[90] Interview with Rame Buja, Pristina, Kosovo, October 2010.
[91] Interview with Valon Murati, Pristina, Kosovo, October 2010.
[92] Inerview with Rexhep Selimi, Pristina, Kosovo, October 2010.

also a crucial period for the KLA to establish its legitimacy both with outside actors and the domestic audience.

An additional example of the KLA's use of language in order to bolster its legitimacy is in their use of the term democracy. The first time democracy is used in their discourse is on September 18, 1998. It is used twice more by the end of the year, but between January 1, 1999 and March 31, the term democracy is used 45 times. To appear to want to establish a democratic system was essential to establishing the legitimacy of the KLA as a potential political successor of the Serbian state after its removal during the conflict.

Thus, the three peaks in the use of human rights and humanitarian law language correspond with turning points in the conflict at which times the KLA was at great pains to establish itself as a legitimate actor and, later, as a legitimate political force in Kosovo.

An alternative explanation for the changes in the use of human rights language would be that the increase in use of human rights language follows the increases in the violence of the war. While explanation might account for some of the increases observed over time, the norm usage does not match the pattern of violence experienced in Kosovo, and is, therefore, not as convincing. The last two years of the conflict, 1998 and 1999, were marked by much higher levels of violence overall and therefore we would expect higher levels of references to victims of that violence, accompanying human rights references, and protection of civilian references. However, the increase in the level of violence does not match the changes in the discourse and, therefore, cannot be the only explanatory variable. For example, the summer offensive in 1998 by the FRY troops and Special Forces was a period of high levels of violence which resulted in the displacement of a large number of Kosovar Albanians within Kosovo. This period surprisingly coincides with a relative drop in the number of human rights and humanitarian law

references in the discourse—in the first quarter, the saturation of these norms are 0.75 (for both human rights and humanitarian law). These levels drop to 0.25 for human rights and 0.50 for humanitarian law in the second quarter and rise only slightly to 0.44 and 0.56 in the third quarter for human rights and humanitarian law respectively. During this period, between January 1998 and September 1998, at least 200,000 Kosovar Albanians were displaced within Kosovo, and an additional 90,000 individuals had fled Kosovo and were sheltering in surrounding countries and provinces (UN High Commissioner for Refugees 1998). However, the final months of the war, from April to June 1999, do show the highest saturation levels of human rights and humanitarian law language. This was the period during the NATO bombing campaign when the forces of the FRY began their efforts to push Kosovo Albanians forcibly over the borders into Macedonia and Albania.

References to the use of terror (both denials of the use of terrorism tactics and the accusations by the KLA that the FRY was a terrorist state) follow a different pattern and are present from the very beginning of the study period, in the second quarter of 1995 between April and June 1995, with peaks in the fourth quarter of 1996 and again in the fourth quarter of 1997. An example from August 1996 is fairly typical in that the KLA refute their label as a terrorist group and try to position themselves as freedom fighters: "The decision-making centers should be aware that we are not terrorists, as the Serbs are trying to call us, but that we are warriors of liberty" (Communiqué 22, August 10, 1996).

A significant pattern to note in the use of the norm against terror is that the saturation of references to terror stays fairly constant and begins to tail off when the other international norms of human rights, humanitarian law and humanitarian intervention are introduced and become part of the discourse. References to terror and terrorism drop off significantly after January 1998. It

is probable that the replacement of one international norm (against terrorism) with two others (human rights and IHL) is an indication of the relative strength these norms had at an international level and of the traction the KLA believed they could get from using one or the other. Given that most states had been arguing that states could not be terrorists (only non-state actors could), it is probable that the KLA practice of calling the Serbian state a terrorist state was not improving its legitimacy with the outside actors and states. The decline of the relative importance of terrorism in the discourse shows that the KLA was aware that some norms carried greater salience than others. The shift from one set of norms to another over time shows an adaptive strategy.

Structure as a factor influencing discourse

The patterns of the changes in the discourse of the KLA can be further examined to see if there is a connection between the changes in the structure of the KLA and its use of international norms, as it shifted from a loose collection of atomized groups to a somewhat hierarchical structure with a central command.

There are two possible mechanisms which would account for this. The first is one of control: the literature on rebel groups supports the idea that a strong internal structure is needed to control resistance fighters and their actions.[93] The concept of control can be extended to include control over the language used by the group: speaking to the media, producing public statements, and shaping the public perception of the struggle. The second mechanism is one of increased specialized knowledge: as an organization grows more hierarchical and complex, individuals within the organization are able to specialize and grow more competent in one area, or the organization may attract a different type of recruit to fill the gaps created by increased stratification.

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[93] See, for example, Zahar 2001 and Haer 2012.

Turning first to the issue of control, in the case of the KLA and its evolving structure, we would expect to see a strong correlation between when the group becomes more hierarchical and when it adopts international norms in the discourse. If the mechanism of control due to increased hierarchy is in effect, we would also expect to find direct evidence of such control on individuals speaking with the media on behalf of the KLA, such as media contacts in each of the Operative Zones, or media spokesmen overseas.

The KLA was initially a loosely linked horizontal organization of multiple cells throughout Kosovo. The KLA over time established seven Operative Zones throughout Kosovo, each headed by a different commander.[94] The zones were partly determined by geographical features, such as mountain ranges, which limited contact between groups in different parts of Kosovo. The development of these zones was part of the KLA's evolution from a more fluid horizontal structure toward a hierarchical structure, with each area operating more or less independently, and gradually cooperating and coordinating, and eventually, coming under control of the Central Command. As the hierarchies grew within each zone as well as over the KLA as a whole, each of the seven Operative Zones in Kosovo began to appoint its own media representative, or press officer, tasked with liaising with the press, coordinating interviews and contacts with journalists, and generally putting out information about activities.[95]

In June 1998, in part as a way to manage the large influx of recruits following the Drenica massacres in March of that year, the KLA underwent reorganization and established a political wing and a central command located in the Drenica Operative Zone. As part of the overall reorganization, the KLA put in place structures to have more control over access to the

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[94] The seven zones were Drenica (zone commander Sami Lushtaku), Pashtrik (zone commanders Musa Jashari, Ekrem Rexha, and Tahir Sinani, Dukagjini (Ramush Haradinaj), Shala (Rahman Rama), Llap (Rustrem Mustafa), Nerodime (Shukri Buja), and Karadak (Ahmet Isufi).

[95] Some of the zones issued their own press releases following local skirmishes or battles.

media. This was in recognition of what KLA saw as a need to work actively on their image in the press and with the outside world.[96] In addition, journalists were demanding more interviews with members of the KLA, and in order to handle the demand the KLA appointed an official spokesman, Jakup Krasniqi, tasked with coordinating all official contacts with the KLA. An announcement that month stated that only he could speak for the KLA.[97] Krasniqi emphasized recently that the reorganization was necessary partly to control what was said to the press by any press officer within the KLA as the lack of control had led to some misunderstandings.[98] Commander Remi, the Llap region Commander, agreed: "The biggest mistake the KLA made was we allowed so many people to speak on our behalf."[99]

The KLA underwent a further restructuring in November 1998 during the pause in the fighting provided by the ceasefire of October 1998.

However, despite these efforts at reshaping the internal structure and creating the appearance of control over contacts between KLA members and the media, interviews with KLA press officers from the outlying regions indicate that this might not have held true in practice in the zones outside of Drenica where the Headquarters was located. Each zone was allowed to issue its own press releases. One KLA member in Llap said: "there was a strategy to change our image, which came from the General HQ [in Drenica], but there were also press releases issued by individual zones. Even the zones had the right to issue communiqués and regulations."[100] One press officer in the south west area of Dukagjini said: "I spoke to the press, but didn't get direction on how to talk to the press. There was no real means to control what people would

[96] Interview with Jakup Krasniqi, Pristina, Kosovo, October 11, 2010.
[97] "Shtabi i Pergjithshem ka vendos qe per zedhenes te tij te caktoj professor Jakup Krasniqin." Koha Ditore, June 11, 1998.
[98] Interview with Jakup Krasniqi, October 11, 2010.
[99] Interview with Rrustem Mustafa (a.k.a Commander Remi), Pristina, Kosovo, October 7, 2010.
[100] Interview with Nuredim Ibishi, Chief of Staff, Llap region, Pristina, Kosovo, October 7, 2010.

say."[101] Another in the Llap region said: "we got instructions about what to say from [local regional] Commander Remi."[102]

Similarly, control from the headquarters over KLA spokesmen overseas, such as Bardhyl Mahmuti in Switzerland and Pleurat Sedjiu in London, was not as strong as the structure might otherwise suggest. Contact with commanders and troops on the ground was via satellite phone and not always reliable. Sedjiu, who was meeting with both British government officials and with major London media outlets, acting as the press officer there, said of the guidance he received when talking to the media:

> It all depended on the situation on the ground… I didn't always have the chance to consult with people in Kosovo. I couldn't always check in to get advice on how to deal with the media and the public. We had to think on our feet.[103]

Thus, while there was a structure in place, with specific individuals appointed to meet with the press, the control from the top of the hierarchy over exactly what was said by local press officers to journalists was not as strong in practice as the appearance of restructuring would lead us to believe. Therefore, while there is an observed increase in the international norms in the discourse after June 1998, when the reorganization of the KLA towards greater hierarchy occurred, in practice, the control such hierarchy afforded over the message issued by the KLA was not strong.

The analysis turns now to the second mechanism, which suggests that an increased structural hierarchy would allow for increased specialization of tasks of KLA members, and thereby allow for the development or accumulation of specific types of knowledge, such as knowledge of international conventions and norms. Put another way, increasing hierarchal structure would act

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[101] Interview with Ardian Gjini, KLA member and press officer, Dukagjini Operative Zone, Pristina, Kosovo, October 8, 2010.

[102] Interview with Hysen Fazliu, KLA member, Llap Operative Zone, October, 2010.

[103] Interview with author, October 6, 2010.

as a precondition for the acquisition and use of international norms. The evidence shows greater support for this mechanism, compared to the mechanism of control. It is also likely that the increasing appointment of press officers and the greater importance accorded to the press was also connected to the significant increase we see in the number of press releases from the end of 1998 onwards.

At the point at which the KLA had begun to introduce levels of hierarchy in the spring and summer of 1998, it had begun to attract a different type of recruit. The local press officers appointed starting at this time were typically individuals with previous experience in the media, those with a higher level of education than many of the regular volunteers, or those with foreign language skills. Prior to this time, journalists would talk to whomever they could find, and whoever was available. An example of the appointed press officer in the Llap Operative Zone was Lirac Qirac, who had previous experience working at the newspaper *Koha Ditore* (in the layout department) and was a known theatrical actor from a family of intellectuals and journalists in Pristina.[104] In the Dukagjini Operative Zone, Ardian Gjini was one of the press officers. At the time of his appointment, he had recently returned from studying overseas and carried a copy of the UN Declaration of Human Rights in his satchel along with his satellite phone and grenades.[105]

When Adem Demaci, formerly founder of the Council for the Defense of Human Rights and Freedoms and a highly regarded former political prisoner, became the general political representative for the KLA in August 1998, the tone of the discourse shifted somewhat. His office in Pristina, staffed by Albin Kurti who had led the students in protests as the head of the Students Independent Union of the University of Pristina, issued communiqués directly. Many of

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[104] Interview with Lirac Qirac, October 8, 2010.
[105] Interview with Ardian Gjini, October 8, 2010.

the interviews with Demaci and Kurti in the fall of 1998 and the early months of 1999 make direct reference to human rights and emphasize the role the KLA had in protecting civilians. For example, in February 1999, Kurti said: "the liberation army of the KLA, because of the nature of the Serbian regime, is fighting not only a liberation war, but also a war for protection of life, human beings, and human values" (*Kosova Sot*, 1999).

Thus, the increasing specialization of certain roles within the KLA that accompanied the restructuring and the increasing hierarchical nature of the KLA, allowed for the entry of individuals into the ranks of the KLA who brought with them specialized knowledge and a more access to the terminology of international norms such as human rights. The uptick in the use of human rights language and international humanitarian law language after June 1998, therefore, can be partly accounted for by restructuring as a precondition for the acquisition of the detailed knowledge of those norms.

The analysis now turns briefly to the second case, the LTTE.

The Liberation Tigers of Tamil Eelamand its discourse

The LTTE, a long-standing separatist movement, was active for more than 30 years from its founding in May 1976 to its military defeat in May 2009. Similar to the KLA, the LTTE's use of international norms in their public discourse changed considerably over time. The period under consideration is from 1992 to 2006 as these are the years that the leader of the LTTE, Velupillai Prabhakaran, made his annual speech to the troops available publicly. This speech is considered by many to give the best annual "state of mind" of the Tigers.[106] One advantage of this case, compared to the KLA, is the longer span of time that the LTTE was active and making public pronouncements, allows for a greater understanding of the development of language usage over time.

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[106] See, for example, Prakash 2008.

The table and chart (Table 3.4 and Chart 3.4: <u>Change over time of the use of international norms in LTTE discourse</u>) below show the evolution of the use of international norms in Prabhakaran's discourse. The sources for this table and chart are the texts of the speeches given annually by Prabhakaran.[107]

<u>Table 3.4: Change over time of the use of international norm language in LTTE discourse</u>

	Human Rights	Humanitarian Law	Humanitarian Intervention	Genocide	Terror
11/27/1992	1	0	0	1	0
11/27/1993	0	0	0	0	0
11/27/1994	0	0	0	0	0
11/27/1995	1	5	0	1	0
11/27/1996	6	1	0	2	2
11/27/1997	5	1	0	2	2
11/27/1998	11	3	0	2	1
11/27/1999	3	2	0	0	1
11/27/2000	2	3	0	1	5
11/27/2001	8	0	0	4	26
11/27/2002	2	3	0	0	0
11/27/2003	0	2	0	0	0
11/27/2004	0	0	0	0	0
11/27/2005	3	0	0	0	9
11/27/2006	16	3	0	3	1
Total:	58	23	0	16	47

Source: Data were extracted from documents listed in Appendix 4. The documents were coded for international norms according to the coding table in Appendix 1.

International norms in general, meaning references to norms as norms, rather than references to a specific norm, are mentioned several times, showing keen awareness of the importance of those norms. However, when these occur, they are immediately linked to the right of self-determination, as if this international norm was the most important norm in the case of the LTTE. It also appears that the LTTE drew on international law to offer legal justification for their struggle.

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[107] Please see Appendix 4 for a list of these speeches.

Our political objectives conform with international norms and principles. Our people are eligible for the right to self-determination. They have a right to statehood. Under international law this right cannot be denied (Hero's Day Speech, November 1993).[108]

Human rights norms are present in the sample from the beginning in 1992, but are primarily clustered around two peaks, one in 1998, when mentions reached 11 references, following six in 1996, and five in 1997, and a second peak in 2006, with 16 mentions. Both peaks coincide with periods of heavy fighting. The peak in 1998, however, mirrors a similar peak in the language of the KLA at a time when the norm was particularly strong at the state level and coincided with the creation of the ICC in July 1998.

The connection between human rights and genocide is made explicit in a number of speeches and occurs after the intense focus by states on genocide in the mid-1990s. The following quote, from 1996, illustrates this:

The incidents of arrests, detention, torture, rape, murder, disappearances and the discovery of the disappeared in mass graves reveal that a covert genocidal policy is practiced in the army controlled areas. (Hero's Day Speech, November 1996)

The majority of the references to human rights by the LTTE in 1998 are an attempt to highlight the relative lack of attention to the plight of the Tamil people in Sri Lanka as a human rights issue amid a growing international understanding of the importance of human rights. This is a strong indication of the LTTE's awareness of the changes in this norm at the state level.   For example:

The world community has always fought for the cause of the oppressed and it has always raised its voice of protest or intervened whenever there have been incidents of human rights violations, crimes against humanity or repression of minority nations in any part of the world. But we are dismayed to note that the international community is observing a muted silence over the colossal tragedy faced by the Eelam Tamils (Hero's Day Speech, November 1998).

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[108] The Hero's Day speeches were provided in English language translation by the TamilNet, www.Tamilnet.com, a Tamil nationalist website that published articles about the Sri Lankan civil war in English, German and French.

Chart 3.4: Change over time of the use of international norms in LTTE discourse
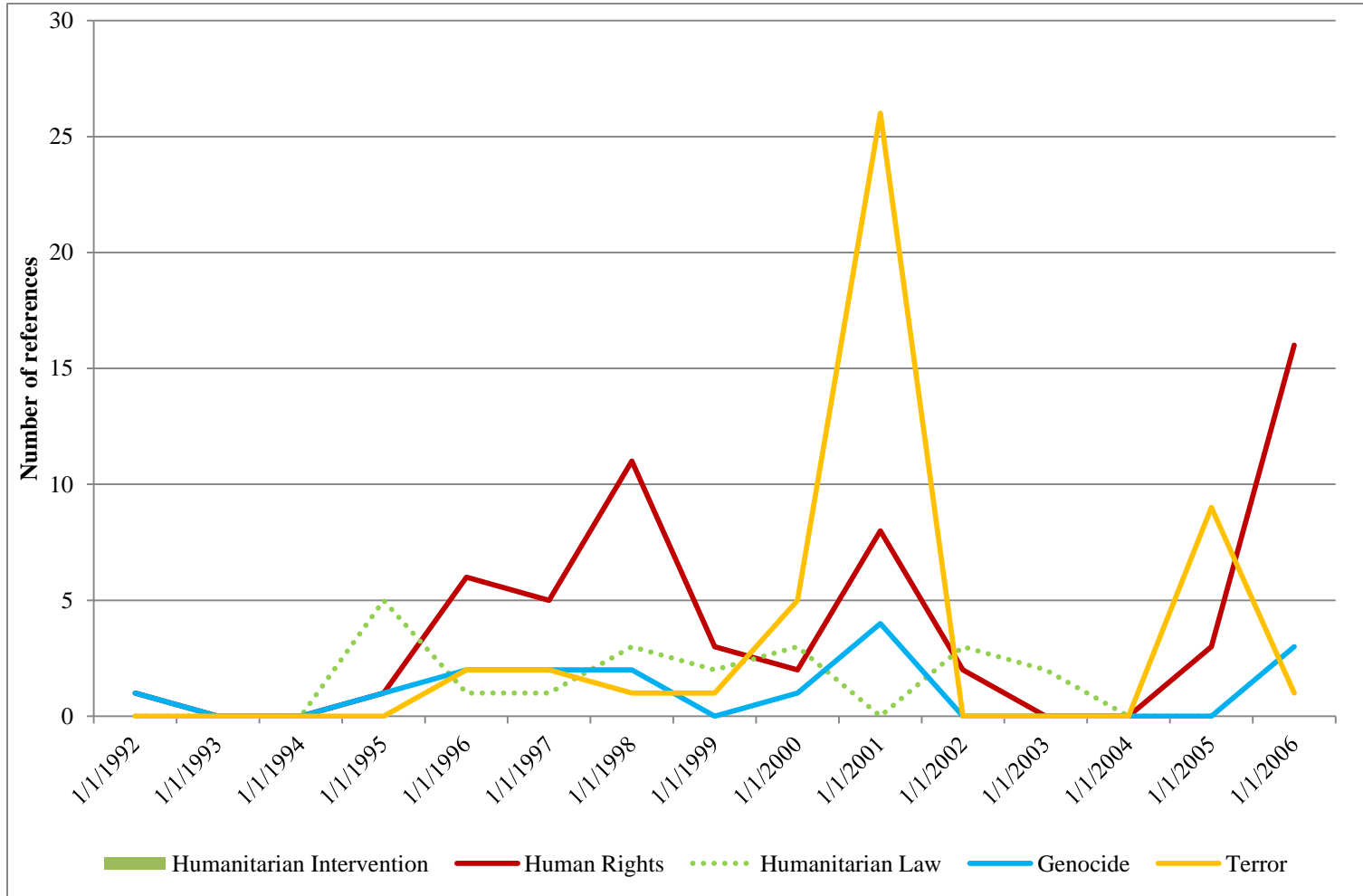
Source: Data were extracted from documents listed in Appendix 4. The documents were coded for international norms according to the coding table in Appendix 1.

Humanitarian law references, however, show a different pattern, with lower overall levels and only a slight peak in 1995 with five references. In comparison to the KLA, the LTTE's use of human rights and international humanitarian law language is less closely linked.

The references to genocide appear to be more general, rather than referring to specific events, contrary to the KLA case.

> Our historical enemy, Sinhala Buddhist Chauvinism…has been conducting a genocidal war against the Tamil nation (Hero's Day Speech, 1996).

And:

> Successive Sri Lankan Governments adopted a policy of genocidal repression aimed at the gradual and systematic destruction of the Tamil nation (Hero's Day Speech, November 1997).

The references to genocide are fairly stable over time, with a slight peak in November 2001.

The peaks in the human rights and genocide language in 2001 coincide with the negotiations for the ceasefire agreement, which had begun under the auspices of the Norwegian government in 2000. The ceasefire agreement was signed in 2002.

The LTTE also never mention the norm of humanitarian intervention—they were not interested in promoting any massive outside military intervention and preferred to keep the conflict, albeit supported by outside sources such as the large Tamil diaspora, strictly between the LTTE and the Sri Lankan government forces. The deployment of the Indian peace-keeping force following the Indo-Sri Lanka Accord in July 1987 led to major military engagement with the LTTE and left the group wanting to have little to do with outside military forces.

The references to terror are small in number until 2001 when a dramatic shift occurs: Prabhakaran mentions it 26 times. In 2001 the LTTE began a massive effort to refute their being labeled a terrorist organization and even seemed to question the definition of what a terrorist might be. The speech of 2001 shows the LTTE struggling to maintain the distinction between

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freedom fighter (which was considered legitimate by the LTTE) and terrorist (which was not).

At the same time, Prabhakaran appears to be insisting on a broader definition of terrorism to include state violence.

> Our struggle has a concrete, legitimate political objective….We are freedom fighters. The Sinhala state terrorists, who have failed in their efforts to crush our freedom movement for the last two decades, branded our liberation struggle as terrorism (Hero's Day Speech, November 2001).

3.4 Conclusions

Both the KLA and the LTTE show significant variation in their talk of international norms, and their patterns of discourse can offer some support for the expectations derived from the overview of international norm change at the international level. Both groups show increases in human rights language, although only the KLA pairs this increase with an increase in humanitarian law language and discussion of the protection of civilians. Both groups show an increase in 1998, at a time when human rights and international humanitarian law issues were much discussed at the state level, and when international events such as the creation of the ICC in July 1998 and the increase of the jurisdiction of the ICTY over Kosovo were highlighting the importance of those norms for non-state actors. With the changes in the discourse on terror, the LTTE offers a clear example of how a sudden shift in a norm at the international level can be immediately reflected at the non-state level. However, because the discourse is so particular to each group's immediate environment and their goals, more in-depth analysis of the shift in the norms in each case is required (and will be conducted in subsequent chapters).

Combining the two cases, it would appear as if the pressure from external forces to adopt human rights language may have been particularly effective in the latter half of the 1990s. Both groups show significant increases in the use of human rights language from 1998 onwards, particularly at turning points in the conflicts, which would indicate a strategic element in the use.

Usage of these norms also increased at times when international involvement was imminent or present and the legitimacy of the group was in need of a boost. For both the KLA and the LTTE, their use of international norms in discourse changed during periods of negotiation with outside actors. In Kosovo, the fall of 1998 saw intensive negotiations with outside actors for a cease-fire. During this period, and again in the early days of 1999 with the run-up to Rambouillet, the KLA was striving to appear to be legitimate to outside actors. To do so, it began adopting language and discourse familiar to these actors and to frame its struggle in terms which would resonate with them in order to bolster its claims. For the LTTE, the peace-talks led by the Norwegians in 2002 provided an opportunity to appear as a legitimate and reasonable opponent for the Sri Lankan government. With the LTTE's practice of using terror tactics and the delegitimation of such tactics in the aftermath of the September 11, 2001, the LTTE would have been searching for a discourse to shape international opinion. Finally, the sudden appearance and substantive discussion of the meaning of terror in the discourse in 2001 indicates that armed groups are aware of changes in the international environment and the use of international norms and do respond very quickly to changes in these.

The analysis of the effect of the changes of structure on the use of international norms in the discourse of the KLA indicates that the increase in the hierarchy allowed for specialization of certain roles within the KLA which was accompanied by increased knowledge of international norms. The increased specialization acted as a prerequisite for the KLA's reliable use of international norms from June 1998 onwards.

Overall, the patterns in the changes in the discourse of these groups show them acting strategically and adopting international norms such as human rights, IHL, and genocide at critical turning points in the conflict. Some norms, such as humanitarian intervention, are only

adopted once the possibility of an intervention looks like it might become a reality. One norm does not follow that pattern, the norm against the use of terror. This norm appears to lose salience and relative importance over the course of the conflict for the KLA, and not to feature in the LTTE's discourse until the sea-change in the international response to terrorism in 2001.

The following two chapters turn to an in-depth examination of human rights and IHL (Chapter 4) and the norm against terrorism (Chapter 5).

Chapter 4: Human rights and international humanitarian law: Evidence of incorporation of norms into the discourse of rebel groups

This chapter analyzes the discourse of the Kosovo Liberation Army (KLA) and the Liberation Tigers of Tamil Eelam (LTTE) with particular focus on the changes in the use over time of two international norms: human rights norms and international humanitarian law norms. The chapter provides evidence to answer two overarching questions: why do armed groups adopt these norms, and why are certain norms more likely than others to be adopted?

This chapter examines the micro-patterns in the variations of the usage of the two norms and finds that day to day or week to week fluctuations in the usage of these are tied to local events. The findings also point to variation in the local normative environment as a likely reason why some norms, such as the protection of civilians, appear to be adopted into the discourse with greater frequency in some conflicts than others.

In order to provide context for the subsequent analysis, this chapter begins with a brief overview of the two bodies of law, human rights and humanitarian law, as well as the obligations armed resistance groups have under each. The subsequent analysis focuses on three areas: first, the change of discourse over time; second, evidence demonstrating the knowledge and use of conventions in the discourse by the rebel groups; and, third, the frequency of the mention of specific human rights violations, such as torture or the right to life, as well as specific areas of international humanitarian law, such as protection of civilians or treatment of prisoners of war.

4.1 Human rights law and international humanitarian law during conflict

This chapter focuses mainly on two sets of international norms: human rights norms and international humanitarian law norms. Human rights norms are frequently cited during times of conflict, because during periods of conflict rates of human rights violations tend to be higher than during times of peace. They may also be cited to draw international attention to the behavior of the parties, or to frame the conflict in human rights terms. Humanitarian law, which only comes into effect during times of conflict, provides the framework for the behavior of the parties in the conflict. Both bodies of law are cited during times of conflict by international organizations, such as the United Nations (UN), and states external to the conflict, particularly when there are high numbers of civilian deaths during the conflict.

These two bodies of law are quite distinct, with very different historical and philosophical foundations. Human rights law, as defined by the Universal Declaration of Human Rights (UDHR) and related treaties, outlines the basic rights each human being possesses with respect to their state. International humanitarian law provides the rules that regulate conduct during times of war, including the treatment of civilians during war.

The distinction between the two bodies of law is very clear during times of peace. However, there are ongoing discussions and differences of opinion among jurists and courts about which body of law to apply during times of conflict. If human rights law applies at all times (which some states dispute), then which law should take precedence during times of conflict? This is a particularly thorny issue when non-combatants are killed during conflict. Under human rights law, no individual should lose his or her life, while under humanitarian law civilian deaths should merely be minimized. The International Court of Justice (ICJ), in its Advisory Opinion on Nuclear Weapons in 1996, endorsed a *lex specialis* interpretation, in which

the body of law with the most conflict-specific approach (i.e., humanitarian law) should take precedence. However, it complicated the matter with its 2004 ruling on the Wall in Occupied Palestinian Territory, which articulated three separate options for the relationship between human rights law and humanitarian law, stating that some rights are matters of international humanitarian law; some are exclusively matters of human rights law; and some fall under both branches of the law, without specifying which rights fall under which body of law, or in which contexts (Tomuschat 2010).

Further, two states, the United States and Israel, have long maintained that human rights law does not apply in times of war (Hampson 2008). However, despite long-standing objections from both of these states, most states have accepted the ICJ position that human rights law and humanitarian law can exist concurrently.

In addition to the complicated judicial interpretation of which body of law takes precedence, there is increasingly an apparent blurring between these two bodies of law by parties involved in the conflict (as subsequent parts of this chapter will show), non-government watchdogs monitoring the conflict, such as Human Rights Watch (HRW), journalists covering the conflict, and, at times, international organizations and state actors. The blurring may take place for strategic reasons, for example, because enforcement mechanisms are stronger for international humanitarian law than human rights law, or because these two branches of law appear to be converging in certain areas, or, finally, because the parties involved may be unsure of which body of law to apply.

Armed resistance groups and their obligations under human rights and international humanitarian law

The obligations for armed resistance groups under human rights law and international humanitarian law are significantly different.

Armed opposition groups are not party to human rights conventions or treaties, which are signed by states and primarily designed to protect individuals from the state. However, these groups are frequently significant human rights abusers.[109] This makes their growing use of human rights language in framing their struggles puzzling. Highlighting the state's violations of human rights law can serve several strategic purposes. It provides a way to explain their motivations and denigrate the state they are fighting by using language familiar to domestic and international audiences. Also, by invoking human rights, they can trigger mechanisms already in place to sanction states engaging in that behavior. However, this strategy also carries risks. By framing the struggle in human rights terms, groups also draw attention to their own (often poor) human rights records, which in light of the framing, can potentially undermine their legitimacy. To complicate matters further, towards the end of the 1990s, UN bodies, notably the Security Council, began to call upon all parties to conflicts to respect both humanitarian law and human rights law, suggesting that there are international expectations that non-state actors abide by human rights law.[110]

Turning to international humanitarian law, traditionally, international law laid out the rules for engagement between states and was applied only to insurgents, a subset of armed non-

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[109] Vocabulary used in this work is as follows: non-state actors do not violate an individual's rights. The term violate is reserved for states. In this work, the term for non-state actors is abuse—thus non-state actors abuse human rights.

[110] See, for example, resolutions on Liberia, Afghanistan, and Cote d'Ivoire, which call on parties to respect human rights law and to cease human rights violations and abuses (S/RES/1261 (1998), S/RES/1471 (2003), and S/RES/1479 (2003).

state actors in times of conflict. Insurgents were rebels recognized by one or more states once they had proved they controlled territory and demonstrated that the conflict was of some degree of intensity and duration, excluding, for example, riots and sporadic violence (Cassese 2005). Today, armed non-state groups no longer have to be recognized by other states. Instead, the conflict itself must reach a certain level for humanitarian law to apply.[111] Once that condition is fulfilled, humanitarian law applies to non-state armed resistance groups, whether labeled as rebels, insurgents, or separatist movements. These groups have rights and obligations under Common Article 3 to the Geneva Conventions of 1949, the Additional Protocol II of 1977, and Article 19 of the Hague Convention on Cultural Property of 1954 (Clapham 2006). Groups may, as part of their quest for legitimacy, use humanitarian law language when framing their grievances, regardless of their status or the legal designation of the intensity of the conflict. They may even use the language before the conflict has reached the level of an "armed conflict not of an international character" in order to bolster their case that they are a legitimate armed actor and on their way to becoming a state-like actor. This latter status would then garner them the protection offered actors under international humanitarian law, such as protection of prisoners. However, the states they are fighting resist this, trying to portray the armed group as criminals or terrorists, in part to deny the legitimacy the groups crave, and in part to resist opening up the

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[111] The Geneva Conventions common Article 3 applies to armed conflicts which are not of an international nature; however, it is ambiguous as to what exactly can be defined as an armed conflict. Subsequent clarifications in 1977 Protocol II, the rulings in the ICTY Tadic case, and the framework for the ICC have tried to address these ambiguities. From Protocol II, the non-state actor involved in the non-international conflict should be: "under responsible command, [and] exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations and to implement this Protocol." It further rules out internal disturbance such as riots, isolated and sporadic acts of violence and other acts of a similar nature. In 1995, the Appeals Chamber in the ICTY Tadic case argued that IHL should apply in all parts of a state, even if the state no longer has control over all parts, cover conflicts of a protracted nature, and extend until a peaceful settlement is reached (i.e., beyond the cessation of hostilities). The ICC Statute (Article 8) identifies acts as war crimes when committed in an internal armed conflict, but does not limit the application of common Article 3 to conflicts of a protracted nature.

conflict to international law. Different laws apply to domestic disputes and the last thing most states want is a degree of international scrutiny of their domestic matters.

In sum, armed opposition groups have long-standing reasons to use international humanitarian law in their discourse, but much less reason to use human rights language. Both sets of norms are used in their discourse, but there is a lingering question of whether the groups do so from a firm understanding of the two different bodies of law, or whether there is a basic misunderstanding about what rights and obligations each body of law implies.

4.2 Human rights and humanitarian law norms in the discourse of the armed resistance groups

This section analyzes the use of human rights and humanitarian law norms in the discourse of the KLA, the main case, and the LTTE, the secondary case. It first examines the change of the discourse over time, connecting these changes to events and apparent changes in the groups' strategies. Following is an analysis of the level of detailed understanding of both norms, examining the references to specific conventions and treaties. This section then concludes with an analysis of which human rights norms and which humanitarian law norms are most referenced in the groups' discourse.

Change of discourse over time: The KLA

Overall, the pattern of change of the use of human rights and humanitarian law shows an increasing use of these norms in the KLA's discourse, beginning in August 1997. The norms are introduced at low levels initially, but swell to make up a significant part of the overall discourse by the end of the conflict in June 1999. The analysis links the discourse to local events on the ground and firmly situates it in the local context.

The media materials and interviews issued by the KLA evolved over time and broadly

fall into three different periods: the Underground Period, roughly from June 1995 to September

1997; the Emergent Period, from October 1997 to October 1998; and, the Mature Period, from

November 1998 to the end of the war, in June 1999. Each of these periods is marked by

differences in the framing of the KLA's struggle and the way international norms are

incorporated into their discourse.

The Underground Period: June 1995 – September 1997

During this early period, the KLA operated as a loosely interconnected web of different

groups with a limited number of cells throughout rural Kosovo. Within each cell, members were

well known to each other—often relatives, or long-time friends—and contacts beyond the cell

were limited to one or two individuals. One estimate put the group's size at fewer than 150

members towards the end of 1997 (Bardhyl Mahmuti, a senior KLA member quoted in Judah

2000). To protect the identity of the individuals involved in the KLA, the wider population of

Kosovo and political elites knew very little about the KLA.

Kosovar politicians in the Democratic League of Kosovo (LDK) remained skeptical that

the KLA was an Albanian organization, rather than an elaborate cover by Serbian intelligence to

increase repression in the region.

> We are not clear on what is happening, and we do not have data on the attacks on the
> Serbian police stations, and thus cannot give a conclusion as to who is behind them, and
> what their reasons might be. The truth is that such events are used to exercise extended
> reprisals against the innocent population (Hidajet Hysent, Deputy Leader of the LDK,
> *Koha Jone*, August 6, 1996).

Comparing early KLA documents with documents from other local groups established in

Kosovo at or before the same time provides context for the discourse adopted by the KLA. Other

local groups, such as the People's Movement for Kosovo (LPK), used international norms

(primarily self-determination, but also human rights language) in their discourse as early as 1993, indicating that the language of human rights was in use in Kosovo by non-state actors prior to the significant increase visible in the language of the KLA. For example, the LPK, a precursor of the KLA, and, for a brief time, the self-proclaimed political arm of the KLA, framed its political agenda in terms drawn explicitly from international norms. In September 1993, its published political program stated:

> Initiated by the legitimate right of every population for freedom, independence, and self-determination, it is an undeniable right and a need for the Albanian population to fight with all means and forms for liberation with respect to international norms ("Program of the LPK," *Zeri I Kosoves*, September 15, 1993).

Paragraph I of the program further clarifies: "the right of self-determination is a universal right and one of the key principles of the UN, Helsinki, and Paris Charters" (*Zeri I Kosoves*, September 15, 1993).

The program goes on to voice support for whatever means might be necessary to achieve their stated goals of self-determination, independence, full human rights, and democracy, including armed resistance (although the latter is condemned by the UN, Helsinki, and Paris Charters). This program does show that the members of the LPK were attempting (however imperfectly) to connect their struggle with international norms and frame the struggle in a way that might resonate beyond the borders of Kosovo.

In contrast with the LPK published program, the first press releases from the KLA are much simpler, with more modest goals. The connection to international norms is virtually non-existent. The press releases (called "communiqués") were written by KLA members within Kosovo and faxed to trusted colleagues outside of Kosovo for wider distribution to media outlets

and other potentially interested parties.[112] The first publicly distributed communiqués appear to have had three goals, broadly defined as: first, establishing the presence of the KLA, by taking responsibility for attacks on police stations or other symbolic targets; second, cautioning against potential leaks to the Serbian secret service, by announcing murders of alleged collaborators; and third, reaching beyond the borders of Kosovo to engage a wider audience on the struggle within Kosovo.

The first communiqué, issued in June 1995, claims responsibility for several attacks and announces the presence of a central command, suggesting that the KLA was more than a group of isolated individuals attacking vulnerable symbols of Serbian authority: "During the last two months, the central command has commanded armed units for military actions, which were executed according to plan. In April, the Serbian police station of Irzniq village was attacked" (Communiqué 13, June 1995). Chillingly, the early press releases also detail the murders of individuals assumed to be collaborators, or Serbs singled out for their anti-Albanian activities. "On the 7th and 10th of July, our guerrilla units carried out two assassinations. The first was of a collaborator with the Serbian regime, Shukri Krasniqi from Ostozubi, and the second was in Podujeva, the criminal policeman Sredoje Radojeviq" (Communiqué 21, July 14, 1996).

The communiqués make regular references to these types of attacks on civilians, most frequently referred to as collaborators or criminals. This language is used 33 times between June 1995 and September 1998, at which point these references cease. References to the murder of civilians went on to be used in the trials at the International Criminal Tribunal for the former Yugoslavia (ICTY), in the Hague, as evidence of war crimes committed by KLA members.[113]

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[112] The first communiqué distributed in this fashion was numbered Communiqué 13. Communiqués 1 – 12 were distributed internally.

[113] See, for example, the transcripts for the case against Ramush Haradinaj, the KLA commander of the Dukagjini zone, http://www.icty.org/case/haradinaj/4.

Missing from these early documents is any reference to, or understanding of, international norms of either human rights or humanitarian law. Looking at these communiqués from this perspective, not only is the KLA not using human rights language or referencing humanitarian law to bolster their case during this period, they are doing the exact opposite: taking responsibility for events which are human rights abuses, or, as the prosecutors at the ICTY allege, war crimes.[114]

The strategic advantage gained from dissuading potential collaboration with the Serbian secret police (SDB) would seem to outweigh the negative perception of the organization appearing to be a human rights abuser or humanitarian law violator. It also suggests a simple failure to see the norms as relevant to their struggle.

In addition, unlike the LPK program, references to long-term goals, such as independence or democracy, are rare. Indeed, democracy is not mentioned as a goal until September 1998.[115] Rather than references to self-determination, independence, or secession, the framing of the struggle is stated more in terms of anti-colonialism, or as being against an invasion of their land: "We want to let all the friends and enemies of our people know that we will continue our armed war until we force our invaders to surrender from our lands" (Communiqué 20, June 27, 1996). Another example from 1996 states: "We would like to state clearly to the current Serbian political leadership that they must withdraw from our territories as soon as possible or our attacks to liberate the country will be fierce and merciless" (Communiqué 22, August 10, 1996).

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[114] By the time of the prosecution for war crimes at the ICTY, in November 2005, the defense argued that the collaborators mentioned in these communiqués were in fact not civilians, but combatants, thus recognizing the potential violation of humanitarian law that these acts represent. See ICTY Case No: IT-03-66-T, Prosecutor v. Fatmir Limaj, Haradin Bala, and Isak Musliu. Paras 222, 223 and 224. This claim was rejected.

[115] Democracy is not mentioned in KLA-published documents until Communiqué 53, published on September 18, 1998.

The Emergent Period: October 1997 – September 1998

The KLA began to emerge from the shadows in this period, making itself more known to the public in Kosovo and the world at large. This is also the period during which the KLA experienced a great deal of growth in its numbers and a reshaping and consolidation of its internal structure, taking on more features of a centralized fighting force. This development also had an impact on the shaping of its image and how the KLA cause was framed. In June 1998, the KLA appointed its first official media spokesman, Jakup Krasniqi. The following month the KLA appointed Bardhyl Mahmuti in Switzerland to represent the KLA outside of Kosovo. Mahmuti appointed representatives in Germany, England, and the United States. In August 1998, Adem Demaci, the leading political activist in Kosovo, was also appointed to a prominent role, as political spokesman, based in Pristina.

In terms of discourse, the period is marked by the beginnings of the use of international norms in the public discourse. Both human rights norms and humanitarian law norms begin to be included in press releases, speeches, and political declarations. There are 17 mentions of human rights violations during this period, compared with two during the previous Underground Period, and 18 mentions of humanitarian law or humanitarian law violations, compared to none in the Underground Period. In particular, this period sees the emergence of an important theme in the presentation of the KLA: the idea that the KLA does not attack civilians (barring, of course, the two previously mentioned categories of possible collaborators and those deemed to be criminals). This view of the KLA was set in contrast to the actions of the Serbian police and, later, the military and paramilitary groups, who were portrayed as attacking civilians as part of their counter-insurgency campaign. This presentation of the KLA became the core of its identity. A press release from October 1997 highlights this new development: "Unable to catch

our army units, the occupiers are taking revenge with violence and unprecedented terror against

the unprotected and unarmed civilian population. With these barbaric acts, Serbia is breaking the

international laws of war" (Communiqué 37, October 23, 1997). And see also the press release of

March 12, 1998, which outlines the behavior by the KLA: "Through our actions to date, the

KLA has demonstrated that this army excludes any form of violence and terror towards an

innocent population. We assure everyone that we will not step back from this principle"

(Communiqué 44, March 12, 1998).

A turning point in the public perception of the KLA, as an organization, was the funeral

of a teacher, Halit Gecaj, on November 28, 1997. It was the first public event where KLA

members appeared in uniform. Falling as it did on Albania's Day of Independence, the funeral

took on a mythical quality and drew a spontaneous attendance of thousands of mourners, many

of whom evaded road blocks to attend. Rame Buja, the KLA Chief of the Board for Public

Relationships and Civil Administration in 1998 and 1999, said of the funeral:

> This big, massive funeral was something that had not been seen before then […] There
> was no organization to get people to attend. They just came. Another thing that was
> strange for our tradition—people applauded. This was a break with our tradition. During
> this funeral, something emerged that was historical. And mobilization spread rapidly over
> Kosovo after this time.[116]

Three KLA members, Daut Haradinaj, Rexhep Selimi, and Muje Krasniqi, made the first

public statement by the KLA to the gathered mourners. The speech given by Rexhep Selimi, who

played a central role in the establishment of the KLA along with Hashim Thaçi, and later was the

KLA's Chief of Staff, paints a much more personal and vivid picture of the KLA's struggle than

previously seen in KLA documents.

> The Albanian people in their territories here in enslaved Kosovo have shouldered the
> oppression and the burden of inhuman violence of the Serbian invaders for decades. Our

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[116] Interview with the author, October 2010.

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best sons and daughters of our unprotected people have been killed, imprisoned, massacred… [The Serbian invader] has killed children, youth, teachers in schools, and farmers in their fields (Elshani 2003).

According to members of the KLA, the combination of finally seeing members of the KLA in uniform at a public event and the content of the speech was the beginning of the swing towards the KLA in terms of public sentiment.[117] This was not an unplanned appearance, but was likely part of the beginnings of the campaign to make the KLA better known to the Kosovar public at large: "Our public appearance at the burial of our beloved school teacher, Halit Gecaj, on 28th of November was not a chance appearance, but rather an appeal to all those who genuinely wish to commit themselves to the liberation of Kosovo" (Communiqué 40, December 5, 1997).

The Mature Period: October 1998 – June 1999

The Mature Period was marked by a large increase in the amount of press the KLA was able to generate, through local newspapers, which were increasingly willing to interview members of the KLA following their appearance at the Gecaj funeral, and through their own media outlets. The KLA's use of references to international norms increased significantly during this period, both in real terms (the total number of references) and in terms of the saturation of media events (the percentage of all discourse at the time). This period saw the implementation of a ceasefire negotiated between Holbrooke and Milosevic on October 16, 1998, which was monitored by the Organization for Security and Cooperation in Europe (OSCE) Kosovo Verification Mission (KVM). It also included international efforts to broker a peace deal culminating with the Rambouillet talks between February 6 and March 18, and finally, NATO's intervention, beginning with the bombing campaign on March 24, 1999.

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[117] From author interviews with Rame Buja, Jakup Krasniqi, and Ardian Gjini, Pristina, Kosovo, October 2010.

The goal of the discourse during this period appears to be to further discredit the Serbian regime by increasing the critique of the actions of Serbian troops and the police force, using humanitarian law and human rights language to do so. Mentions of the behavior of the Serbian troops are frequently contrasted unfavorably with the behavior of the KLA troops. A second goal appears to be to portray the KLA in more professional terms and to present the group as a legitimate fighting force. There is an increase in the use of specific humanitarian law references particularly with regards to treatment of prisoners. A third goal appears to be to present the KLA as a group with a political vision of the future. This period also saw a substantial increase in the number of references to humanitarian intervention.

The heightened efforts to de-legitimize the Serbian regime make use of both international humanitarian law and human rights law. The regime itself (or the state) is portrayed as violating human rights law by denying its citizens the right to life, while in other instances Serbian forces are portrayed as harming civilian populations (a violation of humanitarian law). For example, in the two quotes below the first uses human rights language, while the second references humanitarian law, with an emphasis on Serbian forces:

> There is no end to the state terrorism and systematic repression of the Belgrade regime in Kosovo. The murder of children who are the future of every people and society shows that the Serbian regime wants to kill the future of the Albanians in Kosovo. The execution of dozens of Albanians, including women, children and the elderly, shows clearly that the Serbian regime and state have launched themselves into classic fascism (Communiqué 69/70, January 16, 1999).

And:

> The complete Serbian defeat in the Llap region has led the Serbian occupation forces to take revenge on the Albanian civilian population, women and children, and to threaten OSCE observers, and foreign media correspondents (Communiqué 67, December 26, 1998).

The frequency of press releases and interviews allows us to see to what extent the human rights and international humanitarian law language during this period is attached to events at the local level. The chart below (Chart 4.1: <u>Weekly human rights and international humanitarian law references during the KLA's Mature Period, October 1998 – June 1999</u>) shows, on a week-by-week basis, the number of human rights and international humanitarian law language in the media items during the Mature Period. From Chart 4.1, it can be seen that references to human rights and humanitarian law norms fluctuate closely together, although the peaks of human rights usage are higher than those of the humanitarian law language.

Chart 4.1: Weekly human rights and international humantiaran law references during the KLA's Mature Period, October 1998 - June 1999
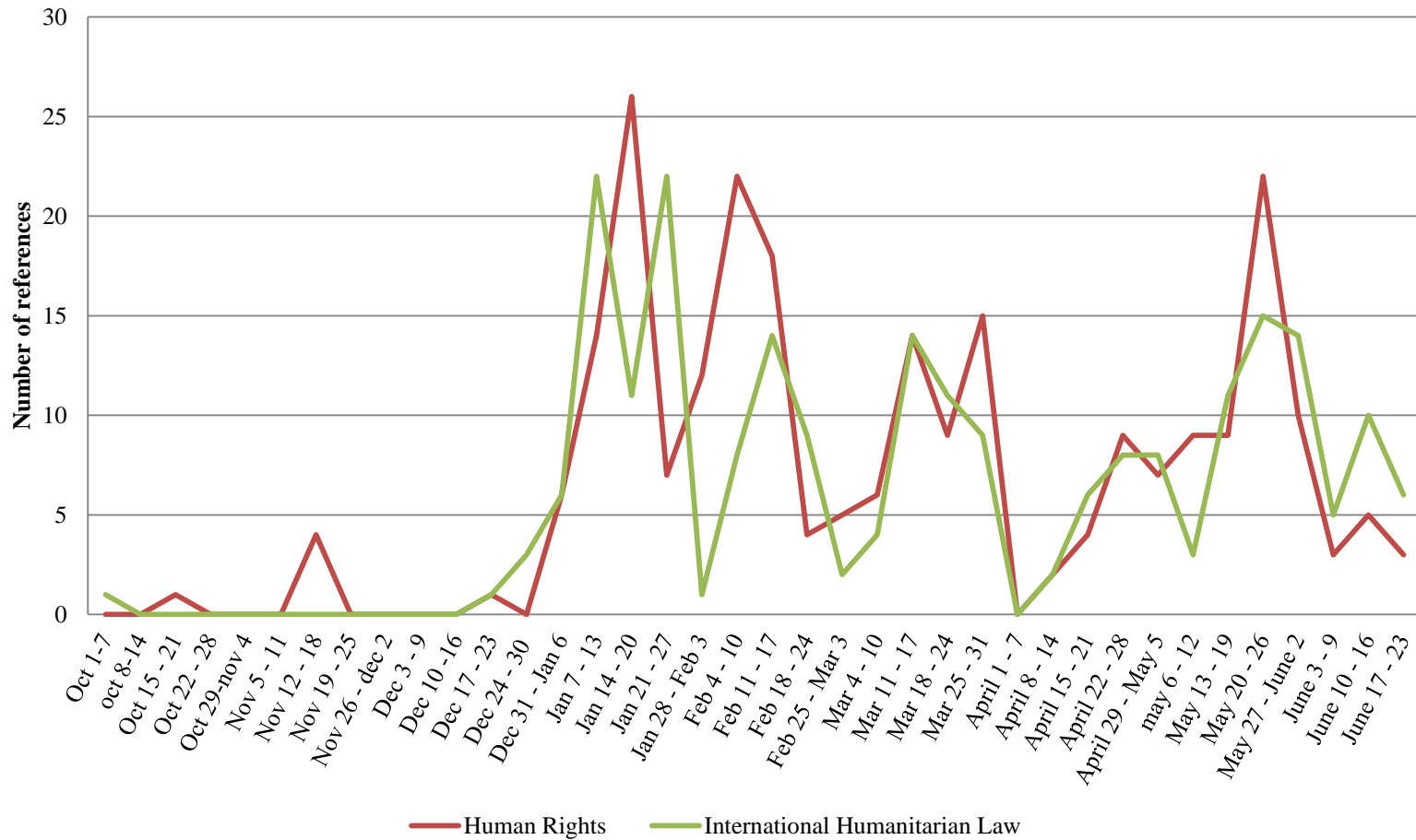
Source: Data were extracted from the KLA documents listed in Appendix 2. The documents were coded for the use of the international norms by using terms listed in the coding table, in Appendix 1.

It appears that there is a close connection between events and the use of both sets of discourse. For example, the jump in human rights language between November 12 and 18, 1998 was in response to attacks by Serbian forces on two Albanian villages, Negroc and Decan.

> The KLA General Staff asks the international community, the Red Cross and the OSCE observers to oblige the fascist regime of Belgrade not to abuse our self-restraint or to allow their own insignia and cars to be used to enter Albanian villages to kill and massacre people, as happened in Negroc, near Gllogoc and Decan, near Malisheve. (Communiqué 62, November 14, 1998)[118]

The jump between January 14 and February 17 is in response to the massacre in Recak, on January 15, 1999.[119] The news of the massacre prompted numerous press releases and interviews by the KLA. Between January 14 and 17, human rights language is used 24 times, and international humanitarian law is referenced four times, in both press releases and in radio broadcasts. Most mention the massacre and the loss of life in Recak. For example, the KLA office in Pristina issued a statement on January 17: "In the Neredima Operative Zone the Serbian criminal regime and their forces killed, massacred, and barbarically executed at least 46 Albanians aged between 12 and 80 years old" (Memo from the Office of the Political Representative of the KLA, January 17, 1999).

The massacre was internationally significant, as the bodies were witnessed by the head of the OSCE KVM mission, William Walker, who denounced what he saw as a crime against humanity.[120] While there is some dispute over exactly what happened at Recak, due to differences among the accounts of eye-witnesses, the Serbian Interior Ministry, and the KLA, the press attention to the massacre and the words of Walker helped drive international sentiment towards intervention. Following the news of the massacre, autopsies were conducted on the dead

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[118] Translation provided by the BBC. Source: Albanian TV, Tirana.
[119] The village is known as Recak in Albanian and Racak in Serbian.
[120] Interview with William Walker, "War in Europe," Frontline, PBS.
http://www.pbs.org/wgbh/pages/frontline/shows/kosovo/interviews/walker.html.

by two teams: a joint Yugoslav-Belarus team of pathologists and a forensic Finnish team of sent by the European Union (EU). The Serbian account was that the dead were all members of the KLA, while Walker and the KLA maintained that the dead were civilians. The Finnish team of forensic pathologists carried out an autopsy on 40 of the 45 bodies (some with the assistance of the Yugoslav and Belarus forensic experts, and their findings were published in 2001. The findings detail causes of death, but not the manner in which they occurred, adding to the confusion of what happened in Recak. The forensic report refuted the claims that the corpses had been mutilated (Rainio, Lalu, and Penttila 2001).[121]

The spike between March 25 and 31 covers the first week of the NATO bombing campaign, which was accompanied by an assault in Kosovo by Serbian forces. The final peak also corresponds with an increase in violence by Serbian forces. The gap between April 1 and 7 follows the bombing of the KLA-supported radio station's premises by Serbian forces. After April 7, all the broadcasts were sent from mountain tops or bunkers since the radio station staff were forced to be on the move.

The final goal of this period appeared to be paving the way for the KLA to assume a leadership role in post-conflict Kosovo. The search for legitimacy was critical during this period as the KLA leadership began to position themselves as players in a post-conflict setting. In the final months of the war, the KLA political wing was planning how to govern Kosovo after the war. Within weeks of the end of the war, Hashim Thaçi announced the formation of a new political party, the Democratic Party of Kosovo (PDK), appointed ministers to positions, and established an interim government (Perritt 2008: 153).

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[121] At the trial of Milosevic in the Hague the case of Recak was heard as part of the Kosovo indictment. One witness from KVM, Candian General Joseph Omer Michael Maisonneuve, based on what he saw when he entered the village and on information from his verifiers, said he believed eight to 10 of the victims were KLA members, and that the attack on Recak represented an operation against a weak defence force, but that force used was disproportionate and not a legitimate miltiary action (Klarin 2002).

Congruence of human rights and international humanitarian law with local culture in Kosovo

From the early 1990s, Kosovo Albanians had been withdrawing from participation within the official state institutions in the areas of education, health, and justice, and turning to more traditional modes of interaction (Krasniqi 2009 and Clark 2000). In the area of justice, one alternative was to turn to traditional ways to solve disputes, using traditional laws and mechanisms. In Kosovo, these traditional laws, known locally as the Kanun of Leke Dukagjini, provided a framework which had governed the lives of Albanians for centuries.[122] With regard to the international norms in question, human rights and international humanitarian law, in particular where these two bodies of law intersect during times of conflict, the laws of the Kanun similarly provide some guidance as to which kinds of people may be attacked during violent conflict. The Kanun prohibits taking the lives of children, women and the elderly in violent confrontations between families (known as blood feuds) and these prohibitions demonstrate congruence with international norms, particularly the protection of civilians during conflict. It is notable that the mentions of deaths in the KLA press releases frequently specify that the civilians killed were women, children, and the elderly.

This congruence of the local norms with the international norms made it more likely that the KLA would begin using human rights language and international humanitarian law language as it pertained to the protection of civilians in their discourse. The congruence is also reflected in how members of the KLA described how they felt about their struggle. For example, Rexhep Selimi, one of the founding members of the KLA, said he was very proud to belong to a group that did not kill children. He also thought that while the soldiers had justification for revenge, as many had lost families, their revenge would not be taken out on civilians. He said: "I am

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[122] The Kanun of Leke Dukagjini was a set of traditional laws, first codified in the fifteenth century, which was transmitted orally for generations until transcribed in the early twentieth century.

convinced that the only order that [my troops] would reject is if we asked them to kill ordinary civilians."[123]

Unusually, he had an opportunity to voice these beliefs with other rebel groups:

After the war, I was invited to attend a conference given by the Geneva Academy for Humanitarian Law and Human Rights, along with a number of leaders from other rebel groups. I was invited to speak about my experience with the KLA. In the break, two Tamil soldiers asked me what our secret of success was. I asked them "Do you kill civilians? Do you kill women and children?" When they said "Yes," (a little shamefacedly), I told them they are going to lose.[124]

Another group in Kosovo that pursued violent resistance against the Serbian state was the National Movement for the Liberation of Kosovo (LKCK). The LKCK joined forces with the KLA in 1998, but prior to their merger, had a similar approach to violence against civilians. Valon Murati, a member of the LKCK, and later the KLA said: "A liberation organization should not target civilians—this attitude prevailed wherever the LKCK was strong." Murati argued that targeting civilians and using terrorist tactics never achieved results, and did not end in victory. "We had nothing against the Serb population—they are equally manipulated by the state."[125] It is notable that both groups pursing violence in Kosovo at the same time had the same approach to violence against civilians. This provides another possible link to the congruence of local norms with international ones.

It should be noted, however, that if asked directly from where the basis of this norm came from, it was difficult for the soldiers to pinpoint a source. Selimi said that he believed that the idea was not something that came upon them spontaneously, but "maybe, it was something spiritual."[126] Albin Kurti, who worked with Adem Demaci when the latter was the political spokesman for the KLA, said: "The main reason why the KLA wouldn't attack civilians was

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[123] Author interview with Rexhep Selimi, Pristina, Kosovo, October 2010.
[124] Ibid.
[125] Interview with Valon Murati, Pristina, Kosovo, October 2010.
[126] Interview with Rexhep Selimi, Pristina, Kosovo, October 2010.

their character, formed by history."[127] And Murati listed among his sources of inspiration Frantz Fanon's *The Wretched of the Earth*.

Change of discourse over time: The LTTE from 1993 – 2007

Similar to the KLA, one can argue that the LTTE also went through an Underground Period, an Emergent Period, and a Mature Period. The Underground Period lasted from the group's founding until 1983. Activities during this Underground Period were limited to the establishment of a strong network, fundraising (at times through robberies), and attacks on policemen and civilians thought not to be supportive of the LTTE. In many ways the Underground Periods for both the KLA and the LTTE were similar. This Underground Period came to an end with an ambush of Sri Lankan soldiers in July 1983, when the LTTE emerged from the shadows and began the so-called First Eelam War. The second period, or the Emergent Period, extends from 1983 with this first major attack until 1999, when the conflict transitioned from a guerrilla war to a more traditional conflict, with set-piece battles, and both sides entering battles with thousands of combatants and heavy weaponry. The Mature Period lasted from 2000 until the end of the war in 2009, when the LTTE suffered comprehensive defeat. The period under consideration is from 1993 until 2007, which are the years from which the texts of the Annual Hero's Day speech by Prabhakaran are available publicly. Therefore, only half of the Emergent Period can be analyzed, and none of the Underground Period.

The Emergent Period: June 1993 – 1999

During this period, the LTTE was fully established as a fighting force and had taken on the Sri Lankan army in numerous offensives. The years between 1987 and 1990 also saw fighting in the Northeast area of Sri Lanka between the LTTE and the Indian army, which

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[127] Interview with Albin Kurti, KLA member and staff of the General Political Representive of the KLA from August 1998 to March 1999, Pristina, Kosovo, October 2010.

deployed a peacekeeping force to the island. During these years, the LTTE also demonstrated their reach beyond their territory with two high profile assassinations of heads of state: former Indian Prime Minister Rajiv Gandhi in 1991 and Sri Lankan President Ranasinghe Premadasa in 1993. On the governance front, the LTTE had begun establishing a civil administration in the territory it controlled. In 1994, a third round of peace talks between the LTTE and the government was initiated, but, like the first two rounds in 1985 and 1989/1990, it ended in failure. The Third Eelam War was launched in 1995.

The speeches in 1993 and 1994 are focused primarily on presenting the cause of the LTTE as a fight for freedom, or a war of liberation. There are no mentions of human rights or international humanitarian law in these speeches. Prabhakaran does talk about the deaths of LTTE fighters, and celebrates these deaths, but does not frame this loss of life as a violation of human rights: "Our heroes have sacrificed their lives for a just cause. Their demise does not constitute an ordinary event of death. Rather, their death signifies a profound spiritual aspiration for national freedom" (Hero's Day Speech, November 1993).

In 1995, the peace talks with the Kumaratunga government collapsed, and the Sri Lankan army made a significant push into LTTE territory. By December of that year, they had captured the LTTE stronghold of Jaffna. The heavy toll on civilians is referred to in the speech, which invokes the norms of international humanitarian law: "This war is not, as the government claims, against the LTTE. This war is against the Tamil people, against the Tamil nation. […] The strategic objective of this war is to annihilate the national identity of the Tamils by destroying their life and property and their land and resources" (Hero's Day Speech, November 1995).

Prabhakaran also points to the LTTE's good treatment of prisoners of war: "To promote the peace process, we released the prisoners of war as a gesture of goodwill" (Hero's Day Speech, November 1995).

Starting in 1996, there are mentions of human rights violations for the first time. These continue over the next few years with growing intensity, reaching a peak in 1998. These years were also years of heavy fighting. However, not all the human rights references are to violations of the right to life, which may indicate a broader interest in using human rights language at this time beyond just mentioning losses due to the intensity of fighting. At same time, however, there does not appear to be a matching increase in references to international humanitarian law.

In 1996, the speech highlights the Sri Lankan government's use of torture, arbitrary arrest and detention, and violation of the right to life, and makes claims that the government was pursuing a genocidal policy: "The incidents of arrests, detention, torture, rape, murder, disappearances and the discovery of the disappeared in mass graves reveal that a covert genocidal policy is practiced in the army controlled areas" (Hero's Day Speech, November 1996).

In 1997, the human rights violations mentioned are of a different category—economic, social, and cultural—in addition to the core human rights violations:

> The planned annexation of the traditional lands of the Tamils, the denial of their linguistic rights, the deprivation of their educational and employment opportunities, the disruption of their social and economic existence, the destruction of their natural resources and the mass extermination of the Tamils during riots and military campaigns indicate a genocidal policy (Hero's Day Speech, November 1997).

In 1998, human rights become a significant part of the speech, with 11 separate mentions during the course of the speech. Prabhakaran tries to draw international attention to the human

rights situation in Sri Lanka, pointing out that human rights atrocities in other parts of the world get far more attention.

> Atrocities and injustices committed against the Tamil people for the last several decades have been well-documented and submitted to international forums. […] The civilized world has always given primacy to the universal value of human rights and freedoms. What dismays us is that the countries which lead the civilized world are reluctant to raise their voices against the uncivilized forms of oppression unleashed against the Tamils. […] One day the truths that are buried deeply in the mass graves of Tamil Eelam will emerge from slumber and reveal the true face of Sinhala chauvinism (Hero's Day Speech, November 1998).

In 1999 Prabhakaran offers a human rights rationale for the goals of the LTTE: "The anti-Tamil racist political system—which totally disregards human rights and liberties—offers no alternatives to the Tamils other than to fight, secede, and establish an independent Tamil state" (Hero's Day Speech, November 1999).

At no point in these speeches are there any references to human rights abuses or international humanitarian law norm violations committed by the LTTE, despite attacks on civilians during this time in bombings in Colombo and massacres in villages. The LTTE is not trying to explain or justify their own violations—they simply make no mention of them. The increase in the use of the human rights language towards the end of this period does not appear to be directly connected to events on the ground. For example, there are no specific mentions of attacks in particular areas or on particular days. This may be a function of the nature of the speech, which is more of an annual summary of where the LTTE stands, rather than an indication that the human rights language is adopted for another reason. However, the efforts in 1998 and 1999 to draw the attention of outside actors to the human rights situation of the Tamils by referencing human rights violations in other countries would indicate that these references are strategic, and show an awareness of the importance of human rights discourse and norms at the international level.

The Mature Period: 2000 – 2009

During this period, the LTTE and the government of Sri Lanka agreed to a ceasefire and engaged in peace negotiations mediated by Norwegian intermediaries between 2000 and 2003. However, the inflow of international aid following the tsunami altered the delicate balance between the government of Sri Lanka and the LTTE and, over time, both parties resumed fighting. The Sri Lankan government defeated the LTTE forces in May 2009.

The use of human rights language varied considerably during this period. There were no references at all in some years, while there were peaks at the beginning of the period in 2001 (eight mentions a year) and towards the end in 2007 with 16 mentions. Use of international humanitarian law norms are overall much lower, not rising above three mentions in any one year.

The year 2000 was a year of significant fighting, and yet, there were few mentions of human rights and humanitarian law norms in the annual November speech. Already in negotiations mediated by the Norwegian government, Prabhakaran in this speech positions the LTTE as a legitimate actor, seeking liberation from an occupation of alien forces. The one mention of international humanitarian law paints the LTTE as abiding by these norms, and therefore as a legitimate actor, while the Sri Lankan government portrays the LTTE as an illegitimate terrorist organization. "Tamil Eelam war is conducted within the norms of international humanitarian law pertaining to armed conflict. But the Sri Lanka government has been deliberately distorting the nature of this war and its evolutionary historical background and debasing it as a phenomenon of 'terrorism' " (Hero's Day Speech, November 2000).

In 2001, following the September 11 Al Qaeda attacks in New York and Washington D.C., most of the speech is devoted to portraying the LTTE as a freedom movement, not a terrorist organization. There are, however, also numerous mentions of human rights violations on

the part of the Sri Lankan government alongside this effort to reframe the conflict in Sri Lanka away from terrorism: "[The Sri Lankan] government, holding one of the highest records of human rights violations amounting to genocide, has now joined the international alliance against terrorism" (Hero's Day Speech, November 2001).

After this point, human rights language faded from the speeches until another peak in 2007, when the Sri Lankan government began its two year military engagement to crush the LTTE. This is the only period in which the number of references to international humanitarian law norms is greater than those to human rights norms. Most of these references are to the behavior of the Sri Lankan forces as occupation forces and their behavior towards local civilians.

In 2007, as the Sri Lankan army began its onslaught, Prabhakaran again used human rights language.

> The Sinhala state's war of genocide destroyed the peaceful life of the Tamils. […] The unjust war, the economic blockade, the restrictions on our people's freedom of movement, the killing of thousands, the displacement of hundreds of thousands, have all deeply wounded the Tamil psyche. […] The Rajapakse regime, after unilaterally abrogating the ceasefire agreement, is ruthlessly implementing its military plan to remove the contiguity of the Tamil homeland. It has killed and disappeared thousands of our people (Hero's Day Speech, November 2007).

Another significant theme of this speech was the appeal to outside actors to step in and reignite the peace process, coupled with the suggestion that the Sri Lankan government was responsible for co-opting the peace process, undermining the efforts of outside organizations. The speech also indicates an understanding of international norms at the state level and the connection between human rights, outside actors, and outcomes in other countries, including Kosovo. For example:

> The world's powers, even while taking forward their own geo-political interests, respect human rights and democratic institutions. That is why nations like East Timor and Montenegro broke free of their subjugation and gained their freedom with the help and support of the international community. Even now, the international community

continues to work for the freedom of nations like Kosovo (Hero's Day Speech, November 2007).

Congruence of human rights and international humanitarian law with local culture in northern Sri Lanka

In contrast with the KLA, the LTTE did not draw on a traditional culture with proscriptions for the taking of life. Indeed, there is evidence that the norms within the LTTE were focused on the celebration of death—from the adoption of the cyanide capsules, to the central role suicide bombing played in the struggle, to the creation of new burial ceremonies (see Roberts 2006; Hopgood 2006; and Weiss 2012). The Tamil cause required a high level of devotion from its followers, and Tamil areas under the control of the LTTE were asked to sacrifice everything for the struggle. There were also significant areas of difference between the norms espoused by the LTTE and the international human rights community, one being the use of child soldiers. This would indicate that the LTTE would be less likely than the KLA to adopt international norms of human rights and protection of civilians into their discourse, or to do so less consistently.

The KLA and the LTTE

Overall, there are micro-level fluctuations as the discourse of the groups relates to events on the ground, particularly visible in the case of the KLA, whose frequency of press releases and speeches in the last six months of the conflict in Kosovo allows for a more finely grained week-by-week analysis. There is also a shift observed in the use of human rights and IHL norms as objectives shift over time, showing the adaptive, strategic nature of the use of these norms in the discourse of rebel groups.

Knowledge and use of conventions

A key indicator of the extent to which a rebel group demonstrates its understanding of human rights law and international humanitarian law is the frequency with which specific conventions or treaties are mentioned in the discourse. And in addition to being able to frame the conflict in terms of the concepts expressed in the human rights or humanitarian law conventions, citing them correctly indicates a deeper understanding of the differences. The absence of references to conventions in a group's discourse, however, does not necessarily indicate the lack of knowledge of the conventions. It may indicate simply that the group is not demonstrating its knowledge publicly.

The two groups show a significant difference in this area. The KLA shows a pattern of increasing understanding and use of the conventions in their discourse over time, to the point where it becomes a noteworthy part of their discourse by the end of the war. The LTTE refer to treaties or conventions only three times over the course of the fifteen years under observation.

The KLA and conventions

Over the course of the conflict, the KLA made references to conventions and treaties 95 times. Of these, the vast majority, or 69 (73%), were direct references to international humanitarian law, either the Geneva Conventions specifically or to the laws of war in general. Only one was a direct reference to a human rights convention. The remaining 25 mentions were to unspecified international conventions.

The chart below (Chart 4.2: KLA use of conventions and treaties in the discourse) shows the references over the course of the conflict. Three different types of references to conventions are measured: first, references to international conventions in general; second, references to

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specific human rights conventions; and third, references to the international humanitarian law treaties, namely the Geneva Conventions, Hague Conventions, or the laws of war.

The first reference by the KLA to conventions or treaties is not made until October 1997. It is a reference to the laws of war. And it is not until October 1998 that we see significant numbers of these specific references. In the first reference, the KLA states: "The occupiers are taking revenge with violence and never-before-seen terror against the unprotected and unarmed civilian population. With this barbaric action, Serbia is breaking the international laws of war" (Communiqué 37, October 23, 1997).

Human rights activists have suggested that the KLA was aware of human rights conventions, for example, one human rights activist at a leading human rights organization in Kosovo, Behgjet Shala, said: "most people in the KLA had a basic understanding of human rights. In the war they knew there were international instruments which had to be respected."[128] However, from the data in Chart 4.2 it is clear that the KLA only demonstrated their knowledge after October 1997, and the demonstration of the knowledge increases significantly over time.

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[128] Author interview with Behgjet Shala, Director of the Kosova Helsinki Committee for Human Rights, Pristina, Kosovo, October 2010.

Chart 4.2: KLA use of treaties and conventions in the discourse
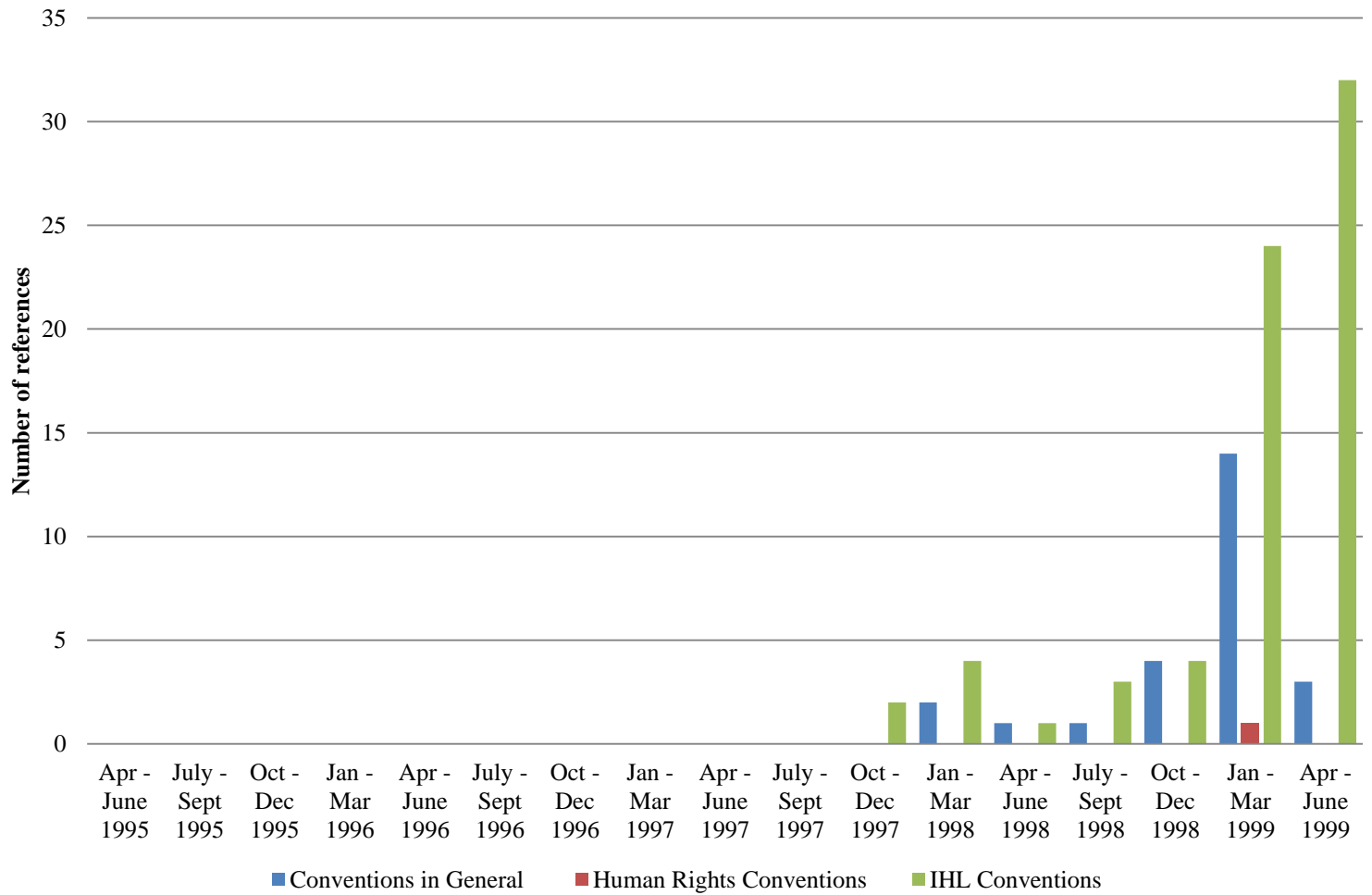
Source: Data were extracted from the KLA documents listed in Appendix 2.

It is noteworthy that the OSCE KVM, tasked with verifying a cease-fire between the two sides, appears on the ground on October 24, 1998. As argued in Chapter 3, this occurs during a key turning point when the KLA felt the need to increase their legitimacy with local and outside actors. In the month of October 1998, there are significant increases in the use of conventions and treaties in the KLA discourse.

At this point, towards the end of 1998, the KLA was recognized by international actors as a legitimate fighting force, and was dealing directly with international actors on the ground on a regular basis. It is likely that the interaction between the OSCE KVM and the troops on the ground, and the implications of that interaction (namely, that the KLA was gaining international recognition as a legitimate party to a conflict), prompted increased diffusion of the language of humanitarian law and highlighted the implications of the recognition of the KLA as a legitimate actor. Members of the KVM interacting with the KLA were well-versed in both human rights law and international humanitarian law.[129] However, as noted by the staff of the mission, the KLA rarely exhibited detailed knowledge of human rights in interviews with the member of the KVM. The Deputy Director of Human Rights for OSCE/KVM explained: "Clearly [the KLA] felt 'victimized' as a collective community and the violent insurgency was a final resort to the abuses of the Serbs, however, in my experience they did not use human rights language to either describe theirs (or their community's) treatment at the hands of the Serbs or their own treatment of their opponent."[130]

One example of a press release from November 1998 mentions conventions in general, but demonstrates little detailed knowledge of the conventions: "Self-restraint was announced, not because we are under any obligation from an agreement, but out of respect for international

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[129] Interview with Stephanie Blair, Deputy Director of Human Rights, OSCE KVM, August 2013.
[130] Ibid.

conventions and to leave scope for politicians and diplomats to achieve a stable and peaceful political settlement in Kosova" (Communiqué 62, November 14, 1998).[131]

When the KLA references the international humanitarian law conventions, they appear to have a good grasp of the conventions, particularly the need to protect civilians during violence. Most of their references are in response to attacks by Serbian forces, and the KLA is at pains to point out that the Serbian side is violating the laws of war: "Being unable to catch our Army units, the occupiers are taking revenge with violence and never-before-seen terror against the unprotected and unarmed civilian population. With this barbaric action, Serbia is breaking the international laws of war" (Communiqué Number 37, October 23, 1997).

There are fewer examples of the KLA announcing that their activities abided by the rules in the Geneva Conventions as they pertain to the behavior of non-state actors towards civilians and prisoners, but these do appear. For example, the KLA notes their activities to help protect civilians on 21 occasions. In August, 1998, they state: "Our strategic withdrawal in order to protect the civilian population was successful" (Political Declaration Number 7, August 13, 1998).

For the KLA, their image of a group fighting a good, clean fight was of utmost consequence. One KLA press officer stated: "The important thing was that the KLA was not a terrorist organization. We were fighting a clean war."[132]

The increasing sophistication in the use of the conventions of international humanitarian law in the discourse of the KLA may be linked to their attempts, over the course of the last year of their struggle, to be seen as a legitimate organization with a formal hierarchy which was in

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[131] Translation provided by the BBC.
[132] Interview with Ardian Gjini, Press Officer for the KLA in the Dukagjini region, Pristina, Kosovo, October 2010.

contrast to their image as more loosely-linked bands of rural fighters. The KLA repeatedly emphasized their restructuring, which began in June 1998, as an indication of their status as the legitimate fighting force of the Albanian Kosovar people. It was also under pressure from outside organizations, such as HRW, to adhere to internationally accepted codes of conduct. For example, HRW reported meeting with KLA's Hashim Thaçi and Fatmire Limaj, in November 1998, to discuss the KLA's commitment to the laws of war, and, specifically, the treatment of Serbian civilians in KLA custody (Human Rights Watch 2001). In addition, towards the end of the conflict, and coinciding with a significant increase in the use of humanitarian law conventions in the discourse, the KLA attracted a number of professional soldiers to their ranks, including Agim Çeku, who joined the KLA in February 1999, and was made Chief of General Staff of the KLA in April of that year.

In terms of demonstrated knowledge of human rights conventions, there is only one reference to a specific human rights convention. In March 1999, there is a reference to the Convention to Eliminate Racial Discrimination (Broadcast, Radio Kosova e Lire, March 12, 1999). The lack of references to human rights conventions is notable, particularly in light of the extensive grassroots human rights monitoring activity throughout Kosovo during this period, as well as the crossover between some of these local human rights organizations and the KLA. For example, the KLA Spokesman from August 1998 until the Rambouillet talks, Adem Demaci, was the co-founder of one of the leading human rights organizations in Kosovo from the early 1990s onwards, Council for the Defense of Human Rights and Freedoms of the People of Kosovo.

The final group of 25 references to conventions is broader and reference either conventions in general, or, more vaguely, "documents of the UN." For example, the following

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reference is vague as to which conventions it cites: "In accordance with the known and sanctioned norms in the Charter and documents of the UN" (Communiqué 45, March 12, 1998). Other references also conflate human rights and international humanitarian law: "The KLA has, for a long time, declared that it respects all the war and peace conventions of the international community" (Political Declaration number 10, September 27, 1998).

It is possible that these were intended to reference human rights documents, such as the UDHR, but without the concrete citation, it is impossible to determine the level of knowledge of the speaker. It is more likely that while the speaker knew conventions existed, he was unable to cite the specific convention itself.

The LTTE and conventions

In contrast with the KLA, the LTTE mentioned conventions or treaties only a handful of times during the period under examination (1993 to 2007). Of those, the most frequent reference was not to human rights law or humanitarian law, but to the right of self-determination. For example, the one mention of the UN Charter references the right of self-determination: "The objective of our struggle is based on the concept of self-determination as articulated in the UN Charter and other instruments" (Hero's Day Speech, November 2002).

On Hero's Day in 2000, Prabhakaran gives his only reference to international humanitarian law in a speech in which he attempts to refute the characterization of the LTTE as a terrorist organization, by presenting the group as a group legitimately struggling for self-determination: "As a nation entitled to the right to self-determination, our people reserve the right to defend themselves by armed struggle against State oppression of genocidal proportions. Therefore, the Tamil Eelam war is conducted within

the norms of international humanitarian law pertaining to armed conflict" (Hero's Day Speech, 2000).

While it is possible to see a development in the sophistication of the KLA's use of conventions in their speech, this is not the case with the LTTE. This may be for a number of reasons. First, that the KLA was interacting with outside actors on a frequent basis from October 1998 onwards, and recognized that these outside actors saw the use of conventions in discourse as a marker of legitimacy. The LTTE's interaction with outside actors waxed and waned and it may be that there was no consistent pressure to incorporate these conventions into the discourse; second, the KLA was undergoing structural changes, becoming increasingly hierarchical, which may have led to increases in the knowledge base of individuals engaged in public statements. The LTTE did not undergo significant changes in its structural hierarchy, and all the speeches were made by the same individual. Finally, the normative environment of the KLA demonstrated higher levels of congruity with international norms than the LTTE, which may have made the KLA more eager to demonstrate their knowledge of the conventions articulating those norms.

Which human rights and humanitarian law norms?

The discourse can be analyzed by types of references to international humanitarian law and human rights law to further parse exactly what the groups were talking about when they use international humanitarian law and human rights norms in their discourse.

The KLA by types of reference

Turning first to the KLA, the table below (Table 4.3: <u>Humanitarian law norm references,</u> <u>by issue</u>) shows the references to different specific norms within international humanitarian law from June 1995 until June 1999.

Table 4.3: <u>Humanitarian law norm references by the KLA, by issue</u>

Humanitarian law issue	Number of references	Percentage of total
Serbs harming civilians	130	45%
Humanitarian law conventions	69	24%
KLA harming civilians	42	15%
Protection of civilians	21	7%
KLA treatment of prisoners of war	19	7%
Serbian treatment of prisoners of war	7	2%
Total Humanitarian law references	288	100%

Source: Data were extracted from the KLA documents listed in Appendix 2.

The majority of the references (45%) accuse the Serbs of harming civilians during the conflict. By comparison, the references to the KLA abiding by the laws of war comprise only 14% of the total references (including the two issues of protection of civilians and the treatment of prisoners of war by the KLA). Thus, the KLA spent far more energy on depicting the Serbs as violators of the Geneva Conventions than they did claiming they were adhering to them. Indeed, an additional 42 references (or 15% of the total, approximately the same number of references as those showing the KLA to be abiding) were references to the KLA harming civilians: either

taking credit for assassinations of Albanian individuals seen as collaborating with the other side, or for the death of Serbian policemen, of whom the KLA hoped to make an example.

As noted above, the amount of attention given to the protection of civilians is relatively small, only 7% of the total. This is surprising given the amount of attention paid to the issue of Serbs harming civilians.

Some attention is given to the treatment of prisoners of war. A total of 9% of the references are to this issue, with the number of references to how the KLA was treating its Serbian POWs being significantly larger than references to how the Serbian army was treating KLA POWs. The majority of these references are to one incident of prisoner-taking by the KLA in January 1999, when eight Serbian soldiers were taken prisoner, and subsequently released after negotiations facilitated by KVM. The KLA emphasized how this incident showed that the KLA was a legitimate fighting force, ready to shoulder a political role at the end of the conflict.

> The Albanian people and the KLA more than once have given pragmatic examples that they stand for a political solution to Kosovo's problem. Is there a better example than to set free eight soldiers of the most criminal army of Europe? Is there a greater generosity? Is there better evidence that the Albanian people and the KLA do not want to take people's lives even when they are soldiers of the invading army? (Political Declaration of the KLA, Number 23, January 17, 1999)

The chart below (Chart 4.3: KLA references to international humanitarian law, by issue) demonstrates the distribution of the issues of international humanitarian law.

Chart 4.3: KLA references to international humanitarian law, by issue
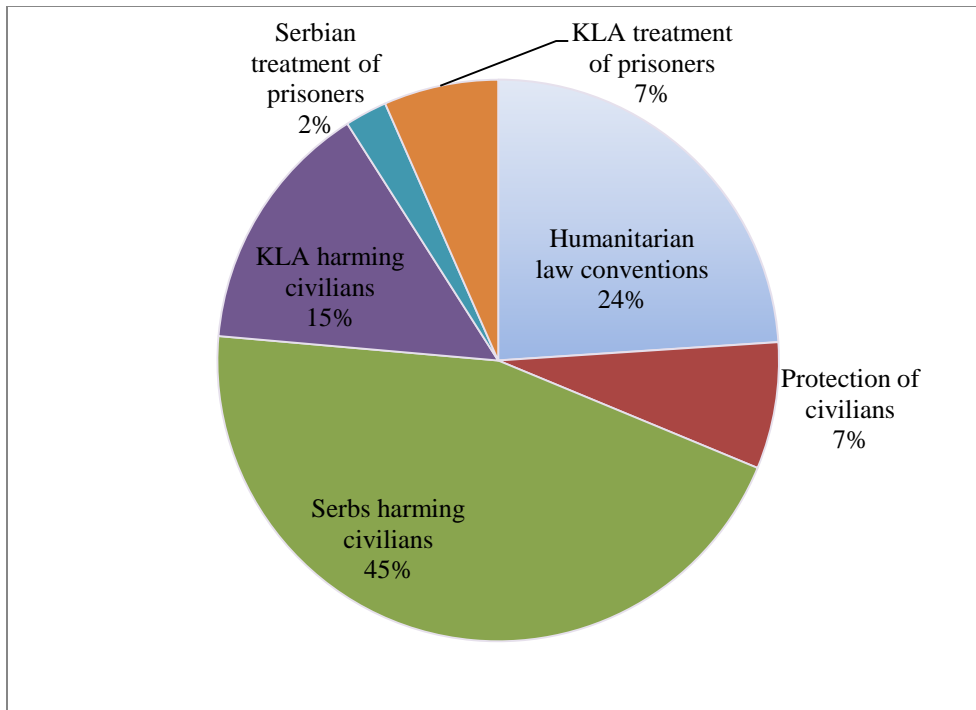
Source: Data were extracted from the KLA documents listed in Appendix 2.

Turning to human rights categories, the majority of the references to human rights are to the right to life, with 131 out of the total 253 references, or 51% of the total, in this category (see Table 4.4: Human rights references by the KLA, by issue, and Chart 4.4: KLA references to human rights issues as a percentage of total human rights references, below).

Table 4.4: Human rights references by the KLA, by issue

Human rights issue	Number of references	Percentage of total
Right to Life	131	51%
Arbitrary arrest and detention	56	22%
General human rights	42	17%
Genocide	14	6%
Torture	5	2%
Economic, social and cultural rights	4	2%
Human rights conventions	1	0%
Total Human rights mentions	**253**	**100%**

Source: Data were extracted from the KLA documents listed in Appendix 2.

The other large, single category is arbitrary arrest and detention, which received 56 mentions, or 22% of the total human rights references. Torture, a powerful human rights norm to reference, gets surprisingly little attention, with only five mentions or less than 2% of all references. This is despite accusations that the government of the Federal Republic of Yugoslavia tortured individuals in detention, particularly military aged-men, but also boys, throughout the conflict (see, for example, Amnesty International 1998; Amnesty International 1999a). The lack of mentions may be because some victims of torture were not released from prisons until after the conflict, while in other cases, those who suffered violence at the hands of the Serbian military or police but were not killed were considered somewhat fortunate. The smallest category, even smaller than references to economic, social, and cultural rights (four references), is to specific human rights conventions (only one reference).

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Source: Data were extracted from the KLA documents listed in Appendix 2.

The prominence of the right to life in the discourse is comparable to the attention paid to

the Serbian forces harming civilians under humanitarian law. Essentially, these two groups of

references describe the same types of events, namely the killing of individual Albanian

Kosovars. They also make up approximately the same proportion of both humanitarian law

references and human rights references. The right to life and the prohibition against killing

civilians are the two cores of both bodies of law, and are the most shocking events to which the

KLA could draw the public's attention. These areas of the international norms are precisely the

area with which the local norms on the prohibition of taking the lives of women, children, and the elderly as articulated in the Kanun have the most overlap.

On the ground, particularly during low level conflict, the distinction between these two bodies of law and these two types of events can be hard to make. It may also rely on legal technicalities that those involved in the day-to-day aspects of the conflict may not be best able to determine, such as whether the overall level of fighting has reached the threshold for conflict at which point international humanitarian law applies. In addition, in this conflict, as in others, exactly who committed the killing may be difficult to determine, and may alter which body of law applies. In the Kosovo conflict, for example, Serbian army troops, police forces, security forces under the Serbian Ministry of Internal Affairs (MUP), and loosely integrated paramilitary forces all participated in the attacks on civilians, sometimes together. Moreover, they sometimes wore different uniforms or switched them, making the determination of whether these where combat troops or regular Serbian policemen difficult, unless the participants were known to the victims themselves (Human Rights Watch 2001). This determination also has direct bearing on which body of law the death of a civilian falls under. For example, the death of a civilian at the hands of the military falls under international humanitarian law, while it falls under human rights law when at the hands of the police.

The LTTE by types of reference

Turning to the LTTE, the table below (Table 4.5: International humanitarian law references by the LTTE, by issue) shows a pattern of references similar to that seen earlier with the KLA: the majority of references to international humanitarian law are to the harming of civilians by the Sri Lankan army. Nearly half of the references (48%) fall in this category. Again, much less attention is given to how the LTTE is abiding by the laws of war, with only one

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reference each to the protection of civilians and to the treatment of prisoners of war by the

LTTE.

Table 4.5: International humanitarian law by the LTTE, by issue

Humanitarian law issue	Number of references	Percentage of total
Sri Lankan army harming civilians	12	48%
Treatment by occupying army	7	28%
Humanitarian law conventions	4	16%
Protection of civilians	1	4%
LTTE treatment of prisoners of war	1	4%
LTTE harming civilians	0	0%
Sri Lankan treatment of prisoners of war	0	0%
Total Humanitarian law references	25	100%

Source: Data were extracted from the LTTE documents listed in Appendix 4.

One significant difference between these data and the data from the KLA is that the

LTTE refer to treatment of civilians by an occupying army seven times, while the KLA never

once refer to this aspect of international humanitarian law. The Geneva Conventions apply

whenever territory comes under the effective control of hostile foreign armed forces and outline

what the behavior of the occupying troops should be in that case.[133] The use of this language by

the LTTE served to express their belief that the north-east territories of Sri Lanka were already a

separate state and to affirm that the Sri Lankan troops should be considered a foreign occupying

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[133] The duties of the occupying power are spelled out primarily in the 1907 Hague Regulations (articles 42-56) and the Fourth Geneva Convention (GC IV, articles 27-34 and 47-78), as well as in certain provisions of Additional Protocol I and customary international humanitarian law.

army. An example of this type of reference describes the Sri Lankan military presence in

northern Sri Lanka as follows: "The military occupation is suffocating the civilian masses and

causing tensions…The occupying forces are using the civilians as their protective shields"

(Hero's Day Speech, 2002).

In terms of human rights and the LTTE, the following table shows the distribution of

references by human rights issue (Table 4.6: <u>International human rights references by the LTTE,</u>

<u>by issue</u>). Three issues are most dominant in the discourse: the right to life (29% of total

references), genocide (29%), and general references to human rights (26%). Taken together,

these three account for 84% of the total references to human rights. References to the right to

life, as in the case with the KLA, are to Tamils being killed by the state. The focus on right to life

by the LTTE is a reflection of the dire human rights situation in Sri Lanka during the course of

the conflict. A UN report from December 1998 showed that Sri Lanka led the world in the

number of disappearances, with 77 in 1997 alone, and over 12,000 registered at that time, many

of which were later confirmed as deaths.[134]

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[134] See Report of the United Nations Working Group on Enforced or Involuntary Disappearances of 28
December 1998 (UN Document E/CN.4/1999/62). "Disappearances" are defined in the UN Convention Against
Torture as "the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by
persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a
refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared
person, which place such a person outside the protection of the law."

Table 4.6: International human rights references by the LTTE, by issue

Human rights issue	Number of references	Percentage of total
Right to Life	19	29%
Genocide	19	29%
General human rights	17	26%
Economic, social and cultural rights	5	8%
Torture	3	5%
Arbitrary arrest and detention	2	3%
Human rights conventions	0	0%
Total Human rights mentions	**65**	**100%**

Source: Data were extracted from the LTTE documents listed in Appendix 4.

Frequently, these references are made in conjunction with accusations of genocide against the Sri Lankan government. For example, in 1996, the LTTE accused the Sri Lankan government of pursuing a policy of genocide alongside accusations of numerous human rights violations, including murder (a right to life violation): "The incidents of arrests, detention, torture, rape, murder, disappearances and the discovery of the disappeared in mass-graves reveal that a covert genocidal policy is practiced in the army controlled areas" (Hero's Day Speech, November 1996).

The relative lack of references to torture (5%) is surprising given that torture was allegedly one of the most common human rights violations in Sri Lanka during the conflict (Amnesty International 1999b). This rate is similar to the rate observed in Kosovo, and may

likewise be because torture typically occurs in private settings (within prisons or detention), and as a result may be less visible and less known to the public than other human rights violations.

One human rights issue in Sri Lanka to which Prabhakaran makes no reference in his annual speeches is the issue of child soldiers. Children had been actively recruited and used in the LTTE battalions since the earliest days of the conflict (Gunaratna 1998). As a result, the LTTE was under significant pressure to curb this practice from international groups, such as HRW, and from international organizations, such as the United Nations Children's Fund (UNICEF). The LTTE made repeated public pronouncements about ending recruitment and use of child soldiers in May 1998, February 2001, and January 2003.[135] Finally, a commitment by both the LTTE and the Sri Lankan government, the Action Plan for Children Affected by War, was signed in 2003. This agreement was negotiated by UNICEF. It provided for ways for children to be released from duty as soldiers (Human Rights Watch 2004). In the annual speeches, no mention is made of child soldiers—an indication that this human rights issue had no or little resonance with his intended audience. As demonstrated by the continued use of child soldiers up until the end of the conflict in 2008, there was no congruence with this norm and local norms.

To sum up, both the KLA and the LTTE focused on the most extreme form of violations, namely deaths of civilians at the hands of the state during the conflicts. References to events described by each group can be seen as references to both human rights violations and violations of international humanitarian law. On the whole and with regard to humanitarian law issues, both groups focused on showing how the state was violating this body of law, rather than on how

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[135] In May 1998, the UN Under-Secretary General for Children and Armed Conflict, Olara Otunnu, secured a pledge from the LTTE not to use children under 18 in combat; in February 2001, the LTTE made the same pledge to UNICEF deputy director, Andre Roberfroid; and in Janaury 2003, UNICEF executive director, Carol Bellamy, met with the LTTE (Human Rights Watch 2004).

they themselves were abiding by the body of law. Protection of civilians was mentioned relatively infrequently by either party, as was the treatment of prisoners of war. After the right to life, the other human rights issue frequently mentioned was genocide, particularly by the LTTE, who tried to paint the Sri Lankan government as having a genocidal policy towards Tamils in Sri Lanka. Two human rights issues, torture and arbitrary arrest and detention, are not appealed to very much by either group, despite being well documented during both conflicts. This may indicate a preference by the groups to draw attention to the most shocking and visible types of violations.

4.3 Conclusions

Overall, it seems that rebel groups are making use of the international norms of human rights and international humanitarian law in their discourse. There are similarities in the patterns of usage of these norms between the two rebel groups under analysis, as well as significant differences. The similarities include the types of human rights violations and international humanitarian law issues cited: in both cases, the groups referred to the loss of human life and the death of civilians most frequently. Another similarity was that human rights references were on the whole more prevalent than international humanitarian law references, despite the apparent convergence on a common issue—namely the loss of civilian lives.

In terms of the arc of norms usage for the KLA, there was a lag before the KLA began using either human rights norms or international humanitarian law to frame their conflict, but once they did, the usage of these international norms increased to become a significant part of their discourse. At the beginning of the period under consideration, the Underground Period, the KLA made no references to human rights or international humanitarian law, and demonstrated no real understanding of either of these international norms. Indeed, they take credit for human

rights abuses and war crimes, indicating a failure to see these norms as relevant to their struggle. By the Emergent Period, the KLA had begun using human rights language. This period also saw a swing towards improved public perception of the KLA. In the Mature Period, the KLA began to use these international norms with dual purpose, both in a critique of Serbian troops and to bolster their legitimacy. An important theme to notice in the discourse of the KLA at this time is the emergence of the frame which presented the KLA as a group which did not attack civilians. This frame developed during the Emergent Period and grew to be part of the essential identity that the KLA presented to the public.

The arc of norm usage for the LTTE is less straightforward. The LTTE had three different peaks in the number of references of human rights norms and international humanitarian law norms, in 1998, 2001, and 2007. One of these occurred in 1998, and coincides with the increase in the references of these norms by the KLA. It is possible that both groups were responding in the same way to changes at the international level, such as the increase of enforceability measures, and were presenting their struggles in the most favorable way they could by incorporating human rights language and international humanitarian law norms.

The LTTE referred to international humanitarian law norms with much less frequency than to human rights norms, and their use does not appear to be connected to human rights norms in the same way that they are with the KLA. It is likely that the LTTE felt less need than the KLA to be taken seriously as a fighting force by referencing international humanitarian law, given the size and structure of the force that the LTTE had established. The KLA, on the other hand, struggled to be seen as more than a diffuse, unstructured group of untrained fighters, and their adoption of international humanitarian law into their language was a way to signal that they were a more sophisticated fighting force. In addition, there was less congruence between the

LTTE's local norms regarding the protection of civilians than seen in the case of Kosovo, where local norms reinforce the idea of protecting certain categories of civilians.

Demonstrated knowledge of conventions and use of specific norms

The analysis of the use of conventions in the discourse provides a closer look at how firm a grasp the leaders of the groups have on the specifics of human rights norms and humanitarian law. On this issue there is a significant difference between the KLA and the LTTE. The KLA mentioned conventions fairly frequently, while the LTTE hardly do so at all. The KLA referred to the Geneva conventions (or the laws of war) the most, but only made one reference to a human rights convention. The increase in the use of the international humanitarian law conventions occurs during the period when the KLA was struggling to be seen as a legitimate political actor and knowledge of the Geneva Conventions might be a tool to demonstrate this legitimacy with international actors with whom they were interacting. The LTTE only referenced conventions four times during the 15 years under analysis, and showed little change over this time.

The analysis of which specific norms or violations drew the most attention from the rebel groups revealed that both groups focused on violations by the government forces, rather than on depicting themselves as abiding by the same laws. Regarding international humanitarian law, the focus was on the protection of civilians, primarily on the government forces' violation of this norm. The KLA pointed to Serb forces harming civilians seven times more frequently than they mentioned the efforts of the KLA to protect civilians. The human rights references were overwhelmingly to the loss of life, but mentions of arbitrary arrest and detention made up a significant percentage of the references. The LTTE similarly focused on the Sri Lankan government forces harming civilians, the loss of life and genocide. In both cases, there were

surprisingly few mentions of torture, a relatively strong international norm, which may be a result of how torture is a hidden phenomenon, the full extent of which may not be known during the heat of a conflict. The focus on the state was part of an overall strategy to delegitimize the state and its actions; however, the timing of the peaks in the discourse also indicate the international norms were used at points when it was vital for the group to be seen as legitimate by outside actors.

The similarities between which specific norms are used most frequently in the discourse and the situations that they describe does suggest, however, that there might be an additional complication: confusion on the part of the speaker over the differences between human rights law and international humanitarian law. In the example of the KLA, both human rights norms and international humanitarian law were drawn on frequently to describe the same incident, indicating that either the distinction between the bodies of law was not clear to the speaker or that there were strategic reasons for using both at the same time. The use of humanitarian law language appeals to one type of audience, and offers certain types of benefits, while the use of human rights language matters to a different audience and offers alternate benefits. Humanitarian law language supports the perception that a group was of equal status as an adversary to the government forces, while the use of human rights language emphasizes the identity of the dead as victims. As Donnelly contends, "human rights is the language of the victims and the dispossessed" (Donnelly 2006: 20).

Both of these frames would be useful at different times, from a strategic point of view. In addition, while pointing out that humanitarian law violations were occurring might help with the status of a group as a political challenger, a fighting force, no outside state will intervene militarily to stop these. Human rights abuses, however, are another matter. The norm of

humanitarian intervention, that is, military intervention to halt human rights abuses in another state, was emerging during the 1990s, and was ultimately used to provide legitimacy for intervening in one of the cases at hand, Kosovo.

One possible explanation for the use of human rights discourse by these rebel groups might be that they started to use human rights language at a time when human rights discourse itself was introduced to the country. However, the evidence presented in this chapter indicates that this is not a particularly strong explanation. For example, human rights language in Kosovo was present in the discourse of groups in the early 1990s, significantly prior to when the KLA began incorporating this language into its discourse. In addition, a number of KLA soldiers had been involved in human rights activism in Kosovo from the early 1990s onwards, before joining the KLA, but the use of human rights language by the KLA as a whole comes much later.

Another possible explanation is in the connection of these norms in the discourse to local events, such as particularly egregious actions by the government troops or police force. In the case of the KLA, there is fluctuation in the use of the norm with local events: there is an increase in human rights and international humanitarian law language at or around the time of specific massacres, such as the Recak massacre in January 1999. However, the connection is not always as close. For example, there are also other massacres, such as the attack on the Jashari family in Prekaz in March 1998, which did not provoke spikes in human rights or humanitarian law language. This would suggest that the other variables, such as the importance of the presence of outside actors, and the importance of the resonance of the international norm locally, are also important in determining how and when international norms are incorporated into the rebel groups' discourse.

A third explanation, emphasizing the influence of outside actors, would suggest that increases in human rights and humanitarian law norms would follow after periods of significant interaction between rebel groups and international actors. In the case of Kosovo, there is a significant increase in the use of these norms, particularly international humanitarian law norms, in November 1998, the same time as there is a large jump in the numbers of international actors on the ground dealing directly with the KLA. This was the period in which the KLA was engaged in negotiating a ceasefire and was having repeated interactions with diplomats, OSCE monitors, and international human rights advocates (e.g., HRW). However, as mentioned above, the increase in the use of these norms first begins in the fall of 1997, predating much of the intense activity of the international actors.

Chapter 5: "We were fighting a clean war": Rebel groups and the norm against the practice of terrorism

Rebel groups, insurgencies, and armed opposition groups are frequently labeled terrorists by the states they oppose. While there is no agreed upon definition of what constitutes acts of terrorism and states and academics alike struggle to define the concept, it is clear that being labeled a terrorist group has consequences for that group, both politically and financially. The label undermines its legitimacy at home and abroad, and as a result, groups find the need to contest that label and do so in a variety of ways.

This chapter examines the use of the norm against terrorism in the discourse of two groups: the Kosovo Liberation Army (KLA) and the Liberation Tigers of Tamil Eelam (LTTE), and analyzes the pattern of usage in the context of the events on the ground during each group's struggle. It analyzes to what extent the evidence for the use of the term terrorism in the discourse of the two groups helps answer the central questions of this work: whether the groups use the international norm strategically to boost their legitimacy; whether the norms against terrorism are reinforced by the presence of outside actors; whether the degree of hierarchical structure alters how the discourse is used; and, finally, whether differences in local normative culture can explain differences in the use of norms between groups.

In this chapter, the evidence presented shows that both the KLA and the LTTE expend energy to avoid defining themselves as terrorists or being defined by others as terrorists. Both groups are, therefore, aware of the negative implications of being labeled a terrorist group—and demonstrate an awareness of what the ensuing loss of legitimacy might mean for the group. In addition, both groups spend considerable energy trying to portray the state as a terrorist state (in

both cases, close to three quarters of the references to terrorism are to the state as a terrorist).

The portrayal of the state as a terrorist state is one way the groups hope to delegitimize the state and call into question its right to continue to govern.

The analysis in this chapter further demonstrates that armed groups follow the changes in the hegemonic discourse, and match their discourse to changes at the international level. Major changes in discourse at the state level are reflected in changes in discourse at the non-state level. The change in discourse of the LTTE regarding terrorism was significant in 2001 after the Al-Qaeda terror attacks of September 11, 2001, in New York and Washington D.C., events which precipitated a major shift in discourse and behavior on the part of states towards terrorism. In addition, the KLA, which began its operations in the mid-1990s, at a time when there was an increasing move on the part of states away from supporting terrorist activities, took great pains to point out their operations were not those of a terrorist group.

The question of why certain norms are adopted by these non-state actors and not others is partially answered by this examination of the language of terrorism: the evidence indicates that norm resonance does explain why the norm against terrorism is adopted into the discourse of rebel groups. Those groups with internal normative cultures (either adopted or created) which prohibit or condone certain activities are more likely to adopt international norms or the language of those norms, which also prohibit or condone those activities. The different ways the KLA and the LTTE engage with the norm against terrorism is reflective of differences in internal normative cultures.

At a more detailed level of analysis, the changes in the discourse of these groups do indicate that they were responding to the presence of outside actors and increased their efforts to engage with the norm of terrorism when outside actors deemed likely to influence the outcome

of the conflict were present. In the case of the KLA, the increases in the denial of terrorist activities occurred at turning points for the KLA's legitimacy: first when it was making its case to the Kosovar people, and second, when it was imperative for the KLA to appear to be legitimate to outside actors on the ground on two occasions: the first during the monitoring of the ceasefire at the end of 1998, and the second, during the run up to and during the peace negotiations in Rambouillet, France.

The analysis in this chapter does not, however, support the hypothesis that changes in the internal structure of rebel groups toward a more hierarchical structure influences the discourse in a positive manner. The analysis does not show a clear connection between changes in the internal structure of the groups and the increased or diminished use of the language of terrorism in the two groups.

This chapter will begin with an examination of what terrorism might be and the evolution of the concept of terrorism. It then considers the changes in the norm over recent decades. The sections which follow present data from two cases, the KLA and the LTTE, and provide a detailed discourse analysis of how the norm against terror is used by the two groups. The chapter concludes with a brief comparison of the two groups and the overall conclusions.

5.1 Terrorism: The evolution of the concept

Since the definition of what exactly constitutes terrorism cannot be broadly agreed upon, the labeling of acts as terrorism, or a group as a terrorist group is not a neutral exercise of semantics. Rather, terrorism is a political label: it is "an organizing concept that offers a moral judgment" (Crawford 1993): 9). States typically accuse any group using violence within their borders as a terrorist group, particularly those groups which threaten the state and state security directly. When confronted by a separatist group, states tend to try to frame the conflict as a

terrorist threat in order to disguise any ethno-nationalist causes of the conflict (Pokalova 2010).

The use of the terrorist label often has a prescriptive policy relevance as well as moral

connotation. For example, if a group is placed on a Terrorism Watch List it may be subject to

sanctions and suffer loss of material support. The use of the word terrorism is a political

language and it has an effect on the perceptions of the audience, and their expectations of how a

problem described as terrorism will be treated. For example, Richard Jackson's analysis of the

discourse surrounding the so-called "war on terror" explains how the language of terror and the

use of the word terrorism have affected its American audience and policy in areas as diverse as

banking, finance, and the treatment of prisoners (Jackson 2005).

Governments have increasingly been officially designating certain groups as terrorists, a

designation which typically carries significant costs for the groups including a possible reduction

in funding, restrictions in movement of those associated with the group, and loss of legitimacy.

The US Government was the first to do so in 1997, with its Foreign Terrorist Organization list.

Other countries have followed. For example, the United Kingdom (UK) has maintained a list, the

Terrorism Act, since 2000. The European Union (EU) maintains two lists, one for groups

associated with Al-Qaeda and one for other groups. Each of these lists, while similar, do have

significant differences from the others. Beck and Miner argue that the variation in the

designation lists is more a result of social construction than a reflection of differences in the

actions by the groups themselves (Beck and Miner 2013). Comparing the lists compiled by the

US, EU and UK, Beck and Miner find only one quarter of groups designated as terrorist groups

are common to all lists, despite increasing standardization in mechanisms for the designations,

leading them to conclude that these legal classifications of terror derive more from local symbols

of threat, than actual assessments of danger.

The notion that states can commit terrorism has been largely rejected by states themselves, a position supported by the United Nations. The UN Secretary-General, in his 2005 report "In Larger Freedom," stated: "It is time to set aside debates on so-called 'state terrorism.'" And he went on to argue that "the use of force by states is already thoroughly regulated under international law" (United Nations 2005).[136] Some scholars have agreed. For example, historian Michael Hor states that "even when definitions of terrorism allow for state terrorism, state actions in this area tend to be seen through the prism of war or national self-defense, not terror" (Hor 2005: 20). For some academics focused on the field of terrorism, however, the agreement of academics with states on this issue is a troubling development and has led to a myopic state-centric view of terrorism and violence within the field (Jackson 2008). Despite this resistance, terrorism is a term now largely used for non-state actors, and these actors must engage with this terminology and contest it in order to avoid the negative consequences of being labeled a terrorist or being placed on one or more states' terrorist lists.

Part of the confusion over the definition of terrorism stems from the constantly evolving nature of the definition. Initially used during the French Revolution to refer to violence used as an instrument of control to consolidate the power of the new revolutionary state, terrorism evolved to refer to acts by non-state actors against the state, such as Gavrilo Princip's assassination of Archduke Franz Ferdinand in Sarajevo in June 1914. In the 1930's it evolved again to refer to the systems of repression developed by states against their own people, and was applied to the Nazi regime in Germany, and Stalin's regime in the Soviet Union (Hoffman 1998: 23).

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[136] Some states do, however, still get labeled as terrorist states by other states. Israel is one state that frequently receives this label. For example, as recently as 2012, the Turkish Prime Minister Tayyip Erdogan argued that Israel was a terrorist state following its bombing campaign in Gaza (IHT 2012).

After the end of World War II, it again took on revolutionary connotations, and was applied to groups fighting colonialism. The term "freedom fighters" also gained currency during the 40s and 50s, as members of these groups and their supporters argued that those fighting colonial oppression were not terrorists, but fighting for their freedom. Thus, a subjective distinction was drawn between terrorists and freedom fighters: terrorists were those who were fighting oppression with violence, and labeled terrorists by some states, while freedom fighters were those fighting for independence from colonialism, and labeled thusly by other states. A number of states, particularly newly independent states, continued to offer support for those labeled terrorists. In fact, those states considered the use of the term terrorist to be part of the oppression exerted by stronger parties in a struggle which was, in fact, legitimate. This debate over the use of the terms "freedom fighters" or "terrorists" continued and was at the heart of why international organizations such as the UN were unable to address terrorism head on until the attacks on September 11, 2001, when the debate took a back seat (Boulden and Weiss 2004).

Many struggles against colonialism (for example, in Algeria, Vietnam, and India) justified the use of terror in the fight for self-determination. More recent examples of groups justifying the use of terrorism as a strategy include Hamas in Israel and Palestine, and the Tamil Tigers in Sri Lanka. Since the 1950s, however, most groups that take up violence to support their cause try very hard to avoid being labeled as terrorists. Groups taking up violence, however, did use and continue to use the terms terrorism and terrorist to describe the state with whom they were fighting.

Primarily as a result of Cold War politics, the UN Security Council was unwilling to regard terrorist acts, regardless of their severity, as a threat to peace and security until the end of the Cold War (Saul 2005). It was not until 1985 that a UN Security Council resolution first used

the term "terrorism."[137] This was followed by resolutions in 1988 and 1989, which treated all acts of hostage taking and abduction as manifestations of terrorism, indicating that it was the acts, rather than the motivations behind the acts, which the Security Council considered to be terrorism.

During the 1990s, states began slowly developing a consensus about the illegitimate nature of terrorism, marking the emergence of a norm at the state level prohibiting terrorism, and which we now see occurring more vigorously in the post-September 11 world. The changes included more engagement by the UN Security Council as it began issuing the first sanctions for the support of terrorism against Libya in March 1992, followed by Sudan, in 1996, and the Taliban, in 1999. Sanctions stigmatized terrorism as an illegal activity that needed international attention and response (De Jonge Oudraat 2004: 153). Since the attacks of September 11, 2001, the public delegitimation of terrorism has increased. States' support of activities which can be labeled terrorism has come under more criticism than before that date.

In sum, while there continues to be no overall consensus about the definition of terrorism, there was a gradual change at the state level in the norm against terrorism over the course of the 1990s with increasing steps taken by states to stigmatize non-state actors using terrorism and states supporting those actors. This change was not dramatic, but several steps, such as the increasing use of official terrorist designation lists by states after 1997, put groups using violence under additional pressure to avoid the label of terrorist. The pressure to do so increased dramatically after the September 11 attacks. At the same time, states continued an effort to limit the use of the term terrorist to apply only to non-state actors rather than to states themselves. For

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[137] See S/RES/579 (1985) which expressed grave concern at the recent number of hostage-taking episodes which had taken place in the previous year following the hijacking of airplanes on flights from Kuwait and Egypt, among others.

their part, non-state groups continued to try to use the same labels as states, and continue to try to frame the states as terrorists, which became increasingly difficult as the anti-colonial period waned.

5.2 Terrorism and the KLA

Overview

The KLA was accused of being a terrorist group by the Serbian government from its very beginnings. As a group, the KLA struggled against this label and behaved as if being seen as a terrorist group would undermine its legitimacy, both at home and abroad. The KLA came to see themselves as a group which was fighting a clean fight, and was very conscious of the importance of communicating that perception to outside actors. Beyond public perception, however, being seen as a group that eschewed terrorism and terror tactics became a core identity for the members of the KLA themselves. It is in the formation of this core identity that we can see congruence between local norms and the norm against terrorism. Their identity as a group that was not a terrorist group was seen as key to the legitimization process by the KLA members. In addition, members of the KLA were very clear that they believed the actions of the group helped shift international public opinion towards the group away from seeing it as a terrorist organization, and that that change was central to their success.

When events occurred that could be considered the use of terrorist tactics, the KLA would frequently deny their involvement. The denial of the events is significant because it points to an awareness of the norm and the violation of the norm. This was true from the beginning of the violent activities of the organization in 1995. This would indicate that the KLA had already internalized the norm of terrorism and what it meant to be a terrorist and was trying to take steps to ensure their behavior would not be seen as following traditional terrorist models.

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At the same time, during their active period, from mid-1995 to June 1999, in addition to attacks on the military, the KLA's actions led to accusations of attacking policemen and police stations, placing explosive devices in public areas, assassinating Serbian and Albanian officials and citizens, abducting or taking hostages, and downing an aircraft. All of these accusations could be and were framed as terrorist activities. The Serbian government and officials from other states (including the United States in the spring of 1998, a position from which they later withdrew) dubbed the group a terrorist group. Typically, the KLA response was either to deny that they, as a group, were involved in the incident, or to explain their activities as not being terroristic in nature. The KLA often explained that their conflict was with the Serbian government, and not with the Serbian Kosovars living and working in Kosovo.

KLA discourse analysis

The KLA made use of the concepts of terrorism and terror in their discourse throughout the period under examination. While the frequency of use varies, the KLA introduced terrorism into their discourse with their very first communiqué in June 1995.[138] Their use of the term terrorism in their language continues throughout the period under observation until the last days of the open conflict in May and June 1999, when references to terror or terrorism were made in the KLA-sponsored radio broadcasts on Radio Free Kosova (RKL). As with the analysis in the preceding chapter, the focus of this analysis is on the changes in the use of the language of terrorism by the KLA, not on whether, or by whom, specific acts were considered terrorism.

There are two distinct ways the concept of terrorism was used: the first was an attempt to label the Serbian state as a terrorist regime, as part of an effort to delegitimize it; and the second was an attempt to deny the activities of the KLA could make it a terrorist organization. By

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[138] This early date is of note, as the KLA did not introduce other international norms, such as human rights and international humanitarian law norms, until much later in the conflict.

framing the conflict as one of a group of liberation fighters or freedom fighters fighting a

terrorist regime, the KLA was attempting to control the framing of the struggle and thereby

increase support for their cause. At the same time, it was important for the KLA to refute the

label of "terrorists," both for their standing with the home audience and the international

audience they hoped to sway in favor of their cause. The Serbian state and media had dubbed the

KLA a terrorist organization from its inception, and was thereby coloring its own actions against

the group as legitimate counter-insurgency activities. Even before the first official communiqué

had been issued by the KLA in June 1995, their activities in Kosovo had been dubbed terrorist

activities by the Serbian press. For example, the assassination of the High Inspector of the

Serbian police in Gllogovc, Lutfi Ajazi, on November 9, 1994, was condemned as an attack by a

terrorist group in the Serbian language paper, *Večernje Novosti*, as reported by the Kosovo

Information Center on November 12, 1994 (*Rilindja* 1994). By June 1996, the Serbian political

parties had begun condemning the attacks by the KLA as terrorist attacks (*Tanjug* 1996).

  The chart below (Chart 5.1: <u>Terrorism in the discourse of the KLA</u>) shows the frequency

of the use of the terms "terrorism," "terrorist," and "terror" in the discourse of the KLA over

time, broken down into the two opposing ways the terms were used: against the Serbian state

("Serbian state as terrorist") and to bolster the position of the KLA as liberation or freedom

fighters, rather than terrorists ("Denial of KLA as terrorists").

Chart 5.1: Terrorism in the discourse of the KLA
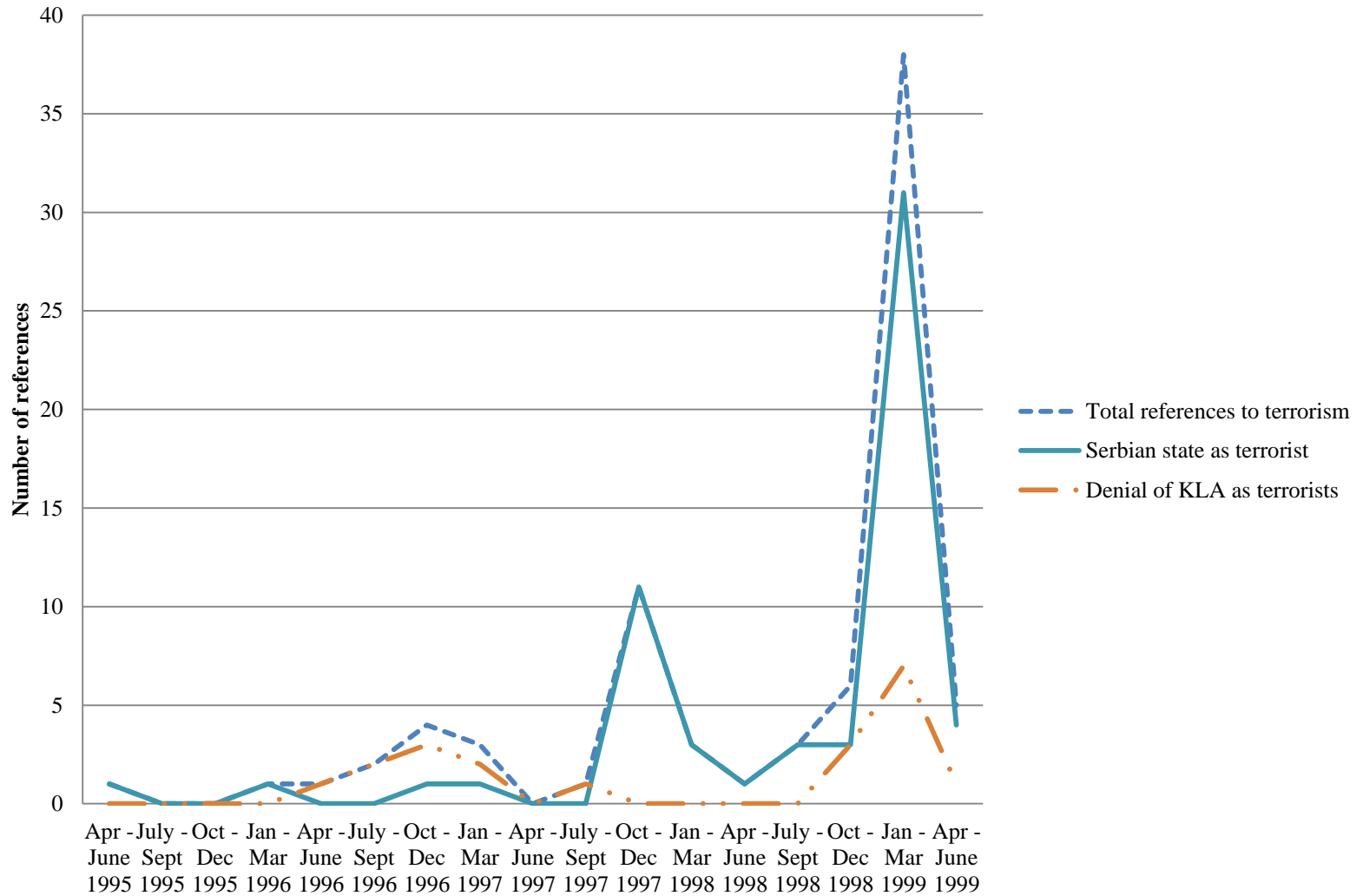
Number of references (y-axis): 0, 5, 10, 15, 20, 25, 30, 35, 40

x-axis:
Apr - June 1995, July - Sept 1995, Oct - Dec 1995, Jan - Mar 1996, Apr - June 1996, July - Sept 1996, Oct - Dec 1996, Jan - Mar 1997, Apr - June 1997, July - Sept 1997, Oct - Dec 1997, Jan - Mar 1998, Apr - June 1998, July - Sept 1998, Oct - Dec 1998, Jan - Mar 1999, Apr - June 1999

Legend:
- - - - Total references to terrorism
——— Serbian state as terrorist
— · — Denial of KLA as terrorists

Source: Data were extracted from the KLA documents listed in Appendix 2. The documents were coded for the use of the terms "terror," "terrorism," and "terrorist" and categorized into two groups: references to the Serbian state and to the KLA.

Overall, of the total 81 references to terrorism, approximately three quarters of these, or 62 references, are in relation to acts committed by the Serbian regime, and dubbed state terrorism. One quarter of the total, or 19 references, refer to the activities of the KLA. Thus, the KLA found it far more important to paint the Serbian regime as terrorists (and therefore, by implication, illegitimate), than to deny that their own activities were terrorist in nature. Indeed, members of the KLA say their best defense was not to fight the label of terrorist with words of their own, but with behavior.[139] They claimed that not adopting terrorist behaviors was the best defense against being termed terrorists, rather than attempting to deny it. Fighting "a clean fight," argued Rexhep Selimi, a member of the KLA General Staff and key battleground commander, would allow the KLA to refute such charges by demonstrating the claimed honorable nature of not only their cause, but their actions, as well.[140] That said, the KLA did expend some energy in denying in their public statements and speeches that they themselves were a terrorist group.

A second chart (Chart 5.2: Saturation of terrorism in the discourse of the KLA) shows the use of the term in the media items, controlling for the number of media items. The frequency of media items varied considerably over time, increasing by many multiples by the end of the conflict. In order to control for this variation, a calculation of how frequently the term was used per media item (termed "saturation") was used. This chart throws into greater relief the effort the KLA spent in different periods using the term terror or terrorist.

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[139] Rexhep Selimi, Member of the KLA General Staff, interview with author, Pristina, October 2010.
[140] Ibid.

Chart 5.2: Saturation of terrorism in the discourse of the KLA
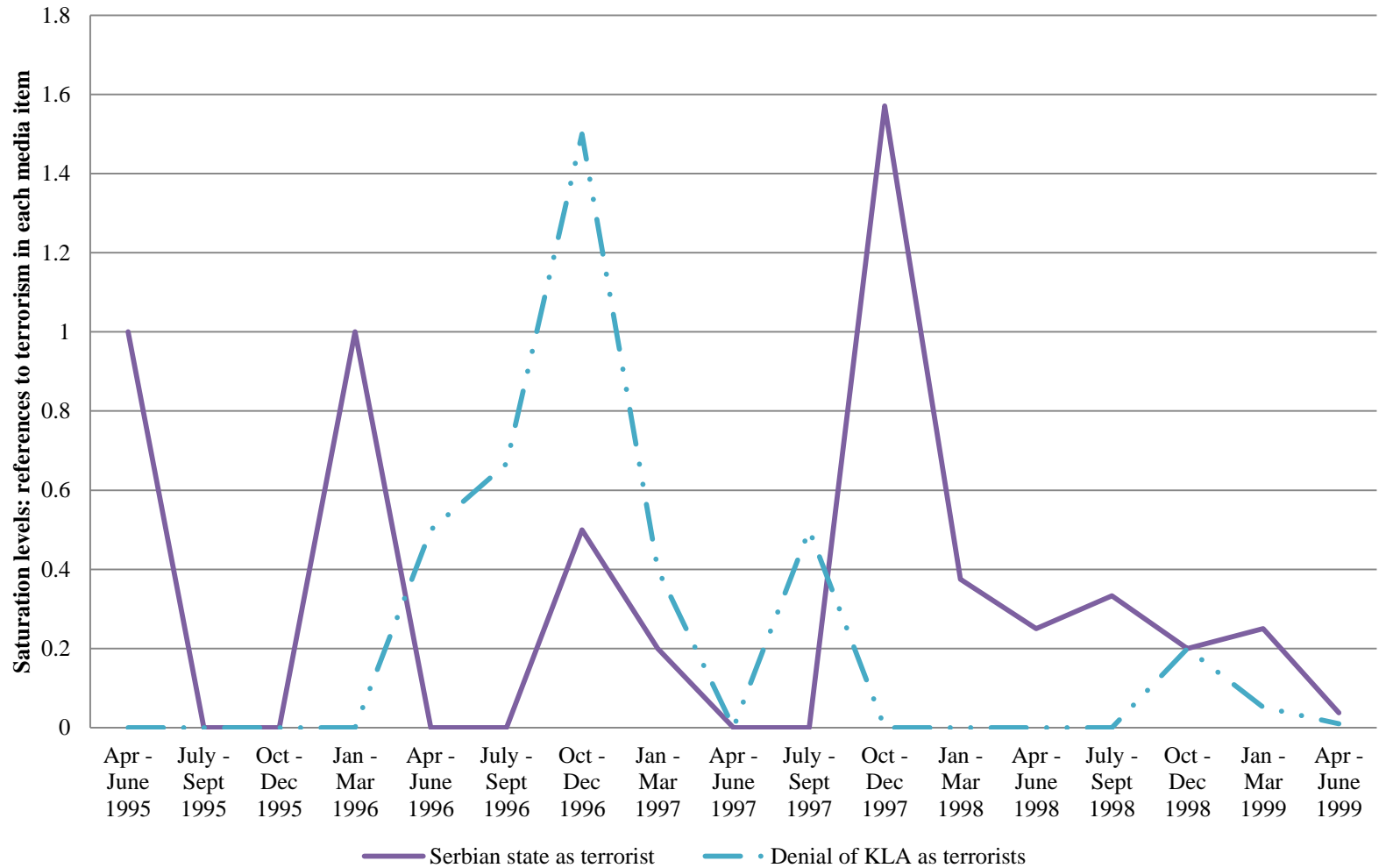
Source: Data were extracted from the KLA documents listed in Appendix 2. The documents were coded for the use of the terms "terror," "terrorism," and "terrorist" and categorized into two groups: references to the Serbian state and to the KLA. Saturation measures how many references are made to terrorism per media item, controlling for the variation of the number of media items produced each quarter.

Denial of KLA as terrorists

The attempts to deny that the KLA were terrorists appear to occur in two waves. These waves are first from April 1996 to March 1997, and then from October 1998 to March 1999. They were critical periods for the KLA to present their case to a larger audience and during which it was essential that they not appear as terrorists. The first was at the beginning when the KLA was emerging from the shadows (during the Underground Period from June 1995 to October 1997) and was making its case to the local population, the Kosovar community in exile, and more broadly, international organizations and other states.[141] This period shows the highest saturation of the use of the term terrorism in the discourse. A key question is why it was so important for this group to establish this identity so early on, when the earliest audiences were mainly local. Although the KLA hoped that outside governments were paying attention to their faxed press releases, during the Underground Period the KLA went largely unnoticed.

The second wave occurs when the struggle had already attracted foreign attention and the Organization for Security and Cooperation in Europe Kosovo Verification Mission (OSCE-KVM) was on the ground in Kosovo from October 1998 to March 1999. It was the period when the KLA were meeting with and interacting with outside observers on a regular basis, and making their case as law-abiding freedom fighters in the run up to the conference in Rambouillet in February 1999.

Why the KLA focused on denying that they were a terrorist group during the first wave is arguably connected to how their actions would be perceived through the prism of local norms. In the case of the KLA, such local norms are embodied and understood through the laws of the

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[141] For the purposes of this research, the time in which the KLA was active in shaping public perception of their activities has been divided into three periods: the Underground Period (June 1995 – September 1997), the Emergent Period (from October 1997 to October 1998), and the Mature Period (November 1998 – June 1999). Each period is marked by differences in framing of the KLA's struggle and the way international norms were incorporated into their discourse.

Kanun of LekDukagjin, which articulated rules for legitimate targeting during violent

interactions. One foot soldier in the KLA, from the Dukagjini region said: "The Kanun was

behind all our actions. We all know it, and it is part of us."[142] The laws in the Kanun governing

blood feuds, which were prevalent in Kosovo until a public campaign led by Anton Cetta to end

the feuds, culminated in a public gathering of forgiveness in 1991 and resurfaced again after the

end of the conflict, prescribe with a particular degree of specificity who may be targeted with

violence.[143] If followed, these laws would prohibit indiscriminate killing of individuals not

directly involved in a feud. The types of violence associated with terrorism—for example,

attacks of ordinary people in public places—would be seen as a violation of these laws. As

recently as 2005, a lawyer from Pristina, Tome Gashi, said: "in some places in Kosovo these

customs are applied much more than the law" (Musliu and Lani 2005).

More directly, a commander from the Dukagjini region in western Kosovo said of the

Kanun during and after the conflict:

> Kosovar Albanian society stands between the Kanun of LekDukagjin and the state-based
> rule of law. We have never had our own state; Kosovo had autonomy, had its own
> judicial system, but Albanians never accepted that as their own, and so they had to follow
> their own law. It was law within the law, state within the state; although the court might
> have sentenced someone to 15 years in prison on a murder charge, the Kanun was much
> more powerful than the court (Mangalakova 2004: 11).

A second source to provide understanding of the local normative environment are the

historical ballads, or Kenge Kreshnikesh. A major theme in these ballads is the resistance to an

unjust external government by a small band of heroic warriors. In these ballads the armies or

their representatives are attacked (and often defeated), but local populations are for the most part

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[142] Author interview with GC, Pristina, Kosovo, October 2012.

[143] The many ongoing blood feuds in Kosovo were brought to an end in 1990 and 1991 by the Reconciliation Committee to Reconcile Blood Feuds in Kosovo, led by Anton Cetta. The campaign to end blood feuds culminated with a huge meeting of up to 100,000 people to "forgive the blood" on May 1, 1990 (Clark 2008: 60). Following the end of the conflict in 1999, local journalists documented a return of blood feuds in rural areas, particularly in the western regions of Kosovo, and notably some involving former senior KLA members (Xharra, Hajrullahu, and Salihu 2005; Xharra 2005).

untouched. These battles are just battles, with the heroes winning through a combination of wit, cleverness, and behaving in the right manner. Some tactics, favored by terrorist groups, would not conform to these heroic ideals. Thus, taking into account the local normative environment, the emphasis from the beginning in the KLA press releases on framing their activities as not terrorism suggests that the KLA was attempting to frame their activities as acceptable behavior and continuing in the Albanian tradition of local resistance.

In May 1996, the KLA resisted this label of terrorist, and characterized the war in Kosovo as one of liberation (a term which brings to mind freedom fighters, a theme of the ballads): "The Albanian people's armed war does not have a terrorist nature, or an interethnic war character or a religious one. It is a war for the liberation of Kosovo" (Communiqué 19, May 1, 1996). And more explicitly, in August 1996, the KLA issued a press release with the following message: "The decision-making centers should be aware that we are not terrorists, as the Serbs are trying to call us, but that we are freedom fighters" (Communiqué 22, August 10, 1996).

The mention of the intended audience of the Communiqué , "the decision-making centers," gives an indication of whom the KLA hoped to sway with these words. They are clearly reaching beyond the local communities, and, even, beyond potential donors in the exile community with this wording. It indicates that the KLA hoped or expected outside governments and government organizations to be listening and to be shaping their opinions accordingly. The interplay between the terms terrorist and freedom fighters is a familiar one, and underlines the difference the KLA wanted to emphasize—one group is not legitimate, while the other is.

Two months later, in October 1996, the KLA framed their struggle using terrorism discourse again: "Our war is a liberating war. It is not one of terror or anarchy. It does not have a

religious or chauvinist character" (Communiqué 26, October 10, 1996). With the distinction, the

KLA is contrasting their goals (liberation), with other goals they could deem as illegitimate

(terror or anarchy). Again, in the following reference, the KLA frame their struggle as one of

liberation, eschewing the terrorist label:

> The invaders can threaten to eliminate the KLA and our guerrilla units as much as they
> want through their spokesmen in Belgrade or the violent ones in power in Kosovo, but we
> are not afraid because our roots and support are with our people, who know very well that
> our war is not a war of terrorism, but one of liberation (Communiqué 27, October 27,
> 1996).

Significantly, in the above communiqué, the KLA was also engaged in distinguishing

between the image of a terrorist and that of a guerrilla, guerrillas being considered as an army

fighting oppression, in contrast to terrorists.

For members of the KLA interviewed recently, the importance of the language of

terrorism continued to be apparent: "The important thing was that the KLA was not a terrorist

organization. We were fighting a clean war."[144]

The second period when the KLA wanted to shape their image so as not to appear as

terrorists was from October 1998 until March 1999. This period coincides with the arrival of the

OSCE observers and the gearing up for military intervention by international actors. At this point

in their struggle, the introduction of outside observers who were present in the field and tasked

with monitoring the behavior of the parties to the conflict appears to have had a significant effect

on how the KLA portrayed its actions at this time.

The KLA responded strategically to the presence of these actors, with an attempt to

control how their actions were perceived. During this period, they emphasized that their actions

were not random attacks on civilians, but the actions of a legitimate group, using legitimate

tactics in their armed struggle. The efforts to frame the discourse during this period are

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[144] Interview with Ardian Gjini, Press Officer for the KLA in the Dukagjini region, Pristina, October 2010.

connected with specific references to tactics which suggest the KLA were at pains to point out were not those of a terrorist group. For example, in November and December 1998, the KLA disavowed kidnapping, a tactic popular with some terrorist groups: "The KLA expresses concern at and disassociates itself from the kidnapping of people of whatever nationality" (Communiqué 62, November 1998).[145,146] This theme was repeated a month later, in December: "The KLA is not behind the kidnapping and later killing of Zvonko Bojaniqi, who was kidnapped and killed in territories well in control of Serbian forces. Behind these killings must be the Serbian secret police or any other force that wishes to compromise our war of liberation" (Communiqué 65, December 18, 1998).

In addition, the Spokesman for the KLA Headquarters, Jakup Krasniqi, mentioned that the portrayal of the KLA as committing terrorist acts was a significant consideration in the push to reshape the image of the KLA over the course of 1998:

> Especially during 1998, there were two factors that obliged us to improve and present the very aim of KLA to the national and international audiences. These had an important role as well as an internal and an external factor. The internal factor, because at the beginning, especially after February and March 1998, the media and different people [within the KLA] started giving out different opinions on KLA, without being ordered to do so…but also for the fact that externally, segments of the KLA were being seen as a group of armed people whose intention is to commit terrorist acts.[147]

The KLA was very concerned about their image, and a significant part of that image was presenting themselves as a group which was not terrorists. It appears that the KLA was aware that this struggle was one of framing and appearances (and therefore perceived legitimacy), not

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[145] Translated by the BBC.

[146] During the course of the conflict, but especially in 1998, people in Kosovo went missing. They were of all ethnic groups: Albanian Kosovars, Serbian Kosovars, and Roma. Both sides accused the other of kidnapping and killing these individuals. Some of the missing were later discovered in graves in Kosovo or Serbia, while others escaped with tales of captivity and harsh treatment.

[147] Interview with Jakup Krasniqi, Spokesman for the KLA HQ from June 1998 to June 1999, Pristina, October 2010, translated by Iliriana Kacaniku.

one of firepower. As one member of the KLA said recently, "our image mattered more than guns."[148]

The audience for this portrayal of the KLA as not terrorists was international as well as local. To be perceived as a terrorist group by other states would have limited the KLA's ability to be in contact with outside governments and to garner their support. For example, the KLA representative in London, Pleurat Sediju, in describing his efforts to meet with British government officials, stated: "the UK officials did not approach us until they were sure we were not terrorists."[149]

As early as 1995, Sediju, then a member of the LPK before joining the KLA and becoming their London-based spokesman, was tasked with studying terrorist groups to determine when and why they became known as terrorists in an effort not to follow the same path:

> In 1994 or 1995 I received an assignment from the LPK to study the IRA [Irish Republican Army]. We were looking for the point at which it shifted from being a liberation movement to a terrorist group. It helped a lot in our strategy, and with our propaganda. I prepared an analysis of when that happened.[150]

The KLA considered that states and international organizations were a key group to convince of their non-terrorist intentions, but they were not always successful in doing so. As early as 1996 key external observers were characterizing the activities of the KLA in Kosovo in ways which colored the KLA as a terrorist group. One of these carried particular weight: in February 1998, the US Special Envoy for Kosovo, Richard Gelbard said: "We condemn very strongly terrorist actions in Kosovo. The UCK [KLA] is, without any question, a terrorist group" (AFP 1998).[151] He was later quoted as saying: "I know a terrorist when I see one and these men are terrorists" (BBC 1998). The February pronouncement indicated that the United States did

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[148] Interview with Ardian Gjini, KLA member and Press Officer, Dukagjini Region, Pristina, October 2010.
[149] Interview with Pleurat Sediju, KLA London Representative, Pristina. October 2010.
[150] Interview with Pleurat Sediju, KLA London Representative, Pristina, October 2010.
[151] UCK is the acronym for the KLA in Albanian: Ushtria Clirimtare e Kosoves.

not consider the KLA to be a legitimate actor. This labeling of the KLA as a terrorist group went beyond a political statement and had consequences on the ground. Within three days, the Serbian government had launched a counter-insurgency campaign against the KLA and had targeted specific villages considered to be at the heart of the KLA organization. The results were massacres in three villages, Likoshan, Qirez, and Prekaz, in March, 1998. Some members of the KLA have suggested that there was a connection between the announcement by Gelbard and the subsequent offensive by the Serbian government, as, in their view, the announcement indicated that the US had withdrawn the appearance of their support for the KLA, and attacks on the KLA would now not be condemned.[152] Gelbard soon appeared to be backing away from his classification of the KLA as a terrorist group. On March 13, 1998 in his appearance before the House International Relations Committee in Washington D.C., Gelbard said that the KLA had "committed terrorist acts," but had "not been classified legally by the US Government as a terrorist organization" (NYT 1998, 10). By June, the US State Department spokesman, James Rubin, announced that the US did not regard the KLA as a terrorist organization, even though members of the KLA might have engaged in acts of terrorism (Lungescu 1998). In June, when Richard Holbrooke first met with the KLA, the local KLA commander for Junik, Gani Shehu said: "we're going to fight to the end, we had no choice." He later recounted that "I told him we were fighting for freedom. We were countering Serbia's propaganda that we were a terrorist organization. Serbia had said we were a fundamentalist organization. After this meeting, this propaganda didn't make any sense anymore."[153]

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[152] Author interviews with Ram Buja, Commander Remi, and Rexep Selimi, Pristina, October 2010.
[153] Interview with Gani Shehu, local KLA commander in Junik, and the first KLA member to meet with Richard Holbrooke, June 2010.

During this period, from the early part of 1998 through the summer of 1998, the KLA's

efforts to avoid being seen as a terrorist group waned somewhat. They did, however, begin

ramping up the accusations that the Serbian state was a terrorist state.

Accusation of Serbian state as terrorist state

The second and more prevalent way the KLA used the language of terror and terrorism

was in an effort to portray the Serbian government as illegitimate by painting them as terrorists.

This effort becomes more pronounced in the Emergent and Mature Periods (from November

1997 to June 1999). These are the periods during which the Serbian government escalated its

counter-insurgency activities from arresting and imprisoning individuals suspected of

involvement with the emerging KLA (such as the arrest and trial of 15 Albanians accused of

terrorist acts in July 1997), or the targeted killing of suspected KLA members (such as the death

of senior KLA member Zahir Pajaziti on January 31, 1997), to sending troops into Kosovo to

attack KLA positions and villages suspected of harboring KLA sympathizers.

While accusations by the KLA that the Serbian government was a terrorist government

increased during the Emergent and Mature periods, this effort was evident from the very

beginning of the KLA's public pronouncements. The first communiqué of the KLA, published in

June 1995, indicated how the KLA wanted to characterize the actions of Serbian government

with regard to the Albanian population: "We call to attention the civilian population of Serbia

and Montenegro to think about their future in Kosovo and not to be part of the terror committed

by the invading military and police troops against Albanians" (Communiqué 13, June 1995).

As shown in Chart 5.2, there are two notable spikes in the number of times the KLA used

terrorist language to describe the Serbian regime: the first between October and December 1997,

and the second between January and March 1999. The first spike coincides with the period when

the KLA emerged from the shadows and began appearing in public. The communiqués from this period are longer, more detailed, and more expressive than the communiqués from the previous Underground Period, which tended to be terse missives of one or two paragraphs. During this period, the KLA was becoming more conscious of its image and beginning to try to control the narrative of the conflict in Kosovo, presenting their view of the enemy. Whenever the Serbian government is mentioned during this period, it is often with the word "terrorist" or "terroristic" attached to it.

On November 20, 1997, the KLA described their struggle: "The foreign occupation and the dismembering of our national body are unfair and illegal, so our war is of self-defense; [it is] just, liberating and legitimate. The invader's war is terroristic; the defender's war is liberation" (Communiqué 39, November 20, 1997).

On December 8, 1997, a communiqué self-consciously addressed the international community, painting the Serbian regime as the terrorists:

> We repeat to the international centers that are interested in this peninsula that our struggle is a just struggle of liberation. It is the occupier who is waging a war of terrorism. We think that the time of resolutions that you vote for, but which put no obligation on the Serbian terrorists, is now over (Communiqué 40, December 5, 1997).

The second spike occurs between January and March 1999, as NATO and foreign powers put increasing pressure on Serbia and Milosevic. During this period, the KLA appear to be intent on tarring the Serbian regime using the language of terrorism and thereby offering confirmation to the outside world that an attack against the Serbs would be justified. Many of the references from this period also refer to massacres as a manifestation of terror, mentioning specifically the massacre in the village of Recak on January 15.[154] On January 17, 1999, the KLA depicted the Serbian government thus:

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[154] The village is known in Albanian as Recak and in Serbian as Racak.

The state terror and systematic repression of Belgrade has not stopped in Kosovo. The offensives and the terroristic campaigns of the Serbian regime forces have become our harsh daily routine….The Serbian regime does not want a political solution for Kosovo. It wants Kosovo, not only as an occupied colony, but also depopulated by Albanians. It is going to realize this goal by terror, massacre, and genocide (*Koha Ditore* 1999a).

The focus of the KLA on the events of Recak is notable as the events were publicized widely internationally and allowed for a more aggressive stance by the United States: "The terrible images of Racak—flashed across television screens and front pages around the world—had the effect of galvanizing the Clinton administration into action" (Dobbs 2000: 414). President Bill Clinton said at the time that "this was a deliberate and indiscriminate act of murder designed to sow fear among the people of Kosovo" (James 1999).

Drawing attention to the actions of the Serbian military and paramilitary at this time, and labeling their actions as terroristic, allowed the KLA to continue to delegitimize the Serbian regime. The massacre at Recak was also a breach of the ceasefire agreement of October 1998, which had held shakily, at best, with both the KLA and the Serbian authorities violating the terms of the ceasefire at multiple points.

In their political declarations of the period, the KLA also compares its behavior with that of the Serbian government: "The noble spirit of the KLA is the biggest moral, political and diplomatic victory of the KLA, compared to the terror of the Serbian state. [T]he criminals in Belgrade have lost their reasoning and commit massacres of civilians" (Political Declaration 23, January 17, 1999).

They also condemn actions which they paint as terroristic: "The KLA condemns yesterday's act of bomb throwing in which three people were killed. …this is an act of the Serbian terrorists, and executed with criminal cold-blood by the terrorists of Belgrade" (*Koha Ditore* 1999b).

In their strategy of accusing the Serbian state of being a terrorist state, the KLA is acting as a witness to the actions of the Serbian government, similar to the way that other non-state actors such as Human Rights Watch might when witnessing human rights abuse, albeit as a non-state actor with a specific interest in seeing the government tarred with this brush. While the KLA's motivation is different from the motivation of non-governmental organizations, in terms of the pattern of the use of the discourse, the KLA appears to be acting more like these non-state actors, drawing attention to norm violations of states and trying to alert outside actors, such as states and international organizations, to these abuses. This drawing attention to the Serbian state's behavior was part of the KLA's strategy to delegitimize the state in Kosovo, and it did so at important points in the conflict, such as the period between January and March 1999, when outside states were weighing intervention in the conflict.

KLA summary

Overall, there are a number of conclusions that can be drawn from the references to the norm of terrorism in the language of the KLA. First, the discourse does offer support to the hypothesis that these non-state actors are norm echoers. The norm against the use of terrorism was building over the course of the 1990s and support for organizations that used tactics which could be described as terroristic was dwindling. The KLA made a significant effort from their first public pronouncement in 1995 to portray themselves as not being terrorists, and continued to do so throughout the period under examination, from the middle of 1995 until June 1999. Based on the interviews with KLA members, this effort was part of a conscious decision to portray the KLA as fighting a just war against oppression using legitimate tactics.

Second, looking more closely at the peaks of the usage of the language of terror indicates that these peaks occur during periods when the enhancement of the legitimacy of the group was

critical: during their initial outreach to the public, and then in the presence of outside actors during the ceasefire and the build up to the peace negotiations. Two points in time at which outside actors were influential were between October and December 1998, when the OSCE mission was ramping up its presence in Kosovo, and again between January and March 1999. In the former period, the KLA's discourse focused on claiming the KLA was not a terrorist group. In the latter period, the KLA focused on denouncing the Serbian government as a terrorist state during a time of increasing international attention to Kosovo immediately prior to and during the Rambouillet conference. During these two periods, the KLA strategically increased the frequency of the use of the norm against terrorism in their discourse.

The issue of legitimacy is a significant factor in both the KLA's denying that it was a terrorist group and in its accusations that the Serbian state was a terrorist state. The denial of terrorist activities occurred at turning points for the KLA's legitimacy: first when it was emerging from the shadows and making its case to the Kosovar people, and second, when it was imperative for the KLA to appear to be legitimate to outside actors on the ground. The portrayal of the Serbian state as a terrorist state was related to the KLA's need to delegitimize the state with which it was fighting—continuously pointing to the Serbian state as a terrorist was an attempt to further separate the Albanian population from the authority of the state—a state that terrorizes those in its protection is not a legitimate state.

Third, norm concurrence had a role in the adoption of the norm against terrorism. The emphasis placed on not being a terrorist group appeared to go deeper than simply a framing issue, to become part of the KLA's internal identity. Such an internalization of norms is more likely to take place when there is concurrence between those norms and local norms, which does

appear to have been the case for the KLA in Kosovo at the time. The adoption of the image of a group that does not use terrorism was essential to the development of the KLA's identity.

One hypothesis which does not receive support from the analysis of the norm against terrorism is that the pattern of usage of international norms is partially dependent on the evolution of the structure of the group itself. The data demonstrate no significant link between the emergence of a more structured hierarchy within the KLA in the summer of 1998 and the peaks in the usage of the norm against terrorism in their discourse. Indeed, the use of the language of terrorism appeared to be more prevalent during the period when the KLA was less hierarchical. This lack of connection between the hierarchical structure of a rebel group and the use of the words terror or terrorism in the discourse of the group appears to be an exception, when compared to the use of other international norms, such as human rights and international humanitarian law in the discourse, under review in this work. Evidence presented in earlier chapters suggested that the internal structure of the KLA had an effect on the use of some international norms through the mechanism of specialized knowledge—greater levels of hierarchy allowed for the development of specialized knowledge within the ranks of the KLA, or the recruitment of more specialized individuals into the ranks of the KLA. The pattern observed in the use of terrorism in the discourse does not follow this pattern, and this variation may be due to the way the label terrorism and terrorist is applied by states and other actors to groups, regardless of their size and structure, requiring those groups to engage with the norm early on in their development, regardless of their level of internal heirarchy.

5.3 Terrorism and the LTTE

Overview

The pattern of discourse and behavior of the LTTE with regards to the norm against terrorism is quite different from the patterns displayed by the KLA. Overall, in their discourse, the LTTE did not respond directly to accusations of terrorism, and references to terror and terrorism are at a low level, apart from in one year, 2001. In addition, the pattern of attacks on civilian targets was also significantly different.

The LTTE was accused of being terrorists from their inception in 1977 by the government of Sri Lanka. From the very beginning of its struggle, the members and leadership of the LTTE chose tactics which included assassinations and attacks on soft, or civilian, targets that are typically classified as terroristic. These civilian targets included bus stations (Colombo 1987), temples (Temple of the Tooth, Kandy 1998), villages (Palliyagodeela 1991, among others), and banks (Central Bank bombing 1996). In addition, the LTTE was also known for their targeted assassinations of political figures, both in Sri Lanka (for example, Prime Minister Ranasinghe Premadasa in Colombo 1993 and up to 25 members of parliament throughout the conflict) and abroad (for example, Prime Minister Rajiv Gandhi in India in 1991).

One particular tactic that was very different from the KLA was the use of suicide bombers, a tactic the LTTE pioneered. The first suicide attack was early in the conflict, on July 5, 1989, when an LTTE soldier, known as "Captain Miller," drove a truck into the army camp in Nelliady in Jaffna.[155] After that time, suicide attacks were used recurrently, assassinating political as well as military targets. The total number of these attacks vary according to the source, and may be as many as 316, although the LTTE only claim 273 (de Mel 2007).

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[155] Robert Pape points to the similarities between this attack and the attack by Hezbollah on the US Marines in Beirut in 1983, and argues that these groups were learning from each other (Pape 2009).

In terms of the perception of the LTTE by states other than Sri Lanka, by the mid-1990s, when the norm against terrorism was gaining more traction at the state level, other states began taking concrete steps to condemn the LTTE as a terrorist organization. For example, the US placed the LTTE on its list of terrorist groups in 1997. The UK followed suit in 2001. One LTTE officer admitted that being on the international terrorist lists hurt the reputation of the group (O'Duffy 2007: 281). However, others argued that the effect of the proscription following September 11 was limited, and any curtailment in the LTTE's ability to fundraise was temporary (Chalk 2000). In May 2006, the EU officially labeled the LTTE a terrorist organization (Council of the European Union 2006, 1-3), which had the direct effect of freezing the funds and financial assets of the LTTE in Europe. By 2008, during the final military push by the Sri Lankan government, the LTTE was increasingly isolated from outside support. The FBI called the LTTE "the most dangerous and deadly extremists in the world, […] because its ruthless tactics have inspired terrorist networks worldwide, including the Al-Qaeda in Iraq" (FBI 2008).

LTTE discourse analysis

Overall, in the discourse of the LTTE there is a different pattern than that seen with the KLA—the speeches mainly ignore the norm against the use of terrorism until the massive changes to the political landscape wrought by the events of September 11, 2001. A contributing factor to this absence is likely to be that the LTTE began their operations in the late 1970s (with their first major attack not until 1983 with an ambush on a military patrol), a time at which there was no international consensus whatsoever about the definition of terrorism, and followed the period in which groups fighting colonial powers were supported as freedom fighters. There is no significant change in the LTTE's discourse over the 1990s even as states began inching towards a more widespread prohibition against terrorism. However, that changed following the attacks in

New York and Washington D.C. in 2001. In November 2001, the LTTE launched a massive effort to question the label of terrorist, and even the definition of what a terrorist is (see Chart 5.3: References to terrorism by the LTTE, below). Much of the speech given in November 2001 is dedicated to maintaining the distinction between a freedom fighter (which is labeled legitimate) and a terrorist (which is not). The number of mentions of terrorism in the speeches prior to 2001 is few, and on the whole, they mainly discuss the characterization of the LTTE as a terrorist group as propaganda, but very little effort is exerted in challenging that characterization. There was a second smaller peak in 2005 when the Ceasefire Agreement (CFA) of 2002 had begun to unravel and fighting had resumed on both sides.

Chart 5.3 : References to terrorism by the LTTE
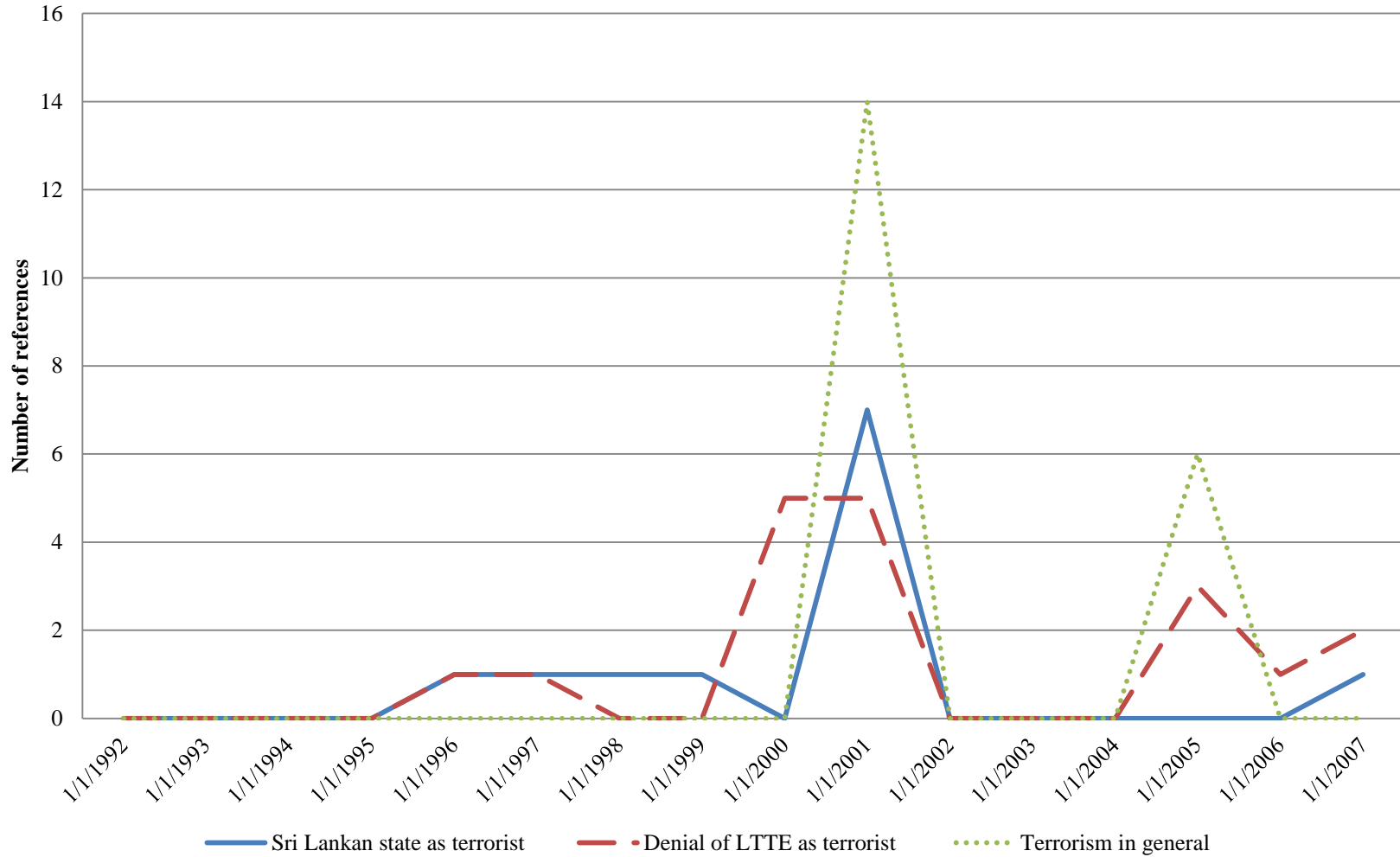
Source: Data were extracted from documents listed in Appendix 4. The documents were coded for the use of the terms "terror," "terrorism," and "terrorist" and categorized into three groups: references to the Sri Lankan state, to the LTTE, and to terrorism in general.

In 2001, after the attacks in New York and Washington, and following the robust

response of states to the attacks and to terrorism in general, the LTTE began contesting the

definition of terror in earnest. In July of that year, the LTTE had carried out a suicide attack on

Bandaranaike International Airport, destroying eight of the air force's planes and four Sri Lankan

Airlines planes, and critically wounding the Sri Lankan economy that year. Rather than argue

simply that the LTTE itself was not a terrorist organization, Prabhakaran argued that the

definition as put forth by states was too narrow:

> The use of violence in all modes of struggles to attain specific goals is defined as
> terrorism by international governments. This narrow definition has erased the distinctions
> between genuine struggles for political independence and terrorist violence. This
> conception of terrorism has posed a challenge to the moral foundation of armed struggles
> waged by liberation movements for basic political rights and for the right to self-
> determination (Hero's Day Speech, November 2001).

In this speech, we see the LTTE engaged in a real effort to challenge how the states,

particularly Western states, appeared to be coming to a consensus on what terrorism really was.

This contestation over the definition was crucial because it appeared that, following the attacks

of September 11, states had moved beyond the debate over the definition of terrorism that had

led to deadlock at the United Nations for many years and into a period of action. Without this

contestation, the LTTE risked being labeled a terrorist group at a time when that label would

have real practical implications for the functioning of the LTTE itself. Prabhakaran appears to

be clinging to the old divide between freedom fighter and terrorist: "It is crucial that Western

democratic nations should provide a clear and comprehensive definition of the concept of

terrorism that would distinguish between freedom struggles based on the right to self-

determination and blind terrorist acts based on fanaticism" (Hero's Day Speech, November

2001). And later in the same speech: "We are freedom fighters. The Sinhala state terrorists, who

have failed in their efforts to crush our freedom movement for the last two decades, branded our liberation struggle as terrorism" (Hero's Day Speech, November 2001).

Prabhakaran further attempts to align the LTTE on the side of anti-terrorism, in an effort to distinguish the LTTE from "real terrorists," who would be, presumably, illegitimate: "We welcome the counter-terrorist campaign of the international community to identify and punish real terrorists" (Hero's Day Speech, November 2001).

In 2001, the LTTE were engaged in peace talks with the Sri Lankan government. The Norwegian government had played an important intermediary role in those talks from February 2000 onwards. In November 2001 it would have been of utmost importance to appear to be a legitimate actor in the negotiations and thus the efforts to dispute both the label of terrorist, and the definition of what makes a terrorist, were crucial. Within a month of this speech, in December 2001, the LTTE announced a ceasefire, to which the government responded favorably, lifting the economic embargo of the LTTE territories and announcing a ceasefire of its own. The full CFA was signed on February 22, 2002. Following the CFA, a multinational monitoring force, the Sri Lanka Monitoring Mission (SLMM), was established, with approximately 75 personnel from Scandinavian countries based in Sri Lanka, tasked with monitoring and recording violations to the CFA by either party. After 2001, references to terrorism tail off again until a second peak in 2005.

What is of particular interest in these references to terrorism in this speech is that taken as a whole, they are more concerned with contesting the definition of terrorism, not in attempting to change the perception of what the LTTE was actually doing and the tactics it was actually using. In fact, the contestation relies mainly on a definition of what a terrorist is based on the

motivation of the actor, not his deeds. This is in sharp contrast to the KLA discourse, where specific deeds were disputed.

In 2005, there is a second peak in references to terror—both denying that the LTTE was a terrorist organization, and in attempting to paint the government of Sri Lanka as a terrorist state. Again, we see Prabhakaran questioning the definition of terror: "there is no clear, coherent, globally acceptable definition of the concept of terrorism" (Hero's Day Speech, November 2005), and arguing that the lack of clarity in the definition has led to the LTTE being branded a terrorist group erroneously.

> Just and reasonable political struggles fought for righteous causes are also branded as terrorism. Even authentic liberation movements struggling against racist oppression are denounced as terrorist outfits. In the current global campaign against terror, state terrorism always finds its escape route and those who fight against state terror are condemned as terrorists. Our liberation organization is also facing a similar plight (Hero's Day Speech, November 2005).

Once again, in 2007, Prabhakaran tries to separate out terrorists, who in his framing are racists or fanatics, from an armed group with a political objective. With this framing, Prabhakaran acknowledges that there are groups whose acts are not acceptable, but it is because they lack a legitimate political goal. Therefore, by implication, actors with legitimate goals cannot commit acts of terrorism, because the ends justify the means: "We are not terrorists, committing blind acts of violence impelled by racist or religious fanaticism. Our struggle has a concrete, legitimate, political objective" (Hero's Day Speech, November, 2007). This characterization of what terrorism is was contrary to the defintions being discussed at the state level during this period. By contesting the definintion of terrorism, Prabharkaran was attempting to reframe the struggle in Sri Lanka away from the discussions of terrorism.

One final point of analysis is the examination of the possibility of changes in internal structure being a factor in the changes in the use of international norms in the discourse. By the

beginning of the period under examination(1992—2007), the LTTE had already established an extremely hierarchical command structure, with both the military wing and subordinate political wing under the supervision of the Central Governing Committee, headed by the supreme leader, Velupillai Prabhakaran. There were no significant changes in the structure of the organization in 2001 which would account for the changes observed in the discourse. Further, the split in the ranks of the LTTE in 2004, with the departure of Colonel Karuna and subsequent internal strife, does not appear to have had any impact on the use of the term terrorism in the discourse. It would seem that the hypothesis that a growing internal hierarchical structure would lead a group to increase its use of international norms would not hold true in the case of the LTTE and the norm against terror.

LTTE summary

Overall, two significant findings are derived from the analysis of the LTTE. The first is that armed resistance groups do respond to sudden significant changes in international norms at the state level: after the changes in the international norm against terror, following September 11, 2001, we see the LTTE engaging with the norm and with international actors in contesting that norm and its application to the group aggressively. The second finding is that which norms are adopted into the discourse, and ultimately the behavior of armed resistance groups, is influenced by the congruence of that norm with local norms and culture.

In the discourse of the LTTE and their response to the norm against terror, the LTTE was not demonstrably concerned with the label of a terrorist group until September 11, 2001, at which point the engagement with the norm was to contest the definition of terrorism, rather than to directly contest the perception that the group was a terrorist group. From our understanding of the prevailing norm within the LTTE of the acceptance of death, it would appear that there is

significantly less overlap than in the KLA case between the norm against terrorism and the behavior it proscribes and the local norms within the LTTE. This indicates that the lower degree of congruence between the international norm and the local norms made it less likely that the norm against terrorism would be accepted by the LTTE.

5.4 A comparison of the KLA and the LTTE

A comparison of the discourse of these two groups over the duration of each group's conflict reveals significant differences in the discourse and in each group's interaction with one international norm: the norm against terrorism. There are some patterns of discourse which are similar between the two groups—each group does attempt to portray itself as not being a terrorist group, while attempting to delegitimize the state they are fighting by labeling them terrorist states.

There are, however, significant differences in the use of the language of terrorism in the discourse of these two groups when examined more closely. The KLA makes frequent mention of specific tactics, refuting ones which are frequently termed terroristic, such as kidnapping and bombing civilian buildings. This indicates that there was a translation of what the norm means into a recognition of the implications of the behavior of the KLA troops. This is borne out by the interviews with KLA members who emphasized that the behavior of the KLA troops was of utmost importance—they could not be seen to be attacking Serb civilians or engaging in traditionally terroristic actions. In addition, from the few numbers of direct attacks on Serb civilians during the war, it can be seen that the norm against terror was translated into action, albeit imperfectly.[156] The LTTE, on the other hand, engaged primarily with the norm

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[156] This changed after the end of the conflict, as the level of violence against civilians increased dramatically during the first year following June 1999, and sporadically after that, in, for example, March 2004, when human rights violations by former members of the KLA increased. Attacks on civilians were condemned by the former KLA leadership but the condemnations did not appear to have an effect on the levels of violence. Changing patterns

immediately after September 11, 2001, and did so in order to contest the definition of terrorism, rather than to refute any specific actions. The contestation does show an awareness of the growing importance of the norm; however, the discourse does not show that the LTTE considered a strong connection between the norm and legitimacy, and the LTTE continued to engage in acts such as assassination and killings of civilians throughout the life of the organization.

The examination of the local norms shows how differences in these contributed to the difference we see in the discourse. The KLA turned to traditional norms, laws, and culture, such as the Kanun of LekDukagjin, within which there existed norms against the targeting of certain groups of individuals, such as women, children, and the elderly, during periods of inter-communal or interfamilial violence. The resonance between these traditional norms and the norms against the use of terror contributed to the KLA seeking strongly to portray themselves through word and action as a group not engaging in terror. It is also significant that the KLA included in their refutations of terrorism specific acts that overlap with the prohibitions in the Kanun and other traditional codes of conduct. The LTTE, on the other hand, created a new social order, and a culture in which each Tamil, young and old, male and female, had a duty to give of themselves to the struggle for Tamil Eelam. The celebration of death which grew up as a result of the struggle would not have resonated with the norm against terror according to which certain groups are considered illegitimate targets. Again, it is significant that the discourse on terror and

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of violence after the conclusion of formal conflict have been documented, with reasons being revenge, reprisals and lack of security enforcement (Boyle 2006). The documented levels of violence in Kosovo after the end of the war, which included attacks on Serbs, Roma, and Albanian Kosovars in which former members of the KLA were implicated (as well as returning refugees and criminal gangs from Albania), indicates that there might be a different logic at work when rebel groups transition into different forms as post-conflict organizations (see, for example, Human Rights Watch 1999; and Human Rights Watch World Report 2000). The study of such groups as they transition into protostate roles is an area of possible future research.

terrorism is centered on the concept of terrorism itself, rather than specific acts attributed to the LTTE, which are rarely refuted in the LTTE discourse.

5.5 Conclusions

Overall, the analysis demonstrates that rebel groups engage vigorously with the norm against terror. They may refute the labeling of terrorist in multiple ways: deny involvement in specific activities; deny use of specific tactics; argue that their cause justifies their use of force; argue that their choice of target was legitimate; contest the definition of terrorism; and argue that they are freedom fighters, not terrorists. At no point do the groups embrace the term terrorist, despite their often questionable choice of tactics. The analysis also shows that the use of the norm is not static over time: there are distinct patterns in the use of the norm, which, it has been argued, is linked to the need for legitimacy at specific points and the presence of outside actors.

The examination of the discourse of these two groups has shown that with respect to the norm against terrorism, rebel groups are norm echoers. The KLA, becoming active during a decade in which the norm against terrorism was strengthening at an international level, strongly contested the label of terrorist, and considered the moment when they received the label of terrorist by a powerful outside actor as a nadir in the pubic presentation of their cause. The LTTE began their operations during a period when the sanctions against terrorism were more muted, which is reflected in their lack of engagement with the label terrorist. There is a dramatic change in the discourse of the LTTE, however, following the events of September 2001 and subsequent forceful actions by states, when the LTTE began vehemently to contest the label of terrorist.

This analysis further shows that non-state actors behave in a similar fashion to states when it comes to determining which international norms to adopt in their discourse and actions:

the norms most likely to be adopted are those which resonate with local norms and practices. In the case of the KLA, which drew from traditional cultural norms in order to establish itself as a legitimate force fighting for the rights of Kosovar Albanians, international norms which resonated with some parts of those traditional cultural norms, such as those against the use of terror tactics, were likely to be incorporated into the discourse. The KLA refuted specific actions condemned as terror tactics. By contrast, the LTTE, which broke from traditional culture and created a new social structure in which there was little resonance with norms against terror, the contestation of the label of terrorist took the form of contesting the definition of terrorism as a concept (and that only after a sea change in states' engagement with the issue).

Both groups demonstrate that a need for legitimacy underlies the engagement with the norm against terrorism. The KLA expressly defined its internal identity as a legitimate actor to include the identity of a group eschewing terrorism. It also demonstrated its ability to act strategically, and adopt language eschewing terrorism at critical junctions: during its public establishment within Kosovo, and when its legitimacy was under scrutiny by outside actors. The LTTE, on the other hand, engaged with the norm in a different manner: it was only when their legitimacy was threatened by the changes in the international environment with regard to the norm against terror that they began to engage seriously with the norm itself.

Chapter 6: Conclusion

This dissertation examined changes in the discourse of rebel groups and analyzed the patterns of usage of a number of international norms in the groups' discourse to answer the questions of why rebel groups use these norms, and why groups are more likely to refer to some norms than to others. The focus of the research was on human rights norms, international humanitarian law, and the norms against terror: three areas of norms which seek to modify behavior of participants in violent conflict.

Overall, there is evidence to suggest that rebel groups echo the broad pattern of change in discourse and behavior exhibited by states: as states increasingly turned to human rights discourse and focused on the protection of civilians in conflict during the 1990s, rebel groups largely echoed that pattern. Both groups under examination, the Kosovo Liberation Army (KLA) and the Liberation Tigers of Tamil Eelam (LTTE), increase their use of human rights language over time, although only the KLA pairs this increase with a rise in humanitarian law language and discussion of the protection of civilians. Both groups show an increase in 1998, at a time when human rights and international humanitarian law issues were much discussed at the state level, and when international events such as the creation of the International Criminal Court (ICC) in July 1998 and the increase of the jurisdiction of the International Criminal Tribunal for the Former Yugoslavia (ICTY) over Kosovo were highlighting the importance of those norms for non-state actors. The KLA began to adopt human rights language and international humanitarian law in its discourse while reducing the relative frequency of its use of references to terror and terrorism. While labeling its host state as a human rights violator or a state terrorist served a similar purpose of delegitimizing the state, the KLA's increasing preference for using human rights language or international humanitarian law language over terrorism language to

describe the actions of the state, is an indicator of which norms were in ascendancy. With the changes in the discourse on terror, the LTTE offers a clear example of how a sudden shift in a norm at the international level following the terrorist attacks of September 11, 2001 can be immediately reflected at the non-state level.

These groups, however, are not merely echoing the discourse from the international level as passive recipients: they are adopting international norms into their discourse for strategic reasons, namely to increase their legitimacy with local and international audiences. By tracing the patterns of norm adoption throughout the course of the conflict and matching peaks of fluctuation with events on the ground, this research has shown that rebel groups increase the frequency of their use of international norms at key turning points in the conflict, such as during negotiations for ceasefire or peace agreements. This indicates that the rebel groups are using these norms strategically to boost their legitimacy at those key points.

For both the KLA and the LTTE, their use of international norms in discourse changed during periods of negotiation with outside actors. In Kosovo, the fall of 1998 saw intensive negotiations with outside actors for a cease-fire. During this period, and again in the early days of 1999 with the run-up to the multinational Conference on Kosovo at Rambouillet, the KLA was striving to appear to be legitimate to outside actors. To do so, it began adopting language and discourse familiar to these actors and framing its struggle in terms which would resonate with them in order to bolster its claims. For the LTTE, the peace-talks led by the Norwegians in 2002 provided an opportunity to appear as a legitimate and reasonable opponent to the Sri Lankan government. With the LTTE's practice of using terror tactics and the delegitimation of such tactics in the aftermath of the September 11, 2001, the LTTE searched for a discourse to shape international opinion in its favor.

The analysis of the use of conventions in the discourse provides a closer look at how firm a grasp the leaders of the groups have on the specifics of human rights norms and humanitarian law. On this issue there is a significant difference between the KLA and the LTTE. The KLA mentioned conventions fairly frequently, with their usage increasing over time, while the LTTE hardly did so at all. Most of the references made by the KLA were to the Geneva conventions, and most of those references were in conjunction with references to the harm of civilians. The significant increase observed in the KLA's use of the international humanitarian law conventions occurs during the period when the group was struggling to be seen as a legitimate political actor and knowledge of the Geneva Conventions might be a tool to demonstrate this legitimacy with international actors with whom it was interacting. The increase was also occurring during the time the KLA was laying the groundwork for transitioning from a fighting rebel group into a group ready to govern. The LTTE only referenced conventions four times during the 15 years under analysis, and showed little change over this time, indicating that for the LTTE the demonstration of this knowledge was not considered to be essential.

The analysis of which specific norms or violations drew the most attention from the rebel groups revealed that both groups focused on violations by the government forces, rather than on depicting themselves as abiding by the same laws. Thus, their focus was primarily on delegitimizing their host states. Regarding international humanitarian law, the focus was on the protection of civilians, drawing attention to the government forces' violation of this norm. The human rights references were overwhelmingly to the loss of life, but mentions of arbitrary arrest and detention made up a significant percentage of the references. The LTTE similarly focused on the Sri Lankan government forces harming civilians, the loss of life, and genocide. In both cases, there were surprisingly few mentions of torture, a relatively strong international norm.

Incidents of torture during conflict, however, may be less public and widely known than, for example, deadly attacks on civilians, and for that reason, may not have drawn as much attention from the rebel groups. The focus on the behavior of the state was part of an overall strategy to delegitimize the state and its actions; however, the timing of the peaks in the discourse also indicate the international norms were used at points when it was vital for the group to be seen as legitimate by outside actors, perhaps particularly in contrast with a delegitimized state.

Looking more closely at the norm against terror, the analysis demonstrates that rebel groups engaged vigorously with this norm. They refuted the labeling of terrorist in multiple ways: denying involvement in specific activities and use of specific tactics; arguing that their cause justified their use of force; contending that their choice of target was legitimate; contesting the definition of terrorism; and claiming that they were freedom fighters, not terrorists. At no point do the groups embrace the term terrorist, despite their often questionable choice of tactics. The analysis also shows that the use of the norm is not static over time: there are distinct patterns in the use of the norm which are linked to the need for legitimacy at specific points and the presence of outside actors. Both groups demonstrate that a need for legitimacy underlies the engagement with the norm against terrorism. The KLA expressly defined its internal identity as a legitimate actor to include the identity of a group eschewing terrorism. It also demonstrated its ability to act strategically and adopt language denouncing terrorism at critical junctions: during its public establishment within Kosovo and when its legitimacy was under scrutiny by outside actors. The LTTE, on the other hand, engaged with the norm in a different manner: it was only when their legitimacy was threatened by the changes in the international environment with regard to the norm against terror that it began seriously to engage with the norm itself.

The research shows, however, that the patterns of norm usage are complex at a micro-level and indicates that rebel groups respond to local events on the ground and these events influence the micro-fluctuations in their usage accounting for some of the week-to-week variation observed. The KLA's discourse in 1998 and 1999 shows it responded to events on the ground and changed its discourse as a result of troop movement, significant attacks, or major events such as massacres.

The research demonstrates that rebel groups do appropriate international norms for their own use and do so in patterns consistent with their need to boost their own legitimacy, but how does it address the question of which norms rebel groups favor? The evidence presented supports the hypothesis that rebel groups are more likely to adopt international norms which demonstrate congruence with their own local normative environment. This analysis shows that non-state actors behave in a similar fashion to states when it comes to determining which international norms to adopt in their discourse and actions: the norms most likely to be adopted are those which resonate with local norms and practices.

The examination of the local norms shows how differences among them contributed to the difference we see between the discourse of the KLA and the LTTE. The KLA drew on traditional norms, laws, and culture, such as the Kanun of Leke Dukagjin, within which there existed norms against the targeting of certain groups of individuals, such as women, children, and the elderly, during periods of inter-communal or interfamilial violence. The resonance between these traditional norms and the international norms of human rights, the protection of civilians, and the norms against the use of terror contributed to the KLA seeking strongly to portray themselves through word and deed as a group not engaging in attacking civilians. The LTTE, on the other hand, created a new social order and a culture in which each Tamil, young

and old, male and female, had a duty to give of themselves to the struggle for Tamil Eelam. The celebration of death which grew up as a result of the struggle would not have resonated as strongly with the international norms of human rights (particularly right to life), the protection of civilians, or norm against terror, all of which consider certain groups illegitimate targets. This difference can be traced to the discourse and the more subdued pattern of engagement with these norms shown by the LTTE.

Examining the norm against terrorism through this lens, the research reveals differences in the discourse of these two groups. When using the language of terror, the KLA made frequent mention of specific tactics refuting ones which are frequently termed terroristic, such as kidnapping and bombing civilian buildings. This indicates that there was a translation of what the norm means into recognition of the implications for the behavior of the KLA troops. This is borne out by the interviews with KLA members who emphasized that the behavior of the KLA troops was of utmost importance—they could not be seen to be attacking Serb civilians or engaging in traditionally terroristic actions and to do so would be detrimental to their cause. The LTTE, on the other hand, engaged primarily with the norm only after September 11, 2001, and did so in order to contest the definition of terrorism, rather than to refute any specific actions. The contestation does show an awareness of the growing importance of the norm; however, the language used does not indicate that LTTE considered there to be a strong connection between the norm and legitimacy, and the LTTE continued to engage in acts such as assassination and killings of civilians throughout the life of the organization.

Finally, the research provides some support for the hypothesis which suggests that rebel groups require a certain level of internal structure or hierarchy before they can begin to incorporate international norms consistently into their discourse. The evidence presented in the

case of the KLA suggests that as the group became increasingly hierarchical, it allowed for the both the specialization of certain roles within the organization and the recruitment of individuals who brought with them more expert knowledge of international norms.

To conclude, this dissertation demonstrates that rebel groups echo patterns in the discourse of states, and do so to promote their own legitimacy at key turning points in the conflict. Which international norms rebel groups use most frequently is partially determined by the congruence of those norms with their local norms and beliefs. Finally, a group is more likely to adopt international norms into its discourse when its internal structure has become more hierarchical and specialized.

Contribution to the literature

This dissertation contributes to the literature on both international norms and rebel groups—it engages directly with the literature on norms and adds to the understanding of norm diffusion among actors by challenging existing models of norm diffusion, it extends the field of norm research to a new actor, and it adds to the literature on rebel groups by deepening our understanding of rebel groups' discourse and struggles for legitimacy during conflict.

In arguing that rebel groups are acting strategically at key points in the conflict by echoing international norms in their discourse and in emphasizing the agency of the rebel groups, this study challenges the constructivist models of norm diffusion and the cascade of norms across populations of actors both of which are largely structural. The emphasis in this dissertation on the agency of the local actors and their choice of which international norms to use and when, questions both the applicability of the models developed to explain norm diffusion among states to non-state actors and the limitations of the models as they apply to any actors. It also adds to

the growing literature in international relations which opens up the study of the relationships between states to include non-state and transnational actors.

The research also extends the understanding of the effect international norms have to a new set of actors. By considering how and why rebel groups echo international norms in their discourse, this study extends the discussion of norm diffusion and transmission to a new, previously under-researched actor, the rebel group. Previous work on non-state actors and norms has focused primarily on non-governmental groups as norm entrepreneurs engaging with states and changing state-level dynamics. This study focuses on a different process—how non-state actors engage with the normative language developed by states and how and why they choose to echo those norms back to the states themselves. By focusing on rebel groups, critical but under-studied actors in conflicts throughout the world, this study illuminates how these groups make use of the international language of norms to frame their own struggles and in their quest for legitimacy.

Finally, this study adds to the small but growing literature on non-state actors' engagement with international norms. By moving between the local and the international level, this research connects the rich and thick anthropological work on particular groups or regions with theories about international norms. The study of rebel groups as they negotiate the complex territory between international and local normative spheres sheds new light on theories of congruence and salience.

This research is also useful for policy makers, as it provides additional ways for those engaged in negotiations with rebel groups to understand why groups may echo international norms and what it might mean when they do. It further provides insight into which turning points may be the most fruitful moments to engage these groups in discussions of international norms

and the behaviors they encompass, such as protection of civilians, and provides insight into which groups are most likely to be willing to engage fruitfully in these discussions.

Areas of future research

The research begun in this dissertation, with its focus on non-state actors, discourse, and international norms, can be extended in a number of different ways: to new rebel groups; to different types of actors; to different time periods; to explorations of potential connections between discourse and behavior; and finally, to different norms. The hypotheses regarding the strategic use of norms, the structure of the rebel groups, and the salience of international norms at a local level developed in this research can be further tested by investigating the use of the same norms explored in this work, namely, human rights, international humanitarian law, and terrorism, in the discourse of other rebel groups.

The research can also be furthered by examining the discourse of rebel groups after the end of the conflict as they transition from being rebel groups into other institutions. Of particular interest would be the examination of groups, like the KLA, which transition from rebel group into political parties or protostates over the course of the post-conflict period. Conceptually different from rebel groups, these transitional organizations may follow different patterns of norm adoption.

In terms of different time periods, this research focused on the 1990s, the post-Cold War era, a period which saw a significant shift in some international norms, such as human rights, at the international level. One other historical period which would add greatly to our understanding of how rebel groups might echo changes on the international level is the post-World War II era, when the foundation of the UN and accompanying declarations, such as the Universal

Declaration of Human Rights (UDHR) (adopted in 1948) and other conventions, such as the Geneva Conventions of 1949 shifted the international normative landscape radically.

Another area of fruitful research is the exploration of the relationship between the discourse of rebel groups and their behavior. This avenue of research could examine the connections between the rebel groups, their discourse, and their likelihood of signing on to international instruments governing behavior, such as the Mine Ban Treaty. It could also explore whether changes in the discourse are followed in any way by changes in behavior, by mapping patterns of accusations of human rights violations or abuses alongside patterns in discourse.

Finally, another meaningful exploration would be the comparison between the use of secular norms discussed in this work, and religious norms, such as those enshrined in sharia law. In addition, the study of the patterns of usage of norms in the discourse other than the so-called "good norms," (such as human rights), to include "bad norms," such as rape during conflict, mutilation of civilians or opposing forces, or ethnic segregation, would provide an alternative view of how discourse may be used by rebel groups to frame their struggles.

Appendix 1: Code book

Code	Description		
International Norms	Specific mention of international conventions		CONV
1. Human Rights	All human rights (sum of 1a through 1f)		HR
	Specific mention of HR conventions	1a	HR CONV
	Right to life (any mention of death, killing, by the state, or members of state organs, such as policemen)	1b	HR LIFE
	Torture (any mention of torture by the state)	1c	HR TORT
	Arbitrary arrest & detention (any mentions of arbitrary arrest, detention or imprisonment by the state)	1d	HR AAD
	Economic, Social, Cultural rights (includes right to education, language, right to work, etc.)	1e	HR ESC
	Any specific mention of genocide	1f	GENO
2. Self-determination	Any reference to self-determination		SD
3. Terrorism	Acts of terror committed by Serbian troops or Serbian state		S TERROR
	Denial of acts of terror committed by KLA		NOT K TERROR
4. Humanitarian law	All humanitarian law (sum of 4a through 4 cy)		IHL
	Protection of civilians	4a	IHL PROT
	Harm of civilians by Serb forces		IHL S HARM
	Harm of civilians by the KLA	4bx	IHL k HARM
	Harm of civilians labeled collaborators by the KLA	4by	IHL HARM K COL CIV
	Treatment of POWs by Serbian forces	4cx	IHL S PRISON
	Treatment of POWs by KLA	4cy	IHL K PRISON
5. Humanitarian intervention	Any reference to humanitarian intervention n the conflict by outside actors	5	H INT

6. Behavior of troops	How troops are characterized	6	B TROOP
7. Goals			
	Secession (mention of wanting independence for a separate state)	7a	G SEC
	Unification of all subgroups	7b	G UNI
	Overthrow of central government	7c	G OVER
8. Internal Structure	Description of the internal structure of the KLA	8	INTERN
9. Outside actors' influence	Any mention of outside actor's influence (positive or negative)	9	OA INF
10. appeal to outside actors	Any appeal by the KLA to outside actors to engage in the situation in Kosovo	10	AOA
11. Other dominant discourse	References to other specific words used in the discourse		
	Marxist / Communist	11a	MC
	Colonialism / occupation	11b	COL
	Democracy	11c	DEMO
	Freedom	11d	FREE
	Religion	11e	REL

Appendix 2: KLA documents

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"Communiqué 40." *Zeri I Kosoves,* December 11, 1997.

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Appendix 3: Timeline for the Kosovo case

March and April 1981	Student demonstrations in Pristina turn violent.
November 1988	Autonomous regions of Kosovo and Vojvodina within Serbia have their autonomy curtailed.
March 28, 1989	The Assembly of Serbia met to revoke the autonomy granted to Kosovo in 1974.
September 1991	Referendum in Kosovo results in a 99.8 % vote by the population in favor of independence.
October 1991	Kosovo parliament declares independence.
Winter 1993	Small group favoring violence forms in Kosovo, calling itself the KLA.
November 1994	UN Human Rights Rapporteur notes the human rights situation in Kosovo is deteriorating.
June 1995	The KLA issues its first press release, or communiqué.
November 1995	The General Framework Agreement for Peace in Bosnia and Herzegovina, known as the Dayton Accords, signed in Dayton, Ohio.
April 1996	The KLA coordinates separate attacks in different towns, on the same day.
March 1997	Unrest in neighboring Albania and associated looting of military stores floods black market with cheap guns.
September 1, 1997	Agreement reached between Ibrahim Rugova and Slobodan Milosevic on education matters in Kosovo.
October 1997	Student demonstrations on the streets of Pristina.
February 1998	The Serbian forces begin moving against the KLA in earnest.

November 1997	First public appearance of KLA members at a funeral for a local teacher in the village of Lausha.
February 1998	The US special envoy to the region calls the KLA a terrorist group.
March 1998	Serbian forces attack three villages in the Drenica region, a KLA stronghold—Likoshan, Qirez, and Prekaz.
May 1998	Richard Holbrooke becomes the US Special Envoy to the Region, and travels to Belgrade, and Kosovo.
June – August 1998	Fighting in Kosovo worsens as a large summer offensive conducted throughout Kosovo by both the Serbian military, providing artillery and tank support, and Serbian special police forces, which went from village to village, engaging the KLA.
June 1998	13 NATO countries participate in Operation Determined Falcon, aerial maneuvers near the border of the FRY's airspace.
June 1998	The KLA reorganizes and establishes a political wing.
July 1998	The KLA appoints Jakup Krasniqi as their first official spokesman.
September 1998	UN Security Council Resolution 1199 issued. Acting under Chapter VII of the U.N. Charter, the Security Council members demand that all parties cease hostilities immediately and take steps to improve the humanitarian situation on the ground.
September 1998	NATO issues an ACTWARN (Activation Warning) for phased air campaign over Yugoslavia.
October 1998	Both parties agree to a cease-fire and the OSCE launches a cease-fire verification mission (KVM) on October 25, 1998.

October 1998	The North Atlantic Council (NAC) of NATO issues activation orders, known as ACTORDs, for both limited air strikes and a phased air campaign in FRY on October 13, 1998.
November 1998	The KLA undergoes further reorganization and stratification, with the introduction of nine official departments.
January 1999	The KLA launches its radio station, RKL, on January 4, 1999.
January 1999	Wide reports of a massacre at the village of Recak on January 15, 1999.
February 1999	Discussions between Serbian officials and the Albanian delegation, which included top commanders from the KLA, held in Rambouillet, France.
March 1999	The Kosovo Albanian delegation signs the Interim Agreement on March 18 in Paris, and, following a final warning visit of Richard Holbrooke to Belgrade, NATO bombing of the FRY begins on March 24.
June 1999	Milosevic accepts NATO's terms for settlement, and KFOR troops enter Kosovo on June 12.

Appendix 4: LTTE documents list

November 27, 1992   Velupillai Prabhakaran's Hero's Day Speech

November 27, 1993   Velupillai Prabhakaran's Hero's Day Speech

November 27, 1994   Velupillai Prabhakaran's Hero's Day Speech

November 27, 1995   Velupillai Prabhakaran's Hero's Day Speech

November 27, 1996   Velupillai Prabhakaran's Hero's Day Speech

November 27, 1997   Velupillai Prabhakaran's Hero's Day Speech

November 27, 1998   Velupillai Prabhakaran's Hero's Day Speech

November 27, 1999   Velupillai Prabhakaran's Hero's Day Speech

November 27, 2000   Velupillai Prabhakaran's Hero's Day Speech

November 27, 2001   Velupillai Prabhakaran's Hero's Day Speech

November 27, 2002   Velupillai Prabhakaran's Hero's Day Speech

November 27, 2003   Velupillai Prabhakaran's Hero's Day Speech

November 27, 2004   Velupillai Prabhakaran's Hero's Day Speech

November 27, 2005   Velupillai Prabhakaran's Hero's Day Speech

November 27, 2006   Velupillai Prabhakaran's Hero's Day Speech

November 27, 2007   Velupillai Prabhakaran's Hero's Day Speech

Appendix 5: Timeline for the Sri Lanka case

May 1976	Velupillai Prabhakaran forms the Liberation Tigers of Tamil Eelam (LTTE).
July 1977	In the general election, the Tamil political party, the Tamil United Liberation Front (TULF) sweeps elections in Tamil areas and wins eighteen seats in the legislature, including all fourteen seats contested in the Jaffna Peninsula.
August 1997	Outbreak of anti-Tamil violence in Sri Lanka.
July 1979	Passage of the Prevention of Terrorism Act, which gives Sri Lankan government powers to arrest and hold suspects.
July 1983	In an escalation of the violence, the LTTE ambushes and kills 13 government soldiers in in Jaffna. Immediately following the ambush, anti-Tamil riots break out all over Sri Lanka.
July 1985	Peace talks held in Thimpu, Bhutan between the Sri Lankan government and a number of Tamil groups, including the LTTE.
July 1987	Rajiv Gandhi elected Prime Minister of India, and signs the Indo-Sri Lankan accords on July 29, 1987, which include provisions for included the establishment and deployment of the Indian Peacekeeping force (IPKF) in the north east of Sri Lanka in an attempt to disarm the LTTE.
July 1987	Forty Sri Lankan soldiers die in the first LTTE suicide bomb attack on July 5, when a soldier from the Black Tiger unit, known as "Captain Miller" drives a truck laden with explosives into a Sri Lankan army camp in Jaffna.
April 1989	Peace talks resume.
March 1990	Last Indian troops from the IPKF withdraw from Sri Lanka.

June 1990	LTTE resumes fighting, ending 14 months of peace talks, and the Second Eelam War begins
May 1991	Former Indian premier Rajiv Gandhi killed—allegedly by an LTTE suicide bomber.
May 1993	President Ranasinghe Premadasa of Sri Lanka killed in LTTE bomb attack.
August 1994	Chandrika Kumaratunga elected president in Sri Lanka, and, pledging an end to the war with the LTTE, announces a unilateral ceasefire.
October 1994	A round of peace talks with the LTTE begins.
April 1995	The LTTE sink a Sri Lankan naval war ship, ending the peace talks, and beginning the Third Eelam War.
December 1995	Sri Lankan army captures Jaffna from the LTTE.
January 1996	LTTE attack the Central Bank in Colombo.
October 1997	October 1997 the United States banned the LTTE under anti-terrorism legislation
January 1998	LTTE attack one of Sri Lanka's holiest Buddhist shrine, the Temple of the Tooth on January 25, 1998 with a suicide bomb.
August 1998	Nationwide state of emergency declared by Sri Lankan government
September 1998	LTTE unsuccessfully try to restart peace talks on condition of third party mediation.
January 2000	An explosion outside the Sri Lankan prime minister's office in Colombo

	kills 13 people.
February 2000	Norwegian government plays an important intermediary role in the negotiations between the two parties after this date.
July 2001	The LTTE attacked the Katunayake air base destroyed eight military aircraft and damaged 10 others on the tarmac, before attacking adjacent international airport, Bandaranaike, where they were able to destroy or damage nearly half of the national civilian aircraft.
February 2002	The Sri Lankan government and the LTTE sign a Norwegian-mediated ceasefire Cease Fire Agreement (CFA). Its monitoring body is known as the Sri Lanka Monitoring Mission (SLMM).
March 2004	Split within the ranks of the LTTE. Vinayagamoorthi Muralitharan (alias Colonel Karuna), an LTTE commander, breaks away from the group's leader, Vellupillai Prabhakaran.
December 2004	A tsunami devastates coastal communities in Sri Lanka, including LTTE controlled areas.
September 2005	The CFA collapses following outbreak of violence.
November 2005	Mahinda Rajapaksa, prime minister at the time, wins presidential elections. Rajapaksa oversees a shift towards a military strategy from the existing political strategy.
April 2006	Violence begins to escalate again.
January 2008	The government formally announces its withdrawal from the ceasefire agreement.
May 2009	The military defeat of the LTTE.

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