Annex I

Interview with Top Taliban Leaders (NHK)\(^1\)

Some parts of the interview were broadcasted in Today’s Close-Up on September 6, 2012, in Japan and September 11, 2012, on NHK WORLD TV in English.

Sohail Shaheen, member of Taliban Negotiation Team in Qatar
Syed Rasool, member of Taliban Negotiation Team in Qatar

Interview with Sohail Shaheen

NHK: How many members of the political office of the Islamic Emirate of Afghanistan are talking to United States?

SOHAIL SHAHEEN: When there are talks or meeting with the political office, they decide how many members will take part in the talks and according to that decision members of the political office participate in the talks but this occurred before the suspension of the talks. But now there is no contact between the Islamic Emirate of Afghanistan and the United States of America. There were confidence building measures which reached an understanding but they weren’t implemented because the talks were suspended and postponed. So, there are now no meetings and talks.

NHK: Why were they suspended?

SOHAIL SHAHEEN: It was because of the confidence building measures. We had meetings with the Americans, several meetings, and at the end of those meetings, we came to an understanding that the American side should take steps regarding confidence building measures like the opening of the office and also exchange of the prisoners and also delisting. But we have bypassed the delisting. To show a sign of flexibility we have bypassed it but two conditions are still there – exchange of prisoners and also the opening of the office. These two conditions which we agreed upon and we had reached understanding about, were not implemented as agreed upon by the United States. So, that was the reason for the suspension of the talks and we said we are abiding by the understanding we reached. If the American side implement the conditions which they agreed upon, there is no problem, no obstacle for the talks to resume. We are still abiding by that rule.
NHK: The last talk with United States was held in Qatar in January, I believe that Mr. Grossman came here because at that time I was in Kabul and we had a press conference in Kabul and he said he would go to Qatar to talk with the Taliban. Was that the last talk?

SOHAIL SHAHEEN: Yes, before the talks were suspended, there was meeting. But after that there was no meeting, after suspension of the talks.

NHK: So, the last talk, how long did it take? Did it take three days or four days in Qatar?

SOHAIL SHAHEEN: No, not four days’ talks. It was just one meeting.

NHK: And then Mr. Grossman discussed the conditions with you?

SOHAIL SHAHEEN: Yes, the condition was we had reached understanding and the office was to be opened and the exchange of prisoners to take place as was agreed upon. Then they brought some new conditions.

NHK: What are the new conditions?

SOHAIL SHAHEEN: And now the new conditions... you know, the Afghan issue is two dimensional – external and internal. External dimension or external side of the issue is that we, the Islamic Emirate of Afghanistan, will talk with the United States about ending the occupation of Afghanistan and all issues related with occupation and also some concern of the Islamic Emirate of Afghanistan of the United States, they will resolve those issues because this is external. It is not in the power of the Kabul administration. They do not have power. They do not have power to end the occupation. These are the external dimensions. When we complete the external dimension, then we come to the internal side of the issue and the internal side is all Afghans sit together to consult each other about the formation of Afghan inclusive and Islamic government in Afghanistan which is based on the aspirations and will of the people of Afghanistan so all the people will feel their participation in the government. So, that’s the internal side. If you bring the internal side before the external side of the issues completed, it will not resolve the issue. Rather it will complicate the issue because the occupation is there. So, it will complicate and create more differences and it will not be resolved. So, as a principle, yes, all Afghans who are living in Afghanistan, they have right to serve their country and also participate in the government but that is the internal side of the issue. So, that was the reason of difference and that was the reason for postponement of the talks.

NHK: So, The new condition which Mr. Grossman presented is the participation of the Karzai government?

SOHAIL SHAHEEN: Yes.

NHK: That’s it? Or are there any other conditions he presented?

SOHAIL SHAHEEN: No, there was some condition about the office and also about the Karzai government and those things which is internal phase. So, we told that we had reached the understanding that we will complete first the external side of the issue. Then we will go smoothly and confidently to the internal side of the issue. So, when we bypassed the external and brought the internal which was in violation of the understanding, that’s contradicted the understanding we had reached with them. So, that’s one of the reasons postponement of the talks.

NHK: Is there any other issue that you are not satisfied with, I mean, in terms of the US government’s attitude?
SOHAIL SHAHEEN: I think in these talks sincerity is very important, honesty, sincerity. And the American side should adopt resolution of the Afghan issue through peaceful means and diplomatic means as a strategy, not as a tactic, a fluctuating tactic – today is one tactic, one remark and tomorrow other kind of assertions. There is backtracking understanding on the points agreed upon because these things complicate the issue. Then the talks will not go forward. Both sides, I mean the Islamic Emirate of Afghanistan and also the United States, should adopt the solution of the Afghan issue through diplomatic ways as a strategy. We are abiding by the understanding we reached, we are abiding by that but when they have new conditions, I think we can say it was not kind of their strategy. They should be stable, constant in their approach to the issue and they should abide by the understanding or agreement which we reached. That will be I think a good thing for the resolution of the Afghan issue.

NHK: In terms of exchanging prisoners, is there no disagreement between the US and the Islamic Emirate of Afghanistan (Taliban)?

SOHAIL SHAHEEN: There was disagreement, yes, but that this disagreement after the understanding was finished and that is that they will give us our five prisoners and we will give them their prisoner, the American prisoner.

NHK: In the US, especially the US congress is concerned that if they are transferred from Guantanamo to Qatar, they then might go back to the battlefield again and the US would like to get assurances that they are kind of under house arrest. What did you talk about that with the US?

SOHAIL SHAHEEN: I think they should not be concerned about that because the Americans have released before that prisoners from Guantanamo jail and they released them on their own, without any understanding with any sides. So, when these five people are released, they are released on the basis of understanding, agreement with Islamic Emirate of Afghanistan. So, it is a kind of assurance, a kind of guarantee. So, this is different from the other releases that they did. So, based on that assurance, I think there will not be any violation of the understanding reached between the two sides.

NHK: As for the US prisoner which you are holding, what’s his condition? Is he in Afghanistan?

SOHAIL SHAHEEN: Yes, he is in Afghanistan, he is in good health condition.

NHK: Because he has been held for almost 3 years and you released a video about him before, but not recently. So, some people are very concerned about his whereabouts and his condition. Can you give them the guarantee that he is in good condition?

SOHAIL SHAHEEN: As far as I know, he is in good condition, yes.

NHK: And you had a dialogue with the US not only in Qatar but also in Germany. What was the atmosphere of the talks with the US before the suspension?

SOHAIL SHAHEEN: The diplomatic way is one of the options to obtain out rights, legitimate rights. The Afghan people, they are not struggling for something which is illegal. We want just independence of our country which is the right of every people which is also mentioned in the charter of the United Nations. We want a government based on the will of the people and the aspiration of the people. These are legitimate things and rights.
of the people. We are the people who are trying to obtain these rights through diplomatic ways, through peaceful ways. So, we tried hard but it was not tense atmosphere, maybe hard talking.

NHK: Is it business like?
SOHAIL SHAHEEN: Yes, you can say that. If you are talking for your own <<inaudible>> , then at the end you reach a mutual point which is agreed upon. That is the way of the talks.

NHK: While you were holding the talks with the US, the leader of the Al-Qaida, Bin Ladin was murdered in Pakistan. Was that affecting the dialogue with the US?
SOHAIL SHAHEEN: That was in May last year, I think, but the talk was started in 2010, at the beginning of 2010. So, it was more than one year ago and the decision of the talk was independent of course. It was an independent decision of the Islamic Emirate of Afghanistan and it started one year before that incident and it continued until March this year. So, I think it is a separate process. It started before that and ended in March and of course because of the certain conditions not met by the United States. So, it is separate.

NHK: A few weeks after Bin Laden was killed, the talk was held in Germany in Munich at the end of May in 2011. Mr. Grossman told us in our interview that he talked to the Islamic Emirate of Afghanistan that “Bin Laden was already gone, so let’s talk about the future of Afghanistan. Let's talk about the peace of Afghanistan.” I mean, I would like to know how you responded to that statement.
SOHAIL SHAHEEN: That’s his remarks but the talks were started before and of course the talk was at the beginning for the resolution of the issue through peaceful means. So, it was not started as the certain meeting with Mr. Grossman. So, it is a process started for the solution of the Afghan issue through peaceful means. So, it is not started at the certain meeting.

NHK: So, the dialogue with the US started in 2010.
SOHAIL SHAHEEN: Yes.

NHK: Why did you start the dialogue with the US?
SOHAIL SHAHEEN: We had two options. Firstly, there is our goal. Our goal is independent of Afghanistan and formation of a government on the basis of the will of the people so they have a government in the framework of their national value, religious values and they live as free people like other people of the world live. They should have this right. So, when we <<inaudible>> destroyed through peaceful means, we opened that option. Of course there was some people asking “You have no political diplomatic option, peaceful means. Only you are following the military approach to solve the issue from military ways” and we opened and we said “No, we have a goal. If you can reach this goal through peaceful means, we are willing to do that” and we opened that option and that option is still valid. However, it is postponed, the talks suspended but we are still abiding by that rule, we are committed to that and we are following that; we want the Afghan issue be solved through peaceful means.

NHK: So, is it safe to say that you approached the United States because you want to solve this problem peacefully?
SOHAIL SHAHEEN: You can say in both sense. Firstly, when the Americans entered Afghanistan they wanted to solve the Afghan issue through military
ways, through the use of force and they tried. That option was taken for 10 years and they failed. Then they knew this option has failed. When they wanted to talk we said like “Okay” and we have opened option to them and we are still, this option is valid for us.

NHK: Why can’t you stop fighting right now?

SOHAIL SHAHEEN: Without having gotten our rights? If we gain our rights and there is a government formed, the occupation is ended, there would be no fight. The fight we are doing is for certain things for the independence of our country, for liberation of Afghanistan, our freedom and our government which is all ethnic groups of Afghanistan participating in that government, an Islamic government which is represented by our people and the government <<inaudible>> which gives chance to the people to serve their country. So, this is our way to achieve these rights and for these rights we are fighting.

NHK: But right now in Afghanistan not only foreign troops but also the Afghan people, civilians, women and children are killed in the fighting and I am just wondering why you cannot stop fighting, so that you can negotiate peacefully.

SOHAIL SHAHEEN: Also from the occupation forces which are in Afghanistan, they have not stopped launching night raids. They have not stopped bombarding. They have not stopped launching attacks. So, in this situation how can the fighting be stopped? About the civilians, the killing of civilians, we have issued statements and also remarks by the spokesman of the Islamic Emirate of Afghanistan and working the United Nations and also the NATO to constitute a committee, an investigation committee to see who killed the civilians, why the civilians are killed and are they killed by the Mujahideen of the Islamic Emirate or by the NATO forces or the American forces. You will see. And even we are ready, if someone from our side killed the civilians, we are ready to try him, to punish him and we want the same from NATO from America, they should try anyone who killed civilians. Also, there was an incident in Kandahar where children were burned and killed and we wanted [that] he should be tried and punished because he killed civilians and also we are ready if someone from our side… and that investigation committee constitutes from three sides including the United Nations. If they find anyone from our side, we will try and if they find anyone from the American side or from the NATO side, he should be tried. So, in this way can stop the killing of the civilians. We condemned generally in principle, condemned the killing of the civilians.

NHK: To resume the dialogue with the US what needs to be done?

SOHAIL SHAHEEN: I think it is very clear. There are two conditions and those conditions are the confidence building measures and about this condition we already reached an understanding and this understanding if they are implemented and practical steps are taken by the United States of America, talks will resume. There is no other obstruction. Then we will enter the phase of negotiation.

NHK: So, only the sticking point is the participation of the Karzai government?

SOHAIL SHAHEEN: The Karzai government is the sticking point in the external dimension. In the internal dimension, no, they can participate. In the internal dimension, we will talk with all factions including Kabul’s institutions
but that’s the second phase. This is kind of our strategy what we do in the first place and then in the second place and above this phase we have reached understanding with the Americans. This we want to be implemented.

**NHK:** Do you believe that the dialogue with the US will resume?

**SOHAIL SHAHEEN:** I think if they want to resolve the issue through peaceful means, it will be resumed; it is not difficult but first there should be willingness for the solution of the issue through peaceful means. If there is a will, there is a way.

**NHK:** Do you believe that the US will withdraw the request of the Karzai’s participation?

**SOHAIL SHAHEEN:** Yes, of course, as you said, we have reached an understanding about that. So, in principle we will talk to all Afghans but that’s the other side of the issue, the internal side. So, one should not intermingle the two sides because, as I said before, it will complicate the issue rather than solving it because we want to resolve the issue, not complicate it. Why should we intermingle that?

**NHK:** When we interviewed the US side, the US government said that the reason why the dialogue is stalled is that the Islamic Emirate of Afghanistan doesn’t issue the statement which is to denounce international terrorism and dissociate from Al Qaeda. What do you think their claim?

**SOHAIL SHAHEEN:** First of all, there are no Al Qaeda now in Afghanistan and even the official of the United States of America, they admit this. Secondly, the statement, that would be a part of the understanding but that would be after the confidence building measures are taken. It will be followed by the confidence building measures but actually even during the time of the Islamic Emirate of Afghanistan, no one was allowed officially to use the soil of Afghanistan. Our agenda is in Afghanistan non-intervention in other countries, maintaining good relation with all countries of the world because it is necessary we know for the construction and development of our country, we are living in this world, we have to maintain relation with the international community to benefit from their advancement, their knowledge. So, we know that. And also we focus on our country, our infrastructure of our country, industries of our country. This is our agenda. We do not believe in export of revolution to other countries. So, our agenda is Islamic nationalist.

**NHK:** You said that the statement to denounce the international terrorism will be followed after the confidence building. Didn’t the US government ask you to issue that statement at the stage of the confidence building?

**SOHAIL SHAHEEN:** About terrorism, we have already condemned that. Killing of civilian people, harassing them, targeting of civilian people, of innocent people, whether it is done by a group, it is done by an individual, it is done by a state, we condemn those. And we have issued statements recurrently about this, repeatedly about this and of course we will say and we will say again that civilian people by anyone – group, individual or a state – we condemn it but there is one difference. Some struggle like our struggle in Afghanistan which is for independence of our country, for our own legitimate rights, this is something different from terrorism.

**NHK:** During the Taliban regime, you hosted Al Qaeda in Afghanistan. So, I am wondering it may be difficult for the Islamic Emirate of Afghanistan to issue a statement saying that you are breaking your ties with Al Qaeda.
SOHAIL SHAHEEN: First of all, I will say we have no connection in that terms to carry out some sabotage activities in other countries, we are not into this. The other thing is that there is no member of Al Qaeda in Afghanistan. As I said, even the American officials...and you know the Director of the CIA has admitted that. Members of Al Qaeda after the invasion of Afghanistan, they went to other countries, to their own countries and to African countries. So, now there is nothing like that and even then, as I said, our agenda is development, rehabilitation of our country and independence of our country, a government based on the will of our people. So, we have no agenda to work with any group in the soil of Afghanistan against any country. This is part of our manifesto. It is kind of our strategy.

NHK: So, in the dialogue with the US, if you explain what you told me to the US side, were they satisfied about your attitude about international terrorism? Was the US satisfied with your explanation?

SOHAIL SHAHEEN: I don’t know. You can ask them. I just explained my strategy. That’s not my personal view. That’s the strategy of the Islamic Emirate of Afghanistan.

NHK: Because when we talked to the US side, it seemed to us that they were very much frustrated with your attitude toward international terrorism and Al Qaeda. Why do you think they are so much frustrated?

SOHAIL SHAHEEN: I think there is maybe some misunderstanding because they do not know about the strategy of Afghanistan, enough information and because of the lack of enough information, it is maybe the cause of their frustration but they should know, as we said, our agenda is nationalistic, Islamic. We want to focus on our own country and prosperity of our people to form a Islamic government with participation of our people. That’s our strategy and we said we will not allow anyone to use the soil of Afghanistan against any country, that we need cooperation of the international community in order to economically advance our country in all fields – cultural, education, and other fields, technical. So, that’s part of our agenda and strategy and they should know that. If it is not clear to them, they got distorted information about us. Maybe that’s the cause of their frustration but we want the world that they should know our stance directly from us in our own words. So, that will be transparent and will be clear. So, we will understand each other more clearly.

NHK: Is Haqqani group not supported by Al Qaeda?

SOHAIL SHAHEEN: No. You know, there is much talks about Haqqani network and Al Qaeda but actually Haqqani is a commander of the Islamic Emirate of Afghanistan. There are some propaganda and distorted information and those things in many circles and they are clearing up these things but actually he is a commander of the Islamic Emirate and he is fighting solely for independence of Afghanistan and also the same goal which is followed by the Islamic Emirate of Afghanistan.

NHK: The US government is now considering designating Haqqani group as a terrorist organization. If the Haqqani Network is designated as a terrorist organization, what will happen?

SOHAIL SHAHEEN: I think, first of all, Haqqani is struggling for the independence of our country and they are struggling for their <<inaudible>> which is also mentioned in the charter of the United Nations. If for that
reason he is designated as a terrorist group, I think it will be in violation of international law and it will also not help the peace process. I think it should not be.

NHK: What kind of impact will it have on the peace process?

SOHAIL SHAHEEN: It will create problems in the peace process because when you are talking and you are trying to resolve the Afghan issue through peaceful means and at the same time simultaneously someone from your group is designated as a terrorist, it means someone is creating hurdles, obstacles in the way of the peace process which is underway. So, I think it will not be suitable and also a kind of contradiction with the international law because Haqqani is not carrying out sabotage activities in other countries; they are occupied in their own country.

NHK: Do you think that the US government is now taking very serious steps to restart the dialogue?

SOHAIL SHAHEEN: So far, no, until we see practical steps and we have not seen any practical steps in this regard. Confidence building is very necessary in order to resume the talks and they have believed that the solution of Afghanistan, of the Afghan issue can be reached through peaceful means, through diplomatic ways, they should take the steps in order to resume the talks but they did not take these practical steps; it means that maybe they are not serious in their approach to the peaceful solution that much.

NHK: Are you feeling that the US’s strategy is shifting toward military again?

SOHAIL SHAHEEN: I don’t know. Two things – first, that they intermingled the internal phase with the external steps and also after March suspension of the talks they have not taken practical steps but still it is not clear they are returning to the military approach once again, it is not still clear. It will be seen in future.

NHK: If US continues not to talk to the Islamic Emirate of Afghanistan, what will happen?

SOHAIL SHAHEEN: If they decide not to talk with the Islamic Emirate of Afghanistan it means they are returning to the military approach and they want to solve the Afghan issue through military means. So, everything will come to be same as it was before that they are intent on using the force and getting their goal through the use of force. So, the Islamic Emirate will have no option except to follow the same option, to resisting in order to gain their goal but still this option, diplomatic option is open from our side.

NHK: Which means after the international troops finish their combat mission in 2014, after 2014, the Islamic Emirate of Afghanistan is ready to cease the fire, I mean, stop the fighting?

SOHAIL SHAHEEN: If the people of Afghanistan gain their rights, full independence and from an independent government which reflect their national Islamic values, the war and the fighting will naturally come to an end; but if there is still hurdles, problems in the way and independence is not gained, of course it means the fighting will continue. So, it means it depends on whether the American side before that date are working sincerely to resolve the issue through peaceful means with Islamic Emirate of Afghanistan or not. If they resolved it, there will be no fighting.
**NHK:** Whether the negotiation succeeds or not, the international troops’ combat mission will be completed before the end of 2014. However, the Karzai administration troops and police are there after 2014. Do you think that you will continue fighting against them?

**SOHAIL SHAHEEN:** If the foreign forces pull out from Afghanistan and the Karzai government is there and the Karzai government is not representing the will of the people, of all the Afghan people, all the Afghan ethnic groups and many groups are deprived of their rights, so it will not be a representative government. Of course the fighting will continue until the people of Afghanistan freely and according to their will get a government which reflects their Islamic and national values and aspirations.

**NHK:** Does it mean that your goal is to revive the Taliban administration?

**SOHAIL SHAHEEN:** No, it is not in that sense. Our goal is, as I said… I never said to revive government as you referred to. We want a government, an Islamic government participated by all people, reflecting the aspirations of all Afghan people, of all ethnic groups and independence of the country. So, it is not in that term but it is an Islamic government participated by all Afghan people.

**NHK:** How do you think you can achieve that? Is there any possibility that you can join in the elections in 2014?

**SOHAIL SHAHEEN:** First of all, in the internal, as I said, it is the internal side of the issue. In the internal side of the issue, all Afghans should come together and sit together and do some brainstorming about the formation of the government and then we will decide on a setup and that setup will be an Islamic government and an independent country and also representing the will of the people. That is what we want.

**NHK:** I think you are aware that the President Karzai recently said that Mr. Mullah Omar also can be president through an election.

**SOHAIL SHAHEEN:** Yes, this is his own words and he is powerless. Sometimes even he says he puts pressure on the NATO night raids but NATO launches night raids and even the election there was rigging. He was himself complaining about that. Under the occupation, there can’t be free elections. That’s his own words in an atmosphere which is not possible but the real aim is that the occupation should end, Afghans should sit together and they are an independent country, free country, they should decide about the future of the government which will be representative of the 30 years, 3-decade struggle of the people. We have given about two million people just for our independence and just to have an Islamic government because the Islamic government like a welfare state, prosperous and that is for the Afghans, for the poor people. There are certain rules in the government; it answers to the needs of all the people. Otherwise, it will be a government controlled by a few people and there will be division between the upper class and lower class of the society.

**NHK:** Let me double check about the dialogue with the US. If the US allow Islamic Emirate of Afghanistan to establish an office in Qatar and exchange prisoners which means that they complete the confidence building measures, you are ready to cease fire, stop the fighting and talk peaceful negotiations?

**SOHAIL SHAHEEN:** After the opening of the office we will enter the phase of negotiation. Ceasefire can be a part of the package of negotiation. We
can reach above that but it will be after negotiation how we can reach mutually but after the opening we go to negotiation and after that we can reach about ceasefire or not but it will be through the negotiation what package we reach at the end of the negotiation.

NHK: So, you are ready for the peaceful negotiation?

SOHAIL SHAHEEN: Yes because when the office is open, of course we go to the peaceful negotiation to resolve the issue about peaceful means and the office is open...

NHK: In terms of the peaceful negotiations, who are you going to negotiate with? Is it with the United States or with Karzai government?

SOHAIL SHAHEEN: At the first phase we will negotiate with the United States. At the second phase we will negotiate with Afghans.

NHK: If the peaceful negotiation take place and you agree to cease fire, do you believe that the militants in Afghanistan will follow the result of the peaceful negotiation which means that they will stop fighting?

SOHAIL SHAHEEN: Yes. In Afghanistan, the Islamic Emirate of Afghanistan it is a very coherent force. They follow their leader and they are taken into confidence because they know that this negotiation is another tool to obtain their goals which they are trying to gain through military ways. So, when we negotiate and we are trying to obtain the same goals, there will be nothing they will not obey. They will all obey the leadership of the Islamic Emirate of Afghanistan.

NHK: When we interviewed some militants – I believe they were not at the senior level but lower level – they still do not believe that some people are having negotiation or dialogue with the United States and I thought it’s very difficult for them to believe that there is a peaceful negotiation between the Islamic Emirate of Afghanistan and the United States. I was wondering that they are really following you.

SOHAIL SHAHEEN: I don’t know about your interview. May be they are not the real people because something happened, some impostors have given interview like the incident with Mullah Masood, some impostor came to Kabul. And there are also interviews by some impostors but the responsible people have never been interviewed like this. As far as I know, the Islamic government has organization set up. Like any other government they have political office like foreign ministry and also defense ministry, ministry of interior, all the ministries they have, even up to the district governors and all these governors. So, based on that, I think there will be no one to not obey the instruction of the leadership as regards to the peaceful solution of the Afghan issue.

NHK: I think [it’s] the last question. I was wondering why you decided to accept our interview this time and what kind of message would you like to convey in our coverage.

SOHAIL SHAHEEN: We participated in Tokyo conference and that was a good chance. For decades the world had not received our message directly in our own words and our image was distorted and we were presented through other peoples’ words and through another angle and it made difficult the issue of Afghanistan. We want to explain our side, our views directly to the people in our own words and tell them what we want, what we are. I think it will contribute to the solution of the issue. That is why we accepted your interview.
And about the second part of your question, we urge the media outlets that they convey the ground realities in Afghanistan to the public of the world and that as we are portrayed, the Islamic Emirate of Afghanistan and that the Taliban are not terrorists as they are portrayed; it is an Islamic nationalist movement focused on their own country and the independence of their country, on formation of government which is the will of all the people, all ethnic groups; more than that, they do not want any intervention in other countries and in addition to that, they want cooperation with all countries of the world including the neighboring countries because as we want to make advancement economically and in all sectors including education, we need that cooperation and that is our agenda and we need to talk more to the media and also the media to project the real face of the Islamic Emirate of Afghanistan. I think it will contribute peace in my country.

NHK: Thank you very much.

We have one more question. What is your message to the United States?

SOHAIL SHAHEEN: All we suggest to the United States is Afghanistan is a historical country. Here from Alexander up to Britain and now to America, the former Soviet Union, the can’t come here. They invaded Afghanistan but they never had control of Afghanistan by force. My message is the last dictators, a good lesson to him, they should give the Afghans their rights. They should free Afghanistan to the people, to the Afghans which is their home and about their concern that Afghanistan will be used against their territory, their country, we assure there will be nothing like this because that is not a part of our agenda because that’s not a part of our manifesto. So, they should consider that it is better for them to give the rights to the Afghan people. It is in the interest of the American government and American people and also it is in the interest of the Afghan people. In this way the war also will come to an end and peace will be obtained.

NHK: Regarding the dialogue, what’s the message that you want to convey to the US?

SOHAIL SHAHEEN: Regarding the dialogue, we have opened the options of solution of Afghan issue through diplomatic ways. It is not us that backtracked. We are abiding by the understanding we have reached with the Americans. The Americans should also respect and abide by the understanding which was reached. If you go on those series as we have agreed upon, I think it will be better to enter the negotiation stage rather than wasting that.

NHK: Thank you very much.

SOHAIL SHAHEEN: Welcome. Thank you.

Interview with Sayed Rasool

NHK: First of all please explain how you see the future of Afghanistan. What is your strategy to realize peace and stability in your country?

SYED RASOOL: We, after the end of occupation, want an Islamic, independent and sovereign Afghanistan, and a restoration of lasting peace. We are giving special attention to reconstruction, particularly the reconstruction of hospitals, highways and natural resources. We will pay special heed to education within the framework of Islamic principles and
national interests, and give full rights to the women. We have a special focus on extracting natural resources and mines, the revival of agriculture, trade and industry, to pave the way for foreign investors to make investment and do trade. We want to have good political, economic, technical and educational relations with the entire world on the basis of mutual respect, and want to benefit from their progress and development, especially in education, technical and economic fields. We want complete eradication of narcotics and corruption and the appointment of competent people.

NHK: What is your goal?

Are you going to revive the Taliban administration or is there any possibility of power sharing with the Karzai administration?

SYED RASOOL: Our struggle is not for power sharing, rather we want to enforce such a system in Afghanistan that is in accordance with Islamic principles and the values of Afghanistan.

NHK: Is there any way for restoration of peace and stability in Afghanistan without violence? We are very much concerned about the instability and security situation in Afghanistan as many people have lost their lives. Is there any way for a negotiated settlement?

SYED RASOOL: Emirate (The Islamic Emirate of Afghanistan) has been calling for peace and understanding since the beginning. The opening of political office is part of this process.

NHK: Is it safe to say that the Islamic Emirate of Afghanistan is ready to hold peace negotiations with the US or Karzai administration?

SYED RASOOL: This conflict has two sides. One external and one internal. When we achieve confidence building measures with the external side, then in a new phase of negotiations, talks could be held with Afghans.

NHK: Right now you are engaged in dialogue with the US, discussing the issue of the exchange of prisoners. After prisoners are exchanged, will it possible for the Islamic emirate to start peace negotiations?

SYED RASOOL: What had earlier been agreed upon with the Americans, was allowing the opening of political office and the exchange of prisoners. We abandoned the issue of a black list for the sake of the negotiations.

NHK: If those two conditions are met, can the Islamic emirate negotiate with the US or Karzai administration for a cease fire?

SYED RASOOL: Yes, we will consider talks and negotiations. It is possible. Understanding can be reached with the Karzai administration as they are also Afghans. However, this is the second step after negotiations with the US.

NHK: We want peace in Afghanistan very much. What needs to be done to achieve a cease fire?

SYED RASOOL: We are also interested in the peace, prosperity and reconstruction of Afghanistan. But war has been imposed on us. Peace and prosperity in Afghanistan or rather peace in the world can only be restored when the occupation ends.

NHK: But why can’t you say that you will stop fighting right now?

SYED RASOOL: To end fighting, confidence building measures must be taken. I have already said that this war has been imposed on us.

NHK: I would like to confirm your two conditions. One is the exchange of prisoners and the other is establishing political office in Qatar?
SYED RASOOL: Yes, that’s what we’re referring to, but we also want a guarantee for ending occupation.

NHK: Before ending occupation, can you talk about a cease fire?

SYED RASOOL: This depends on the negotiation process.

NHK: The US government wants you to issue a statement, denouncing international terrorism and disassociating yourselves from al-Qaeda. Can you do that?

SYED RASOOL: The Islamic Emirate, has from the beginning had no connection with terrorism. Nobody has so far proved that an Afghan has ever committed terrorism against anyone. Target-killing, torturing and harassing of defenseless and innocent civilians, by any individual, group or any government, is strongly condemned by the Islamic emirate. The Islamic emirate considers the efforts and struggles oppressed nations’ make for attaining their rights and freedom as a legitimate right. This is enshrined in the United Nations charter as well.

NHK: So, why are you not issuing a statement denouncing international terrorism and disassociating yourselves from al-Qaeda?

SYED RASOOL: The US Government says that talks between the Islamic Emirate and the US stopped because the Taliban are not issuing such a statement.

Al-Qaeda has no presence in Afghanistan, nor we have brought al-Qaeda to Afghanistan. We have no link with them. This is propaganda by people against the Islamic Emirate. This can be proved in the statement of Joe Biden where he said that the Taliban are separate from al-Qaeda.

NHK: Is it very difficult to issue such a statement? (denouncing international terrorism and disassociating yourselves from al-Qaeda)

SYED RASOOL: This is premature, and we have not held consultations on this issue. If someone has no connection with an issue, then what is the need for issuing a statement?

NHK: The reason we ask is because when we interviewed some Taliban militants they said that they are receiving support from al-Qaeda technically and financially. Do you think that the leadership of the Taliban can make them cut ties with al-Qaeda?

SYED RASOOL: The Islamic Emirate does have its own officials and departments, and the officials of every department are known. The confirmation of any issue is only reliable and acceptable when it is confirmed by the official concerned.

NHK: Mr. Agha Jan Motasem, who is in now in Turkey, has been de-listed recently by UN sanctions. What is the relationship between him and the political members of Taliban in Qatar and do you think he was attacked by Taliban hardliners who were against the dialogue with the US?

SYED RASOOL: He has no link with the Islamic Emirate. Motasem Agha Jan issued a statement saying that he fell victim to fighting between MQM and Pashtuns in Karachi.

NHK: When we interviewed the Taliban militants, some of them said they support the dialogue with the US and some do not. It seems to me that there is a division among the Taliban. Do you think the Taliban are divided?

SYED RASOOL: Not at all. All the Mujahideen of the Islamic Emirate are fully committed to the Emirate, and are working according to the directives and orders of it. Some people who are making some statements due to some
reasons that might have been motivated by the enemy. The Mujahideen are fully obeying the Islamic Emirate and are very sincere, there is no division at all in their ranks.

*NHK*: You are participating in dialogue with the US. How was the atmosphere? Was it tense?

*SYED RASOOL*: The atmosphere was good from their side, as the negotiation was their demand. It was not our demand. They made the demand, so naturally the atmosphere was good.

*NHK*: But the dialogue has been stalled. If the US continues not to talk with the Islamic Emirate of Afghanistan in future, what will you do?

*SYED RASOOL*: Peace and reconciliation has been our demand for a long time and it still is even now. The war has been imposed on us for a long time. If the opponent’s side still desires to continue the war and keep fighting, we are ready for it, for war.

*NHK*: Have you received any indication from the US that they would like to resume talks with the Islamic Emirate of Afghanistan?

*SYED RASOOL*: From different channels, indirect indications are there, but from our side, the talks are suspended.

*NHK*: What do you think about the relationship with Afghan neighboring countries such as Pakistan and Iran?

*SYED RASOOL*: Our relations with the entire world especially with our neighbors, particularly Islamic countries are within the framework of Islam, within the framework of national values and within the framework of national interests and on the basis of mutual respect and equality. However, defending rights and protecting rights is the right of every country under international norms. We, in Afghanistan, pursue the policy of a non-aligned country. Sovereignty and territorial integrity are among our objectives.

*NHK*: Regarding the dialogue with the US, how many times did you participate in a dialogue with them?

*SYED RASOOL*: Talks are held after consultations and then some specific persons, representatives take part in the talks.

I think the US Government was ready to transfer five Taliban prisoners from Guantanamo to Qatar if the Taliban agreed to two things. One is participating in dialogue with Karzai and two is the issuance of a statement. The procedure is that first of all, a political office be opened and prisoners released and exchanged. Then a statement will be issued.

*NHK*: According to our information, the US government considers that first they will release two prisoners from Guantanamo to Qatar and then Taliban will release the US prisoner they are holding. Then they will transfer two more prisoners and then the Taliban will issue the statement. After the statement is issued, one more prisoner will be released. Is this what they are saying to you?

*SYED RASOOL*: The procedure which had been agreed upon with the Americans is first permission for the opening of a political office and then the exchange of prisoners. There is a need for understanding as to what will be the procedure for the swap of prisoners. When these two issues are settled, then an announcement will be made.

*NHK*: Why did the US government break the agreement?
SYED RASOOL: This should be asked to the Americans. It seems that they were not sincere at the beginning of the dialogue.

NHK: What is the sticking point now? Is the biggest sticking point the inclusion of the Karzai administration in the dialogue or having a political office in Qatar for resuming the dialogue?

SYED RASOOL: As I said earlier, this conflict has two sides (external and internal) and there is a foreign or external side which enjoys real power. Opening a political office should be allowed and prisoners exchanged. The condition relating to Karzai should be excluded from the phase of confidence building measures.

NHK: For me, for Japanese people, it is quite difficult to understand why you are refusing Karzai’s participation in the dialogue. For peace in Afghanistan, why don’t you just allow him in and then move forward and start the dialogue?

SYED RASOOL: It is obvious that the real power in the conflict rests with the foreigners. Moreover, the Karzai administration is under the occupation. We weren’t invited to the elections, nor did we cast our votes in the elections. Furthermore, Karzai is known to you and the entire world that he frequently changes his statements.

NHK: But peace in Afghanistan is most important. You may object to the participation of Karzai government, but if you think peace is important for Afghanistan, why don’t you allow him in just as an observer and then start dialogue again?

SYED RASOOL: When the internal phase gets started, I mean discussing the internal issues at the negotiations phase, we will reach an understanding with him, not only as an observer, but as a party.

NHK: Thank you very much. We appreciate your time.
Annex II

New Directive from Amir ul-Momineen
Mullah Mohammad Omar Mujahid
(September 14, 2009)¹

Translated text of the 2009 Directive²
Edited by Abu Omar
Islamic Emirate of Afghanistan
Public Relations Department³ of the Military Shura
Directive of Islamic Emirate of Afghanistan
In the name of the merciful Allah

1. To the families of the brave Mujahedeen of our beloved country, to the
injured Mujahedeen and to all the families of the detained Mujahedeen,
I wish you festive Id-e-ramadan. May God accept your Ramadan, prayers
and the citations of the Qur’an.

2. I call upon all the new responsibles⁴ of the Province to obey my new
Directive and to implement and ensure implementation by your fellow
Mujahedeen.

3. To all new Responsibilities of the Province, whether military or civilian, any-
body who acted without consultation of the Shura and who has earned
the criticism of others, will be stripped of his weapons.

4. The Responsible in the Province should solve province-related problems
internally without burdening his subordinates. Discuss any problem
with all your subordinates regardless of hierarchy and report them to the
Shura. Act only after having received approval from the Shura.

5. Do not place children, except Arabs and Tajik children, in training centres
and military camps even if they have the necessary combat skills. They are
still children. If an Afghan Taliban is seen with a child, the responsible
will be stripped of his weapons and an earthshattering⁵ punishment will
be inflicted.

6. The vehicles of the Mujahedeen must not be used for different (private)
purposes even if they are high-level Mujahedeen.
7. War spoils should be shared with the families of the martyrs and the families of the prisoners.
8. Unless the person works for the government, any person is presumed innocent and he cannot be kidnapped for ransom. Any violator will be severely punished.
9. Any Afghan technician or engineer working on road construction in the country, or building construction, shall not be killed on the spot. He shall be transferred to the Shura and the Shura shall decide. If a guarantee is obtained from a third person that he will not re-engage in his activity, he will be released.
10. Vehicles of different foreign organisations or institutions shall not be usurped. Any violator may be punished without the authorisation of the Amir ul-Momineen.
11. If a high-level foreign engineer, military officer or journalist is captured, he shall be transferred to the Responsible of the Province. The responsible is prohibited from killing the detainee nor trade his release against other conditions.
12. Nobody, including the military commander, is allowed to talk to, or to build relationship with foreigners unless authorised by the Shura. If such a relationship is discovered, he shall be punished by the Shura on grounds of spying (for the foreigners).
13. Everybody’s opinion should be reflected in the press and published material.
14. Press and media personnel should make efficient use of their time and acquire computer and English skills in order to fulfil their mandate.
15. Foreign Mujahedeen should be treated with care. Do not take them to the city, and prevent their contact with others.
16. It is prohibited to plant mines on non-asphalted roads in order to avoid martyring innocent people.
17. In every military unit, the responsible should conduct operations together with his subordinates. He must not give orders such as to persecute others which are not related to military operations.
18. The Mujahedeen is prohibited from developing military plans by his own and must (first) consult Amir ul-Momineen and obey (his orders).
19. The Mujahedeen must determine the area of combat through deliberation with others. God will bestow compassion and victory upon those who deliberate.
20. A new Military Shura will be founded in Peshawar. The responsible will be Maulawi Abdul Aziz. Complaints from the Mujahedeen about the responsible should be reported to the Shura. The Shura will discuss the measures to take and, if necessary, his weapon will be confiscated and (he will be) punished. The contact numbers of the mobile phone are with the Committee.
21. If the Committee does not take appropriate measures for the injured, the Mujahideen doctor must report it to the Shura.
22. (Even) If a spy is captured with evidence on him, such as documents, satellite phone, cards, etc. he shall not be executed without permission. The authority to punish is with the Shura.

23. A suspected translator or anybody without clear incriminating evidence cannot be detained nor killed.

24. In case of planting a bomb in schools, utmost care should be paid not to kill children and innocent people. It is prohibited to destroy schools that teach religious classes.

25. Members of the Shura and the Responsible of each Province must not interfere with the politics and domestic affairs of the neighbouring country.

26. Those with different ideology are considered an enemy and no discussion should take place with them. This is a decision taken by myself, the Amir ul-Momineen and the Shura.

27. If a military commander is seen in a meeting of the enemy, he will be expelled from the country or severely punished.

28. The responsible is prohibited from collecting money from the general public in the name of the Emirate. Many people, particularly tradesmen, donate voluntarily (to the Mujahideen) and they should not be forced (to do so). If such an act is observed, the Amir ul-Momineen will order death by torture.

29. The Responsible of the Shura, the Responsible of each Province and media persons are prohibited from talking freely on their mobile phones. An alias should be used and the name must not be revealed.

30. The Shura distributes monthly stipends, weapons and money to the Responsible of the Province and complaint of non-receipt will not be accepted.

31. The media persons should treat Islamic poets with great respect. A monthly salary will be paid from the budget. Their activities boost the morale of the Mujahideen. They have been fighting alongside our forces and made a lot of sacrifice. The responsible of the Shura should also take up this matter.

32. Date of issuance

25.09.1430 (lunar calendar)
23.06.1388 (solar calendar)
14.09.2009 (western calendar)
Annex III

Taliban’s Code of Conduct


The Islamic Emirate of Afghanistan.

The Layha [Code of Conduct]

For Mujahids

In the name of God (Who is) the most gracious and the most merciful,
We praise and pray for the glorious Messenger.

There after: Allah Almighty says [in the Holy Book]: Allah doth command you to render back your Trusts to those to whom they are due; And when ye judge between man and man, that ye judge with justice: Verily how excellent is the teaching which He giveth you! For Allah is He Who heareth and seeth all things (58).

O ye who believe! Obey Allah, and obey the Messenger, and those charged with authority among you. If ye differ in anything among yourselves, refer it to Allah and His Messenger, if ye do believe in Allah and the Last Day: That is best, and most suitable for final determination (59).¹

Striving [Jihad] in the way of Almighty Allah is the highest worship and greatest duty through which the honour of the Islamic Ummah² and the sublimation of the expression of Allah Almighty takes place. Jihad is a fundamental tool for the success and magnificence of the Muslims through which the dignity and happiness of the Islamic Ummah can be secured. The nations who have carried out Jihad enjoy independence and free life. By contrast, the nations which have sheathed the sword and abandoned Jihad have not received any benefits apart from having been shackled to the neck by the chains of slavery and captivity. Today, while the Mujahids are giving their
sacred blood for the prestige of Allah’s word, for the honour of their own Muslim nation and the Islamic Ummah, in order to be able to organize Jihad affairs in the light of a comprehensive Jihad strategy and to guide Mujahids in terms of administrative, educational, judicial, moral and ethical aspects [of life] more than ever before, there is a need [for us] to have such a Layha [Code of Conduct], which will enable Mujahids to better clarify their aim; to identify the intentions of the enemies of Islam and their supporters; and to easily find a solution for the doubts and vagueness which they are facing in a Jihad environment. In accordance with the divine guidelines, the duties should be given to those God-fearing and brave [persons] who are not only capable of carrying out their duties in a good way, but also able to neutralize the enemy’s conspiracy in time.

Thanks to the favour and support of God Almighty, the Leadership of the Islamic Emirate, in order to implement the demand of the moment, has been able to compile the Layha and the Regulations into 14 chapters and 85 articles in the light of Mohammedan Sharia and through the assistance and advice given by the prominent and erudite theologians [ulema], chief judges [muftis], specialists and knowledgeable persons of the country.

[The Leadership of the Islamic Emirate] based on the assistance of the mentioned persons and taking into account the current situation has added some issues to the second edition [The Code of Conduct and the Regulations] and has elaborated on some matters and introduced some clarifications.

After the publication of the second edition, every person in charge and every Mujahid of the Islamic Emirate has a responsibility and duty in terms of obeying [the rules of] this Layha and its implementation.

All military and administrative authorities as well as ordinary Mujahids of the Islamic Emirate in matters of Jihad affairs are bound to all principles of this Layha and obliged to organise their daily Jihad activities in the light of the regulations of this Code of Conduct. Vassalam,

1431 lunar year of the Hegira system, 15 of Jumadi al Thani
2010.05.29
1389.03.08

Introduction

1. In the Layha [Code of Conduct], Imam and Najib Imam refer to the Respected Amir ul Momineen Mullah Mohammad Omar (Mujahid) and his deputy, respectively.
2. In the text of the Layha, whenever [the situation of] giving punishment to somebody is mentioned it does not include the collection of money.
3. In the articles of the Layha, whenever the taking of guarantees is mentioned, it refers only to unmovable properties and persons. It does not refer to money or movable property.
4. The second edition of the Layha was published and went into effect on the 15th of Jumadi al Thani, 1431 lunar year of the Hegira system which corresponds to the 8th of Jauza, 1389 solar year of the Hegira system and to the 29th of May, 2010 year of Christian era. Mujahids and persons in charge of the Islamic Emirate are obliged to implement this Code of Conduct.

**Chapter 1—Issues related to the surrender of the oppositionists and giving them dawat**

1. Any Muslim can give a dawat [invitation] to the employees of the Kabul servant administration in order to encourage them to leave their duties in this corrupted administration and to sever their ties with it.

2. If somebody is leaving this corrupted administration because of somebody’s dawat, or because of his own faith, then in the case of the ordinary person the district chief shall give a letter of permission to him, and in any case of a well-known person or a person who has inflicted harm on Muslims, the district chief shall provide such a letter after consultation with the governor and shall inform the Mujahids about the letter. If any Mujahid will kill the person or cause any harm to him, the person who committed this act shall be given punishment in the light of Islamic principles.

3. Regarding those persons who have surrendered and repented during their period in power (while working with Infidels or their slavery administration), if they harmed someone or caused harm to someone’s property, then this person is obliged by Allah Almighty to make amends. If he does not, then he is [considered] guilty. Of course, the court or somebody else cannot receive a compensation or fine for the crime by force, nor can they punish him. If a person took some else’s property and are still in possession of it, then the real owners of the property can take it back from this person, but if the property is no longer in their possession, then the real owners cannot take compensation by force [from the person]. If a person during his period in power has accumulated debts or made deals such as purchasing and selling on good faith [of both parties concerned] and is still in debt [towards one of the parties concerned], then the debt can be recovered. If somebody asks for the court to be convened regarding such a personal matter, then the individual concerned should attend the court. Of course, if any thefts have taken place, or one tribe has attacked another tribe, village, household, shop, vehicle or anything else, or has committed murder or has taken a property, in this case a trial and compensation are applicable.

4. If a person does not stand on his promise and carries out obvious treachery after accepting the dawat [invitation] or calling, the promise given to him is invalidated. In the case of a second surrender or repenting [of the person], if Mujahids are not sure of his sincerity, then a guarantee shall be asked from him.
5. If a person, having been linked to the current corrupted administration and accused of murdering Muslims, or that Muslims hate him and feel an aversion towards him, or is departing from the ranks of the opposite side, then the Mujahids shall ask this person for a guarantee that he will not change his mind and will not inflict harm on anybody. The person in question shall lead his ordinary life, but those responsible in the district are obliged to watch and follow up on him until gaining full trust and confidence in him. In case an important operation is conducted and the person in question kills a foreign invader or a high-ranking government official, or provides the Mujahids with the opportunity to catch them alive, he could be nominated to the leadership and may receive additional privileges.

6. As regards those persons who depart from the inferior administration and surrender to Mujahids, they should not be included into the Mujahid ranks without consultations among the Mujahids and until they gain full confidence in those persons. After gaining such confidence, the permission shall be obtained from the person responsible for the province.

7. If any armed person from the opposite side leaves his unit and goes to a place where he cannot defend himself and the circumstances look like this person would like to surrender, any attempt to kill him would be unlawful until [the moment] it becomes clear that he does not have any intention of surrendering and will continue to attack and deceive.

8. If somebody from the opposite side contacts a Mujahid to say that he will be at the service of Mujahids inside the opposition’s ranks, and that for this [service] he and his [military] squad or group of his Mujahids should not cause the person any troubles, in case of such a contact, Mujahids have permission to grant him this particular security. They should not give him general security guarantees though.

In case of such a contact, the Mujahid should seek permission from the person responsible in the district who, in turn, should request permission from the governor. Given the fact that it will be personal security [guarantees] given to a particular person by a particular person or group, other Mujahids will not have any responsibility in case of any killing or harm done [to the security given to that particular person].

Chapter 2—About prisoners

9. When an enemy, regardless of whether they are a local or a foreigner is captured, he will be handed over immediately to the person responsible in the province. After the handover it is at the discretion of the person responsible for the province whether to keep him [captive] with the particular Mujahids [those who captured him] or to hand him over to others.
10. If a local soldier, policeman, an official or other responsible person with affiliations to the slave administration has been captured, it is at the discretion of the governor to release them in the case of prisoners exchange, as part of a goodwill gesture or in exchange of solid guarantees. Receiving money for the prisoner’s release is forbidden. Only Imam, Najib Imam and the provincial judge have the authority to execute or to punish. Nobody else has this authority. If a judge has not been appointed yet in a province it is up to the person responsible in the province to decide the fate [of a prisoner] with regard to their execution or punishment.

11. In case of the capture of contractors who transport and supply fuel, equipment or other materials for the infidels and their slave administration, as well as those who build military centres for them and those high- and low-ranking employees of security companies, interpreters of the infidels and drivers involved in enemy supply [business], if a judge proves the fact that the aforementioned persons are indeed involved in such activities, they should be punished by death. If the judge has not been appointed yet in a province it is up to the person responsible in the province to decide the fate [of a person] with regard to the issues of proof and execution.

12. If a military infidel has been captured, his execution, release through prisoner exchange, intentional release or release upon payment in case the Muslims need money, is at the discretion of the Imam and Najib Imam. No one else has of the authority to make this decision. If the captive becomes Muslim, the Imam or Najib Imam has the authority to release him in a prisoner exchange, provided that there will be no danger of his becoming an infidel again.

13. If the Mujahids capture prisoners and, during transportation to their [Mujahids’] military centres, encounter a threat and are unable to take the captives to a safe place, and if the captives are people of the opposite side who have been captured during the war or who are officials of the opposite side, then the Mujahids present can kill them [the captives]. However, if they do not belong to these groups of people and there are doubts about the prisoners’ status and they have not been identified yet or have been captured in relation to juridical [legal] issues, then the Mujahids are not authorized to kill them even if there is no option but to leave the captives at the scene.

14. If a policeman or soldier will surrender to the Mujahids and repent, the Mujahids are not allowed to kill him. If the policeman or soldier has a weapon with him, or if he had accomplished any great deeds, the Mujahids should express endearment towards him.

15. Mujahids should not expose those detained by them to starvation, thirst, cold or heat even if they deserve death. The Mujahids should punish the detained persons in accordance with the decision provided by Sharia concerning them, whether that would entail execution or any other type of punishment.
16. Apart from the Imam, Najib Imam and the judge nobody has the right to issue a ta‘zir⁹ punishment. If a district judge, without the presence of the provincial judge, should issue the ta‘zir execution punishment, the district judge should receive permission from the provincial judge. However, in those provinces where the provincial judge has not been appointed yet, any determination on execution and issues related to ta‘zir punishment shall be at the discretion of the governor.

Chapter 3—About spies

17. If evidence of espionage is found regarding a person he will be considered as a perpetrator of social destruction. The provincial judge and district judge and, in case of their absence the person responsible for the province, has the authority to issue the ta‘zir punishment. The Imam, Najib Imam, provincial judge and—in case of the absence of the judge—the governor have the authority to execute [kill] the arrested spy. No one else can pass a decision to execute him.

18. Whenever a person has been categorized as a perpetrator of social destruction it is obligatory that it be proven in accordance with the four points below.

FIRST: the person willingly confesses his espionage, without any coercive force applied against him.

SECOND: two witnesses give testimonies regarding the espionage and the testimonies given by them should be reliable before the judge.

THIRD: circumstantial evidence (documents) raises strong suspicion, such as specific tools (equipment) used by spies for the purpose of spying and other such evidence.

Of course, not every one can assess the circumstantial evidence. If the court is available, the judge, and if it’s not available, a specialist—an efficient and pious person—shall examine the strong and weak [aspects] of the circumstantial evidence. If the circumstantial evidence is [found] weak then the ta‘zir punishment shall be reduced and if the circumstantial evidence is [found] strong then the punishment shall be strengthened. If the circumstantial evidence is strong enough for a firm conviction [unshakable confidence], and if the Imam, Najib Imam and judge have determined that execution [killing] is appropriate, then they can execute him.

FOURTH: a person who is eligible to be a witness is someone who is very just [fair], without fanaticism [prejudice], who keeps himself far from Kabair [Grave sins] and never prolongs [when committed] the Saghair [Minor sins].

19. A confession obtained through [the means of] coercion, namely beating, threatening, suffering [torture] is not valid and cannot be used to prove the crime. The person who is taking a confession should be religious and bright [quick on the uptake] in order to prevent the use of coercion (force) when taking a confession because, in [accordance with]
Sharia, a confession obtained though coercive force is untrustworthy and invalid. During confession, the Mujahids should not make promises to a prisoner, which they have no intention to fulfil. However, it is not sufficient to merely take confessions or testimonies from a spy concerning other people. In this case those four points mentioned in article 18 shall be applicable and any actions shall be taken in light of them.

20. If Mujahids have concerns and doubts about a person suspected of spying and his crime has not been proven completely in accordance with the principles of the Sharia, the district chief in consultation with qualified people can exile the person from the area to a place where there will be no threat [to his life] and he will be safe. Another option would be taking from the suspect a solid guarantee. A solid guarantee means that trusted people from the respective area or who are sympathetic with the suspect will guarantee that the suspect will behave appropriately. Unmovable property might also be given as a guarantee such that, if the person starts spying again or commits another harmful act and escapes, he will not be able to use it.

21. If a criminal deserves death and an execution verdict has been issued against him in accordance with Sharia [by the court], he should be executed by gun, regardless of whether he is a spy or otherwise. Taking pictures of the executed person is prohibited.

22. Given the fact that many Sharia regulations are linked to the death of a human being, in case the Mujahids have executed a person sentenced to death without his relatives having been informed, the Mujahids should use to all possible means they consider appropriate in order to inform the heirs of the executed person about the date of execution.

Chapter 4—Regarding those who carry out supply and construction activities for the enemy

23. It is lawful to burn private cars which transport materials or which carry out other services for the Infidels. However, trading cars for money or using them is prohibited.

24. Regarding drivers who are captured while transporting the Infidels’ materials, if Mujahids are confident that [the drivers] were indeed transporting materials [goods] for the infidels and their slave administration, then the drivers should be killed and their means of transportation should be burned. In case a person is in captivity, and if the judge is convinced that these persons are indeed involved in this business [materials transportation for the infidels and their slave administration] then the judge should give them a death punishment. Of course, in case a province has not yet had its judge appointed, the matters related to proof and execution shall be transferred to the governor.

25. As far as these contractors (leaseholders) are concerned, those who are involved in activities such as construction of centres [bases] for the
infidels and their slave administration as well as transportation of fuel or other materials for them, the Mujahids should burn down their transportation means and kill them [leaseholders, contractors]. In case such a person is in captivity, and if the judge is convinced that the person is indeed involved in such activities, then the judge should give them a death punishment. Of course, in case a province has not yet had its judge appointed, the matters related to proof and execution shall be transferred to the governor.

26. If it is clear that contractors are involved in the finding of labour workers and other workers for activities on behalf of the opposite side and they are doing their patronage as well, these contractors should be killed.

Chapter 5—About spoils [trophy]

27. Spoils [trophy] refer to the goods that are captured during a fight with the combatant infidels. In Afghanistan, a one-fifth portion of the spoils will be deposited with the person responsible in the province, who will use the spoils in the Khums\textsuperscript{11} [fifth part] expenditures in accordance with instructions given by the leadership. Four parts of the spoils will belong to the Mujahids who were present at the scene or their commander if he was dispatched somewhere to set the trap, for information gathering or other matters related to the particular fighting. Four parts of the spoils may also be distributed among those who meet the following two conditions:

FIRST: those, who are close enough to the field of operation that in case of need they can go there and help.

SECOND: those who are willing and ready to take part in the operation and are in contact with the fighting Mujahids. For example, chief a commander deploys him [or them] at a site close to the battlefield saying that if required he will call them to join the operation. Those who do meet the above-mentioned criteria will not be entitled to the spoils.

28. The commanders of Mujahids should write down the names [and other Identity information] of the Mujahids in order to use this information while distributing the spoils and in case of capture or martyrdom of the Mujahids and for other needs.

29. If the Mujahids will fight [war] in a village and the villagers also take part in the fighting, then they are entitled to a share in the spoils, and if they do not participate, then they are not entitled.

30. If a Mujahid becomes a martyr before the end of the fighting then he is not entitled to a share in the spoils. Of course, the Mujahids should show kindness to him and give him a share. If he becomes a martyr on the battlefield or after the ending of the war then he is entitled to a share of the spoils and his part shall be given to his heirs.

31. The money or materials [goods and other valuables] taken from foreign invaders in the result of fighting [war] are considered as spoils. If they
are taken by the Mujahids without any fighting, then they are consid-
ered as Fay\textsuperscript{12}, and go to the Public Treasury.\textsuperscript{13}

32. If Mujahids seize materials from the slave administration as a result of fighting, then the leadership permits it to be divided as spoils. If the materials are taken without fighting, then they should be sent to the Public Treasury in order to be used for the general needs of the Mujahids.

33. Money which has been taken from a common treasury (a bank) and is in the possession of a reliable person who has not yet distributed it among labourers and employees, shall be divided as spoils if it was obtained through fighting [war]. If it was seized without fighting, then it shall be considered as Public Treasury. However, if the money has already been delivered to the employees and labourers, then these employees and labourers shall be considered as owners [of the money]. The Imam, judge and the person responsible in the province can issue a ta'zir punishment to these individuals but cannot take their money from them. The same applies for the wages received by the workers of organizations [NGOs].

Chapter 6—Regarding organisational structure

34. The persons responsible in the provinces are obliged to create a commis-
sion at the provincial level comprised of qualified members. The mem-
ers must not number less than five. The provincial commission, along
with each district chief and with the agreement of the person responsible
in the province, should organize such commissions at the district level.
A maximum of three members of the district commission and a mini-
um three members of the provincial commission should be present in
the field [area] of their activities. The leaders and members of both com-
misions should be those persons who will not have an excuse to leave
the area of their activities.

35. In those districts where the activities of the Mujahids of the Islamic Emirate are obvious and visible, a person in charge should be appointed as a district chief. Following the agreement reached with the higher-rankning responsible persons, the district chief should appoint a person as a deputy for public\textsuperscript{14} affairs, who would not have much involvement in military affairs. This person should have a certain [level of] knowledge about public affairs and should be experienced with good manners and moral values, so that people can easily access him.

36. The creation of new groups and [military] squads is prohibited. In case of urgent need, the person responsible in the province can request the Leadership’s permission, following an agreement of the organizing director.\textsuperscript{15} Unofficial and self-organized [military] squads should join bigger groups through the governor. If they refuse to join and disobey, they should be disarmed.
37. The spokespersons of the Islamic Emirate are appointed by the Leadership, following suggestions from the relevant administration. They will be the representatives of the whole Islamic Emirate. No one else is allowed to talk with the media on behalf of provinces, groups or individuals. Obeying this rule will prevent disorder, confusion and disunity.

38. Each person responsible in the province should set up a Sharia court at the provincial level, comprising one judge and two prominent theologians who will solve complicated issues at the provincial level which seem to be difficult to solve for theologians and those responsible at the district and village levels. The governor should present a proposition to the Leadership in order to receive an approval for the [proposed] judge and members of the court.

39. The organizing director can bring changes in the organisational structure of the province upon consultation with the governor. The governor can bring changes in the organisational structure of the district upon consultation with the district chief. However, if the governor and district chief cannot reach a common view after consultation, the governor will refer the issue to the organizing director.

If the governor and the organizing director do not reach an agreement, the organizing director will present the issue to the Leadership. The provincial commission can change a district chief after [conducting] thorough investigation and receiving permission from the organizing director and the person responsible in the province.

Chapter 7—Internal matters of Mujahids

40. It is compulsory for the Mujahids to obey their [military] squad leader; for the squad leader to obey the district leader; for the district leader to obey the provincial leader; for the provincial leader to obey the organizing director and for the organizing director to obey the Imam and Najib Imam as long as it is rightful under the Sharia.

41. Anyone who is appointed as a person with responsibility must have the following characteristics: Inventiveness, piety, courage, compassion, and generosity. If none [of the candidates] have all these characteristics, then at least inventiveness and piety are required.

42. The military commission, in order to secure progress in military affairs, has a duty to prepare plans [of action] taking into account the might [abilities] of the Mujahids of every area as well as the geography of the area, and to apply and share successful techniques and experiences with the Mujahids. In case of increasing enemy pressure in a province, the Military commission should prepare a programme for the Mujahids of neighbouring and other provinces in order to disperse the enemy’s might and decrease the pressure in a particular area. The commission
should present [such] programmes for consultation at the level of the Leadership, and after receiving the Leadership’s approval should pass an order to the provinces to proceed [with the programme].

43. The military commission should be aware of the Mujahids’ situation [conditions] in all provinces and should know capable and effective Mujahids in order to introduce them to the Leadership for a better supply or reward.

44. Given the fact that the majority of the members of the Military commission are military commanders, it will be difficult for them to assemble in one place. Therefore, in case of need, as many members [of the commission] as possible can assemble and continue their work. In addition, it is up to the commission responsible to organize the commission [internal activities] in a way that will prevent delays and problems in work.

45. The Military commission will ask the persons responsible in the provinces to present information about their procedures [performance] and activities and to send from time to time its delegations to the provinces in order to encourage the Mujahids, to ensure progress in military affairs, to strengthen [the situation] and to collect information.

46. In order to tackle public and judicial issues, article 62 of the Layha shall be applicable. In case of any matters arising between the common people and Mujahids, or between Mujahids themselves, the resolution of which is a prerogative of the provincial or district commission, the provincial commission should agree with the governor and the district commission should agree with the district chief or his deputy. The commissions should listen attentively to the explanations of the parties concerned and if the provincial commission is unable to resolve the matter, then it should be addressed to the military commission. The military commission should choose a peaceful resolution. If it still fails to resolve the matter, it should then present the issue to the Leadership. The Leadership shall resolve it through the respective structures [boards] or through [the assistance of] the theologians. If a commission has made a decision, then the announcement should be made in the presence of both parties concerned.

47. The provincial and district commissions, along with their other duties, should monitor [the situation] in order to prevent the infiltration of bad people into the ranks of Mujahids. If such persons are identified, they should be reported to the governor. The commissions shall do their best to resolve contradictions [disputes] between Mujahids and between common people and Mujahids. The commissions shall observe the implementation of all decrees and regulations of the Islamic Emirate. The commission shall do its best to draw attention of violators [to their mistakes] and to correct [their behaviour]. In case the behaviour goes uncorrected, those persons should be reported to the governor.

48. If common people or Mujahids have an issue with a member of the military commission or provincial or district commission or with his
comrades and the resolution of the issue is entrusted to a commission of which the mentioned person is a member, then the person should not participate in the gatherings dedicated to the resolution of this particular issue.

49. The provincial commission is obliged to organize the members of the commission in a way that once per month they will guide the Mujahids in terms of obedience, piety and moral values and will monitor their conduct.

50. If a Mujahid has committed a crime or has violated the Layha repeatedly and the [military] squad leader or district chief decides to withdraw him from the ranks [of Mujahids] because of the committed crime, [in this situation] the leader should forward the case of the criminal to the provincial commission. The provincial commission should thoroughly investigate the issue and in case the crime indeed deserves expulsion, the provincial commission shall make a decision after receiving an agreement from the governor. After this, nobody will have a right to arm and equip the expelled person. If the person has repented [of the committed crime], then he can be given a duty with the agreement of the provincial commission and the governor.

If the above-mentioned person is a leader of the [military] squad, district chief, district deputy chief or another responsible person, his case should be forward to the military commission via the governor or provincial commission.

The Military commission has the authority to try to correct [the behavior of the person], to summoned him, to advise him and to warn him. If after all [the person] did not correct [his conduct], then the commission should introduce him to the Leadership in order to assess his disarming or expelling from the ranks [of Mujahids]. In case he repents, he can be given a duty again, but [in such situations] the approval of the Military commission or governor is required.

51. The persons responsible at the provincial and the district levels, depending on the conditions in the area, should hold consultations at an appropriate time with respective responsible [persons] about operations conducted, actions, achievements and shortcomings in order to be able to prepare more successful strategies in the future and to spare the Mujahids from [possible] harm.

52. If a [military] squad leader in one district or province wants to carry out Jihad in another province or district, he can do it. However, he needs permission from the [persons] responsible in the respective province or district. The persons responsible for the respective province or district will be his superior. He should be fully obedient to the person in charge [of the area].

53. If any governor or other leader already has an active group or [military] squad in another province, he should introduce the relevant squad and
Mujahids to the person responsible for the relevant province. After this, they will be obedient to the governor of the relevant area and will follow his instructions [when executing their duties]. The person responsible in the province will provide them with logistic supplies as they do for the other Mujahids of the province. In the structure of the Islamic Emirate, united front lines are prohibited. These front lines, Mahaz, are not part of the organisational structure of the Emirate.

54. If a military squad leader from a particular province is giving his assistance to the persons responsible for another province with regard to Jihad affairs and afterwards wants to continue to carry out Jihad in that place, the person responsible in the province should seek accurate information and agreement from the person responsible in the province of origin [of the group leader] before accepting him and giving him a place. Moreover, [the person responsible in the province] should ask a newcomer about the reason behind his decision to leave the previous province and to come to a new one. If the reason does not contradict Sharia, then the person could be accepted.

55. A military squad leader who would like to increase the members of his squad or group cannot invite Mujahids who belong to another squad. Of course, if a Mujahid wants to join another responsible [group leader], he can do it. However, Jihad tools given to him by the previous military squad leader in order to serve Jihad, or those tools which were seized by common effort and for which the squad’s property right has been established, shall be returned to the previous squad leader. If an item was given to him as spoils or was obtained as a personal belonging, he can take it with him.

56. Those valiant warrior 19 Mujahids who are entering the enemy centre in order to conduct a group armed attack should consider the following points:

1. These valiant warrior Mujahids should receive a good training and each of them should be given particular tasks.
2. These valiant warrior Mujahids should be very well supplied and equipped in order to be able to resist for a long time and inflict a lot of damage on the enemy.
3. The Mujahids and their leaders should receive in advance full information and understanding about the area they are going to attack.

57. Regarding martyrdom attacks, the four following points should be considered:

1. A martyr Mujahid should be well-trained prior to the attack.
2. A martyrdom attack should be used for important and high-value targets. The self-sacrificing heroes of the Islamic Ummah must not be used for low and worthless targets.
3. In martyrdom attacks, much more care should be taken to prevent the deaths and injuries of common people.
4. Apart from those Mujahids who received an individual programme and permission from the Leadership, all other Mujahids must receive
permission and instructions from the person responsible in the province before carrying out martyrdom attacks.

58. The general commissions of the Islamic Emirate shall hold from time to time consultative meetings in order to be more successful and advanced on matters under their responsibility.

**Chapter 8—Regarding education and training**

59. The educational and training activities within the structure of the Islamic Emirate should be carried out according to the programme and regulations of the Education commission. The persons responsible in the provinces and districts shall conduct their educational efforts in accordance with the strategy of the abovementioned commission.

**Chapter 9—Regarding control and regulation of organizations [NGOs] and companies**

60. The persons responsible in the provinces shall deal with organizations [NGOs] and companies in accordance with the instructions issued by the Commission for Control and Regulation of Organizations [NGOs] and Companies. However, the commission is obliged to consult the relevant person responsible in the province. In case of disagreement between the two entities, instruction should be requested from those responsible in the Leadership. Provincial, district and military squads as well as provincial representatives of the mentioned commission are not authorized to make decisions on their own regarding organizations [NGOs] and companies’ issues.

**Chapter 10—About health**

61. The Health Commission of the Islamic Emirate has a special procedure in terms of arrangement of its activities. The treatment of the Mujahids shall take place in accordance with this procedure. The provincial health representatives are obliged to obey the regulations and implement the instructions of the Health commission.

**Chapter 11—Public affairs**

62. Military squad leaders are not authorised to interfere with affairs of the common people, even if the local residents request the Mujahids to solve judicial issues or other matters. Only the provincial or district authority can examine the case of the applicant and through the relevant procedure, first, should try to resolve the issue via an intermediary and then by means of peaceful and lawful Jirga in a way that [the decision] will not contradict the holy Sharia. If a peaceful solution and reconciling
Jirga is not possible then the parties should refer to the court. In case of the court absence, both parties should proceed on the basis of the view expressed by prominent theologians.

63. All decisions regarding issues and disputes made in a proper manner when the Islamic Emirate was in power cannot be reviewed or re-examined at this stage, even if one of the parties concerned is not satisfied [with the decision]. This is because in those days there were better conditions for justice than nowadays.

64. Persons responsible for Mujahids and persons affiliated with them should not interfere with common people’s disputes nor should they take sides in a dispute or go to judges or courts as an intermediary or supporter.

65. The persons responsible in the provinces and districts, squad leaders and all other Mujahids should take maximum measures to avoid deaths and injuries among common people, as well as the loss of their vehicles and other properties. In case of carelessness, each one will be held responsible according to their acts and position, and will be punished depending on the nature of their misconduct.

66. If a responsible person or ordinary person harms common people in the name of the Mujahids, the superior [of the perpetrator] is obliged to correct this ordinary person or responsible person. In case the superior fails to correct [the perpetrator], they should report to the Leadership through the person responsible in the provinces. The Leadership will then punish the ordinary person or responsible one according to its judgement. The Leadership can expel [the perpetrator] from the rows of the Mujahids, if considered necessary.

Chapter 12—About prohibitions

67. From the beginning of the Movement until now, weapons were collected on a huge scale. The collection conducted [by now] is enough and sufficient. From now on, no weapon shall be collected by force for the Public Treasury.

68. In line with the previous order, the Mujahids should strongly avoid smoking cigarettes.

69. Non-adults (underage persons without beards) are forbidden to live in the Mujahids residential places and military centres.

70. In the light of Sharia, cutting off parts of the human body (ears, nose, and lips) is strictly prohibited. The Mujahids should strictly prevent such practices.

71. The Mujahids of the Islamic Emirate must not collect by force ‘ushr, zakat and chanda. If they receive something through ‘ushr and zakat, they should cover their Sharia expenditures from this income.

72. The Mujahids should not search people’s houses. If a search was strictly necessary, then they will obtain permission from the person responsible
for the district. The Imam of the mosque in the village and two village elders should accompany the Mujahids during the search.

73. Kidnapping people for money for any reason is prohibited. The persons responsible in the relevant area must firmly prevent this. If people commit this kind of act in the name of the Islamic Emirate, the provincial responsible person should disarm these criminals and give them a strong punishment, following the instructions given by the Leadership.

Chapter 13—Recommendations

74. Every [military] squad leader is required to spare special time for Jihadi training, as well as religious and moral teachings and education of his colleagues. When they are not fighting or there is no emergency [situation], they should not be negligent about their training [and education].

75. If there is no danger, Mujahids should worship in the mosque collectively. If going to the mosque is difficult, they should worship together in their places of residence. Special care should be given to recite [read] the Koran and praise God, because praising and recitation bring satisfaction and strength in the minds.

76. The Mujahid’s strength of mind should be dedicated to military activity. They should keep themselves away from people’s problems and local conflicts. On one hand, these problems cause extra work; on the other hand, it brings unnecessary conflict of interest among people and the Mujahids themselves. However if there is a case which the Mujahids cannot ignore, they should act in accordance with Article 62.

77. All staff of the Islamic Emirate should try their best to convince people who are deceived by the opposition to surrender and to put their weapons down. On one hand, the enemy ranks will be weakened, and on the other hand, the obstacles created by local people will decrease. Moreover, in some cases the Mujahids can obtain weapons and ammunition [from the surrenders].

78. The Mujahids have the duty to behave well with people in accordance with Islamic ethic and moral values, and should try to win hearts and minds of ordinary Muslims. A Mujahid should represent the whole Islamic Emirate in a way that all fellow compatriots will welcome him, and be ready to assist and collaborate with him.

79. The Mujahids should keep themselves away from all sorts of ethnic, linguistic, and regional prejudices.

There is a narration from Hazrat Abu Horeira, may God be pleased with him, saying that the Prophet of God, may peace be upon him, had deigned to speak: “When the one who is fighting under an unknown flag (referring to a person advancing with closed eyes; the good and bad of him cannot be determined), or the one who is angry (upset) due to ethnic prejudice (which is not the word of Allah), or who invites people to ethnocentrism
(and not to Almighty Allah), or who assists someone for ethnic reasons (not for Almighty Allah) is killed, this person will die in ignorance and darkness (like during the period before Islam).”

80. A superior responsible [person] should audit from time to time his subordinate regarding the Jihad’s items and financial expenditures.

81. The Mujahids should adapt their physical appearance such as hairstyle, clothes, and shoes in the frame of Sharia and according to the common people of the area. On one hand, the Mujahids and local people will benefit from this in terms of security, and on another hand, will allow Mujahids to move easily in different directions.

Chapter 14 — About the Layha

82. An amendment in this Layha is the sole authority of the Islamic Emirate and Advisory Council of the Islamic Emirate. If someone else dares to bring changes or violates its rules, his excuse will not be accepted.

83. The Military commission as well as the provincial and district commissions have a duty to keep the Mujahids informed about the provisions of this Layha and other decrees of the Islamic Emirate and to ensure its implementation.

84. In case of facing a situation that is not discussed in the booklet, Mujahids should take advice from the person responsible in their districts. In case of failure at this level, the issue must be referred to the person responsible in the province. If a solution is not found, the person responsible in the province should ask for instructions from the organizing director. In case of not finding a solution, the organizing director should ask for instructions from the Leadership.

85. It is compulsory for all the Mujahids to act upon and follow the articles [of the Layha]. The violator will be treated according to Islamic principles.

May Allah give us his favour Honourable Mujahid brothers!

- All your intentions and conduct should be in accordance with divine directions and the doctrine of the Prophet.
- You should stand before the enemy as steel; events and propaganda should not shake your persistence.
- You should give a place in your hearts to your Mujahid brothers and to your people; keep strong links of brotherhood and loyalty with them in order to prevent the enemy being successful in his ill-fated aim of spreading disunity.
- Conduct all your Jihad activities and operations on the base of consultations, carefulness, inventiveness and rationality.
- Never act based on personal dislike, preferences, indifference and urgency when giving somebody a punishment.
- The protection of public properties as well as life and properties of common people is regarded as one of the basic responsibilities of Mujahids.
Therefore, you should do your best in order to act in accordance with this responsibility and do not let ambition and indulgence in worldly pleasures arm persons to offend common people or to damage their property in order to get material wealth.

From the speeches of His High Excellency Amir ul Momineen.
Annex IV

Sample Questionnaire for the Taliban on the Layeha

Thank you very much for allowing us 30 minutes for this interview. I am a PhD student from Japan researching on the rules and laws applied during armed conflict in Afghanistan. The objective of my study is to know whether members of the Islamic Emirate of Afghanistan respect what kind of rules in relations with the civilian population, prisoners, and the government.

I will neither ask nor mention your name in any publication (except initials but optional). The data will be used for my PhD study, which will be published sometime in 2013–2014. The questions will take 15–30 minutes to answer.

Q1. Have you heard of the Layeha?
    If yes, how? In trainings? In forms of a booklet?

Q2. If yes which Layeha have you heard about?
   __ 2006
   __ 2009
   __ 2010
   __ others

Q3. Do you think Layeha must be respected? Multiple answers possible.
    If Yes:
    __ Because it was issued by Amir ul Momineem
    __ Because it is close to Qur’an
    __ Because it is close to Pashtunwali
    __ Because I simply have to obey
    __ For fear of punishment
    __ Others:
    If No:
    __ Because I do not agree with the content
    __ Because it is not followed by anybody
Because I do not know the content

Q4. According to you, which rules need to be respected the most?

Q5. If you see that your colleagues do not follow the rules what do you do?
   _Nothing
   _Correct verbally
   _Report to your superior
   _Report to the haiats (commissioners)

Any example of sanction or punishment when the rules were not respected?

Q6. In general, do fighters from the Jihad times (against the Soviet Union) tend to respect the Layeha more than the younger generation? Is there any difference between Pakistan and Afghan nationality?

Q7. Why do you sympathize with the Islamic Emirate of Afghanistan?
   _they fight a holy war
   _they are real Muslims
   _they fight the corrupt government
   _they protect Afghan interest
   _they fight against foreign forces
   _they bring security
   _they pay me well
   _I looked for adventure
   _Other

Q8. According to you, in which aspect is the Islamic Emirate of Afghanistan superior to the central government?
   _Education
   _Healthcare system
   _Security
   _Resolving legal disputes
   _Creating jobs
   _Fighting corruption
   _Maintaining relations with international community
   _Reviving development
   _Supplying water and power
   _Fight for Independence of Afghanistan
   _Other

Q9. According to you, in which aspect is the Central Government superior to the Islamic Emirate of Afghanistan?
   _Education
   _Healthcare system
   _Security
__ Resolving legal disputes
__ Creating jobs
__ Fighting corruption
__ Maintaining relations with international community
__ Reviving development
__ Supplying water and power
__ Fight for Independence of Afghanistan
__ Others

Q10. In which province and district do you fight?
   Is this the province of your origin?

Q11. Which level of the movement do you occupy?
   __ District commander
   __ Group leader
   __ Member of a group

Initial of the person interviewed:
Initial of the interviewer:
Thank you very much for your kind cooperation.
Annex V

Interviews with Taliban Members on the Layeha

#01  M. from Helmand, mahaz leader, collected by author and assistant in November 2012
#02  C. from Kunar, mahaz leader, member of military commission: collected by author and assistant in November 2012
#03  Qari Yousuf Ahmadi (spokesperson): collected by author and assistant in November 2012
#04  W. from Helmand, simple fighter: collected by author and assistant in November 2012
#05  Q. from Kandahar: collected by assistant H. of an international press agency in December 2012
#06  Q. from Kunduz, mahaz leader: collected by assistant H. of an international press agency in December 2012
#07  W. from Uruzgan, simple fighter, member of 20 people: collected by assistant Q. of an international press agency in December 2012
#08  Zabiullah Mujahid (spokesperson) for Central and Eastern region: collected by assistant H. of an international press agency in December 2012
#09  H. from Helmand, simple fighter: collected by assistant Z. in April 2013
#10  I. from Uruzgan, simple fighter: collected by assistant Z. in May 2013
#11  A. from Zabul, simple fighter: collected by assistant Z. in July 2013
#12  F. from Nooristan (but usually residing in Chaprehar district of Eastern Ningrahahr province), mid-level commander: collected by assistant Z. in August 2013

NB: Not all questions were answered systematically by the respondents. Some questions were provided with irrelevant answers.
Q1. Have you heard of the Layeha and if yes, how?

#01 M. from Helmand

A1. We always carry the Layeha with us. All the articles of the Layeha stem from the Qur’an and Hadith. Even a small group of Taliban, even a leader of five people, have the responsibility to carry the rules with them and to work under the Layeha.

We usually receive the latest publication of Layeha very quickly particularly in the South. In other provinces, which are hard to reach, it takes one to two months to distribute the Layeha.

The Layeha is our platform, it is like the constitution for us. There are commissions, which keep an eye on the implementation of the Layeha.

In each group of Taliban, there is at least one person who can read but I would say most of the people can read. So, it is impossible that the Taliban do not have access to the Layeha. We follow the current Layeha until we get the new one. Until now, there have been only small changes after each revision of the Layeha. (E.g. there are two new articles in the current Layeha. The last one had 20 and now there are 22, for example.)

The Amir is in a secret place, so it is hard for us to receive direct orders from him. If we have to face an issue, we cannot ask our leadership nor Bukhari Sharif (Sunnah) for guidance. This Layeha is in our court, district office and province office. No-one can do anything against the Layeha.

#02 C. from Kunar

A1. (Initially answered under Question 6)

If a new Layeha arrives, a group is formed and we teach the illiterate Taliban.

#03 Qari Yousuf Ahmadi (spokesperson)

A1. The Layeha is very important for the Mujahideen. Wherever he may be in the country, if a single fighter operates, he needs to conduct operations under the rules of Layeha.

The Layeha is made under the Sharia Law and is a short explanation of the Sharia law. We all want the Mujahideen to follow the Sharia law and to avoid spontaneous action. This is also a law, which is made up of Muslim rules and regulations. The Mujahideen leadership wants the Layeha to be distributed everywhere in the country and everyone must respect it, whether young or old Mujahid, whether a commander or a district governor. The Layeha should reach all individuals.

#04 W. from Helmand

A1. I know the Layeha and I understand what the Layeha is all about.
A1. Yes, I have heard of the Islamic Emirate of Afghanistan’s Layeha through short courses and frequently-held religious sessions.

A1. Yes, I have heard of the Layeha. I received it verbally and in text. I have also heard of it in the clerics’ sessions held inside and outside the country.

A1. Yes, I have heard of the Layeha of the Islamic Emirate of Afghanistan. We were given the Layeha last year in printed form.

A1. If you mean the Islamic Emirate of Afghanistan’s Layeha, yes, I know it. It is about the Jihad procedure of operations for the Islamic Emirate of Afghanistan, based on Islamic orders and Afghanistan’s national interests. The Layeha was distributed to every person who is a Mujahedeen, so all orders for their actions are based on that. The Layeha was printed in a pocket-book size and distributed to every Mujahedeen.

A1. I know what the Layeha is and the booklet helps us in our operations in making easy decisions, such as what to do and what not to do. I get the Layeha as a small book and if the Layeha is added to by more provisions we will get them on a few sheets of paper. A booklet does not come for every fighter, sometimes they (the leadership) send a few copies to a group of ten. The fighters also try to educate civilians about their Layeha, so they sometimes distribute the copies among civilians too. I also have a copy of the Layeha or have studied it with a friend.

A1. We have almost every new Layeha when it gets published and distributed. Each province has a governor; each district has a district chief and several commissions. There is a system of distribution and upon issuance of the new Layeha, the governors are responsible for sending them to the districts, and then the district governors are responsible for distributing them to the fighters. Not all fighters need to have a copy individually but at least the group needs to have one Layeha.

The group leaders must be in contact with the respective district governor and the leaders must know what the fighters are doing.
#11 A. from Zabul
A1. I cannot read and I learn all the contents of the Layeha from my commander whenever a new Layeha is published.

#12 Z. from Nooristan
A1. Yes, I have a copy of the Layeha from 2009 and the latest one, but I do not remember when the third one was published.

For my group of 15 people, I have received five copies of the Layeha. On various occasions I organize short training sessions at least twice a day for about a week with all my fighters. During the sessions I divide the group into those who can read and others who [can’t and] need to listen. Then the four people who have the copy are responsible for two more people to teach the Layeha in detail and keep an eye on them in case of any possible violation of the rules.

I think the Layeha is a perfect road map for all of us. I have heard that those Mujahideen who could not get a copy of the Layeha for some reasons had difficulties during their operations.

Q2. If yes, which Layeha have you heard about? (2006, 2009 or 2010 version?)

#02 C. from Kunar
A2. We have not received any new Layeha for the last two years. Since summer this year, the number of fighters increased so I have received 20 more copies, which I have distributed to the Mujahideen.

#05 Qari Yousuf Ahmadi (spokesperson)
A2. I have heard of all the three Layehas, and I think the Layeha 2010 is better, because it contains more issues.

#06 Q. from Kunduz
A2. I have heard of all the three Layehas and I know all of them.

#07 W. from Uruzgan
A2. I have heard of all the Layehas, but I have only the 2010 with me.

#08 Zabiullah Mujahid (spokesperson) for Central and Eastern region
A2. I have heard of the 2010 Layeha, and I have full information about that. This is a comprehensive Layeha and is more valid.
#09 H. from Helmand

A2. I have got the Layeha for 2009 and the years after that.

#11 A. from Zabul

A2. I do not know which year’s Layeha I learnt about, but I have learnt all the rules and articles of the three different Layehas so far.

#12 F. from Nooristan

A2. I have a copy of the Layeha from the years 2006 and 2009 and the latest one but I do not remember when the third one was published. (Same as A1)

Q3. Do you think the Layeha must be respected? And if so, why?

#01 M. from Helmand

A3. We follow the Layeha strictly. Just recently, there was an Afghan Local Police (ALP) commander who surrendered to the Taliban and according to the Layeha we told him, “If you have committed crimes against the Afghan civilians and the Afghans want to prosecute you in the future, we cannot guarantee your safety because it is the right of the Afghans to prosecute you. However, we forgive you for having fought against us.”

#02 C. from Kunar

A3. The Mujahideen are strictly following the Layeha because it was issued by Amir ul-Momineen.

The real Mujahideen respect it but the looters do not care about the rules.

We respect every article of the Layeha because it is

- according to the Qur’an and Hadith
- our Amir passed it
- religious scholars worked on it;

but mostly we respect it because the source is from the Qur’an. If the Amir says something against the Qur’an we will not accept it.

#04 W. from Helmand

A3. There are many Islamic aspects in the Layeha. The most important thing is to respect and seek the security of the Afghan people.

The Layeha follows the rules of Islam. We are all Muslims, we are all brothers; we have one religion so we need to follow the Islamic rules and regulations. The Layeha should be respected because it is a directive of Islam.
Even if the Layeha comes from Loi Mullah Sab (the Great Mullah), he cannot order anything against Islam. This is the reason why we must obey. If you want to serve the religion, you must follow the Layeha and those who do not follow the Layeha should be punished.

**#05 Q. from Kandahar**

A3. Sure, every member of the Islamic Emirate of Afghanistan has to respect the Layeha, because this is actually a procedure and a guideline for the Mujahedeen (freedom fighters).

**#06 Q. from Kunduz**

A3. Yes, it must be respected. Because it is based on the holy Qur’an and has been prepared by Amir ul Momineen.

**#07 W. from Uruzgan**

A3. Yes, because it helps to maintain discipline of the Mujahideen in order to win each battle and each war. It is a way of life for us to wage Jihad.

**#08 Zabiullah Mujahid (spokesperson) for Central and Eastern region**

A3. The Islamic Emirate Layeha must be respected due to different aspects:

1. This is based on Islamic Sharia orders and we do our best to implement Sharia orders.
2. It is issued by Amir ul Momineen (Mullah Omar) and we have to obey his orders according to Sharia.
3. The Mujahideen will be more disciplined by respecting the Layeha, which is a necessary matter and the Mujahedeen’s victory depends on their discipline.

**#09 H. from Helmand**

A3. The Layeha comes from our leaders and most importantly, it is the order of Amir Mullah Omar, therefore it must be respected and followed. Also, the Layeha must be respected because it is according to Islamic law and tells you to treat people according to the Qur’an.

**#10 I. from Uruzgan**

A3. Since the Layeha comes from Amir ul-Momineen, we have to respect it strictly and accept the orders as wajib (obligatory). Our leader does not send any order against Islamic law and the Sharia. He cannot order anything,
which is outside of Sharia law, so if we respect the Layeha it implies that we respect our religion and our leader.

**#11 A. from Zabul**

A3. For Muslims the most important thing is religion and obeying the orders of the leaders. The Layeha is made by our leaders and what the Layeha says is all taken from the Holy Quran.

**#12 F. from Nooristan**

A3. The Layeha is in line with our religion. We are waging Jihad for the sake of Almighty Allah; Allah told us to fight against invaders and non-believers so the Layeha also follows what Allah says.

Also, if you are sworn to obey all the orders of Amir ul-Momineen then you simply have to obey them; no Muslim can deny orders of those leaders to which they have sworn obedience.

**Q4. According to you, which rules need to be respected the most?**

**#01 M. from Helmand**

A4. First is the support for Amir ul-Momineen. Second is to establish a good reputation of behavior among the population. Third is to forgive government personnel who surrender to the Taliban.

**#02 C. from Kunar**

A4. If we arrest someone, we cannot make any decision by ourselves and if we are embroiled in a personal dispute with the person we cannot harm him. First, we have to consult the Layeha and then make a decision. If a Mujahideen fighter has a problem with somebody, he can easily accuse the person of spying and then beat and kill him. (In order to prevent it), the Layeha has established clear rules, such as the obligation to have witnesses.

**#05 Q. from Kandahar**

A4. First of all the holy Qur’an must be respected. Secondly, the Holy Prophet’s sayings (hadith) and then the Islamic Emirate’s Layeha need to be respected, because all chapters and articles follow the orders of the Holy Qur’an.

**#06 Q. from Kunduz**

A4. The Islamic rules must be respected, because they help you to gain success in both the worlds.
A4. The Qur’an and the Prophets’ sayings should be respected. Every Mujahideen is a Muslim and Islam should be the main centre of the Mujahideen life. There are also rules about how to fight a war and what to do and what not to do in a battle, like protecting civilians.

**#08 Zabiullah Mujahid (spokesperson) for Central and Eastern region**

A4. All the regulations and orders contained in the Islamic Emirate’s Layeha must be respected. The rules are endorsed by Islam and must be respected because they are for the benefit of the human being as determined by Almighty God.

**#09 H. from Helmand**

A4. The important points of Layeha, which I like and must be respected, are that you cannot put explosives in civilian places; you must be careful not to harm civilians during fighting; and when a government soldier surrenders then you should spare his life and buy his gun and his military equipment. If the soldier wants to join the Mujahideen (Taliban) and fight he should go home for a month, after which he can join the fight. Even after that, he must be under serious observation and not be given authority for a while until trust is built.

**#10 I. from Uruzgan**

A4. I like every single phrase of the Layeha and all of them are beneficial to our activities as well as our people. It makes clear to us in deciding what to do and what not to do. For example, the Layeha tells us to fight the non-Muslim invaders and to sacrifice ourselves to liberate our country.

**#11 A. from Zabul**

A4. I like all the contents of the Layeha, especially the latest one, which was sent to us in a letter and said it is an attached part of the last Layeha. The letter orders all Mujahideen Taliban fighters to be very careful about civilians and that civilians should not be harmed in the fight.

**#12 F. from Nooristan**

A4. I think all the articles must be respected; at the beginning it tells us to be good Muslims, and to commit ourselves to activities to become a good Muslim, such as praying, fasting, not lying, eating Halal things, not using drugs etc. As for military operations, the Layeha tells us all those good points to keep in mind during the fight.
Q5. If you see that your colleagues are not following the rules, what do you do?

#01 M. from Helmand

A5. If a Taliban does something against the Layeha his act will be examined. If he commits a big crime he will be punished. If he commits a small mistake in violation of the Layeha, he is told not to repeat it.

In Helmand, there are twelve Taliban fighters who are currently in the Taliban prison. Out of the twelve, three are from Sangin district, and four from Now Zad district, including one shadow district governor, who did something against the Layeha and is currently in jail. There is also one commander who is from Kajaki district. He was a powerful commander but he had kidnapped a person from the area and had released the person for ransom. This case came under investigation and he was found guilty for having violated the Layeha and now he is in the same prison.

There is another guy by the name of H. and another fighter by the name of M. – both are in prison.

#02 C. from Kunar

A5. Those who do not respect the Layeha are prosecuted. They are sent to prison or beaten under Sharia Law. If his guilt is bigger, then his hand is cut off.

Last year, there was a group of Mujahideen along the road. Another group of Mujahideen stopped them and engaged them in a fight over territory. As a punishment 15–20 people (from both sides) were sent to jail.

#03 Qari Yousuf Ahmadi (spokesperson)

A5. The Mujahideen respect the Layeha in a disciplined way. Every fighter tries to respect and implement the Layeha because the Layeha takes its source from Islamic rules (religious Directives din larkhod). Every Mujahheed tries to follow it in all his activities in his life. If a fighter mistakenly violates a rule, he is told not to do it again, but if he continues repeatedly, then we implement Sharia law.

#04 W. from Helmand

A5. So far, I have not seen anybody punished.

#05 Q. from Kandahar

A5. Such incidents rarely take place, because everyone in the Islamic Movement of the Taliban is committed to the rules, particularly the Layeha; but if I see a colleague not following it, I first talk to him and convince him to follow it. If he repeats the violation, I report him to the haiat (commissioners) and the special tribunal will decide how to punish him.
ANNEX V

#06 Q. from Kunduz
A5. If our colleagues do not follow the rules, we do not recognize them as members of the Islamic Emirate of Afghanistan. Firstly, we try to correct them verbally, and if they do not correct themselves, we report them to our superior and the haiats (commissioners).

For example, one of our colleagues made a civilian carry his weapon and ammunition. We made him understand not to repeat such actions but then he ordered another family to make his favorite meal. We had to fire him from Mujahideen because we are not allowed to force people to do our work, according to the Layeha.

#07 W. from Uruzgan
A5. I have not seen that. If I saw it, I would report it to my commander.

#08 Zabiullah Mujahid (spokesperson) for Central and Eastern region
A5. In the case of violation of the Layeha, special tribunals and commissions take legal steps against the violators. The violator is punished according to the level of violation. I cannot name the punished ones or mention special cases (because it is too sensitive).

#09 H. from Helmand
A5. The Layeha tells us that if you find any fighter doing wrong or bad things or you find out that he was cruel in the past then he must be disarmed and sent home.

If a Talib does not follow the Layeha, he is treated according to the rules and will be punished according to his guilt. The order is absolute and must not be ignored. If the guilt is big, the person is punished or jailed and then dismissed from the Taliban lines.

Personally, I have seen many times that a Mujahid fighter was not following the rules and he was sentenced to jail, punished or disarmed. Once there was a Taliban checkpoint in our (Taliban-controlled) area and a car passed without being checked. Accordingly, the fighter was punished with short detention. The other night, a civilian spent a night in a Taliban checkpoint since he was a friend of the Taliban fighter in charge of the checkpoint. The fighter was also sent to jail for a month, disarmed and then sent home.

#10 I. from Uruzgan, simple fighter
A5. There are very few cases where Mujahideen do not obey the rules fully; nearly all of them are following the rules. If someone commits a small mistake, he is told not to repeat it, but if he repeats small mistakes he is disarmed and sent home. If someone commits a big mistake then he is
punished, imprisoned, beaten or even receives death penalty if he had killed many innocent people.

However, I have not seen anyone who was found guilty of not following the rules.

I heard that spies had sneaked into the Taliban lines in order to cause problems for the people and to undermine support for the Taliban. Some other people independently started a group under the name of Taliban to commit crimes, loot and beat the common people. These people are arrested, punished and disarmed.

#11 A. from Zabul, simple fighter

A5. I am not responsible for keeping an eye on my fellow fighters whether they follow the Layeha or not, but if I see someone who is not following the Layeha then I try to remind him of this fact. If my colleagues commit a big mistake then I talk to their commander about this problem.

So far, I have not witnessed any severe punishment for committing a mistake. People commit mistakes during prayer, so a few times it happened that our friends made mistakes [inadvertently]. Eventually, all of them were solved through talks and the mistakes never happened again.

#12 F. from Nooristan

I did not see any of my friends having committed a big mistake or serious violation of the Layeha, but a few times I have seen my friends forcing people to feed them, to accommodate them or to hand out money. Two of them continued despite warnings and they were eventually disarmed and discharged from the group.

Right now, around ten of the fighters are in Taliban prisons and their cases are being processed. They have said to have committed various kinds of crimes and if they are found guilty they will face punishment.

Q6. In general, do fighters from the Mujahideen times (against the Soviet Union) tend to respect the Layeha more than the younger generation?

#01 M. from Helmand

A6. There are different people. The new generation follows the Layeha very strictly because they are young and they have more patience and zeal to follow the Layeha. The older generation, who fought the Russians, are tired and they do not have the patience. So they ignore the rules more often.

#02 C. from Kunar

A6. All members respect the Layeha including those who fought the Russians as well as the new Qari (who are very educated). If an illiterate Talib commits
a mistake, we forgive him and he is told not to repeat it. He is asked to say toba.

**#04 W. from Helmand**

A6. The religion is for all of us. It does not mean that the younger ones should obey more than the older ones. Everyone should respect the Layeha equally.

**#05 Q. from Kandahar**

A6. I don’t see a big difference between the older Mujahideen who fought against the Soviet Union and the younger generation now fighting the US and its allies – invaders of their faith. In my view, they both equally respect the Jihadi rules, in particular the Layeha.

**#06 Q. from Kunduz**

A6. The younger generation (of the Taliban’s Islamic Movement) respect the Layeha more.

**#07 W. from Uruzgan**

A6. Everyone respects the Layeha, whether old Mujahideen or new Mujahideen.

**#08 Zabiullah Mujahid (spokesperson) for Central and Eastern region**

A6. It is necessary to respect the Layeha. All the Mujahideen know this because they were told to respecting the Islamic rules. Every Mujahideen, including those who fought against the Soviet Union, as well as the younger generation equally respect the Layeha. The violation rate is very low.

**#09 H. from Helmand**

A6. All Taliban try to follow the rules, whether young or old. Anybody who violates the rules gets punished and there is no exception.

**#10 I. from Uruzgan**

A6. The Layeha is followed and respected by all Taliban, be they the older generation who fought the Russians, or the new one. Everybody respects it, because respecting the orders of the Muslim leader and respecting the Islamic laws is our duty. This is an order from Almighty Allah.
### A6. Newcomers and young men sometimes forget about the Layeha and commit violations of the Layeha, because they are emotional and stubborn. Those who have been fighting for a long time have the patience and decide to act after thinking, contrary to those young men. For example, once in Zabul a group of Mujahideen was walking towards a certain destination. When one young man came across an enemy convoy he suddenly ran towards the convoy and started to shoot. This attack was not planned, and he put the lives of all of his other colleagues in danger. Soon the enemy helicopters arrived and attacked the group killing seven fighters. The man who attacked the convoy was also killed.

### Q7. Why do you sympathize with the Islamic Emirate of Afghanistan?

#### A7. The positive thing is that in the Islamic Emirate people enjoy their rights, women are safe from attack and there is no threat to the lives of the people. Nobody can break the Islamic rules in this country. Right now, the rights of the Afghans are not guaranteed. Afghans have seen many times that they have a patient in the car and they cannot transport him quickly to the hospital because of military convoys blocking the road. He dies on the way. They do not have the freedom to live.

(Answered under Q.6)

A few weeks ago I was in Kabul to welcome the release of our friend from Bagram. While guarding my friend during the night and I peeked out of the window and gazed at the city. I started to cry: look at this city under the occupation of the foreigners. If Sharia law were truly implemented everyone would live as a Muslim and would enjoy the rights Islam has accorded to them. Everyone would follow the Qur’an and hadith. When they die, the Almighty will not ask them about their knowledge of technology but he will ask how much they have followed Islam.

### A7. I fought the Russians for eight years. I am a Muslim and I cannot ignore the presence of non-Muslims. My faith does not accept it. So I even left my home in the village, took my family to the mountains and started Jihad because it is a fard (religious duty) to wage Jihad.

### A7. I did not want to give up my religion. My religion tells me to support those who are against the invaders.
#05 Q. from Kandahar

A7. Everyone knows that our country has been invaded by the infidel troops for a decade. Islamic values are trampled on by the invaders. They disgrace the holy Qur’an, our Prophet and our Islamic culture.

I recognize the Islamic Emirate as a movement, which struggles to re-establish an Islamic system in the country. Thus, I sympathize with the Emirate.

#06 Q. from Kunduz

A7. I sympathize with the Emirate because they fight a holy war and fight a corrupt government. The Emirate wants to establish an Islamic government by fighting the foreign invaders.

#07 W. from Uruzgan

A7. Because I am fighting for freedom of my motherland, which is under the control of infidels and imperialists. I also sympathize with them (the Taliban) because they stand for the Islamic cause and I want Afghanistan to be an Islamic state.

#08 Zabiullah Mujahid (spokesperson) for Central and Eastern region

A7. As you well know, Afghanistan has been invaded by the US and its allies for 11 years. The real Islamic government, which was the expression of 1.5 million martyrs, was attacked by the US (in 2001). We lost all our honor, properties, lives, security and religious freedom as the result of the invasion. So, we have to launch Jihad to regain our lost values. The Sharia orders us to launch Jihad once our homeland is invaded by the infidels and not hand over our weapons till the removal of obstacles has been achieved.

Therefore, we have to continue Jihad based on this religious obligation. The Jihad is carried out within the framework of rule and order. We continue Jihad under the Islamic Emirate umbrella and we have chosen the Emirate as the body, which secures our religious desires.

#09 H. from Helmand

A7. When Karzai started to rule, we began to face problems because I and my family wore the same dress as the Taliban like the turban and other items. The government people blamed us for being Taliban or being affiliated with the Taliban. That’s why I was forced to become a Taliban fighter.

The government people and foreigners also killed a lot of civilians in my district and destroyed homes and farms, which motivated many people, including me, to join the Taliban.
The government is supported by non-Muslims whereas the Taliban follow the Islamic system, this is why I like the Taliban and joined them.

**#11 A. from Zabul**

A7. The main reason I fight the foreigners and Afghan soldiers is that it is a Holy War. Why did I join the Taliban many years ago? Because they were against all those who were violating the Islamic rules, and the Taliban were the ones who put an end to the civil war. [At that time] there were many armed groups, innocent people were killed, women abused and their belongings looted. So the Taliban fought them and took power but now it is a clear invasion by foreigners and it is a Holy War.

**#12 F. from Nooristan**

A7. This is a Jihad and every Muslim must take part. Since the Taliban is the biggest group leading the Jihad against foreign invaders, I have joined the group.

**Q8. According to you, in which aspect is the Islamic Emirate of Afghanistan superior to the central government?**

**#01 M. from Helmand**

A8. There is also complete peace in the Taliban-controlled area. Everybody feels safe there. In the last year of the Taliban rule, Amir Khan Mutakhil said that the Madrassas were booming and that many people were coming to Madrassas to study under the Taliban.

During that (Taliban) time, all roads to Kabul were bumpy but even during the night, people could travel with cars full of money. People were bringing money in bags in the middle of the night, but now, businesses and shopkeepers get looted even during daylight.

(Q: What about job opportunities, schools and health services?)

The Taliban are still fighting and have to pay a lot for the fight. That’s why the Taliban cannot offer job opportunities, health and other services.

**#02 C. from Kunar**

We don’t care about the facilities (comforts of life); we just care about religion and the day of justice. Every minute we think about the possibility of getting killed. During the Emirate there was complete security in the country. Nobody was corrupt. In my valley there were no looters.

**#04 W. from Helmand**

A8. What positive aspect of the Islamic Emirate do you see? If the foreigners are gone, the Taliban and Mujahideen will come together and build schools
and madrassas but (this happens) only if the foreigners are gone. We will build the country as it is needed.

**#05 Q. from Kandahar**

A8. The Islamic Emirate of Afghanistan fights for freedom. It struggles to re-establish a pure Islamic government in an Islamic country with more than 99 per cent Muslim population. The Emirate also makes efforts to ensure security, create jobs so that people can earn a *halaal* (permitted according to Islam) livelihood and prevent corruption, a big sin in Islam.

**#06 Q. from Kunduz**

A8. In my view, the Islamic Emirate of Afghanistan is superior to the Kabul administration in the fields of Islamic system, eradication of corruption, solving disputes, and many other issues.

**#07 W. from Uruzgan**

A8. Because the central government is not Islamic in contrast with the Islamic Emirate of Afghanistan. There is no Sharia in Afghanistan except in villages under the control of Mujahideen. There is justice in those areas, and there is no corruption. In the government-controlled areas, there is so much corruption.

**#08 Zabiullah Mujahid (spokesperson) for Central and Eastern region**

A8. The Islamic Emirate of Afghanistan reflects the desire of our 1.5 million martyrs. It implements God’s will on earth. The Emirate really protects the independence of our country.

The Kabul administration was born after the invasion of our country. The supporters of the Kabul administration are slaves of the US and Western intelligence services. This administration was never accepted by the people who had produced 1.5 million martyrs and a lot of suffering and refugees. The Kabul administration is useful only for the US and those who are here to loot our resources.

**#09 H. from Helmand**

A8. Every person benefits from legal service in a correct way according to the Sharia law and everyone is satisfied with it. The Taliban solve their disputes and problems through religious scholars. In the (Karzai) government, there are neither honest nor academic religious scholars, who obey and follow the Sharia law. Secondly, the Taliban are known for bringing security. For example, in an area where just two Taliban members show up for a short time, the
looters disappear and nobody can knock on anybody else’s door with malicious intentions. Everything is peaceful but in the government-controlled area, a lot of crimes are happening.

**#10 I. from Uruzgan**

A8. Everyone knows that the Taliban are well placed to bring peace and rule of law in the country. There is no other rule in the world where people can travel safely at midnight. Nobody steals money since Islamic laws provides that thieves would have their hands cut off if captured. During the Taliban time we were also able to stop poppy cultivation in Afghanistan by just one written order from the Amir. Now the current Karzai government tries every option, even with a lot money and support from the world, but he does not succeed.

We also support education and try to provide health facilities but for now, we do not have enough time for that, because we still need to concentrate on fighting.

**#12 F. from Nooristan**

A8. I do not want to talk about the good aspects of the Taliban Emirate and Afghan Government because everyone knows what they are.

Q9. According to you, in which aspects is the Central Government superior to the Islamic Emirate of Afghanistan?

**#01 M. from Helmand**

A9. Yes, there are many roads and clinics but mostly it is for their own interest and it is not for the Afghans. We do not see any goodwill for other people.

(Question: but Afghans also use the schools?)

No, in schools they preach Christianity under the pretext of bringing development to Afghanistan. If a school or a clinic is not involved in religious (Christian) activities, our Layeha tells us not to harm them; but it also happens that the Mujahideen arrest a person working in a school or clinic and they admit that they were sent by France, Denmark or Italy to work for them.

The phone poles are also a problem for us. In some places, this does not create problems but in other places they are used for spying. That is why the Taliban attack them sometimes.

**#02 C. from Kunar**

A9. For a Muslim, the most important thing is to save for the day of justice. As for life’s facilities, the government provides roads and schools, but
unfortunately there is no Sharia law in the country. They are not doing anything for the day of justice. I hope that Sharia law is implemented in the country.

If everyone had a beard, we would all be brothers.

**#04 W. from Helmand**

A9. Karzai did nothing for the people. Yes, there are more roads and clinics but Islam is neglected.

**#05 Q. from Kandahar**

A9. The Kabul administration is not superior to the Islamic Emirate. This is a US puppet administration, which has been established to obey Westerners’ orders and extend moral and administrative corruption within Afghanistan. The Kabul administration is supporting the US anti-Islamic plans and programs: that is not acceptable for our Muslim and faithful people.

**#06 Q. from Kunduz**

A9. The Kabul Administration is by no means superior to the Islamic Emirate.

**#07 W. from Uruzgan**

A9. Central government is not superior to the Islamic Emirate of Afghanistan. They live inside concrete walls and barbed wire. We ride openly on roads. We are not afraid. We are morally superior and they are corrupt.

**#08 Zabiullah Mujahid (spokesperson) for Central and Eastern region**

A9. By no means is the Kabul administration more superior to the Islamic Emirate. Niceties, such as education, public health, resolving legal disputes, creating jobs, maintaining relations with the (invader) community, and other bluffs cannot deceive the Afghans. We are a Muslim nation; what matters is to implement Islamic rules. We do not see improvements in education, public health, security, legal dispute settlement or job creation. Only a few of those who support the invasion became complicit in selling the country, while the rest of the nation is in pain. A number of urban people may enjoy the invasion, but the rest of the country is suffering from invasion and bombardment. All the pious people are in jail. Those who are the real representatives of the people, share their pains and are losing their lives and properties, and are called terrorists. The Kabul administration is despised by our people and only apostates support this puppet government.
Annex V

#09 H. from Helmand

A9. The government and foreigners did not do anything good for the people in the district. There was an old school building in my area but they (the Karzai government) destroyed that, so why should our people support such a government? Our people say that they do not benefit from development projects or they even get killed. That’s why everyone hates the government. Some parts of Afghanistan might get developed but often local governors come here and ask tribal leaders what kind of development or rebuilding projects are needed. In the end, they do nothing for us.

#10 I. from Uruzgan, simple fighter

A9. Everyone knows that the current government does a lot regarding education, health and paving roads and we also support these activities. Doctors, engineers and teachers can always come to our area and we do not bother them; we even try to help them.

#11 A. from Zabul (answer to question #1)

A9. What does democracy represent for non-Muslims? The constitution of the Afghan government tries to enforce a Western democracy of the Kafirs: Should we allow women to walk naked on the streets? Are sons and daughters free to disrespect their parents? Can a wife go and sleep with anyone and her husband be unable to say anything? That completely runs against Islam.

(Answer to question #9)

In short, I say that all the rules and aspects of the Islamic Emirate are superior; there is no doubt about it. If there was anything wrong with the Emirate or if they did not follow the Islamic rules, I would quit right now.

(As for the positive aspect of the Afghan government) they have done nothing for the well-being of the people; the constitution is bad and un-Islamic; the government is not Islamic; roads they built are just for the activities of the foreign and Afghan forces for better access; and education is un-Islamic as everyone is now trying to learn English to have better jobs while they have forgotten about the Quran. So they do nothing positive.

Q10. In which province and district do you fight?

Information with the author.

Q11. Which level of the movement did you occupy?

Seea bove.
Notes

1 Introduction


Among the definitions of NSA, the one by Oran Young is often cited: “Any organized entity that is composed, at least indirectly, of human beings, is not wholly subordinate to any other actor in the world system in effective terms, and participates in power relationships with other actors.” This definition, however, focuses on NSAs with global outreach and is silent about the type of influence. Instead, the widest possible definition is adopted here: “NSAs are non-sovereign entities that exercise significant economic, political, or social power and influence at a national, and in some cases international level,” proposed at the National Intelligence Council (Federation of American Scientists)–Eurasia Group Seminars 2006/2007 (Conference Report, August 23, 2007).


7. The absence of an official definition for NSAs, much like for ANSAs, is not surprising. Nevertheless, the Geneva Centre for the Democratic Control of Armed Forces (DCAF) proposes a useful working definition as follows: “Any organized group with a basic structure of command operating outside state control that uses force to achieve its political or allegedly political objectives.”


At the same time, DCAF advocates the inclusion of private security, crime groups, militia, and gangs as a new category of ANSAs. Along the same lines, Schneckener and Hofmann’s definition best captures this broad scope of ANSAs, and according to their definition, ANSAs—

are willing and capable of using violence for pursuing their objectives;
are not integrated into formalized state institutions, such as regular armies, presidential guards, police, or special forces; and
possess a certain degree of autonomy with regard to politics, military operations, resources, and infrastructure.


State-sponsored or progovernment militia and transnational terrorist groups are also included in this definition, and it does not make territorial control over a specific geographic area a mandatory criterion in contrast with other definitions. The other question is whether political motivation or ambition for sovereignty should be a constitutive element for ANSA. The academic focus of ANSA is usually on politically motivated actors, but an objective classification of ANSA based on motivation seems to be difficult, given the subjective nature of the proclaimed objective. ANSAs may have political objectives but also resort to criminal activities for fund-raising, to the extent that the distinction between political ANSAs and criminal groups becomes blurred. It would, thus, be safe to adopt the widest possible definition of ANSA in the absence of any convincing criteria, which would exclude purely criminal groups. For a discussion, see Sukanya Podder, “Non-State Armed Groups and Stability: Reconsidering Legitimacy and Inclusion,” *Contemporary Security Policy*, 34 (1), (2013); note 1; Marco Sassoli, “Transnational Armed Groups and International Humanitarian Law,” *Programme on Humanitarian Policy and Conflict Research*, 6 (2006); Veronique Dudouet, “Mediating Peace with

8. See last chapter for discussion.


10. For example, Common Article 3(2) to the Geneva Conventions reads: “The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.”

11. Laws of Armed Conflict and International Humanitarian Law (IHL) can be used interchangeably.


13. See, for example, paragraph 6 of UN Security Council Resolution 1674 (2006) on Protection of Civilians, which “demands that all parties concerned comply strictly with the obligations applicable to them under international law, in particular those contained…in the Geneva Conventions of 1949 and their Additional Protocols of 1977 [italics added].” See also preamble of UN Security Council Resolution 1882 (2009) on Children and Armed Conflict, which calls “on all parties to armed conflicts to comply strictly with the obligations applicable to them under international law for the protection of children in armed conflict [italics added].” For the role of UN Security Council in relation to the application of IHL and human rights to NSAs, see A. Constantinides, “Human Rights Obligations and Transnational Corporations: The Limits of Direct Corporate Responsibility,” *Human Rights and International Legal Discourse*, 2010.


20. The findings were presented during the thirty-first Conference of the International Red Cross and Red Crescent Movement in November 2011. See also Geneva Academy, Rules of Engagement—Protecting Civilians through Dialogue with Armed Non-State Actors, Geneva: Geneva Academy (October 2011).
27. See observation: “Major challenges remain for Geneva Call. A substantial number of NSAGs (Non-State Actor Groups) have not yet signed up to the Deed.” In Ryngaert, “Enhancing and Enforcing Compliance,” p.450.


34. See chapter 4 for details.


42. Other Codes of Conduct of ANSA exist outside of Afghanistan. The analysis is usually related to the question of internal control, actual respect, or comparison of the Code with other international norms. See, for example, Sassoli, “Engaging Armed Non-State Actors with International Humanitarian Law”; Oliver Bangerter, “Internal Control: Codes of Conduct within Insurgent Armed Groups,” Geneva, 2012; Alkarama, “Code of Conduct Regulating Combat Operations (for the Free Libya Armed Forces),” Geneva (May 2011).


47. Greg Kleponis, “Throwing the Book at the Taliban,” *Small Wars Journal* (September 1, 2010).


56. Since availability of resources is considered the most important independent factor, resource dependency theory appears to be the most adequate label although this term is not used explicitly by Weinstein (Inside Rebellion: The Politics of Insurgent Violence).

57. Weinstein does not explicitly refer to legitimacy and the observation on legitimacy is an inference from his theory.


59. The Quetta Shura is composed of the top commanders of the Afghan Taliban and is said to be based in the city of Quetta in the province of Bolochistan, Pakistan.

2 Background to Afghanistan and the Taliban


3. Ibid.


10. The estimation of the percentage of Pashtuns of the total Afghan population has been a thorny issue in Afghanistan, and some even claim a 70 percent. A general census was never undertaken in Afghanistan and the figures here are based on extrapolated estimations offered by outsiders, such as the website of CIA World Factbook (https://www.cia.gov/library/publications/the-world-factbook/geos/af.html, accessed July 2014). See also Shuji Hosaka, “Afuganisutan wa do natte iruka (What’s Really Going on in Afghanistan?),” Kyoto Series of Islamic Area Studies, Kyoto University, Kyoto, 2010, p.xv (basic facts). For total population figures, see World Bank estimates (2014).


13. See note 10 of this chapter.

14. King Zaher Shah, for example, did understand Pashto but was not fluent in it and was more comfortable in the Persian (Dari) language.

15. Again, the term tribe is elusive, which may be defined as a social division consisting of families or communities linked by social, economic, religious, or blood ties with a common culture and dialect, typically having a recognized leader. It can have distinctive norms of reciprocity, which does not need to be applied within an ethnic group as a whole. See *Oxford Dictionaries*, Oxford: Oxford University Press, 2014.


18. The importance of cities had declined somehow after the discovery of the sea route to India, which caused the decline of the trans-Asian caravan routes (the Silk Road), an important contributor to the flourishing urban culture. In Olesen, *Islam and Politics in Afghanistan*, p.43.
20. Ibid., p. 168.
22. Ibid.
25. Hiroshi Takahashi, “Taribaan shutsugen no haikei to Saikoshidosha Mullah Omaru (Background of Taliban’s Emergence and its Commander Mullah Omar),” *Afuganisutan wa do natte iruka* (What’s Really Going on in Afghanistan?), ed. Shuji Hosaka, Kyoto: Center for Islamic Area Studies at Kyoto University, 2010.
27. See various accounts in Rashid, *Taliban—The Power of Militant Islam and Beyond*; Takahashi, “Taribaan shutsugen no haikei to Saikoshidosha Mullah Omaru.” According to Rashid, Omar was born sometime around 1959 in Modeh village near Kandahar to a family of poor peasants who were members of the Hotak tribe of the Ghilzais. In Rashid, *Taliban—The Power of Militant Islam and Beyond*, p. 23.
31. Ibid., p. 67.
33. Ibid., pp. 36–49.


43. One explanation is that King Zaheer Shah, a Durrani, alienated the Pakistani authorities by claiming the Pakistan’s parts of Bajaur and Waziristan as being part of Afghanistan, which enticed the latter to support the Ghilzai forces to counter his claim. In M. Hassan Kakar, *Afghanistan—The Soviet Invasion and the Afghan Response, 1979–1982*, Berkeley and London: University of California Press, 1995, p.9; Ruttig, “The Other Side—Dimensions of the Afghan Insurgency: Causes, Actors and Approaches to ‘Talks,’” p.13.

44. See Waheed Muzhdah, *Afghanistan wa panj sal sulta-ye Taleban* (Afghanistan Under Five Years of Taliban Sovereignty, English version translated from Persian), Second edition, Kabul, 2001, p.17 (the page number might differ from the original print as the content was received in soft copy). See also *The Economist*, “Has a New Master?,” (7902), (February 18, 1995); and Martin Ewans, *Afghanistan: A New History*, Richmond: Curzon Press, 2001.

45. Takahashi, “Taribaan shutsugen no haikei to Saikoshidosha Mullah Omaru.”


49. Muzhdah, *Afghanistan wa panj sal sulta-ye Taleban*, pp.17–20. The department had existed under Rabbani since 1992, but it was reinforced under the Taliban regime.


51. Rashid, *Taliban—The Power of Militant Islam and Beyond*, p.115. It must be said, however, that the custom of wearing the Burka existed long before the Taliban made it mandatory, particularly in the countryside. The same custom still exists today even in non-Taliban-controlled Pashtun areas.


54. Muzhdah, Afghanistan wa panj sal sulta-ye Taleban, p.54. See similar account of James Fergusson, Taliban: The Unknown Enemy, London: Bantan Press, 2010, p.56. Crime in cities was virtually non-existent. An Afghan medical doctor recalls in an interview with the author: “At that time, we were very much in favour of the Taliban who arrived as saviours and brought rule and order. Once I saw a man in Kandahar with a bag full of money, which he then left unattended while praying. When he returned, the bag was still there.” In Dr. Rashid Khaled, interview, Tokyo, January 23, 2013.


57. Indian writers, in particular, are said to be fond of this view. Abdulkader Sinno, “Explaining the Taliban’s Ability to Mobilize the Pashtuns,” The Taliban and the Crisis of Afghanistan, ed. Robert Crews and Amin Tarzi, Boston: Harvard University Press, 2008, p.69.

58. Numerous accounts testify to the participation of ISI officers in the early expansion of the Taliban. In Muzhdah, Afghanistan wa panj sal sulta-ye Taleban, pp.12, 52; Endo, Afugan 25 nen Senso, p.94.


At times, Pakistan’s support was termed as “humanitarian assistance to the returning Afghan refugees.” Rabbani was the first to criticize the assistance in the UN General Assembly as it was delivered to the Taliban-controlled area only. Kosaku Maeda and So Yamane, History of Afghanistan, Tokyo: Kawade Shobo, 2002, p.171.


60. Griffin, Reaping the Whirlwind: The Taliban Movement in Afghanistan, p.38.

61. Term used by a professor of the international relations department of Peshawar University, interview, Peshawar, October 17, 2012.

62. During the Taliban’s growth, as many as four million refugees returned from Peshawar between 1992 and 1999 in the hope of better security according to UNHCR. However, soon after the Taliban’s occupation, 10,000 Kabulis fled to Pakistan between October and December 1996 in a growing climate of fear and lack of educational opportunities. Many ended up in Pakistan where


After the toppling of the Taliban movement there, the Afghan currency increased from USD1/AFN72 in July to USD1/AFN27 in October 2011. See Central Bank of Afghanistan, “Daily Exchange Rates of Selected Currencies to Afghani,” Kabul, 2001–2012. A journalist reasoned along the same line: “The state of Afghanistan’s currency is as muddled as its politics. It’s a wonder anyone has any faith in it, but Afghans do: The Afghani gained in value at the time of the Northern Alliance’s military advance as traders became confident that peace was at hand.” In Andrew Maykuth, “Afghan Currency Is Foreign—Like the Country, Its Money Has a Rough Past,” Philadelphia Enquirer (December 5, 2001).

Opinion shared by a professor of the international relations department of Peshawar University in an interview with the author on October 17, 2012.

The poor quality of teachers, the exclusive focus on religious matters, and the reclusive life away from the opposite sex were at the origin of the poor knowledge of secular affairs, the narrow worldview, and the misogynistic attitude of the Taliban. See Amalendu Misra, “The Taliban, Radical Islam and Afghanistan,” Third World Quarterly, 23 (3), (2002), p.582; Crews, “Introduction,”p.35.

The cross-border smuggling trade between Afghanistan and Pakistan has been historically important. Sealed goods had been driven up from Karachi to Jalalabad or Kandahar and smuggled back to the black market in Pakistan, taking advantage of the 1950 Afghan Transit Trade agreement allowing Afghanistan to import duty-free goods through the port of Karachi. See Schetter, “The ‘Bazaar Economy’ of Afghanistan,” p.122; Ahmed Rashid, “Pakistan and the Taliban,” The Nation (April 11, 1998).

The ISI was supporting Hekmatyar in its quest to capture Kabul but was overruled by Naseerullah Babar’s ministry of the interior in favor of the Taliban. Rashid, “Pakistan and the Taliban.”

See Muzhdah, Afghanistan wa panj sal sulta-ye Taleban, pp.46–48; more about the link between the UN sanctions and the destruction of the Buddha statues, see Endo, Afegan 25 nen Senso, p.128; Shindo, Taliban no Fukkatsu, p.54.
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72. *The Economist*, “Afghanistan—Drier and More Desperate” (August 12, 2000). Even Mullah Omar reportedly said, “We have told Osama not to use Afghan soil to carry out political activities as it creates unnecessary confusion about Taliban objectives.”

73. Bin Laden is said to have complained about Mutawakhl: “Two entities are against our jihad. One is the US, and the other the Taliban’s own Foreign Affairs Ministry.” In Muzhdah, *Afghanistan wa panj sal sulta-ye Taleban*, p.83.


79. The exact time line was the establishment of the Transitional government in December 22, 2011, with its cabinet members, an Emergency Loya Jirga in the following six months, and the drafting of the Constitution within 18 months. The Constitutional Loya Jirga would then ratify the Constitution within 24 months. In “Conference Conclusions,” The International Afghanistan Conference in Bonn, December 5, 2011.


81. Finally, cabinet members were chosen as follows: 18 from the Northern Alliance, 11 from the Roma Group, and 1 from the Peshawar Group. By ethnicity, 11 were Pashtun, 8 Tajiks, 5 Hazaras, and 3 Uzbeks, and 3 were from other ethnicities.


84. Macroeconomic stability has been maintained, based on disciplined fiscal and monetary policies. A new unified currency was introduced; inflation has remained low, while the exchange rate has been stable. Between 2005 and 2012, Afghanistan’s growth rate stood at 6–10 percent each year (real GDP growth). In Government of the Islamic Republic of Afghanistan, “Afghanistan National Development Strategy,” Kabul, July 20, 2010, pp.6–7.

85. Electricity capacity doubled compared with 2002; 12,000 km of roads were rehabilitated or built including the ring road, considerably lowering the travel time between Kabul to Herat to five hours, which previously took two days. Kazushige Shibata, “2004nen 10 gatsu Daitoryo Senkyo wo meguru Seijikatei (Political Process Related to the Presidential Election of October 2004),” Afuganisutan Kokkasaiken e no Tenbo, ed. Hitoshi Suzuki, Tokyo: IDE-JETRO, 2007, p.176.

Since 2002, school enrolment has increased from one million to 7.2 million and girls’ enrolment has increased from 191,000 to more than 2.71 million. In “World Development Indicators,” The World Bank, Washington, DC, 2013; “Afghanistan Economic Update,” The World Bank, Washington, DC, October 2012.


Critics question the independence and neutrality of the survey but to date it is the most comprehensive and reliable data available to hand. Sarah Chayes, “In Afghanistan, It’s Not All in the Numbers,” Carnegie Endowment for International Peace, Washington, DC, December 3, 2012. Also senior researcher of an international research NGO, interview, Kabul, November 2012.

90. Insecurity (30 percent), followed by corruption (26 percent) and unemployment (25 percent). In Asia Foundation, “A Survey of the Afghan Population,” 2013, p.22.


93. See Abdul Hakim Mujahid, interview, Kabul, November 7, 2012. See also interview by Marissa with Mullah Mohammad Is’haq Nazimi, former Taliban spokesperson of Mullah Omar: “The Western conception of ‘democracy’ and government is ultimately inappropriate for Afghanistan, and contrast...
this with an independent Islamic system (Islamic Emirate) from which foreign forces have completely withdrawn.” In Marissa Quie, “Peace-Building and Democracy Promotion in Afghanistan: The APRP and Reconciliation with the Taliban,” Pan-European Conference of the Standing Group on International Relations of the EPCR, Stockholm, September 8–11, 2010, p.18.


97. The group is called mahaz (front) in Pashto.

98. Osman, “The Resurgence of the Taliban in Kabul.”

99. See note 94, p.118. Exception constituted urban areas where unannounced attacks usually result in more civilian than military casualties.

100. Giustozzi compared the strategy to the “War of the Flea” as defined by Robert Taber, War of the Flea: The Classic Study of Guerrilla Warfare, Dulles: Potomac Books, 2002. Large-scale conventional battles, such as Operation Medusa (September 2006), have been rather an exception to the norm.


104. Tom Coghlan, “British Troops May Face al-Qa’eda Fighters Sent from Iraq to Afghanistan,” Telegraph (February 3, 2006).


108. Ibid., p.19.

109. See icasualties.org, formally the “Iraq Coalition Casualty Count,” an independent website created in May 2003 by a US software engineer. The website
is considered an “authoritative” record of MNF casualties in Iraq and has been cited by many mainstream media (figures as of February 12, 2014).


113. ‘Kandahari’ is often used for people from the southwestern region in general, with the center Kandahar, and Helmand, Uruzgan, and Zabul provinces.

114. The Haqqani and Mansur networks and the Tora Bora front practically operate under their own command and strategy and are not subject to the Taliban practice of rotating provincial governors and commanders. The Haqqani have their own long-established independent links to Arab financial sources, to Al Qaeda, and Pakistan’s ISI to operate autonomously from the Taliban supreme leadership. It is ethnically more diverse than other Taliban networks and integrates Pashtun, Pakistani, Uzbek, Chechen, and Arab fighters. In Thomas Ruttig, “Loya Paktia’s Insurgency,” Decoding the New Taliban, ed. Antonio Giustozzi, New York: Columbia University Press, 2009, p.88.


117. According to some reports, the Quetta Council is believed to have moved from Quetta to Karachi. See Declan Walsh, “Karachi Was Haven for Taliban Fugitives,” The Guardian, 2010. Also Shamim Shahid, “Quetta-Based Taliban Move to Karachi,” The Nation, 2009.


119. Ruttig, “The Other Side—Dimensions of the Afghan Insurgency: Causes, Actors and Approaches to ‘Talks,’” p.15. According to Ruttig, the leadership council should be seen as something very fluid. It convenes on a very irregular basis and the attendance is often incomplete.

120. The list below is based on publicly available information as of spring 2013:
– The one in Quetta directs operations for southern and also western Afghanistan. The zone is believed to be led by Hafiz Majid; see Ruttig, “The Other Side—Dimensions of the Afghan Insurgency: Causes, Actors and Approaches to ‘Talks,’” p.15.
– The council in Peshawar covers eastern and possibly northeastern Afghanistan first headed by Mullah Kabir, according to Giustozzi, Koran,
Kalashnikov, and Laptop—The Neo-Taliban Insurgency in Afghanistan, pp.91–92. He was arrested in Pakistan in February 2010 and replaced by Sheikh Mohammed Aminullah, according to Bill Roggio, “The Afghan Taliban’s Top Leaders,” The Long War Journal (February 23, 2010).

– The council in Miramshah in North Waziristan covers southeastern Afghanistan led by Serajuddin Haqqani who is advised by his father Jalaluddin, according to Ruttig (2009), p.16.

– The fourth council in Gerdi Jangal (a refugee camp in Pakistani Baluchistan) is a sub-council, responsible for Helmand and Nimruz headed by Akhtar Muhammad Mansur or by Mullah Abdul Zakir, according to Ruttig (2009), p.19. The Miramshah Shura appears to integrate Afghan and Pakistani Taliban and, possibly, foreign fighters.

121. “On fundamental issues, all orders and decrees are coming from the center, all Mujahidin are bound by the stance of the leadership, although in some daily, simple affairs and issues the commander of each area can himself make decisions,” interview with Qari Yousuf Ahmadi, official spokesman of the Taliban cited by Nathan, “Reading the Taliban,” p.29.


123. Gopal says that estimating the size of the Taliban forces is fraught with difficulties given the frequent border-crossings and the loose definition of membership of the Taliban. In Gopal, “The Battle for Afghanistan: Militancy and Conflict in Kandahar,” p.33.


125. Giustozzi, Koran, Kalashnikov, and Laptop—The Neo-Taliban Insurgency in Afghanistan, p.35.


133. BBC, “Karzai Anger over Civilian Deaths” (May 2, 2007).


135. Contrary to other parts of the world, Afghan suicide attackers are characteristically young, uneducated, and poor, drawn from madrassas across the border of Pakistan. See UNAMA, “Suicide Attacks in Afghanistan,” Kabul, September 1, 2007, p.10. They are said to be hired by recruiters who come in the guise of normal employers taking young boys for jobs to cities or to other regions. In A. Niaz Shah, *Islamic Law and the Law of Armed Conflict*, Abingdon: Routledge, 2011, p.112.


138. In 2012, sympathizers of the Taliban mentioned the Afghan cause (34 percent), followed by “defence of Islam” (33 percent) as a reason to support the Taliban. In Asia Foundation (2012), p.60. The 2013 version does not discuss the reason for support to the armed opposition.


142. “They seem to have absorbed from their foreign jihadist allies a more flexible and less orthodox attitude towards imported technologies and techniques. […] More important, the Neo-Taliban became much more integrated in the international jihadist movement after 2001 […] and [undertook] first, shy attempts to court educated constituencies.” In Giustozzi, *Koran, Kalashnikov, and Laptop—The Neo-Taliban Insurgency in Afghanistan*, pp.13–14.

143. Referring to the communication of the Taliban’s spokesperson, Tarzi says: “His tone and the list of demands could have very well been made by a legitimate Afghan political organization, or even privately by Karzai himself.” In Tarzi, “The Neo-Taliban,” p.293.

144. Shahamat website, “Message of Felicitation of the Esteemed Amir-ul-Momineen (May Allah Protect Him) on the Occasion of Eid-ul-Odha,” October 13, 2013. See also interview with Sohail Shaheen, member of
Taliban Negotiation Team in Qatar: “Our agenda is development, rehabilitation of our country and independence of our country, a government based on the will of our people. So, we have no agenda to work with any group on the soil of Afghanistan against any country.” In NHK, Exclusive Interview with Top Taliban Leaders (November 9, 2012). In Annex I of this book.


149. Ruttig, How “Neo” Were the “Neo-Taliban”?


152. See, for example, Sohail Shaheen: “First of all, I will say we have no connection [with Al Qaeda] to carry out […] sabotage activities in other countries, we are not into this.” In NHK, Exclusive Interview with Top Taliban Leaders.


156. The two official Taliban websites are http://www.theunjustmedia.com and http://shahamat.info/ (for English, see http://www.shahamat-english.com). The latter offers various language versions in Pashto, Arabic, Urdu, and Farsi with frequent updates reflecting a high level of sophistication to run the website.


159. “Although the exact composition of this council still remains unclear (and even more after the current wave of arrests in Pakistan), its core still is mainly Kandahari and stems from the pre-2001 leadership.” In Ruttig, How “Neo” Were the “Neo-Taliban”?

3 Layeha—the Code of Conduct of the Taliban

1. Different spellings exist in Western literature such as Layha, Leyha, or Layeha. This research adopts the latter since it most authentically reflects the Pashto pronunciation.


4. Haji Obaidullah, the Taliban minister of defence, would have handed the Layeha to the members of the Shura, the highest organ of the Taliban. In Sami Yousafzai, “Der Kodex der Talibani,” Die Weltwoche (2006).


7. Mujahid, interview.

8. According to the Arabic language magazine Al Sommod of March 2008, the duties of the Cultural Commission would include “the issuance and publication of Jihadi books.” In Nathan, “Reading the Taliban,” p.27. Also Moreau, “Taliban Dirty Dozen: Afghan and Pakistani Insurgents to Watch.”


13. Ibid.

The problem of internal disputes is reflected in the Layeha calling for fair distribution of the war booty (i.e., weapons and equipment) and the recommendation to leave behind tribal, linguistic, and regional prejudice behind.

23. Mujahid, interview. See also comment of Haroun Mir: “The Taliban are worried that a lot of groups call themselves Taliban, especially a number of criminal groups that go on the main road and kidnap people to extract money.” In Arnoldy, “In Afghanistan, Taliban Kills More Civilians than US.”
26. The counterinsurgency specialist David Kilcullen sums up the concept as follows: “In irregular conflict […] whoever does better at establishing a resilient system of control, that gives people order and a sense of security […] to gain their support and ultimately win the competition of government.” In Kilcullen, *Counterinsurgency*, p.152.
32. For example, the editorial of Washington Post claims that the new Taliban Layeha would be another propaganda tool and “the latest in a series of useless instructions.” In The Washington Times, “Editorial: A Kinder, Gentler Taliban” (August 5, 2010). Also, “Nato commanders denounced the ‘Layeha’ as a propaganda exercise aimed at persuading Afghan civilians it is a disciplined force which follows the rules of war.” In Dean Nelson, “Taliban Issues ‘Code of Conduct’ to Fighters in Afghanistan,” The Telegraph (July 30, 2009).
33. See, for example, interview with the head of Afghan Islamic Press, Yakob Sharafat, Peshawar, October 16, 2012.
34. Arnoldy, “In Afghanistan, Taliban Kills More Civilians than US.”
35. As put forth by a Taliban commander in an interview with die Weltwoche. Yousafzai, “Der Kodex der Taliban.” For different estimated figures, see chapter 3 of this book.
37. Clark, “The Layha,” p. 15. As of 2013, the English translation of the Layeha is no longer available on the Shahamat website.
38. Article 27 of the 2010 Layeha, italics added.
39. Local paper and website in English only.
40. The Swiss magazine Die Weltwoche talks of a meeting during Ramadan in which the booklet was first distributed. The ICG claims that the Layeha has been circulating since late 2005. In ICG, “Taliban Propaganda: Winning the War of Words?,” p. 28.
42. First page of the 2009 Layeha.
45. Translated into English and uploaded on Shahamat website, August 6, 2009.
46. First page of the 2010 Layeha.
49. Pashtun interviewees based in Peshawar are considered to be local. The table does not include interviews with other foreigners.
50. The difference between addressee and target is similar to the dichotomy between victim and target as proposed by Walter (1969). If, for example, torture were committed to show publicly that the act of treason is met with harsh punishment, the person would be the victim and the target the public. See Eugene V. Walter, Terror and Resistance, New York: Oxford University Press,
1969, p.9. Another example is suicide attack against an occupying force. The *victim* of the attack would be the immediate victim of the blast, whereas the final *target* could be the local or diaspora community to boast oneself as a “resistance of the weak against an illegitimate occupier”.


52. Annex III has only the translation of 2010 version. For all versions see Appendix 1 of Clark, “The Layha.” Article 16 of the 2006 Layeha.

53. Article 17 of the 2006 Layeha.

54. Article 15 of the 2006 Layeha.


56. Article 1 of the 2010 Layeha, Article 1 of the 2009 Layeha.

57. Article 2 of the 2010 Layeha, Article 1 of the 2009 Layeha.

58. Article 2 of the 2010 Layeha.

59. Article 3 of the 2010 Layeha.

60. Article 7 of the 2010 Layeha.

61. Article 3 of the 2010 Layeha, Article 2 of the 2009 Layeha.

62. Article 5 of the 2010 Layeha, Article 5 of the 2009 Layeha.

63. Article 4 of the 2010 Layeha, Article 3 of the 2009 Layeha in comparison with Article 4 of 2006 Layeha, which reads, “whoever accepts the invitation and then breaks his promise and clearly abuses his commitments becomes a traitor and forfeits our protection. He will be given no second chance.” See Appendix 1 of Clark, “The Layha.”

64. Article 8 of the 2010 Layeha, Article 6 of the 2009 Layeha.

65. Article 8 of the 2010 Layeha.

66. Article 2 of the 2010 Layeha, Article 4 of the 2009 Layeha.

67. Article 10 of the 2010 Layeha.

68. Article 10 of the 2010 Layeha.

69. Article 10 of the 2010 Layeha.

70. Article 12 of the 2010 Layeha. Article 9 of the 2009 Layeha also stresses the consent of the prisoner as a precondition.


72. Article 14 of the 2010 Layeha, Article 11 of the 2009 Layeha.

73. Translation of Clark. Munir's translation avoids the term torture, “Mujahids should not expose those detained by them to starvation, thirst, cold or heat even if they deserve death. The Mujahids should punish the detained persons in accordance with the decision provided by Sharia concerning them, whether that would entail execution or any other type of punishment.” In Annex III in thisbook.

74. Article 11 of the 2010 Layeha.

75. Ibid.

76. Article 13 of the 2010 Layeha, Article 10 of the 2009 Layeha.

77. Article 18 of the 2010 Layeha, Article 14 of the 2009 Layeha.

78. Ibid.

79. Ibid.

80. Article 21 of the 2010 Layeha, Article 18 of the 2009 Layeha (the latter only talking about photographing).
81. Article 22 of 2010 Layeha.
83. Articles 24, 25, and 26 of the 2006 Layeha.
84. Article 24 of the 2010 Layeha.
85. For education, see Article 59 of the 2010 Layeha and Article 42 of the 2009 Layeha; for NGOs, see Article 60 of the 2010 Layeha and Article 43 of the 2009 Layeha.
86. Article 57 of the 2010 Layeha, Article 41 of the 2009 Layeha under internal issues for Mujahedeen.
87. Article 56 of the 2010 Layeha.
88. Article 81 of the 2010 Layeha, Article 63 of the 2009 Layeha.
89. Article 77 of the 2010 Layeha.
90. “Non-adults (underage persons without beards) are forbidden to live in the Mujahids residential places and military centres.” In Article 69 of the 2010 Layeha, Article 50 of the 2009 Layeha, and Article 19 of the 2006 Layeha.
91. See, for example, Rod Nordland, “Afghans Plan to Stop Recruiting Children as Police,” The New York Times (January 29, 2011).
92. Article 65 of the 2010 Layeha; see also last message on the back cover of the 2010 Layeha, which reads: “The protection of public properties as well as life and properties of common people is regarded as one of the basic responsibilities of Mujahids. Therefore, you should do your best in order to act in accordance with this responsibility and do not let ambition and indulgence in worldly pleasures arm persons to offend common people or to damage their property in order to get material wealth.”
93. Article 67 of the 2010 Layeha, Article 48 of the 2009 Layeha.
94. Article 72 of the 2010 Layeha, Article 53 of the 2009 Layeha.
95. Article 70 of the 2010 Layeha, Article 51 of the 2009 Layeha.
96. Article 71 of the 2010 Layeha, Article 52 of the 2009 Layeha.
97. Article 73 of the 2010 Layeha, Article 54 of the 2009 Layeha.
98. Article 3 of the 2010 Layeha, Article 2 of the 2009 Layeha.
99. Article 33 of the 2010 Layeha, Article 25 of the 2009 Layeha.
100. Article 66 of the 2010 Layeha, Article 47 of the 2009 Layeha.
101. Article 78 of the 2010 Layeha, Article 59 of the 2009 Layeha, italics added.
102. Format borrowed from Johnson and DuPee (2012), p.80, but with significant modification of content.
104. Staff member of an international NGO, interview, Kabul, November 12, 2012.
106. Sections 8 and 9 of 2010 and 2009 Layeha.


111. Mujahid, interview.


113. “Insurgents cannot hope to enforce standards of behaviour without sanction and reward mechanisms, which can be spelt out in penal or disciplinary codes.” In Small Arms Survey, “Regulating Armed Groups from Within: A Typology,” Research Notes Armed Actors, Geneva, 2012, p.3.

The codes of other ANSAs are full of disciplinary sanctions, and the Taliban’s Layeha is not an exception. See, for example, disciplinary rules of other ANSAs, such as: Forces pour la Défense de la Démocratie (Burundi); FARC (Colombia); Chin National Front, Karen National Liberation Army, and Zomi Re-unification Organization (Myanmar); Fuerza Democrática Nicaragüense (Nicaragua); African National Congress (South Africa); and Sudan Liberation Movement–Unified Leadership and the Sudan People’s Liberation Movement/Army (Sudan). Ibid.

114. Article 49 of the 2010 Layeha.

The function of the commission is also to act as an internal “watchdog,” such as preventing infiltration of spies and criminals into the Taliban ranks and ensuring respect of the Layeha.

115. Article 50 of the 2010 Layeha, Article 36 of the 2009 Layeha.

116. Article 50 of the 2010 Layeha.

117. Ibid.

118. Article 2 of the 2010 Layeha, Article 4 of the 2009 Layeha, Articles 5 and 14 of the 2006 Layeha.

119. Article 66 of the 2010 Layeha, Article 46 of the 2009 Layeha, and Article 18 of the 2006 Layeha.

120. Article 73 of the 2010 Layeha.


122. The latter was asked by the Islamic Khilaphat Movement to defend the Islamic interest worthy of the title of “Amir ul-Mu’minin.” The Khilaphat Movement was a spontaneous Muslim movement in India in the 1920s to protest against the British policy. For details, see Gail Minaut, The Khilafat Movement, New York: Columbia University Press, 1982, p.107.

123. According to the Spanish Muslim mystic Muhyi al-Din Ibn al-‘Arabi from the thirteenth century, a “Mujahid” is someone “who improves society and
provides for the welfare of God’s creature.” In Ibn al-‘Arabi, *Futubat al-Makkiyya*, Beirut, 1991. In the Afghan context, the term was first used by Westerners to describe those who resisted the British in the 1830s and later to call those involved in the anti-Soviet resistance in the 1980s.

124. The Taliban governor of Kandahar once told a Japanese diplomat in 1994: “We are not a guerrilla movement like the Mujahedeen who fought the Soviets.” In particular, the Taliban blamed the Jamiat members (Hekmatyar, Sayyaf, Rabbani) for the chaos and lawlessness. In Takahashi, *Taribaan shitsugen no haiketsu o Saikoshidosha Mullah Omaru* (Background of Taliban’s Emergence and Its Commander Mullah Omar), p.3.

125. Foreward message of the 2010 Layeha.

126. Articles 8, 9, 12, 14, 21, 24, 25, 26, and 34 of the 2009 Layeha.

127. Front and back pages, Article 22 of the 2009 Layeha.

128. Articles 10, 12, 16, 17, 18, and 40 of the 2010 Layeha. In some provisions, such as Article 33, Imam is used to refer to a religious leader of the village or province.

129. Front and back pages, Article 27 of the 2010 Layeha.

130. Article 40 of the 2010 Layeha, Article 34 of the 2009 Layeha.

131. Staff member of an international NGO, interview, Kabul, November 12, 2012.


133. Ibid.

4 Comparison with Pashtunwali

1. Article 78 of the 2010 Layeha.

2. For comparison with Islamic law, see Munir, “The Layha for the Mujahideen: An Analysis of the Code of Conduct for the Taliban Fighters under Islamic Law.” Also Shah, “The Taliban Layeha for Mujahidin and the Law of Armed Conflict.”


6. Khushhal Khan Khattak (1613–1689) wrote a book in Pashto prose that can be seen as the first attempt to define appropriate rules of Pashtun behavior. He did not, however, use the term “Pashtunwali.” In Rzehak, “Doing Pashto,” p.3.


11. Article 79 of the 2010 Layeha, Article 60 of the 2009 Layeha.


15. Article 19 of the 2010 Layeha, Article 15 of the 2009 Layeha.

16. Article 48 of the 2010 Layeha.

17. Article 62 of the 2010 Layeha.


22. Point four of Mullah Omar’s message on the last page of the 2010 Layeha.

23. Article 71 of the 2010 Layeha.

24. Article 73 of the 2010 Layeha.

25. Article 72 of the 2010 Layeha.


29. The killing of a male is, for example, equivalent to two bride prices, which can be paid either in money or blood money. In Rzehak, “Doing Pashto,” p.18.


31. Article 10 of the 2010 Layeha.

32. Article 3 of the 2010 Layeha. Also Article 2 of the 2009 Layeha (italics added, but content in parentheses is reproduced verbatim from Appendix 1 of Clark, “The La yha”).


35. Article 5 of the 2010 Layeha, Article 1 of the 2009 Layeha.

36. Article 15 of the 2010 Layeha.

37. Articles 2 and 7 of the 2010 Layeha, Article 11 of the 2009 Layeha.

38. Article 5 of the 2010 Layeha, Article 11 of the 2009 Layeha.

39. Article 4 of the 2010 Layeha, Article 3 of the 2009 Layeha.

40. Article 3 of the 2010 Layeha, Article 2 of the 2009 Layeha.
NOTES

42. Ibid., pp.2–21.
43. Ibid., p.17.
44. Ibid.
45. Article 62 of the 2010 Laycha, Article 44 of the 2009 Laycha.
46. Ibid; see also Clark, “The Layha,” p.11.
48. Chief or nobleman in the Afghan context.
50. Ibid., p.11.
51. Ibid., p.12. See also Glatzer, *Essays on South Asian Society, Culture and Politics*, p.89.
52. Ibid., pp.1–14.
53. Article 27 of the 2010 Laycha, Article 22 of the 2009 Laycha.
55. Last page of the 2010 and 2009 Laycha.
56. Article 20 of the 2010 Laycha, Article 17 of the 2009 Laycha.
57. Article 84 of the 2010 Laycha.
58. If they cannot agree on the changes, the matter is referred to the upper level. In Article 39 of the 2010 Laycha.

5 Comparison with Islamic Law

1. Here the translation of Munir is used as it reproduces most authentically the religious terms of the original text. See foreword of the Code in Annex III.
4. See a similar observation: “[There are] complexities in interpreting Islamic legal sources resulting from the fact that the four main Sunni schools of thought had developed their own methodology on the Fiqh out of a particular historical and political context.” In Center for International Peace Operations (ZIF), “Conference Report,” Islamic Law, The Rule of Law, and International Peace Operations, Cairo: ZIF, 2011.


8. Sunnah refers to good deeds, habits, customs, and practice of the Prophet, whereas hadith are the books compiled about the good deeds, habits, customs, and practice of the Prophet. Many examples of sunnahs are found in hadiths narrated by the Prophet’s companions.

9. Article 79 of the 2010 Layeha cites Hazrat Abu Hurairah, a companion of the Prophet and one of the most important narrators of hadith. Also Article 3 of the 2010 Layeha.


13. A shortcut is made through the literature of Jihad, given the limited scope of the research. The most important modern literatures of Islamic scholars on the subject of Jihad and laws of war are: Abu al-Ala Mawdudi, al-Jihad fi al-Islam, Lahore: Idera Tarjumln al-Qur’ln, 1988; Muhammad Hamidullah, Muslim Conduct of State, Lahore: Sh. Muhammad Ashraf, 1953; Wahba al-Zuhayli, Athar al-barb fi al-fiqh al-islami: dirawa muqarana, Beirut: Dar al-Fikr, 1981. There are many other publications on Jihad in Arabic.


18. The battles include Badr (624 CE), Uhud (625 CE), al-Ahzab (626 CE), Quraizah (627 CE), al-Mutaliq (627 CE), Khaibar (628 CE), Mu’tha (629 CE), Hunain (630 CE), and Tabuk (630 CE). See W. B. Hallaq, Shari’a: Theory, Practice, Transformations, Cambridge: Cambridge University, 2009, pp. 335–336.

19. This often-cited verse also calls for leniency: “But if they repent, and establish regular prayers and practise regular charity, then open the way for them: for Allah is Oft-forgiving, Most Merciful [9:5].” See also: “Fight those who believe not in Allah nor the Last Day, nor hold that forbidden which hath been forbidden by Allah and His Messenger, nor acknowledge the religion of Truth, (even if they are) of the People of the Book, until they pay the Jizya with willing submission, and feel themselves subdued [italics added] [9:29].” Translation by Yusuf, The Holy Qur’an.

20. They are commonly known as Massacre of Banu Qurayza (627 CE) and Conquest of Makka (620 CE). To balance this view, the Quraida are said to have breached a treaty they had concluded with the Muslims to come to assist each other in case of any external attack. The Quraida, instead of complying with the provisions of the treaty, assisted the Makkans in their attack against Muslims in Medina, which would explain the massacre against the Quraida.

21. The other controversy is whether the Medina-revealed verses abrogate the previous Mekka-revealed verses. According to the doctrine of repudiation (called nashb), the verses were revealed for an intended purpose and the revelation subsequent in time would supersede the former ones. Exegetes of the doctrine of tanzil point out that there would be no basis in the Qur’an to replace the former verses. It would exceed the competence of humans to deem the earlier verses of God as supplanted and see the revelations as predicated on the time


25. The spiritual side of Jihad was developed in the ninth century when moralists blended the spiritual side of Jihad with early Sufism, such as al-Muhasibi (ninth century) and Ibn Abi al-Dunya (ninth century). Abu Hamid Muhammad al-Ghazali (1059–1111 CE) described the body as a city governed by the soul and besieged by the lower self. Withdrawal from the world to mystical pursuits would constitute an advance in the Greater Jihad. Contemporaneous scholars of Greater Inner Jihad include Wahba Zuhayli or Sabouni. See for discussion Atsushi, “Wareware ni totteno Jihaado,” p.23; Cook, Understanding Jihad, p.36; Douglas Streusand, “What Does Jihad Mean?,” The Middle East Quarterly, IV (3), (September 1997).


29. Such as the Sufi Al-Muhasabi who advances the idea of combating one’s passions and desires to achieve worldly success while also acknowledging the battlefield as a place in which to pursue the same idea. Cook, Understanding Jihad, p.36.


In past history, the imperatives of the prevailing time also played a crucial role in determining the nature and scope of Jihad. In the aftermath of the life of the Prophet, the very survival of the ummah was at stake and a doctrinal explanation of invasion and expansion was needed. The threat against the Muslim communities abated between the eighth and twelfth centuries and friendly relations were developed with other nations; accordingly, Jihad was defined more restrictively. Under the crusades, the obligation to fight became no longer a matter of a few (fard kifaya) but of everybody (fard ‘ayn). See Bassiouni, “Evolving Approaches to Jihad: From Self-Defense to Revolutionary and Regime-Change Political Violence,” p.25; Guellali, “Understanding the Discourses on Jihad in Islam through Classical and Modern Narratives,” p.71.

36. Ibn Taymiya (1268–1328 CE) was an Islamic scholar of the Hanbali jurisprudence.


40. Sayyid Qutb formed the ideological basis for Ayman al-Zawahiri, Usama Bin Laden, Al Qaeda, and many other militants. The two most important books are: Sayyed Qutb, Milestones (revised translation), Indianapolis: American Trust Publications, 1990; and In the Shade of the Quran, 17 vols., Leicester: Islamic Foundation, 2006.


43. Qutb, Milestones, p.51.

44. Ibid., p.90.

45. “The ruling to kill the Americans and their allies—civilians and military—is an individual duty for every Muslim who can do it in any country in which it is possible to do it, in order to liberate the al-Aqsa Mosque and the holy mosque [Makka] from their grip, and in order for their armies to move out of all the lands of Islam, defeated and unable to threaten any Muslim.” In Osama Bin Laden, “World Islamic Front Statement Urging Jihad against Jews and Crusaders,” 1998.

47. Front page message of the 2006 Layeha.
48. Articles 74 and 75 of the 2010 Layeha; Articles 55 and 56 of the 2009 Layeha.
49. Article 68 of the 2010 Layeha forbids smoking of cigarettes, but it is understood as smoking hashish. See also Article 49 of the 2009 Layeha, Article 18 of the 2006 Layeha.
50. Article 69 of the 2010 Layeha, Article 50 of the 2009 Layeha, Article 19 of the 2006 Layeha.
51. Article 79 of the 2010 Layeha, Article 60 of the 2009 Layeha.
52. Article 78 of the 2010 Layeha, Article 59 of the 2009 Layeha.
53. Foreword message of the 2010 Layeha.
54. Article 2 of the Constitution of the Islamic Republic of Afghanistan reads: “The religion of the state of the Islamic Republic of Afghanistan is the sacred religion of Islam. Followers of other religions are free to exercise their faith and perform their religious rites within the limits of the provisions of [the] law.” Article 3 also says: “In Afghanistan, no law can be contrary to the beliefs and provisions of the sacred religion of Islam.”
Yakob Sharafat, the nephew of Younus Khalis, told the author in an interview: “The constitution of Afghanistan is correct but the constitution was created by the occupiers under the occupation. […] Not a single article is against Islam.”
55. InS harafat,i nterview.
56. Cook, Understanding Jihad, p.124; Bonner, Jihad in Islamic History, p .11.
57. In lieu of Jihad, Islamic law has a doctrine of rebellion (baghy) according to which the oppressed is given the right to rebel against a cruel or incompetent Muslim ruler.
For doctrine of rebellion (baghy), see Khaled Abou El Fadl, Rebellion and Violence in Islamic Law, Cambridge: Cambridge University Press, 2001; Sadia Tabassum, “Combatants, Not Bandits: The Status of Rebels in Islamic Law,” International Review of the Red Cross, 93 (881), (March 2011). On the other hand, if the insurrection is intended to overthrow a legally established government on unjustifiable grounds, it is called “mutiny.” See Hamidullah, Muslim Conduct of State, p.17.
58. There are several cumulative conditions attached to it, such as the withdrawal from the Muslim community (khuruj), reasonable religious pretext for disobedience (ta’wil), and demonstrated power to challenge the state (shawka).
59. Foreword of 2010 Layeha.
60. See Tafsir regarding the verse [4:59]: “If you should quarrel, disagree, about anything, refer it to God, that is, to His Book, and the Messenger, while he lives, and thereafter [refer] to his Sunna: in other words examine these [disputes] with reference to these two [sources], if you believe in God and the Last Day; that, reference to the two [sources], is better, for you than quarrelling or [adhering to] personal opinions, and more excellent in interpretation, in the end.” In Feras Hamza, “Tafsir al-Jalalayn,” Amman: Royal Aal al-Bayt Institute for Islamic Thought, 2012.


69. “[The jurists] analysed the questions about the conduct of hostilities during rebellion irrespective of whether the rebellion was just or unjust, that is, without taking sides.” In Tabassum, “Combatants, Not Bandits: The Status of Rebels in Islamic Law,” p.127. Classic Muslim jurists seemed to pay more attention to *jus in bello* rather than *jus ad bellum*, whereas modern Muslim jurists are inclined toward the latter probably as a response to Western apprehension of Jihad. Al-Dawoody, War in Islamic Law: Justifications and Regulations, p.194; Hashmi, “Saving and Taking Life in War: Three Modern Muslim Views,” p.158; Zawati, “Is Jihad a Just War? War, Peace, and Human Rights under Islamic and Public International Law,” pp.6–7.

70. Other variations are *ahl al-qitāl/al-muhbāribah* (combatants, fighters/warriors) and *ghayr al-muqātilah/ghayral-muhbāribah* (non-combatants, non-


73. “At the time of the Prophet all able-bodied men used to take part in war because there was no regular army to fight the enemy, and society as a whole contributed to the war effort.” In Muhammad Munir, “Suicide Attacks and Islamic Law,” *International Review of the Red Cross*, 90 (869), (2008), p.86.

74. This is the view of the majority of commentators among the companions of the Prophet such as ‘Abdullah b. ‘Abbās (AD 687) and followers of sahabah (tabi‘ūn) such as ‘Umar b. ‘Abdul ‘Azīz (AD 719) and Mujāhid b. Jabr Mawla (AD 721). Also in Muhammad Munir, “The Protection of Civilians in War: Non-Combatant Immunity in Islamic law War,” *Hamdard Islamicus*, 34 (4), (October–December 2011).


77. In one episode, the Prophet said, “Go in Allah’s name, trusting in Allah, and adhering to the religion of Allah’s Apostle. Do not kill a decrepit old man, or a young infant, or a child, or a woman.” *Abu Dawud Book 008*, Chapter unknown, Hadith No. 2608; equally, *ibn ‘Umar Book 052*, Hadith No. 258; *Malik Muwatta Book 021*, Hadith No. 009, Section 293.


79. For protection of servant, *Abu Dawud Book 008*, Hadith No. 2663.


84. Shah, Islamic Law and the Law of Armed Conflict.


86. Abu Bakr ordered the Muslims: “When you meet your enemies in the fight, behave yourself as befits good Muslims, and remember to prove yourselves the true descendants of Ismail [...]. In your march through the enemy territory, do not cut down the palm, or other fruit-trees, destroy not the products of the earth, ravage no fields, burn no houses [...]. Let no destruction be made without necessity.” In A. Rahman Doi, Non-Muslims under Shari’ah, Kazi Publications, 1983. pp.94–95 citing Sahih Muslim [2:32].

87. Article 65 of the 2010 Layeha, Article 46 of the 2009 Layeha.


89. Article 25 of the 2006 Layeha.

90. Articles 9, 10, 20, and 21 of the 2009 Layeha.

91. Articles 20 and 21 of the 2009 Layeha.

92. Articles 23, 24, and 25 of the 2010 Layeha.


96. In the battle of Badr (AD 624), it is recorded that the Muslim fighters wore, for the first time, a special sign made out of wool. In Karima Bennoune, “Humanitarian Law in Islamic Jurisprudence,” Michigan Journal of International Law, 15 (605), (1994), footnote 160; also ibn Hisham, As-Seera an-Nabaviyya, Dubai: An Nahdah Institute, p.559.

In the battle of Badr, Muslims were ordered to wear distinctive signs and angels came on that day to help the Muslims also to wear such signs. In Hamza, Tafsir al-Jalalayn, on verse [3:125]. See also Ahmed Z. Yamani, “Humanitarian International Law in Islam: A General Outlook,” Michigan Year Book of International Legal Studies, 7 (189), (1985).

98. *Darura* is translated here as necessity, but “being indispensable” might better reflect the authentic meaning of the term. Additional purposes are termed *hijat* (needs), which can be compared to the colloquial understanding of “necessity.”


102. Ibid.

103. Ibid.

104. Verse [22:60]. See also Tafsir on the same verse: “And whoever retaliates, [whoever] from among the believers requires, with the like of what he was made to suffer, at the hands of the idolaters wrongfully: that is whoever fights against them if they fight against him during the sacred month, and then is [again] made to suffer aggression, by them, that is to say, he is [again] wronged, by being expelled from his house, God will surely help him. Indeed God is Pardoning, to believers, Forgiving, them their engaging in combat during the sacred month.” In Hamza, *Tafsir al-Jalalayn*.

105. “And if ye do catch them out, catch them out no worse than they catch you out: But if ye show patience, that is indeed the best (course) for those who are patient” [16:126–7] and “That (is so). And if one has retaliated to no greater extent than the injury he received, and is again set upon inordinately, Allah will help him: for Allah is One that blots out (sins) and forgives (again and again)” [22:60]. In Yusuf, *The Holy Qur’an*.

106. For a discussion, see Islamic scholar Al-Zuhaylī Al-Zuhayli, *Athar al-harb fi al-fiqh al-islami: dirawa muqarana*. In Sunni Islam, there are currently four recognized schools of thought—Hanafīs, Maliki, Shāfiʿi, and Hanbalī—the difference lying in practical and philosophical interpretation of the sources of law. In general, Sunnis do not identify with one particular school of thought.


108. Ibid. Such as the Malikite jurist Khalil who forbade the use of poisonous arrows. In Hamidullah, *Muslim Conduct of State*, p.207.

109. “But fear Allah, and know that Allah is with those who restrain themselves [2:194], [9:36].” “But if ye show patience, that is indeed the best (course) for those who are patient. [16:126] And do thou be patient, for thy patience is but from Allah, nor grieve over them: and distress not thyself because of their plots. [16:127] For Allah is with those who restrain themselves, and those who do good [16:128].”

110. Hisham ibn al-Hakim, a Shiīte jurist of eighth century, said that he had “heard God’s messenger say that God will torture those who torture people on earth.” In Yamani, “Humanitarian International Law in Islam: A General
Outlook”; Bennoune, “Humanitarian Law in Islamic Jurisprudence,” footnote117.


112. “And if ye do catch them out, catch them out no worse than they catch you out: But if ye show patience, that is indeed the best (course) for those who are patient [16:126].” For clarification, see Tafsīr of al-Jalālayn for verse [16:126]: “After Hamza [b. ‘Abd al-Muttalib] had been killed and mutilated, and the Prophet (s) had seen him and said, ‘Verily I will mutilate 70 of them for you,’ the following was revealed: And if you retaliate, retaliate with the like of what you have been made to suffer; and yet if you endure patiently, [refraining] from revenge, verily that, namely, [that] enduring, is better for the patient. Thus the Prophet (s) refrained [from taking revenge] and made atonement for his oath, as reported by al-Bazzār.” In Royal Aal al-Bayt Institute for Islamic Thought, Jordan (http://www.aalalbayt.org).

113. Article 15 of the 2010 Layeha.
114. Article 14 of the 2010 Layeha, Article 11 of the 2009 Layeha.
115. Article 19 of the 2010 Layeha, Article 14 of the 2009 Layeha.
116. Article 70 of the 2010 Layeha, Article 51 of the 2009 Layeha.
117. One of the first Islamic suicide attacks were on the US embassy in Beirut in 1983 by the Shiite organization Islamic Jihad and the attacks on the US and French forces in Beirut in the same year. In the 1990s, the Palestinian Islamist group Hamas resorted to suicide bombings, giving rise to the polemic on the legality of suicide attack. 9/11 also sparked heated discussion in the Islamic world on the merits of such attacks. See, for example, Haim Malka, “Must Innocents Die? The Islamic Debate over Suicide Attacks,” Middle East Quarterly, 10 (2), (Spring 2003). David Bukay, “The Religious Foundations of Suicide Bombings,” Middle East Quarterly, 13 (4), (2006).
120. See BBC, “Cleric Condemns Suicide Attacks” (July 11, 2003), or the Ulema meeting in Peshawar attended by 2,000 participants who issued a ruling regarding suicide attacks. Also Dawn, “Suicide Bomber Kills More Than 40 at Afghan Mosque” (October 26, 2012).
121. Definition from UNAMA, “Suicide Attacks in Afghanistan,” p.20. Here, suicide attack and suicide mission are used interchangeably.
122. See conclusion of the above report.
123. See Qur’an: “And spend of your substance in the cause of Allah, and make not your own hands contribute to (your) destruction; but do good; for Allah loveth those who do good [2:195]” and “Nor kill (or destroy)
yourselves [4:29]” in Yusuf, *The Holy Qur’an*. Also *hadith*: “None of you should make a request for death because of the trouble in which he is involved, but if there is no other help to it, then say: O Allah, keep me alive as long as there is goodness in life for me and bring death to me when there is goodness in death for me.” In *Sahih Muslim Book 035*, Hadith No. 6480.

124. Ibid. Other frequently cited verses are [2:207], [2:96], and [2:249].


Other Sunni Ulama (erudites of Islam) who support this view are Suleiman ibn Nasser al-‘Ulwan, Salman ibn Fahd al-‘Awdah, Nasser ibn Hamd Al-Fahd (all of Saudi nationality), and Ajeel al-Nashami (Kuwaiti). See also Al-Rayah, “The Qaradawi Fatwas.”


128. A view defended by, among others, Sheikh Muhammad bin ‘Abdallah al-Sabil, a member of the Saudi Council of Islamic Clerics and Imam of the Grand Mosque in Makka. For similar view, see also the Syrian-born scholar Abd al-Muni’im Mustafa Halimah (also known as Abu Basir al-Tartusi), Abd al-Muni’im Mustafa Halimah (“Suspicions of Sin in Martyrdom or Suicide Attacks,” November 11, 2005, cited in Reichberg, *Religion, War, and Ethics*).


130. See Qur’an: “If thou fearest treachery from any group, throw back (their covenant) to them, (so as to be) on equal terms: for Allah loveth not the treacherous [8:58].” See also Shaybani, *The Islamic Law of Nations—Shaybani’s Siyar*, p.7 7.

131. In chapter on prohibition (denunciation) of branch of faith in *Sahih Muslim Book 019*, Hadith No. 4301. Content in parentheses reproduced verbatim.


133. “We could provide a million suicide bombers in 24 hours,” *The Telegraph* (September 4, 2002). For a similar view, see ‘Abd al-'Azim al-Mit’ani, who says it is permissible under certain circumstances to kill civilians in the cause of jihad. In Haim Malka, “Must Innocents Die? The Islamic Debate over Suicide Attacks,” *Middle East Quarterly*, 10 (2), (Spring 2003), pp.19–28.

134. “The suicide operations are of self-defense and a kind of martyrdom, as long as the intention behind them is to kill the enemy’s soldiers, and not women or children.” *Sut Al-Ama* (Egypt), April 26, 2001, available at http://www.memri.org/report/en/0/0/0/0/0/0/451.htm.

136. Article 57(2) and (3) of the 2010 Layeha, Article 41(2) and (3) of the 2009 Layeha.

137. An episode from the hadith recalls a scene where a man from Yemen expresses his wish to join the Jihad: “[The Prophet] asked (him): Have you anyone (of your relatives) in the Yemen? He replied: My parents. He asked: Did they permit you? He replied: No. He said: Go back to them and ask for their permission. If they permit you, then fight (in the path of Allah), otherwise be devoted to them.” In Abu Dawud Book 008, Hadith No. 2524; also Sahih Muslim Book 032, Hadith No. 6184; Sahih Bukhari Volume 008, Book 073, Hadith No. 003.

138. See opinion of National Fatwa Committee, Vol.12, pp.15–18, of the Permanent Committee of Saudi Arabia for Fatwa and Research.

139. “When people saw the acts, the ethics, and the martyrdom of our fedayi, when our youth saw it, the lists [of suicide bombers] reached such an extent that we cannot provide enough [suicide] waistcoats. We have one fedayi for each tank; we have one fedayi for [...] each vehicle of NATO and American forces.” In interview with Ustad Mohammad Yasir in 2004, cited in ICG, “Taliban Propaganda: Winning the War of Words?,” p.24, footnote 166. Fedayeen (redeemers or those who sacrifice) have historically been voluntary military groups not connected to government or organized military groups.


141. Troy, “Prisoners of War in Islam: A Legal Inquiry,” p.47; see also interpretation of the al-Jalalayn in Hamza, Tafsir al-Jalalayn (for verse [47:4]).


Munir, “The Layha for the Mujahideen: An Analysis of the Code of Conduct for the Taliban Fighters under Islamic Law,” p.89. The judge of Bagdad, Yaqub ibn Ibrahim al-Ansari (Abu Yusuf, eighth century), said, “Kill prisoners who might prove dangerous to the Muslims, but this is only applicable to those on the chin of whom a razor has passed.” In An-Na’im, Toward an Islamic Reformation, pp.314–315.


144. According to philosopher ibn Rushd (1126–1198 CE), there would be a consensus among classical jurists that non-believers may be captured in wartime, including men, women, and children except monks. Ibn Rushd and Imran Ahsan Khan Nyazee, The Distinguished Jurist’s Primer, Ithaca Press, 2000.

145. The Shafi’i school allows execution, enslavement, or release with or without ransom. The Hanafi school similarly agrees on execution, enslavement, and releasing captives against prisoners’ exchange or payment of poll tax (jizhah), but there is disagreement on the payment of ransom.

The Maliki school makes the payment of the poll tax conditional to the release. Ransom could take place in forms of gold, silver, or armaments or involve some type of work.

See Munir, “The Layha for the Mujahideen: An Analysis of the Code of Conduct for the Taliban Fighters under Islamic Law,” p.89; The judge of
Bagdad, Yaqub ibn Ibrahim al-Ansari (Abu Yusuf, eighth century), says, “Kill prisoners who might prove dangerous to the Muslims, but this is only applicable to those on the chin of whom a razor has passed.” An-Na’im, Toward an Islamic Reformation, pp.314–315.

148. The verse “Until the war lays down its burdens [47:4]” is interpreted in the Fasir as “until the war, that is to say, its participants, lay down its burdens, its heavy loads of weaponry and other things, so that either the disbelievers surrender or enter into a treaty.” In Hamza, Tafsir al-Jalalayn.
149. The slain prisoners are Nadhr bin Hārith, ‘Ukba, Abul Ozza, and Mu‘awah bin Mughira after the battle of Badr. Reports about the murder of Nadhr bin Hārith are said to be not very authentic. In Munir, “The Layha for the Mujahideen: An Analysis of the Code of Conduct for the Taliban Fighters under Islamic Law,” p.90. The rest were given options of being released against converting to Islam, paying a ransom or teaching ten Muslims to read and write.
150. In particular, Nadhr bin Hārith and ‘Ukba during the battle of Badr; in Troy, “Prisoners of War in Islam: A Legal Inquiry,” p.49. Also Munir, “The Layha for the Mujahideen: An Analysis of the Code of Conduct for the Taliban Fighters under Islamic Law,” p.92. ‘Ukba (or Uqbah ibn Abu Mu‘ayt), the prisoner of war, was executed because he had attacked Muhammad while he was praying. See Yamani, “Humanitarian International Law in Islam: A General Outlook,” p.213.
155. Hamidullah, Muslim Conduct of State, p.218.
156. Ibid., p.216.
158. “Soldiers or police who have surrendered to the Mujahedins and are repentant shall not be executed.” In Article 14 of the 2010 Layeha. See also Article 10 of 2009, which does not mention repentance.
159. Such as in various verses of the Qur’an [24:31], [25:70], [66:08].
160. “Rather, whatever verdict has been decided, according to shari’a law, shall be implemented.” In Article 15 of the 2010 Layeha.
161. For pertinent comment, see Munir, “The Layha for the Mujahideen: An Analysis of the Code of Conduct for the Taliban Fighters under Islamic Law,” p.95. His translation correctly reflects the term ta‘zir. See also translation of Shah, “The Islamic Emirate of Afghanistan: A Layeha (Rules and Regulations) for Mujahidin.”
“Apart from the Imam, Najib Imam and the Judge nobody has the right to issue a ta’zir punishment. If a District Judge, without the presence of the Provincial Judge, should issue the ta’zir execution punishment, the district judge should receive permission from the provincial judge. However, in those provinces where the provincial judge has not been appointed yet, any determination on execution and issues related to ta’zir punishment shall be at the discretion of the governor.” In Article 6 of the 2010 Layeha.


The five hudud crimes are *sariqa* (theft), *haraba* (highway robbery), *zina* (adultery/fornication), *qadhaf* (slander), and *shorb al-khamar* (drinking alcohol).

The Qur’an refers to Qesas in [2:178–9], [5:45], and [17:33].


Ibid.

Clark, “The Layha,” Appendix 1, p.3.


Originally describing the Medinan citizens who helped Mohammad on the arrival to the city.


Article 40 of the 2010 Layeha, Article 34 of the 2009 Layeha. Translation of Clark, “TheLa yha.”

### 6 Comparison with International Humanitarian Law

1. “In an eerie echo of the Geneva Conventions, which prohibit the photographing of prisoners, one edict states: “If someone is sentenced to death, he must be killed with a gun, and photographing the execution is forbidden.” In Rubin and Shah, “Taliban Overhaul Image to Win Allies”; see also Clark, “The Layha,” pp.22–26.


4. See chapter2.


11. Taliban official Abdul Salam Zaeef said that “it is our message to the Muslims of America and all human rights organizations that they should show their opposition to such atrocities being made by America against the people of Afghanistan.” AFP, “Taliban Deny US Air Supremacy, Claim High Civilian Toll,” October 10, 2001. See also statement of Taliban Education Minister Amir Khan Muttaqi who condemned the alleged use of cluster bombs: “The international human rights organizations should put pressure on the Americans not to use [them].” AFP, “US Jets Pound Kabul, More Civilians Reported Killed,” October 26, 2001.

12. Below are examples of various statements touching on the principles of international norms:
   - “The crusader forces started randomly bombing the villages and the non-municipal areas in order to kill hundreds of innocent people from the residents of the area.” Interview with Taliban commander Almullah Akhtar Muhammad Mansur, in The NEFA Foundation, “Al-Somood Interview of the Taliban’s Military Commander—Kandahar District” (2007).


International Review of the Red Cross, 83 (844), (December 2001). Given the growing interdependence and convergence between the two, the distinction has become less relevant in recent years.


16. A copy of the Directive was obtained from an international newspaper (see Annex II of this book). The Directive itself does not make reference to the Layeha, but many provisions of the Directive relate and allude to the provisions of the Layeha.


18. Depending on how the situations are legally defined, the rules that apply vary from one case to the next. In Sylvain Vite, “Typology of Armed Conflicts in International Humanitarian Law: Legal Concepts and Actual Situations,” International Review of the Red Cross, 91 (873), (March 2009), p.70.

19. See Article 8(2)(b) and (c) of the Rome Statute of the International Criminal Court, July 17, 1998.

20. This is confirmed by the Appeals Chamber of ICTY, which advanced two criteria for the classification of non-international armed conflict, namely the existence of protracted armed conflict and a certain level or organization of the ANSA. See ICTY, The Prosecutor v. Dusko Tadic, judgment, IT-94–1-T, May 7, 1997, paras. 561–568; see also ICTY, The Prosecutor v. Fatmir Limaj, judgment, IT-03–66-T, November 30, 2005, para. 84.

21. See full list in ICTY, Prosecutor v. Haradinaj, Case No. IT-04–84–84-T, judgment (Trial Chamber), April 3, 2008, para. 49. APII has a higher threshold of applicability than that of the Common Article 3 since the former only covers conflicts that are solely between the state and organized armed groups (and not between organized armed groups) and makes applicability dependent on the control over territory by the ANSA. Also Michael Schmitt, “The Status of Opposition Fighters in a Non-International Armed Conflict,” Non-International Armed Conflict in the Twenty-First Century, ed. Kenneth Watkin and Andrew J. Norris, Newport: Naval War College, 2012, p.120.

22. Both the Common Article 3 and APII apply to armed conflict only and not to situations of “internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature, as being armed conflicts” (Article 1(2) of APII). See Vite, “Typology of Armed Conflicts in International Humanitarian Law: Legal Concepts and Actual Situations,” p.76.


27. Article 1(1) of APII defines ANSAs as “armed forces and dissident armed forces or other organized armed groups.”

28. Common Article 3 to the Geneva Conventions uses “parties to the conflict,” which includes government forces as well as ANSAs.

29. At the same time, the Northern Alliance, with the assistance of the Coalition Forces, opposed the Taliban regime with armed force, which lent the conflict a non-international character. Thus, there was, strictly speaking, a coexistence of an international and a non-international conflict at times in the Afghan war at the end of 2001. In C. Greenwood, “International Law and the ‘War against Terrorism,’” *International Affairs*, 78 (2), (2002), p.309.

30. Geneva Academy, *Rule of Law in Armed Conflicts Project—Afghanistan*, June 2012, pp.51–52. As for the date, interpretation might differ in favor of at least five possible dates: the first is the establishment of an Interim Authority in December 2001 by the Bonn Agreement; the second possibility is the appointment of Karzai by the *Loya Jirga* (grand assembly) in June 2002 as president of the Transitional Authority; the third possibility is the adoption of the new constitution in January 2004; the fourth possibility is the presidential election of Karzai in October 2004; and the fifth possibility is the parliamentary election in 2005. ICRC seems to consider June 2002 (second possibility) as the most probable date qualifying for non-international armed conflict. In Bellal et al., “International Law and Armed Non-State Actors in Afghanistan,” p.52. For a view in favor of the third possibility, see Gary D. Solis, *The Law of Armed Conflict*, Cambridge: Cambridge University Press, 2010, p.211.

31. As for customary law, various international bodies have acknowledged the applicability of Common Article 3 and major parts of APII to ANSAs as customary law. For example, the ICJ advances that Common Article 3 reflects elementary considerations of humanity, “Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America),” judgment of June 27, 1986 (Merits), para. 218, citing the Corfu Channel Case of ICJ, judgment of April 9, 1949 (Merits), para. 2. In “Advisory Opinion on the Legality of the Threat of Use of Nuclear Weapons,” the Court reasoned along the same lines, stipulating that the Geneva Conventions, including Common Article 3, are “principles of customary law.” In ICJ, “Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons” (July 8, 1996).


32. See note 14 of this chapter.


35. See Article 50(1) of API: “A civilian is any person who does not belong to one of the categories of persons referred to in Article 4(a)(1), (2), (3) and (6) of the Third Convention and in Article 43 of this Protocol.” In Pictet, Commentary on the Additional Protocols I and II of 8 June 1977, para. 1913. See also Rule 5 of ICRC Customary Law Study: “Civilians are persons who are not members of the armed forces. The civilian population comprises all persons who are civilians.”

36. For international armed conflict, the principle is found in Articles 48, 51(2), and 52(2) of API. The prohibition of making civilians the object of attack is also laid down in the Protocols to the Convention on Certain Conventional Weapons and in the Ottawa Convention banning anti-personal landmines. For customary law, see Rule 1 of ICRC Customary Law Study.

37. See definition of combatant according to Article 33 of the Third Geneva Convention. Members of religious personnel of the armed forces, like medical personnel, are not combatants (Article 43(2) of API) and cannot be taken prisoners of war but can be retained with a view to assist prisoners of war.

38. Articles 43(2), 51(3), and 67(1)(c) of the API. See also Rule 6 of ICRC Customary Law Study.


40. The Guidance was drafted after several rounds of discussions with a number of experts and practitioners, but it solely expresses the view of the ICRC and is not a legally binding document. Melzer, “Interpretative Guidance on the Notion of Direct Participation in Hostilities,” p.6.

41. Ibid., pp.46–64. The other conclusion of the study is to give civilians whose continuous function it is to take a direct part in hostilities (“continuous combat function”) the equivalent status of a (quasi) combatant in non-international armed conflict.

43. Article 1(1) of APII.


45. For non-international conflict, see Article 13(3) of the APII. See also Melzer, “Interpretative Guidance on the Notion of Direct Participation in Hostilities,” p.27.

46. Ibid., p.34.

47. Article 57 of the 2011 Layheea translated by Clark, “The Layha,” Appendix 1. Other translations use important and high-value targets—see Munir, “Annex—The Layha for the Mujahideen: An Analysis of the Code of Conduct for the Taliban Fighters under Islamic Law”—or “high-level targets”—see Shah, “The Islamic Emirate of Afghanistan: A Layeha (Rules and Regulations) forM ujahidin.”

48. Article 7 of the 2006 Layeha.

49. Article 26 of the 2006 Layeha.

50. Translation of Clark, “The Layha.” Munir translates the “identification of target” by “clarifying their aim.”

51. Article 57(2) and (3) of the 2010 Layeha and Article 41(2) and (3) of the 2009 Layeha.

52. The stance toward foreign journalists has been favorable in general, but kidnappings have occurred in the past (but no killings).

53. Article 8 of the 2010 Layeha and Article 6 of the 2009 Layeha.

54. “If UNAMA considers officials of Kabul admin, police, soldiers, intelligence workers and employees of other sensitive and detrimental organs as civilians, then their own analysis is inaccurate which means nothing but a baseless propaganda.” In Shahamat website, “Rejoinder of the Islamic Emirate about the Recent Report of UNAMA Regarding the Civilian Casualties” (July 31, 2013).

55. “The Islamic Emirate of Afghanistan supports and lends a hand to all those programs which works for the health care of the helpless people of our country. […] The foreign employees should refrain from going to the region and similarly the campaign should be harmonized with the regional conditions, Islamic values and local cultural traditions. In case of compliance with these rudiments, all the associated workers (Mujahidin) of the Islamic Emirate of Afghanistan are directed, not to create any kind of trouble for them, rather they should be provided with all necessary support.” In Shahamat website, “Declaration of the Islamic Emirate of Afghanistan Regarding the Polio Vaccination” (May 13, 2013). Also IRIN, “Afghanistan: Taliban Gives Nod to Polio Immunization in South” (September 14, 2009); April Chang et al., “Eradicating Polio in Afghanistan and Pakistan,” Washington, DC, August 2012.

56. Leonard Rubenstein, “Defying Expectations: Polio Vaccination Programs Amid Political and Armed Conflict,” USIP Peacebrief, 64 (November 3, 2010), p.3; Ashley Jackson and Antonio Giustozzi, “Talking to the Other Side:

57. Article 11 of the 2010 Layeha.
58. Articles 11, 25, and 26 of the 2010 Layeha.
59. Article 11 of the 2010 Layeha.
60. Article 24 of the 2010 Layeha.
61. Section 3 of the 2010 Layeha.
63. Islamic Emirate of Afghanistan, *The Valuable Services of the Red Cross in Reducing the Sufferings of Afghans* (June 9, 2012).
64. See, for example, account of freelance journalist Fergusson, *Taliban: The Unknown Enemy*, Chapter 13, “Hot to Talk to the Taliban,” in particular.
65. Shahamat website, “An Open Letter to the UNAMA about the Biased Behavior of this Organization.”
66. Article 13 of the 2010 Layeha.
67. Article 20 of the 2010 Layeha.
69. However, the permission to kill civilians aiding the enemy should be read in conjunction with Article 9 of the 2009 Directive, which puts some reservations at least for engineers: “Any Afghan technician or engineer working on road construction in the country, or building construction, shall not be killed on the spot. He shall be transferred to the Shura and the Shura shall decide. If a guarantee is obtained from a third person that he will not re-engage in his activity, he will be released.”
71. Article 81 of the 2010 Layeha and Article 63 of the 2009 Layeha.
72. See Article 37(1) of the API for international armed conflict. Perfidy is not mentioned explicitly in APII for non-international conflict, but it is suggested to be part of customary law according to Rule 65 of ICRC Customary Law Study. Perfidy is different from *ruse* as the latter does not intend “to deceive the adversary by inviting his confidence that the rules will be duly respected and that they will afford protection.” In Pictet, *Commentary on the Additional Protocols I and II of 8 June 1977*, para. 15 25.
74. “If only the fact of killing, injuring or capturing an adversary by resort to perfidy constitutes a perfidious act, the question arises what an unsuccessful attempt would be called. […] This grey area forms a subject of permanent controversy in practice as well as in theory.” In Pictet, *Commentary on the Additional Protocols I and II of 8 June 1977*, para. 1492. The Statute of ICC only applies perfidy (killing or wounding treacherously a combatant adversary) to non-international armed conflict (Article 8(2)(e)(ix)).
75. Article 81 of the 2010 Layeha and Article 63 of the 2009 Layeha.
76. ICJ, “Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons,” para. 79.
78. See “Practice Relating to Rule 14. Proportionality in Attack” in Customary Study, which only mentions the Two Additional Protocols as treaty laws codifying the proportionality principle.
79. Article 51(5)(b) of API of international armed conflict. APII for non-international armed conflict does not explicitly refer to the principle of proportionality of attack but is suggested to be part of customary law according to Rule 14 of ICRC Customary Law Study. Judicial practice also confirms the customary status of Article 51(5), such as: ICTY, *Prosecutor v. Kupreskic et al.* (Trial Chamber), IT-95–16-T, January 14, 2000, para. 524; Council of Europe: European Court of Human Rights, judgment, *Isayeva v. Russia*, 57950/00, February 24, 2005, para. 102; High Court of Justice (of Israel), judgment, *The Public Committee against Torture v. Prime Minister*, HCJ 769902, December 1, 2006, para. 8 (Targeted Killing Case).
81. Ibid.
82. Ibid, para. 1980.
85. Article 57(2) of the 2010 Layeha and Article 41(2) of the 2009 Layeha.
86. Article 57(3) of the 2010 Layeha and Article 41(3) of the 2009 Layeha.
87. Article 51(5)(b) of API. See note 78 of this chapter.
88. Article 57(1) of the 2010 Layeha and Article 41(1) of the 2009 Layeha.
89. Article 57(1) of API for international armed conflict. Additional Protocol II does not explicitly mention precautionary measures as it was dropped at the last moment as part of a package aimed at the adoption of a simplified text. The ICRC Customary Law Study, however, argue that Article 13(1) of APII calling for general protection of civilian population and individual civilians against the dangers arising from military operations can hardly be achieved without considering “precautionary measures.” See Rule 15 of ICRC Customary Law Study.
90. In conjunction, see also Article 58(c) of API and Rule 22 of ICRC Customary Law Study, which relate to the protection of “the civilian population and civilian objects under their control against the effects of attacks.”
91. Ibid.
92. Article 65 of the 2010 Layeha; also Article 46 of the 2009 Layeha.
93. Point four of the message on the back cover of the 2010 and 2009 Layeha.
94. See Articles 56 and 57 of the 2010 Layeha:
95. “Article 56: Those valiant warrior Mujahids who are entering the enemy centre in order to conduct a group armed attack should consider the following points:
1. These valiant warrior Mujahids should receive a good training and each of them should be given particular tasks.
2. These valiant warrior Mujahids should be very well supplied and equipped in order to be able to resist for a long time and inflict a lot of damage on the enemy.
3. The Mujahids and their leaders should receive in advance full information and understanding about the area they are going to attack.

Article 57: Regarding martyrdom attacks, the four following points should be considered:
1. A martyr Mujahid should be well-trained prior to the attack.
2. A martyrdom attack should be used for important and high-value targets. The self-sacrificing heroes of the Islamic Ummah must not be used for low and worthless targets.
3. In martyrdom attacks, much more care should be taken to prevent the deaths and injuries of common people.
4. Apart from those Mujahids who received an individual programme and permission from the Leadership, all other Mujahids must receive permission and instructions from the person responsible in the province before carrying out martyrdom attacks.” Translation in Annex III of this book.

97. Shahamat website, “An Open Letter to the UNAMA about the Biased Behavior of this Organization.” See also statement: “Our Mujahideen never place live landmines in any part of the country but each mine is controlled by a remote and detonated on military targets only.” In Shahamat website, “Reaction of Islamic Emirate Regarding Accusations of UNAMA about Explosive Devices (October 21, 2012).
98. In Mullah Omar, “Message of Felicitation of the Esteemed Amir-Ul-Momineen on the Occasion of Eid-Ul-Odha,” Shahmat website (November 4, 2011), italics added. It is noteworthy that the English version of the statement uses the term “precautionary measures,” a possible indication that the Taliban consciously use the IHL term.
100. Rule 47 of ICRC Customary Law Study.
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102. Article 44(1) of API.


105. Henckaerts et al., Customary International Humanitarian Law. Practice Relating to Rule 159 Amnesty. It must be remembered, however, that the practice of amnesty granted by the ANSAs is conspicuously missing from the list.

106. Although the term detainee would be more appropriate than prisoner under IHL in non-international conflict, the term prisoner is upheld here as used in the Layeha for the sake of consistency.

107. Article 7 of the 2010 Layeha, Article 11 of the 2009 Layeha.

108. Article 41 of API. This prohibition is also mentioned in Article 4(1) of APII, which adds that “it is prohibited to order that there shall be no survivors.”

109. Article 7 of the 2010 Layeha.

110. Article 5 of the 2010, Article 5 of the 2009 Layeha.

111. “Common Article 3, by contrast, affords some minimal protection, falling short of full protection under the Conventions, to individuals associated with neither a signatory or even a non-signatory, who are involved in a conflict in the territory of a signatory. The latter kind of conflict does not involve a clash between nations (whether signatories or not).” In Hamdan v. Rumsfeld, Secretary of Defense, et al., Supreme Court of the United States (2006).

112. The relevant provisions are the Common Article 3 to Geneva Conventions; Article 12 of First Geneva Convention; Article 12(1) of Second Geneva Convention; Article 13 of Third Geneva Convention; Articles 5 and 27(1) of Fourth Geneva Convention; Rule 87 of ICRC Customary Law Study.

113. Common Article 3 to Geneva Conventions; Article 50 of First Geneva Convention; Article 51 to Second Geneva Convention; Article 130 of Third Geneva Convention; Article 75(2)(a) of API; Article 4(2)(a) of APII; Rule 89 of ICRC Customary Law Study.

114. Specific to mutilation, see Common Article 3 to Geneva Conventions; Article 13 of Third Geneva Convention; Article 32 of Fourth Geneva Convention; Rule 92 of ICRC Customary Law Study. The ICC Statute considers mutilation to be a war crime in both international (Article 8(2)(b)(x)) and non-international armed conflict (Article 8(2)(c)(i)).

115. Common Article 3 to Geneva Conventions; Article 12(2) of First Geneva Convention (torture); Article 12(2) (torture) of Second Geneva Convention; Article 17(4) (physical or mental torture); Articles 87(3) (torture or cruelty)
and 89 (inhuman, brutal or dangerous disciplinary punishment) of Third Geneva Convention; Article 32 of Fourth Geneva Convention (torture and other measures of brutality); Rule 90 of ICRC Customary Law Study. Article 2(2) of the 1984 UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment equally prohibits torture in all circumstances.

Furthermore, the prohibition of torture is recognized as a jus cogens norm in various jurisprudence, such as in the decisions of the ICTY (Trial Chambers), for example, in the following cases: Furundzija, December 10, 1998; Jelisic, December 14, 1999; Kupreski and Others, January 14, 2000; Kunarac, February 22, 2001; and Katic, August 2, 2001. For national legislations, see E. de Wet, “The Prohibition of Torture as an International Norm of Jus Cogens and Its Implications for National and Customary Law,” European Journal of International Law, 2004.

116. Common Article 3(1)(d) to Geneva Conventions. In analogy to international armed conflict, Article 12 of Third Geneva Convention states, “Prisoners of war are in the hands of the enemy Power, but not of the individuals or military units who have captured them. Irrespective of the individual responsibilities that may exist, the Detaining Power is responsible for the treatment given them.” See also Shah, “The Taliban Layeha for Mujahidin and the Law of Armed Conflict,” p.199.

117. Common Article 3 provides that “each Party to the conflict shall be bound to apply […] the following provisions.”


120. Under Common Article 3, armed groups cannot adopt their own criminal law, establish courts, or try detainees, while this possibility is envisaged in Article 6 of APII. Still, armed groups have the obligation to refer persons detained by them to the regularly constituted courts. See also Sassoli, “Engaging Armed Non-State Actors with International Humanitarian Law.”


122. Article 15 of the 2010 Layeha.

123. Article 70 of the 2010 Layeha, Article 51 of the 2009 Layeha.

124. Article 14 of the 2010 Layeha, Article 11 of the 2009 Layeha.

125. Article 12 of the 2010 Layeha.

126. Article 18 of the 2010 Layeha, Article 14 of the 2009 Layeha.

127. Article 19 of the 2010 Layeha, Article 15 of the 2009 Layeha.

128. Article 18 of the 2010 Layeha, Article 15 of the 2009 Layeha.

129. Article 20 of the 2010 Layeha, Article 17 of the 2009 Layeha.

131. Article 13 of the 2010 Layeha, Article 10 of the 2009 Layeha. In a statement, the Taliban referred to the same Article(s) to justify the killing of a detained British soldier: “To wrench the pretext from the hands of the enemy which they used for their ongoing atrocities, the Islamic Emirate had no way but to implement Article 13 of the Layeha of Mujahideen and killed the British soldier.” In Qari M. Yousaf Ahmadi, “Remarks of the Spokesman of the Islamic Emirate Regarding the Killing of the British Soldier,” Shahmat website (July 5, 2011).

132. Articles 10 and 12 of the 2010 Layeha, Article 9 of the 2009 Layeha.

133. In analogy with API: “When persons entitled to protection as prisoners of war have fallen into the power of an adverse Party under unusual conditions of combat which prevent their evacuation [. . .], they shall be released and all feasible precautions shall be taken to ensure their safety.” In Article 41(3) of API to Geneva Conventions. The release should be a humanitarian gesture and not to get rid of the encumbering prisoner. In Pictet, *Commentary on the Additional Protocols I and II of 8 June 1977*, para. 1627.

134. Articles 10 and 12 of the 2010 Layeha; Articles 7, 8, 9, and 20 of the 2009 Layeha; Article 7 of the 2006 Layeha.


136. For comparison, see treatment of the dead in IHL albeit only in international conflict: Article 16 of First Geneva Convention, Article 20 of Second Geneva Convention, Article 120 of Third Geneva Convention, Article 130 of Fourth Geneva Convention, and Article 23 of API.


142. Article 4(2)a of APII.

143. Article 4(2)c of APII.

144. Article 4(2)e of APII.

145. Article 4(2)g of APII.
146. Article 4(3)c of APII.
149. Article 65 of the 2010 Layeha, Article 46 of the 2009 Layeha.
150. Article 71 of the 2010 Layeha, Article 52 of the 2009 Layeha.
151. Article 73 of the 2010 Layeha, Article 54 of the 2009 Layeha.
152. Article 69 of the 2010 Layeha, Article 50 of the 2009 Layeha.
153. In May 2011, approximately 100 children were said to be detained by the National Intelligence Directorate on charges of attempting suicide attacks on behalf of the Taliban. In IRIN, “Afghanistan: Taliban Deny Children Being Used as Suicide Bombers” (May 23, 2011).

On Eid day of 2011, President Karzai strongly accused the Taliban of recruiting minors for suicide attacks and released a few to their families. In Kakar, “Taliban Deny Using Children for Suicide Attacks.”


155. Article 69 of the 2010 Layeha, Article 50 of the 2009 Layeha.


157. For respect and protection of humanitarian relief personnel, see Article 71(2) of API. As for APII, Article 18(2) requires organization of relief personnel for civilians in need but does not have any provision on the protection of humanitarian relief personnel. See Rule 31 of ICRC Customary Law Study. For medical personnel, see Articles 24–26 of First Geneva Convention, Article 36 of Second Geneva Convention, Article 20 of Fourth Geneva Convention, Article 15 of API. For non-international conflict, see Article 9(1) of APII.

158. Article 61 of the 2010 Layeha.

159. “Presently the ICRC is providing valuable services by delivering letters to the prisoners and informing the families about their health condition, which is really a humanitarian service. The Islamic Emirate of Afghanistan supports as per its policy each and every NGO, which is useful for the ordinary Afghan and does not support the foreign invasion. Similarly the IEA tries its best to facilitate them according to possibilities and condemns the torture and killing of its worker inside the country as well as abroad; because it is an impartial organization and works throughout the world for the needy, helpless and oppressed people.” In Islamic Emirate of Afghanistan, The Valuable Services of the Red Cross in Reducing the Sufferings of Afghans.

The statement was probably issued in response to the killing of a British Red Cross worker in Peshawar by an unknown in April 2012.

7 Application and Perception of the Layeha by the Taliban

1. See questions of the questionnaire in Annex IV of this book.
2. The Mujahideen refused to attack bridges or trade routes if they were seen as important to civilian traders or farmers. See Coll, *Ghost Wars: The Secret History of the CIA, Afghanistan, and bin Laden, from the Soviet Invasion to September 10, 2001*, pp.134–135.
4. Qari Yousuf Ahmadi (spokesperson), interview collected by the author and assistant in Kabul, November 2012.
6. Ibid.
7. Ibid.
10. I. from Uruzgan, interview (place and date omitted if opere citato).
11. F. from Nooristan, interview, Kabul, August 2013.
12. M. from Helmand, interview.
13. Ibid.
14. H. from Helmand, interview.
15. Qari Youssuf Ahmadi, interview, Kabul, November 6, 2012; Zabiullah Mujahid, interview, Kandahar, December 2012.
17. Q. from Kunduz, interview, Kunduz, December 2012.
18. F. from Nooristan, interview.
19. C. from Kunar, interview, Kabul, November 5, 2012; M. from Helmand, interview; F. from Nooristan, interview.
20. H. from Helmand, interview.
22. M. from Helmand, interview.
23. Q. from Kandahar, interview; Q. from Kunduz, interview.
24. I. from Uruzgan, interview.
25. Ibid.
27. M. from Helmand, interview; H. from Helmand, interview.
28. C. from Kunar, interview.
29. Ibid.
30. H. from Helmand, interview.
31. “If the policeman or soldier has a weapon with him, or if he had accomplished any great deeds, the Mujahids should express endearment towards him.” In Article 14 of the 2010 Layeha.
32. C. from Kunar, interview; W. from Helmand, interview, Kabul, November 6, 2012; H. from Helmand, interview; F. from Nooristan, interview; Mujahid, interview; Q. from Kandahar, interview; Q. from Kunduz, interview; A. from Zabul, interview, Kabul, July 2013; I. from Uruzgan, interview.
33. Q. from Kandahar, interview.
34. C. from Kunar, interview.
35. Q. from Kunduz, interview.
36. C. from Kunar, interview; H. from Helmand, interview; Mujahid, interview; Q. from Kunduz, interview; I. from Uruzgan, interview.
37. W. from Helmand, interview.
38. I. from Uruzgan, interview.
39. C. from Kunar, interview.
40. W. from Uruzgan, interview; Mujahid, interview.
41. Ahmadi, interview.
42. Mujahid, interview.
43. The Layeha itself is based on both rationales. The Message of the 2010 Layeha reads, “In the light of such a Layeha and in the light of its appointed shari’a rules, the Mujahedin will be able to identify their targets far better, and identify the qualities of the enemies of Islam and their helpers and supporters, and deal with the suspicions and doubts that they come across in their jihadi environment, and be able to find an easy solution for these doubts.” On the other hand, Article 78 of the 2010 Layeha states that “the Mujahedin are obliged to adopt Islamic behaviour and good conduct with the people and try to win over the hearts of the common Muslims and, as Mujahedin, be such representatives of the Islamic Emirate that all compatriots shall welcome and give the hand of cooperation and help.” Again, the spokespersons did not develop the chain of causality between discipline and (military) victory.
44. Q. from Kandahar, interview.
46. Q. from Kandahar, interview; Q. from Kunduz, interview.
47. Mujahid, interview; M. from Helmand, interview; H. from Helmand, interview.
48. Ahmadi, interview.
49. C. from Kunar, interview.
50. H. from Helmand, interview.
51. M. from Helmand, interview.
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52. Ibid.
53. Q. from Kunduz, interview.
54. H. from Helmand, interview.
55. F. from Nooristan, interview.
56. In Islamic terminology, tawba means “repentance.” See chapter 6 of this book; C. from Kunar, interview.
57. Ibid.
58. I. from Uruzgan, interview.
59. Q. from Kandahar, interview.
60. M. from Helmand, interview; Q. from Kunduz, interview.
61. “For example, once in Zabul a group of Mujahideen was walking toward a certain destination. When one young man came across an enemy convoy, he suddenly ran toward the convoy and started to shoot at it. This attack was not planned, and he put the lives of all of his other colleagues in danger: soon the enemy helicopters arrived and attacked the group killing seven fighters. The man who attacked the convoy was also killed.” See F. from Nooristan, interview.
62. W. from Helmand, interview; Q. from Kandahar, interview; W. from Uruzgan, interview.
63. M. from Helmand, interview.
64. Mujahid, interview.
65. “When Karzai started to rule, we began to face problems because I and my family wore the same clothes as the Taliban, like the turban and other clothing. The government people blamed us for being Taliban or being affiliated with the Taliban. That’s why I was forced to become a Taliban fighter.” H. from Helmand, interview.
66. Ibid.
67. I. from Uruzgan, interview.
68. M. from Helmand, interview; W. from Helmand, interview; I. from Uruzgan, interview.
69. “Often local governors come here and ask tribal leaders what kind of development or rebuilding projects are needed but in the end, they have done nothing for us.” In H. from Helmand, interview.
70. “Yes, there are more roads and clinics but Islam is neglected.” W. from Helmand, interview; C. from Kunar, interview.
71. W. from Uruzgan, interview.
72. M. from Helmand, interview.
73. C. from Kunar, interview.
74. See interview of M. from Helmand: “A few weeks ago I was in Kabul to welcome the release of our friend from Bagram. While guarding my friend during the night and I pecked out of the window and gazed at the city. I started to cry: look at this city under the occupation of the foreigners. If Sharia law were truly implemented everyone would live as a Muslim and would enjoy the rights Islam has accorded to them. Everyone would follow the Qur’an and hadith. When they die, the Almighty will not ask them about their knowledge of technology but he will ask how much they have followed Islam.”
75. I. from Uruzgan, interview.
76. Names and interviews cited with explicit permission of the interviewees.
77. Younus Khalis is one of the founders of Hezb-e Islami, an exiled political party resisting the communist regime in Afghanistan. After the Soviet inva-
sion, he split from Hekmatyar and created Hezb-e Islami Khalis. After the Soviet withdrawal, many of his members joined the Taliban movement in 1994–1996.

78. “Any government or organization needs a code of conduct for its operations. Similarly, when the Taliban organized themselves and grew bigger, a little more structure became necessary. Any guerrilla groups commit violations. When they observed that certain serious acts went unpunished, they had to produce a code of conduct. In my opinion, the Layeha is not just propaganda, and the Taliban leadership honestly want to implement the Layeha. Whether they can implement it is a different story.” See Sharafat, interview.

“In any developing country, the law cannot be fully implemented. Fighting means breaking the law. […] Don’t expect to have it respected. […] I don’t think that even the leadership expects it to be fully implemented. Hitler and Napoleon hid the crimes of their soldiers. Also, US soldiers kill innocent civilians and bomb villages but no court prosecutes and brings the soldiers to justice. In every battle you must ignore the faults of your own fighters.” See Muhammad Hassan Haqyar, interview, Kabul, November 1, 2012.

79. See interview of Mujahid: “Unfortunately, there is a great number of people who fight under the ‘shelter’ and ‘title’ of Taliban but in fact, they are not real Taliban. They join the Taliban but follow their own objectives and aims. The (so-called) Taliban with other objectives are those,

– who seek revenge in their feud against their neighbours. They cannot take revenge without the help of powerful groups;
– who seek revenge against foreign forces for their families and friends killed by bombing and hassled by night raids;
– who resist the oppressing local authorities;
– who are unemployed and join the Taliban for economic benefit; and
– who kidnap wealthy people and foreigners for ransom.

These are the people who break the rules. A real Taliban would not break the rules which they have given to themselves.”

80. Muzhdah, interview.

81. Muzhdah (ibid.) recognized the added value of the Layeha: “Some sort of law is better than nothing at all.”

82. Mujahid, interview.

83. Mujahid, interview.


85. Compensation decided by the Shura.

86. Sharafat, interview.

87. Haqyar, interview.

88. Mujahid, interview.

89. One of the interviewees insinuated his personal involvement in the drafting of the drafting: “I was also involved in the editing of Zaeef’s biography.” (Zaeef was the former Taliban ambassador to Pakistan during the Taliban regime and published the book My Life with the Taliban.)


91. Article 1 of the 2010 Layeha.
92. Article 3 of the 2010 Layeha.
93. Articles 17 and 18 of the 2010 Layeha.
94. Article 78 and message on back cover of the 2010 Layeha.
95. Further empirical study may be needed to verify its consistent application across Afghanistan. Questions also arise as to who determines the severity of the violation and which provisions are deemed to be more important than others. It also remains open to speculation as to who applies which interpretation of the Sharia law.

96. Haiats would travel from one place to another to collect complaints from the local population. There is also an arbitration military commission at the national level, as well as a commission for disciplinary sanctions at the provincial level, according to Michael Semple, interview, Harvard Kennedy School of Government, Boston, March 29, 2012.


97. “Contrary to popular perception, the Taliban in Kandahar do not appear to receive regular salaries.” In Gopal, “The Taliban in Kandahar,” p.3; also Gopal, “The Battle for Afghanistan: Militancy and Conflict in Kandahar.” Media persons, however, seem to receive a regular monthly salary; see 2009 Directive in Annex II.

98. Dr. Abdul Rauf, interview, October 15, 2012.
99. See note 84 of this chapter.
100. “Just recently, there was an Afghan Local Police (ALP) commander who surrendered to the Taliban and according to the Layeha we told him: ‘If you have committed crimes against the Afghan civilians and the Afghans want to prosecute you in the future, we cannot guarantee for your safety because it is the right of the Afghans to prosecute you. However, we forgive you for having fought against us.’” In M. from Helmand, interview.

101. The observation of the relative authority of Mullah Omar also coincides with the conclusion of a survey conducted by a Canadian journalist in Kandahar: “More than half those [Taliban] surveyed, were willing [to] say that their Commander of the Faithful was not necessarily required for their war, nor necessarily the best leader for Afghanistan. This was especially curious when their other responses suggested [that] they were strongly committed to the insurgency.” In Graeme Smith, “What Kandahar’s Taliban Say,” Decoding the New Taliban, ed. Antonio Giustozzi, New York: Columbia University Press, 2009, p.203.
102. I.f rom U ru g an, i nt erview.
8 Conclusion: Layeha, a One-Way Mirror?

1. Foreword message in the 2010 Layeha. See Annex III.
2. Article 40 of the 2010 Layeha, italics added. Translation of Kate, “The Layha” in Appendix.
3. Defined as “God’s way of bringing believers to faith and the means by which prophets call individuals and communities back to God.” In Esposito, “The Oxford Dictionary of Islam.” See also Clark, “The Layha,” Appendix 1, p.3.
4. Article 14 of the 2010 Layeha.

For a comparison between Islamic law and Pashtunwali, see Ahmed, Pukhtun Economy and Society, Olesen, Islam and Politics in Afghanistan.
8. Ibid.
9. The theory of Weinstein (2009) applies to ANSAs but is used here for sovereign states by analogy.
10. The annual subsidies and the periodic donations of funds and military supplies constituted an important and reliable source of Afghan revenue. During the 60-year period, annual subsidies rose from 600,000 Indian rupees in the 1850s to two million rupees in 1910, covering approximately 10–20 percent of the state budget. This dispensed the ruler from the necessity of levying unpopular taxes from the unruly parts of Afghanistan. Thus, the state’s survival was ensured based on a curious pattern of dependency: “The west provided the government with warriors and the east with money.” See Yuri V. Bossin, “The Afghan Experience with International Assistance,” Beyond Reconstruction in Afghanistan, ed. John D. Montgomery and Dennis A. Rondinelli, New York: Palgrave Macmillan, 2004, p.76; Mountstuart Elphinstone, An Account of the
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11. Ahmed Rashid, interview.


17. “It is its responsibility to investigate all incidents of civilian causalities all over the country fully and impartially, whether they are small or big incidents which have occurred as a result of blind bombardments of foreign invading forces, pointblank firings during joint night raids by the Kabul Administration’s and foreign troops, intentional bomb detonations in places of people’s congestions by intelligence networks or incidents of detonations and landmines caused by mistakes of Mujahideen of the Islamic Emirate resulting in material and soul losses to our defenseless people [italics added].” Shahamat website, “Department of Prevention of Civilian Casualties Commission of Military Affairs,” September 10, 2014.

18. Observers disagree as to whether the Haqqani group or network is a separate organization or whether it is an integral part of the Taliban movement. Western analysts tend to be of the former view, whereas those close to the Taliban support the latter. See for discussion Michael Semple, “How the Haqqani Network Is Expanding from Waziristan,” Foreign Affairs (September 23, 2011); Peters, “Haqqani Network Financing: The Evolution of an Industry”; Thomas Ruttig, “The Haqqani Network Blacklisted: From US Asset to Special Foe,” Afghanistan Analysts Network, Kabul, 2012.


   The sanctions list of the UN Security Council Resolution 1267 only includes individuals, entities, groups, and other undertakings belonging to or associated with the Taliban or Al Qaeda but not the Taliban as an organization. Fourteen former Taliban members were delisted in July 2011. In Rahimullah Yusufzai, “Instead of Real Taliban, UNSC Removes 14 Former Taliban from Blacklist,” *The News International*, July 18, 2011.

   Another historical explanation is that the Kandaharis (and particularly the Hotak tribe to which Mullah Omar belongs) pride themselves as being the descendents of Ashraf Hotaki, who conquered Persia and defeated the Ottoman forces in the eighteenth century. The Noorzai and Eshakzai tribes were also historically involved in nation building. They are thus imbued with a mission to revive the glorious past, whereas tribes of the Pakistani Taliban do not share the same legacy. A view shared by Michael Semple, interview.

22. C. from Kunar, interview; A. from Zabul, interview.


27. For example, *fei* and *beit ul-mal* are both Arabic terms used in Islamic law to describe public property in Article 23 of the 2009 Layeha. See Clark, “The Layha,” Appendix 1, Article 23.

28. “Taliban use some western style media programs as anti-Islamic and call them infidels which, as a result, also increases their support among the people and the number of Taliban fighters.” In Sami Yousafzai, “Media of Afghanistan,” *Gendai Afugan ni okeru Media Bunkashinkou ni kansuru Shimpoziumu* (Symposium on the Development of Media Culture in Today’s Afghanistan), Tokyo, December 10, 2012.


30. Such as the magazine *Shahamat*; see Abdulhadi Hairan, “A Profile of the Taliban’s Propaganda Tactics,” *The Huffingtonpost*, February 1, 2010; Nathan, “Reading the Taliban,” p.30.


33. Johnson, “The Taliban Insurgency and an Analysis of Shabnamah (Night Letters).”
36. Yousafzai, “Media of Afghanistan.”
37. “From January 2004 [...], the insurgents have not only successfully kept their voice raised and messages heard, but they were also able to establish advanced measures to widen their propaganda for more effective results on the international as well as local level.” In Hairan, “A Profile of the Taliban’s Propaganda Tactics.” A former US intelligence analyst also says, “The Taliban’s media machine runs circles around our public information operations in Afghanistan. Using newspapers, radio broadcasts, the Internet and word of mouth, it puts out messages far faster than we can, exaggerating the effectiveness of its attacks, creating the illusion of a unified insurgency and criticizing the (real and imagined) failings of the Kabul government.” See Mitchell LaFortune, “Learning from Wikileaks,” International New York Times, July 31, 2010.
40. See Article 14 of the 2009 Directive: “Press and media personnel should make efficient use of their time and acquire computer and English skills in order to fulfill their mandate.”
41. “The Taliban have unrestricted, unchallenged access to the radio which is the main means of communication in an area where literacy is around 10 percent for men and less than five percent for women” Richard Holbrooke cited in Eckert, Paul, “Information war key to US Pakistan strategy,” Reuters, May 13, 2009. Also Jan Forrester, “Afghanistan’s Media Explosion,” Eureka Street, March 16, 2009.
42. The Taliban have set up the Voice of Sharia Radio, which airs propaganda programs at least two hours a day and are listened to by both sides of the Pak–Afghan border from Waziristan to Khost and as far as Ghazni and Logar. See Hairan, “A Profile of the Taliban’s Propaganda Tactics”; and Nathan, “Reading the Taliban,” p.31.
43. According to journalist Sami Yousafzai, there are 175 FM stations and four news agencies as of end of 2012. See Yousafzai, “Media of Afghanistan.”
44. “Journalists also receive threats from the anti-government elements for publishing news that is not helping their goals and are against their interests,” in Yousafzai, “Media of Afghanistan”; Forrester, “Afghanistan’s Media Explosion”; Nathan, “Reading the Taliban,” p.27. Similar accounts were collected during the author’s various interviews with news agencies, radio, and newspaper stations in November 2012. However, journalists are also intimidated by parliamentarians, criminal groups, militia groups, or drug traffickers.
46. Ibid. See also a similar claim by NHK: “When we interviewed some militants—I believe they were not at the senior level but lower level—they still do not
believe that some people are having negotiation or dialogue with the United States and I thought it’s very difficult for them to believe that there is a peaceful negotiation between the Islamic Emirate of Afghanistan and the United States.” In NHK, Exclusive Interview with Top Taliban Leaders, November 9, 2012. See interview reproduced in Annex I of this book.

48. Ibid.
49. As a variation of Finnemore and Sikkink’s concept of “norm entrepreneur.” In Finnemore and Sikkink, “International Norm Dynamics and Political Change.”

50. See, for example, Article 14 of the Palestinian National Charter amended in 1968: “The destiny of the Arab nation, and indeed Arab existence itself, depends upon the destiny of the Palestine cause. From this interdependence springs the Arab nation’s pursuit of, and striving for, the liberation of Palestine. The people of Palestine play the role of the vanguard in the realization of this sacred (qawmi) goal.” PLO, “Palestinian National Charter (1968),” The Avalon Project, Yale Law School. Article 10 of the Charter advocates the use of armed violence: “Commando action constitutes the nucleus of the Palestinian popular liberation war. This requires its escalation, comprehensiveness, and the mobilization of all the Palestinian popular and educational efforts and their organization and involvement in the armed Palestinian revolution.”

51. Moreover, Article 18 of the above Charter states: “The liberation of Palestine, from an international point of view, is a defensive action necessitated by the demands of self-defense. Accordingly the Palestinian people, desirous as they are of the friendship of all people, look to freedom-loving, and peace-loving states for support in order to restore their legitimate rights in Palestine, to re-establish peace and security in the country, and to enable its people to exercise national sovereignty and freedom.”


54. This group included Mullah Omar’s chiefs-of-office during the Taliban regime, that is, Tayyeb Agha, Omar’s close aide; Mullah Baradar, the movement’s second-in-command after the collapse of the Taliban regime; Mullah Obaidullah, the Taliban regime’s defence minister; and Mullah Abdul Razzaq, the interior minister. In Gopal, “The Battle for Afghanistan: Militancy and Conflict in Kandahar.”

55. In the aftermath of the ousting of the Taliban from the government in 2001, some returned to normal civilian life while others attempted a political comeback by forming a political party. However, they were given little political role in the new government dominated by members of the Northern Alliance. At the end of 2001, a group of ex-Taliban founded a political party in Pakistan called Jamiat-e Khuddam ul-Furqan, presenting themselves as a moderate Taliban group. They were eventually allowed to settle in Kabul in 2004 but
were left without a significant political role until their inclusion in the High Peace Council. In Ruttig, “Taliban Reconciliation,” p.420.


58. “We [see a] shift from the old generation Taliban (of the anti-Soviet resistance) to the current stage where the majority of commanders are people in the mid-thirties. Because the international military forces focus on targeting the leaders, many changes occur in the field, such as the emergence of many new leaders. [...] The younger commanders do not care about the impact [of their operations] on the communities and are far more reluctant to respect the Layeha.” In interview with M., Kabul, November 12, 2012. Also Jackson and Giustozzi, “Talking to the Other Side: Humanitarian Engagement with the Taliban in Afghanistan,” p.6. According to a military source, the average age of mid-level Taliban commanders in 2011 was 24, whereas a decade ago it was 35. See Braithwaite and Wardak, “Is Killing Taliban a Good Idea?”


60. See the reasoning of Boyle: “Terrorist threats are now regularly described as insurgencies and vice versa,” in J. Michael Boyle, “Do Counterterrorism and Counterinsurgency Go Together?,” International Affairs, 86 (2), (2010), p.335.


62. The group is known to be commanded by commander Najibullah. In Sami Yousafzai and Ron Moreau, “Too Radical for the Taliban,” Newsweek (August 30,2013).
63. “Continued suicide bombings in the face of a NATO ceasefire would under-cut the Taliban’s claim of being on the side of the people.” In Braithwaite and Wardak, “Is Killing Taliban a Good Idea?”; also Ayman, “Reconciliation with the Taliban: Challenges and Prospects,” p.16.

64. Crews, Moderate Taliban?, p.239. Karzai’s amnesty granted to Taliban fighters in April 2003, who agreed to give up their arms, falls into the same line of logic.

65. The first concrete attempt to entice foot-soldiers to switch sides with financial incentives was undertaken by the so-called PTS (in Dari, “Program for Strengthening Peace”). It ended, however, in failure as only a few participants were previously known insurgents. The program was soon superseded by the High Peace Council, which was founded as an integral part of the APRP adopted at the 2010 London Conference. On PTS, see Mohammad Masoom Stanekzai, “Thwarting Afghanistan’s Insurgency,” Special Report, Washington, DC: USIP, 2008, p.11; Quie, “Peace-Building and Democracy Promotion in Afghanistan: The APRP and Reconciliation with the Taliban,” p.32; Ayman, “Reconciliation with the Taliban: Challenges and Prospects,” p.6. For critical review of High Peace Council, see Ruttig, “Taliban Reconciliation,” pp.453–456.


70. See interview with Sohail Shaheen, member of Taliban Negotiation Team in Qatar, in which he explains the reasons for the suspension of talks. In NHK, Exclusive Interview with Top Taliban Leaders; see Annex I of this book. See also Julien Borger, “US-Taliban Talks Collapsed over Guantánamo Deal, Says Official,” The Guardian, October 8, 2012.

71. For example, “The definition of a Talib, according to leading members of Afghan civil society […] is an unemployed youth.” In Ashraf Ghani, “Ten-Year Framework for Afghanistan Executing the Obama Plan . . . and Beyond,” Washington, DC, April 2009.

72. See, for example, interview conducted by Semple with a certain “lead negotiator for the Taliban” who insinuated that the United States’ long-term presence in Afghanistan would be acceptable if focus shifted from military presence to economic assistance. See Semple et al., “Taliban Perspectives on Reconciliation,”p.13.

73. See previous chapter.
74. See similar conclusion: “The Taliban who criticise aid organisations are not just accusing them of being ‘spies’ or siding with the government, but are also critical of their perceived lack of a principled approach and effectiveness.” In Jackson and Giustozzi, “Talking to the Other Side: Humanitarian Engagement with the Taliban in Afghanistan.”


78. See previous chapter.

79. Ahmed Rashid, interview.

80. The Asia Foundation, for example, regularly invites small groups of Islamic scholars to other Muslim countries (or with a large Muslim population) such as Egypt, India, Malaysia, Turkey, and the United Arab Emirates, under the Traditional Leaders Discovery Program. See “Overview (of Activities),” Asia Foundation, 2012.

81. The Asia Foundation, for example, organized a three-day workshop in Kabul on women’s rights and responsibilities in Islam where prominent Egyptian and Afghan scholars presented the case on women’s social and educational rights in Islam, Islamic conditions of marriage, women’s wealth and property rights in Islam, and violence against women in Islam. Ibid.


83. The Baacha Khan Trust Educational Foundation is an auxiliary of the Baacha Khan Trust, an NGO in Pakistan and Afghanistan built on the non-violent ideology of political activist Khan Abdul Ghaffar Khan (1890–1988).

84. Senior staff at BKTEF, interview, Peshawar, October 18, 2012.


87. Pandya and Laipson, “Islam and Politics,” p.35. See for similar conclusion: “The international community, in showing its support to Afghanistan’s government and the country’s developmental process, must recognize the importance of Islam for the Afghan population and encourage its inclusion in the political process and in the formal educational system,” p.33.

Annex I: Interview with Top Taliban Leaders (NHK)

1. The website was accessed on November 30, 2012, and is no longer available (http://www3.nhk.or.jp/nhkworld/english/tv/todayscloseup/index20120911.html). The text is reproduced verbatim.

1. Copy obtained from an international newspaper based in Islamabad. The original text is in Pashto and was translated with the help of an Afghan national.
2. The words in parentheses were added for better understanding.
3. Literal translation is the seeing and hearing department.
5. Literal translation.
6. In this context, the Shura is presumably different from the military Shura in Peshawar.
7. The relationship with the Committee and Shura is unclear. One possibility is that the Committee stands for the haiats or Complaints Committee.
8. Unknown as to the type of card.
9. Unclear whether singular or plural.
10. Literal translation: he should be tortured until he dies.

Annex III: Taliban’s Code of Conduct

*Translator’s Note:
The Layha is the code of conduct (manual) and regulations of the Mujahids of the Islamic Emirate. The following document is the second edition of the Layha, published in 2010. It has been originally written in Pashto and translated into English for informational use by the International Committee of the Red Cross. This is not an official translation.
The first Layha was published in 2006. This Code of Conduct replaces the 2009 version. Our aim has been to preserve the spirit of the original Pashto text. Therefore, deviations from the original structure of the articles and paragraphs have been kept to a minimum and made only when necessary in preserving the sense. The translator’s clarifications are shown by square brackets [...], while explanations of some words or phrases are shown in parentheses (...). English equivalents of names, titles, epithets and notions in Islamic theology have been regularized. The meanings of most Islamic judicial notions referred to in the text are given in footnotes. We have followed the Pashto–Russian dictionary of M. G. Aslanov in the transliteration of Arabic and Pashto words.
* Copyright: The Islamic Emirate of Afghanistan. Publisher: The Education Commission. Publication date: First edition—1430 lunar year of the hegira system / Second edition—1431 lunar year of the hegira system.

2. Religious community.
3. And that’s all (Arabic).
4. Deputy.
5. Emir of the faithful.
6. To draw in, to attract to the right way.
8. “Dalgej” in the original. Military squad or section.
9. Punishment not provided in the Sharia, but determined by the judge himself.
10. Those who have the right to cast their vote and express the opinion regarding sensitive issues.
11. A kind of taxation in the light of Sharia law.
12. Fay in Islamic law is a definition of a booty or trophy which should never be divided among the participants of the war and should be given to the Public Treasury.
14. It also could be interpreted as civilian affairs.
15. “Tanzima rais” in the Pashto version is the person responsible for the coordination of the organizational and administrative activities in a given zone.
16. Civilian or issues related to the common people.
17. Civilians.
18. Any mentioned omission.
19. “Mubariz” in the Pashto version, this word could be also translated as a brave soldier, fighter for a cause (for instance, fighter for national liberation).
22. Different kinds of Islamic taxation and donation system.
23. “Talavat” in the original. Reading (usually of the Koran).
25. “Rahbari Shura” in the original.

Annex V: Interviews with Taliban Members on the Layeha

1. A basic military formation of the Taliban, which is literally translated as front. It describes a basic formation of fighters of around 20, grouped around a single charismatic leader. For details, see Coghlan, “The Taliban in Helmand,” p.143.
2. Referring to the time prior to Taliban’s seizure of power in 1996.
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