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Analysing the new Taliban Code of Conduct (*Layeha*): an assessment of changing perspectives and strategies of the Afghan Taliban

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Periodically, Afghanistan's Taliban leadership formally issues *Layeha* or 'codes of conduct' for their fighters and supporters. *Layeha* offer important insights into the Afghan Taliban's objectives, strategies and the psyche/perspective of Taliban leadership. This article presents an analysis of the Taliban's code of conduct and examines what *Layeha* tell us about Taliban objectives, strategy and organization. Such information would seem particularly important as the United States as well as its coalition allies assess their Afghan operational strategy as well as exit strategy from Afghanistan. This analysis of the *Layeha* suggests that the Taliban remain most concerned with: chain of command principles preventing the fragmentation of the various Taliban networks; obtaining and maintaining public support by winning 'hearts and minds' of local residents; ensuring enough fighters remain engaged in combat; and galvanizing the perception that the Taliban represent a capable, desirable and fair alternative to the current Afghan political establishment.

Keywords: Taliban *Layeha*; information operations; Taliban organization and leadership; Taliban 'shadow government'

Introduction

While there is rich scholarly literature concerning the Taliban¹, little has been written pertaining to the Taliban's *Layeha* or the 'codes of conduct' that the Taliban periodically issue to their cadres. We argue that although there are clearly limitations in the analytical use of Taliban *Layeha* – aspects of these documents are partly related to a kind of public-relations or information-operations exercise² – these codes of conduct clearly offer clues concerning the psyche and perspectives of Taliban leadership as well as insights as to how the Taliban see themselves and their organization. As Marshall McLuhan (2005) famously said: 'The medium is the message'.

What the Taliban have presented in their most recent *Layeha* is at variance with the usual media or political assessments of the Taliban's strategic positions and tactics. This document conveys a sense of urgency and offers details as to how the Taliban, as an organization, plan to pursue their short-term objectives.³ The Taliban continue to expand⁴ but struggle to maintain their command and control authority as well as their 'ideals' and 'core principles'. While the Taliban's shadow justice and governmental systems have met with considerable success in parts of the country, the movement, at least at the tactical and district level, seems to be suffering from a variety of negative dynamics including greed, predatory behaviour and criminality. Self-prescribed treatment for these dilemmas, if the latest *Layeha* is to be believed, comes in the form of consolidation, loyalty, obedience, structure, professionalism, tolerance, lawfulness and unity.

This article examines what *Layeha* tell us about Taliban objectives, strategy and organization.⁵ This article is premised on the assumption that deconstructing the latest version of the

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Layeha provides important clues into the Taliban's organization following the capture of several of its political and military elite in 2009 and 2010, as well as other recent changes in the organization. For example, the rise to power of younger, more aggressive and militarily capable commanders such as Mullah Abdul Quayum Zakir and his deputy Mullah Abdul Rauf Alizai and their power struggle with old-guard Taliban leadership is partially evidenced in the latest *Layeha* that will be assessed by this article.

Layeha of 29 May 2010

The Taliban first issued their code of conduct manifesto in Spring 2006. They reissued the code in May 2009 and again in late May 2010. The Taliban's most recent code of conduct⁶ is significantly different from the 2009 edition. The May 2010 *Layeha* includes major modifications including an additional chapter and 18 new 'articles' (rules). Moreover, the reissuing of the *Layeha* comes at an important juncture in the Afghan conflict, especially in light of the seizure and detention of several leading Taliban leaders since January 2010, including the 'Deputy Imam', Mullah Abdul Ghani 'Berader', who, interestingly, was mentioned seven times in the 2009 *Layeha*.⁷ It is hypothesized that the restructuring of the Taliban Quetta *shura* following a series of high-profile arrests and the targeted killings of '365 high-ranking and mid-level insurgent commanders mid-level Taliban leaders' (Gebauer 2010) between May and August 2010 has prompted many of the changes observed in the newest *Layeha*. It is also interesting to note that the largely absent voice of Mullah Omar had become more apparent by the autumn of 2010, possibly signalling that some commanders have lost (or are losing) faith in the Taliban's supreme leadership (Yousafzai and Moreau 2010). The ultimate role of Omar in the operational and strategic posture of the Taliban is critical to a whole series of issues including the feasibility of Taliban negotiation and/or reconciliation with the Kabul regime. Negotiation and reconciliation has become a major focus of Kabul as well as within certain sectors of the US policy community.

Although the publication of the *Layeha* is perceived among some Western analysts as political theatre, the document does provide important clues as to how the Taliban intend to operate in the developing security environment, as well as how the movement has recently been restructured – all according to the *Taliban's leadership perspective*. As will be seen below, the document reveals the Taliban's attempt to wage a guerrilla campaign in concert with a rudimentary population-centric strategy – including the important creation of a complaints commission – a *shura* that investigates suspected abuse of Afghan civilians by Taliban leaders and their fighters. It appears that the Taliban have become particularly sensitive to local perceptions and increasingly rely upon traditional 'population-centric' lines of operation to consolidate their battle for 'hearts and minds' of the Afghan populace and especially the southern, rural, Pashtun (Johnson 2007b, Nathan 2008, 2009, Johnson and Waheed 2011).

As in the past, the Taliban remain conscious, and vulnerable, to actual and perceived damage done to the movement's political capital by the incorporation of criminals (*Taliban-e duzd*) into the movement during the 'open-door' recruitment policies enacted in 2003, and this is reflected in the *Layeha*. Infighting among Taliban factions is another key concern, something that has been recorded steadily over the past few years.⁸ The Taliban are exerting tremendous efforts to rectify issues concerning abuse and criminal activity by Taliban commanders and, as will be seen below, have dedicated several new articles in the *Layeha* to address these issues.

Tribal and communal conflicts are also of particular concern, and the Taliban have exerted efforts to mitigate these issues by creating effective mediation council and dispute-resolution mechanisms, usually termed 'shadow courts', which are critical in achieving local support and sympathies (Carter and Clark 2010). The 2010 *Layeha* pays particular attention to the

importance of these judiciary councils that theoretically outline the accepted way for Taliban fronts to create, utilize and manage their organizational behaviour.

Methodology

The analysis of the *Layeha* presented below is based on a qualitative content analysis of the 2009 and 2010 documents. This analysis was primarily interested in categorizing and comparing the statements presented in each of the two most recently published *Layeha*. Particular research attention was devoted to analysing differences in content and themes of these documents. The Table of Contents of each document was carefully compared and similar sections were systematically assessed in an effort to identify changes in scope, intent and focus. This analysis was then complemented with previously obtained documents, including interviews with top Taliban leaders published in *jihadist* leaflets, magazines and websites, as well as the *Layeha* of 2006. The research objective was to assess changes as well as similarities in the Taliban's own statements as presented in the two manifestos concerning their strategy, tactics and goals.⁹

Before presenting the content analysis of the May 2010 *Layeha* and its comparison with the 2009 'code of conduct', we first compare the structure of the 2010 document with its predecessor. We will then present our analysis of the 2010 *Layeha* and compare it to the 2009 document. Finally, we will examine the Taliban's organizational construct as presented in the 2010 *Layeha*. This organizational case study will demonstrate how the Taliban have adopted portions of the *Layeha* in actual practice.

Structure of the 2010 *Layeha* as compared to the 2009 Manifesto

Table 1 presents a first-order comparison of the Tables of Contents of the 2010 and 2009 *Layeha*. The code of conduct manual offers a structured approach using a chapter format with numbered

Table 1. Table of content analysis of 2010 and 2009 *Layeha*

2010 <i>Layeha</i>	2009 <i>Layeha</i>
1. Decisions Pertaining to the Surrender of Opponents and Giving Invitations to Them;	1. Security;
2. Regarding Prisoners;	2. Regarding Prisoners;
3. Regarding Spies;	3. Regarding Spies;
4. Enemy's Logistics and Construction Activities;	4. Enemy's Logistics and Construction Activities;
5. Captured Enemy Equipment (War Booty);	5. Captured Enemy Equipment;
6. Regarding Commissions (i.e., Mujahedeen Organization);	6. Mujahedeen Organization;
7. Internal (Personal) Issues of Mujahedeen;	7. Mujahedeen Personal Issues;
8. Education and Training;	8. Education and Training;
9. About Departments and Companies;	9. Regarding Mujahedeen Organization;
10. Health Related Issues;	10. Local Personnel Topics;
11. National Issues;	11. Prohibited Items;
12. Prohibited Items (Forbiddance);	12. Recommendations and Focus Regarding These Rules and Regulations;
13. Advice;	13. The conclusion is summarized by a poetic statement by Mullah Mohammad Omar titled, <i>God Give Us Victory</i> .
14. Recommendations about the Code of Conduct.	
15. The conclusion is marked by a small speech of Mullah Omar called <i>Dear Grateful Mujahideen Brothers</i> .	

Table 2. Overview of 2010 *Layeha* thematic changes

Repeated (47)	Alterations (14)	New additions (24)	Omissions (6)
<ul style="list-style-type: none"> • Guerrilla fundamentals • Prohibited behaviours such as torture, kidnapping for ransom, home invasions and accepting bribes • Recommendations for suicide attacks • Ordering fighters to blend in with the local population 	<ul style="list-style-type: none"> • Properly dividing war booty • Construction and logistics activities • Decision making on captured Afghan logistics personnel 	<ul style="list-style-type: none"> • Rules for Provincial and District Commissions • Rules on health services 	<ul style="list-style-type: none"> • Condoning attacks against non-governmental organizations (NGOs). • Narcotics

‘articles’ listed below each chapter subheading. As evidenced in Table 1, the Tables of Contents of the two documents are very similar. Ten of the 14 2010 section topics are the same as 2009. New topics suggested by the 2010 Table of Content as compared to the 2009 document are:

- Decisions Pertaining to the Surrender of Opponents and Giving Invitations to Them;
- Health Related Issues;
- National Issues; and
- Advice.

While many of the sections of the new *Layeha* are similar to the 2009 document, the 2010 *Layeha* nevertheless represents a significant expansion of instructions (although not necessarily a replacement) as compared to the originally released 2006 Taliban *Layeha*.¹⁰ The 2009 *Layeha* is mentioned in the foreword of the Taliban’s much longer 2010 code of conduct, a version that contains 14 chapters and 85 articles (or rules).¹¹ In the 2010 *Layeha*, the Taliban leadership asks its cadres to abandon all previous modes of operational doctrine, including the 2009 *Layeha*, and abide by the new set of rules established within the code of conduct.

Table 2 presents an overview of the thematic changes evidenced in the 2010 *Layeha* as compared to the 2009 version. As suggested in this table, out of the 85 articles in the 2010 *Layeha*, 47 were repeated from the 2009 *Layeha*, 14 were modified/alterd and 24 were new (18 of which are new additions; six additional articles replace the omissions from the 2009 *Layeha*). At least 17 out of the original 30 *Layeha* were repeated in the 2009 manifesto. An analysis was undertaken to focus on the types of variations found in the Taliban’s latest iteration of the *Layeha* (as compared to earlier versions). We posit that this assessment provides insight into the Taliban’s overall strategic shifts, alterations in Taliban command-and-control structures, and the Taliban’s perceived adaptation to the on-going and fluid security environment unfolding in Afghanistan. Similar to the US military-force structure in Afghanistan, the Taliban have undergone serious leadership changes between 2009 and 2010; these changes, many caused by Coalition operations against senior leadership elements as well as some arrests of senior Taliban leadership in Pakistan, have had a seemingly significant impact on the Taliban’s group cohesion and political objectives. An examination of the 2010 *Layeha* strongly reflects these dynamics relative to thematic changes in the document.

Analysis of 2010 *Layeha*

The current edition, as previously suggested, is much longer and covers in greater detail more strategic and tactical concerns than the earlier *Layeha*. Significant additions were made to

Chapter seven ('Internal Issues of the Mujahedeen') with 10 new articles added, in addition a new chapter, (Chapter 10) entitled 'Health Related Issues' was published.¹²

While suggestions that the Taliban are attempting to adhere to more moderate behaviour by the issuing of an explicit code of conduct may be applicable in certain regions, such as Sangin district in Helmand, where the Taliban shadow governor was replaced several times last year because of brutality (Williams 2010), this is clearly not universally recognized or followed by all Taliban and Taliban groups. Code stipulations such as 'protection offered to any government official, worker or contractor captured by the Taliban', have been cited to suggest a 'softer, kinder' Taliban is not a new doctrine.¹³ This rule was previously outlined in the Taliban's 2006 *Layeha* and is a widely accepted tenet of *Pashtunwali*.¹⁴ Obscene battlefield atrocities, such as beheadings, the murdering of women and the mutilation of Afghans working for the government and North Atlantic Treaty Organization (NATO) forces are still occurring. The Taliban have repeated their prohibition against cutting 'ears, nose, and lips' [Chapter 12, Article 70 of 2010 *Layeha*]. However, in practice, some Taliban have continued the practice of mutilating Afghan citizens, severing ears and noses, and often beheading Afghan villagers (including women) and security forces.¹⁵ The Taliban leadership has made an appeal to end this unpopular battlefield conduct, heinous examples of which are the carving out of a villager's eyes in Kandahar province in 2008 and the execution of a pregnant woman in Badghis province in August 2010 (Shirmohammadi 2010). Such actions continue to be a major bane to the Taliban's political capital.

The content analysis of the main themes of the 2010 code of conduct suggests that the main purpose of the reissuing of the *Layeha* in light of the restructuring of the Taliban's leadership infrastructure was:

- A continued focus on network communication, consolidation and control;
- A focus on the quality of *jihadist* operations;
- A recognition of the importance of public support for their movement;
- To ensure *jihadist* operations do not negatively impact the Taliban's public support;
- An attempt to convince the local population that the Taliban – not the local Afghan government, local security force, local militia or even a rival insurgent faction (for example, Hezb-i-Islami) – is the real power in that specific region.
- To properly convey the new organization of the Taliban provincial leadership; namely the importance and structure of political commissions, the Taliban's proverbial 'silver bullet' in defeating the Government of the Islamic Republic of Afghanistan (GIROA) by creating an effective and legitimate parallel government that responds to the *social, political and security needs* of the people;
- To incentivize Afghan Government personnel to defect to the Taliban. For example, rewards are offered (as well as introductions to 'high-ranking mujahedeen') if one kills a high-ranking government official or coalition soldier or if an individual's actions create an environment where the Taliban can kill a high-ranking official or coalition forces; and
- To loosen the command-and-control parameters on executing captured government officials, clerics, commanders and elders.

The 2010 manual's target audience appears to be provincial and district leadership (many of the *Layeha* are specifically directed at them), and stresses the importance of obedience and the chain of command in conjunction with the larger Taliban administrative bodies (provincial commissions). The 2009 version focused more on 'group leaders' – tactical-level Taliban commanders in charge of *dilgai* (local cadres) numbering 10–15 men. The most recent document outlines the organizational responsibilities of both the district and provincial-level command

apparatuses. Interestingly, the 2010 *Layeha* refers only scantily to the Taliban's supreme leadership, Mullah Muhammad Omar (*Amir ul-Momineen*)¹⁶ and his Deputy, who goes unnamed, unlike the 2009 version where Omar's then most-trusted deputy, Mullah Abdul Ghani Berader, was referred to frequently.¹⁷ Mullah Omar and his deputy are both referred to six times in the 2010 manifesto; in earlier versions Mullah Omar was referred to 11 times and Berader seven times.

Significant differences: 2010 vs. 2009 doctrine

Although the Taliban have incorporated more than half of the prior *Layeha* into their new manifesto, it is important to note which rules were modified or removed altogether in assessing their evolving strategy, operations and tactics. Additionally, which rules were added – namely additional caveats and explicit details to particular rule sets (that is, more detailed rules for prisoners, the creation of provincial commissions and dividing war booty) – also warrants a close examination.

Actions prohibited by the Taliban (Chapter 12) remain basically unchanged from the 2006, 2009 and 2010 *Layeha* except for this important modification:

- 2010, Article 69: 'Youngsters (those without beards) are prohibited from living in mujahidin residencies or administrative centres.'
- 2009, Article 50: 'Youngsters (those without beards) are not allowed to be taken for *jihad*.'

The importance in this modification is not so much the Taliban's acceptance of child-soldiers, but the prohibition of their use of Taliban sleeping quarters. Male-on-male sexual activity, especially that of man-on-child abuse (known locally as *bachabauzi*, or 'child's play'), is a practice that has allegedly rose to prominence throughout the past 30 years of conflict.¹⁸ Most Afghans view *bachabauzi* as a grave social injustice; the Taliban, for example, prides itself on the widely held narrative that the event that prompted Mullah Omar and his small band of *talibs* to originally take up arms against the warlords was the tank duel between two Kandahari commanders who were fighting over the right to own a young dancing boy (Rashid 2001, p. 25). The issue is so contentious that Afghan laws also prohibit the young from dwelling in Afghan police and military barracks.

Kidnapping and the criminalization of the Taliban remains a major vulnerability to the Taliban organization, especially as perceived by certain Afghan communities (Gopal 2010, pp. 14, 20, 37–38, van Bijlert 2010, p. 16). Article 73 of the 2010 document expressly prohibits kidnapping for ransom. The continued focus on kidnapping and other criminal activities in the *Layeha* would seem to suggest that senior Taliban leadership is fully aware of the negative reactions felt by local communities regarding the movement's involvement in kidnappings, extortion, mutilations, bribery and attacking educational institutions and students. Nevertheless, 2010 witnessed a major increase in kidnappings in Kandahar City and other locations.¹⁹ It seems strikingly apparent that the Taliban organization has had severe problems with banditry, extortion, bribery and criminality within their ranks. In 2010, the scholar of Afghanistan Martine van Biljret noted how some Afghans refer to the Taliban in Zabul province as the 'thief Taliban'. Van Biljret's (2010, p. 16) research suggests that these Taliban are driven by personal economic gain and are less ideologically motivated than the Taliban in other areas. There seems little doubt that opportunistic predatory behaviour in certain areas is interfering with Taliban tactics and strategy and corrupting the organization from the district level on up, probably infecting provincial-level leadership as well.²⁰ Media reports have speculated about a financial drain of the 'central treasury' that was partially caused by corrupt and greedy tactical- and district-level commanders. It is further believed that these Taliban commanders have helped bleed

resources for their own self-interests. This, in turn, has caused inner-Taliban rivalries based on economic domination of specific territories, specifically within Zabul Province (Moreau 2009), although evidence of this phenomenon exists in nearly all areas where insurgent groups are operating.

References to financial matters as well as extortion appear in several other rules of the 2009 manifesto as well as the 2010 document:

- ‘Taking money in order to forgive someone is prohibited’;
- ‘When we mention that we need a ‘guarantee’ from someone, we are saying that a trusted person should provide a guarantee. We are not talking about property or money’;
- ‘When you capture drivers, contractors, or soldiers, releasing them for money is prohibited’;
- ‘If an Afghan National Army soldier is captured, the Imam or Imam’s Assistant will make the decision on whether to kill him, to use him for a prisoner exchange, or exchange him for money.’²¹

In *Pashtunwali*, money is often used as a means of settling disputes, or forgiving a transgression between individuals or clans. Such transactions have been an important ingredient of conflict resolution in the Afghanistan region for hundreds of years (Caroe 1958, Spain 1961, 1962, Ahemed 1980, DuPree 1980, Glatzer 1998). Indeed, Afghanistan’s customary criminal norms are based on restorative rather than retributive justice.²² In Pashtun communities this means a culprit is asked to pay *poar*, or compensation money, to the victim or the victim’s family and to ask for forgiveness rather than spend time in a prison. This underlying custom of seeking apology and eliminating enmity is known as *nanawati* among Pashtuns and ‘*uzr* among other communities. Even within the doctrine of Shari’a Law, this type of ‘blood money’ payment is prevalent and is known as *diyāt*. In respect to the Taliban’s prohibition of taking *poar*, the Taliban are preventing a traditional practice among Pashtuns, Tajiks and other ethnic groups in Afghanistan.

Apparently in anticipation of having Afghan government employees and others switch sides and join the Taliban (likely as a response to the increase in US and Afghan government support for reconciliation programmes for the Taliban and other insurgents), the 2010 code of conduct has a series of new rules about handling such events or government desertions:

- ‘The people who surrender and regret their past deeds will have to return the money or properties in case they have snatched the money or properties while they were working with the infidels or their slavish government’²³;
- ‘Those who quit the puppet government and join the mujahidin should not give him a place in their lines until they develop satisfaction about the person. In case of giving a place to such a person in their lines, the mujahidin will have to obtain the approval of the provincial commander’²⁴;
- ‘If a person quits the opposite camp and is unable to defend himself, it is not justified to kill him until it is known if he plans to join the mujahidin or attack them.’²⁵

Although there have not been reports of significant members of the Karzai regime or government workers ‘switching sides’, a 16-man Afghan police unit recently defected to the Taliban in Khogeyani, Ghazni, an explosive and unstable area southwest of Kabul.²⁶ The mere fact that a series of new rules addressing such a contingency was added to the 2010 *Layeha* is interesting in its own right. It is probably an indication of the confidence that the Taliban had in early 2010 that their side would eventually be victorious. These rules also might indicate the recognition by the Taliban that Pashtuns have historically been very willing to change sides, especially if they think a particular side will eventually be victorious.²⁷

During the last few years the Taliban have concentrated attacks, in part, on US and NATO supply lines in both Pakistan and Afghanistan.²⁸ We have recently witnessed considerable concern in Washington concerning the intensity of Taliban attacks on coalition logistics and supply convoys.²⁹ The 2010 code of conduct explicitly addresses eventualities such as the attack or capture of contractors and others involved in US/NATO convoys and logistics:

- ‘For those contractors who deliver and supply oil, resources, or other material, and build governmental centers for the infidels or their slave administration . . . and drivers supplying the enemy with goods who are captured, the death penalty should be pronounced if the judge has solid proof in regard to their involvement.’³⁰

The seriousness that the Taliban assign to supply convoys is reinforced by the penalty that they ascribe to those proven guilty of being associated with convoy work: death. Like the 2009 *Layeha*, the 2010-reissued version has a special set of rules of conduct concerning construction and logistics activities. The rules assign specific responsibility to Taliban leaders (provincial authority *only*) who attack and seize contractors’ construction equipment or vehicles and what to do with captured construction personnel. There are special instructions for Taliban fighters not to capture and loot convoys for their own self-interests.

- ‘Burning a private vehicle which transports material to the infidels or provides other services to the infidels is lawful but it is forbidden to spare them in exchange for money or use them for any benefit’³¹;
- The Taliban ‘have the right to kill’ men who use ‘vehicles which transport material to the infidels. The rules assign specific responsibility to Taliban leaders (Taliban Judge or in the absence of a judge, a Provincial Shadow Governor).’³²

The 2010 *Layeha* also published new rules concerning other construction and logistics activities:

- ‘When it is confirmed that contractors . . . are transporting oil or other equipment . . . the mujahidin should burn their resources and they (contractors) should be killed’³³;
- ‘When it is confirmed [that] contractors are providing labourers and workers to the enemy . . . [they] should also be killed.’³⁴

These rules further suggest the importance that the Taliban place on logistics, convoys and especially oil transport by the types of penalties proffered for those found supporting such activities.³⁵

Both the 2009 and 2010 *Layeha* attempt to expand and reinforce the success the Taliban shadow court system that represents a parallel legal system that is acknowledged by local communities as being legitimate, fair, free of bribery and swift. The Taliban shadow justice system is easily one of the most popular and respected elements of the Taliban insurgency by local communities, especially in southern Afghanistan.³⁶ One of the authors recently witnessed this firsthand in the Panjwayi district of Kandahar where there exists no formal, functioning justice system to adjudicate criminal cases or extremely important civil disputes involving water and land rights. Disagreements over land (*mezaka*) and water are presently a serious source of social instability in the district. Such disputes are quite frequent because of a complicated and convoluted system of landownership and inheritance that has been aggravated by decades of violence and malfeasance by predatory local officials. Attempts to resolve these disputes or claims through the channels of the Afghan Government’s formal justice system can take years and significant bribes. The Taliban have effectively exploited of this situation through its shadow justice system in Zangabad (Horn of Panjwayi).³⁷ Using Shari’a law, a Taliban *qazi* (judge) can settle a case in a few hours without bribes. While this court may not administer the kind of justice preferred by Kabul or the West, it is swift and perceived as just by most that use it. This is especially

the case when property disputes are involved. Many villages as well as city dwellers, including Kandahari businessmen,³⁸ use the Taliban court to settle such land disputes. The shadow court system actually gives a certain degree of legitimacy to the Taliban and strongly enhances their political capital.³⁹ The elders' account of how the legal system is organized and how it functions matches the 2010 Taliban code of conduct rule on justice exactly.

Organizational analysis of the Taliban movement: internal issues of the Mujahidin

Important information can be obtained regarding the organizational power structure of the contemporary Taliban movement through the examination of the new articles in the 2010 *Layeha* chapter concerning 'Internal Issues of the Mujahidin'. The *Layeha* identifies how the Taliban plan to increase their efficiency and popularity in rural areas and zones of conflict by the creation of *walayats-kommsyon*, so-called 'provincial commissions', which are investigative councils designed to ensure the interests of the local population and maintain order within the Taliban's provincial force structure. Chapter 6, 'About Commissions' (Articles 34–39), and Chapter 7, 'Internal Issues of the Mujahidin' (Articles 40, 41, 42–50, 58), and Chapter 11, 'National Issues' (Article 62), presents the Taliban's method and process to create district-level commissions. According to this article, the commissions are to be managed by a district governor and his deputy and are presented as being critical in organizing and directing the Taliban's activities at the village and district levels. The *Layeha* advises provincial governors to help create these councils and seek out well-respected leaders and deputies (not necessarily Taliban military commanders) who have the civil-service skills necessary to promote the Taliban's political and social causes.

Figure 1 is a pictorial presentation of organizational structure of the Taliban's provincial-level force structure based on an analysis of the *Layeha* chapters dedicated to the creation and maintenance of the organization in question.

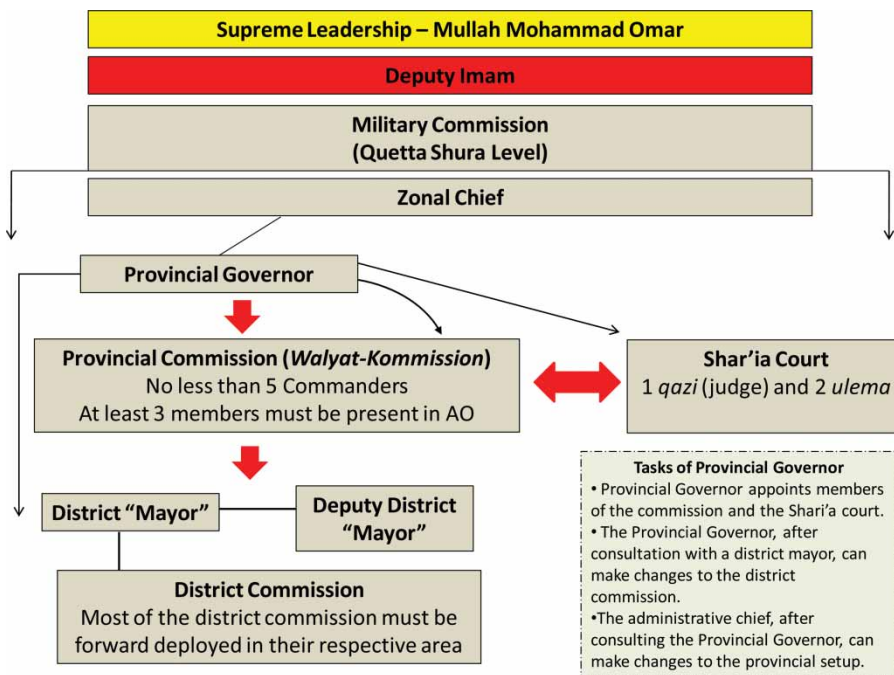


Figure 1. Provincial military force structure of the Afghan Taliban

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Table 3. Responsibilities of the Taliban Chain of Command^a

Responsibilities of Taliban command-and-control apparatus			
Zonal Chief	Provincial Governor	Provincial Commission	District Governor
Has the authority to make changes in the provincial command structure after consultation with the governor.	Responsible to form a provincial- and district-level commission and <i>Shari'a</i> court system.	Made up of at least five members, three of which must be present in their area at all times.	Must appoint a deputy to serve as a civil works/social outreach representative for the Taliban.
Co-ordinates regional military activities of the Taliban.	Has the authority to make changes in the district command structure after consulting with the district governor. If a disagreement ensues, the case is then passed to the zonal chief.	If any issues arise between the Taliban and local residents, the commission will investigate the matter and help resolves the situation. If the commission cannot resolve the issue, it must be investigated by the zonal chief.	In conjunction with the district commission, he ensures no spies, thieves, or criminals enter the ranks of the Taliban.
Oversees Taliban operations nationwide and makes strategic decisions accordingly.			If the district governor or group commander suspects any Taliban member of repeatedly breaking the <i>Layeha</i> rules, they must refer this case to the provincial council who will investigate the matter and consult with the provincial governor.
Must occasionally send delegates to the provinces to assess the strength of the provincial command structure.		Ensures no spies, thieves or criminals enter the ranks of the Taliban.	
Investigates cases of abuse committed by a district governor, his deputy, or a <i>dilgai</i> commander.		The provincial commission conducts a monthly survey of the Taliban fighting in the province to ensure they are abiding by the <i>Layeha</i> and are being effective.	

Note: ^a Based on Section 7, 'Internal Issues of the Mujahideen', rule 40, which details how the chain of command works for the Taliban military force structure.

The Taliban’s vision of a provincial command-and-control structure is centred on five entities: the provincial governor; the provincial council; the Sharia court; the district commission; and the district governor and his deputy. The provincial command-and-control infrastructure remains loyal to and under the management of the hierarchal leadership of the Taliban Quetta Shura, whose regional military council and respective *rais-e-thazema* (‘zonal chief’) relays strategic decisions and requests from Mullah Omar to the provincial leadership (Figure 1); Table 3 details the explicit responsibilities of the Taliban chain of command.

Conclusion

Our analysis suggests that a primary purpose of the 2010 *Layeha* was to establish a series of operational orders aimed at retaining discipline within the Taliban movement. The *Layeha* also appears to be designed to assist in consolidating the movement in possible preparation for the future withdrawal of international forces beginning in 2011. The document presents

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specific instructions to be followed relative to political offers presented by the Kabul government's newly established 'High Peace Council' and other instruments involved in potential reconciliation between Kabul and the Taliban.

In summary, our analysis suggests that the Taliban remain most concerned with: chain of command principles preventing the fragmentation of the various Taliban networks; obtaining and maintaining public support by winning 'hearts and minds' of local residents; ensuring enough fighters remain engaged in combat; and galvanizing the perception that the Taliban represent a capable, desirable and fair alternative to the current Afghan political establishment.

The content of the Taliban's 2010 *Layeha* exposes specific weaknesses regarding the Taliban movement: their obsession with group cohesion and consolidation, unifying the command-and-control structure, issues concerning communications, and the difficulties the top leadership (Mullah Omar and his *Rahbari Shura*) has co-ordinating fighters at the district and provincial level from their safe-haven in Pakistan. Reissuing strictures that prohibit group members from 'taking money' to forgive someone, 'guaranteeing' someone in exchange for money or property, and outlawing the practice of kidnapping people for money indicate that the Taliban leadership continues to worry about losing political capital resulting from rank-and-file members engaged in criminal behaviour. Although the Taliban represent a resilient and redundant organization, they may now find it challenging to regenerate its rank and file as quickly as they did in the past due to an increase in Coalition, Afghan and Pakistani military offensives of 2009–2011. This suggests that a major implication of the instructions that the 2010 *Layeha* directs at its provincial military force and district-level chain of command is aimed at moderating what the Taliban leadership views as improper behaviour. The code of conduct explicitly spells out the role and a heavy reliance upon the provincial- and district-level commissions instructed to investigate the complaints of the local population against local Taliban officials. The objective of this is to clearly consolidate the political legitimacy of the Taliban leadership by stemming the proliferation of criminality among its commanders and foot soldiers. This is reinforced by instructions related to 'guerrilla fundamentals' as well as Mullah Omar's statement at the conclusion of the *Layeha* that orders the Taliban to remain strategically concerned about the movement's perception among the local populace. The fact that protecting civilians and their property is a tenet of Mullah Omar himself points to the ire that civilian casualties have caused the Taliban among local communities.

Taliban factions are susceptible to tribal rifts, rivalries and conflicts, as much as any non-ingredient Pashtun community is. This can mean the difference between safe haven and a hostile environment in areas of operation intended for Taliban penetration and expansion. Over 10 years have passed since the US-led attack against Afghanistan ended the Taliban's former regime, yet the Taliban fail to represent a plausible replacement to the current political establishment – itself by no means a model candidate for state-building experiments.⁴¹ However, despite the Taliban's effort to portray itself in a certain light – a structured, orderly hierarchy with efficient information flow and doctrine – this does not realistically represent the Taliban. The 2010 *Layeha* explicitly dictates the military chain of command, and political commissions designed to hear the will of the people, but who ultimately refer back to a military committee on the *Quetta Shura* for guidance. Clearly designed political and social mechanisms – such as a hierarchal political and ideological committee or public services committee operating at the *Quetta Shura* – are not mentioned in the *Layeha*. In final analysis, our assessment suggests that the Taliban are simply repeating the mistakes of the past, by focusing on military objectives and intra-organizational functions whilst trying to capture the acquiescence of the Afghan people by offering a rudimentary yet uneven level of justice.

Notes

1. For example, on the rise of the Taliban see Maley (1998), Griffin (2001), Rashid (2001) and Coll (2004). On the Taliban generally see Dorransoro (2005), Chayes (2007), Crews and Tarzi (2008), Gius-tozzi (2008), Barfield (2010) and Isby (2010).
2. Since the *Layeha* is published in Pashto, it is not strikingly apparent that the intention of the document was to convey messages solely to Western audiences.
3. For an assessment of the Taliban as an organization, see Sinno (2008).
4. On the post-2001 organization and how the Taliban evolved as an effective insurgent force, see Johnson (2007a) and Sky (2007).
5. For a comparison of actual events pursued by the Taliban and the *Layeha*, see Afghanistan-Pakistan Center (2011).
6. The 2010 *Layeha* was published (and became 'operational') on 9 May 2010. The copy assessed here was recovered by Coalition forces in the Sangin Valley, Helmand. Just how many fighters have a copy of this document on their person in Afghanistan, how many Taliban operators can even read the code, and what implications this manual has for the overall insurgent infrastructure in Afghanistan is difficult, if not impossible, to ascertain. It is pertinent however, to understand what the Taliban leadership is saying and how they are communicating within their own chain of command.
7. Berader was reportedly released by the Pakistanis in Autumn 2010; see Shahzad (2010) and Swami (2010).
8. Territorial disputes, personality and ideological differences, cronyism, corruption and even the presence or allegiance to foreign fighters is causing rifts among some local Taliban fronts. Even among the much-vaunted Haqqani Network of eastern Afghanistan, ideological differences and corruption cause significant cleavages among various cells and commanders. Nevertheless, the extent of these differences and their significance is still open for judgment. For examinations of cleavages among Taliban factions see DuPee (2008), Qureshi (2009), Hotak (2010) and van Bijlert (2010).
9. It is important to note that different analysts translated the Pashto of the 2009 and 2010 *Layeha*, and where discrepancies in the language were found an additional, senior translator was used to assess if fact the translations were accurate. To receive copies of the 2009 and 2010 *Layeha* used in this analysis please contact the authors.
10. This *Layeha* was comprised of 29 rules of conduct.
11. The 2009 document had 13 chapters and 67 rules or laws, code of conduct.
12. Chapter 10, Health Related Issues: The Islamic Emirate Health Commission has its own work plan for carrying out and co-ordinating its activities. Treatment of the mujahedeen will be done according to that work plan. Provincial representatives are bound to obey instructions of the commission in carrying out tasks related to health issues.
13. Chapter 1, Rule number 4 of the 2009 *Layeha* states, 'If a person breaks his ties to the infidels, and the Mujahedeen gives him guarantees for full protection and this person is killed by a Mujahid or harmed in some way, then the person who committed the crime will not be supported by the Islamic Movement, and he will be dealt according to the laws of *Shari'a*'.
14. Literally 'way' or code of the Pashtun; relevant Pashtun codes are: *Melmastia* – the provision of hospitality; *Nenawati* – the provision of sanctuary; *Ghairat* – bravery/courage; *Nang* – honor, esteem. For sources on the Pashtun, generally see Spain (1961, 1962), Caroe (1958), Ahemed (1980) and Glatzer (1998).
15. Taliban beheaded six security personnel following a raid on their checkpoint in the northern province of Baghlan on 21 July 2010. Villager Lal Mohammad was mutilated (ears and nose cut off) in Daikundi for participating in the 2009 elections. For more, see 'Taliban Behead Six Afghan Police', *CNN*, 22 July 2010; 'Taliban behead 11 Shia Afghans', *Press TV*, 26 June 2010; and 'The Man Who had His Ears and Nose Cut Off for Daring to Vote', *Mail Online*, 1 Sept. 2009.
16. 'Commander of the Faithful'.
17. In the 2009 *Layeha*, Mullah Omar is referred to as Imam in the document; Mullah Berader is referred to as Imam's Assistant.
18. The abused children for sexual relationships are referred to widely as *halekon*, *ashna* or *bacha bereeshs*. While recent media efforts have focused on this heinous battlefield ritual, mostly confined to reports of *bacha bauzi* occurring in northern Afghanistan, this practice occurs widely throughout Afghanistan and among Afghanistan's diverse ethnic makeup. For more see Qobil (2010) and Reuters (2007).
19. The New America Foundation claims that the Taliban in Afghanistan and Pakistan have adopted kidnapping as a means of raising capital. Between 2008 and 2009, kidnappings in Pakistan and increased two-and-a-half fold and by 6% in Afghanistan. Although only 10% of kidnappings in Pakistan are

- attributed to the Taliban, the ransoms they receive are between US\$60,000–US\$115,000, significantly more than what other insurgent groups receive in Pakistan. It is unclear how the money is distributed between Pakistan's Taliban network and Afghanistan's *Quetta Shura*. See Collins with Ali (2010, p. 6) and National Counterterrorism Center (2008, p. 30, 2009, p. 21).
20. Both Zabul and Ghazni provinces, hostile insurgent bastions south of Kabul, are prime examples of such activities. For instance, an infamous dispute between two Taliban commanders in the Shah joy district of Zabul erupted after a dispute over territory that each commander wanted to collect taxes from. Similar anecdotes have also occurred in Ghazni, Farah and Badghis provinces to name a few; see Reuter and Yunus (2009), Zabolwal (2009) and Van Biljert (2010, p. 16).
 21. Rules 2, 4, 8 and 9 respectively of the 2009 *Layeha* and rules 2, 6, 7, 10 and 12 of the 2010 *Layeha*.
 22. However, if the culprit is accused of something serious such as murder, the victim's families are usually obliged to fulfill their duty of *Qisas*, a retaliatory form of condoned vigilante justice. International Legal Foundation, *The Customary Laws of Afghanistan*, p. 10 (2004).
 23. Rule 5 of 2010 *Layeha*.
 24. Rule 6 of 2010 *Layeha*.
 25. Rule 7 of 2010 *Layeha*.
 26. The defecting group burned their police post down and left with their weapons, ammunition, food and police truck (Filkins and Sahak 2010).
 27. As Filkins and Sahak (2010) suggest: 'In the decades of war in Afghanistan, armed groups, whether fighting for the government or for someone else, have often changed sides to join the one they believe is winning.' Rule 14 of the 2010 *Layeha* states: 'Those soldiers or police who surrender to the mujahidin or repent will not be killed, and if these soldiers bring some weapons with them or accomplish an achievement, then they should be praised.'
 28. Associated Press, 'Afghanistan: Taliban Attack NATO Fuel Convoy, Killing 3', *New York Times*, 23 Oct. 2010. Available from: <http://www.nytimes.com/2010/10/23/world/asia/23briefs-ATTACK.html> [Accessed October 2010].
 29. See *Warlord, Inc. Extortion and Corruption Along the U.S. Supply Chain in Afghanistan*, Report of the Majority Staff, Rep. John F. Tierney, Chair-Subcommittee on National Security and Foreign Affairs, Committee on Oversight and Government Reform, U.S. House of Representatives, June 2010.
 30. Rule 11 of 2010 *Layeha*.
 31. Rule 19 of 2010 *Layeha*.
 32. Rule 20 of 2010 *Layeha*.
 33. Rule 25 of 2010 *Layeha*.
 34. Rule 26 of 2010 *Layeha*.
 35. Rules 15, 16 and 22 of 2010 *Layeha*. Rule 22 of 2010 *Layeha*.
 36. During the authors' recent research trips to Afghanistan in August/September of 2008, and May–June 2009 and July–September 2010, community leaders, village elders and ordinary citizens confirmed the Taliban's creation of this parallel legal system and its popularity. Interviews with elders suggested that the shadow legal system organization and functions match the 2010 Taliban code of conduct rule on justice exactly. Other analysts have reached similar conclusions: Carter and Clark (2010, pp. 20–22) and Gopal (2010, pp. 7, 13).
 37. Recently obtained information suggests that the Taliban Court might have moved from Zangabad to a location in the Zhari District.
 38. Thomas H. Johnson interviews of Afghan citizenry, Kandahar City, September 2011.
 39. 'Maiwand Report; the Pride of Afghanistan', *Governance, Reconstruction, & Development*, 20 June 2010, and Thomas H. Johnson interviews of Afghan citizenry in Panjwayi, Kandahar, August 2010.
 40. Based on Section 7, 'Internal Issues of the Mujahideen', rule 40 details how the chain of command works for the Taliban military force structure.
 41. The Taliban continue to operate an uneven 'shadow government' structure, which varies widely in its strength given regional differences. For instance, the Taliban shadow government in the Andar and Deh Yak districts of Ghazni province remains robust, as 'the Taliban runs 28 known schools; circulates public statements by leaflets at night; adjudicates land, water-rights and property disputes through religious courts; levies taxes on residents; and punishes Afghans labeled as collaborators' (Chivers 2011).

References

- Afghanistan-Pakistan Center, 2011. *Taliban violations of their code of conduct*. Tampa, United States Central Command, 1 March.

- Ahemed, A., 1980. *Pakhtun economy and society*. London: Routledge and Kegan Paul.
- Barfield, T., 2010. *Afghanistan: a cultural and political history*. Princeton: Princeton University Press.
- Caroe, O. (Sir), 1958. *The Pathans and society*. Oxford: Oxford University Press.
- Carter, S. and Clark, K., 2010. *No shortcut to stability: justice, politics and insurgency in Afghanistan*. Chatham House: The Royal Institute of International Affairs.
- Chayes, S., 2007. *The punishment of the virtue: inside Afghanistan after Taliban*. New York: The Penguin Press.
- Chivers, C.J., 2011. In Eastern Afghanistan, at war with the Taliban's shadowy rule. *The New York Times*, 6 Feb.
- Coll, S., 2004. *Ghost wars: the secret history of the CIA, Afghanistan, and Bin Laden, from the Soviet invasion to September 10, 2001*. London: Penguin Books.
- Collins, C.(with A. Ali), 2010. *Financing the Taliban: tracing the dollars behind the insurgencies in Afghanistan and Pakistan*. Counterterrorism Strategy Initiative Policy Paper. *New America Foundation*, April. Available from: http://newamerica.net/publications/policy/financing_the_taliban [Accessed 31 January 2012].
- Crews, R.D. and Tarzi, A., eds., 2008. *The Taliban and the crisis of Afghanistan*. Harvard: Harvard University Press.
- Griffin, M., 2001. *Reaping the whirlwind: the Taliban movement in Afghanistan*. London and Sterling, VA: Pluto Press.
- Dorransoro, G., 2005. *Revolution unending: Afghanistan, 1979 to the present*. New York: Columbia University Press.
- DuPee, M.C., 2008. Badghis Province: examining the Taliban's Northwestern Campaign. *Culture & Conflict Review*, 2 (4), December. Available from: <http://www.nps.edu/programs/ccs/WebJournal/Article.aspx?ArticleID=23&IssueID=19> [Accessed 31 January 2012].
- DuPree, L., 1980. *Afghanistan*. New York: Princeton University Press.
- Filkins, D. and Sahak, S., 2010. Afghan police unit defects en masse to Taliban side. *New York Times*, 1 Nov. Available from http://www.nytimes.com/2010/11/02/world/asia/02afghan.html?_r=1&ref=dexter_filkins [Accessed November 2010].
- Gebauer, M., 2008. Special forces ratchet up fight against Taliban. *Der Spiegel*, 28 August.
- Giustozzi, A., 2008. *Koran, Kalashnikov and laptop: the Neo-Taliban insurgency in Afghanistan*. New York: Columbia University Press.
- Glatzer, B., 1998. Being Pashtun – being Muslim: concepts of person and war in Afghanistan. In: B. Glatzer, ed. *Essays on South Asian society, culture and politics II*. Berlin: Zentrum Moderner Orient, 83–94.
- Gopal, A., 2010. The battle for Afghanistan: militancy and conflict in Kandahar. Counterterrorism Strategy Initiative Policy Paper, New America Foundation, November. Available from: http://newamerica.net/publications/policy/the_battle_for_afghanistan [Accessed 31 January 2012].
- Hotak, N., 2010. Imam, rebel killed in Zabul. *Pajhwok Afghan News*, 14 Nov.
- Isby, D., 2010. *Afghanistan: a new history of the borderland*. New York: Peagas Books.
- Johnson, T.H., 2007a. On the edge of the big muddy: the Taliban resurgence in Afghanistan. *China and Eurasia Quarterly*, 5 (2), 93–129.
- Johnson, T.H., 2007b. The Taliban Insurgency and an analysis of *Shabnamah* (Night Letters). *Small Wars and Insurgencies*, 18 (3), 317–344.
- Johnson, T.H. and Waheed, A., 2011. Analyzing Taliban *taranas* (chants): an effective Afghan propaganda artifact. *Small Wars and Insurgencies*, 22 (1), 3–31.
- McLuhan, M., 2005. *The medium is the message*. Berkeley, CA: Gingko Press.
- Maley, W., ed., 1998. *Fundamentalism reborn? Afghanistan and the Taliban*. New York: New York University Press.
- Moreau, R., 2009. America's new nightmare. *Newsweek*, 3 Aug.
- Nathan, J., 2008. *Taliban propaganda: winning the war of words?*, Asia report 158 (International Crisis Group). Available from: http://www.crisisgroup.org/~media/Files/asia/south-asia/afghanistan/158_taliban_propaganda__winning_the_war_of_words.pdf [Accessed 31 January 2012].
- Nathan, J., 2009. Reading the Taliban. In: A. Giustozzi, ed. *Decoding the New Taliban*. New York: Columbia University Press, 23–42.
- National Counterterrorism Center, 2008. 2008 Report on Terrorism. 30 April. Available from: www.fbi.gov/stats-services/publications/terror_08.pdf [Accessed 31 January 2012].

- National Counterterrorism Center, 2009. 2009 Report on Terrorism. 30 April. Available from: www.nctc.gov/witsbanner/docs/2009_report_on_terrorism.pdf. http://www.newamerica.net/publications/policy/the_battle_for_afghanistan_zabul_and_uruzgan [Accessed 31 January 2012].
- Qobil, R., 2010. The sexually abused dancing boys of Afghanistan. *BBC World Service*, 7 Sept.; 'The Dancing Boys of Afghanistan', *PBS FRONTLINE TV* documentary, 20 April.
- Qureshi, A., 2009. Commander killed in Taliban infighting. *Pajhwok Afghan News*, 10 March.
- Rashid, A., 2001. *Taliban: militant Islam, oil and fundamentalism in Central Asia*. Yale: Yale University Press.
- Reuter, C. and Yunus, B., 2009. The return of the Taliban in Andar: Ghazni. In: A. Guistoizzi, ed. *Decoding the new Taliban: insight from the Afghan Field*. New York: Columbia University Press, 101–118.
- Reuters, 2007. Afghan boy dancers sexually abused by former warlords. *Reuters*, 18 Nov.
- Sinno, A.H., 2008. *Organization at war in Afghanistan and Beyond*. Ithaca: Cornell University Press.
- Shahzad, S.S., 2010. Pakistan frees Taliban commander. *Asia Times*, 16 Oct. Available from: http://www.atimes.com/atimes/South_Asia/LJ16Df02.html [Accessed November 2010].
- Shirmohammadi, R., 2010. Taliban execute a woman in Badghis. *ToloTV*, 9 August.
- Sky, E., 2007. Increasing ISAF's impact on stability in Afghanistan. *Defense & Security Analysis*, 23 (1), 7–25.
- Spain, J.W., 1961. *The Way of the Pathan, the Pathan borderlands*. Oxford: Oxford University Press.
- Spain, J.W., 1962. *The people of the Kyber. The Pathans of Pakistan*. New York: Praeger, 1962.
- Swami, P., 2010. Taliban deputy chief in high-stakes peace gamble: analysis. *Daily Telegraph*, 20 Oct. Available from: <http://www.telegraph.co.uk/news/worldnews/asia/afghanistan/8076284/Taliban-deputy-chief-in-high-stakes-peace-gamble-analysis.html> [Accessed November 2010]
- van Bijlert, M., 2010. *The battle for Afghanistan. Militancy and conflict in Zabul and Uruzgan*. Counterterrorism Strategy Initiative Policy Paper, New America Foundation, September. Available from: http://www.newamerica.net/publications/policy/the_battle_for_afghanistan_zabul_and_uruzgan [Accessed 31 January 2012].
- Williams, M., 2010. How the British presence in Sangin restored trust in government. *Guardian*, 20 Sept.
- Yousafzai, S. and Moreau, R., 2010. This Mullah Omar show. *Newsweek*, 8 Aug.
- Zabulwal, A.A., 2009. Taliban in Zabul: a witness's account. In: A. Guistoizzi, ed. *Decoding the new Taliban: insight from the Afghan field*. New York: Columbia University Press, 179–189.