



Afghanistan Analysts Network

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# ***The Layha***

## ***Calling the Taleban to Account***

**Appendix 1. The Taleban Codes of Conduct in English**

## A. Translated text of the 2010 Version of the Taleban Code of Conduct

### *The Islamic Emirate of Afghanistan*<sup>1, 2</sup> *Code of Conduct for the Mujahedin*<sup>3</sup>

In the name of God, the compassionate and merciful

Praise be to God and blessings be upon his honoured Prophet. For thus says Blessed and Almighty God:

*O ye who believe! Obey Allah, and obey the messenger and those of you who are in authority; and if ye have a dispute concerning any matter, refer it to Allah and the messenger if ye are (in truth) believers in Allah and the Last Day. That is better and more seemly in the end. (4:58) Hast thou not seen those who pretend that they believe in that which is revealed unto thee and that which was revealed before thee, how they would go for judgment (in their disputes) to false deities when they have been ordered to abjure them? Satan would mislead them far astray. (4:59 'an-Nisa)*<sup>4</sup>

Jihad in the way of Almighty God is such a great worship<sup>5</sup> and a great obligation that fulfilling it will bring dignity and raise up God's testament of faith.<sup>6</sup> Jihad is such a significant instrument that, from its blessings, the 'shamla'<sup>7</sup> of the Muslims, the success and prosperity of the *umma*<sup>8</sup> will rise. Those

communities that have carried out jihad have benefited from sovereignty and liberty and, in contrast, those nations that sheathe their swords in their scabbards and quit the path of jihad have achieved no benefit save for putting the chains of slavery and captivity on their own necks. Now, when the mujahedin, for the sake of promoting the testament of faith, for the sake of their Muslim nation [Afghanistan]<sup>9</sup> and the Islamic *umma* and for the sake of their pride, are giving their holy blood in charity,<sup>10</sup> the need is felt more than ever to have jihadi guidance which, in the light of declared jihadi [principles], will organise and manage jihadi affairs for the mujahedin – for their administration, training, education, rights and moral instruction. In the light of such a Code of Conduct and in the light of its appointed *shari'a* rules, 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. According to divine guidance, responsibilities shall be given to those who have piety, courage and such wisdom that they can carry their responsibilities well and neutralise the plots of the enemy.

With the grace and help of God, the Islamic Emirate's leadership, with the assistance of the leading religious scholars and in consultation with the cadres and in the light of the *shari'a* of the Prophet Muhammad, may peace be upon him, has prepared this Code of Conduct in 14 sections and 85 articles for your attention.

In this second printed version,<sup>11</sup> some necessary materials and details have been added and further clarification and

<sup>1</sup> A scanned image of the 2010 *Layha* was passed onto AAN by an international official. The translation into English is AAN's own.

<sup>2</sup> The Islamic Emirate of Afghanistan was the Taleban's name for Afghanistan and their regime when they were in power from 1994 until 2001; they continue to use it to refer to the movement and to their current administration.

<sup>3</sup> The movement refers to its members as mujahedin – those who perform jihad – and not taleban.

<sup>4</sup> From 'The Women', Chapter 4, of the Qur'an. Text is in Arabic in the original. Translation from Marmaduke Pickthall, *The Meaning of the Glorious Koran*, originally published A. A. Knopf, New York 1930, accessed at <http://www.islamicity.com/quransearch/>.

<sup>5</sup> *Ebadat*.

<sup>6</sup> *Qalimat ullah*.

<sup>7</sup> *Shamla* is the tip of the turban that points upwards. It is a symbol of pride and dignity.

<sup>8</sup> *Umma* means 'the global community of believers'.

<sup>9</sup> [ ] are used to indicate original Pashto or Arabic words in the text or explanations of terms by the translators; ( ) are used for brackets that are in the original text.

<sup>10</sup> *Nazrana*.

<sup>11</sup> This is actually the third version. Earlier versions were published in 2006 and 2009.

explanation of some articles have been provided – after consultation with the aforementioned persons and taking into account the current conditions.

All military and administrative officials and the common mujahedin of the Islamic Emirate are obliged to restrict themselves to [that is, follow] this Code of Conduct in their jihadi affairs and manage their daily jihadi affairs in its light.

In peace<sup>12</sup>

15 Jamada ul-Thani 1431

29 May 2010

8 Jawza 1389<sup>13</sup>

### Explanatory Notes

- i. Where the *Imam* is mentioned in the Code of Conduct, it refers to the esteemed *Amir ul-Mu'minin*,<sup>14</sup> Mullah Muhammad Omar (Mujahed), may God protect him. *Nayeb*<sup>15</sup> refers to his deputy.
  - ii. In the text of the Code of Conduct where the term *ta'zeer*<sup>16</sup> is used, it cannot be understood to refer to getting money [that is, mujahedin or judges cannot impose fines instead of other punishments].
  - iii. If in the text of the Code of Conduct *tazmin*<sup>17</sup> is mentioned, this refers to non-transportable properties or to persons only. It does not refer to cash or transportable goods.
- iv. This Code of Conduct is printed for the second time and has been enforced since 15th Jamada ul-Thani 1431, which is 29 May 2010, which is 8 Jawza 1389. All the Islamic Emirate's officials and mujahedin are obliged to act in accordance with this Code of Conduct.

### Section 1. The surrender of [those from] the opposition and issues concerning inviting<sup>18</sup> them [to leave the government and join the mujahedin]

- 1 Any Muslim can invite enslaved workers and those in authority in the Kabul Administration to stop working with this corrupt government and cut themselves off from it.
- 2 When someone accepts the invitation to leave this corrupt administration or does so because of his own faith, if he is an ordinary man, the [shadow Taleban] district governor shall give him a letter of permission. [But] if he has harmed Muslims, the district governor, in consultation with the provincial governor, shall write a letter and must inform the mujahedin about him. If a mujahed kills or harms him, he will be punished in accordance with Islamic principles.
- 3 Those who have surrendered and are penitent, who when in power [working with the infidels or their enslaved administration] had damaged someone's property or harmed [killed] someone, this person is obliged by God to give the damaged party their due rights. Otherwise he will be guilty. Of course, neither the court nor anyone else can forcefully get this compensation from him and neither shall he be forcibly punished. And if a person who has surrendered, who when in power had looted the property of the people and still possesses it, the real owners of this property can take it back. If he no longer has the

<sup>12</sup> The Arabic phrase, *wa salaam*, is used here.

<sup>13</sup> The three dates given are according to, in order, the Islamic lunar calendar, the Western solar calendar and the Afghan solar Islamic calendar.

<sup>14</sup> *Commander of the Faithful* was Mullah Omar's official title during the Islamic Emirate (among Afghans, it is a title historically reserved for the very first Islamic rulers). In the Code of Conduct, Mullah Omar is usually referred to as the 'Imam'. Among Sunni Muslim Afghans, this term would normally be used in reference to the cleric who leads congregational prayers, and also for notable Islamic scholars in classical Islamic history, eg Imam Hanafi and Imam Hanbali.

<sup>15</sup> Deputy or second in command.

<sup>16</sup> *Ta'zeer* punishments are those not fixed by divine law; those that are fixed (*hudoos*) are restricted to crimes such as murder, adultery and blasphemy.

<sup>17</sup> *Tazmin* is a surety or bail.

<sup>18</sup> The word used for invite is *dawat* which has an every day meaning in Dari, Pashto and Arabic. It can also have an Islamic resonance as it is used for inviting people to the faith.

property, compensation cannot be obtained by force. Of course, if, when he was in power or before he was in power, he borrowed something or bought or sold something with someone who had agreed [to that transaction], the debt is still owed and the other person can ask for it. If the court asks about these issues, the person who surrendered must present himself to the court. Of course, if a group of thieves or a tribe has attacked another tribe, village, house, shop or vehicle or anything else and killed or stolen property, in this case, appearance in court and compensation is mandatory. For references, see book of *Hadith (Al-Hedaya)* vol. 2, p.340 and vol. 5, p.340 and vol. 2, 284).

- 4 For those who have broken their promises and loyalty after having been invited over and accepted and who have clearly betrayed [the Emirate], the agreement [between the parties] is cancelled. If a person surrenders and repents a second time and the mujahedin are not sure about his loyalties, they shall take a surety.
- 5 If someone from the current corrupt administration is accused of killing Muslims, and the Muslims hate him and he has left the ranks of the opposition [that is, the Afghan government], then the mujahedin shall take a guarantee, so that he will not harm anyone [in the future] or return to the ranks of the opposition. Such a person can continue to lead a normal life. In addition, the district officials,<sup>19</sup> to make certain, shall keep an eye on him. If after the completion of an important task, such as killing a foreign occupier or a high-ranking government official or preparing the ground for capturing them, he shall be introduced to the leadership [for commendation] so that he can receive more privileges that are significant.
- 6 Anyone who has left the puppet administration and surrenders to the mujahedin, for the mujahedin's own good, they must not put him in their ranks until they trust him. After trusting him fully, they shall obtain permission from the provincial authority before they allow him to fight alongside them.
- 7 It is not allowed to intend to kill an armed opposition soldier who has become separated from his comrades and has come to you in a place where he cannot defend himself, unless you are fully sure that he is not really surrendering, but intends to attack and trick you.
- 8 If a person from the opposition asks the mujahedin to serve them while staying on in the opposition front [that is, while still apparently with the government], on the condition that you or your group of mujahedin will not harm him, if you have such a relationship, you are permitted to give the person a secret security [guarantee]. This will not be a public guarantee and if there were to be such a relationship, the mujahed must obtain permission from the district officials and the district officials must ask permission from the provincial governor. Apart from the person and the group [that has provided the secret security for the person], any other mujahed who might kill him or give him trouble will not be held responsible [if they kill or harm him] because the person was given a secret guarantee.

## Section 2. Concerning prisoners

- 9 When an enemy – whether foreign or national – is captured, he shall be immediately handed over to a provincial official; after that, the provincial governor has the authority to decide whether he wants to keep him with the mujahedin [who captured him] or give him to others.
- 10 If a soldier, policeman or other official of the enslaved government is captured, the provincial governor must decide whether to conduct an exchange of prisoners,

<sup>19</sup> *Ulaswalai masulin.*

either as a goodwill gesture or for a strong guarantee. Releasing him for money is forbidden. Only the Imam, Nayeb, or provincial judge has the authority to punish or order the execution of a prisoner. No one else is authorized [to do this]. In a province where no provincial judge has been appointed, the judgement for execution and punishment shall be given to the provincial governor.

- 11 If contractors who provide oil or other materials or construct military bases for the puppet administration and foreign infidels, the low- or high-ranking officials of private security companies, translators for the infidels or the drivers procuring [these materials] for the infidels, are arrested and if they are proven guilty of any of the aforementioned activities by the provincial judge, he shall order them to be executed. Of course, where no judge has been appointed in a province, then the evidence and decision to execute shall be given to the provincial governor.
- 12 If an infidel fighter is captured, the decision to execute him, exchange him for prisoners or release him as a matter of expediency or – for the sake of Muslim’s needs – for money shall lie with the Imam or Nayeb. No one else has the right to decide. If a captive converts to Islam, then the Imam or Nayeb is allowed to exchange him, provided there is no risk of him reverting to being an infidel.
- 13 If the mujahedin capture an enemy prisoner and have not yet transferred him to their base and they face danger and cannot transfer him to a safe place, if the prisoner is a member of the opposition [that is, with the government] and was captured during fighting, or if he is a high-ranking official,<sup>20</sup> the mujahedin who are present are permitted to kill him. If this is not the case, if the prisoner is only suspected [of these things] or [his identity] is not known, or [the case against him] is not proven or if he has

been captured because of a legal issue,<sup>21</sup> executing him is not legitimate – even if he has to be left behind.

- 14 Soldiers or police who have surrendered to the mujahedin and are repentant shall not be executed. Of course, if they have brought weapons or carry out a similar heroic act, the mujahedin shall commend<sup>22</sup> them further.
- 15 Captives shall not be tortured, whether with hunger, thirst, cold or heat, even if they deserve execution. Rather, whatever verdict has been decided, according to *shari’a* law, shall be implemented.
- 16 Other than the Imam, Nayeb, or the provincial judge, no one has the right to deliver a verdict. If the district judge sentences someone to death, the permission of the provincial judge must be obtained. Of course, if in some provinces, no provincial judge has been appointed, the authority to execute or deliver a verdict out shall be handed over to the provincial governor.

### Section 3. Concerning spies

- 17 If evidence proves that a person is a spy during the current situation [that is, a time of jihad], he shall be known as ‘the one who strives to disseminate evil’.<sup>23</sup> The provincial or district judge or, in the absence of a judge the provincial official, has the authority to issue a verdict. The authority to execute a spy lies with the Imam, his Nayeb or the provincial judge, or if no judge has been appointed, it lies with the authority of the provincial governor. No one else has the authority to order an execution.
- 18 Whenever a person is known to be attempting to spread evil, proving it in the following four ways is required:

<sup>21</sup> This appears to refer to someone who has been arrested as part of a judicial case, rather than relating to the conflict.

<sup>22</sup> Literally ‘spoil’.

<sup>23</sup> *Sayi’ bi’l-fisad*, a religious term dating back to early Islam used to describe spies and fifth columnists.

<sup>20</sup> Literally ‘authority’.

First, he speaks voluntarily and without force and confesses to the espionage.

Second, two witnesses whose testimony can be trusted by the judge provide statements.

Third, indications [evidence] led to the suspicion, such as special espionage equipment whose purpose is spying, or other evidence.

Of course, not all evidence is clear cut. In the presence of the court, the judge must examine the evidence. If there is no court, expert scholars or wise men or pious officials shall weigh the strength and weakness of the evidence. If the evidence is weak, then the sentence should be reduced. If the evidence is strong, then the sentence must be harsh. If the evidence is so clear cut that they are fully convinced that the suspect is a spy and the Imam, his Nayeb or [provincial] judge considers an execution is necessary, then they can execute him.

Fourth, a note on the just man: He is one who is fair, is not prejudiced, protects himself from the major sins and is not continually committing the minor sins.

- 19 Getting confession by force – meaning by beating, threats or abuse – has no credibility and neither can it be used to prove a crime. The interrogator shall be pious and wise in order to avoid forced confessions because, in *shari'a*, confessions made by force are unsafe and not credible. Mujahedin must [also] not promise anything to the prisoner in return for a confession that they do not intend to fulfil.

Likewise, the testimony of a spy [accusing others or claiming to be a witness to others' spying] is insufficient [to convict others]. In this case, as per Article 18, the four methods [of proving guilt] are applicable and in the light of these methods, a judgement shall be reached.

- 20 If someone is accused of spying and his crimes have not been proved in

accordance with *shari'a* principles, but the mujahedin remain concerned about him and suspicious of him, the district governor, in consultation with experienced and expert persons, shall expel the suspected spy to a place where he is no longer a danger. Or they will get such a strong guarantee – meaning that reliable local people and his relatives provide a surety or non-transportable properties – so that if the suspected person carries out espionage or other destructive actions and escapes from the region and does not present himself, his properties can be seized so that he can no longer use them.

- 21 If a criminal deserves to be executed according to *shari'a*, his execution – whether he is a spy or another criminal – shall be carried out by shooting. Filming or taking photographs of his execution is forbidden.
- 22 The death of a human being has many *shari'a* laws attached to it. Therefore, if the mujahedin execute a condemned person in a way that his relatives are not informed, they must inform his relatives, in any way that they consider appropriate, of the date on which they executed that condemned person.

#### **Section 4. Concerning those who provide logistical support or [carry out] construction for the enemy**

- 23 The burning of private vehicles used to transport supplies to the infidels or provide other services is legitimate. Releasing vehicles for money or using them is forbidden.
- 24 Drivers who transport supplies for the infidels – during that transportation and if the mujahedin are well-informed that they are transporting [supplies] for the infidels or their enslaved administration – shall be killed and their vehicles burned, or if they are captured and it is proved to the judge that they undertook such activities, they shall be executed. If there is no judge in a province, then the

evidence and authority to deliver a death sentence shall be handed over to the provincial governor.

- 25 Contractors who are known for certain to build bases or transport fuel or other materials for the infidels or their puppet administration, the mujahedin shall burn their equipment [vehicles] and kill them. If they are taken alive and it is proved to the judge that they have committed these crimes, they shall be sentenced to death. If there is no judge in a province, then the evidence and authority to deliver a death sentence shall be handed over to the provincial governor.
- 26 If it is known for certain that a contractor provides labour or other workers or supervises their work for the enemy, he shall be executed.

### Section 5. Concerning booty

- 27 Booty is the property of infidels seized during battle. In Afghanistan, the law orders that one-fifth of the booty be given to the provincial official and, according to the leadership, he will be paid this as *khoms*.<sup>24</sup> [The remaining] four-fifths [of the booty] shall be given to those mujahedin who were on the frontline, and those who were sent by their leader<sup>25</sup> to ambush or provide information for the fight and to those who were sent anywhere else for any good reason, so long as they are able to fulfil the following two conditions:

First, they should have been very close to the area of operations so that their support could have been requested and if it had been requested, they could have gone there and helped.

Second, they had the intention to take part in the operation, they were prepared for it and were in communication with the mujahedin fighters. For example, the commander had deployed mujahedin

near the battle, so that if a need arose, he could ask them to participate. If one of these two conditions is not fulfilled, they cannot be considered partners in sharing the booty.

- 28 Before the fight, mujahedin commanders shall write down the names and identities of the mujahedin so that during the sharing of the booty, or if the mujahedin are captured or are martyred or for anything else that is necessary, the information will be available.
- 29 If the mujahedin fight the infidels in a village and the villagers take part in the fight, they shall share the booty. If they do not take part, they cannot share the booty.
- 30 If a mujahed is martyred before the end of the fight, he does not get shares in the booty. Of course it is important for his comrades out of sympathy to give him a share. But if he has been killed on the battlefield or after the fighting, he will get a share of the booty.<sup>26</sup> His share should be given to his heirs.
- 31 If money or belongings are seized from the foreign invaders at the end of the battle, this is booty. If it is seized without fighting, it is known as *fei* and *beit ul-mal* [public property].<sup>27</sup>
- 32 The leadership can permit the property of the enslaved administration that is seized by the mujahedin during a fight to be shared as booty. If it is seized without fighting, it becomes public property and will be spent on the needs of the mujahedin.
- 33 Money that has been withdrawn from the public treasury [bank] and is in the hands of the cashier and has not been distributed to labourers and civil servants, if seized during fighting, shall be distributed as booty. If it is not seized during fighting, it is public property. If the

<sup>24</sup> A term used in Islamic law for giving 20% of the spoils of war and, in some schools, a more general 20% tax.

<sup>25</sup> *Amir*.

<sup>26</sup> The original Pashto is unclear.

<sup>27</sup> *Fei* and *beit ul-mal* are both Arabic terms used in Islamic law to mean public property.

money has already been distributed to the labourers and civil servants, they own it. The Imam, judge or provincial official can punish them, but cannot seize the money. Those working with NGOs also come under this rule.

### Section 6. Concerning Organisational Structures<sup>28</sup>

- 34 Provincial officials are obliged to establish a commission at the provincial level with no fewer than five members, all of whom should be competent. This commission, with the agreement of the provincial official, should also establish similar commissions at the district level. The majority of the members of the district commissions and at least three members of the provincial commission should [normally] be present in the area where they work. Members of both commissions should be chosen from individuals who will not have any pretexts for not working in their areas.
- 35 A district governor should be appointed in any district where the mujahedin of the Islamic Emirate have prominent and visible activities. The district governor, with the agreement of his senior officials, shall then appoint a deputy to look after the people's affairs, [someone] who is not too busy with military matters. The deputy, to some extent, should have experience in dealing with the affairs of the people and must have a good manner in dealing with the public and be easily accessible to the people.
- 36 The creation of new groups and sub-groups is forbidden except in emergency circumstances and must be requested by a provincial official, agreed to by the head of the zone,<sup>29</sup> and approved by the leadership. The [provincial] governor shall combine unofficial and unregistered groups with official and larger groups. If

<sup>28</sup> *Tashkil* (plural, *tashkilat*) is the designated structure of an institution, such as the police, army or a ministry, including ranks and hierarchies and may also include the numbers of personnel.

<sup>29</sup> *Tanzim rais*.

these unofficial groups do not obey, they shall be disarmed.

- 37 The leadership shall appoint the spokesmen for the Islamic Emirate at the request of the relevant administration. They represent the whole Islamic Emirate. No one has the right to talk to the media as a representative of a group, unit or as individuals. Following this principle will avoid disunity and chaos.
- 38 The officials of each province shall establish a *shari'a*-based court at the provincial level that shall have one judge and two knowledgeable ulema. The court shall address the cases province wide that other ulema and officials have not been able to resolve in the districts and villages. The provincial governor shall introduce the judge and other members [of the court] to the leadership to be approved.
- 39 In terms of the organisational structure of the province, the head of the zone, in consultation with the governor and the governor in consultation with the district governors, can bring changes. If the governor and district governor do not agree with these changes, then the matter shall be referred to the head of the zone. If the governor and the head of the zone do not agree with each other, then the issue shall be sent to the leadership. Provincial commissions can change the district governors after complete research and investigation and with the permission of the provincial official and the head of the zone.

### Section 7. Internal issues for the mujahedin

- 40 The mujahedin must obey their group leader; group leaders must obey their district leaders; district leaders must obey the senior provincial officials; senior provincial officials must obey their head of the zone; heads of the zones must obey the Imam and his Nayeb. This is a religious duty<sup>30</sup> if [the order] is in accordance with *shari'a*.

<sup>30</sup> *Wajeb*.



- 41 Persons who are given responsibilities shall have the following characteristics: wisdom, piety,<sup>31</sup> courage, mercy and generosity. If not all criteria are found [in a person], wisdom and piety are necessary.
- 42 The military commission for developing military affairs is responsible for planning, taking into account mujahedin strength, geographic locations, using successful techniques and experience and getting plans to the mujahedin. If enemy pressures mount on the mujahedin in a province, the commission must prepare plans for mujahedin in the neighbouring and other provinces to demolish the power of the enemy and reduce his pressure on the specific area that is coming under pressure [in the other] province. It must submit the plan to the leadership for consultation and approval and implement the plan thereafter in the target provinces.
- 43 The military commission shall keep itself informed of the situation of all mujahedin in the different provinces and identify those mujahedin who are working well and shall introduce them to the leadership for further support and praise.
- 44 As the members of the military commission are all commanders, coming together at all times would be difficult, so any number of the members could come together at the necessary time [for a meeting] to go ahead. Or, the head of the commission shall manage to deal and continue with those members who are available, to avoid any possible setbacks and obstacles (in the way of progress).
- 45 The military commission will continuously ask for clarifications from the provincial officials and will also encourage the mujahedin to better develop [their] military affairs and, in support of this process, the commission will every now and then send representatives to collect reports from the provinces.
- 46 To solve the people's issues and legal issues, Article 62 of this Code shall be applied. But if issues arise between the people and the mujahedin or among the mujahedin, these issues shall be resolved by the district or the provincial commissions and the district commission should get the agreement of the district governor or his deputy and the provincial commission should get the agreement of the provincial governor. They should listen to the claims of the different sides and if they cannot resolve the issue then it should be taken to the military commission to seek a peaceful solution. If the issue is still not resolved, then it will be taken to the leadership. The leadership will resolve the issue through the relevant parts of the administration or through *ulema*. Whichever commission decides on the matter, the decision shall be announced in the presence of both sides.
- 47 The provincial and district commissions, in addition to their other work, will also monitor, so that bad people do not get into the mujahedin fronts, and if they see such people, they shall report them to the governor. If internal differences exist between the mujahedin or between the people and the mujahedin, they [the commissions] will try to resolve such problems. They will also monitor the implementation of all the decrees of the Islamic Emirate and the Code of Conduct and ensure that [failing mujahedin] pay heed to the Code and are reformed. Those who do not reform will be introduced to the governor.
- 48 If a member of the military, provincial or district commissions or close friend or comrade<sup>32</sup> of theirs is involved in a dispute with the common people or other mujahedin and the authority to resolve the conflict is given to the commission, when it comes to the sessions that are addressing and resolving this dispute, the person who is partial to one side of the case shall not participate in the session.

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<sup>31</sup> *Taqwa*.

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<sup>32</sup> *Andiwal*.

- 49 The provincial commission is obliged to structure the membership in such a way that every month in that province, they give mujahedin who are based in the houses and rooms [of bases] guidance on obedience, piety and morals; they will also monitor their attitudes.
- 50 If someone in the mujahedin ranks commits a crime or repeatedly violates the Code of Conduct and the group commander or district official decides to remove him because he has committed a crime, then the issue shall be referred to the provincial commission. After an in-depth investigation, if the sentence is expulsion then the commission, in agreement with the provincial governor, will make the decision. No one will be allowed to arm or bring the expelled person back again. If the person repents, the provincial commission, with the agreement of the governor, will re-assign him. If the person was a unit leader, district governor or deputy district governor, then the issue will be referred through the governor or provincial council to the military commission. The military commission is authorized to try to reform him, invite him [to reform] and advise or punish him, and if he does not reform, then he shall be introduced to the leadership for disarmament or dismissal. If he repents, the approval of the governor and military commission [to bring him back] is required.
- 51 The provincial official at the provincial level and the district governor, according to the conditions in each area at an appropriate time, will consult on conducting good operations and outcomes, losses and other activities, to prepare better plans for future successes and to save the mujahedin from losses.
- 52 If the leader of a group in a province or a district wants to move to another district or province to perform jihad for a while, this is allowed, but he can do so only with the permission of the senior provincial and district officials. The leader of the
- chosen district or province is considered to be his leader and he must obey him.
- 53 If a governor or other senior official who had an active group in the past in a different province introduces his mujahedin to the current official of a province to follow the orders of the current provincial governor, they should follow the governor's orders when carrying out their duties, and logistics shall be provided by the officials of that province, just as with the other mujahedin of the province. According to the Islamic Emirate's designated organisational structure,<sup>33</sup> setting up (a new) *mahaaz*<sup>34</sup> is forbidden and will not be part of the Emirate's structure.
- 54 If the commander of a group of mujahedin from one province wants to help the mujahedin of another province and wants to remain there afterwards, officials of the new province will not give him a permanent place or let him accompany them until they have received complete information, assurances and agreement about him from his previous province. He should also be asked why he left the previous province and came to the current one. If the reasons were in line with *shari'a*, then he shall be accepted.
- 55 A group leader is not allowed to recruit members from another group to increase the size of his group. Of course, if a mujahed wants to join another group, he can do so, but any equipment that the group leader gave him for the cause of jihad shall be returned to that group leader. If the mujahed has received booty and it [is something which] is owned jointly, it must stay with the group; if it has been approved that the booty is not shared, he can keep it.
- 56 Those fighter mujahedin who enter as a group into an enemy's base to target the

<sup>33</sup> *Tashkil* (see FN 33 for definition).

<sup>34</sup> A *mahaaz* is a large, semi-autonomous, military grouping.

enemy shall remember a number of issues:

- 1 They should be well trained, and everyone must [be able to] identify their targets well.
  - 2 They should be fully supported and equipped so they can inflict severe damage on the enemy.
  - 3 Before any attack, they or their commanding officers must have complete information about the area and must identify the way towards the target.
- 57 Concerning martyrdom operations, the following four points must be observed:
- 1 The martyr mujahed shall be well trained before the attack.
  - 2 Martyrdom operations shall take place against important and major targets. The Islamic nation's sacrificing heroes shall not be used against minor and valueless targets.
  - 3 In carrying out martyrdom operations, take great efforts to avoid casualties among the common people.
  - 4 Except those who have been given permission and a private programme by the leadership, mujahedin are obliged to get their orders from the provincial officials to carry out martyrdom operations.
- 58 To make further improvements in their activities, the general commissions of the Islamic Emirate need to have consultative sessions from time to time.

### Section 8. Education

- 59 All the activities regarding education, within the designated organisation structure<sup>35</sup> of the Islamic Emirate shall be according to the principles and guidance of the Education Commission. Provincial and district officials carrying out their

educational affairs shall follow the policy of the commission.<sup>36</sup>

### Section 9. The control and arrangement of the affairs of [private] companies and [non-governmental] organisations

- 60 Concerning the affairs of organisations [NGOs] and [private] companies, provincial officials shall follow the guidance of the Commission for the Arrangement and Control of Companies and Organisations. Of course, if a disagreement arises while provincial officials and the Commission are consulting each other about something, the Commission shall request the guidance of the leadership. The provincial, district and group officials and the representatives of the Organisations and Companies Commission in their respective provinces do not have the right to make their own decisions about the affairs of organisations [NGOs] and [private] companies.<sup>37</sup>

### Section 10. Health

- 61 The Health Commission of the Islamic Emirate, in order to manage its affairs has a special procedure for the treatment of mujahedin that shall take place. Concerning health, the provincial officials are obliged to follow the principles of the Commission and the relevant authorities shall ensure that its instructions are followed.<sup>38</sup>

### Section 11. Issues concerning the people

- 62 If local residents with legal or other disputes come to the mujahedin and hand in petitions, group commanders do not have the right to intervene in the people's issues. Only provincial officials, district governors and their deputies can consider petitions concerning a dispute and must then seek the help of relevant bodies and a legitimate *jirga* to resolve the dispute in

<sup>35</sup> *Tashkil* (see FN 33 for definition).

<sup>36</sup> Note: The Emirate policy on education is not specified.

<sup>37</sup> Note: The policy on NGOs or private companies is not specified.

<sup>38</sup> Note: The policy on health is not specified.

a way that is not in conflict with holy *shari'a*. If the peace jirga can not solve the dispute, then it should be referred to a court, if it exists. If there is no court, the decision should be made according to the views of prominent *ulema*.

- 63 The renewal and reviewing of cases that were resolved correctly during the rule of the Islamic Emirate of Afghanistan is forbidden. This is the case even if one side is not satisfied with the verdict, because more justice was possible then than now.
- 64 Mujahedin commanders and individuals are not allowed to intervene in public disputes. They are not allowed to recommend anyone to a judge, or go to court with them. They cannot take sides in any dispute.
- 65 Provincial, district, group officials and all mujahedin with all their power must be careful with regard to the lives of the common people<sup>39</sup> and their property, such as cars. Those who do not take care of the lives and property of the common people shall be held responsible and, taking into account their prestige [rank], will be punished accordingly.
- 66 If an official or an ordinary person in the name of the mujahedin harms the common people, his senior officer is responsible for correcting him. If he does not reform himself, the provincial officials shall introduce him to the leadership. The leadership will punish him accordingly or expel him from the mujahedin's ranks.

### Section 12. Concerning prohibitions

- 67 As a vigorous process for collecting weapons [disarmament] existed from the beginning of the movement up until now, that process will no longer take place and people's weapons shall not be collected under the name of disarmament or public property.

- 68 According to the previous order, mujahedin shall fiercely avoid smoking cigarettes.
- 69 Youngsters (whose beards are not visible because of their age) are not allowed to be kept by mujahedin in residential or military centres.
- 70 According to *shari'a*, cutting off someone's nose, ears or lips is fiercely forbidden. Mujahedin are fiercely forbidden from such actions. Mujahedin shall fiercely forbid such actions.
- 71 The mujahedin of the Islamic Emirate shall not collect *ushr*, *zakaat* or donations from people by force and if they gain money by collecting *ushr* and *zakaat*, they shall spend it on their lawful<sup>40</sup> needs.
- 72 Mujahedin shall not search people's houses and if the need to search a house is urgent, they shall obtain the permission of the district official and take the Imam of the mosque and two elders of the area with them.
- 73 Kidnapping of people for ransom, under any pretext, is forbidden and the relevant local official must prevent it. If anyone does this in the name of the Islamic Emirate, the provincial official, with the approval of the leadership, shall disarm and punish him severely.

### Section 13. Recommendations

- 74 Every group leader is obliged to dedicate different times for the jihadi training of their group members and their education in religion and morality. Except during times of fighting and emergency, they shall not give up education.
- 75 If no danger exists, the mujahedin shall pray together in a mosque, and if praying in a mosque is difficult, they shall pray together where they are. They shall pay special attention to the recitation and remembrance [of the Qur'an] through which confidence and strength will come to their hearts.

<sup>39</sup> *Aam khalq*.

<sup>40</sup> *Shari'a*.

- 76 Mujahedin shall redirect their power of thinking to military matters. They shall protect themselves from local disputes and protect themselves from public issues. Looking into disputes is a waste of time and can also create suspicion and differences between the mujahedin and the people. If significant issues arise, then Article 62 [of this Code] shall be applied.
- 77 All staff of the Islamic Emirate shall try their best to encourage the duped opposition to surrender and lay down their weapons. On one hand, this will weaken the ranks of the enemy; on the other, the traps<sup>41</sup> laid by Afghans,<sup>42</sup> will be reduced and, in some cases, mujahedin will receive guns and ammunition.
- 78 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.
- 79 Mujahedin shall protect themselves completely from any tribal, linguistic, and regional prejudice. It has been narrated by Hazrat Abu Hurairah<sup>43</sup> that<sup>44</sup>: if someone fights under an unknown flag and has not understood or has become angry for tribal reasons or encourages tribalism or helps someone for tribal reasons, if he dies, he will be dead in ignorance,<sup>45</sup> as if he had not been a Muslim.
- 80 Senior officials shall go through the accounts for jihadi equipment and the

financial expenses of junior officials, from time to time.

- 81 Mujahedin shall, within a *shari'a* framework, match their appearance, such as their hair, clothes, boots and other things, to the people of an area. On the one hand, this will help the mujahedin and the people in the area with security and on the other they will be able to move around easily.

#### **Section 14. Recommendations with regards to this Code**

- 82 Any changes in the articles of this Code shall [only] come from the Islamic Emirate's highest authority and leadership council of the Islamic Emirate. If anyone else tries to change any article of it, or act against it, whatever his excuse, it will not be acceptable.
- 83 The central military commission and the provincial and district commissions have the responsibility to deliver this and other Codes to the mujahedin and to follow up on their implementation.
- 84 If an issue comes up that has not been discussed in the Code, it shall be resolved by discussion between the mujahedin and district officials. Of course, if it is still not resolved, it shall be referred to provincial officials and if it is still not resolved, the head of the zone shall be asked to make a decision; if the matter is still not resolved, the head of the zone shall ask the leadership to decide on the matter.
- 85 Operating according to the mentioned articles is recommended and necessary, and if anyone abuses them, they shall be prosecuted according to the principles of Islam.

Success comes from God.<sup>46</sup>

#### **[on back cover]**

Respectable mujahed brothers

<sup>41</sup> A *khand* is a hole or pit dug in the path of one's enemy in the hope he will fall into it.

<sup>42</sup> Literally *dakhili* or 'internal' people.

<sup>43</sup> A companion of the Prophet Muhammad and one of the most important narrators of *hadith*.

<sup>44</sup> The original text is first in Arabic and then translated into Pashto.

<sup>45</sup> *Jahil* or 'ignorant of divine guidance' is the term used to describe the Arabs of the Arabian peninsula before the revelation of the Qu'ran.

<sup>46</sup> In the original text, the phrase is in Arabic: *Wa min Allah al-tawfeeq*.

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

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

## B. Translated text of the 2009 Version of the Taleban Code of Conduct

### Islamic Emirate of Afghanistan Secretariat<sup>47</sup>

#### Code of Conduct for Mujahedin

In the name of God, the compassionate and merciful

*O ye who believe! Obey God, and obey the messenger and those of you who are in authority; and if ye have a dispute concerning any matter, refer it to God and the messenger if ye are (in truth) believers in God and the Last Day. That is better and more seemly in the end. (4:59 'an-Nisa)*<sup>48</sup>

Jihad in the way of God is a religious duty for each Muslim. By participating in jihad we elevate the status of the *umma*<sup>49</sup> and celebrate the glory of God. Jihad brings dignity and prosperity to Muslim nations. Nations who participated in jihad have achieved freedom and independence. In contrast, nations who abandoned the path of jihad and martyrdom have been subjugated in slavery and humiliation.

In the current situation [that is, a time of jihad] when mujahedin are sacrificing their lives for the glory of their Muslim nation [that is, Afghanistan] and the Islamic *umma*, there is a need for comprehensive guidance, enabling [the mujahedin] to get rid of doubts

and properly identify their goals in the light of *shari'a* law, and to make appropriate decisions.

Following extensive consultations with religious scholars and prominent personalities, and under the guidance of *shari'a*, the Islamic Emirate has adopted the following rules, in 13 sections and 67 articles.

#### Notes<sup>50</sup>

- i. In this book, *Imam* refers to *Amir ul-Mu'minin*<sup>51</sup> Mullah Mohammad Omar, and *Nayeb*<sup>52</sup> refers to [Mullah Omar's] deputy.
- ii. The term disciplinary punishment<sup>53</sup> mentioned in this book does not include cash payment.
- iii. The authority to decide on capital punishment rests with the Imam and his *Nayeb* only.
- iv. The term *bail*<sup>54</sup> refers to people, not to cash or private property.<sup>55</sup>
- v. Published on 9 May, 2009, this Code nullifies all previously published codes. All mujahedin of the Islamic Emirate are obliged to observe and implement the new Code.

<sup>47</sup> The Taleban published a Pashto text and their own English translation on 6 August 2009 on their *Shahamat* website; the link to this posting is no longer accessible. An AAN member saved the English version at the time. However, it was a poor translation, leaving out details and conflating some articles. AAN has re-translated the 2009 *Layha*, using the original Pashto text, passed on as a Word file by an Afghan researcher on the Taleban. Two sections – Notes and Section 2 Concerning Prisoners – was missing from this Pashto text. Where this is the case, the Taleban's own English translation has been used. The very last section of the Code, the advice on the back cover, has been translated from a picture of the outer covers of the booklet, accessed at, 'Key quotes from new Taliban book' al-Jazeera website 27 July 2009. <http://english.aljazeera.net/news/asia/2009/07/200972775236982270.html>

<sup>48</sup> From 'The Women', Chapter 4, of the Qur'an. From Pickthall, *The Meaning of the Glorious Koran* (see FN 4).

<sup>49</sup> See FN 8.

<sup>50</sup> These five explanatory notes (i–v) were in the Taleban's 6 August 2009 English version of the Code, but were not present in the Pashto version of the Code seen by AAN. This is the Taleban's own translation. Any English language errors are in the original.

<sup>51</sup> Commander of the Faithful (see FN 14).

<sup>52</sup> Deputy or second in command.

<sup>53</sup> *Ta'zeer* (see FN 16).

<sup>54</sup> The Taleban's own translation of this note uses the term 'bail out', rather than 'bail'.

<sup>55</sup> *Tazmin* (see FN 17).

### Section 1. Security

- 1 Any Muslim can invite enslaved workers and those in authority from the Kabul Administration to stop working with this corrupt government and cut themselves off from it. When someone accepts the invitation to leave this corrupt administration or does so because of his own faith, if he is an ordinary person, it is possible for the district governor or the provincial official to give him a security guarantee; if he is a well-known person or if he has harmed Muslims, only with the provincial official's permission can he be given a security guarantee.
- 2 Those who have surrendered and are penitent, who when in power [working with the infidels or their enslaved administration] had damaged someone's property or harmed [killed] someone, this person is obliged by God to give the damaged party their due rights. Otherwise he will be guilty. Of course, neither the court nor anyone else can forcefully get this compensation from him and neither shall he be forcibly punished. And if a person who has surrendered, who when in power had looted the property of the people and still possesses it, the real owners of these property can take it back. If he no longer has the property, compensation cannot be obtained by force. Of course, if when he was in power or before he was in power, he borrowed something or bought or sold something from someone who had agreed [to that transaction], the debt is still owed and the other person can ask for it. If the court asks about these issues, the person who surrendered must present himself to the court.
- 3 For those who have broken their promises and loyalty after having been invited over and accepted and who have clearly betrayed [the Emirate], the agreement [between the parties] is cancelled. If he surrenders and repents a second time and the mujahedin are not sure about his loyalties, they shall take a surety.
- 4 If a mujahed kills or harms a person who has been offered protection for severing ties with the government and the invaders, the perpetrator will be dealt with in accordance with Islamic principles.
- 5 If someone from the current corrupt administration is accused of killing Muslims, and the Muslims hate him and he has left the ranks of the opposition, then the mujahedin shall take a guarantee so that he will not harm anyone [in the future] or return to opposition ranks. Such a person can continue a normal life. In addition, the district officials,<sup>56</sup> to make sure, shall keep an eye on him. After the completion of an important task, such as killing a foreign occupier or a high-ranking governmental official or preparing the ground for capturing them or bringing guns to the mujahedin, he shall be introduced to the leadership [for commendation] so that he can get more significant privileges.
- 6 If a person from the opposition asks the mujahedin to serve them while he stays on in the opposition front [that is, while he is still apparently with the government] on the condition that you or your group of mujahedin will not harm him, if you have such a relationship, there is permission to give the person a secret security [guarantee]. This will not be a public guarantee and if there were to be such a relationship, the mujahed must obtain permission from the districts officials and the districts officials must ask permission from the provincial governor. Apart from the person and the group [which has provided the secret security for the person], any other mujahed who might kill him or give him trouble will not be held responsible [if they kill or harm him] because the person was given a secret guarantee.

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<sup>56</sup> *Ulaswalai masulin.*



**Section 2. Concerning prisoners<sup>57</sup>**

- 7 All prisoners, Afghan and foreign, must be handed over to the governor's office immediately; the governor then decides to keep or to transfer them to another unit. Provincial governors are responsible for the sentencing and exchange of prisoners.
- 8 The provincial governor has the authority to sentence, exchange and set free arrested officials, soldiers, contractors and others working for the government. It is strictly forbidden to free prisoners in exchange for money. Only the Imam and his Nayeb have the authority to sentence to death. The sentencing and exchange of high ranking prisoners such as district administrators, governors, commanders, and foreign Muslims also rests within the authority of the Imam and his Nayeb.
- 9 The authority to execute, exchange, or set free in exchange for money of captured infidels' rests with the Imam and his Nayeb; no one else is allowed to make a decision on such cases. In the case of conversion of infidel prisoners to Islam, the Imam or his Nayeb can exchange him with prisoner's consent.
- 10 Mujahedin are allowed to kill arrested enemy officials if they face danger and are not able to transfer prisoners to a safe area. However, they are not allowed to kill suspected prisoners.
- 11 Taleban should not kill soldiers and policemen who surrender and should reward those who bring arms or provide other important services.
- 12 Execution of arrested spies and other high ranking officials ordered by mujahedin judges or governors cannot be carried out without the approval of Imam or his Nayeb.

**Section 3. Concerning spies**


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<sup>57</sup> Section 2 Concerning Prisoners was not in the Pashto version of the Code seen by AAN. This section (articles 7–12) is the Taleban's own translation (see FN 47). Any English-language errors are in the original.

- 13 An enemy spy is defined as 'the one who strives to disseminate evil'.<sup>58</sup> Provincial governors have the authority to sentence, exile, or persuade arrested spies to stop spying.
- 14 Whenever a person is known to be attempting to spread evil, proving it in the following four ways is required:

First, there must be statements from two witnesses whose testimony can be trusted by the judge.

Second, he speaks voluntarily and without force and confesses to the espionage.

Third, there are indications [evidence] that led to the suspicion, such as special espionage equipment for the purpose of spying, or other evidence.

Of course, not all evidence is clear-cut. In the presence of the court, the judge must examine the evidence. If there is no court, expert scholars or wise men or pious officials shall weigh the strength and weakness of the evidence. If the evidence is weak, then the sentence should be reduced. If the evidence is strong, then the sentence must be harsh. If the evidence is so clear-cut that they are fully convinced that the suspect is a spy and the Imam, his Nayeb or the judge considers an execution is necessary, then they can execute him.

Fourth, a note on the just man: he is one who is fair, is not prejudiced, protects himself from the major sins and is not continually committing the minor sins.

- 15 Getting confession by force – meaning by beating, threats or abuse – has no credibility and neither can it be used to prove a crime. If mujahedin want to obtain a confession by promising the person being investigated future bonuses, the promises can be made in two ways:

The first type has signs of force about it; for example, the investigator could say, 'I won't kill or beat you,' or 'I release you, if

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<sup>58</sup> *Sayi' bi'l -fisad* (see FN 23).

you confess.’ Such a confession has been obtained with force, because the person would think that if he does not confess, he will be killed. A confession obtained [in this way] is not credible, but the made promise shall be committed.

The second type are promises which are made without recourse to force, for example promising money or a position. This confession is valid and the promise must be fulfilled.

The interrogator shall be pious and wise in order to avoid forced confessions because in *shari’a*, confessions made by force are unsafe and not credible. Mujahedin must not promise anything to the prisoner in return for a confession that they do not intend to fulfil.

Likewise, the testimony of a spy [accusing others or claiming to be a witness to others’ spying] is insufficient [to convict others]. In this case, as per article 18, the four methods [of proving guilt] are applicable and in the light of these methods, a judgement shall be reached.

- 16 Mujahedin are required to obtain provincial governors’ permission if they intend to take action against a suspected spy who does not hold a government position.
- 17 If someone is accused of spying and his crimes have not been proved in accordance with *shari’a* principles, but the mujahedin remain concerned about him and suspicious of him, the district governor, in consultation with experienced and expert persons, shall expel the suspected spy to a place where he is no longer a danger. Or they will get such a strong guarantee – meaning that reliable people locally and his relatives provide a surety or non-transportable properties [to act as a guarantee].
- 18 It is forbidden to take pictures of the execution of prisoners or spies sentenced to death by firing squad.

#### Section 4. Concerning those who provide logistical support or [carry out] construction for the enemy

- 19 The burning of private vehicles used for transporting supplies to the infidels or providing other services is legitimate. Releasing vehicles for money or using them is forbidden.
- 20 If a driver is arrested while he is transporting supplies to the infidels, the provincial official shall decide whether to punish, exchange or release him – as a goodwill gesture or in return for a strong surety. If it is impossible to capture him at the time he is carrying supplies, the mujahedin can shoot at his vehicle.
- 21 Contractors who are building military facilities or supplying fuel, either to the infidels or to the puppet regime, who despite being warned by the mujahedin, continue [in this action], if they are arrested, the provincial official has the authority to punish,<sup>59</sup> sentence them to prison, exchange or release them in return for a strong surety from his relatives or local people. If mujahedin consider that he must be killed, they must ask the Imam or his Nayeb for permission. Of course, releasing him for money is forbidden. And if these people persist in their course, wherever the mujahedin get the chance, they should shoot and kill him.

#### Section 5. Concerning booty

- 22 Booty is the property of infidels, which has been seized during battle. In Afghanistan, the law orders that one-fifth of the booty shall be given to the provincial official and, according to the leadership, he will be paid this as *khoms*.<sup>60</sup> [The remaining] four-fifths [of the booty] shall be given to those mujahedin who were on the frontline, and those who were sent by their *amir*<sup>61</sup> to ambush or provide information for the fight and to those who were sent anywhere else for

<sup>59</sup> *Ta’zeer* (see FN 16).

<sup>60</sup> See FN 24.

<sup>61</sup> Leader.

any good reason, so long as they are able to fulfil the following two conditions:

First, they should have been very close to the area of operations so that their support could have been requested and if it had been requested, they could have gone there and helped.

Second, they had the intention to take part in the operation, they were prepared for it and were in communication with the mujahedin fighters. For example, the commander has deployed mujahedin near the battle, so that if there was a need, he could ask them to participate. If one of these two conditions is not fulfilled, they cannot be considered partners in the sharing of booty.

- 23 If money or belongings are seized from the foreign invaders at the end of the battle, this is booty. If it is seized without fighting, it is known as *fei* and *beit ul-mal*.<sup>62</sup>
- 24 Captured property belonging to the Afghan government that had been given to them by the foreigners is considered the same as property belonging to the foreign invaders, themselves. But property which remains from previous governments or was bought using the national income is considered public property. If there is doubt among the mujahedin, the provincial governor must be asked to decide [whether it is public property or booty]. If the governor gets permission from the Imam or his Nayeb and materials captured during fighting are distributed as booty, on the one hand, the mujahedin have obeyed the leadership and on the other, they have not committed any betrayal. If materials are captured without a fight, then they are normally considered to be public property and must be spent by the Imam or his Nayeb on jihadi needs.
- 25 Money which has been withdrawn from the public treasury [bank] and is in the

<sup>62</sup> *Fei* and *beit ul-mal* are both Arabic terms used in Islamic law to mean public property.

hands of the cashier and has not been distributed to the labourers and civil servants, if seized during fighting, shall be distributed as booty. If it is seized without fighting, it is public property. If the money has already been distributed to the labourers and civil servants, they own it. The Imam, judge or provincial official can punish them, but cannot seize the money. Those working with NGOs also come under this rule.

- 26 Goods captured from the enemy can be considered booty if the mujahedin hijacked their convoys by means of war on the road. Goods captured without a fight can have two different designations:

First, goods that were being transported without an armed escort are considered to be part of public property.

Second, goods that were transported with an armed escort but were captured by mujahedin without a fight need the permission of the Imam to be distributed among the mujahedin by the provincial officials as booty.

### Section 6. Concerning organisational structures<sup>63</sup>

- 27 Provincial officials are obliged to establish a commission at the provincial level with no fewer than five members, all of whom should be competent. This commission, with the agreement of the provincial official, should establish similar commissions, also at the district level. Some of the members of both commissions should [usually] be present in their area of work.
- 28 Provincial and district commissions, in addition to their other work, will monitor so that bad people do not get into the mujahedin fronts and, if they see such people, they shall report them to the governor. If there are internal differences between the mujahedin or between the people and the mujahedin, the commissions will try to resolve these

<sup>63</sup> *Tashkilat* (see FN 28).

- problems. They will also monitor the implementation of all of the Islamic Emirate's decrees and this Code of Conduct and ensure that [failing mujahedin] pay heed to the Code and are reformed. Those who do not reform will be introduced to the governor.
- 29 A district governor should be appointed in any district where the mujahedin of the Islamic Emirate have prominent and visible activities. The district governor, with the agreement of his senior officials, shall then appoint a deputy to look after the people's affairs, [someone] who is not too busy with military matters. The deputy, to some extent, should have experience in dealing with the affairs of the people and must have a good manner in dealing with the public and also be easily accessible to the people.
- 30 The creation of new groups and sub-groups is forbidden except in emergency circumstances and must be requested by a provincial official, agreed to by the head of the zone,<sup>64</sup> and approved by the leadership. Unofficial and unregistered groups shall be combined with official and larger groups by the governor. If these unofficial groups do not obey, they shall be disarmed.
- 31 The spokesmen for the Islamic Emirate shall be appointed at the request of the relevant administration by the leadership. They represent the whole Islamic Emirate. No-one has the right to talk to the media as a representative of a group, unit or as individuals. Following this principle will avoid disunity and chaos.
- 32 Every province's official shall establish a shari'a-based court at the provincial level which shall have one judge and two knowledgeable ulema. The court shall address the cases province-wide that other ulema and officials have not been able to resolve in the districts and villages.
- 33 In terms of the organisational structure of the province, the head of the zone, in consultation with the governor and the governor in consultation with the district governors, can bring changes. If the governor and district governor do not agree regarding these changes then the issue shall be referred to the head of the zone. If the governor and the head of the zone do not agree with each other then the issue shall be sent to the leadership.
- Section 7. Internal issues for the mujahedin**
- 34 The mujahedin must obey their group leader; group leaders must obey their district leaders; district leaders must obey their provincial leaders; provincial leaders must obey their head of zone and heads of zones must obey the Imam and his Nayeb. This is a religious duty,<sup>65</sup> if [the order] is in accordance with *shari'a*.
- 35 Persons who are given responsibilities shall have the following characteristics: wisdom, piety,<sup>66</sup> courage, mercy and generosity. If not all criteria are found [in a person], wisdom and piety are necessary.
- 36 If someone in the mujahedin ranks commits a crime or repeatedly violates the Code of Conduct and the group commander or district official decides to remove him because he has committed a crime, then the issue shall be referred to the provincial commission. After an in-depth investigation, if the sentence is expulsion then the commission, in agreement with the provincial governor, will make the decision. No-one will be allowed to arm or bring the expelled person back again. If the person repents, the provincial commission, with the agreement of the governor, will re-assign him.
- 37 If the leader of a group, of a province or a district wants to move to another district or province to do jihad for a while, this is allowed, but he can do so only with the

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<sup>64</sup> *Tanzim rais*.

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<sup>65</sup> *Wajeb*.

<sup>66</sup> *Taqwa*.

permission of the senior provincial and district officials. The leader of the chosen district or province is considered to be his leader and he must obey him.

- 38 If a governor or other senior official who had an active group in the past in a different province introduces his mujahedin to the current official of a province to follow the orders of the current provincial governor, they should follow the governor's orders when carrying out their duties and the logistics shall be provided by the officials of that province just as with the other mujahedin of the province. According to the Islamic Emirate's structure,<sup>67</sup> setting up *mahaaz*<sup>68</sup> is forbidden and will not be part of the Emirate's structure.
- 39 If the commander of a group of mujahedin from one province wants to help the mujahedin of another province and wants to remain there afterwards, officials of the new province will not give him a permanent place or let him accompany them until they have received complete information, assurances and agreement about him from his previous province.
- 40 A group leader is not allowed to recruit members from another group to increase the size of his group. Of course, if a mujahed wants to join another group, he can do so, but any equipment which the group leader gave him for the cause of jihad shall be returned to that group leader. If the mujahed has received booty and it is owned jointly, it must stay with the group; if it has been approved that the booty is not shared he can keep it.
- 41 Concerning martyrdom operations, the following four points must be observed:
- 1 The martyr mujahed shall be well-trained before the attack.
  - 2 Martyrdom operations shall take place against important and major

targets. The Islamic nation's sacrificing heroes shall not be used against minor and valueless targets.

- 3 In carrying out martyrdom operations, take great efforts to avoid casualties among the common people.
- 4 Except those mujahedin who have been given permission and private programmes by the leadership, other mujahedin are obliged to get their orders from the provincial officials to carry out martyrdom operations.

### Section 8. Education

- 42 All the activities regarding education in the structure<sup>69</sup> of the Islamic Emirate shall be according to the principles and guidance of the Education Commission. Provincial and district officials carrying out their educational affairs shall follow the policy of the commission.<sup>70</sup>

### Section 9. The control and arrangement of the affairs of [private] companies and [non-governmental] organisations

- 43 Concerning the affairs of organisations [NGOs] and [private] companies, provincial officials shall follow the guidance of the Commission for the Arrangement and Control of Companies and Organisations. Of course, if there is a disagreement, while provincial officials and the Commission are consulting each other about something, the Commission shall request the guidance of the leadership. The provincial, district and group officials and the representatives of the Organisations and Companies Commission in their respective provinces do not have the right to make their own decisions about the affairs of organisations [NGOs] and [private] companies.<sup>71</sup>

### Section 10. Issues concerning the people

<sup>67</sup> *Tashkil* (see FN 28).

<sup>68</sup> A *mahaaz* is a large, semi-autonomous, military grouping.

<sup>69</sup> *Tashkil* (see FN 28).

<sup>70</sup> Note: The Emirate policy on education is not specified.

<sup>71</sup> Note: The policy on NGOs or private companies is not specified.

- 44 If local residents with legal or other disputes come to the mujahedin and hand in petitions, group commanders do not have the right to intervene in the people's issues. Only provincial officials, district governors and their deputies can consider petitions concerning a dispute and must then seek the help of relevant bodies and a legitimate *jirga* to resolve the dispute. If the peace *jirga* cannot solve the dispute, then it should be referred to the court if it exists. If there are no courts, the decision should be made according to the views of prominent *ulema*.
- 45 The renewal and reviewing of cases that were resolved correctly during the rule of the Islamic Emirate of Afghanistan is forbidden. This is the case even if one side is not satisfied with the verdict, because more justice was possible then than now.
- 46 Provincial, district and group officials and all mujahedin with all their power must be careful with regard to the lives of the common people<sup>72</sup> and their property, such as cars. Those who do not pay care with the lives and belongings of the common people shall be held responsible and, taking into account their prestige [rank], will be punished accordingly.
- 47 If an official or an ordinary person using the name of the mujahedin harms the common people, his senior officer is responsible for correcting him. If he is not reformed, the provincial officials shall introduce him to the leadership. The leadership will punish him accordingly or expel him from the mujahedin's ranks.

#### Section 11. Concerning prohibitions

- 48 As there was a vigorous process for collecting weapons [disarmament] from the beginning of the movement up until now, that process will no longer take place and people's weapons shall not be collected under the name of disarmament or public property.

- 49 According to the previous order, mujahedin shall fiercely avoid smoking cigarettes.
- 50 Youngsters whose beards are not visible – because of their age – are not allowed to be kept in residential or military centres.
- 51 According to *shari'a*, cutting off someone's nose, ears or lips is fiercely forbidden. Mujahedin shall fiercely forbid such actions.
- 52 The mujahedin of the Islamic Emirate shall not collect *ushr*, *zakaat* or donations from the people by force. People must be left free to give to whom they like.
- 53 Mujahedin shall not search people's houses and if there is an urgent need to search a house, they shall get the permission of a district official and take the Imam of the mosque and two elders of the area with them.
- 54 Kidnapping of people for ransom, under any pretext, is forbidden and the relevant local official must prevent it. If anyone does this in the name of the Islamic Emirate, the provincial official, with the approval of the leadership, shall disarm him.

#### Section 12. Recommendations

- 55 Every group leader is obliged to dedicate different times for the jihadi training of their group members, their educating in religion and morality. Except during times of fighting and emergency, they shall not quit education.
- 56 If there is no danger, the mujahedin shall pray together in a mosque, and if it is difficult to pray in a mosque, they shall pray together where they are. They shall pay special attention to the recitation and remembrance [of the Qur'an] through which confidence and strength will come to the hearts.
- 57 Mujahedin shall redirect their power of thinking to military matters. They shall protect themselves from local disputes and protect themselves from public

<sup>72</sup> *Aam khalq*.

issues. Looking into disputes is a waste of time and can also create suspicion and difference between the mujahedin and the people. If there are significant issues, then Article 44 [of this Code] shall be applied.

- 58 All the staff of the Islamic Emirate shall try their best to encourage the duped opposition to surrender and lay down their weapons. On the one hand, this will weaken the ranks of the enemy; on the other, the traps<sup>73</sup> established by Afghans<sup>74</sup> will be reduced and, in some cases, mujahedin will receive guns and ammunition.
- 59 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.
- 60 Mujahedin shall protect themselves completely from any tribal, linguistic, and regional prejudice. It has been narrated from Hazrat Abu Horaira<sup>75</sup> that<sup>76</sup>: if someone fights under an unknown flag and has not understood or someone gets angry for tribal reasons or encourages tribalism or helps someone for tribal reasons and if he dies, he is dead in ignorance,<sup>77</sup> as if he has not been a Muslim.
- 61 Senior officials shall go through the accounts of jihadi equipment and financial expenses of junior officials, from time to time.
- 62 The provincial official at the provincial level and the district governor will consult with each other, according to the conditions in each area at an appropriate time, on how to conduct good operations,

on the outcomes, losses and other activities, in order to prepare better plans [and ensure] future success and save the mujahedin from losses.

- 63 Mujahedin shall, within a *shari'a* framework, match their appearance, such as their hair, clothes, boots and other things, to the people of an area. On the one hand, this will help the mujahedin and the people in the area with security and on the other they will be able to move easily around.

### Section 13. Recommendations with regards to this Code

- 64 Any changes in the articles of this Code shall [only] come from the Islamic Emirate's highest authority and leadership council of the Islamic Emirate. If anyone else tries to change any article of it, or act against it, his excuse will not be acceptable.
- 65 The central military commission and the provincial and district commissions have the responsibility to deliver this and other Codes to the mujahedin and to follow up on their implementation
- 66 If an issue comes up which has not been discussed in the Code, it shall be resolved by discussion between the mujahedin and district officials. Of course, if it is still not resolved, it shall be referred to provincial officials and if it is still not resolved, the head of the zone shall be asked to make a decision; if the matter is still not resolved, the head of the zone shall ask the leadership to decide on the matter.
- 67 Operating according to the articles is recommended and necessary and if anyone abuses them, they shall be prosecuted according to the principles of Islam.

Success comes from God.<sup>78</sup>

**[on back cover]**<sup>79</sup>

Respected Mujahedin Brothers!

<sup>73</sup> *Khand* (see FN 41).

<sup>74</sup> *Dakhili* (see FN 42).

<sup>75</sup> See FN 43.

<sup>76</sup> See FN 44.

<sup>77</sup> See FN 45.

<sup>78</sup> *Wa min Allah al-tawfeeq* (see FN 46).

<sup>79</sup> See FN 47.

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

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



### C. Translated text of the 2006 Version of the Taleban Code of Conduct

In the name of God, the compassionate and merciful

The Islamic Emirate of Afghanistan

#### *A Jihadi Code of Conduct*<sup>80</sup>

Thanks be to God and may peace be upon His Prophet.

Jihad in the way of Almighty God is a such a great worship<sup>81</sup> and a great obligation that fulfilling it will bring dignity and raise up God's testament of faith.<sup>82</sup> It is clear that the goal will be achieved if it is worked towards in the light of God's orders<sup>83</sup> and in the framework of the appointed principles [that is, this Code of Conduct], so every mujahed must abide by the following rules:

- 1 Any official can invite<sup>84</sup> any Afghan who is in the infidels' ranks to accept true Islam.
- 2 We guarantee to any man who turns his back on the infidels, security for himself and his possessions. But if he becomes involved in a personal dispute, or someone accuses him of something, he must submit to our judiciary.
- 3 Mujahedin who would like to protect people inside the opposition<sup>85</sup> must get permission from and inform their commander.
- 4 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.

- 5 If a mujahed kills or harms a person who has left the opposition and whose security has been guaranteed by the mujahedin, he will not be supported by the movement and will be dealt with according to Islamic law.
- 6 If a commander wants to move to another area, he is permitted to do so, but shall get permission from the officials of the district and province he is leaving and the district and the province he is joining.
- 7 If mujahedin capture a foreign infidel as a prisoner, they shall not release him for money or in an exchange deal without the leadership's permission.
- 8 A provincial, district or regional official may not sign a contract in return for money or other materials to work for a non-governmental organization [NGO].
- 9 No official may use jihadi equipment or property for personal ends.
- 10 Every official is accountable to his superiors in matters of spending money and using equipment.
- 11 Mujahedin may not sell equipment, unless the provincial official permits them to do so.
- 12 A group leader is not allowed to recruit members from another group in order to increase the size of his group. Of course, if a mujahed wants to join another group, he can do so, but all the equipment that the group leader has given him for the cause of jihad shall be returned to that group leader. If the mujahed has received booty and it [is something which] is owned jointly, it must stay with the group.
- 13 Weapons and equipment taken from infidels or their allies must be fairly

<sup>80</sup> The 2006 *Layha* was first translated into German and English, with pictures of the Pashto text in *Die Weltwoche*, 29 November 2006 (its English translation can be accessed at <http://www.signandsight.com/features/1071.html>). The editor of *Weltwoche* noted that "this Book of Rules was distributed initially to the 33 members of the Shura, the highest Taliban council, at their meeting during Ramadan 2006" (September, October 2006). This fresh translation by AAN is consistent with the translations for the 2009 and 2010 versions of the *Layha*.

<sup>81</sup> *Ebadat*

<sup>82</sup> *Qalimat ullah*.

<sup>83</sup> *Ahkaam*.

<sup>84</sup> See FN 18.

<sup>85</sup> That is, the Afghan government.

- distributed among the mujahedin according to holy *shari'a*.
- 14 If mujahedin, for the good of jihad and Islam, establish contacts with those who are working in the infidels' administration, they shall introduce the person to the local official [to ensure the person's protection]. Killing him is outlawed. Whoever kills him must be punished according to *shari'a*.
  - 15 If an official or an ordinary person harms the common people in the name of the mujahedin, his senior officer is responsible for reforming him. If he does not reform, the provincial officials shall introduce him to the leadership. The leadership will punish him accordingly or expel him from the ranks of the mujahedin.
  - 16 It is strictly forbidden to search houses and confiscate weapons without the permission of a senior official.
  - 17 Mujahedin have no right to confiscate the money or personal possessions of the people.
  - 18 Mujahedin should refrain from smoking cigarettes.
  - 19 Mujahedin are not allowed to take underage boys with no facial hair onto the battlefield or into their military bases.
  - 20 Officials of every province according to the province's situation have the authority to invite those who are in the ranks of the infidels [to switch sides]. If a person surrenders, [and fulfils] particular conditions, [the officials] must give him a special guarantee for his safety<sup>86</sup> and possessions. Of course, this guarantee must first be discussed with the military commission.
  - 21 Anyone with a bad reputation or who has killed Muslims while working with the infidel administration, who has searched the houses of the common people, or recruited labourers for the infidels will not be accepted into the ranks of the mujahedin. If the highest leader has personally forgiven him, he will be placed at home<sup>87</sup> in the future.
  - 22 If a mujahed is found guilty of a crime and his commander has barred him from the group, no other group may take him in. If a group commander is found guilty and the senior official has barred him, no other official may take him in, as long as he does not repent.
  - 23 If mujahedin are faced with a challenge that is not described in this Code, they must find a solution in consultation with local senior officials.
  - 24 It is forbidden to work as a teacher under the current state – which is a state in name only – because this strengthens the system of the infidels. True Muslims should apply to study with a religiously trained teacher and study in a mosque or similar institution. Textbooks must come from the Mujahedin period of the Emirate.
  - 25 Anyone who works as a teacher or mullah under the current state – which is a state in name only – must be given a warning. If he nevertheless refuses to give up his job, he must be beaten. Of course, if a teacher or mullah continues to instruct contrary to the principles of Islam, the district commander or group leader must kill him.
  - 26 The organizations [NGOs] that come to the country are tools of the infidels. In the guise of serving, they are destroying Islam, so all their activities are banned, whether it is [building] roads or anything else, or clinics or schools or a madrasa or anything else. If a school fails to heed a warning to close, it must be burned. But all religious books, for the sake of respecting them, must be secured beforehand.
  - 27 Except for the senior district official, no one has the authority to interfere in accusing someone of being a spy or

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<sup>87</sup> This appears to refer to house arrest.

punishing him. Witnesses who testify in a procedure must be in good psychological condition, possess an untarnished religious reputation and have not committed any major crime. Punishment may take place only after the conclusion of the trial.

- 28 No official has the authority to interfere in resolving disputes that have been brought to the mujahedin. Of course, only a senior district official or the council of *mahaazes*<sup>88</sup> in very important cases can intervene. First they must solve the case through [ordinary] ulema or tribal elders, peacefully. If they do not agree on a

peaceful solution, the decision must be made by well-known local ulema.

- 29 All mujahedin must post a watch, day and night.
- 30 The above 29 rules are obligatory. Anyone who violates this Code must be judged according to the laws of the Islamic Emirate.

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

In peace.<sup>89</sup>

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<sup>88</sup> A *mahaaz* is a large, semi-autonomous, military grouping. Possibly the commission referred to is the same as the Military Commission described in later versions of the Code.

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<sup>89</sup> In the original, the Arabic phrase, *wa salaam*, is used. In the Pashto text seen by AAN, there is also a sign off, but it is unreadable (See Appendix II). Contemporary press reports say the Code was signed off by Mullah Omar. See, for example, 'The Taliban's Book of Rules' 12 December 2006 Newsweek website, <http://www.newsweek.com/2006/12/11/the-taliban-s-book-of-rules.html>

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## **ABOUT THE AFGHANISTAN ANALYSTS NETWORK (AAN)**

The Afghanistan Analysts Network (AAN) is a non-profit, independent policy research organisation. It aims to bring together the knowledge and experience of a large number of experts to inform policy and increase the understanding of Afghan realities.

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Kate Clark has worked as senior analyst for the Afghanistan Analysts Network since May 2010. Her involvement in Afghanistan goes back to 1999 when, as the BBC Kabul correspondent, she was the only western journalist based in the country. She was a frontline reporter during the 2001 war and the fall of the Taliban, contributing to award-winning coverage.

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