



Report

# Life under the Taliban shadow government

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Cover photo: Taliban fighter in Logar province. © Andrew Quilty 2018

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# Executive summary

Based on first-hand interviews with more than 160 Taliban fighters and officials as well as civilians, this paper examines how the Taliban govern the lives of the tens of millions of Afghans living under their rule. Taliban governance is more coherent than ever before; high-level commissions govern sectors such as finance, health, education, justice and taxation, with clear chains of command and policies from the leadership based in Pakistan down to villages in Afghanistan.

Where the government and aid agencies provide public goods and services, the Taliban coopt and control them. Health and education in Taliban areas are a hybrid of NGO- and state-provided services, operating according to Taliban rules. Service delivery ministries have struck deals with local Taliban; most provincial or district-level government health or education officials interviewed said they were in direct contact with their Taliban counterparts, and some have even signed formal memoranda of understanding with the Taliban, outlining the terms of their cooperation.

Taliban health focal points monitor clinics, checking whether staff show up for work, docking their pay when they do not and inspecting equipment and medicine stocks. They also put pressure on NGOs to expand

healthcare access in rural areas and improve the quality of services. In government schools, they regulate the state curriculum, vet teachers and school staff, monitor teacher attendance and observe classes. They regulate utilities and communications, collecting on the bills of the state electricity company in at least eight of Afghanistan's 34 provinces and controlling around a quarter of the country's mobile phone coverage. Justice provision has also become increasingly far-reaching. Taliban taxes either coopt Islamic finance concepts, such as *oshr* and *zakat*, or mimic official state systems.

The reach of Taliban governance demonstrates that they do not have to formally occupy territory to control what happens within it. Governance does not come after the capture of territory, but precedes it. The Taliban's influence on services and everyday life extends far beyond areas they can be said to control or contest. That the Taliban set the rules in vast swathes of the country is a reality with which few in the international community are willing to engage. While this research has significant implications for any future peace deal, the most urgent question is what can or should be done now to shape the rules for Afghans living under the Taliban.



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# 1 Introduction

Sixteen years after their fall from power, the Taliban have established a sophisticated system of parallel governance across Afghanistan. Few would have foreseen the sophistication and geographic reach of Taliban governance today, but even in 2011 they were attempting to broaden their influence through nascent attempts at governance. While several articles and reports examine discrete aspects of Taliban governance, such as education or justice, few are based on first-hand access, and few provide a comprehensive picture of what life is like under the Taliban's rule. Many reports have emphasised the headline-grabbing aspects of Taliban governance, at the expense of serious analysis of the degree of collaboration and cooperation by a wide array of actors, whether coerced or otherwise, that underpins this system.

Based on interviews conducted by the author across Afghanistan, this paper maps the evolution of Taliban governance on the ground. It follows up on previous work by ODI looking at the perspectives of armed groups on humanitarian negotiations and, in particular, a paper on the Taliban's views of aid access prepared with Antonio Giustozzi (Jackson and Giustozzi, 2012). The report begins with an outline of Taliban governance structures at the leadership level, and how sectoral civilian commissions have evolved over time. It then examines Taliban governance on the ground sector by sector, outlining the 'rules' for each and analysing how decisions are made and implemented. It concludes with an analysis of overarching trends, and makes recommendations about how the international community should respond.

## 1.1 Methodology

The author interviewed 162 individuals, split fairly evenly across three groups: Taliban fighters, commanders, leaders, interlocutors and ex-members; government officials, employees (including teachers and doctors) and aid workers; and civilians who have lived or are currently living under Taliban control.

The author conducted the large majority of interviews in person, working with trusted translators and intermediaries to gain introductions to members of the Taliban and those whose lives they govern. Research started in July 2017, and a great deal of time was devoted to building the relationships that provided access to these individuals. Seven interviews were conducted remotely (via phone or messaging apps) or by intermediaries, where the author was not present. Women comprised a tenth of interviewees, and half of those interviewed indirectly. Afghan women living under Taliban control were extraordinarily difficult to speak with, even more so than members of the Taliban.

A number of individuals were interviewed multiple times and rigorous triangulation of sources was employed, meaning that 'new' information presented here has been verified by three sources believed to be independent of each other. This was necessary as accounts of the same event by different individuals were often contradictory. This should come as no surprise: there are strong incentives for interviewees to express false preferences or inaccurate narratives in wartime, for their own security and protection but also for reasons of self-interest and self-image. Respondents may misremember or mistake widely circulated rumours for fact and recount them as such. Nonetheless, the responsibility for any inaccuracies lies with the author.

Altogether, research was conducted in 20 districts in seven provinces. To give a localised picture of how governance has evolved, three core districts were the primary focus of research (Charkh in Logar province in the east of the country, Nad Ali in Helmand province in the south and Chardara in Kunduz province in the north). For the purposes of context, comparison and contrast, lighter-touch research was done in or on an additional 17 districts and in four additional provinces.<sup>1</sup> Research focused on areas where Taliban presence and influence were long-standing, relatively consolidated and coherent. A large part of the country now fits this description.

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1 Saydabad and Chak districts of Wardak; Dasht-i-Archi and Kunduz City, Kunduz; Alingar and Alishang districts of Laghman; Baraki Barak and Mohammad Agha districts of Logar; Musa Qala, Nawa and Sangin districts of Helmand; Panjwayi and Arghandab districts of Kandahar; Tirin Kot and Khas Uruzgan districts of Uruzgan; Qalat and Shinkay districts of Zabul.

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# 2 The evolution of a government in waiting

Any description of the Taliban leadership must begin with a set of caveats. In interviews with senior Taliban officials and interlocutors, there were subtle differences in how individuals saw the movement being configured and operating. Who reports to whom and who influences what are all open to interpretation. Positionality heavily influences understandings of how things work and decisions are made. This funhouse-mirror-like quality has lessened over time as the movement has become more organised and internally coherent, but it persists, to some degree, because it is useful to accommodate various preferences and differences within the movement, and for reasons of security and secrecy.

While the structures of the Taliban are described in ideal form, they are fluid in practice. Some roles exist only in theory or are ad hoc, though many have come to life over the years. Personality matters a great deal, but this is dependent on the context and the situation at hand. Key figures and networks within the Taliban may still trump the institutions they inhabit, but this is not always predictable or clear-cut. Context matters as much, if not more, than the personalities at hand. With all of these caveats stated, the following section, based primarily on interviews with current and former Taliban, provides an outline of how shadow governance has evolved.

## 2.1 The beginnings of a shadow system

The Taliban leadership began to regroup in 2002 and 2003. Taliban sources consistently claimed that, by 2003, governing commissions had been established responsible for military affairs, culture, finance and political matters in exile in Pakistan.<sup>2</sup> Military affairs and finance focused on fighting and financing the fight. The cultural affairs commission focused on media and communications:

messaging, responding to press requests and running Taliban magazines and websites.

Interviews in Afghanistan cast doubt that this level of planning and organisation was in place so early. If these commissions existed prior to 2006 it was likely in name only, and the imposition of order and control over the organisation of the insurgency was initially haphazard and took time. As the military side became more cohesive, attention turned to civilian aspects of the insurgency. One individual on the leadership *shura* at the time described the process as follows:

*When we got control of many areas we started thinking that people will want services from us. We got together as the shura and thought we have to find a way to start providing services. So all the commissions are meant to be equivalent to ministries. Like the former Minister of Health, Abbas, he became head of the health commission. Anyone who had experience in a relevant field, we brought them back to work on the area they had experience with from before.<sup>3</sup>*

The first evidence of the Taliban shadow government inside Afghanistan was the presence of provincial military commanders and shadow provincial governors (alongside military and, later, civilian commissions, who provided advice and counsel to these positions, and later similar district structures). Some early military positions were slowly civilianised, or became a hybrid military–civilian role. Judges were the first functional component of the Taliban’s insurgent service delivery, appearing around 2006.<sup>4</sup> By 2010, Giustozzi et al. (2012) estimate that there were 500 judges in circulation. Media and finance officials emerged around the same time, followed by health, education and other roles.

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2 According to three individuals directly involved with the creation of these commissions, and two secondary sources with close knowledge of these events.

3 Interview with former member of the leadership *shura*, March 2018.

4 Judges appeared sometime between 2003 and 2007, according to Giustozzi et al. (2012). Judges who were active in Helmand and Logar in 2006, interviewed for this research, all suggested the earlier part of that timeframe, around 2003 or 2004, but they could not be definitive about when it all began, and no judges could be located who had served prior to 2006.

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It took time for these roles to function as intended. Early advances were set back by the US-led military surge that began in late 2010, and the US assassination campaign against mid- and high-level commanders. By 2012, most governors could not stay in their province of assignment for fear of being killed, so the degree to which they could ‘govern’ was limited. By the time of the research that was no longer the case, and Taliban shadow governors could take up residence in the great majority of provinces.<sup>5</sup>

In the early years of the insurgency, attacks on schools, clinics and NGOs disrupted access to services and drove NGOs out of areas of Taliban activity. There were isolated, localised and periodic attempts to provide other services or regulate existing service delivery, usually from the ground up. Giustozzi (2009: 104–105) reports that, in 2007, the Taliban announced that they would open their own schools and abducted doctors and nurses to staff parallel education and health systems. Two years later, the Taliban in Chardara district in Kunduz were punishing children and their parents for not attending school and compelling absentee teachers to do their jobs.<sup>6</sup>

The Taliban’s posture gradually changed as they gained more territory and internal control. Attacks on aid workers, schools and clinics attracted negative media coverage and made the Taliban appear disorganised and volatile. The first edition of the *layha*, the Taliban code of conduct released in 2006, sought to counter this impression and demonstrate that the Taliban could impose order on their fighters. It set out a concise list of 30 rules designed to instil discipline and military coherence. However, as the Taliban evolved from a scrappy insurgency into an armed political movement with substantial influence across swathes of the south and east, later editions of the *layha* in 2009 and 2010 elaborated governance structures, including the roles of provincial and district governors and commissions. Provisions recommending attacks on teachers, schools and NGOs were replaced by stipulations compelling adherence to the ‘policies’ of the Islamic Emirate, including in education.<sup>7</sup> As one former Taliban official involved in discussions around the code stated, ‘with the *layha*, we needed to show we could be accountable and

could form an accountable government that everyone could accept’.<sup>8</sup> As such, the 2009 and 2010 editions are not only rulebooks, but also tools to communicate the values and aspirations of the movement to both internal and external audiences.

Attitudes towards aid agencies and service providers also appear to have shifted. In August 2007, Taliban leaders gave the World Health Organisation (WHO), the UN Children’s Fund (UNICEF) and their implementing partners permission to conduct polio campaigns; a letter issued in Mullah Omar’s name, and similar letters or directives for subsequent campaigns, instructed fighters to allow vaccinations and urged parents to have their children vaccinated. Polio vaccinations helped demonstrate the benefits of engaging with the international community on humanitarian issues. By 2011, the Taliban leadership had signed agreements with at least 26 aid organisations and elaborated a clear central policy for negotiating with NGOs. This was understood by most fighters on the ground, though adherence by local Taliban was uneven and aid agency access was clearly subordinate to military concerns. This included cutting off access or attacking aid workers over suspicions that aid agencies might be spying or otherwise acting against the Taliban (Jackson and Giustozzi, 2012).

There were other, higher-level shifts. One was the leadership of Mullah Akhtar Mohammad Mansur, first as de facto Amir from 2010 and then officially as the Amir upon the announcement of Omar’s death, from July 2015 until he in turn was killed the following May. Mansur was credited by many Taliban interviewed as having transformed the insurgency into both a political movement and a government in waiting,<sup>9</sup> centralising its finances and increasing the prominence of key commissions. He also cultivated and favoured his own networks in the Taliban, and was a divisive leader whose appointment as Amir prompted the resignation of several key figures.

Mansur’s tenure coincided with the drawdown of international forces. By 2017 there were around 13,500 international troops in Afghanistan, serving largely in non-combat roles as part of the NATO mission Operation Resolute Support, compared with around

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5 There are a few notable exceptions. The shadow governors for relatively Taliban-free provinces, such as Bamiyan, and for Kabul are reportedly based in Peshawar.

6 Author recollection and notes of an October 2009 Protection Cluster meeting, verified in interviews with residents of Chardara district in November 2017.

7 The policies on education referred to are never completely spelt out in these later versions of the *layha*. This implies that such policies existed at this point, even if the Taliban were not yet willing to publicly disseminate them.

8 Interview with former member of the leadership *shura*, March 2018.

9 Interview with a Taliban interlocutor, July 2017; interview with Taliban mid-level commander, Wardak, March 2018; interview with provincial Taliban official, Helmand, December 2017.



150,000 in 2012 (Livingston and O’Hanlon, 2012).<sup>10</sup> As international forces withdrew, the Taliban gained more ground and radically expanded their influence.<sup>11</sup> ‘With the international troops leaving, we could be less war-like and we could focus on government,’ one Taliban interlocutor explained. ‘We were also more prepared than in the 1990s, because we knew the government would disappear and we would have to be ready with our own systems to help the people.’<sup>12</sup>

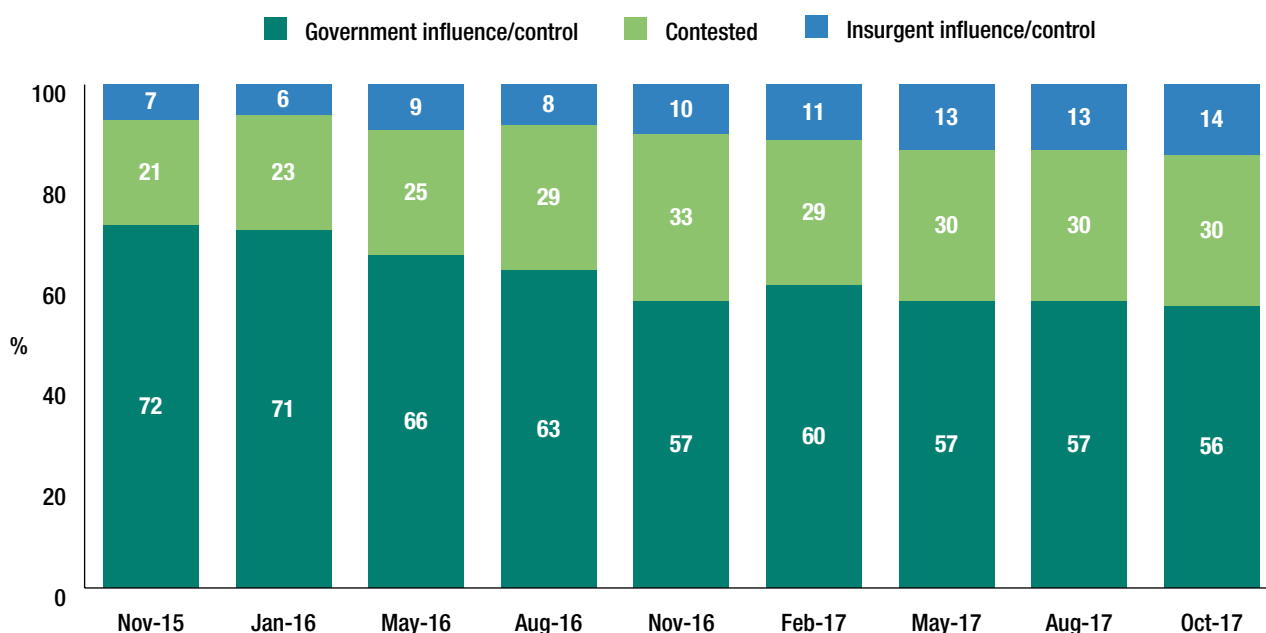
There is no reliable, independent estimate of how much territory the Taliban influences or controls. According to a BBC survey in January 2018, the Taliban were ‘openly active’ in 70% of the country’s districts (Sharifi and Adamou, 2018). The most-cited estimate, from Operation Resolute Support, puts the Afghan government in control of just over half of districts in the country in October 2017, down from three-quarters two years previously. Even if this modest estimate of Taliban influence is indicative, it leaves nearly half of the country

open to Taliban influence, particularly given the weak or virtually non-existent government presence in much of the countryside. In March 2017, the Taliban published its own estimate claiming that the Taliban controlled nearly 10% of the country’s districts, contested control in 48% and had significant influence in 15% (Islamic Emirate of Afghanistan, 2017).

As the Taliban gained influence the capacity to govern became a necessity in order to secure the population. Mansur prepared the Taliban structurally and ideologically to adapt to these new dynamics.

The Taliban’s agility and ability to adapt have been remarkable. In talking with current and former members, it is clear that the Taliban did not have a ‘grand plan’ for governance. What began with a gradual recognition that unbridled violence would ultimately hurt their quest for popular support grew into more sophisticated planning, policy and structures. Members of the leadership and provincial officials at the time describe policy formation

**Figure 1 Control of districts, November 2015 – October 2017**



Source: SIGAR (2018)

10 This is according to the most recent official information available on the NATO website ([www.nato.int/nato\\_static\\_fl2014/assets/pdf/pdf\\_2017\\_05/20170523\\_2017-05-RSM-Placemat.pdf](http://www.nato.int/nato_static_fl2014/assets/pdf/pdf_2017_05/20170523_2017-05-RSM-Placemat.pdf)). The precise number of international forces on the ground at present is unclear. As of November 2017, there were reportedly 14,000 US troops in Afghanistan (Snow, 2017). US troop numbers have continued to rise since then, but no accurate or precise official figures are available.

11 The Taliban seized district centres and cities, notably capturing Kunduz City in 2015 and attempting to do so again in 2016, though they were unable to hold these centres for long in the face of international airstrikes and ground offensives. The nature of the conflict also shifted, from asymmetric attacks towards more ground engagements. Ground battles became the leading cause of civilian casualties after 2013; in 2017, civilian casualties from ground engagements fell below 3,500 for the first time since 2013 (UNAMA Human Rights, 2016; 2018).

12 Interview with Taliban interlocutor, March 2018.

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as iterative and ‘step by step’.<sup>13</sup> As well as reviving and restarting parts of their government, such as justice, the Taliban had to invent other systems through trial and error. Much of the process appears to be bottom-up and demand-led, and influenced by local experience.

The Taliban have also sought to correct many of the flaws and shortcomings that undermined their rule in the 1990s. The ban on women and girls attending school has been removed, though most Taliban officials insist no ban existed in the first place, and the Taliban have publicly stated that all women should have access to education. The ban on opium, which was disastrous during their time in government, is clearly no longer in place, but the Taliban are not keen to publicise this and downplay any opium connection publicly. There are more subtle differences too, such as their stated respect for other ethnic groups and their embrace of technology, limited though it may be.

The Taliban’s circumstances have radically changed since 2001, and their objectives and policies have shifted accordingly. They are no longer a revolutionary movement as they were in the 1990s, but a deposed government and the main armed opposition faction fighting a pro-Western government supported by foreign troops. As an insurgency, the movement has had to reconcile its traditionalist ideology with both the demands of securing the population and exposure to a much broader field of ideas and influences. The Taliban leadership themselves have also been transformed by

their experiences since 2001, reflected in the diversity of views among the Taliban and in some policy shifts. As one former Taliban official put it: ‘They have travelled more, they have had to go outside their villages so they have also had time to think about their mistakes. They have seen more of the world and have learned. They were simple fighters then but are worldly now’.<sup>14</sup> Similarly, Gopal and Strick van Linschoten (2017: 6) argue that ‘prior to 1979 and during the anti-Soviet jihad, those who later became the Taleban were traditionalists, but that by 2015 they have come to behave, in many respects, like a modernist Islamist movement’.

The Taliban have also simply got better and savvier about managing external perceptions. As one ex-Taliban official commented, ‘they know the rules now. They want their people to be educated because they see the advantage, and they know how to manipulate the media’.<sup>15</sup> They are more sophisticated and their packaging more professional: glossy publications, spokesmen who respond rapidly to enquiries via WhatsApp, Twitter accounts, videos with slick production and a website in several languages. Certainly, what they say on their website often differs from the accounts given by Afghans living under Taliban control. What any change in Taliban policy means for Afghans and the future of Afghanistan requires looking beyond what the Taliban say, or even what they did in the past, and critically examining what they do on the ground now.

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13 Interview with former member of the leadership *shura*, March 2018.

14 Interview with Taliban ex-official, October 2017.

15 Interview with Taliban interlocutor, March 2017.

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# 3 Governance on the ground

The Taliban are led by the Amir ul-Mu'menin, currently Mullah Haibatullah Akhunzada. The shape and scope of the role vary according to who occupies it, but the current Amir functions more as a spiritual and political leader than as an operational commander. Beneath him are two deputies, presently Mullah Omar's son, Yacub, and Jalaluddin Haqqani's son, Sirajuddin, as well as the leadership *shura*. At provincial level there is a shadow governor, officially appointed by the leadership *shura*. Usually governors come from outside the province of assignment, and the position is rotated annually, although there are exceptions. The Taliban now have a quasi-professional core of individuals who have served for several years and across several provinces. A provincial commission comprising local elders and religious scholars advises the governor. Shadow governors and commissions are not strictly 'civilian', and governors may serve military functions to varying degrees depending on context, personality and the broader constellation of local governance.

The provincial structure is replicated in the districts, with a district governor, usually a local, appointed by his provincial counterpart. The governor is supported by a deputy and a civilian commission of elders or religious scholars.<sup>16</sup> District governors are often the first port of call for dispute resolution, particularly for lesser cases (land or resource disputes, civil cases), or where Taliban judges are overstretched or absent. Elders play an important role, akin to the government's district councils, in advocating on behalf of 'ordinary' Afghans and providing a connection to local Taliban officials. Parallel to this is the courts system at district and provincial level, with a supreme court and an associated commission in Pakistan.

Provincial shadow ministers or representatives are usually appointed by the relevant leadership commission (i.e. health, finance, education) in consultation with the provincial governor. This system has grown more complex and comprehensive in recent years; there are over a dozen commissions, some with multiple subsidiary branches or departments, covering issues ranging from education and health to mining, civilian casualties and agriculture. For example, the health commission appoints its shadow provincial health representative, who then appoints a district focal point for each sector. The degree

to which each commission is represented at provincial and district level varies, but finance, education, culture (media) and health are the most widely present.

The following sections map Taliban governance by sector in greater detail. The usual caveats when talking about insurgent governance apply. First, there is variability, often correlating to the degree of territorial control, and a level of localised interpretation and bargaining that shapes governance in a given district or village. Significant autonomy is granted to provincial and district-level officials within the overarching framework of policy boundaries. This is partly intentional, to accommodate different views and keep everyone 'inside the tent' with as little open dissent as possible.

Second, local histories, politics and preferences play a significant role. Demand for education, for example, is higher in some areas than others. The degree of previous state penetration, or the extent to which services have historically been available, also matters. Civilians may be better able to bargain with Taliban officials where they are internally united and coherent, and where customary governance structures are influential, respected and responsive to the demands of their constituencies. These and other factors are discussed throughout, and again at the end of the paper. Finally, this is an admittedly modest overview. Each of these sectors could comprise individual papers in their own right.

## 3.1 Education

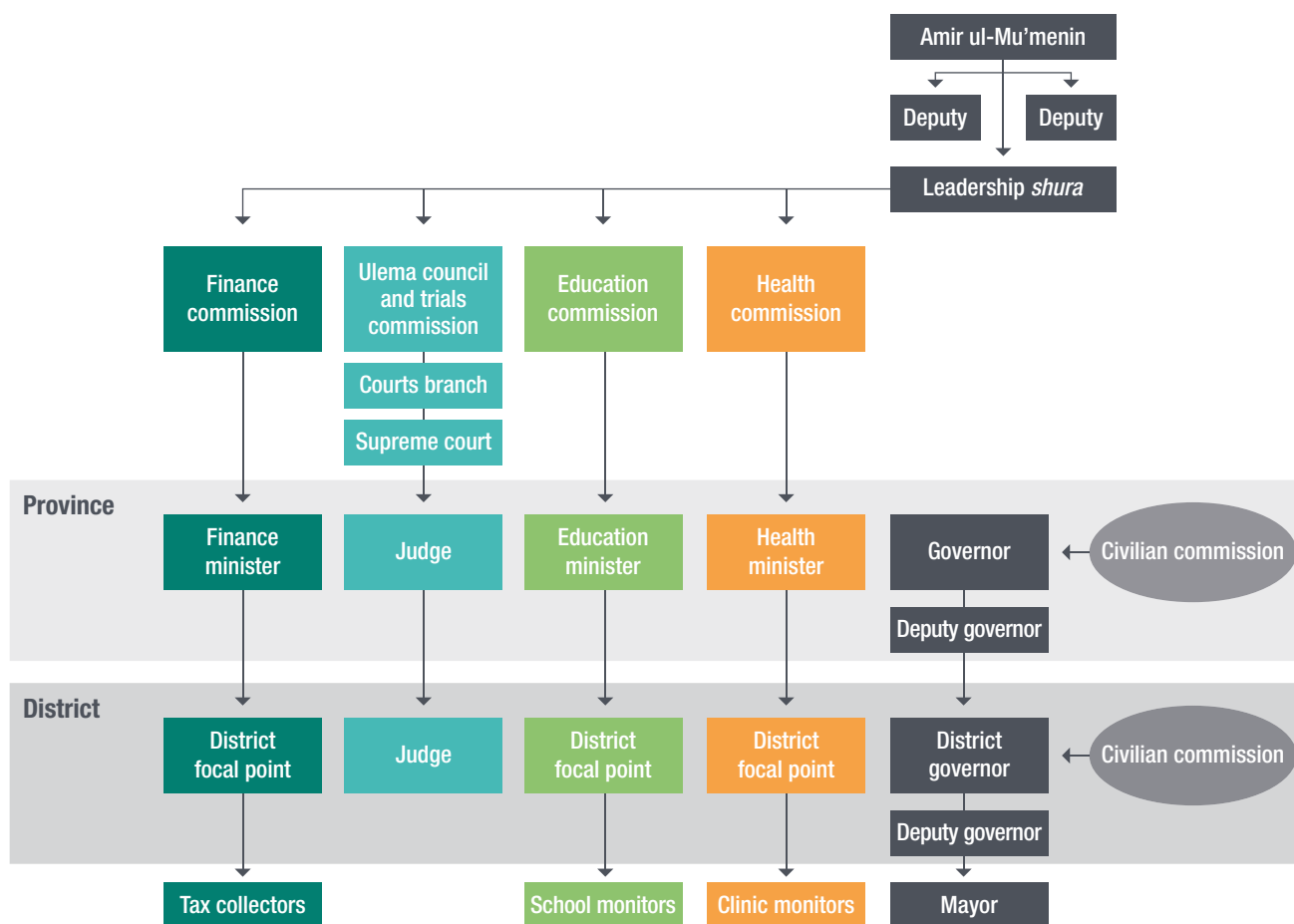
### 3.1.1 Structure

At the provincial level, a shadow education representative is appointed by the education commission. The shadow representative appoints district focal points, who are usually aided by 'helpers' and school monitors. These helpers or monitors are described as 'educated' men, mullahs or maulavis, who occasionally observe classes, give lectures or work with school management and finance personnel to monitor and record teacher attendance. They also play a regulatory and support role with regard to madrassa-based education, which is widely seen as complementary to the state education system.

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<sup>16</sup> This is, however, highly contextual and dependent on the influence of elders and local politics.

**Figure 2 Indicative sketch of Taliban subnational service delivery structures**



Note: More, or fewer, functions may exist depending on the district or province, but this organigram illustrates the core functions and theoretical reporting lines across Taliban areas.

While negotiation is often done under the cover of a school *shura* or elders acting as intermediaries, there is ad hoc contact between provincial and district education directors and their Taliban counterparts. Indeed, Taliban officials are eager to emphasise the degree to which they work with the Ministry of Education; one official told the study that ‘we have to have a relationship with the Kabul government on these issues to improve education’.<sup>17</sup> In February 2018, the Taliban and the Helmand provincial Ministry of Education formalised this working relationship in a ten-point memorandum of understanding which set out clear penalties for absent teachers and stated that all sides would work together to reopen closed schools.<sup>18</sup>

It is, quite obviously, an unequal relationship. As one district-level Ministry of Education official put it, ‘if the Taliban says something, of course I have to listen’.<sup>19</sup> Ministry officials felt that they put themselves or their schools at risk if they pushed back on Taliban demands too aggressively (or, in some cases, if they pushed back at all). Ultimately it is elders and aid workers, not government officials, who have the most capacity to bargain with the Taliban at local level.

### 3.1.2 Policies

*Vetting teachers and school staff.* Teachers selected by the school *shura* and Ministry of Education are vetted and subject to background checks. If teachers are not

17 WhatsApp interview with Zabiullah Mujahed, October 2017.

18 From a private translation. For more detail on the memorandum, see Stanikzai (2018).

19 Interview with education official from Chardara district, Kunduz, November 2017.

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approved by the Taliban they are extremely unlikely to be appointed to an area of Taliban influence.<sup>20</sup> One teacher described the process as follows: ‘The principal suggested me as a teacher and the government accepted but then the Taliban had to investigate my background, asking people about me, before I could be confirmed’.<sup>21</sup>

*Monitoring teachers.* Several teachers described Taliban monitors periodically visiting their classrooms to observe their teaching, providing feedback afterwards.<sup>22</sup> Taliban monitors also enforce teacher attendance. Several teachers reported that Taliban elders sat with government officials to check attendance records, and that their pay was docked for absences longer than a day per month.<sup>23</sup> Teachers may be transferred, via official government mechanisms, if they fail to attend or offend the Taliban in some way.<sup>24</sup>

*Vetting curricula.* Amendments to the curriculum and teaching schedule varied. Most commonly, Afghan culture and constitution and law textbooks are removed from the curriculum.<sup>25</sup> English-language teaching may also be banned. These subjects are generally replaced with Islamic study. Schools in Helmand open and close one hour later to enable students to attend madrasa before school.

*Monitoring students.* The Taliban monitor student attendance, but less strictly than they do teachers’. Students should wear traditional afghan dress, have their hair no longer than one inch and grow beards (when old enough).<sup>26</sup> Students describe being taken aside by Taliban officials and being encouraged to do these things and to spend more time at the mosque. Often, these descriptions were delivered mockingly or with an eye-roll, describing smart aleck behaviour universally

typical of adolescent boys. Nonetheless, teachers said that Taliban elders’ school visits had a noticeably positive effect on behaviour, and that students were more likely to be prepared for class. If a student behaves badly, teachers feel they can approach the Taliban elder to sort things out.

*Regulation of higher education.* While this research did not extensively examine higher education, private and public universities – even those ostensibly in government-controlled cities – are not exempt from Taliban influence. One teacher at a private university in Kunduz City described the Taliban insisting that women and men be educated in separate buildings. When the university resisted the Taliban settled on a curtain being installed to divide male and female students. Professors and students interviewed in Wardak and Kapisa gave similar reports, and talked about the pressure on teachers to let Taliban students pass their courses. The Taliban have also attempted (with little success) to regulate the appointment of professors.

Despite obvious drawbacks and restrictions, the majority of interviewees felt that the Taliban had improved the running of the government education system. The Taliban have capitalised on the fact that so many schools suffer from such high levels of corruption and dysfunction (teachers do not show up, textbooks are sold rather than distributed), and the fact that state-provided education has been a largely top-down endeavour, with limited community input. It is difficult to find a school with a building or perimeter wall; four in ten of Afghanistan’s schools have no building at all (HRW, 2017), and one in 12 are ‘ghost schools’ that exist only on paper (Khan, 2015). Even when schools

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20 Interview with Taliban fighter, Kunduz, November 2017; interview with member of the Kunduz Provincial Council, November 2017; interview with Taliban commander from Logar, July 2017; interviews with teachers, Helmand, December 2017; interview with Nangarhar residents, December 2017; interview with former student from Zabul, March 2017.

21 Interview with teacher from Logar, October 2017.

22 Interview with Taliban fighter, Kunduz, November 2017; interview with education official from Chardara district, Kunduz, November 2017; interview with member of the Kunduz Provincial Council, November 2017; WhatsApp interview with Zabiullah Mujahed, October 2017; interview with teacher from Logar, October 2017; interview with professor from Wardak, October 2017; interview with Logar Taliban fighter, October 2017; group interview with Logar teachers, October 2017; interview with former government education official in Kandahar, November 2017; interview with government education official, Helmand, December 2017; interview with students, Helmand, December 2017.

23 Group interview with Logar teachers, October 2017; interview with Logar Taliban commander, October 2017; interview with teacher/activist, Kunduz, November 2018; group interview with elders from Chardara district, Kunduz, November; interview with teacher from Chardara district, Kunduz, November 2017; interview with mother of students from Chardara, Kunduz, November 2017; interview with government education official, Kunduz, November 2017; interview with former government education official in Kandahar, November 2017.

24 Group interview with Logar teachers, October 2017; interview with Taliban fighter, Kunduz, November 2017; interview with member of the Kunduz Provincial Council, November 2017.

25 Interview with Logar Taliban fighter, October 2017; group interview with Logar teachers, October 2017; interview with government education official, Helmand, December 2017; interview with students, Helmand, December 2017; interview with Logar teacher, October 2017; interview with Nangarhar residents, December 2017; various Islamic Emirate of Afghanistan letters, undated, from Wardak, Helmand and Herat.

26 Interview with professor from Wardak, October 2017; interview with Logar Taliban fighter, October 2017; group interview with Logar teachers, October 2017; interview with Kunduz resident, October 2017; substantiated in various ‘night letters’ seen by the author.

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are closed for years, the budget continues for teacher salaries, students and expenditures.<sup>27</sup> One former deputy minister of education told TOLO News that senior officials in the ministry had exaggerated the number of students in schools, nearly doubling the number actually enrolled, for personal gain (Shaheed, 2016).

In Taliban areas teachers turned up to work, children attended class, books and supplies did not go missing and there was more order in the classroom. Beyond that, however, not a great deal has actually changed: students still use state textbooks, funded and approved by donors and the UN (though the Taliban have sometimes requested specific religious texts be taught in addition), and the Taliban's control over recruitment and conduct is firm but not complete. Most teachers interviewed, aside from those whom the Taliban punished or demoted, were more-or-less agnostic, believing that they had little choice but to work with whoever was there.<sup>28</sup> Some prefer not to work under the Taliban system and leave. As one said: 'If you are a teacher you have to be their friend, you have to get their head in your hands because you need their support, and I couldn't live like this'.<sup>29</sup> That children spy for the Taliban added to some teachers' anxiety. Most teachers of teenage boys knew they had current or future Taliban in their classes. One teacher in Wardak said that 'they do not do well, but you cannot fail them because the Taliban will call you up and say "he has some family problems, he is a good boy ..."'. This is not true, he is fighting at night, that is why he is failing but there is nothing you can do'.<sup>30</sup> Another teacher in Logar described hitting Taliban students when they misbehaved as he would hit any unruly student.<sup>31</sup> However, this specific teacher was related to a local Taliban commander and so probably had little to fear. Most parents interviewed felt that they had little choice regardless of whether they agreed with Taliban regulation of education or not.

### 3.1.3 Education for women and girls

Borrowing a UNESCO slogan, the Taliban leadership have stated that they support 'education for all', and that there is no ban on female education. In reality,

however, girls' education stops around puberty (between grades four and six), which is when a regime of tighter restrictions on women's visibility and participation in life outside the home begins. Prior to puberty, girls can usually be educated with boys and by a male teacher. After puberty, the Taliban impose four core conditions (gleaned from interviews across all 20 districts). Any girls' school must have a separate building, a perimeter wall, female teachers<sup>32</sup> and a means of transporting the girls to and from school. Additional measures may also apply, such as requirements that girls must not wear school uniform and must wear a burka or chador to school, not carry cell phones or be educated in the mosque or madrassa instead of an official school.

This research could not identify a single girls' secondary school open in an area of heavy Taliban influence or control. In Logar and Helmand, girls' schools that met Taliban conditions were threatened, teachers intimidated and students warned not to attend school. According to one Taliban spokesman, where girls' schools were closed this was because the community did not want to send their girls to school. When asked for evidence of an operational girls' secondary school in an area of Taliban control, the spokesman pointed to Sherzad district in Nangarhar, where he claimed that the Taliban assisted the community to open a girls' secondary school. The existence of this school could not be verified despite multiple attempts to do so.

The Taliban insist that there is 'no barrier from their side'<sup>33</sup> to girls going to secondary school, beyond their core conditions. In practice, however, these conditions are frequently not met. As security worsens, many parents withdraw children from school or are more reluctant to send girls to school. Fear is a key factor; even where the Taliban are willing to allow girls' secondary education few people would risk their daughters' lives, and their own, to advocate with the Taliban on education. As one teacher from Logar put it: 'The Taliban do say they would allow girls to go past sixth year if there were female teachers, but people are scared anyway and may not be interested. Besides, most people who want to send their girls to school have left for the city

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27 See HRW (2017); Jackson (2011); GIROA (2017); Khan (2015); Special Inspector General for Afghanistan Reconstruction (2016).

28 Group interview with Logar teachers, October 2017; interview with Logar teacher, October 2017.

29 Interview with an ex-teacher from Chardara, Kunduz, November 2017.

30 Interview with professor from Wardak, October 2017.

31 Interview with teacher from Logar, October 2017.

32 While a third of the country's teachers are women, it is doubtful whether many would want to work under Taliban control. Afghanistan Central Statistics Organisation figures 2016-17 (<http://cso.gov.af/en/page/1500/4722/2016-17>).

33 WhatsApp interview with Zabiullah Mujahed, October 2017.



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and the rest may be interested but they do not raise their voice to express this'.<sup>34</sup>

While Taliban strictures certainly play a role in limiting girls' education, the fact that two-thirds of Afghan girls are not in school is part of a wider collective failure by Afghan communities, the government, the Taliban, NGOs, donors and the UN. Among elites on both sides there is a persistent belief that rural people do not want women to be educated. For example, the former Minister for Vice and Virtue under the Taliban government voiced support for female education, but said that 'in some provinces the people are not educated, they do not really want this because they are fundamentalists and do not allow schools. They haven't experienced education before so they don't know any different'.<sup>35</sup> The Deputy Minister of Education in charge of girls' schooling was far less sympathetic than many Taliban interviewed on the subject, and urged this author to show 'more respect' for 'conservative people's values' when the topic of girls' education was discussed.<sup>36</sup>

It would seem that neither the Taliban nor the Afghan government has a strong interest in female education for fear that forcing the issue with communities could cost them their constituencies. Even where individuals within the Taliban support female education, they fear the consequences of imposing it on people who believe it to be shameful. Many senior Taliban leaders say they have university-educated daughters, but their life experience and mentality are substantially different to the rank and file. According to one high-level Taliban official, 'the leadership knows that some hard people, commanders will say "we will never accept this" and they are afraid that these kinds of people will leave if they push this'.<sup>37</sup>

Numerous instances of elders negotiating with the Taliban to secure girls' education were documented. In case after case, when the elders approached the local Ministry of Education office to ask for female teachers, ministry officials told them that they could not provide them. It is extremely difficult to recruit female teachers for many reasons, not all of which are discussed openly. The Afghan government's own assessment of the education sector suggests that an average teacher pays their first year's salary in bribes to get their job. Women are less likely to be able to borrow money because they often need a man's permission to do so. One might be able to convince a husband or father of the benefits of a woman earning an income, but this is a harder case to make if the family has to go into serious debt first. In addition, many teachers go for months without pay and

must pay bribes throughout their tenure. Male teachers often have second jobs, which allows them to maintain their teaching positions (albeit often with frequent absenteeism). Women would face greater obstacles in pursuing such a strategy.

Another problem is that donors have often funded misguided programmes in this area, such as teacher training colleges in provincial capitals that most rural women have no hope of ever getting to. A multi-generational approach that trains rural women teachers from the communities they work in is urgently needed, similar to approaches to training community midwives in conservative (mostly Taliban) areas of the country. More money for community-based education, which essentially allows girls to be schooled in private homes, would help overcome Taliban restrictions, but there is a sense that to support home-based schools or community education is to admit that Afghan schools are not working as they should. Part of the problem is also that education is lucrative, corrupt and contentious, and such approaches disrupt existing patronage networks.

The larger problem is the diplomatic failure to engage the Taliban on girls' education. The international community has been aware of the Taliban's stance for seven years: the Taliban have hinted that they do not oppose girls' education since 2011, and reportedly declared this position in 2015. Yet there has been little, if any, apparent pressure on the Taliban to adhere to this commitment, and extremely little direct or indirect discussion about what this means in practice. Despite the money and press releases devoted to girls' education, there is a curious inertia among the aid community on this issue that borders on hypocrisy.

### 3.1.4 Attacks on schools

As symbols of the occupation, schools and teachers were targeted by Taliban fighters, though attacks were sporadic rather than systematic. As the original Taliban code of conduct explains: 'working for the current puppet regime is not permitted, either in a madrassa or as a schoolteacher, because that provides strength to the infidel system. In order to strengthen the new Islamic regime, Muslims should hire a religious teacher and study in mosque or another suitable place and the textbooks used should be from the mujahid time or the Taliban time' (Islamic Emirate of Afghanistan, 2006: 4). Attacks on teachers were expressly intended to force them to stop working with the government: 'those who are working in the current puppet regime as a madrassa teacher or schoolteacher

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34 Interview with civil society activist and teacher, Kunduz, November 2017.

35 Interview with Maulavi Qalamuddin, Kabul, December 2017.

36 Interview with Deputy Minister for Education, Kabul, December 2017.

37 Interview with Taliban interlocutor, July 2017.

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should be warned. If he doesn't stop he should be beaten. But if a teacher is teaching against the true Islam he should be killed by the district commander or a group leader' (Islamic Emirate of Afghanistan, 2006: 4).

As the Taliban gained greater influence and control, they began to address community demands for education. In 2009, the Taliban removed the provision authorising attacks on schools from the code of conduct, and by 2011 the number of incidents had dramatically declined (Giustozzi and Franco, 2012). According to the 2010 *layha*: 'All education and training institutes shall be treated appropriately given the principles and norms of the educational committee of the Islamic Emirate. The provincial and district authorities shall act in accordance with educational procedures' (Islamic Emirate of Afghanistan, 2010: 53). The drawdown of international troops also allowed the Taliban to feel more ownership of, and less suspicion towards, education. As one senior member stated:

*When there were 100,000 international forces and [Provincial Reconstruction Teams], we saw reconstruction activities together with their covert activities. They were building schools but also using them to spy on us. The country did not belong to Afghans, so we were afraid of the education system. NATO is almost completely gone, just a few thousand soldiers sitting in their bases and not fighting. The Taliban are thinking, 'we have our country again now and we need to keep and preserve what has been done so that it can be used to help Afghans.'*<sup>38</sup>

In effect, what were previously seen as 'Western' schools teaching children alien and dangerous values are now accepted and supported.

To be clear, schools continue to be used as bases and firing positions by all parties to the conflict. However, the Taliban official policy is not to attack schools that are functioning as places of education, and in several instances communities have been warned to stay away from schools during active fighting. In Helmand and Kunduz, sites of

fierce contestation, schools are reopened, usually after one or two months once some stability has been restored. Where school buildings have been irreparably damaged during fighting the Taliban have, in some instances, arranged for alternative premises to be lent or rented.<sup>39</sup>

## 3.2 Healthcare

### 3.2.1 Structure

Akin to education, the health commission appoints shadow provincial representatives, who in turn appoint focal points for districts and specific clinics.<sup>40</sup> In practice this structure is adapted to need and available resources, as well as the level of Taliban interest and control. There were, for example, fewer health focal points at district level than education officials in the provinces surveyed. There were also more health personnel in areas of greater control or greater contestation. In Helmand, for example, the health structure is far more elaborate than in Logar, where conflict is less intense. Near areas of frequent fighting, some clinics had dedicated focal points to monitor the clinic and mediate between Taliban patients and clinic staff.<sup>41</sup>

The Taliban and its NGO and government counterparts are generally in direct communication, with contact usually initiated by the Taliban when there is a specific issue to discuss.<sup>42</sup> The level of health expertise varies. At provincial and local level, few government or NGO counterparts believed that Taliban personnel had any health expertise (at most they were described as *hafiz* or 'haji doctors').<sup>43</sup> In some instances this lack of technical expertise was problematic, but most interviewees felt that, when local officials focused on administrative matters – and did not stray into technical areas – it was not an issue.

### 3.2.2 Policies

*Vetting staff.* General requirements for staffing are that the individual should be from the area where they are working, they should be professionally qualified for their role and they should be recommended and approved

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38 Interview with former member of the leadership *shura*, March 2018.

39 This seemed to be most common in Helmand, where it also appeared that schools were more frequently damaged in fighting. Interview with teacher, Helmand, December 2017; interview with government district education official, Helmand, December 2017; interview with high school students, Helmand, December 2017.

40 The commission was originally led by Mullah Abbas, a Health Minister under the Taliban government and a powerful interlocutor for aid agencies negotiating access post-2001.

41 Interview with Logar Taliban fighter, October 2017; interview with nurse, Kunduz, November 2017; interview with UN official, Kabul, November 2017.

42 Interview with healthcare NGO director, Kunduz, November 2017; interview with healthcare NGO director working in Uruzgan, November 2017.

43 Interview with healthcare NGO director, Kunduz, November 2017; interview with doctor, Helmand; interview with healthcare NGO director working in Uruzgan, November 2017; interview with government health official, Logar, November 2017.

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by the local health *shura*. During or after recruitment the Taliban conduct background checks. Objections to appointments are usually based on the individual having ties to the government.<sup>44</sup>

*Monitoring staff attendance.* Attendance of staff is monitored and reported to the responsible NGO or Ministry of Health official, with the recommendation that commensurate salary be deducted for periods of absence.<sup>45</sup> As one health provider explained: ‘The Taliban don’t benefit by taking the salary from these people, but they do tell us at local level they must check attendance. So what our payroll receives as the attendance sheet reflects that monitoring process. We distribute the payments to staff based on this’.<sup>46</sup> In some instances there was also pressure on clinic staff to conform to Taliban appearance requirements (beard length and traditional dress).<sup>47</sup>

*Monitoring clinics.* Health focal points check whether medicine stocks have expired and whether equipment is functional.<sup>48</sup> They may also monitor and advise on clinic construction or renovation.<sup>49</sup> In areas of Helmand, the Taliban also regulated the prices of medicines and specific services, such as delivering babies.<sup>50</sup> The government appears to continue to monitor clinics, at least in some areas, through the health *shura* and with the Taliban’s permission, but not as frequently as the Taliban does in areas under its influence.

*Gender segregation.* While gender segregation is usually already in place in most clinics, the Taliban

instate it when it is not.<sup>51</sup> Although there were scattered reports of female health workers in Helmand being threatened, they seem to be valued. In two cases the Taliban objected when a female health worker departed and was replaced by a man because women would not be able to access the clinic unless another woman was recruited. In both cases, they also argued that a woman be designated to the position as per the Health Ministry’s recruitment plans.<sup>52</sup>

If there are problems with the Taliban, health providers generally resolve them through health *shuras*. Few government officials or NGO workers interviewed felt that the Taliban interfered excessively with healthcare or impeded access; indeed, most pointed to government interference and corruption and occupation of and theft from clinics by Afghan security forces and militias as being more problematic than Taliban interventions. One provincial head of an NGO providing healthcare described how pressure from government officials to hire ‘their’ people was more of a worry than any form of Taliban pressure: ‘government people don’t care that this is the health sector and you cannot hire someone who is unqualified, because people will die, but the Taliban do understand this. They might suggest someone but we say they must pass a competency test and be qualified, and they agree with this’.<sup>53</sup> Some even described the Taliban’s monitoring of staff attendance as helpful. Several NGOs and ministry officials reported working either directly or indirectly with the Taliban on recruitment

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44 Interview with Nangarhar residents, December 2017; interview with healthcare NGO director, Kunduz, November 2017; interview with government health official, Logar, November 2017; interview with government health official, Kunduz, November 2017; interview with healthcare NGO worker, Logar, November 2017.

45 Interview with Logar Taliban fighter, October 2017; interview with Nangarhar residents, December 2017; interview with government health official, Logar, November 2017; interview with healthcare NGO worker, Logar, November 2017; interview with Taliban commander from Logar, July 2017; interview with landowner from Kunduz, October 2017; interview with Logar Taliban fighter, July 2017.

46 Interview with healthcare NGO director, Kunduz, November 2017.

47 Interview with nurse, Kunduz, November 2017; interview with landowner from Kunduz, October 2017; interview with government health official, Logar, November 2017.

48 Interview with Logar Taliban fighter, October 2017; interview with Taliban commander from Logar, July 2017; interview with Taliban interlocutor, July 2017; interview with government health official, Logar, November 2017; interview with healthcare NGO worker, Logar, November 2017; interview with landowner from Kunduz, October 2017; interview with Logar Taliban fighter, July 2017; interview with government health official, Kunduz, November 2017.

49 Interview with government health official, Logar, November 2017.

50 Interview with high school student, Helmand, December 2017; interview with doctor, Helmand.

51 Interview with doctor, Helmand; interview with government health official, Kunduz, November 2017; phone conversation with aid worker regarding Sar-i-Pul, March 2018.

52 Interview with government health official, Logar, November 2017; interview with healthcare NGO worker, Logar, November 2017; interview with government health officials, Kunduz, November 2017; interview with healthcare NGO director, Kunduz, November 2017.

53 Interview with healthcare NGO director, Kunduz, November 2017.

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and monitoring.<sup>54</sup> Government officials, clinic staff and NGO workers consistently told the study that the Taliban have a comparatively good understanding of International Humanitarian Law (IHL) and respect for health workers.<sup>55</sup> As with education, this is not just about doing what is right, but also about mollifying the local population by allowing or improving services.

### 3.2.3 The 2017 campaign for better healthcare access

In the spring of 2017 the Taliban orchestrated a coordinated pressure campaign on aid agencies and the Afghan government to improve healthcare across at least 14 provinces. The strategic nature of this push indicates surprisingly sophisticated coordination, planning and coherence. The Taliban also demonstrated comprehensive knowledge of the Basic Package of Health Services (BPHS), the national healthcare programme led by the government and implemented by NGOs. Part of the problem with health access is that most major facilities, as per BPHS planning, are located in cities and district centres. This makes sense to the extent that this is where the most people live, but these areas are also generally controlled by the government. The Taliban's argument was that government areas had better access and better-quality healthcare than Taliban areas. Taliban demands included more staff, new equipment and the establishment of hospitals or sub-centres in areas with inferior facilities. In some cases health facilities closed down during negotiations to come to new terms. In Kunduz a settlement was quickly and quietly reached, while in Laghman health clinics were closed for 45 days and in Uruzgan for three months.

In most provinces aid agencies were able to reduce Taliban demands through negotiation. Much depended on the cohesiveness of local Taliban command structures, and how good the aid agency involved was at negotiating. Fewer demands were placed on smaller Afghan NGOs, which pleaded poverty while making some minor upgrades or accommodations. Other NGOs appeared largely to accede to Taliban demands, pointing

to the fact that access to healthcare was indeed worse for civilians in areas under Taliban influence. There was also a concern that the Taliban would simply shut them down if they refused their demands. Few aid agencies pressured by the Taliban coordinated or shared experiences; most kept the demands they faced to themselves and negotiated unilaterally. Most donors to the BPHS appear to have little or no knowledge of the Taliban's campaign.

Was the push for better healthcare about battlefield concerns or about services to civilians? The answer is probably a little of both. Better treatment for fighters and their families improves battlefield resilience, morale and recruitment, and the Taliban have certainly got better in this regard. In the past fighters were transported to Pakistan, but this was dangerous and insufficient to address critical trauma. Now each of the Taliban's ten military command zones has medical treatment corridors and mechanisms with dedicated focal points to manage transport and treatment.<sup>56</sup> There has been clear pressure on NGO health providers to provide trauma care, and doctors and nurses are routinely called in from nearby cities to treat fighters in remote areas.<sup>57</sup> Another common practice is compelling nurses or clinic staff to perform minor surgeries beyond their qualifications or the capacities of the facility.

## 3.3 Justice

### 3.3.1 Structure

Justice is governed by the Ulema Council and Trials Commission, one of the Taliban's most complex and influential civilian commissions. It has a central role in everything from confirming the Amir and giving sanction to peace talks to drafting the *layha*. The Commission has three core branches: the Ulema Council, *Darul Ifta* (fatwa council) and the Courts. The Courts branch is the largest, with offices in Quetta and Peshawar and a presence in nearly every Afghan province. The Taliban began appointing judges very early in the insurgency, probably around 2006, and by 2011 a clear structure

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54 Interview with doctor, Helmand, December 2017; interview with government healthcare official, Kunduz, November 2017; interview with government health official, Kunduz, November 2017; interview with government official, Kunduz, November 2017; interview with regional director of a healthcare NGO, Kabul, November 2017; interview with nurse, Kunduz, November 2017; interview with NGO worker, Baghlan, March 2018.

55 Interview with former Taliban official, Kabul, July 2017; interview with Taliban interlocutor, Kabul, July 2017; interview with aid workers, Kabul, November 2017; interview with government official, Kabul, November 2017; interview with healthcare NGO director, Helmand, December 2017; interview with director and staff of healthcare NGO, Kabul, November 2017; interview with regional director of a healthcare NGO, Kabul, November 2017; interview with provincial director healthcare NGO, Kunduz, November 2017; interview with nurse, Kunduz, November 2017.

56 Interview with Taliban interlocutor, February 2018; interview with intermediary to the Taliban, February 2018.

57 Interview with Taliban interlocutor, February 2017; interview with Logar Taliban fighter, October 2017; interview with elder from Uruzgan, November 2017; interview with an ex-teacher from Chardara, Kunduz, November 2017; interview with healthcare NGO director working in Uruzgan, November 2017; interview with nurse, Kunduz, November 2017; interview with nurse, Kunduz, November 2017; interview with healthcare NGO director working in Uruzgan, November 2017; interview with NGO worker, Kunduz, November 2017; interview with elders, Baghlan, March 2018; interview with doctor, Helmand; interview with government health official, Logar, November 2017.

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had emerged.<sup>58</sup> There are three levels of courts: a supreme court for appeals in Pakistan, provincial-level courts and primary courts, usually at district level. Some districts have stationary judges in appointed courthouses with jails, and in others mobile judges cover a cluster of districts. Where judges are overstretched, the district governor usually tries to fill the gap, settling what disputes he can in order to expedite justice and lighten the judicial load. This is particularly true where there are mobile judges, whose caseloads tend to be heavy. Kunduz, for example, had an appeals court in the province and judges for every district, while Logar had only a provincial judge and a handful of mobile judges to cover the districts, with district governors assuming a greater role.

Dispute resolution is the Taliban's primary non-military form of engagement with civilians and the first 'service' it offers. One former member of the leadership describes a combination of strategy, opportunism and ideology influencing the evolution of Taliban justice: 'The government was very corrupt, so justice was the first need. Even people in government-controlled areas were referring to us. These were not people who wanted the Taliban, you see, but they wanted justice. We started there because it was the necessity at the time. Even at the beginning of Islam, they used justice to give equal rights to people and that's what we were trying to do as well'.<sup>59</sup>

A great deal of research outlines how the Taliban envisions its justice structures. The following is a brief outline of how Afghans encounter Taliban justice, and how judges at the local level describe systems and processes.

### 3.3.2 Processes

*Bringing a case.* In areas without stationary courts, the plaintiff will approach the district governor with a letter asking for assistance. The governor will then send a letter to the defendant and summon them. If it is a small dispute or a matter that can be easily mediated, it may be handled by the district governor alone. If not, the district governor will summon the judge and let each side know how long the wait time will be. Mediation is the first step. If this fails, each person must produce witnesses and a written account, to which the judge provides a decision. Where there are stationary courts, plaintiffs directly approach judges. In some areas, judges receive plaintiffs on a specific day each week. During the trial,

village elders, often from the district civilian commission, are called to witness proceedings. If the dispute is more serious (for example land or resource disputes spanning several districts, tribes or villages), a commission of Taliban elders may be called in from outside.

*Judgements.* Judges interviewed reported relying on the Quran and *shash kitab*, comprised of the *sunna* and *hadiths*, as sources of the law, as well as previous precedent. Some said they relied on logic (*qiyas*) and consensus (*ijma*, usually drawing on scholars or educated elders) when passing judgements. When explaining examples, however, it became clear that Islamic law was not the only, or even most important, consideration. Cultural norms, common sense and political astuteness were also influential, even if judges did not readily admit to this. In one case, involving kidnapping by criminal bands, the judge described his decision to order the public hanging of the convicted individuals on a public road for several days because this would make the community feel safer. Others spoke of urging families to forgive a convicted murderer to avoid executions; as one judge explained: 'we have to execute a murderer if the family of the victim insists, but as a judge I have a lot of experience and I know this is not a good thing for Afghan people. The murderer's family will want revenge somehow. Revenge never ends in Afghanistan, so you must try for forgiveness'.<sup>60</sup>

*Appeals.* After a judgment is rendered, the parties can elevate the case to an appeal at the provincial-level court, and again to the supreme court, but few do so for fear of the consequences of challenging Taliban judgements. Appeals mentioned in interviews were usually brought by powerful families or businessmen in civil disputes.

*Dealing with 'spies'.* Spying charges fall outside of the civilian justice system and come under the provincial military commission and intelligence department.<sup>61</sup> Spying is a capital offence, but individuals routinely reported that only a provincial governor could approve an execution, and that procedures were now more rigorous than they had been in the past.<sup>62</sup> If no confession is forthcoming, further investigation must be undertaken. The process can require multiple witnesses and testimony, and high-profile cases can often become politicised. Cases are generally not swiftly or easily decided, unlike civil cases, and there are multiple points for intervention on behalf of the accused.

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58 See also Giustozzi and Backzo (2014).

59 Interview with former member of the leadership *shura*, March 2018.

60 Interview with former Taliban judge from Logar, November 2017.

61 Interview with Taliban fighter, Kunduz, November 2017; interview with UN officials, Kabul, November 2017; interview with senior Taliban figure, December 2017.

62 The *layha* somewhat contradicts this, giving mullahs and other officials involved in spying cases the authority to sentence individuals to execution. While other officials may pass an execution sentence, individuals anonymously reported that the governor must ultimately approve it.



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### 3.3.3 Strengths and weaknesses

A plethora of articles have been written implying that Afghans prefer Taliban justice, that its swift justice is seen as fairer, or that it creates a sense of security for Afghans. Writing in *Foreign Affairs* in 2007, for example, Afghanistan expert Barnett Rubin contrasted the deeply entrenched corruption and dysfunction of the formal system with the Taliban's quick, fair and decisive approach. Certainly, civilians see that the Taliban have some added value. Interviewees described how easy it was to settle a dispute, even where Taliban judges were not in residence; a judge would appear on a motorbike within hours of providing a letter detailing their claims to the district governor, and the dispute would be settled by the end of the day.

The reality is more complex. In particular, civil disputes must be distinguished from criminal and military justice, particularly 'spying' cases, which are viewed far less favourably. Civil disputes, particularly over land, are seen as being dealt with in accordance to Islamic principles and norms that are widely accepted, and people are often grateful that cases are settled quickly. However, those on the losing end of disputes are less satisfied, and there is a sense that judgements, while swift, are also often arbitrary or extreme. In one example, Abdul, a teenage boy in Helmand, spent several days in jail after he accidentally broke another boy's arm while roughhousing. The injured boy's parents went to the Taliban to press for payment of the medical bills. They then panicked when Abdul was given a jail sentence, fearing that this could result in problems between the two families. Taliban jails are often targeted for airstrikes or raids, and they worried that Abdul might be killed or abused while in custody. They pleaded to the judge that Abdul be let go and they paid a fine on his behalf (to themselves, essentially) to secure his release.

Taliban justice is also less enduring than portrayed, particularly in civil cases. Afghans, particularly in urban centres, can choose from several justice systems – state courts, Taliban courts and local forms of community dispute resolution – and may shop around. Where control flips back and forth, relitigation is common as cases are retried.<sup>63</sup> Justice becomes part of the terrain of the conflict in other ways as well. Several judges spoke of the Taliban's efforts to steal official records in order to ensure that they had accurate accounts of land ownership or prior litigation. This was corroborated by civilians and by interviewees on the government side.

During seizures of district centres and cities, the Taliban have systematically taken records from the prosecutor's office, as well as marriage records and land deeds. They have also coerced or bribed government officials to steal specific records on their behalf.

There is a sense that the Taliban have tightened up procedures in an effort to prevent unjust executions and improve perceptions of professionalism and fairness. Judges interviewed said that most are now given specific training, usually in Pakistan, and some reported having sat exams that tested their knowledge of Islamic law.<sup>64</sup> Some judges and civilians also reported the existence of an oversight commission for judges. Based in Pakistan, members of the commission also travel to Afghanistan to monitor Taliban judges and courts, but such monitoring appears to be limited.<sup>65</sup> Civilians, particularly in areas of consolidated control such as Kunduz and Helmand, generally felt that 'bad' Taliban justice would be punished. According to one interviewee: 'if the Taliban just kills someone, then they have a commission to investigate and they are getting better at doing justice on spies. Some commanders do things without approval but there will likely be punishment for such people if Taliban leaders find out. They have weak control to prevent things – but they do try to punish people if their behaviour becomes known'.<sup>66</sup>

### 3.3.4 Taliban law as social control

Beyond the *layha*, Taliban rules are announced in letters posted at the mosque or at prayers. They vary from place to place, but many are familiar from the Taliban regime era. Television, radio and smart phones are prohibited. Men must grow their beards, cut their hair to a maximum length of one inch and wear traditional dress. Women are not allowed to go to the bazaar unaccompanied. In some areas the Taliban set a uniform bride price, often much lower than the prices women themselves set, which angers the women and pleases the men. No music is allowed, but exceptions might be made for weddings. Cigarettes are banned. Everyone must attend prayers five times a day, and shops must close during Friday prayers.

While the Taliban's infamous vice and virtue police no longer exist, these rules are often enforced through school monitors, mullahs or local Taliban. In Nad Ali and Sangin districts of Helmand, for example, several teenage boys described dodging the Taliban who patrol bazaars looking to punish boys with hair that was too

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63 Email correspondence with rule of law expert. See also Gaston et al. (2013).

64 Interview with senior Taliban figure, December 2017; interview with UN officials, Kabul, November 2017; interview with Zabul Taliban judge, March 2018; interview with ex-Taliban commander, Kunduz, November 2017.

65 Interview with provincial director of healthcare NGO, Kunduz, November 2017; interview with Zabul Taliban judge, March 2018; interviews with aid workers in Laghman and Nangarhar, November 2017; interview with provincial government official, Logar, February 2018.

66 Interview with aid worker in eastern Afghanistan, December 2017.



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long or too stylishly cut. Everyday acts of rebellion persist – boys growing their hair and hiding it under their caps, people keeping hidden smart phones – but the fear of being caught and the consequences for breaking Taliban-imposed rules are very real. Punishments are not only about compliance, but also coercive deterrence and control. As one man from Kunduz described: ‘If you are absent from praying at the mosque, they will make you stand in the river. The water is very cold, but it’s not about the pain. It’s about the shame and humiliation’.

Many individuals described a sense of foreboding and a creeping quality to Taliban authority that allowed them to ‘prepare themselves’ to comply with the rules – or leave. Women stop going to the bazaar unaccompanied and curtail their activities; men begin to grow their beards and wear *shalwar kameez*. Regulation of schools and clinics, taxation, preaching in mosques and other measures increase the pressure. As one former teacher from Kunduz described: ‘it started slowly, so people could prepare themselves and adjust little by little but we all knew what was coming. So we all have our strategies. Some people like to make friends with them and show that they support them. I was not going to flatter these people and obey their ignorant rules. I could not live like this’. Those who stay behind may simply not be able to leave, or they may agree with the Taliban’s way of doing things, but many with the means to do so have left for the cities.

Many communities in the north are ethnically and politically mixed (as compared to the south and east), and their allegiances are not uniform. Some families may have male members on both sides of the conflict. Having relatives on all sides is a particularly useful coping strategy where areas have moved between government and Taliban control. Some landowning families may leave for government areas, but occasionally return to supervise their farms or leave a son behind to tend the land. The Taliban have begun implementing a rule whereby if a man has a son or son-in-law with the Afghan police or security forces, he must bring him to the Taliban within three days. If he does not he must leave the area, forfeiting his land and property. In an interview, the Taliban explained: ‘the intelligence services reported to us that many families living in our side are giving information to their relatives in government about us. They are providing information about where we are, and it is dangerous for us. Because of this, we have to be very serious. Either they have to leave or bring their sons’. A local Taliban commander stated that the ‘crimes’ of those who surrender are examined and dealt with according to their severity. The Taliban have allowed ‘reintegration’ if soldiers agree to lay down their arms, apologise and have a respected elder vouch for them. Such leniency is relatively common but never guaranteed.

Many families simply leave. Driving these families away, thus forcibly altering the composition of the local population, eliminates perceived threats and facilitates stronger control over those left behind. Likewise,

the prosecution and execution of spies is meant to prevent individuals from switching sides, as well as serving propaganda purposes. Individuals accused of spying are pressured by the Taliban to confess so that, after their execution, this confession can be given to three individuals of the accused’s choice so that they understand why the accused was convicted and executed. The admission is also used to spread fear. In Kunduz, such confessions are systematically broadcast from mosques after Friday prayers as a warning to others. Individuals who are not executed may become double agents or feed information to the Taliban. Among civilians, there was a pervasive sense that the Taliban had many spies in government who ‘knew everything.’

## 3.4 Taxation and revenues

### 3.4.1 Structure

Information on the fiscal and financial aspects of Taliban governance is both closely guarded and routinely distorted, both in the Taliban’s own accounts and by others in their own shaky estimates of Taliban revenues. One frequently hears the same income estimates – \$2.5 million in Uruzgan and \$10 million a month in Kunduz, to cite just two – yet it is never clear how reliable these figures are.

The Finance Commission is headed by one of the most powerful men in the Taliban, Gul Agha, formerly a close advisor to Mullah Omar. One of the earliest established commissions, given the power of the purse strings wielded by whoever controls it, it has historically also been one of the more contentious and politicised. Gul Agha’s predecessor only narrowly survived a gangland-style assassination attempt. Beneath the Finance Commission there are various branches dedicated to specific activities or sectors, such as electricity, mining, customs and quarries. In parallel, separate commissions look after minerals and energy and agricultural and government land. While these branches appear to have overlapping mandates, interviews indicate that they cover separate geographic areas, and each has different revenue streams. The Minerals and Energy Commission appears to be responsible for Ainak copper mine in Logar, while the stones branch of the Finance Commission oversees the marble quarries in Helmand. Related branches or departments under the military commission also yield revenue, including the *ghanayam* (seizure of property) department.

The Finance Commission has dedicated officials at provincial and local level, and several branches or divisions devoted to specific means of taxation and revenue, such as *zakat* and *oshr*, narcotics and customs. As when the Taliban were in government, taxation seems to be a combination of taxes traditionally levied on the productivity of land and on income and an Islamic taxation regime. While senior Taliban officials maintain that all local revenue collection is remitted to the ‘central’

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Taliban government and then redistributed from there, it is unclear if this is actually the case.<sup>67</sup> Like much else within Taliban governance, decision-making is often decentralised within a seemingly hierarchical structure. Taxation is systematic but not uniform, with policies applied differently across the country.<sup>68</sup>

While the Taliban are seeking to expand their tax base, trying to compel any entity they can to pay taxes through coercion, threats and violence, in numerous cases they have either relented, at least temporarily, or reduced their demands where they encountered sufficiently organised and determined resistance. At one private clinic in Kunduz City, the Taliban request a list of specific medicines as a form of in-kind payment, and the clinic pushes back if staff feel they are being asked for too much. Private media companies have also faced demands, but several seem to have got away with refusing to pay after talks with the Political Commission in Doha.<sup>69</sup> Taxes on construction are also common, whether new building or renovation; one professor described how work to expand his university's premises was delayed by Taliban demands for 10% of the construction budget. Development and construction projects can be held up for months or even years where requests to pay taxes are refused, and road-building in particular can be blocked if it is deemed to threaten the Taliban's military objectives, no matter how lucrative the potential tax revenues might be.

### 3.4.2 Zakat and *oshr*

*Zakat* refers to the religious obligation on Muslims to donate 2.5% of their disposable income to the poor. Some described the Taliban's collection of *zakat* as a mandatory 25 afghanis (AFN) from every 1,000 AFN earned, while others explained it in more voluntary terms, or described it as arbitrary. Some Taliban indicated that it might be used to support the families of poor Taliban fighters, but no one could explicitly outline how it was redistributed. One teacher from Logar said that '*zakat* is not true *zakat*, it is probably used to fund the war because we don't see any evidence of charity'.<sup>70</sup>

*Oshr* is a tax of one-tenth of whatever produce or harvest is being brought to market, collected in kind or in cash. However, it is not necessarily as precise in practice as the one-tenth rule might suggest. Collection might involve looking over a truck's load and asking for a flat fee, as was reported to be the case at quarries in Kunduz and Helmand. Businesses, ranging from shops in

the bazaar to private clinics, are routinely taxed at least one-tenth of their income, including in district centres and cities not commonly considered as under Taliban control (i.e. Lashkargah, Kunduz City, Ghazni City, parts of Kabul). These taxes may or may not be referred to as *oshr*.

### 3.4.3 Narcotics and crime

The tax on narcotics, often also framed as *oshr* in interviews, is a lucrative revenue stream, but the degree to which the Taliban are involved directly in the drugs trade is contested among experts. The Taliban's own, relatively boastful, statements about poppy-related revenues suggest that their involvement and profits are not as monumental as US and Afghan government estimates indicate. As Mansfield, the leading authority on this, surmises: 'the degree to which the Taliban relies on funding from the drugs trade has always been disputed, and to a large extent the variance in estimates has been more about politics than methodology' (Mansfield, 2018: 7).

Allowing and facilitating poppy cultivation has strategic importance because it encourages civilian compliance with Taliban rule. As one aid worker in Helmand explained: 'it's massively important probably because they get fewer questions because people can survive. Their economic model is not very strong, so it gives the Taliban a free pass on not being able to provide very well for people because people survive on poppy. That's how they can buy what they can buy, and everybody is involved. Harvest is the calmest two weeks in Helmand'.<sup>71</sup>

A similar approach is taken to other lucrative criminal enterprises, such as smuggling and associated illicit economic activity. The Taliban may or may not be directly involved, but they certainly take a cut. In Kunduz and Takhar, the Taliban assumed the role that pro-government actors previously occupied in regulating and profiting from cross-border smuggling when they controlled the territory, and in some cases they have recruited smugglers and traffickers into their ranks. Within the Finance Commission, cross-border activities fall under the customs branch and are seen as separate from domestic taxation. What this means in practice, and where this money goes, is again unclear, as is the line between personal interests and official policies more generally. The Taliban may be struggling with similar issues as the Afghan government, which has never been able to get local power-brokers at border crossings to remit large shares of tax revenue to the centre.

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67 WhatsApp interview with Zabiullah Mujahed, November 2017.

68 Taxes vary. Farmers in Farah and Helmand report being taxed on landownership (see Pajhwok, 2017; Pajhwok, 2016), as did landowners in Kunduz interviewed for this research. Farmers in Logar said they were not taxed on landownership. See also Mansfield (2017).

69 WhatsApp interview with owner of Afghan media company, February 2018.

70 Interview with teacher/activist, Kunduz, November 2018.

71 Interview with Helmand aid worker, February 2018.

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### 3.5 Telecommunications and utilities

Private cell phone companies appear to routinely pay taxes, which they often negotiate locally and in Dubai.<sup>72</sup> They are also subject to Taliban regulation of their services. This entails dictating when cell phone services should be provided, with the most common stipulation being that they be shut down after dark (presumably to reduce tip-offs to international and Afghan forces). In Uruzgan, services were cut off entirely for a large part of 2017. The Taliban claim to exert control over at least a quarter of the mobile grid, including in major cities such as Kunduz and Lashkargah.<sup>73</sup> The government mobile provider, Salam, is banned in Taliban areas, and the Taliban check mobile phones for Salam sim cards. Being caught with one will likely result in the card being destroyed and the owner being beaten.

In at least seven provinces the Taliban are collecting on the vast majority of electricity bills. In Kunduz, the state-owned electricity company Da Afghanistan Breshna Sherkat estimates that this amounts to approximately \$50,000–\$57,500 in lost revenues every month.<sup>74</sup> In Helmand, Breshna believes that Taliban obstruction accounts for a 45% loss in revenues.<sup>75</sup> In principle, the Taliban say that, if the electricity company pays them a significant tax (equal to almost the entire amount of payments due each month) they will allow Breshna to resume collecting on its customer bills.<sup>76</sup>

The Taliban do not necessarily read meters per se, but levy what they estimate is fair and issue a payment receipt similar in appearance to the one provided by the state electricity company. The Taliban have also attacked towers in government-controlled areas to coerce the state electricity company to restore power where it has been cut off. According to one Breshna employee, ‘they threaten us to get us to fix or extend coverage, and if we don’t do it quickly they blow something up. Then we have two problems to fix instead of one. So usually we try to meet their demands promptly.’<sup>77</sup> One (rather extreme) example is attacks on

electricity infrastructure in Baghlan, the site of a major electricity tower that links power supplies from Tajikistan and Uzbekistan to Kabul and four other provinces. When power has been cut to Taliban areas of Baghlan and Kunduz, as it was most recently in the spring of 2018, the Taliban have attacked the tower and disrupted power to the capital, capturing news headlines and reminding people how far their reach extends.<sup>78</sup> According to another Breshna official, ‘the Taliban have responsibility over everything in their areas, and our people, the mechanics and engineers, are only working with their permission’.<sup>79</sup>

### 3.6 Beyond revenue generation

There is a significant body of research on Taliban taxation and revenue flows. What is often overlooked, however, is that the benefits of taxation extend far beyond income. Taxes are perhaps the most visible way in which insurgents ‘perform’ governance. The Taliban, through its lack of meter reading and flat charges, is probably losing vast amounts of money on electricity bills, for example, and Afghans are probably getting a good deal, but this is beside the point. The Taliban manufacture their own electricity bills, near-replicas of Breshna’s bills in some cases, and have gone to a great deal of effort to mimic official systems.

Taxes, in theory, imply a social contract. Taliban taxes are not arbitrary, although they do vary and are open to negotiation. They are designed to make the Taliban look like a state. When they meet resistance, whether from individuals, NGOs or private companies, they often argue that they provide security in return. Coercion is always in the background, but it is this state-like function that frames the Taliban discourse on taxation. (Never mind that the Taliban started levying taxes long before there was much Taliban shadow governance to speak of, but this is how they legitimise taxation now.) Taxation is also a means of exerting social control.<sup>80</sup>

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72 Interview with Logar Taliban commander, March 2018; WhatsApp interview with Zabiullah Mujahed, November 2017. See also Chopra (2016); Domínguez (2016).

73 WhatsApp interview with Zabiullah Mujahed, November 2017.

74 Interview with Breshna official, Kunduz, November 2017.

75 Interview with Breshna official, Helmand, November 2017.

76 Interview with Breshna official, Kunduz, November 2017; interview with Breshna official, Helmand, November 2017.

77 Interview with Breshna official, Kunduz, November 2017.

78 See Gul (2018); Islamic Emirate of Afghanistan (2018).

79 Interview with Breshna official, Helmand, November 2017.

80 See Heer (1937).

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Taxes are obligatory and coercively levied, and framed in Islamic terms that imply mechanisms of social control. *Zakat*, for example, is one of the five pillars forming the

basis of Islamic life. The payment of *zakat* is therefore not only about obeying the Taliban, but also about being a good Muslim.

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# 4 Analysis and discussion

## 4.1 'Control' and 'support'

This study challenges prevailing notions of control, clearly illustrating that the Taliban do not have to take territory to control it. Following the brief period in 2015–16 when the Taliban appeared to focus on capturing cities and grabbing headlines, their strategy has focused on creeping influence. They have already made the point that they have the military capacity to take some cities, but dramatic sieges are labour- and resource-intensive, and urban centres cannot be held once taken. Military operations of this nature also cause panic and mass exodus, making it more difficult for the Taliban to retain control and restore order. Aid agencies and businesses withdraw and trade slows down, reducing the potential Taliban tax base and angering civilians.

Arguably, there is no need to capture a city if atmospheric coercion, punctuated by occasional violence, is enough to ensure the population submits to Taliban authority. The critical point, and one which is often missed in analyses of Taliban control, is that governance does not come after the capture of territory, but *precedes* it. Coercion, coupled with the more popular aspects of Taliban governance such as justice, softens the ground. Taliban governance does not supplant the Afghan government but co-opts and augments it, resulting in a hybrid service delivery arrangement. Even in Kunduz City, which is ostensibly under government control, the author saw Taliban letters pasted up in the central *chowk* (bazaar), was shown receipts for Taliban tax payments and saw the results of the Taliban's monitoring and regulation of classes in private universities (i.e. curtains placed across rooms to enforce gender segregation, objectionable pages ripped out of textbooks). In districts that NATO classifies as contested or under government control, the district centre is all that remains of a government presence, and even this is extremely limited. District governors, judges and other state officials may reside elsewhere for their own safety, and those who remain do so at the discretion of the local Taliban. The Afghan national security forces appear to have struck tacit deals with the Taliban in many districts, in effect unofficial mini-détentes. It is not uncommon for checkpoints to be manned by government police or soldiers until around

4 p.m., when they retreat and the Taliban assume their positions until the following morning. The fact that the Taliban collect taxes far beyond the borders of areas in which they have territorial dominance further underscores the need to rethink what constitutes Taliban control (Mansfield, 2017).

For the Taliban, control of people – rather than control of territory or popular support – is the priority. They seek to control the population, mainly to prevent people from informing upon them or acting against them. They use governance to keep the population at least marginally satisfied, and this, in combination with their coercive power, helps secure the population in areas under their influence or control. As such, the provision of public goods and strict regulations on personal behaviour are driven by ideology, but are also designed to control the population. The Taliban use outright violence against those they perceive as a threat, which in turn sends a message to the rest of the civilian population about what happens to those who might act against them. As Hirose et al. find in their study of Taliban targeting, the Taliban exhibit 'an impressive, if imperfect, ability to monitor civilian attitudes, one that is likely more sophisticated and extensive than ISAF's efforts' (Hirose et al., 2017). Indeed, this Taliban strategy has been far more effective than the other side's efforts to win the war through capturing Afghan 'hearts and minds'.

This is reflected in the ways in which civilians understand 'support'. Most civilians interviewed were either confused by or outright hostile to questions regarding whether they support the Taliban or the government. Kalyvas, writing more generally about civil wars, suggests that 'most "ordinary" people appear to display a combination of weak preferences and opportunism, both of which are subject to survival considerations' (Kalyvas, 2006: 103). A more accurate observation might be that ordinary Afghans feel they have very little choice in the matter; they tend to be conservative, basing most of their decisions on what they believe will enhance their chances of survival. At the same time, however, the Taliban must also, at least to some degree, prioritise the real-world concerns of their constituents, to prevent the widespread dissatisfaction that they fear would lead civilians to inform upon them. Their

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ideology has had to be reconfigured to fit these demands. One former official explained that ‘they know now that they have the support of the people. They cannot go against the will of the people because they need civilian support, so they have to change some of their ideas’.<sup>81</sup> Such arrangements between insurgents and civilians are based on mutual yet unequal exchange and geared towards cementing ‘an informal social contract that can render an insurgent government a legitimate authority, thereby bolstering its position in its competition with the incumbent state’ (Mampilly, 2011: 52). Insurgent governance, in other words, is not government for government’s sake. It is another means of waging war.

## 4.2 Civilian bargaining

While most civilians may neither openly confront nor actively support the Taliban, they nonetheless try to influence their policies. Mechanisms for civilian bargaining are systematised into service delivery and governance structures, both the structures created by the Taliban and those they have co-opted. Within the Taliban structure, civilian *shuras* at provincial and district level, for example, are meant to play an intermediary role with communities. Within government and the aid architecture, school and health *shuras* and community development councils have all played a similar role. They often include civilian officials within the Taliban regime, but the lines at village level are so fluid that this distinction is less significant than it might sound. Civilians play an essential function for both the Taliban and the government and aid agencies. They also allow the government and aid agencies to mostly avoid direct contact and maintain a degree of deniability about negotiating with the Taliban. As long as such accommodations do not entail confrontation or loss of face for the Taliban, and are not radically contradictory to the official Taliban line, people are allowed to live their lives.

The relationship between commanders and local communities is vital in setting the parameters for bargaining on key decisions and policies. While the precise identity of fighters is difficult to determine, the majority operate in or around their communities, and the Taliban are part of the local social fabric. For civilians, the Taliban are often brothers, fathers, uncles, in-laws, neighbours and childhood friends. In interviews, local commanders described frustration, tension and subtle acts of disobedience when ordered by superiors to do things they see as harming, or going against the wishes of, their communities. By contrast, things may go badly for the community if a local commander is seeking to demonstrate his authority or feels threatened. Personalities and personal histories matter.

Distinguishing between ‘good’ and ‘bad’ Taliban is one way civilians make sense of seemingly random or

personality-based differences in policy implementation. Those that come from the community, keep people safe from violent pro-government militias and crime and do not interfere where they are not wanted are ‘good’ Taliban. Anyone who goes against the will of the community or acts excessively violently or harshly is ‘bad’. ‘Bad’ Taliban are often seen as under excessive influence from Pakistan or the Pakistani intelligence services. The distinction may not always be borne out, but it does at least offer people a way to explain the variations created by personality and the anxieties such variability creates in a system where obedience should be near-absolute.

Local history and precedent also shape the application of policy. The senior leadership claim that they do not impose their will on communities when they face strong objections. In the 1990s, the Taliban catered to local preferences on social issues to varying degrees, but this stated openness to local norms is more pronounced now that they are aiming to secure civilian compliance. History and local tradition also influence the degree to which civilians will try to bargain on certain issues. In Helmand, few girls have historically gone to school and elders and teachers interviewed responded with quizzical looks or jokes when asked about girls’ education. In Logar, Wardak and Laghman, by contrast, elders were much more likely to try to negotiate with the Taliban on education. In Kunduz, Helmand, Logar and Baghlan, elders made subtle threats against the Taliban to get them to permit development projects, hinting that the Taliban would no longer be welcome to pass through their villages, or that some people might turn against them and inform on them if they did not approve the proposed project. In parts of Logar, and undoubtedly elsewhere, elders played a pivotal role in bargaining and acting as intermediaries for community concerns or problems.

There are limits to this influence. In Baraki Barak and Mohammad Agha in Logar, for example, elders advocated to keep girls’ secondary schools open, but this became untenable after a certain point. Elders themselves were divided on the issue, and without support from the government, in the form of resources and female teachers, it was difficult to keep pressing the point. The Taliban met them half-way, and both expected the government to help, but when it failed to do so the elders lost face in the negotiations. In Baraki Barak, visiting Taliban fighters exerted pressure on local counterparts to curtail girls’ education, essentially negating the elders’ leverage on this issue.

Individual relations influence bargaining too, although the Taliban generally frown on this. The Taliban must be careful not to be seen to be favouring individuals or allowing relationships to unduly influence decisions for fear of being perceived as corrupt. In practice, and in the absence of generalised trust and in an environment of widespread suspicion, the Taliban rely on relationships

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81 Interview with former Taliban official, Kabul, July 2017.



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in everything from conducting background checks and appointing teachers to negotiating aid access. Civilians need someone close to the Taliban on their side to ensure their protection. As one Taliban commander in Baghlan explained: ‘We Afghans have been fighting wars for a very long time, and we need to be pragmatic to survive. Everyone needs two phone numbers, one for the government and one for the Taliban. Even me, I have many friends on the government side, and this is how we manage our lives’.<sup>82</sup> Some individuals spoke of giving sons up to the Taliban because they believed the entire family would be treated better and ultimately be safer. Several individuals interviewed, with little affinity for the Taliban, discussed having Taliban friends with whom they cultivate relationships ‘just in case’. It is a wise strategy given that, in matters of life and death – such as the detention of a relative or blocked aid access – these links often count most. The ‘rules’ may still take precedence, but it is critical to have advocates to fight your corner.

### 4.3 Variance

The implementation of policies, even widely known and adopted ones, is far from uniform. While the Taliban show more coherence than previously, even widespread and long-standing policies are subject to occasional rejection by local commanders. Polio vaccinations, which the Taliban have voiced strong support for over the past decade, are occasionally blocked and health clinics might be shut down. Some local Taliban officials might have a broader interpretation of the restrictions on girls’ education or on matters of taxation. The two key factors influencing implementation are the degree of Taliban control and local dynamics.

In contexts with fragmented sovereignty – meaning that the Taliban and the government both exercise limited control – the Taliban combine violence and coercion with softer components of their arsenal. Fragmented sovereignty would also include areas in which there is violent competition (i.e. self-proclaimed Islamic State affiliates or other Taliban breakaway factions). Attacks and night letters are combined with justice, taxation and preaching in the mosques; girls’ secondary schools remain open and district governors may stay in residence, although routinely threatened. Where they have exerted dominance over the government, the Taliban can fully wield the power to govern. They may, for example, have stationary jails and judges or regularly retain Taliban monitors in schools. In most cases, the threat of violence is no longer necessary: once they feel secure, the Taliban can present a kinder face to the local population.

Local Taliban put their spin on the implementation of policies, usually according to their own beliefs or

interests, and some local commanders have much more influence over their domain than others. Mullah Abdul Salam Akhund, for example, the shadow governor of Kunduz until his death in 2017, was widely seen as a moderating influence, showing leniency towards families with sons in the Afghan security forces and favouring local development. Salam was able to go his own way on various issues in part because he had a strong personal power base: he was widely respected for his military prowess and also exerted strong control over the illicit economy in the north. Others may intentionally violate a Taliban directive to demonstrate their autonomy, though this is the exception rather than the rule (Shah Wali Kot and Warduj are two examples). Just as in any state there may be mini-dictators, individuals within the system who seek to exert their power, but dissent is actively discouraged and admitting to internal differences is seen as disloyal.

As in any government, incompetence and ignorance are also factors, and officials are often appointed based on their loyalty and service over any sectoral expertise. During the Taliban government in the 1990s officials were not appointed based on technical qualifications and were regularly rotated, usually just as they were beginning to understand their portfolio, to discourage corruption. Unlike many of their government counterparts, Taliban officials do not receive much training on how to govern. While they may have been ordered by the leadership and local officials to take a specific action, they mainly rely on their own judgment, counsel from others and past experience.

The Taliban leadership is realistic about its ability to implement policies locally. The existing social order is not something Taliban presence can easily overturn. They accept, for instance, that what works in conservative, rural and poppy-rich Helmand may not be feasible in more educated and Hezb-i-Islami-dominated Wardak. Local (village, district and provincial) officials interviewed consistently indicated that governance orders were followed from the higher level, but that they were also afforded discretion. They said that they referred to the ‘Quetta *shura*’ – meaning any of the commissions or the leadership *shura* – if something was particularly contentious or unclear, but doing so was described as unusual.

Much of Taliban policy is framed in Islamic terms, with an emphasis on obedience to the Amir, such that open disagreement appears and feels un-Islamic. A core Taliban text distributed by Mullah Omar to his visitors to educate them on Taliban rules and ideology describes how this works: ‘any weakening of the spirit of observance of Obedience to the *Amir* weakens the implementation of God’s system ... God has linked Obedience to the *Amir* to obedience to God and his prophet’ (Ludhianvi, 2015: Kindle Locations 503–11). Interviewees often said that any differences were inconsequential because

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82 Interview with Baghlan commander, February 2018.

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everything the Taliban do is in line with Islam. Variations and debates are discursively reconciled as consistent with prevailing notions of Islam, and this is what counts. Yet even internally there was an admission that not all Taliban fit this pious, subservient ideal. Several high-level interlocutors and officials made unprompted statements about Taliban who are self-interested and not following the rules. Some areas fare worse than others, with more fragmented local quasi-criminal Taliban contingents in areas of the north and north-west, for example.

#### 4.4 Implications: dealing with the Taliban

Interviews with aid workers indicated that there was little internal discussion within aid agencies about how to respond pragmatically to the dilemmas of working in Taliban areas, and little discussion between implementing agencies about how to negotiate strategically with the Taliban. Clarity has not been helped by the murky language of counter-terror restrictions and donor ‘red lines’, and aid agencies worry about the unclear attitudes of the Afghan government on engaging the Taliban. Local staff often do not share information with NGO managers about the compromises they make to keep programmes running, and nor do agencies subcontracted by international NGOs and the UN to implement programmes. Few aid agencies talk about these issues frankly with each other.

Donors, which provide nearly all of the funding for basic services in Afghanistan, face similar dilemmas. Many governmental donors (a majority of whom had or continue to have troops in Afghanistan) are technically not allowed to support work in ‘Taliban-controlled areas’, but hybrid Taliban governance is already

functioning, in nascent form, throughout the country. Local deals are struck on everything from the curriculum and hiring practices to who controls which roads. While schools and clinics may provide fruitful ground in building confidence and even eventually opening the way to peace talks, however open the Taliban might be to dialogue on humanitarian and development issues, donors, the UN and NGOs remain hesitant to engage, worried they might ‘legitimise’ the Taliban or encounter legal or funding penalties.

The question is not *whether* to engage: the Taliban are using humanitarian access and development interventions for political and military ends, and agencies are increasingly being forced to react to this reality. They often do so unilaterally, or are caught on the back foot in negotiations. This has enabled the Taliban to set the rules and parameters of negotiation. The challenge for the international community now is to figure out *how* to engage with the Taliban on these issues in a politically feasible and strategic way.

The international community could do worse than dust off the old lessons from dealing with the Taliban regime in the 1990s. While this study makes clear that the Taliban have shifted their position on a number of issues, the question of how to effectively negotiate with them does not seem to have changed all that much. Many key Taliban leaders were in government then; certain tactics, such as public denunciation, failed badly and often made things worse, while others, such as persistent, long-term, multi-level engagement, worked better. Many of these tactical lessons are still applicable. While this might be a depressing prospect to some, there may be some relief in the fact that these dynamics are hardly new. A rich body of expertise exists to help inform future approaches.

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# 5 Conclusion

The Taliban set the rules in vast swathes of Afghanistan, controlling education, access to information, healthcare, economic activity, expression, behaviour and life prospects for millions of Afghans. This research not only outlines the ‘rules’ in Taliban territory, but also sheds light on how those rules are formed and implemented. Better understanding of how the Taliban govern, and what drives their policies, is essential for aid access, human rights advocacy and any future peace deal. More substantial field research is urgently required, particularly with much of the diplomatic and international presence (i.e. the actors with the power to shape policy) in Afghanistan so restricted they barely leave their fortified compounds.

Two core areas deserve further attention. First, this research challenges widely accepted notions of insurgent influence and control. Control is not an all-or-nothing, zero-sum equation; the reality is that parts of government continue to function in areas of Taliban control under a hybrid service delivery arrangement, and the Taliban encourage government service delivery as long as this is according to their rules. There are no clear dividing lines on where Taliban influence begins and ends, as illustrated by the gradual, creeping quality of Taliban authority described by so many interviewees. The degree of influence on services and everyday life extends, in many places, far into areas said to be under government control. There are also areas where multiple authorities – the Taliban, government, other armed opposition groups, criminal actors, pro-government militias – are attempting to impose their rule.

This study also challenges prevailing notions of ‘civilian support’. While the international military, in

particular, is focused on civilian support for parties to the conflict as a zero-sum equation, this is overly simplistic. Civilians are under extraordinary pressure from all sides and are most often making choices, short-termist and based on deeply imperfect information, in order to survive. Many civilians defended the Taliban in interviews, but this was more often a rebuke of the government than a statement of objective support. Civilians’ expectations of the government are much higher than those of the Taliban, and the government has very badly let them down. By contrast, Taliban governance is not about winning hearts and minds but about bringing the population to heel.

Second, this research strongly indicates that everything is open to negotiation. The parameters of that negotiation are limited, but those who were able to exert leverage and bargain well – usually Afghan civilians and aid workers – get better terms for themselves and their communities. At the same time, the Taliban are becoming more powerful and more strategic in their efforts to exert control and influence service delivery. Aid agencies, the government and the international community seem worryingly unaware of these developments, deeply unprepared and reluctant to engage with the Taliban, despite their growing influence on the ground, including over aid and government programmes. The Taliban want to talk (particularly to the aid community and diplomats), for many reasons, and it is curious that these actors are refusing to engage on issues they publicly claim to care about. The question now is whether they will choose to do so.

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