

1.2.2. Nature of issued instructions

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The de facto government has not enacted a formal legal framework.178 Since their takeover in 2021, they have been ruling without a constitution,179 having immediately abolished the 2004 Constitution of the former government180 and not yet announced any replacement.181 Instead, they have indicated that a constitution is unnecessary asserting that *sharia* provides 'a comprehensive legal framework',182 although there is not one uncontested universal interpretation of *sharia*.183 The book 'The Islamic Emirate and Its System', authored by the de facto Chief Justice and endorsed by the Taliban Supreme Leader,184 'appears to be the blueprint' of the de facto government and its intellectual foundations.185

All laws in effect under the previous government have been undergoing a review to assess their compliance with *sharia*, but no announcement has been made on the final outcome of this review or which laws remain in effect.186 Rather, the de facto authorities have continued to broadly refer to *sharia* as the governing framework,187 and have issued verbal and written instructions based on their own interpretations.188 The UN Special Rapporteur on human rights in Afghanistan referred to the legal framework as a 'patchwork of so-called laws, decrees and edicts'189 highlighting the lack of legal certainty and consistency due to the unclear status of earlier legislation.190 Other sources similarly noted significant ambiguity regarding which laws have become redundant, as the de facto authorities have selectively applied laws of the previous government.191

The de facto authorities have, however, been formalising the issuance and communication of laws and other instructions,192 *inter alia* by compiling official gazettes.193 Nevertheless, the Taliban Supreme Leader has continued to mainly rule by decree issued from his base in Kandahar,194 and verbal communication of restrictions has also continued195 – with unclear legal status.196

Many instructions have moreover been vaguely formulated,197 and leave space for different interpretations.198 Some sources have indicated that instructions may be purposefully vague in order to, *inter alia*, increase policy ambiguity and leave space for adjustments.199 Some sources also stressed that some decrees are largely symbolic rather than enforceable laws.200 In this system, much is left to the interpretation of the individual enforcer of laws and instructions.201

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