

## 1.2.2. Nature of issued instructions

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The de facto government has not enacted a formal legal framework.<sup>178</sup> Since their takeover in 2021, they have been ruling without a constitution,<sup>179</sup> having immediately abolished the 2004 Constitution of the former government<sup>180</sup> and not yet announced any replacement.<sup>181</sup> Instead, they have indicated that a constitution is unnecessary asserting that *sharia* provides ‘a comprehensive legal framework’,<sup>182</sup> although there is not one uncontested universal interpretation of *sharia*.<sup>183</sup> The book ‘The Islamic Emirate and Its System’, authored by the de facto Chief Justice and endorsed by the Taliban Supreme Leader,<sup>184</sup> ‘appears to be the blueprint’ of the de facto government and its intellectual foundations.<sup>185</sup>

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.<sup>186</sup> Rather, the de facto authorities have continued to broadly refer to *sharia* as the governing framework,<sup>187</sup> and have issued verbal and written instructions based on their own interpretations.<sup>188</sup> The UN Special Rapporteur on human rights in Afghanistan referred to the legal framework as a ‘patchwork of so-called laws, decrees and edicts’<sup>189</sup> highlighting the lack of legal certainty and consistency due to the unclear status of earlier legislation.<sup>190</sup> 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.<sup>191</sup>

The de facto authorities have, however, been formalising the issuance and communication of laws and other instructions,<sup>192</sup> *inter alia* by compiling official gazettes.<sup>193</sup> Nevertheless, the Taliban Supreme Leader has continued to mainly rule by decree issued from his base in Kandahar,<sup>194</sup> and verbal communication of restrictions has also continued<sup>195</sup> – with unclear legal status.<sup>196</sup>

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

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