

AFGHANISTAN

U.S. Commission on International Religious Freedom: 2013 Annual Report

Bottom Line: Religious freedom conditions continue to be exceedingly poor for dissenting Sunni Muslims, as well as Shi'i Muslims, Hindus, Sikhs, Christians and Bahai's. The Taliban and other non-state actors continue to target individuals for activity deemed "un-Islamic," and the Afghan constitution explicitly fails to protect the individual right to freedom of religion or belief.

Conditions for religious freedom are exceedingly poor for dissenting members of the majority faith and minority religious communities. Individuals who dissent from the prevailing orthodoxy regarding Islamic beliefs and practices are subject to legal actions that violate international standards. The threat of violence by the Taliban and other armed groups is a growing reality. The Afghan government is increasing its responsibility of providing security nationwide, yet remains unable to protect citizens against violence and intimidation. Based on these concerns, USCIRF places Afghanistan on its Tier 2 list in 2013. Afghanistan has been on the Commission's Watch List every year since 2006.

Background

The Afghan constitution fails to protect the right to freedom of religion or belief, allows ordinary laws to supersede other fundamental rights, and contains a repugnancy clause stating that no law can be contrary to the tenets of Islam that the government interprets to limit fundamental freedoms. Individuals who dissent from prevailing orthodoxies on Islamic beliefs and practices are subject to legal action. Given that the influence of the Taliban likely will increase as negotiations with insurgents move forward, this widely-held interpretation of the constitution becomes increasingly problematic. The United States and President Hamid Karzai have made respecting the constitution a nonnegotiable plank in peace talks with anti-government elements. While positive on the surface, the constitution's undefined notions of Islamic law superseding human rights guarantees could seriously undermine religious freedom and women's human rights. Thus, any potential peace deal could prove meaningless if interpretations of religious law can override the protection of human rights for all.

Religious Freedom Conditions

Legal Restrictions: The Afghan constitution declares that Islam is the sole religion of the state and that no law can contradict its beliefs and provisions. In practice, the constitution has been interpreted and applied as establishing a restrictive interpretation of Islamic law as the law of the land and prioritizing that interpretation over human rights guarantees, which has resulted in abuses. The penal code permits the courts to defer to Shari'ah in cases involving matters that neither the penal code nor constitution explicitly address, such as apostasy and conversion, resulting in those charges being punishable by death. Afghanistan has no constitutional guarantee of the individual right to freedom of thought, conscience, and religion. State-backed religious leaders and the judicial system are empowered to interpret arbitrarily and enforce undefined Islamic principles and Shari'ah law, leading to harsh, unfair, and at times even abusive interpretations of religious orthodoxy.

Repression of Non-Muslim Religious Minorities: The few Afghan Christians, converts from Islam or their children, long have been forced to conceal their faith and cannot worship openly. The situation for Christians worsened in 2010, when authorities arrested 26 Christians, but there were no reports of Christians arrested during the reporting period (January 2012 – January 2013). Members of Afghanistan's small Baha'i community lead an essentially covert existence, particularly since May 2007 when the General Directorate of Fatwa and Accounts ruled the Baha'i faith blasphemous and all Muslim converts to the Baha'i faith apostates. The situation of Afghanistan's small Hindu and Sikh communities has improved since the fall of the Taliban. However, while Hindus and Sikhs are allowed

to practice their faith and have places of public worship, Afghan security personnel and local residents in November 2012 reportedly prevented Sikhs from performing cremation ceremonies for their deceased relatives.

Shi'i Muslims: The situation of Afghanistan's Shi'i Muslim community, the largest religious minority in the country, markedly has improved since the end of Taliban rule. However, insurgents still threaten its members, and the community's future is uncertain once international forces withdraw. Most Shi'i Afghans are from the Hazara ethnic group and comprise between 10 to 19 percent of the population. Hazaras traditionally have been harshly discriminated against and segregated from the rest of society for a combination of political, ethnic, and religious reasons. During the reporting period, Shi'i Muslims generally were able to perform their traditional Ashura public processions and rituals in Kabul without incident or hindrance. However, in November, Shi'i and Sunni students at Kabul University clashed when Shi'i students marched in an Ashura religious processional. At least one person was killed and 16 others were wounded.

Women's Rights: Since the ouster of the Taliban, the status of women has improved, but their progress in the public sphere remains threatened both by the Taliban's resurgence and the strong influence of religious traditionalists. Women who seek to engage in public life often are condemned as "immoral" and targeted for intimidation, harassment, or violence by the Taliban or other extremists. Pervasive discrimination based on traditional religious interpretations continues to place women in a second-class status and limit their opportunities to obtain education, employment, and even medical care.

Recommendations for U.S. Policy

To promote religious freedom and create civic space for diverse religious opinions on matters of religion and society in Afghanistan, the U.S. government should:

- Raise directly with President Karzai the importance of religious freedom, especially for dissenting Muslims, Muslim minorities, and non-Muslim minorities;
- Strengthen the interagency U.S. government taskforce on religious freedom in Afghanistan and ensure religious freedom issues are properly integrated into the State and Defense Department strategies concerning Afghanistan;
- Include a special working group on religious tolerance in U.S.-Afghan strategic dialogues and the trilateral dialogues with the United States, Afghanistan, and Pakistan;
- Encourage the Afghan government to sponsor, with official and semi-official religious bodies, an initiative on interfaith dialogue that focuses on both intra-Islamic dialogue and engagement with different faiths; and
- Ensure that human rights concerns are integrated in the reconciliation process and that the parties to any peace agreement pledge to uphold the Universal Declaration of Human Rights and not just the Afghan constitution.

Please see USCIRF's 2013 Annual Report for a more extensive review and recommendations on Afghanistan.