



Afghanistan

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International Religious Freedom Report 2003

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Afghanistan has experienced civil war and political instability for 23 years. There was no functioning central government until December 22, 2001, when the Afghan Interim Administration (AIA) took office. In June 2002, the Emergency Loya Jirga, a gathering of Afghan representatives from throughout the country, elected Hamid Karzai as President of the Transitional Islamic State of Afghanistan. Karzai subsequently formed a cabinet with female members and broad ethnic representation.

During most of 2001, the Taliban, an ultra-conservative Islamic movement, controlled approximately 90 percent of the country. Under the Taliban, freedom of religion was restricted severely. On October 7, 2001, a U.S.-led coalition began military operations aimed at toppling the Taliban regime and eliminating the al-Qaida terrorist network in Afghanistan. U.S. forces worked in concert with anti-Taliban forces of the Northern Alliance as well as others in southern Afghanistan. By mid-November the Taliban had been removed from power and had retreated from Kabul to southwestern Afghanistan. On December 5, 2001, a U.N.-sponsored Afghan peace conference in Bonn, Germany, approved a broad agreement for the establishment of a transitional government to rule during an interim period while preparations for a new constitution and national elections were instituted. The Bonn Agreement mandated the creation of a Constitutional Commission, Human Rights Commission, Judicial Commission, and a Civil Service Commission to oversee reforms in these areas.

Since December 22, 2001, the legal basis for religious freedom in Afghanistan has been found in the December 5, 2001 Bonn Agreement and in the 1964 constitution. The 1964 constitution proclaims Islam the "sacred religion of Afghanistan" and states that religious rites of the state shall be performed according to Hanafi doctrine. The 1964 Constitution also proclaims that "non-Muslim citizens shall be free to perform their rituals within the limits determined by laws for public decency and public peace." The June 2002 Loya Jirga (or Grand Assembly of traditional leaders) declared that the official name of the country is the "Transitional Islamic State of Afghanistan" (TISA). The Bonn Agreement designated the Constitutional Commission with responsibility for drafting a new constitution.

A nine-member Drafting Committee of the Constitutional Commission was formed in October 2002 and completed a first draft of the new constitution in March 2003. President Karzai named a full Constitutional Commission with 35 members in April. Commission membership included seven women, four Shi'a, an Ismaili, a Hindu, and broad ethnic representation. The full Commission completed its review of the draft constitution in early June and launched a public consultation process shortly thereafter. At the end of the period covered by this report, the Constitutional Loya Jirga responsible for finalizing and approving the text was scheduled for later in the year, within the timeline provided by the Bonn Agreement. National elections were scheduled for June 2004.

TISA regulations provide for freedom of religion, and TISA generally respected this right in practice.

Relations between the different branches of Islam in the country have been difficult. Historically, the minority Shi'a faced discrimination from the majority Sunni population. Some conservative elements have advocated that a new constitution should favor the Hanafi school of Islamic jurisprudence associated with the Sunnis over the Jafari school used by the Shi'as. In family disputes, courts relied on a civil code that is based on the Sunni Hanafi school, regardless of whether or not the parties involved were Shi'a or Sunni. The Shari'a Faculty of Kabul University followed the Hanafi school of jurisprudence. Conservative elements also called for the primacy of Shari'a law in the country's legal system. However, the TISA publicly stated on a number of occasions that Afghanistan's constitution and legal code would incorporate international legal standards, particularly human rights conventions. At the end of the period covered by this report, Afghanistan had ratified seven international human rights treaties, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights.

Prior to the fall of the Taliban, the U.S. Government did not maintain an official presence in the country. The Secretary of State designated the Taliban as a particularly severe violator of religious freedom with Country of Particular Concern status in 1999, 2000, and 2001. Since December 2001, when the U.S. Embassy in Kabul re-opened, the U.S. government has discussed religious freedom issues with Afghan officials in the context of its overall dialog and policy of promoting human rights.

Section I. Religious Demography

The country has a total area of 251,738 square miles and its population is approximately 25.8 million. Reliable data on the country's religious demography is not available; a census has not been taken in decades. However, observers estimate that 84 percent of the population is Sunni Muslim; approximately 15 percent is Shi'a Muslim; and other religions, including Sikhs, Hindus, and Jews, make up less than 1 percent of the population. There also is a small, extremely low-profile Christian community, in addition to small numbers of adherents of other religions.

Traditionally, Sunni Islam of the Hanafi school of jurisprudence has been the dominant religion. For the last 200 years, Sunnis often have looked to the example of the Darul Uloom madrassah (religious school) located in Deoband near Delhi, India. The Deobandi school has long sought to purify Islam by discarding supposedly un-Islamic accretions to the faith and reemphasizing the models established in the Koran and the customary practices of the Prophet Mohammed. Additionally, Deobandi scholars often have opposed what they perceive as Western influences. Much of the population adheres to Deobandi-influenced Hanafi Sunnism, but a sizable minority adheres to a more mystical version of Islam, generally known as Sufism. Sufism centers on orders or brotherhoods that follow charismatic religious leaders.

Several areas of the country are religiously homogeneous. Sunni Muslim Pashtuns, centered around the city of Kandahar, dominate the south and east of the country. The homeland of the Shi'a Hazaras is in the Hazarajat, or the mountainous central highlands around Bamiyan. Northeastern provinces traditionally have Ismaili populations. Other areas, including Kabul, the capital, are more heterogeneous. For example, in and around the northern city of Mazar-e Sharif, there is a mix of Sunnis (including ethnic Pashtuns, Turkmen, Uzbeks, and Tajiks) and Shi'a (Hazaras and Qizilbash), including Shi'a Ismailis.

In the past, small communities of Hindus, Sikhs, Jews, and Christians lived in the country; however, most members of these communities have left. Even at their peak, these non-Muslim minorities constituted less than 1 percent of the population. Most of the country's small Hindu and Sikh population, which once numbered about 50,000 persons, emigrated or took refuge abroad during the many years of conflict. However, recently some minorities have begun to return. Non-Muslims such as Hindus, Sikhs, and Jews are now estimated to number only in the hundreds.

Section II. Status of Religious Freedom

Legal/Policy Framework

During the period covered by this report, the country has relied upon the Bonn Agreement and the 1964 Constitution. Though the 1964 Constitution proclaims that Islam is the "sacred religion," it does not prohibit the practice of other religions. The Constitutional Commission mandated by the Bonn Agreement continued to work on a draft constitution at the end of the period covered by this report.

The licensing and registration of religious groups is not required in any part of the country by the authorities. Proselytizing is viewed as contrary to the beliefs of Islam; however, there were no laws forbidding proselytizing. Article 1 of the current penal code of Afghanistan states that the code addresses only Tazir (less serious) crimes, and that the more serious categories of Qisas and Hudud crimes fall under Shari'a law. Blasphemy and apostasy (converting from Islam to another religion) fall under the latter category, and are—in theory—punishable by death.

The June 2002 Loya Jirga declared that the official name of the government was the "Transitional Islamic State of Afghanistan." The country itself is referred to as "Afghanistan."

Provisions, particularly Article 31, of the 1964 Constitution protect freedom of speech. A draft Afghan Press Law of February 2002 contained an injunction against information that "could mean insult to the sacred religion of Islam and other religions." This draft law was subsequently adopted in April 2002. The ambiguity surrounding what constitutes offensive material offers the potential for abuse of this clause in order to restrict press freedom and intimidate journalists. The Afghan Press Law does not require information to follow Shari'a law. However, the section on criminal rules states that if no punishment is prescribed in existing legal codes for crimes mentioned in the press law, then the punishment will be in accordance with Shari'a (Hanafi school). At the end of the period covered by this report, this Afghan Press Law was under review by the Ministry of Information and Culture.

The parts of the country's educational system that survived more than twenty years of war placed considerable emphasis on religion. During the reporting period, public school curricula included religious subjects, but detailed religious study was conducted under the guidance of religious leaders. There was no restriction on parental religious teaching. The Ministry of Education began introducing human rights as a subject in the national school curriculum at the beginning of the school year in March, with plans to expand this nationwide. A curriculum and textbooks that emphasizes general Islamic terms and principles steadily replaced the preaching of jihad in schools through the end of the period covered by this report.

The TISA has proclaimed the first day of Ramadan, Eid-ul Fitr, Eid-ul Adha, the Prophet Mohammad's birthday, and the 10th of Muharram (Ashura—both Sunni and Shi'a) as national holidays. All mark events on the Islamic calendar, and there were no reports that these holidays negatively impacted other religious groups. In September 2002, the Shi'a community in Kabul was able to openly celebrate the birthday of Imam Ali, one of the most revered figures in the Shi'a tradition. Shi'a also celebrated without incident the 10th of Muharram (Ashura), which marks the murder of the Prophet Mohammad's grandson, Hussein. Under the Taliban, Shi'a could not openly celebrate their holy days, though they were able to do so in prior years. There were no reported incidents surrounding Shi'a religious celebrations during the year and a half following the Taliban's fall.

Restrictions on Religious Freedom

Conversion from Islam was considered apostasy and was punishable by death under Shari'a. During the reporting period there was no information available about converts and no information available concerning restrictions on the training of clergy. Immigrants and non-citizens were free to practice their own religions. Since the fall of the Taliban, no political parties have been banned or discouraged, other than the Taliban. Christian-based international relief organizations generally operated without interference.

In November 2001, the former Department of Vice and Virtue was dissolved and replaced by the Department of Accountability and Religious Affairs. According to the Minister of Hajj and Mosques, all former members of the Department of Vice and Virtue were no longer employed by the Ministry. Early on, the Department planned to advocate that women when in public wear headscarves. However, in December 2002, President Karzai issued a decree guaranteeing women the right to choose whether or not to wear the burqa, a traditional full body and face covering. Most women in rural areas traditionally wear burqas; however, many urban women did not wear burqas before the Taliban imposed this practice. While a number of women in urban areas no longer wear the burqa since the fall of the Taliban, a majority of women continue to do so either from choice or community pressure. In central Kabul, construction of the first mosque in Afghanistan to make provision for women worshippers was started.

There were a few reports in 2002 that government forces prohibited music, movies, and television on religious grounds. For example, in August 2002 the head of Kabul Radio and TV Engineer Eshq, who was affiliated with Jamiat-i Islami, briefly banned the appearance of women singers on television. In January 2003, the Supreme Court banned cable television nationwide on religious grounds, but the ban was subsequently lifted when the government passed a law in April allowing the resumption of cable services. There were continued reports in 2003 of prohibitions at the local level, but the central government has not banned any form of media. During the period covered by this report, women singers were not allowed on public television or radio, and the cable television audience in urban centers continued to expand. Unlike previous years, televisions, radios, and other electronic goods were sold freely, and music was played widely. For example, Kabul had five radio stations, including the official Radio Kabul; the non-governmental stations broadcast a mix of Afghan, Indian, Pakistani, and Western music.

Abuses of Religious Freedom

Sporadic violations of religious freedom by some officials occurred. On June 17, two editors of a weekly Kabul publication were arrested for allegedly violating Article 30 of the Afghan Press Law that prohibits publications of articles defaming Islam. Conservatives within the Judiciary recommended the journalists be charged with "insulting Islam" or blasphemy. Police searched the editors' offices, and Afghanistan's intelligence agency confiscated the editors' publication, Aftaab, from stores. On June 25, President Karzai ordered the editors released on bail; however, the charges of blasphemy were not dropped. Moderates led by the Minister of Information and Culture argued for the release of the journalists and a resolution to the Afghan Press Law that permits administrative punishment (a fine) in lieu of prosecution. At the end of the period covered by this report, no trial date had been set.

In the spring of 2003, Mariya Sazawar, a journalist in Mazar-e Sharif, was accused of having insulted Islam in an article she had written about the formation of Afghanistan's next constitution. Sazawar was accused of writing that Islamic rules were oppressive to women. The accusation was levied in a local newspaper affiliated with the Jamiat-i-Islami Party. Ulema (religious scholars) in Mazar-e Sharif supported the allegation and recommended that she be sentenced to death. With assistance from the Human Rights Commission, Sazawar's case was referred to a local court. The court acquitted Sazawar in March after

finding that technical errors in the printing of the article had misrepresented Sazawar's views.

During the June 2002 Emergency Loya Jirga, Interim Authority Minister for Women's Affairs Sima Samar (and subsequently Chair of the Human Rights Commission) received death threats for allegedly insulting Islam and was charged by the Chief Justice of the Supreme Court with "blasphemy". Samar asserted that fundamentalists who objected to her outspoken manner had trumped up the allegation. The dispute was resolved politically through the personal intervention of President Karzai, and the charges were dropped.

In January 2003, the Governor of Helmand confiscated approximately 200 Hazara-owned shops in Lashkar Gah and distributed them to other town residents. The Governor also blocked the Hazara/Shi'a community from building a mosque in Lashkar Gah. While the Human Rights Commission and the UN had brokered a deal with the Governor to compensate Hazara shopkeepers with land elsewhere in Lashkar Gah, the Governor had not kept to this agreement by the end of period covered by this report.

In October 2002, 28 Tablighi Jamaatis, itinerant lay Muslim missionary preachers, were detained by police for a week. In November, 12 Tablighi preachers were detained for a day. The Tablighi claimed their mission was to spread the word of Islam. Some government intelligence officials accused the Tablighi of subversive work for Pakistan.

There were no reports of religious detainees or prisoners in the period covered by this report.

Forced Religious Conversion

There were no reports of forced religious conversion, including of minor U.S. citizens who had been abducted or illegally removed from the United States, or of the refusal to allow such citizens to be returned to the United States.

Improvements and Positive Developments in Respect for Religious Freedom

The fall of the Taliban and the subsequent establishment of the AIA and the TISA resulted in a major improvement in religious freedom. Sikh and Hindu representatives at the Emergency Loya Jirga in June 2002 reported that they no longer were repressed and felt free to practice their religions. Taliban policies and laws have been replaced by the Bonn Agreement and the 1964 Constitution, and work on new laws, regulations, and a constitution under the Judicial and Constitutional Commissions mandated by the Bonn Agreement began in 2002.

The Government has stressed reconciliation and cooperation among all citizens. Although the Government primarily is concerned with ethnic reconciliation, it also has expressed concern about religious tolerance. The TISA responded positively to all international approaches on human rights, including religious freedom. The Government has emphasized ethnic and intra-faith reconciliation indirectly through the creation and empowerment of the Judicial, Constitutional, and Human Rights Commissions. As part of the government's nation-building efforts, these commissions are comprised of members of different ethnic and Muslim religious (Sunni and Shi'a) groups. The Constitutional Commission also included one Hindu member to represent non-Muslim religious minorities. During the period covered by this report, the TISA included Hazara and other Shi'a figures, including Vice-President Khalili, Minister for Women's Affairs Habiba Sorabi, Human Rights Commission Chair Dr. Sima Samar, Minister of Planning Mohammad Mohaqqeq, Minister of Commerce Mustafa Kazemi, Minister of Agriculture Hussein Anwari, and Minister of Transportation Mohammad Jawed.

During the period covered by this report, the Human Rights Commission conducted national consultations on transitional justice, and promoted reconciliation at civil society gatherings and through various media. The Human Rights Commission also began addressing problems of bringing to justice those responsible for past abuses and has begun receiving reports of abuses from citizens. In April, the Ministry of Interior established a Human Rights Department to investigate human rights abuses by police, and this department was in the process of setting up local branches in the offices of Chiefs of Police in each province at the end of the reporting period.

Section III. Societal Attitudes

Relations between the different branches of Islam in the country have been difficult. Historically, the minority Shi'a faced discrimination from the majority Sunni population. Most Shi'a Muslims are members of the Hazara ethnic group, which traditionally has been segregated from the rest of society for a combination of political, ethnic, and religious reasons. Throughout the country's history, there have been many examples of conflicts between the Hazaras and other citizens. These conflicts often have had economic and political roots but also have acquired religious dimensions. The treatment of Shi'a varied from locality to locality. However, the active persecution of Afghanistan's Shi'a minority, including Ismailis, under the Taliban regime has ended and, although some discrimination continues at the local level, Shi'a generally

are once again free to participate fully in public life.

In June 2003, twelve Pashtun Sunnis were killed in northeastern Helmand province in an attack on their bus. Robbery was reportedly the motive, but there were claims that the assailants were Hazara Shi'as. The Human Rights Commission was investigating the case at the end of the period covered by this report.

Before the October 2001 collapse of the Taliban, repression by the Taliban of the Hazara ethnic group, which is predominantly Shi'a Muslim, was particularly severe. Although the conflict between the Hazaras and the Taliban was political and military as well as religious, the religious affiliation of the Hazaras was a significant factor leading to their repression. The Taliban sought to impose its interpretation of Islamic observances in areas that it controlled and declared that all Muslims in such areas must abide by the Taliban's interpretation of Islamic law. The Taliban relied on a religious police force to enforce rules regarding appearance, dress, employment, behavior, religious practice, freedom of expression, and access to medical care. Persons who were found to be in violation of the edicts were subject to punishment meted out on the spot, which included beatings, detention, or both. In practice, the rigid policies adopted both by the Taliban and by certain opposition groups affected adversely adherents of other branches of Islam and other religions.

After the fall of the Taliban, there continued to be episodic reports of individuals at the local level using coercion to enforce social and religious conformity. During the reporting period, however, President Karzai and other moderates in the central government opposed attempts by conservative elements to enforce rules regarding social and religious practices based on their interpretation of Islamic law. The Department of Vice and Virtue, under which the Taliban's draconian religious police force operated, ceased to exist. It was replaced by the Department of Accountability and Religious Affairs, whose stated goal was to promote "Islamic values," but lacks any enforcement or regulatory authority.

In Herat, there were reports of forced chastity examinations by religious police for women found with males who were not their relatives. It was difficult to know whether this was a systematic practice or took place on a sporadic basis, sometimes at the request of family members and in the context of an extremely socially conservative environment. Local officials have confronted women over their attire and behavior, though there were no known official policies mandating the wearing of the burqa or regulating the activities of women.

Attacks by remnants of the al-Qaida and Taliban networks continued during the reporting period. Several killings of religious leaders and attacks on mosques were attributed to al-Qaida and Taliban members who objected to their victims' links with the Karzai administration and to their public interpretations of Islam.

On June 30, a mosque in Kandahar was bombed during the final prayer of the day. Sixteen worshippers were wounded. The leader of the mosque and head of Kandahar's Ulema-u-Shura (clerics' council), Mullah Abdullah Fayaz, had stated that the Taliban were not following Islam and that their interpretation of Islam was wrong. One person was taken into custody for the mosque bombing by the end of the reporting period. In December 2002, the 15-member Kandahar Ulema-u-Shura issued a religious edict denouncing the Taliban's call for jihad. The Taliban in turn denounced the Ulema-u-Shura and left pamphlets in mosques and bazaars threatening religious leaders and government supporters.

On May 10, a Muslim cleric with close ties to President Karzai, Habibullah, was gunned down outside a mosque in Deh Rawood district. Six people were detained in connection with the killing. President Karzai issued a statement condemning the murder. By the end of the reporting period, there were no arrests or convictions.

On May 7, a well-known religious scholar, Mowlawi Haji Abdollah, was gunned down after leaving a mosque after prayers in central Urozgan Province. The Afghan government said that remnants of the Taliban and al-Qaida were responsible for the crime. No culprits were identified by the end of period covered by this report.

Section IV. U.S. Government Policy

The U.S. Government discusses religious freedom issues with Afghan officials in the context of its overall dialog and policy of promoting human rights.

The U.S. has worked with the TISA to promote human rights and religious and ethnic tolerance, from the inclusion of minority groups in the Government and military to assistance in the reconstruction of the country and its legal and political processes. Embassy representatives meet daily with TISA officials, and routinely with religious and minority figures, in an ongoing dialog regarding the political, legal, religious, and human rights context of the country's reconstruction.

The U.S. has also worked with civil society organizations to promote religious tolerance. In May the Civil

Development Foundation, a group of reformist, largely Shi'a, Afghans began publishing a monthly magazine, "Democracy." "Democracy" has a circulation of some 3000. One of the goals of "Democracy" is to challenge "religious despotism" and to promote a liberal, tolerant interpretation of Islam. The project is funded by a grant from U.S. Embassy Kabul. The publication of Hazara Shi'a reformist intellectual Dai Foladi's books "What is Democracy?" and "Faith and Freedom" was supported through U.S. Embassy financing.

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