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AFGHANISTAN 2013 INTERNATIONAL RELIGIOUS FREEDOM REPORT

Executive Summary

The constitution and other laws and policies restrict religious freedom and, in practice, the government generally enforced legal restrictions. The government was deferential to prevailing societal opinion on religious tolerance or lack thereof. Although the constitution proclaims that “followers of other religions are free to exercise their faith and perform their religious rites within the limits of the provisions of law,” it also states that Islam is the “religion of the state” and that “no law can be contrary to the beliefs and provisions of the sacred religion of Islam.” Conversion, considered an act of apostasy and a crime against Islam, is punishable by death if the convert does not recant. The lack of government responsiveness to the needs of or protection for minority religious groups and individuals contributed to abuses of religious freedom. No religious minorities were in detention for practicing their faith at the end of the year.

There were reports of societal abuses or discrimination based on religious affiliation, belief, or practice. Within the majority Muslim population, relations among the different denominations continued to be difficult. The Shia minority continued to face societal discrimination. Non-Muslim minority groups, particularly Christians, Hindus, and Sikhs, continued to be targets of persecution and discrimination. Shia and Sunni Islamic clergy, as well as most citizens, interpreted conversion from Islam as contravening the tenets of Islam. Local Hindu and Sikh populations, although allowed to practice publicly, continued to encounter problems obtaining land for cremation and harassment during major religious celebrations. They also continued to face discrimination in the labor market and in public schools. Most local Bahais and Christians did not publicly state their beliefs or gather openly to worship, out of fear of discrimination, persecution, detention, or death.

The U.S. government discussed religious freedom and religious tolerance with government officials and religious leaders as part of its overall policy to promote religious freedom. The U.S. embassy sponsored a number of programs to promote religious tolerance, including sending speakers to volatile areas of Afghanistan to discuss religious tolerance and pairing Sikh and Hindu children with Muslim children for interfaith discussions.

Section I. Religious Demography

The U.S. government estimates the total population at 31.1 million (July 2013 estimate). Sunni Muslims comprise 80 percent of the population and Shia Muslims make up about 19 percent, including Ismailis, who self-identify as Shia and make

up approximately 2 percent of the total population. Other religious groups comprise less than 1 percent. Leaders of minority religious communities estimate there are 685 Sikh families and 30 Hindu families totaling 4,500 individuals. Estimates of the Bahai and Christian communities are less clear because neither group practices openly for fear of persecution. The Christian community reportedly numbers between 2,000 and 3,000 persons. The Bahai community is estimated at approximately 2,000 persons. In addition, there are small numbers of practitioners of other religions. There is one known Jewish citizen.

There are two active gurdwaras (Sikh places of worship) in Kabul and nine in other parts of the country; there were 64 gurdwaras throughout the country before the mujahideen era, when many were seized. There are four remaining Hindu mandirs (temples) in three cities: two in Kabul, one in Jalalabad, and one in Helmand.

Afghanistan's last known Jew maintains Kabul's sole synagogue, and there are also three defunct synagogues in Herat, which are no longer in use for lack of a Jewish community. There are no public Christian churches. Afghan Christians worship alone or in small congregations in private homes. Many Afghan Christians converted while living in third countries, including as refugees. Chapels and churches for noncitizens of various faiths are located on several military bases, Provincial Reconstruction Team locations, and at the Italian embassy in Kabul. Buddhist foreigners are free to worship in Hindu temples.

Followers of the Bahai faith have practiced in the country for approximately 150 years. The community is predominantly based in Kabul, although some Bahais remain in Kandahar.

Section II. Status of Government Respect for Religious Freedom

Legal/Policy Framework

Although it includes limited protections for religious practice, the constitution and other laws and policies expressly restrict religious freedom.

Full and effective enforcement of the constitution is a continuing challenge due to its potentially contradictory commitments and the lack of a tradition of judicial review. Article 2 of the constitution explicitly states that followers of religions other than Islam are "free to exercise their faith and perform their religious rites within the limits of the provisions of the law." Article 7 specifically obligates the state to abide by the Universal Declaration of Human Rights, which includes commitments to religious freedom and the right to change one's religion. Article

3, however, also declares that Islam is the official “religion of the state,” that “no law can be contrary to the beliefs and provisions of the sacred religion of Islam,” and that “the provisions of adherence to the fundamentals of the sacred religion of Islam and the regime of the Islamic Republic cannot be amended.”

The constitution expressly protects free exercise of faith for non-Muslims within the limits of the law. In situations where the constitution and penal code are silent, the constitution instructs courts to rely on constitutional limits and the Hanafi School of Sunni Islamic jurisprudence in a way that best serves justice. The Office of Fatwa and Accounts within the Supreme Court interprets Hanafi jurisprudence when a judge needs assistance in understanding its application. Courts continue to rely on Hanafi interpretations of Islamic law, even in cases that conflict with the country’s international commitments to the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. The constitution also grants that Shia law may be applied in cases dealing with personal matters where all parties are Shia. The law provides that in family legal matters involving the Shia minority, courts should rely on Jafari Shia jurisprudence. There is no separate law applying to non-Muslims.

The constitution requires that the president and vice president be Muslim and does not distinguish in this respect between Shia and Sunni. This requirement is not explicitly applied to government ministers or members of parliament, but each of their oaths includes swearing allegiance and obedience to the principles of Islam.

One seat in parliament’s lower house was reserved for a Sikh or a Hindu according to a draft version of the 2013 Election Law. The final 2013 Election Law removed this provision in July, but it was restored by President Karzai through a legislative decree in September.

Neither the constitution nor the criminal code makes specific references to religious conversion. Under some interpretations of Islamic law, converting from Islam to another religion is deemed apostasy and considered an egregious crime. Male citizens over 18 years of age or female citizens over 16 and of sound mind who convert from Islam have three days to recant their conversions or possibly face death by stoning, deprivation of all property and possessions, and/or the invalidation of their marriage.

The constitution protects freedom of expression and the press and the criminal code makes no specific references to spoken or written utterance of insults or profanity against deities, religions, sacred symbols, or religious books. Courts, however, rely on Islamic law to address this issue. Blasphemy – which can include

anti-Islamic writings or speech – is a capital crime under the courts' interpretations of Islamic law. An Islamic judge may impose a death sentence for blasphemy. Similar to apostates, those accused of blasphemy are given three days to recant or face death.

The media law includes articles detrimental to freedom of religion and expression. Among other prohibited categories, Article 45 prohibits production, reproduction, printing, and publishing of works and materials contrary to the principles of Islam, works and materials offensive to other religions and denominations, publicizing and dissemination (promotion) of religions other than Islam, and articles and topics that harm the physical, spiritual, and moral well-being of persons, especially children and adolescents. Many authorities and most of society view proselytizing by adherents of other faiths as contrary to the beliefs of Islam.

The ambiguity surrounding what constitutes offensive and un-Islamic material offers the potential for restrictions on press freedom and intimidation of journalists. These rules also apply to non-Muslims and foreign-owned media outlets. An amendment to the media law instructs National Radio and Television Afghanistan (RTA), the state-run media outlet, to provide balanced broadcasting that reflects the culture, language, and religious beliefs of all ethnic groups in the country. The law, however, also obligates RTA to adjust its programs in light of Islamic principles and national and spiritual values.

The General Directorate of Fatwas and Accounts under the Supreme Court ruled in May 2007 that the Bahai Faith was distinct from Islam and a form of blasphemy. The ruling held that all Muslims who converted to the Bahai Faith were apostates and all Bahais were infidels. The ruling creates uncertainties for the country's small Bahai population, particularly on the question of marriages between Bahai women and Muslim men. Citizens who convert from Islam to the Bahai Faith risk persecution, similar to Christian converts, in theory up to and including the death penalty.

The government does not designate religion on national identity cards and does not require individuals to declare belief in Islam to receive citizenship; however, the state, including the courts, traditionally considers all citizens to be Muslim. As a result, some basic citizenship rights of non-Muslims are not explicitly codified, and non-Muslims can be tried under Hanafi jurisprudence. In practice courts do not always accord Muslims and non-Muslims the same rights. Non-Muslims can be married to each other as long as they do not publicly acknowledge their non-Muslim beliefs. A Muslim man may marry a non-Muslim woman, but the woman must first convert if she is not an adherent of one of the other two Abrahamic faiths

(Christianity or Judaism). Moreover, a Muslim woman is not allowed to marry a non-Muslim man.

The penal code addresses “Crimes against Religions” and states that a person who attacks a follower of any religion shall receive a short-term prison sentence of not less than three months and a fine of between 3,000 and 12,000 afghanis (\$54 to \$214), although it does not specifically address blasphemous remarks. The penal code also states persons who forcibly stop the conduct of rituals of any religion, and those who destroy or damage permitted places of worship where religious rituals are conducted, or who destroy or damage any sign or symbol of any religion, shall be subject to a medium-term prison sentence. This is defined in the criminal code as confinement in a jail for not less than one nor more than five years and/or a fine of between 12,000 and 60,000 afghanis (\$214 to \$1,071).

The Ulema Council is a group of influential Sunni and Shia scholars, imams, and Muslim jurists from across the country. Its senior members meet regularly with the president and advise him on Islamic moral, ethical, and legal problems. The council is nominally independent of the government, but its members receive financial support from the state. Through contacts with the presidential administration, the parliament, and ministries, the council or its members advise on the formulation of new legislation or the implementation of existing law. Although it is well represented in provincial capitals, the council has much less reach in villages and rural areas, where decisions are made based on tradition and local interpretations of Islamic law. The council has urged individuals to avoid conduct that could be perceived as insulting local traditions and religious values on the grounds that “safeguarding our national honor and Islamic values is the obligation of every citizen.”

The Ministry of Hajj and Religious Affairs (MOHRA) is the primary ministry handling religious affairs. MOHRA’s responsibilities include sending citizens on the Hajj and Umrah pilgrimages, collecting revenues for funding religious activities, identifying and acquiring property for religious purposes, providing religious teaching to children, issuing fatwas, testing imams, and raising public awareness of religious problems. Both Sunnis and Shia are permitted to go on pilgrimages, and the government imposes no quota for either group.

Licensing and registration of religious groups are not required, although the government has registered some mullahs (religious leaders). Mullahs working for MOHRA are generally proposed for registration by local residents and approved by the ministry; there are no explicit educational requirements for mullahs to register. The number of mullahs working in the country is unknown, but

government estimates range up to 120,000. The MOHRA has registered approximately 3,500 imams, who receive a government monthly salary of 3,500-4,000 afghanis (\$63-71). In some registered provincial mosques, local residents pay the salaries of mullahs. Many other mullahs are not registered due to lack of capacity and funding to support more mullahs at mosques, as well as security problems in the provinces. New mosques are opened or built based either on the government's development plans or on proposals by local residents, which MOHRA must subsequently approve. The number of mosques in the country is estimated to be over 160,000, and 6,000 mosques are registered with MOHRA.

There are no explicit restrictions on religious minority groups to establish places of worship or to train clergy; however, very few public places of worship exist for minorities. Due to their small size and lack of financial resources, the Sikh and Hindu communities have a limited number of places of worship. Public places of worship do not exist for converted Afghan Bahais and Christians since practicing their faith openly would mean risking apostasy charges, which carry the death penalty, and possible targeted violence. Those born into the Bahai Faith could be also charged with blasphemy, according to a 2007 ruling by the General Directorate of Fatwas and Accounts under the Supreme Court.

The Ministry of Education (MOE) Directorate of Curriculum Development has responsibility for creating curriculum guidelines for public schools. A number of government-affiliated madrassahs in the capital and in provinces where there is sufficient security offer Islamic and secular education in accordance with MOE curricula that include 60 percent religious education and 40 percent general education. There are 902 MOE-sponsored madrassahs throughout the country serving about 250,000 students, including several in Kabul, Balkh, Nangarhar, and Herat provinces. MOHRA also operates 1,300 primary-level madrassahs with about 300,000 students. Graduates from government madrassahs are eligible to attend state universities. The country has 60 higher-level madrassahs that bestow a degree equivalent to an associate's degree, including four higher-level madrassahs for female students.

The MOE requires that independent madrassahs be accredited and disclose their funding sources. The Department of Islamic Education within the MOE provides a standardized curriculum to registered madrassahs. Madrassahs must route funding from private or international donations through the MOE or risk being banned. This system allows the government to monitor assistance to institutes of learning funded by known entities. The government solicits donations for the support of madrassahs from Muslim countries and private individuals.

The educational curriculum places considerable emphasis on religion. According to the constitution, the “state shall devise and implement a unified educational curriculum based on the provisions of the sacred religion of Islam, national culture, and in accordance with academic principles, and develop the curriculum of religious subjects on the basis of the Islamic sects existing in Afghanistan.” The public school curriculum includes Islamic content, but no content from other religious groups. The national curricula, which include materials designed separately for Sunni-majority schools and Shia-majority schools, as well as textbooks emphasize nonviolent Islamic terms and principles. There is no restriction on parental religious teaching, and non-Muslims are not required to study Islam in public schools.

There are government-sponsored schools for Sikh children in Kabul and Nangarhar. There are no Sikh schools in Jalalabad, despite estimates that nearly one-quarter of the Sikh population lives there. The government provides limited funding for Sikh schools, including for teachers for the basic curriculum. A few Sikh children attend private international schools. There are no Christian schools. Hindus do not have separate schools but sometimes send their children to Sikh schools.

The constitution allows for political parties provided that “the program and charter of the party are not contrary to the principles of the sacred religion of Islam.” The government bans the pan-Islamic movement Hizb ut-Tahrir – which calls for the overthrow of existing governments to create a unified Muslim state – as an “extremist organization.”

Government Practices

Members of minority religious groups continued to suffer discrimination, and the government often did not protect minorities from societal harassment. The government enforced existing legal restrictions on religious freedom selectively and in a discriminatory manner. There were no reported incidents involving individuals attempting to proselytize.

The right to change one’s religion was not respected either in law or in practice. Muslims who converted from Islam risked annulment of their marriages, rejection from their families and villages, and loss of employment.

There were two reported prosecutions for blasphemy. In January a defendant was convicted and sentenced to 10 years in prison for blasphemy. Following an appeal by the defendant, the case was expected to be retried in an appellate court. No

further information was available. In March authorities charged an individual with blasphemy. Details were limited, and the case was ongoing at year's end.

During a session of parliament in July, four members of parliament called for the execution of converts to Christianity but did not mention any converts by name. The chairman of parliament's lower house stated during the same session that security officials should investigate the spread of Christianity in Afghanistan.

Some Christians avoided situations where they might be perceived as seeking to spread their religion to the larger community.

As in previous years, Hindus and Sikhs complained of not being able to cremate the remains of their dead in accordance with their customs due to interference by those who lived near the cremation sites. While the government provided land after the intervention of a Sikh senator, some Sikhs complained that the land was far from any major urban area and in an insecure region, thus rendering it unusable. A member of parliament allegedly usurped the land bestowed to the Sikh community in Lut-o Band, outside of Kabul, and reportedly threatened to kill anyone who attempted to cremate a body there. Bahais also could not attend to their dead in accordance with their customs. Although community representatives expressed concerns over land disputes, they often chose not to pursue restitution through the courts for fear of retaliation, particularly when powerful local leaders occupied their property. There were no known reports of government discrimination against Hindus or Sikhs; however, government officials continued to target converts from Islam in public statements.

At least two Sikhs served in government positions, including one as a senior economic advisor to President Karzai and one as a presidentially appointed member of the upper house of parliament. A September presidential legislative decree provided for the appointment of one Sikh or Hindu to the lower house of parliament beginning with the 2015 election. Sikh leaders complained they lacked political representation, stating that most Afghans fail to distinguish between Hindus and Sikhs despite significant religious differences.

Although four Ismailis served as members of parliament, some members of the Ismaili community complained of being excluded from positions of political authority.

The government provided free electricity to mosques. The Hindu and Sikh communities did not receive free electricity for their mandirs and gurdwaras, which were charged as business entities and paid higher rates. The government did

not address repeated requests from the two communities to receive the same treatment as mosques.

Although Hindus and Sikhs had recourse to dispute resolution mechanisms such as the Special Land and Property Court, members of the two communities reportedly felt unprotected.

The predominantly Shia Hazara community accused the government of providing preferential treatment to Sunni Pashtuns and of ignoring minorities, especially Hazaras.

The government continued to emphasize ethnic and Muslim intrafaith reconciliation indirectly through support to the judicial, constitutional, and human rights commissions composed of members of different ethnic and Islamic religious (Sunni and Shia) groups. The Ministry of Women's Affairs and MOHRA worked together to give women the opportunity to attend mosques.

Abuses by Rebel or Foreign Forces or Terrorist Organizations

There were reported abuses targeted at specific religious groups by terrorist organizations. As in previous years, there were killings of religious leaders and attacks on mosques attributed to al-Qaida and Taliban members. In September the National Directorate of Security (NDS) announced that Lashkar-e Jhangvi, an extremist Sunni group based in Pakistan, was responsible for an attack earlier that month on a Shia mosque in Kabul. NDS stated the attack "was intended to seek religious discord." Sources reported antigovernment elements continued to target religious leaders based on their links to the government or their particular interpretations of Islam. Members of the Taliban also monitored the social habits of local populations, imposing their interpretation of Islamic law on populations inhabiting areas under their control. The Taliban and other insurgents specifically threatened and assassinated religious leaders for preaching messages counter to their interpretation of Islam. Many clerics were threatened with death by the Taliban, which said that they would be killed if they continued to preach against the militants. The Taliban also warned mullahs not to perform funeral prayers for government security officials. For example, in Kunar Province in May a note left by suspected Taliban members on the body of a local cleric warned: "This will be the punishment of those who offer prayers for [dead] apostates."

Section III. Status of Societal Respect for Religious Freedom

There were reports of societal abuses or discrimination based on religious affiliation, belief, or practice. Because ethnicity and religion are often inextricably linked, especially in the case of the Hazara ethnic group, which is predominantly Shia, it was difficult to categorize many incidents specifically as ethnic or religious intolerance.

Relations between the different branches of Islam remained somewhat strained. Historically, the minority Shia faced discrimination from the majority Sunni population. As Shia representation increased in government, overt discrimination by Sunnis against the Shia community decreased. Sunnis, however, expressed resentment over growing Shia influence and often linked it to Iranian efforts to influence local culture and politics. Most Shia are members of the Hazara ethnic group, which was traditionally segregated from the rest of society for a combination of political, historical, ethnic, and religious factors, some of which resulted in conflicts.

Although there were reported incidents of unofficial discrimination and treatment varied by locality, Shia generally were free to participate fully in public life. For example, in Herat province, which has a large Shia population of Tajik and Hazara origin, both Shia and Sunni leaders indicated a high degree of harmony. Many young Herati Shia, however, cited the low number of Shia in senior and middle-level government positions as a structural problem designed to limit Shia political influence in the province.

Non-Muslim minorities such as Sikhs, Hindus, and Christians continued to face social discrimination and harassment and, in some cases, violence. This treatment was not systematic. Public opinion continued to be openly hostile toward Afghan converts to Christianity and to proselytizing by Christian organizations and individuals.

The Hindu population, which was less visibly distinguishable than the Sikh population (whose men wear a distinctive headdress), faced less harassment, although both groups reported being harassed by neighbors in their communities. Both communities, although allowed to practice their religion publicly, reportedly continued to face discrimination, including intimidation.

Many in the Sikh and Hindu communities did not send their children to public school because of reported abuse, harassment, and bullying by other students. In previous years, Hindus and Sikhs sent their children to private Hindu and Sikh schools, but many of those schools closed given the community's shrinking population and deteriorating economic circumstances, which made private

schooling unaffordable for most families. Sikh leaders also reported economic discrimination and lack of labor market access.

Local religious officials continued to confront women regardless of religion over their attire and behavior. In rural areas and some urban areas, many women wore a burqa (dress that covers the full body and face, including the eyes) in public. Since the fall of the Taliban, many women in urban areas no longer wore the burqa, but almost all wore some form of head covering, either by personal choice or due to societal pressure.

Local religious leaders put pressure on various social activities. In June a member of parliament called for a “jihad” against un-Islamic television shows. Other religious leaders spoke out against reality television shows such as “The Voice of Afghanistan.” In June clerics in Deh Salah District, Baghlan Province issued a fatwa barring women from leaving the home without a male relative and shutting down cosmetic shops, charging that they were used for prostitution.

Residual effects of years of civil strife, Taliban rule, and popular suspicion regarding outside influence and the motivations of foreigners led to negative societal opinion of international community efforts and donor projects. These were often incorrectly associated with Christianity and proselytism.

Section IV. U.S. Government Policy

The U.S. government was committed to working with the Afghan government to promote religious freedom and tolerance, introduce the public to diverse perspectives, and enhance the capacity to counter violent extremism. U.S. government officials discussed religious freedom, religious tolerance, human rights, and combating violent extremism with government officials.

Senior embassy officials significantly expanded their dialogue on religious freedom, hosting regular meetings with key religious, government, and civil society figures. During Ramadan the embassy and a number of civilian personnel across the country hosted iftars with key government, civil society, and religious leaders to underscore U.S. government respect for Islam and commitment to religious freedom. The U.S. government also worked with civil society organizations to promote religious freedom and tolerance. The embassy arranged for Muslim scholars to visit volatile areas of the country to discuss religious tolerance.

U.S. embassy programs supported traditional voices that oppose violent extremism, exposed Afghans to diverse perspectives and promoted religious tolerance.

U.S. government staff based outside of Kabul conducted outreach to provincial community and religious leaders and routinely included them in their local initiatives. In eastern parts of the country, the embassy sponsored discussions focused on equal rights and respect with 20 Muslim children and 35 Hindu and Sikh children, hosting a weekly interfaith program for the children to work in groups and in pairs.