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AFGHANISTAN

Key Findings

Religious freedom conditions continue to be exceedingly poor for dissenting Sunni Muslims, as well as Shi'a Muslims, Hindus, Sikhs, Christians and Bahai's. The Afghan constitution explicitly fails to protect the individual right to freedom of religion or belief, and it and other laws have been applied in ways that violate international human rights standards. The Taliban continues to target activity deemed "un-Islamic," and the Afghan government remains unable to protect citizens against violence and intimidation. Afghan government agencies have at times also taken action against "un-Islamic" activity. Based on these concerns, USCIRF places Afghanistan on its Tier 2 list in 2014. Afghanistan has been on this list every year since 2006.

Background

Restrictions on religious freedom begin with the Afghan constitution, which 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 in a way con-

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tradicting human rights guarantees. 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.

State-backed religious leaders and the judicial system are empowered to interpret arbitrarily and enforce Islamic principles and Shari'ah law, leading at times to abusive interpretations of religious orthodoxy.

Given that the current constitution's undefined notions of Islamic law have already been interpreted to supersede human rights guarantees and undermine religious freedom and women's human rights, Taliban leader Mullah Mohammed Omar's call for a government based on Islamic principles is concerning. Any peace deal with the Taliban that results in a stricter interpretation of religious law would lead to further violations of human rights and religious freedom.

Religious Freedom Conditions 2013–2014

Official Enforcement of Religious Norms

Within the legal context discussed above, a restrictive interpretation of Islamic law is prioritized over human rights guarantees and has resulted in abuses. During the reporting period, the United Kingdom gave asylum to an atheist from Afghanistan over fears he would be prosecuted for apostasy and could face a death sentence. Afghanistan's Ulema Council, a group of Muslim clerics appointed by President Karzai, demanded he take actions against "immoral" television stations. Karzai's Council of Ministers soon after issued a decree directing the Ministry of Information and Culture to prevent the broadcasting of programs which are "un-Islamic and are counter to social morality."

Repression of Non-Muslim Religious Minorities

Hindus and Sikhs face discrimination, harassment and at times violence, despite being allowed to practice their faith in places of public worship. They are represented in the parliament through Presidential appointments, but Parliament rejected Karzai's request to create one reserved seat for both Hindus and Sikhs in the lower house. The communities have declined over the past 30

years, due to general instability and fighting as well as targeted repression; only one of the eight Sikh *gurdwaras* in Kabul is operating. Reports regularly arise of Afghan authorities and local residents preventing Sikhs from performing cremation ceremonies for their deceased. A Sikh member of the upper house of parliament has undertaken an initiative to build a town in eastern Kabul for Sikhs and Hindus, complete with schools and a crematorium. However, construction has not begun and community support is weak.

Afghan Christians have been forced to conceal their faith and cannot worship openly. There were no reports of Christians arrested during the reporting period, but many have left for India, according to reports. The one known church in the country continues to operate on the grounds of the Italian embassy. Afghanistan's small Baha'i community leads a covert existence, particularly since May 2007 when the General Directorate of Fatwa and Accounts ruled the Baha'i faith blasphemous and converts to the Baha'i faith apostates. Afghanistan's Jewish community is down to one member.

Shi'a Muslims

The situation has improved since the end of Taliban rule for Afghanistan's Shi'a Muslim community, the largest religious minority in the country. Yet ongoing threats of violence make the community's future uncertain once international forces withdraw. Most Shi'a Afghans are from the majority-Shi'a Hazara ethnic group, which comprises 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. In August 2013, three Hazara Shi'a were kidnapped from their cars and killed in separate attacks

hindrance. In September 2013, heavily armed members of the Pakistan-based Lashkar-e-Jhangvi (LEJ) terrorist group attempted to attack a Shi'a mosque during Friday prayers in Kabul, but were intercepted and killed by Afghan security forces outside the mosque. LEJ was responsible for the largest incident of sectarian violence in Afghanistan since 2001, when suicide bombers attacked a Shi'a shrine in Kabul in 2011.

Women's Rights

Violence and discrimination against women continued throughout the reporting period, due in part to the Taliban's resurgence and the strong influence of religious traditionalists. In 2013, the United Nations released statistics showing a 20% increase in violence against women in the country during the previous year, often attributed to domestic violence justified by conservative understandings of religion and culture. Women who seek to engage in public life often are condemned as "immoral" and targeted for intimidation, harassment, or violence. At least four female police officers were killed in 2013, and female members of parliament and their families were subjected to abductions and assassination attempts. The number of reserved seats for women in provincial councils was reduced. In May, an attempt to strengthen women's legal protections failed in parliament due to members objecting to "un-Islamic" provisions. Some argued to remove the minimum marrying age.

Other Issues

In September, President Karzai appointed five new commissioners to the Afghanistan Independent Human Rights Commission (AIHRC). While the appointments were needed so the AIHRC could continue to function,

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by Taliban insurgents. During the reporting period, Shi'a Muslims generally were able to perform their traditional Ashura public processions and rituals without

four appointees had no record of defending human rights. Navi Pillay, the UN high commissioner for human rights, requested the President make new appointments.

Recommendations for U.S. Policy

In the context of international forces drawing down and an election in 2014 for a new Afghan President, the threat of violence by the Taliban and other armed groups is a growing reality for all Afghans, but especially for religious minorities. To promote religious freedom and create civic space for diverse religious opinions on matters of religion and society in Afghanistan, USCIRF recommends that the U.S. government should:

- Raise directly with Afghanistan's new incoming president the importance of religious freedom, especially for dissenting Muslims, Muslim minorities, and non-Muslim religious groups;
- Strengthen an existing 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.