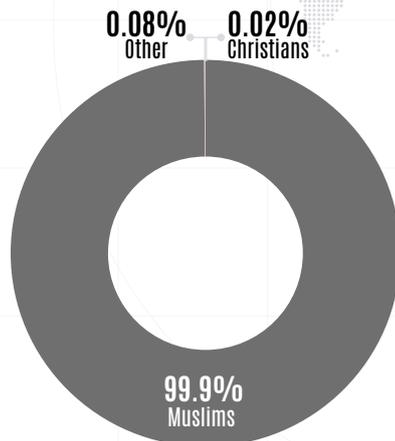




# AFGHANISTAN

## RELIGIONS



## LEGAL FRAMEWORK ON FREEDOM OF RELIGION AND ACTUAL APPLICATION

Sunni Muslims represent between 84.7 and 89.7 percent of the Afghan population. The rest are mostly Shi'a Muslims (10 to 15 percent), mainly ethnic Hazaras. The country's constitution officially recognises 14 ethnicities, including Pashtun, Tajik, Hazara and others.<sup>1</sup> The Pashtun live mainly in the south and southeast and make up the largest group (about 42 percent), followed by Tajik (about 27 percent) who live in the north and northeast, Hazara (9 percent), Uzbek (9 percent), Turkmen (3 percent), Baluchi (2 percent) and others (8 percent).<sup>2</sup>

Sikhs and Hindus number approximately 550, down from 900 in 2018, a negative trend that continues because of a perceived inadequate government protection, with most migrants going to India.<sup>3</sup> No reliable figures exist for other faith groups, including Christians and Baha'is since they do not openly practise their religion. One Jew remains in the country after the large migration to Israel at the end of the 20th century because of the lack of security.<sup>4</sup>

The Preamble to the Afghan constitution states that "the people of Afghanistan" believe "firmly in Almighty God, relying on His divine will and adhering to the Holy religion

of Islam," and appreciate "the sacrifices, historical struggles, jihad and just resistance of all the peoples of Afghanistan, admiring the supreme position of the martyrs of the country's freedom."<sup>5</sup> Article 1 states: "Afghanistan shall be an Islamic Republic, independent, unitary and indivisible state", while Article 2 states that, "The sacred religion of Islam is the religion of the Islamic Republic of Afghanistan." Article 3 affirms that "no law shall contravene the tenets and provisions of the Holy religion of Islam in Afghanistan." Article 62 establishes that the president must be a Muslim.

Article 2 stipulates that the "Followers of other faiths shall be free within the bounds of law in the exercise and performance of their religious rituals," but several laws, as well as local traditions, restrict the freedom of minority religions, starting with Islamic law (Shari'a) as a source of law. For example, Article 1 of the 1976 Penal Code of Afghanistan states: "Those committing crimes of 'Hudud' (hudud), 'Qessass' and 'Diat' shall be punished in accordance with the provisions of Islamic religious law (Hanafi religious jurisprudence)."<sup>6</sup>

Since apostasy and blasphemy fall under the seven hudud crimes, they are regulated by Shari'a, which imposes the death penalty for both. For the offence of apostasy, the Hanafi school recommends three days of imprisonment

before execution, although the delay before killing the Muslim apostate is not mandatory. Male apostates must be killed, while females must be held in solitary confinement and beaten every three days till they recant and return to Islam.<sup>7</sup> Blasphemy in Afghanistan includes anti-Islamic writings or speech and can be punished with the death penalty, provided the accused does not recant within three days. Any Muslim convert to another religion may be killed, imprisoned or have property confiscated in accordance with the Sunni Hanafi school.<sup>8</sup>

Islamic religious education is mandatory in state-run and private schools. Article 17 of the constitution establishes that the “state shall adopt necessary measures to foster education at all levels, develop religious teachings, regulate and improve the conditions of mosques, religious schools as well as religious centers.” Article 45 further stipulates that “the state shall devise and implement a unified educational” curriculum “based on the tenets of the sacred religion of Islam.”<sup>9</sup>

Shi’as, mostly ethnic Hazaras, are Afghanistan’s most discriminated group and face strong societal discrimination along class, race, and religious lines. This can take the form of illegal taxation, forced recruitment and labour, physical abuse, and detention. A 2019 survey by The Asia Foundation revealed that Hazaras are more likely to cite insecurity as a reason to leave Afghanistan than other ethnic groups in the country (81.7 percent of respondents).<sup>10</sup>

The 25th March 2020 attack on a Sikh gurdwara (temple) in Kabul focused world attention on the plight of Afghanistan’s indigenous Sikh and Hindu minorities, who complain of being a target of both local criminal elements and religious extremists. Hindus and Sikhs were granted representation in Afghanistan’s parliament in 2016 and are allowed to practise their faith in public places of worship, but faced with continuing discrimination and attacks, many are leaving the country.<sup>11</sup> Those who have not left complain about the loss of places of worship. According to the Sikh and Hindu Council, 11 gurdwaras and two mandirs (Hindu temples) remain in the country, compared to a combined total of 64 in the past.<sup>12</sup>

Although there are no explicit restrictions on religious minority groups’ ability to establish places of worship or train their clergy, in reality, options for them are limited. Some foreign embassies provide places of worship for non-Afghans. The US-led military coalition has facilities where non-Muslim worship can take place. There are no public churches; the only Catholic place of worship is inside the

Italian embassy.

Christianity is seen as a western religion and alien to Afghanistan. A decade of military presence by international forces has added to the general mistrust towards Christians. Public opinion concerning Christians proselytising Muslims is openly hostile.<sup>13</sup> Afghan Christians worship alone or in small groups in private homes. According to Christian missionary organisations, small underground house churches can be found throughout the country, each one with fewer than 10 members. Despite a constitutional provision guaranteeing religious tolerance, those who are openly Christian or convert from Islam to Christianity, remain vulnerable.<sup>14</sup>

The Catholic Church is present in Afghanistan with a mission sui iuris based in the Italian embassy in Kabul. Its first superior, Italian Barnabite Fr. Giuseppe Moretti, retired in November 2014. His successor, Italian Barnabite Fr. Giovanni Scalse, was installed in January 2015.<sup>15</sup> In 2019, Fr. Giuseppe Moretti briefly returned to the Afghan capital and reported that only about 10 people attended Mass at the Italian embassy. As for religious congregations, there are three Little Sisters of Jesus engaged in public health service; five Sisters of the Missionaries of Charity (the congregation founded by Mother Teresa) who are serving orphans, disabled children, abandoned girls and providing assistance to 240 poor families; and three Sisters of the inter-congregational community Pro Bambini di Kabul (PBK) who care for about 40 disabled children.<sup>16</sup>

The ‘Ahmadi Muslim community numbers around 450 members, down from 600 in 2017.<sup>17</sup> There is little data about the Baha’i community whose members live in hiding after the General Directorate of Fatwas and Accounts of the Supreme Court of Afghanistan issued a declaration in 2007 claiming that their faith was blasphemous and its followers were infidels.

Shi’a Hazaras live predominantly in the central and western provinces, as well as in Kabul; Ismaili Muslims live mainly in Kabul and the central and northern provinces; ‘Ahmadis can be found mostly in Kabul as can most Baha’is, but the latter have a small community in Kandahar.<sup>18</sup>

## INCIDENTS AND DEVELOPMENTS

The period under review began with Afghanistan’s most complicated parliamentary election in recent years. Amid a high number of attacks, voting took place on 20th, 21st and 27th October 2018. From the beginning of the voter

registration period on 14th April, through the campaign period, the UN Assistance Mission in Afghanistan (UNAMA) verified 152 election-related security incidents resulting in 496 civilian casualties (156 deaths and 340 injuries) and the abduction of 245 civilians. Schools and mosques used to register voters were the target of dozens of attacks. The Taliban's actions forced many ordinary Afghans to choose between exercising their right to participate in the political process and risking their own safety.<sup>19</sup>

Over the same period, civilian casualties declined initially. The year 2018 was the worst for civilian killings in Afghanistan, with 3,804,<sup>20</sup> dropping to 3,403<sup>21</sup> in 2019 and 2,117 in the first nine months of 2020.<sup>22</sup> However, the long-awaited Afghan peace talks have not yet brought the positive effects expected, since the number of civilians killed attributed to the Taliban alone increased by 6 percent in the first nine months of 2020.<sup>23</sup>

Attacks against places of worship, religious leaders, and worshippers have not significantly diminished. In 2019, UNAMA documented 20 such attacks compared with 22 in 2018, causing 236 civilian casualties (80 deaths and 156 injured), compared with 453 (156 deaths and 297 injured) in 2018.<sup>24</sup> Attacks continued in 2020 although no official data is yet available. Therefore, violence against religious minorities and religious leaders, especially by anti-government forces like the Taliban and the Islamic State of Iraq and the Levant - Khorasan Province (ISKP) - remains a cause for concern.

Two positive steps are worth mentioning. On 29th February 2020, the United States and the Taliban signed in Doha the Agreement for Bringing Peace to Afghanistan. Its provisions include the withdrawal of all US and NATO troops from Afghanistan, the Taliban's commitment to prevent al-Qaeda from operating in areas under its control,<sup>25</sup> and talks between the Taliban and the Afghan government. The latter were inaugurated on 12th September 2020 in Doha,<sup>26</sup> but despite them, attacks continued to occur in the country.

Shi'a Muslims are still the most targeted group. Terrorist attacks against the Shi'a community, its leadership, neighbourhoods, festivals, and houses of worship have intensified in recent years. On 3rd August 2018, two men killed 29 people and injured more than 80 in a suicide attack on a Shi'a mosque in the city of Gardez, Paktia province.<sup>27</sup> On 15th August and 5th September 2018, two tragic attacks struck the Shi'a community in western Kabul's, predominantly Hazara, Dashte Barchi neighbourhood. The first

attack took place at a building where high school graduates were taking their university entrance exams. Some 48 people, including 34 students, were killed and 67 were injured.<sup>28</sup> The second incident involved a double suicide attack at the Maiwand Wrestling Club in Qala-e-Nazer, with at least 26 dead and 91 wounded.<sup>29</sup> Both attacks were claimed by ISKP, whose plan to establish a global "caliphate" calls for the killing of all those who do not adhere to its extremist interpretation of Islam, including Muslims whom they believe are practising a corrupt form of Islam, especially Shi'as.

ISKP also claimed responsibility for a suicide attack on 17th August 2019, during a wedding in Kabul. At least 92 people were killed and over 140 injured. In a statement on Telegram, a messaging app, the jihadist group said one of its militants infiltrated the reception and detonated a bomb among a crowd of "infidels".<sup>30</sup>

Since 2017, the aforementioned predominantly Hazara neighbourhood of Dashte Barchi has seen numerous attacks on civilians. On 6th March 2020, gunmen stormed a memorial ceremony for Abdul Ali Mazari, the leader of Afghanistan's Hazara minority killed in 1995 by the Taliban. It was the first major incident in the Afghan capital since the US reached an agreement with the Taliban. At least 29 people were killed.<sup>31</sup>

On 12th May 2020, the same neighbourhood saw another attack; this time the target was the maternity ward of the Dashte Barchi hospital. A gunman killed 15 people, including several nurses, mothers, and two newborn babies.<sup>32</sup>

With Afghan peace talks taking place in Doha, another massive suicide bombing targeted the Hazara Shi'a community in Kabul. On 24th October 2020, an explosion outside the Kawsar-e Danish educational centre killed 30 people and injured more than 70, mostly students aged 15 to 26 attending classes.<sup>33</sup>

Sunni places of worship have also been the target of numerous attacks, such as the one on 12th June 2020 against the Sher Shah Suri mosque during Friday prayers. The imam, Mawlawi Azizullah Mofleh, a well-known religious scholar, and three worshippers were killed. On this occasion, the Taliban also condemned the act of violence.<sup>34</sup>

For their part, the Taliban continued to kill religious leaders and threaten them with death for preaching messages contrary to the Taliban's interpretation of Islam or its political agenda. On 26th May 2019, gunmen shot and killed

a prominent religious scholar, Mawlavi Shabir Ahmad Kamawi, in Kabul. He was also a legal advisor for the International Legal Foundation for Afghanistan in Kabul and had called on the Taliban to end the fighting.<sup>35</sup>

There are reports of continued Taliban warnings to mullahs not to perform funeral prayers for government security officials. As a result, according to the Ministry of Hajj and Religious Affairs (MOHRA), imams continued to be afraid of performing funeral rites for government employees. In August 2020, media reported the Taliban put pressure on local imams to cut relations with the government and speak in favour of the Taliban or face Taliban retribution.<sup>36</sup>

Regarding the effects of the COVID-19 pandemic on religious freedom, as the Italian Embassy in Kabul was closed on 23rd March 2020, access to the Catholic Church, located inside the structure, was blocked as well. Most Catholics left Afghanistan at the beginning of the pandemic.<sup>37</sup>

COVID-19 has spread to some 30 of the country's 34 provinces, and the lockdown imposed on 28th March 2020 also affected Muslim religious practice, especially Ramadan celebrations. The MOHRA said that in the areas under lockdown people should pray in their homes and refrain from going to mosques. But Minister Abdul Hakim Munib said that people who wanted to pray in mosques could do so, on the condition of following official health guidelines.<sup>38</sup> In Herat alone, around 500 mosques were closed in late March 2020, while religious clerics issued a fatwa calling on people to avoid going to mosques for prayers.<sup>39</sup> On 22nd May, the MOHRA issued an advisory telling people that if they have COVID-19 symptoms they should avoid gatherings on Eid-al-Fitr.<sup>40</sup>

The start of the pandemic coincided with one of the bloodiest attacks against the Sikh minority. On 25th March 2020, three gunmen stormed the Guru Har Rai Gurdwara in Kabul's Shor Bazar area, killing 25 people and injuring 15. About 150 people were inside the temple while the attackers engaged in a six-hour gun battle with security forces. The ISKP claimed responsibility for the attack.<sup>41</sup> Following the deadly incident, many Sikhs and Hindus expressed a desire to leave the country and asked the US government

to grant them asylum.<sup>42</sup> The US Congress responded by adopting a resolution in favour of the resettlement of Afghan Sikhs and Hindus in the US under the US Refugee Admissions Program pursuant to the Immigration and Nationality Act.<sup>43</sup> India has also offered to accept them.<sup>44</sup>

## PROSPECTS FOR RELIGIOUS FREEDOM

During the period under review, historic positive steps have been taken in Afghanistan: the US-Taliban agreement, the intra-Afghan peace talks, and the agreement between President Ashraf Ghani and his rival Abdullah Abdullah to share power.<sup>45</sup> Nevertheless, the number of attacks in the country has not decreased.

Of particular concern, alongside the Taliban, is the presence of ISKP, which continues to grow, especially after the defeat in Syria and Iraq of the Islamic State group. Unlike the Taliban, ISKP has an increasing number of young, middle class Afghans in its ranks.<sup>46</sup> It is also expanding because of jihadists arriving from Syria and a new wave of defections from the Taliban and jihadist groups linked to al-Qaeda. These defections are important as they bring hundreds of experienced fighters into the ISKP. Furthermore, ISKP leaders believe that there is great potential for attracting many more, as the opposition to peace talks is widespread even among the Taliban.<sup>47</sup>

To all this must be added the economic effects of the COVID-19 pandemic in a country where 14 million people have insufficient access to food. From a health point of view, the situation is also worrying. As of October 2020, Afghanistan had 41,975 cases of COVID-19;<sup>48</sup> any increase would put the country's entire health care system at risk. According to the Global Health Security Index, which measures epidemic preparedness, Afghanistan is among the least-prepared countries in the world.<sup>49</sup>

Considering the above and the extremely low level of internal security, there is little hope at present that the situation of human rights, including the right to religious freedom, will improve soon in the Asian country.

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