

**United Nations Human Rights Council  
Universal Periodic Review of Member State- The Islamic Republic of Afghanistan**

Jubilee Campaign USA, Inc., in special consultative status with ECOSOC, submits this analysis of religious freedom and human rights in Afghanistan as a contribution to the Universal Periodic Review of UNHRC member state- Afghanistan.

**Introduction**

Many improvements have been made in Afghanistan since the fall of the Taliban from power and restoration of a democratically elected central government but despite these improvements religious freedom in Afghanistan still remains extremely poor. Minority groups such as Christians, Hindus, Sikhs, Shiite Muslims, and Bahi's, to name a few, have been marginalized and persecuted. The only Christian church in the country was closed in 2011. Free and open debate is a privilege its people simply do not have.

As NATO countries continue to withdraw forces out of Afghanistan fear and tensions rise. Most watching Afghanistan fear the many positive strides made for individual and group freedom will once again deteriorate and suffer.

**A. Religious Freedom**

1. Afghanistan is a Muslim majority nation still recovering from the brutal reign of the Taliban and the conflict that continues despite their removal from power. The civil war brought relief from the Taliban reign, but the country does not grant its citizens genuine religious freedom.
2. The 2004 Constitution mandates Sharia law as the law of the land, thereby derogating the rights of religious minorities to second class status.
3. The Afghan constitution fails to explicitly protect the individual's internationally recognized right to freedom of religion and belief, including to change one's religion or belief. It states, "followers of other faiths shall be free within the bounds of law in the exercise and performance of their religious rituals." Another section says that fundamental rights can be superseded by ordinary legislation. It is a vague, repugnancy clause not allowing any law to be contrary to Islam and allows the courts to enforce this. The penal code discriminates against religious minorities by allowing the courts to defer to Sharia Law even in the case of minorities. Although the Penal Code does not address issues of conversion, apostasy, and blasphemy, this clause reverts to Sharia Law where these "crimes" are punishable by death.
4. Afghans are not free to debate religion or question the predominant Islamic orthodoxy without fear of reprisal.
5. Those most targeted for their religious belief are Christians, Shiite Muslims, Hindus, and Sikhs. The environment within Afghanistan does not allow for the freedom to exercise these faiths.
6. Those that choose to practice anything other than the prevailing Islamic orthodoxy are subject to legal action, which violate international standards.

7. The Taliban and other non-state actors continue to target individuals for activity they deem “un-Islamic”.
8. Areas still heavily controlled by the Taliban are the most repressed. The Taliban uses their-own strict interpretation of Islam to govern with an iron fist. As foreign troops and aid pull out of Afghanistan this will only get worse. Many observers remain concerned that the areas under Taliban control will grow as NATO troops depart.
9. Marriage is restricted to Muslims. Only when non-Muslims choose to not publicly express their faith can they legally marry.
10. Following the removal of the only Christian church in the country, the small population of Afghan Christians are forced to conceal their faith and are not able to worship openly.

## **B. Freedom of Expression**

1. Free and open debate is not a right given to its people. Afghans cannot debate the role and content of religion and law. Rights of women and religion cannot be advocated for openly. Asking questions about the interpretations of Islamic precepts are prohibited through fear of retribution. Charges of apostasy and blasphemy are used to suppress religious expression, often without any basis.
2. Threats, violence, and intimidation are used against opposition politicians, journalists that write critically, and against civil society activists. Those that oppose or criticize government officials, insurgence, and powerful local figures or dominate doctrine are exposed to retribution.
3. Afghanistan must honor its obligations under international covenants to give its citizens freedom of religious expression. These rights must specifically include the right of individuals to publicly proclaim unpopular or even insulting views, so long as those views do not constitute incitement. Jubilee notes that violence against a viewpoint or its adherents is not proper grounds to label the viewpoint incitement. We call on Afghanistan to repeal its anti-proselytization law as a violation of its citizen’s right to free expression and to prosecute those who incite violence. Anti-proselytization laws violate the right to religious practice and freedom of expression. Public displays of identity, including minority religious identity are protected by the principle of freedom of expression.

## **C. Rights of Women**

1. Women have now been given the ability to vote, hold jobs, go to school and are not always forced to wear the burka. Currently, one fourth of the seats in parliament are held for women.
2. Although women’s rights have made gains in the last few years, if the Taliban regain territory women’s rights will again suffer. Under the Taliban women are afraid to leave the home and normally are forbidden to do so. Women cannot attend school. Women are subject to beatings. Women are seen as possessions not as human beings. Women are systematically oppressed by the Taliban who seek to dehumanize them.

3. Women's rights is still a trickle down process. Women in the city have more advantages than statistically the women in rural areas. Many women are still viewed as cattle to be bought and sold. In many land disputes women are given as collateral.
4. Recently there have been increasing attacks and assassinations of women leaders in Afghanistan. Many women have already stopped serving in government, working outside of the home, and going to school because they are very aware of the prospect of the Taliban returning or other societal actors attacking them. Many women voluntarily left office in 2012 due to this concern and the increasing attacks. They do not want these freedoms to be ripped away. There is a need to find a security framework.
5. A more current and constant threat to women's rights in Afghanistan is the conservative mindset of many of the populous. Through many years of Taliban reign and the historic view of the women's role many still do not believe women have a rightful place in society outside of the home. The government must combat this mindset and educate the public to respect women.

#### **D. Death Penalty**

1. In capital cases due process and a fair trial are not generally met. Some prisoners within Afghanistan have been executed with little to sometimes no warning.

#### **D. Summary of Recommendations**

1. Afghanistan must increase the impact within its domestic laws of Article 7 of the Afghan Constitution, which declares that “[t]he state shall abide by the UN charter, international treaties, international conventions that Afghanistan has signed, and the Declaration of Human Rights.” Article 2 of the Constitution should be viewed and interpreted to protect the rights of religious minorities.
2. Empowering women and other minorities through education and equal opportunity combats terrorism. Therefore we urge the government of Afghanistan to continue to empower its women through building more girl and co-education secondary schools.
3. Convert existing boys' schools into co-educational schools. Also to expand primary girls' schools to include secondary classes.
4. Ensure that girls have equal access to quality education and formal education credentials.
5. Provide incentives and safe and appropriate housing facilities for female teachers in rural areas as well as the cities.
6. Provide incentives, safe housing and protection for woman in government.
7. We urge Afghanistan to observe its national law that requires any complaint against journalists to first go to the Media Violations Committee than the Attorney General or the police.
8. We urge Afghanistan to stop detaining members of the media for having legitimate contact for interviewing purposes elements critical of the government.

9. Afghanistan should conduct criminal investigations when members of the media, religious and ethnic minorities, and those that speak out against the norm are killed.
10. Afghanistan must suspend the use of the death penalty until a fair trial and due process can be ensured.
11. Afghanistan must end the climate of impunity caused by its failure to investigate and prosecute crimes against religious minorities as well as failing to give appropriate sentences to those convicted of crimes against religious minorities.
12. Afghanistan must guarantee the rights to freedom of assembly and expression, including the right to publicly express a minority religious identity.
13. Afghanistan must repeal the blasphemy law and recognize that insulting speech, which does not incite violence, is protected under internationally recognized human rights standards.
14. Afghanistan must seriously and meaningfully enforce the fundamental rights, adding those provisions to its Constitution and uphold its obligations under international law.
15. The Afghanistan Independent Human Rights Commission should be strengthened and President Hamid Karzai's efforts to weaken it should be reversed.