

# Islamic Republic of Afghanistan

## Policy Brief: 2011-2012



## Background

- Afghanistan is one of the oldest centers of Hindu civilization and was once home to a thriving Hindu population. The Hindu population in Afghanistan, however, has become nearly extinct, with barely 3,000 Hindus and Sikhs remaining in the country.<sup>i</sup>
- During the 1970s, there were an estimated 200,000 Hindus residing in Afghanistan, but due to years of violence and persecution, large numbers of Hindus fled for their safety to other countries.<sup>ii</sup>
- According to the Afghanistan Independent Human Rights Commission (AIHRC), the civil war forced the majority of Hindus and Sikhs to immigrate, and “most of their houses and lands were taken by force.”<sup>iii</sup>
- Under the Taliban’s reign, Hindus faced pervasive discrimination and violence, and were forced to wear a distinguishing yellow stripe on their arm, similar to the Jews in Nazi Germany.
- Even with the fall of the Taliban and the establishment of a democratic government, Hindus and Sikhs continue to endure violence, social discrimination, and legal inequalities, and are often forced to hide their religious beliefs to avoid persecution.<sup>iv</sup>

## Religious Discrimination and the Legal Framework<sup>v</sup>

- The Afghan constitution explicitly fails to protect the individual right to freedom of religion, and provides that “fundamental rights can be superseded by ordinary legislation.”
- Article 3 of the constitution states that no law can contravene Islam, and the constitution in practice establishes a restrictive interpretation of Islamic law. As a result, interpretations of Islamic law have been given precedence over human rights protections.
- Under the penal code, courts may subject religious minorities to Islamic law in situations that are not addressed by the constitution or the penal code.
- Marriage is formally restricted to Muslims; non-Muslims can only marry if they do not publicly express their faith.
- Government authorities have failed to equally apply the law for the protection of all Afghan citizens.

## Status of Human Rights

- Religious minorities face extensive restrictions on their religious freedom from both the government and non-state actors.<sup>vi</sup>
- Hindus and Sikhs have been effectively excluded from most government jobs and face societal hostility and harassment.<sup>vii</sup>
- The AIHRC notes that there have been several cases of illegal seizures and occupation of Hindu owned lands by Muslims in Kabul and Khost province. Hindus have been unable to reclaim their lands and have received little assistance from the government or law enforcement.<sup>viii</sup>
- Hindus and Sikhs face significant obstacles in cremating their dead, as Muslims often physically interfere with cremations and forcibly occupy crematoriums.<sup>ix</sup>
- Hindu and Sikh children are subjected to discrimination and religious prejudice in schools from Muslim classmates and teachers. There are approximately 70 Hindu and Sikh school age children living in Kabul, but many have been forced to drop out as a result of bullying and religious prejudice.<sup>x</sup>

- Hindus and Sikhs continue to be targeted by religious extremists. For example, Arti Kumar fled Afghanistan in September 2007 with her two sons after the Taliban attacked her older son, Ravi, hitting him on the head with a rifle and leaving him brain damaged. Arti's 16-year-old daughter Rekha was also reportedly abducted by the Taliban, and never heard from again.<sup>xi</sup>
- A 23 year-old Sikh man that fled Afghanistan with his family when he was only 5 years old was recently detained by Afghan authorities because of his distinctive turban, after being deported to Afghanistan from the United Kingdom. News reports indicated that he faced abuse in prison and was forcibly converted to Islam by other inmates.<sup>xii</sup>
- Thousands of Afghan Hindu refugees live on the margins of society in India and countries throughout Europe, where they are often denied legal status and endure difficulties with asylum claims.

### Security and Political Conditions<sup>xiii</sup>

- According to the U.S. Commission on International Religious Freedom, “[t]he security situation remains serious, exacerbating the religious freedom and human rights problems in many parts of the country.”
- The Taliban and other terrorist groups continue to pose a substantial security risk and threaten the stability of Afghanistan. The Afghan government remains weak and is unable to protect its citizens from violence and intimidation by the Taliban and religious extremists.
- The disregard for human rights by the government, as well as non-state actors, has seriously impeded the establishment of the rule of law and democracy throughout the country.

### Recommendations

- The international community should (1) work with the Afghan government to reform its legal system and constitution to provide greater safeguards for religious freedom and human rights, and (2) urge the Afghan government to protect religious minorities from violence and discrimination.
- The international community should provide refuge to Hindu and Sikh minorities forced to flee Afghanistan due to persecution. In particular, countries, such as Belgium, Germany, India, and the UK should grant asylum to Afghan Hindu and Sikh refugees under the Geneva Convention.

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<sup>i</sup> Ayubi, S. R., “Hindu, Sikh children bullied out of school,” (January 27, 2011), Pajhwok Afghan News, <http://www.pajhwok.com/en/2011/01/27/hindu-sikh-children-bullied-out-school>; Kochhar, R., “The Vedic People,” (2000), Orient Longman.

<sup>ii</sup> Ayubi, S. R., “Hindu, Sikh children bullied out of school,” (January 27, 2011), Pajhwok Afghan News, <http://www.pajhwok.com/en/2011/01/27/hindu-sikh-children-bullied-out-school>.

<sup>iii</sup> Shamal, Parwiz, “Afghan Hindus, the most deprived in Afghanistan,” (August 9, 2010), Tolo News, <http://www.tolonews.com/6:30-report/255-afghan-hindu-the-most-deprived-in-afghanistan>.

<sup>iv</sup> U.S. Commission on International Religious Freedom 2012 Annual Report, Country Chapter: Afghanistan, [http://www.uscirf.gov/images/Annual%20Report%20of%20USCIRF%202012\(2\).pdf](http://www.uscirf.gov/images/Annual%20Report%20of%20USCIRF%202012(2).pdf).

<sup>v</sup> Ibid.

<sup>vi</sup> Ibid.

<sup>vii</sup> Ibid.

<sup>viii</sup> U.S. Commission on International Religious Freedom 2012 Annual Report, Country Chapter: Afghanistan, [http://www.uscirf.gov/images/Annual%20Report%20of%20USCIRF%202012\(2\).pdf](http://www.uscirf.gov/images/Annual%20Report%20of%20USCIRF%202012(2).pdf); Shamal, Parwiz, “Afghan Hindus, the most deprived in Afghanistan,” (August 9, 2010), Tolo News, <http://www.tolonews.com/6:30-report/255-afghan-hindu-the-most-deprived-in-afghanistan>.

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<sup>ix</sup> Shamal, Parwiz, "Afghan Hindus, the most deprived in Afghanistan," (August 9, 2010), Tolo News, <http://www.tolonews.com/6:30-report/255-afghan-hindu-the-most-deprived-in-afghanistan>.

<sup>x</sup> Ayubi, S. R., "Hindu, Sikh children bullied out of school," (January 27, 2011), Pajhwok Afghan News, <http://www.pajhwok.com/en/2011/01/27/hindu-sikh-children-bullied-out-school>.

<sup>xi</sup> Bano, R. , "Hindu family facing Afghan deportation fears Taliban," (February 2, 2011), BBC News, <http://www.bbc.co.uk/news/uk-12345492>.

<sup>xii</sup> Londono, Ernesto, "Afghan Man, Detained for Being Sikh, Released from Prison," (February, 1, 2012), The Wahsington Post, [http://www.washingtonpost.com/blogs/blogpost/post/afghan-man-detained-for-being-sikh-is-released-from-prison/2012/02/01/gIQAbEdmhQ\\_blog.html](http://www.washingtonpost.com/blogs/blogpost/post/afghan-man-detained-for-being-sikh-is-released-from-prison/2012/02/01/gIQAbEdmhQ_blog.html); U.S. Commission on International Religious Freedom 2012 Annual Report, Country Chapter: Afghanistan, [http://www.uscirf.gov/images/Annual%20Report%20of%20USCIRF%202012\(2\).pdf](http://www.uscirf.gov/images/Annual%20Report%20of%20USCIRF%202012(2).pdf).

<sup>xiii</sup> U.S. Commission on International Religious Freedom 2012 Annual Report, Country Chapter: Afghanistan, [http://www.uscirf.gov/images/Annual%20Report%20of%20USCIRF%202012\(2\).pdf](http://www.uscirf.gov/images/Annual%20Report%20of%20USCIRF%202012(2).pdf).