



UNITED STATES COMMISSION *on* INTERNATIONAL RELIGIOUS FREEDOM

ISSUE UPDATE: RELIGIOUS FREEDOM AND WOMEN'S RIGHTS IN AFGHANISTAN

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USCIRF's Mission

*To advance international
freedom of religion or
belief, by independently
assessing and unflinchingly
confronting threats to this
fundamental right.*

By Sema Hasan, Policy Analyst

Overview

Since seizing control of Afghanistan on August 15, 2021, the Taliban's enforcement of its strict interpretation of Sunni Islam has facilitated deteriorating religious freedom conditions in the country. Through a series of [edicts](#), decrees, and circular letters, the Taliban have restricted the religious freedom of all Afghans, including those with differing interpretations of Islam, but these restrictions have disproportionately impacted women.

Following their rise to power, the Taliban [claimed](#) that Afghan women would have rights "within the bounds of Islamic law." Since August 2021, however, over half of the de facto government's [80 religious edicts](#) and decrees directly enforce severe restrictions on women and girls, hampering their ability to live according to their own religious interpretation, including bans on education, employment, and freedom of movement. Further restrictive decrees have also been issued, while not receiving as much media attention, including the Taliban's [decision](#) to ban women from driving. The Taliban have justified these edicts as "orders from the Qur'an" and they are issued directly by the Taliban's Supreme Leader. In June 2023, Taliban leadership [claimed](#) that their actions had facilitated the provision of a "comfortable and prosperous life according to Islamic Shari'a."

In light of these developments, this issue update examines religious freedom conditions in Afghanistan, focusing specifically on the implementation of the Taliban's decrees towards religious minorities and women.

Legal Restrictions Based on Religion under Taliban Rule

In August 2021, the Taliban returned to power after two decades. Despite attempts to project a more moderate stance, they have imposed a strict interpretation of Islamic law that purposefully undermines the rights of women and religious and ethnic minorities.

As of August 2023, the 2004 constitution no longer serves as the basis for the rule of law in Afghanistan. The Taliban [view](#) the 2004 constitution as "insufficiently" Islamic, believing that it fails to recognize God's commands as the basis for law and policy. The 2004 constitution declared Islam as the state religion, and Article 2 [stated](#) that "followers of other faiths shall be free within the bounds of law in the exercise and performance of their religious values." Laws under the previous government, the Taliban argue, allowed for corruption, violence, and poverty. While the Taliban have not introduced a formal written constitution for Afghanistan, reports from April 2023 indicate that the drafting process is "ongoing." In the absence of a formal written constitution, the Taliban have repeatedly professed that Shari'a and the Qur'an are the basis for law in the country.



The Justice System

The Taliban's Islamic Emirate *consists* of one executive and one judicial body, with no independent legal branch. The highest authority of the de facto Taliban government is the Supreme Leader, Mullah Hibatullah Akhundzada, known also as Amir ul-Mu'minin (leader of the believers). Based in Kandahar, Akhundzada is advised by a 20-member ulema shura (council of Islamic scholars), but decisions are ultimately made by him, often through decrees or edicts. These edicts, however, often lack specific details, including definitions or guidance on implementing punishment, which has contributed to a climate of uncertainty and fear. Such ambiguity allows Taliban leaders to arbitrarily enforce the law based on their own interpretation.

The highest judicial body is a high council of six senior male judges. In November 2022, the Taliban *ordered* judges to enforce their interpretation of Shari'a, including by holding *public executions* and floggings. According to the International Legal Assistance Consortium, however, sources and application of law and procedure vary widely across Afghanistan. Currently, Afghanistan does not have uniform Shari'a based "*codes*" or standard procedures whereby to settle or address criminal or civil matters.

Equal access to justice in the country, according to the United Nations (UN), *remains* a significant concern under the current legal system. Female lawyers have been excluded from the licensing process and are prevented from practicing. In *response* to criticism from the UN, the Taliban's foreign ministry announced that in instances where international human rights law conflicts with Islamic law, "the government is obliged to follow the Islamic law." Echoing this, in November 2022, the acting Justice Minister decreed that only Taliban approved

lawyers would be permitted to work in Islamic courts. The *increasing* role of muftis (senior Islamic scholars) in the judicial process is a new development in the country. Muftis, who have at least 25 years of Islamic religious education, are typically leaders of madrassas or schools. In June 2022, the Taliban's Supreme Leader directed that muftis would act as direct advisors to judges and, in some instances, actively participate in court hearings and proceedings.

In July 2023, a new law *dissolved* the Office of the State Secretary General and put in its *place* the Directorate General of Supervision and Pursuit of Decrees, which is responsible for monitoring the implementation of edicts in both public and private institutions. The new law also granted the Supreme Leader total authority to oversee the "correct" implementation of laws, rules, and decrees. In addition, it merged the Supreme Court with the General Directorate of Rights and *created* a new provincial House of Fatwa to apply Shari'a punishments and evaluate court case decisions made under the previous government.

Unique Application of Shari'a

Afghanistan is one of several countries to operate under Shari'a. Scholars agree that the term "Shari'a" is open to interpretation among five main schools of Islamic jurisprudence, including four Sunni schools of thought and one Shi'a school. Shari'a, generally, only refers to the guidance contained in the Qur'an and the hadiths and is adaptable to given situations. The Taliban's version of Islamic law, however, is a strict Sunni *interpretation* derived from the Deobandi strand of Hanafi jurisprudence, which combines tribal elements of Afghan culture. While most Sunni Muslims follow Hanafi jurisprudence, the Taliban's stance enforces Shari'a

on the entire population, including Sunni Muslims holding different interpretations of Shari'a, Shi'a Muslims, and other religious minorities.

In a rare [public speech](#) in September 2022, the Taliban's Supreme Leader declared that Shari'a should be enforced "in every area of the country and ordinary people should implement those rules in their daily lives." He also cautioned that those who hinder the Taliban's proselytization process and "oppose [the Taliban's] principles will be dealt with accordingly." The Taliban have proven harsh in their application, as evidenced by their willingness to engage in public floggings. During the first half of 2023 alone, UN [estimates](#) indicate that as many as 274 men, 58 women, and two boys were publicly flogged in Afghanistan.

The Taliban's harsh enforcement of their narrow interpretation of Sunni Islam violates individual Afghans' freedom of religion or belief (FoRB). FoRB is defined under [Article 18](#) of the Universal Declaration of Human Rights as the right to hold or not hold any faith or belief. This includes "freedom to change [one's] religion or belief, and freedom, either alone or in community with others and in public or private, to manifest [one's] religion or belief in teaching, practice, worship, and observance." FoRB also prevents coercing individuals to adopt a different belief. The Taliban's recent edicts and decrees directly violate this principle by enforcing religious views on all individuals regardless of their beliefs.

Targeting of Religious Minorities

Approximately 10 to 15 percent of Afghans are Shi'a Muslim, and smaller percentages of the population are Sufi or Ahmadi. While many non-Muslim minorities fled following the Taliban takeover, small populations of Hindus and Sikhs remain. Other religious minorities include Baha'is, Buddhists, Zoroastrians, and Christians. The Taliban consider conversion from Islam to another religion apostasy and punishable by death, according to their [interpretation](#) of Shari'a.

Christians in Afghanistan—most of whom are converts—have faced increased security risks. Reports describe that the Taliban have placed [bounties](#) on Afghan Christians, encouraging people to turn them into the authorities for financial rewards, which has forced the group to observe their faith in [secret](#). Publicly, however, the Taliban deny the existence of Christians, [claiming](#) that the minority group has "never been known or registered" in the country.

Additionally, since the Taliban takeover, Afghanistan's Shi'a minority population has faced several attacks and targeted discrimination. The country's Shi'a Hazara minority population, in particular, has been subject to [attacks](#) by both the Taliban and the Islamic State-Khorasan (ISIS-K). The September 2022 [attack](#) on the Kaaj Education Center in Kabul, for example, resulted in the death of 54 individuals and injured 114 more, most of whom were from the Hazara Shi'a community. While no group immediately claimed responsibility for the attack, it [mirrored](#) similar attacks by ISIS-K, which had conducted 13 attacks against the Hazara since the Taliban takeover. More recently, in March 2023, ISIS-K [attacked](#) a journalist event at a Shi'a center, killing at least one person and wounding eight more.

Hazara have accused the Taliban of backtracking on their previous [claims](#) to not interfere with Shi'a worship. In July 2023, citing security concerns, Afghanistan's Council of Shi'a Scholars published a [declaration](#) advising mourners to limit their activities marking Muharram, the first day of the Islamic calendar. The declaration called on mourners to refrain from street processions during Ashura, the 10th day of Muharram, where Shi'a Muslims commemorate the death of Imam Hussain. Prior to the Taliban takeover, Afghanistan's Shi'a Muslim communities were able to observe Muharram with few restrictions and perform religious ceremonies without fear of reprisal.

Throughout 2023, the Taliban have restricted the teaching of Shi'a jurisprudence in some universities, and in February [banned](#) marriages between Shi'a and Sunni Muslims in Badakhshan province. The announcement informed Afghans that "no one from Sunni followers will be allowed to give a daughter to a Shi'a follower, nor a Shi'a Muslim can give a daughter to a Sunni Muslim."

FoRB and Women's Rights

FoRB as a principle includes women's individual right to interpret and practice their religion as they see fit. Since 2021, however, the Taliban have forced all women to adhere to the group's religious perspective regarding how women should live and act in society and have targeted and restricted the ways in which women may practice and interpret Islam, extending to multiple aspects of their lives.

In September 2021, the Taliban [replaced](#) the Ministry of Women's Affairs with the Ministry for Propagation of Virtue and Prevention of Vice (MPVPV), which under their previous rule enforced punishment for behavior they deemed as "un-Islamic." This action allowed the Taliban to enforce regulations on women in society

without their participation or input. In 2023, the MPVPV's morality police have stringently [monitored](#) the dress and behavior of Afghan men and women in public. Authorities have arbitrarily arrested women for "moral crimes," including engaging in protests. However, Supreme Leader Akhundzada has [lauded](#) the "significant reform measures" in areas of education, culture, economics and media, claiming that living under the Taliban's interpretation of Shari'a leads to prosperity. In response to various edicts issued by Taliban leadership in 2023, the UN [described](#) Afghanistan as "the most repressive country for women's rights." The following sections provide a more detailed analysis of the implication of these edicts for Afghan women.

Education

The Taliban have completely revamped the country's education sector through more than 20 written and oral decrees since 2021. Statements by Taliban leadership, including the Minister of Education, point to two main changes in education. The first is the type of education that is considered "suitable" for Afghans, one that is guided by Shari'a and promotes what the Taliban [describe](#) as a "national and Islamic spirit." Taliban officials have failed to provide further detail on what changes would be required to ensure school curriculum is "compatible" with Shari'a. The second change bans women and girls from seeking higher education.

These decrees include bans on co-education and secondary education for girls, restrictions on areas of study for female students (including barring them from journalism, law, agriculture, and sciences), and a prohibition on female students taking annual university [entry exams](#). Taliban officials have stated that certain subjects [violate](#) Islam. In August 2021, the Taliban began segregating education and declared that male teachers could no longer teach girls at any level. This declaration was extended in December 2022, when the Taliban announced that women would be banned from public and private universities "until further notice." The Minister for Education [justified](#) the decision on religious grounds, stating that female students live in hostels far from their homes which was in contrast to "Islamic injunctions." He further noted that female students failed to wear "proper" clothing and maintain gender segregation on campuses. In March 2023, the Taliban banned issuing transcripts and certificates to female university students. Several edicts have also been directed at men. For example, in October 2022, the Taliban [ordered](#) male teachers and students in Kandahar to adhere to their narrow interpretation of Shari'a, including a strict dress code for men.

Proliferation of Madrassas

In December 2022, the Minister of Hajj and Religious Affairs [stated](#) that "adult girls" would be barred from attending Islamic classes in Kabul mosques but could still go to madrassas (Islamic seminaries). Since the Taliban's education ban, the number of madrassas has [increased](#) throughout the country. Licenses for religious schools are reportedly easier to obtain under Taliban rule. In addition, formerly secular schools, vocational centers, and public universities have been [converted](#) into madrassas. These madrassas are [viewed](#) as the only option left for women and girls to continue their studies, but are strictly focused on instruction of the Qur'an in Arabic, leaving no room for the study of other faiths or subjects the Taliban views as "un-Islamic."

While the organization and size of these madrassas vary across Afghanistan, one consistent aspect is adherence to the Hanafi school of jurisprudence with no mention of other schools of thought. This stands in contrast to school curriculum under the previous regime, which was religious but [allowed](#) for different texts for Shi'a Muslim students. As of April 2023, the MPVPV and Ministry of Education began proctoring [religious tests](#) for teachers in order to measure their knowledge of Islam and replace educators who fail to meet the Taliban's standards.

Freedom of Movement and Employment

Since 2021, the Taliban have also enacted decrees that severely limit women's freedom of movement, including access to employment, parks, and beauty salons. Following the takeover, the Taliban swiftly announced restrictions limiting women's free movement, [ordering](#) women to stay indoors unless necessary to go out. The Taliban subsequently required that women travel with a mahram (male chaperone) for long distance journeys. In May 2022, the Taliban [ordered](#) women to be covered in public and called on all mosques to ensure compliance. Male civil servants also face suspension from employment if the employee's wife or daughter fails to wear a "proper hijab." These actions are a direct violation of women's religious freedom by removing their free will to choose whether and how to wear hijab.

In December 2022, the Taliban banned Afghan women from working for nongovernmental organizations (NGOs). In a letter from the Ministry of Economy, the Taliban [claimed](#) that some female NGO workers were not wearing the hijab "properly." According to local representatives, the Taliban routinely visit NGO offices and [arrest](#) any women they find working. In April 2023, this decree was extended further when the Taliban announced that Afghan women are also prohibited from working for the UN.



Photo by Mayank Makhija/NurPhoto via AP.

In July 2023, the Taliban ordered the closure of beauty salons in Afghanistan, claiming that they offered procedures that are “un-Islamic.” The application of makeup, for example, the Taliban claims, *interferes* with the ablutions required before prayer. However, with the decrees restricting women’s employment, beauty salons were considered one of the *last places* where women could openly work and gather under Taliban rule. The announcement of the edict *prompted* a rare public protest in Kabul, where dozens of women were tazed or sprayed with fire hoses by security forces.

Domestic and International Response

The Taliban’s decrees and bans have been met with vocal opposition both within the country and by the international community. The global response to the Taliban’s education bans has been particularly critical. The Taliban have *arrested* education activists, including Matiullah Wesa, for their advocacy. *Religious scholars* within *Afghanistan* have also called for lifting the restriction, arguing that under Islamic law women have “full rights to study Shari’a and modern sciences.” Scholars state that any gender-based restriction of education has no religious justification. One religious scholar *argued* that schools should be allowed to re-admit girls and women through holding separate classes, hiring female teachers, staggering classes, and constructing new facilities. In the days following the bans on education, Afghan women and girls participated in protests around Kabul. The Taliban responded by *banning* unauthorized protests.

The governments of other Muslim majority countries have also criticized the Taliban’s harsh interpretation and mass enforcement of Shari’a. The Organization for Islamic Cooperation (OIC) further *expressed* “deep disappointment” over the decision to ban education for women and girls. The Muslim World League’s (MWL) secretary general, Mohammad bin Abdulkarim Al-Issa,

also *opposed* the ban, stating that “senior scholars of the Islamic world and different sects are against the decision of the Taliban.”

Differing Views among the Taliban

In April 2023, Supreme Leader Akhundzada announced that he would forbid “any action that threatens or negates Islam and is against Islamic principles.” Officially, the Taliban have dismissed international criticism of their rule, insisting that it aligns with Shari’a. Internally, however, not all members of the Taliban *agree* with the severity of some restrictions, including *towards* women’s education. Ideological differences exist between Taliban leadership in Kandahar and Kabul. The Kandahar group is *considered* more conservative and unshaken by international condemnation. While public criticism is rare, several examples of public disagreement exist. Several members of the Taliban have *reportedly* sent their own daughters to schools and universities abroad, mainly in *Qatar*. A handful of leading Taliban officials and clerics have called for the education ban to be *rescinded*, arguing that educated women can “raise better children and build a better society.” The Taliban’s *foreign minister* publicly stated that “education is obligatory on both men and women.” The Taliban’s acting defense minister publicly *stated* that the group should “always listen to the legitimate demands of the people.” In response to criticism, however, the Taliban’s leadership ordered members not to openly oppose declarations.

U.S. Policy and Conclusion

In response to the Taliban’s restrictive edicts, the U.S. Department of State issued a *joint statement* in March 2023 by relevant special envoys condemning the Taliban’s human rights violations, including against religious minorities. The statement expressed concern and called for the immediate reversal of the restrictive bans on education and employment for women.

While the United States does not recognize the de facto Taliban authorities as the official government of Afghanistan, several delegations have participated in conversations with Taliban representatives in Doha, Qatar. In April 2023, the U.S. Special Representative for Afghanistan met with Afghan civil society and political leaders, journalists, and human rights activists to discuss current challenges in the country. The same month, U.S. representatives *participated* in a UN-organized meeting in Doha focused on discussing potential way to engage with the Taliban on key issues of human rights, including women and girls’ rights, minority rights, and inclusive governance.



UNITED STATES COMMISSION *on* INTERNATIONAL RELIGIOUS FREEDOM

In July 2023, both the U.S. Special Representative and the U.S. Special Envoy for Afghan Women, Girls and Human Rights, *met* with Taliban officials and individuals from Afghan ministries to discuss the future of Afghanistan. Both representatives expressed concern for religious minorities and *called for* the removal of bans on women's education and work, an end to corporal punishment, and the cessation of crackdowns on the media.

USCIRF continues to urge U.S. government officials to incorporate discussion of the need for protections for freedom of religion or belief in dialogue with the

Taliban and to publicly condemn the ongoing violations against minority populations. In its 2023 Annual Report, USCIRF recommended the State Department designate Afghanistan as a "country of particular concern," or CPC, for the de facto government's engagement in systematic, ongoing, and egregious violations of religious freedom. USCIRF further calls on Congress to expand the existing Priority 2 (P-2) designation granting U.S. Refugee Admissions Program (USRAP) access for certain Afghan nationals and their family members to religious minorities at extreme risk of religious persecution.

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