

## **Schnellrecherche der SFH-Länderanalyse vom 22. April 2015 zu Afghanistan: Die Situation der Baha'i**

Frage an die SFH-Länderanalyse:

- Situation der Baha'i

Die Informationen beruhen auf einer zeitlich begrenzten Recherche (Schnellrecherche) in öffentlich zugänglichen Dokumenten, die uns derzeit zur Verfügung stehen.

### **1 Situation der Baha'i**

In den UNHCR-Richtlinien vom 6. August 2013 ist festgehalten, dass nicht-muslimische Minderheitengruppen in Afghanistan unter gesellschaftlicher Diskriminierung leiden und Ziel gewalttätiger Übergriffe werden. Davon sind auch die Baha'i betroffen. Einem Entscheid der Generaldirektion für *Fatwas* (Rechtsgutachten) des Obersten Afghanischen Gerichts vom Mai 2007 zufolge wird die Religion der Baha'i als nicht-islamisch eingestuft. Sie entspricht gemäss diesem Verständnis einer Form der Blasphemie. Menschen, die vom Islam zur Religion der Baha'i konvertieren, werden entsprechend als Abtrünnige betrachtet.

Blasphemie und Abtrünnigkeit werden weder in der afghanischen Verfassung noch im afghanischen Strafgesetzbuch explizit behandelt. Wie im Jahresbericht 2014 der *US Commission on International Religious Freedom* vom 30. April 2014 erörtert wird, erlaubt das Strafgesetz in solchen Fällen, Scharia-Recht zur Anwendung kommen zu lassen. Dieses sieht sowohl für das Vergehen der Blasphemie als auch der Abtrünnigkeit die Todesstrafe vor. Die Gemeinde der Baha'i, die in Afghanistan seit der Machtübernahme der Taliban gemäss einem Bericht des *UK Home Office* vom 15. Februar 2013 auf wenige hundert Mitglieder geschrumpft ist, existiert seit dem Entscheid der Generaldirektion für *Fatwas* im Jahr 2007 nur noch im Versteckten. Das UNHCR weist in seinen Richtlinien darauf hin, dass die Baha'i sich öffentlich nicht zu ihrer Religion bekennen, da die Gefahr der Diskriminierung, Misshandlung, willkürlicher Verhaftung oder sogar Tötung zu gross ist.

Die *US Commission on International Religious Freedom* betont in ihrem Bericht vom 30. April 2014, dass der Schutz der Religions- und Glaubensfreiheit in der afghanischen Verfassung nicht verankert ist. Das *UK Home Office* bezieht sich in seinen Guidelines vom Februar 2015 auf die *US Commission on International Religious Freedom* und geht auch davon aus, dass nach wie vor kaum Bemühungen stattfinden, Angehörige religiöser Minderheiten vor gesellschaftlicher Schikanie oder gewalttätigen Übergriffen zu schützen.

UNHCR, 6. August 2013:

**«Nicht-muslimische Minderheitengruppen leiden Berichten zufolge unter gesellschaftlicher Schikanie und in manchen Fällen unter Gewalt; Berichten zufolge schützt die Regierung religiöse Minderheiten nicht gegen derartige**

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**Misshandlungen.** Berichten zufolge vermeiden es Mitglieder religiöser Minderheiten wie **Bahai** und Christen aus Angst vor Diskriminierung, Misshandlung, willkürlicher Verhaftung oder Tötung, sich öffentlich zu ihrer Religion zu bekennen oder sich offen zum Gebet zu versammeln.

**Im Mai 2007 entschied die Generaldirektion für Fatwas (Rechtsgutachten) des Obersten Afghanischen Gerichts, dass die Religion der Bahai nicht islamisch und eine Form der Blasphemie sei. Diesem Urteil zufolge sind alle zum Bahai-Glauben konvertierten Muslime Abtrünnige und alle Bahai Ungläubige. Die Bahai leben seit dem Urteil Berichten zufolge versteckt.**» Quelle: UNHCR - UN High Commissioner for Refugees: UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan [HCR/EG/AFG/13/01], 6. August 2013, S. 50:  
[www.ecoi.net/file\\_upload/1930\\_1386162591\\_afghanistan-richtlinien2013dt.pdf](http://www.ecoi.net/file_upload/1930_1386162591_afghanistan-richtlinien2013dt.pdf).

US Commission on International Religious Freedom, 30. April 2014:

**«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. (...)**

#### *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 contradicting 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.» Quelle: USCIRF – US Commission on International Religious Freedom: United States Commission on International Religious Freedom - Annual Report 2014 - 15th Anniversary Retrospective: Renewing the Commitment, 30. April 2014, S. 109f:*

[www.uscirtf.gov/sites/default/files/USCIRF\\_2014\\_Annual\\_Report\\_PDF.pdf](http://www.uscirtf.gov/sites/default/files/USCIRF_2014_Annual_Report_PDF.pdf).

*UK Home Office, Februar 2015:*

*«3.14.2 Treatment: **Conversion from Islam is considered apostasy and is punishable by death according to several interpretations of Shari'a law.** A person who has converted from Islam has three days to recant his/her conversion or otherwise face death by stoning, be deprived of all property and possessions, and have their marriage declared invalid. Although, in recent years the death penalty for conversion from Islam has reportedly not been carried out, arrests for conversion to Christianity have recently been reported. The arrests were reportedly made after calls by Members of Parliament for the arrest and execution of alleged Christian converts following a television broadcast of footage showing their baptism in May 2010. **Generally seen by***

**family members and traditional social structures as a source of shame, converts from Islam may face isolation, pressure to recant and, in some cases, physical harm. As a result, converts usually conceal their faith and avoid worshipping in public.** The criminal code makes no specific references to religious conversion. However, in the absence of a provision in the constitution or other laws, Article 130 of the constitution instructs that court decisions should be in accordance with constitutional limits and Hanafi religious jurisprudence to achieve justice. Under some interpretations of Islamic law, converting from Islam to another religion is deemed apostasy and considered an egregious crime. Male citizens over age 18 or female citizens over age 16 of sound mind who convert from Islam have three days to recant their conversions or possibly face death by stoning, or deprivation of all property and possessions, and/or the invalidation of their marriage.

3.14.3 Voice of the Martyrs in its 2013 country report for Afghanistan notes “Christians account for 0.05 percent [of the population]. While there is limited freedom to practice other religions, there is no freedom to propagate another faith or to convert from Islam. Authorities often ignore the persecution that occurs. Citizens are free to practice their own religion, but individuals and organizations suspected of evangelizing Muslims have been threatened or attacked by militants. Because of these limitations, the Church in Afghanistan remains almost entirely underground.” The USSD in its 2012 International Religious Freedom report states that “**Estimates of the Bahai and Christian communities are less clear because neither group practices openly for fear of persecution.** Reportedly, the Christian community is between 500 and 8,000 persons. There are no public Christian churches. Afghan Christians worship alone or in small congregations in private homes. Many Afghan Christians converted while living as refugees in third countries. Chapels and churches for noncitizens of various faiths are located on several military bases, Provincial Reconstruction Teams, and at the Italian embassy in Kabul”.

(...)

3.14.5 There were reports of abuse of religious freedom, including one report of imprisonment and detention. **Members of minority religious groups continued to suffer discrimination, and the government often did not protect minorities from societal harassment. The government enforced existing legal restrictions on religious freedom selectively and in a discriminatory manner.** During the year, there were no incidents involving individuals attempting to proselytize, but some faith-based nongovernmental organizations (NGOs) reported continued monitoring by government entities. The right to change one’s religion was not respected either in law or in practice. By the end of the year [2012] there were no reported cases of national or local authorities imposing criminal penalties on converts from Islam. There were no known cases of converts still in custody from previous years. There were no reports of persons being sentenced to death or executed for blasphemy.

3.14.6 **Non-Muslim minorities such as Sikhs, Hindus, and Christians continued to face social discrimination and harassment, and in some cases violence. This treatment was not systematic, but the government made minimal effort to improve conditions.** Public opinion continued to be openly hostile toward Afghan converts to Christianity and to proselytizing by Christian organizations and individuals, including in cases where groups were falsely accused of proselytizing. Practicing Muslims and charities operated by Afghan Muslims were wrongly accused of proselytizing about Christianity or conversion to Christianity as a way to discredit the organizations.» Quelle: UK Home Office, Operational Guidance Note Afghanistan, Februar 2015, S. 28ff: [www.ecoi.net/file\\_upload/1226\\_1424872250\\_afghanistan-ogn-v11.pdf](http://www.ecoi.net/file_upload/1226_1424872250_afghanistan-ogn-v11.pdf).

UK Home Office, 15. Februar 2013:

«Religious demography

(...) The USSD IRF report 2011 stated:

‘Reliable data on religious demography is not available because an official nationwide census has not been conducted in decades. Observers estimate that 80 percent of the population is Sunni Muslim, 19 percent Shia Muslim, and 1 percent other religious groups. According to self estimates by minority religious communities, there are approximately 2,000 Sikhs, **more than 400 Baha’is**, and approximately 100 Hindus. There is a small Christian community estimated between 500 and 8,000 persons. In addition, there are small numbers of adherents of other religious groups. There is one known Jewish citizen.

(...)

In the 20th century, small communities of Baha’is, Buddhists, Christians, Hindus, Jews, and Sikhs lived in the country, although most members of these communities emigrated during the civil war and Taliban rule. By 2001, non-Muslim populations had been virtually eliminated except for a small population of native Hindus and Sikhs. Since the fall of the Taliban, some members of religious minorities have returned, but others have since left Kabul due to economic hardship and discrimination. Estimates from Hindu and Sikh religious leaders indicate that their population shrank in the past year as compared to the year before.’» Quelle: UK Home Office, Operational Guidance Note Afghanistan, 15. Februar 2013, S. 189f:

[www.ecoi.net/file\\_upload/1226\\_1424872250\\_afghanistan-ogn-v11.pdf](http://www.ecoi.net/file_upload/1226_1424872250_afghanistan-ogn-v11.pdf).

«Baha’is

(...) The US IRF Report 2011 stated, ‘Followers of the Baha’i Faith have practiced in the country for approximately 150 years. **The community is predominantly based in Kabul, where reportedly more than 300 Baha’i members live; another 100 live in other parts of the country.**’ (...)

The same report stated:

*'The General Directorate of Fatwas and Accounts under the Supreme Court ruled in May 2007 that **the Baha'i Faith was distinct from Islam and a form of blasphemy. It held that all Muslims who converted to the Baha'i Faith were apostates and all Baha'is were infidels.** Baha'is who accepted the Muslim declaration of faith, however, were not expected to be subject to the ruling. The ruling created uncertainties for the country's small Baha'i population, particularly on the question of marriages between Baha'i women and Muslim men. **Citizens who converted from Islam to the Baha'i Faith faced risk of persecution, similar to that of Christian converts, in theory up to and including the death penalty.** Also unclear is how the government would treat second-generation Baha'is born into Baha'i families. Although technically not converts, second-generation Baha'is could still be viewed by some as having committed blasphemy. The ruling is not expected to affect foreign national Baha'is.'* (...)

*The report further noted, 'Baha'is also could not attend to their dead in accordance with their customs, but lodged no formal complaints because they sought to avoid government attention... There have been no cases cited under the 2007 Supreme Court ruling declaring the Baha'i Faith distinct from Islam and a form of blasphemy.'* (...)

*(...) The United States Commission on International Religious Freedom's Annual Report for 2012 stated that '**Members of Afghanistan's small Baha'i community lead an essentially covert existence,** particularly since May 2007 when the General Directorate of Fatwa and Accounts ruled that their faith is a form of blasphemy and that all Muslims who convert to the Baha'i faith are apostates. There were no reports, however, of anti-Baha'i incidents or court cases during the past year.'*» Quelle: UK Home Office, Operational Guidance Note Afghanistan, 15. Februar 2013, S. 203f:  
[www.ecoi.net/file\\_upload/1226\\_1424872250\\_afghanistan-ogn-v11.pdf](http://www.ecoi.net/file_upload/1226_1424872250_afghanistan-ogn-v11.pdf)

