

Finding the 'Voice' of Afghan Minorities

 intpolicydigest.org/the-platform/finding-the-voice-of-afghan-minorities

Abhinav Mehrotra

|. THE PLATFORM |.

Shutterstock

As the United States withdraws its forces from Afghanistan by September 11, the plight of minority communities including Christians, Sikhs, Hindus, and Jews hangs in balance. The ongoing peace talks are a culmination of an almost two-decades-long process with the aim to end America's longest war. These talks were restarted in February 2020, through an agreement between the U.S. and the Taliban with conditions that the U.S. would withdraw its troops over the next 14 month that has now been extended; prisoner exchanges between the Taliban and the government; removal of economic sanctions; and, most importantly, a commitment from the Taliban to sever its ties with terrorist groups like al Qaeda.

However, these talks would remain symbolic without recognising and respecting the rights of minority groups. In the ongoing peace process, minority concerns range from being marginalised to violation of their rights by the Taliban as has been the case in the past where their religious, social, and cultural diversity was not recognised.

The restructured Afghan government needs to take into consideration minorities in a non-discriminatory manner. In this light, this article will address the history of these minority groups, the psychosocial needs of these groups; the role of Hanafi pluralism; and, lessons learned from other jurisdictions like El Salvador that went through similar experiences.

Background

Historically, Afghanistan has endured extended periods of conflict that trace its origin from the Soviet-Afghan war from 1979-1989; Afghan civil wars and the military operations carried out by the U.S. post-September 11, 2001. In 2001, the U.S. invasion was premised on establishing a democratic government that will be based on the rule of law and respect for human and women's rights. In contrast, the current withdrawal leaves these questions unanswered specifically with regard to non-Muslims.



Seen in this light, it is important to understand the plight of minorities at both specific and general levels as it is the experiences at the personal and at the societal level that counts. To illustrate, Hindus and Sikh communities had to face discriminatory policies in the past such as wearing yellow tags to distinguish themselves from Muslims, to practice their religious beliefs within their homes and not in public places. These discriminatory policies were remedied through the Afghan constitution of 1923 under King Amanullah by recognising the religious practices of minorities including Hindus and Sikhs such as prohibiting forced religious conversion and doing away with the practice of wearing yellow badges among other measures.

Originally, one of the first clauses in the 1923 Afghan constitution that guaranteed these groups the right of protection under Article 2 reads: “Followers of other religions such as Jews and Hindus residing in Afghanistan are entitled to the full protection of the state provided they do not disturb the public peace.”

What this signifies is that Afghanistan was a different place until the 1970s where respect for religions was held in high regard. In contrast, the 2004 constitution under which a non-Muslim candidate is prohibited from contesting the presidential elections under Article 62 reflects the impact of the wars and conflicts in the last four decades where the struggle for power between the Islamic fundamentalists and those representing the state has affected the peace of Afghan society that was prevalent in the past.

Recognizing psychosocial needs

Minorities have endured more than 40 years of war and conflict through deaths of families; injuries, destruction of lives, and livelihood along with the day-to-day challenges and traumas of life such as accidents, separation from loved ones, and displacement. As a consequence, it has impacted them both socially and psychologically, this requires the need to recognize and acknowledge the traumas faced by these groups that can be achieved through religious pluralism that is recognized under Hanafi Islam and regards it as a duty for the Muslim community.

What needs to be understood is that the people who suffer as a result of these conflicts and war need to be integrated within the society to enable them to express their needs and interests. In this sense, pluralism refers to a harmonious co-existence of diverse groups that possess different beliefs without taking recourse to violence and forceful compulsion

Thus, guidance can be drawn from Hanafi jurisprudence that takes into consideration the marginalization of women and ethnic minorities as a guiding light in the present-day scenario to protect non-Muslims in a future Afghan state. It goes without saying that for the transition to take place smoothly, it is of paramount significance that the government recognizes and respects the fundamental rights and freedoms of these groups.

El Salvador: Lessons learned

Although far from landlocked Afghanistan, the example of El Salvador offers some inputs for the ongoing transition taking place in Afghanistan. It was in 1977 that General Carlos Humberto Romero became president that resulted in 50 years of military rule supported by economic elites. However, Romero's rule was short-lived and in 1979 he and his cabinet were toppled by reform-minded military officers. Similarly, even the newly formed junta was replaced by an umbrella coalition of far-left guerilla groups called Farabundo Martí National Liberation Front in 1980.

However, what made the difference was the intervention by the UN mediator Alvaro de Soto in 1990 who worked with both the Farabundo Martí National Liberation Front and the Salvadorian government with an aim to end the armed conflict; promote the democratization of El Salvador and reunite Salvadoran society. One of the fallacies of the peace process in Salvador was the non-inclusion of participation of non-government organizations; peasants; workers and religious organizations. As a result, the sufferings of those affected directly were not dealt with in a proper manner.

In this respect, both the Taliban and the Afghan government have refused a third-party mediator or international efforts for peace. Nonetheless, the Afghanistan peace process must include civil society and take into account the rights of minorities especially given the fact that the Taliban is a major player in the ongoing peace process and it was under its control over Afghanistan from 1995 to 2001 that the ethnic and religious minorities were the primary victims along with women.

The need of the hour of ensuring peace and justice could be well explained through a report of the former UN Secretary-General Kofi Annan on transitional justice and rule of law in post-conflict countries. He wrote: “Justice and peace are not contradictory forces. Rather, properly pursued, they promote and sustain one another. The question, then, can never be whether to pursue justice and accountability...”

Abhinav Mehrotra is Assistant Professor at O.P. Jindal Global University and holds an LL.M. in International Human Rights Law from the University of Leeds. His research interests include International law, Human rights law, UN studies, Refugee law, Child Rights, and Transitional Justice.