

## **Shia Make Constitutional Gains**

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By Hasina Sulaiman, Shahabuddin Tarakhel and Hafizullah Gardesh in Kabul (ARR No. 100, 06-Jan-04)

Unlike the previous constitution of 1964, when the king who then ruled Afghanistan had to be a follower of the Hanafi Sunni school of Islam, a Shia Muslim can now become leader of the country.

The qualifications for the president under the new constitution only require a candidate to be a Muslim.

It recognises in Article 131 that Shia – who represent perhaps 15 per cent of the population – can use their own school of law in court cases involving personal matters.

Sulaiman Muradi, a Shia from Bamian province, said, “This new constitution is very different compared with the last one. We Shias are very happy. In the last constitution we couldn’t become leader of Afghanistan, and in school we had to study the Sunni school of Islam. Now I truly consider myself a real Afghan.”

Most Afghans are Sunni, and use the Hanafi branch of Islamic jurisprudence. The Shia have their own school of law, Jafari. Differences between the two often amount to minor variations relating to the conduct of prayers and funeral and marriage rituals.

While the Shia welcome the constitutional changes, some have pointed out that the community has always followed their own rituals irrespective of the country’s laws.

“Nobody has prevented the performance of our religious rituals... even during the communist period,” said Shia scholar Ali Ahmad Fakoore.

A member of the constitution commission, Fatema Gailani, said article 131 was passed without debate. “There is no emphasis on the Hanafi school in the new Afghan constitution. So the followers of the Jafari school do not need to raise the issue and threaten national unity,” she said.

Gailani highlighted the political rift between Shia and Sunni factions which came to a head during the war against communist rule, increasing distrust between the two groups.

“During the jihad period... whereas Saudi Arabia and United States tended to assist Sunni jihadi parties... the Shia parties sought help from Iran,” she said.

The Afghan deputy minister of Hajj, Sayed Mohammad Mubarez, who is a Shia, denied suggestions that his community is a source of tension.

“We have taken part in jihad and in the reconstruction of the country. Those who say that Jafaris are stirred up by Iran are wrong. We are Jafaris, not Iranians,” he said.

Hasina Sulaiman and Shahabuddin Tarkhel are independent journalists in Kabul participating in IWPR's Loya Jirga reporting project. Hafizullah Gardesh is an IWPR editor/reporter in Kabul.

**Location:** Iraqi Kurdistan  
Iran  
Afghanistan

**Topic:** Constitutional Loya Jirga, 2003

**Focus:** Afghanistan

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**Source URL:** <https://iwpr.net/global-voices/shia-make-constitutional-gains>