

BRUNEI 2015 INTERNATIONAL RELIGIOUS FREEDOM REPORT

Executive Summary

The constitution states that while the official religion is the Shafi'i school of Islam, all other religions may be practiced "in peace and harmony." The government permitted Shafi'i Muslims and members of longstanding religious minorities to practice their faiths. Phase one of the Sharia Penal Code (SPC) operates in parallel with the existing common law-based criminal justice system and primarily involves offenses punished by fines or imprisonment. It expands longstanding restrictions on drinking alcohol, eating in public during the fasting hours of Ramadan, cross-dressing, close proximity between unmarried people of the opposite sex, and propagating religions other than Islam, and it prohibits "indecent behavior," which is defined broadly. The SPC applies to both Muslims and non-Muslims, including foreigners, with non-Muslims exempted from certain sections. Under the SPC, the determination of whether a person is a Muslim is based on "general reputation." During the year, the country did not implement phases two and three of the SPC, which would include punishments such as stoning to death for fornication, sodomy, or apostasy, and amputation of the hand for thievery. The criminal procedure code that is a necessary precursor to implementation of these phases of the SPC has not been published. On September 22, Brunei signed the United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (UNCAT), obligating the state to refrain in good faith from acts that would defeat the object and purpose of the UNCAT during the period between signing and ratification. Throughout the year, the government published guidance for respecting Islam, especially during Ramadan, and repeated previous warnings that the public display of religions or cultures other than Islam, including Christmas decorations and Chinese traditional lion dances, could amount to an offense under the SPC and be prosecuted.

Some non-Muslims and Muslims faced social pressure to conform to Islamic guidelines regarding behavior. Islamic authorities organized a range of proselytizing activities and incentives to explain and propagate Islam. Anecdotal reports indicated that some Muslims who wished to convert to another religion feared social retribution, such as ostracism by friends, family, and their community.

Throughout the year, the U.S. Ambassador and other U.S. government officials including the Secretary of State and the U.S. Special Representative to Muslim Communities repeatedly expressed to officials at all levels concern that full

BRUNEI

implementation of the SPC, including the severe penalties in the remaining phases, would undermine several of the country's international human rights commitments, including the freedoms of religion and of expression, and prohibitions on torture or other cruel, inhuman, or degrading treatment or punishment. The Ambassador and other U.S. government officials also urged the government at the highest levels to defer the implementation of phases two and three of SPC and encouraged the government to ratify the UNCAT and sign and ratify the International Covenant on Civil and Political Rights (ICCPR).

Section I. Religious Demography

The U.S. government estimates the total population at 430,000 (July 2015 estimate). According to the most recent data available (2011 census), approximately 78.8 percent of the population is Muslim, 8.7 percent Christian, and 7.8 percent Buddhist, while the remaining 4.8 percent consists of other religions including indigenous beliefs.

There is significant variation in religious identification among ethnic groups. According to official statistics (*Brunei Darussalam Statistical Yearbook 2014*), ethnically Malay Bruneians, who comprise 66 percent of the population, are all Muslims, as this is presumed to be an inherited status. A majority (65 percent) of the Chinese population, which is approximately 10 percent of the total population and includes both citizens and permanent residents, is Buddhist, and 20 percent is Christian. Indigenous tribes such as Dusun, Bisaya, and Murut make up approximately 4 percent of the population and are roughly 50 percent Muslim, 15 percent Christian, and the remainder other religious groups, including adherents of traditional practices. The remaining quarter of the population includes foreign-born workers, primarily from Indonesia, Malaysia, the Philippines, South Asia, and stateless residents. According to official statistics, approximately half of these temporary and permanent residents are Muslim, more than one quarter Christian, and 15 percent Buddhist.

Section II. Status of Government Respect for Religious Freedom

Legal Framework

The constitution states the religion of the country shall be the Shafi'i school of Sunni Islam but allows all other religions to be practiced "in peace and harmony"

BRUNEI

by the persons professing them. Laws and regulations place restrictions on religious groups, including religious practice, teachings, and places of worship.

The legal system is divided between civil law and sharia, which run parallel systems of both criminal and civil/family law and operate separate courts under a single judiciary department. While the civil courts are based on common law, the sharia courts follow Islamic jurisprudence, including no law of precedence. Sharia courts have jurisdiction over both criminal and civil/family matters and hear cases brought under longstanding sharia legislation as well as under the SPC. Almost all crimes included in the first phase of the SPC were already illegal in Brunei – the SPC increases the penalties and broadens some definitions. Phase one of the SPC runs in parallel with the existing common law-based criminal law system and primarily involves offenses punishable by fines or imprisonment. It expands restrictions in longstanding sharia law on drinking alcohol, eating in public during the fasting hours of Ramadan, cross-dressing, close proximity between unmarried people of different genders, and propagating religions other than Islam. It includes a prohibition of “indecent behavior,” which criminalizes any act that “tends to tarnish the image of Islam, deprave a person, bring bad influence or cause anger to the person who is likely to have seen the act.” The SPC applies to both Muslims and non-Muslims, including foreigners, with non-Muslims exempted from certain sections, such as requirements for men to join Friday prayers. It states that Muslims will be identified for purposes of the law by “general reputation.”

Although the SPC is law, the second phase of the SPC, which would include amputating the hands of thieves, is not scheduled to come into effect until one year after the publication of a Sharia Courts Criminal Procedure Code (CPC). The CPC has yet to be published. Phase three of the SPC – which would include punishments such as stoning to death for those found guilty of fornication, adultery, or sodomy, and execution of persons for apostasy or contempt of the Prophet Muhammad – is scheduled to be implemented two years after the publication of the CPC. The punishments included in phases two and three include different standards of proof than the common law-based penal code, such as requiring four pious men to witness personally an act of fornication to support a sentence of stoning. Stoning sentences, however, could be supported by a confession in lieu of evidence.

The government describes its official national philosophy as *Melayu Islam Beraja* (MIB), or Malay Islamic Monarchy, which the government defines as “a system that encompasses strong Malay cultural influences, stressing the importance of

BRUNEI

Islam in daily life and governance, and respect for the monarchy as represented by His Majesty the Sultan.” The government has said this system is essential to the country’s way of life and as country’s main defense against extremism. A government body called the MIB Supreme Council seeks to spread and strengthen the MIB philosophy and ensure MIB is enshrined in the nation’s laws and policies. MIB is a compulsory subject for students in both public and private schools, including at the university level.

The Religious Enforcement Division under the Ministry of Religious Affairs (MORA) is the lead agency in many investigations related to religious practices, but other agencies also play a role. MORA’s Religious Enforcement Division leads investigations on crimes that exist only in the SPC and other sharia legislation, such as male Muslims failing to pray on Fridays. Cases involving crimes that do not exist under sharia are investigated by the Royal Brunei Police Force (RBPF). Cases involving crimes covered by both sharia and existing civil code are also investigated by the RBPF and referred to the Attorney General’s Chamber (AGC). In these cases, the AGC determines in each case if a specific crime should be prosecuted and whether it should be filed in the sharia or civil court. No official guidelines for the AGC’s determination process have been published.

Muslims are legally permitted to renounce their religion but must inform the Religious Council in writing. The law states the conversion of children is not automatic with the conversion of the parent. A person must be at least 14 years and seven months old to convert to Islam. Children are presumed to be of the same religion as their parents.

The law requires all organizations, including religious groups, to register and provide the names of their members. Applicants are subject to background checks for leaders and board members, and proposed organizations are subject to naming requirements. Benefits of registration include the ability to operate, to reserve space in public buildings, and to apply for permission to raise funds. The registrar of societies oversees the application process, exercises discretion over applications, and is authorized to refuse approval for any reason. Unregistered organizations can face charges of unlawful assembly and may be subject to fines. Individuals who participate in or influence others to join unregistered organizations can be fined, arrested, and imprisoned. The general penalty for violating laws on the registration and activity of organizations is a fine of up to 10,000 Brunei dollars (BND) (\$7062), imprisonment for up to two years, or both.

BRUNEI

The government bans several religious groups it considers deviant, including Al-Arqam, Abdul Razak Mohammad, Al-Ma'unah, Saihoni Taispan, Tariqat Mufarridiyyah, Silat Lintau, Qadiyaniah, and the Bahai Faith. The law forbids the teaching or promotion of any religion other than Islam to Muslims or to persons of no faith. Under the first phase of the SPC, the penalty for propagating religions other than Islam is up to five years in prison, a fine of up to BND 20,000 (\$14,124), or both. There were no reports of prosecutions under this section of the law. The SPC includes a provision that makes it illegal to criticize Islam, including the SPC itself, though no cases or arrests or changes under this provision were reported.

The law states that any public assembly of five or more persons requires official approval in advance. Under longstanding emergency powers, this applies to all forms of public assembly, including religious.

The law establishes two sets of schools: those offering the national or international curriculum and administered by the Ministry of Education, and those offering additional religious education that are administered by the Ministry of Religious Affairs. The law mandates that all Muslim children aged seven to 15 who reside in Brunei and who have at least one parent who is a citizen or permanent resident must study Islamic religious knowledge whether they attend public or private school. The law promulgates the officially recognized Shafi'i school and does not make accommodations for Muslims who have non-Shafi'i beliefs. Public and private schools, including private schools run by churches, are prohibited from providing religious instruction in beliefs other than the Shafi'i school of Islam. Additional religious education in the form of *Ugama* instruction (a seven- to eight-year course that teaches Sunni Islam according to the Shafi'i school) is mandatory for Muslim students aged seven to 14 who hold citizenship or permanent residency. Muslim parents who fail to enroll their children in religious school face a BND 5,000 (\$3,531) fine, imprisonment for a term not exceeding one year, or both.

Schools, including private schools, can be fined or school officials imprisoned for teaching non-Islamic religious subjects. The SPC criminalizes exposing Muslim children or the children of parents who have no religion to the beliefs and practices of any religion other than Islam. The law also requires practitioners to obtain official permission before teaching any matter relating to Islam.

BRUNEI

Laws and regulations limit access to religious literature. The law states that it is an offense for a person to import any publication deemed objectionable, which is defined in part as describing, depicting, or expressing matters of race or religion in a manner likely to cause “feelings of enmity, hatred, ill-will, or hostility between different racial or religious groups.”

All parental rights are awarded to the Muslim parent if a child is born to mixed-faith parents. The non-Muslim parent is not recognized in any official document, including the child’s birth certificate, unless that parent has converted to Islam.

Non-Muslims may be arrested for *khalwat* (close proximity between the sexes) under the SPC, provided that the other accused party is Muslim. Foreigners are also subject to *khalwat* laws.

Government Practices

The government continued to enforce sharia restrictions and prosecuted new offenses under the SPC. It continued to apply sharia to non-Muslims, resulting in arrests, fines, and confiscations, as well as to impose traditional Islamic social norms more broadly. These included placing limitations on businesses, activities suspected of encouraging mingling of men and women, proselytizing, and religious education.

The authorities continued to arrest persons for offenses under sharia, such as *khalwat* and alcohol consumption by Muslims, both of which are illegal under the SPC as well as longstanding sharia. During the year, the government reported 103 *khalwat* cases, of which 69 resulted in convictions of both men and women. Of these cases, 88 were prosecuted under the SPC and 15 under longstanding sharia; eight of those convicted for *khalwat* were non-Muslims. Not all of those accused of *khalwat* were formally arrested. There were some reports of administrative penalties, such as travel bans or suspension from government jobs, for individuals accused but not yet convicted of *khalwat*, but application of such practices reportedly was not consistent. Implementing regulations governing *khalwat* proceedings were not issued by year’s end.

In March a Muslim civil servant was fined BND\$1,000 (\$706) under the SPC after he pleaded guilty to cross-dressing in a public place. During the court proceedings, the sharia prosecutor stated the act of men wearing women’s clothing was immoral

BRUNEI

in Islam. One additional person arrested for cross-dressing had not yet been prosecuted by year's end.

Officials continued to state that the harshest punishments included in the later phases of the SPC, if implemented, would rarely if ever be applied because of the extremely high standards of proof required.

The government issued numerous warnings about restrictions on non-Muslims proselytizing to Muslims or people with no religion. Authorities prohibited non-Muslims and non-Shafi'i Muslims from receiving non-Shafi'i religious education in schools. During the year the government reported three cases of religious teaching without written approval, of which one resulted in conviction. The government tolerated religious education in private settings, such as the home. During a briefing to U.S. citizens on the implementation of SPC, a panel comprising representatives of MORA and the AGC said it was permitted to educate children – who are presumed to be of the same faith as their parents – about religion in the home, and to answer questions about other religions, as Islam promotes learning. They said it would only be an offense if a non-Muslim actively tried to persuade a Muslim or someone of no faith to follow a religion other than Islam.

Government officials reported no religious group sought to register.

Friday sermons were uniform across all mosques with approved texts drafted by the Ministry of Religious Affairs and preached by registered imams. The government periodically warned the population about “outsiders” preaching non-Shafi'i versions of Islam, including both “liberal” practices and those associated with jihadism or Salafism. In November MORA cohosted a conference with the Muslim World League (Rabitah Al-Alam Al-Islami), an NGO funded by Saudi Arabia and focused on the theme of *wasatiah*, or moderation, in Islam.

The government issued several warnings that the act of publicly displaying symbols of religions other than Islam could be seen as propagation of religions other than Islam, an offense under the SPC. During the Christmas season, imams' standardized sermons warned Muslims against celebrating Christmas, including through decorations or carols. Unlike during the 2014 season, in which MORA issued warnings that the public display of Christmas decorations could constitute an offense under the SPC and several businesses reportedly received visits from religious enforcement officers, there were no reports of raids or charges, but

BRUNEI

businesses and members of the Christian community reported practicing self-censorship. In February the government placed additional restrictions on traditional Chinese New Year lion dance performances. Performances were limited to a three-day period and restricted to the Chinese temple, Chinese school halls, and private residencies of Chinese association members. There were no reports of charges. Members of the royal family publicly attended Chinese New Year celebrations and lion dance performances during the allowed period, with extensive coverage in state-influenced media.

Muslim women employed by the government were expected to wear a *tudong*, a traditional head covering, to work, though some chose not to with no reports of official repercussions. In government schools and institutions of higher learning, Muslim female students were required to wear a uniform that includes a head covering. Male students were expected to wear the *songkok*, a traditional hat, although this was not required in all schools. Women who were incarcerated, including non-Muslims, were required to wear a uniform that included a *tudong*.

Churches confirmed that a *fatwa* barring their expansion or renovation remained in place, and that facilities were often too small to accommodate their congregations without significant overflow seating outdoors. Christian churches and associated schools were allowed, for safety reasons, to repair and renovate buildings on their sites, but the approval process remained lengthy and difficult. All church-associated schools were recognized by the Ministry of Education and offered a full curriculum. The schools remained open to students of any religion.

The government continued to enforce strict customs controls on importing non-Islamic religious texts such as Bibles, as well as on Islamic religious teaching materials or scriptures intended for sale or distribution.

The Ministry of Education (MOE) required courses on Islam and MIB in all schools, with non-Muslims exempted from some religious requirements. The Ministry of Religious Affairs posted religious teachers in some embassies abroad to teach Brunei citizens in those locations. Most school textbooks were illustrated to portray Islam as the norm, and women and girls were shown wearing the Islamic head covering. There were no depictions of the practices of other religious groups in textbooks.

Throughout the year, the government enforced business hour restrictions for all businesses, requiring that they close for the two hours of Friday prayers. Religious

BRUNEI

enforcement officers continued to enforce a ban on restaurants serving dine-in food during the fasting hours of Ramadan, and issued verbal warnings to those found in breach of the ban. In June 17 non-halal restaurants sent a letter of appeal to MORA to allow them to serve non-Muslim customers during Ramadan fasting hours. In response, the ministry issued a statement urging the public to respect Ramadan and reiterating all restaurants were banned from serving dine-in customers during the fasting hours. The government continued to enforce a ban on eating, drinking, or smoking in public during the fasting hours of Ramadan, which was applied to both Muslims and non-Muslims. There were no publicized arrests or prosecutions for failure to respect Ramadan.

The government maintained a longstanding ban on the sale of alcoholic beverages, and a restriction against the import or consumption of alcoholic beverages by Muslims. Religious authorities conducted raids to confiscate alcoholic beverages and nonhalal meats brought into the country without proper customs clearance. They also monitored restaurants and supermarkets to ensure conformity with halal practices. Religious authorities allowed nonhalal restaurants and nonhalal sections in supermarkets to operate without interference, but held public outreach sessions to encourage restaurants to become halal.

The government continued to favor the propagation of Shafi'i beliefs and practices, particularly through public events and the education system. In February University Islam Sultan Sharif Ali (UNISSA) held a five-series lecture program to enhance the understanding of the Shafi'i school of Islam among citizens. The lectures focused on exploration of the life of Imam as-Shafi'i and his writings, particularly those related to Islamic jurisprudence. The government maintained a list of words and expressions, including the word "Allah," reserved for use by Muslims or in relation to Islam, but there were no reports of charges or prosecutions based on violations of this list. The government clarified the use of these words did not constitute an offense when used in a nonreligious context or social activity, and other specific conditions needed to be met for their use to be considered an offense.

Incentives offered to prospective converts to the Shafi'i school, especially those from indigenous communities in rural areas, included help with housing and welfare assistance. In May a joint project between the Islamic Da'wah Centre, an official institution to propagate Islam and promote Islamic learning and conversion, and MORA was launched to build houses for disadvantaged new converts. Other converts received monthly living assistance from the Islamic

BRUNEI

Da'wah Centre or funds to perform the Hajj. The government gave presentations on the benefits of converting to Islam that received extensive press coverage in state-influenced media. Official government policy supported the Islamic faith through the national MIB philosophy as well as through government pledges to make the country a *zikir* nation, or a nation that remembers and obeys Allah.

Despite the absence of a legal prohibition of Muslims marrying non-Muslims, all Muslim weddings had to be approved by the Sharia courts, and officiants, who are imams approved by the government, required the non-Muslim to convert prior to the marriage.

Most government meetings and ceremonies commenced with an Islamic prayer, which the government continued to state was not a legal requirement but a matter of custom.

The government required residents to carry identity cards that stated the bearer's ethnicity, which were used in part to determine whether he or she was Muslim. Ethnic Malays traveling in the country were generally assumed to be Muslim and required to follow certain Islamic religious practices or potentially face fines, arrest, and imprisonment. Religious authorities reportedly checked identity cards for ethnicity when conducting raids against suspected violators of sharia. Visitors to the country were asked to identify their religion on their visa applications and foreign Muslims were subject to SPC.

Section III. Status of Societal Respect for Religious Freedom

Non-Muslims and Muslims faced social pressure to conform to Islamic guidelines regarding behavior.

Some Muslims who wished to convert to another religion reportedly feared social retribution, such as ostracism by friends, family, and their community. If parents converted to Islam, there was often family and official pressure for the children to do the same.

Residents who questioned the SPC on social media sometimes received online abuse and threats, and reported official monitoring.

There was no legal requirement for women to wear head coverings in public; however, religious authorities continued to reinforce social customs to encourage

BRUNEI

Muslim women to wear the *tudong* and many women did so. Some Muslim women who did not cover their heads before the SPC was implemented said they started to do so because of social pressure.

Comments disparaging Jews collectively were posted online by private individuals. Such comments were generally linked to Israel's actions in the Palestinian territories.

Section IV. U.S. Government Policy

In September the Secretary of State met with the sultan in New York and explained that the United States believes that full implementation of the SPC, including the severe penalties in the remaining phases, would undermine several of the country's international human rights commitments, including the freedoms of religion and expression and prohibitions on torture or other cruel, inhuman, or degrading treatment or punishment. He encouraged the sultan to host a conference on Islam and human rights and make a statement on human rights.

In November U.S. and Brunei government officials met in London for a high-level officials meeting which, for the first time, included human rights consultations. The U.S. Assistant Secretary for Democracy, Human Rights, and Labor encouraged the government to ratify the UNCAT, which it signed in September, and sign and ratify the ICCPR. He recommended that officials ensure all laws are in accordance with international human rights obligations and commitments, including those regarding the freedom of religion, and expressed concern that the *hudud* punishments (such as stoning and amputation) included in the SPC would be inconsistent with those commitments. He urged the government to refrain from further implementing laws that would violate the country's international human rights commitments. In his remarks at the meeting, the U.S. Special Representative to Muslim Communities suggested the government host a conference on Islam and human rights and that the sultan make a statement on human rights.

The U.S. Special Representative to Muslim Communities visited the country in April with a delegation of prominent American Muslims, including an imam and an Islamic legal scholar. The delegation met with the sultan, the state mufti, key ministers, the Attorney General's Chambers, business leaders, young entrepreneurs, and Islamic legal students. He noted there was no contradiction between Islam and human rights, and encouraged the country to host a conference

BRUNEI

on those topics. He stressed that the government should carefully consider implementation of the SPC and ensure that implementation not undermine the nation's international human rights commitments. The meetings and public appearances received wide and positive press coverage in the country.

The Ambassador and other U.S. officials repeated these messages and suggestions throughout the year to government officials on all levels. They emphasized the United States takes seriously assurances from the government that the evidentiary and witness standards in the SPC would as a matter of procedure and policy be so exacting as to effectively guarantee that torture or other cruel, inhuman, or degrading treatment or punishment will not be carried out in practice. The Ambassador and other U.S. government officials also raised concerns that a confession could be used in lieu of evidence, and that those accused could feel social pressure to confess. They urged officials to defer the publication of the procedural code that is a necessary precursor to the remaining phases of the SPC. Embassy officials also urged compliance with international human rights norms with religious enforcement officers and officials involved in drafting, implementing, and enforcing the SPC.

Embassy exchange programs exposed students to concepts of religious freedom in other countries and encouraged them to discuss religion and religious freedom with individuals of other faiths. The embassy funded two prosecutors from the Attorney General's Chambers, which is helping to draft the criminal procedure code for the SPC and prosecutes some crimes related to religious freedom, to take part in a three-week exchange program in the United States on the U.S. judicial system.

Embassy officials met with representatives of all principal religious groups, as well as with lawyers defending individuals charged with violations of sharia.

Embassy and other U.S. government officials visited places of worship, spoke with leaders of various religious groups, and facilitated discussions on religious freedom issues, including obstacles to practicing religions and beliefs other than Shafi'i Islam and laws and policies affecting religious freedom, including provisions of sharia. The Ambassador attended numerous Chinese New Year celebrations, which included lion dancing, and visited the Chinese temple with press. Embassy officials, including the Ambassador, as well as other official visitors, engaged legal, religious, and political leaders on the SPC and the country's international human rights and religious freedom commitments.