

BRUNEI 2014 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. The government began to implement the first of three phases of the Sharia Penal Code (SPC) in parallel with the existing common law-based criminal justice system, which remains in place. Phase one of the SPC primarily involves offenses punished by fines or imprisonment. It expands existing restrictions on drinking alcohol, eating in public during the fasting hours of Ramadan, cross-dressing, and propagating religions other than Islam, and it prohibits "indecent behavior." It applies to both Muslims and non-Muslims, including foreigners, with non-Muslims exempted from certain sections. It states that a determination of whether a person is a Muslim will be made through general reputation. Phases two and three of the law include punishments such as stoning to death for fornication, anal sex, or apostasy, and amputation of the hands of thieves. The criminal procedure code that is a necessary precursor to implementation of these phases of the SPC has not been published.

Non-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.

The U.S. Ambassador and other U.S. government officials including the U.S. Special Representative to Muslim Communities repeatedly expressed to officials at all levels 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 of expression, and prohibitions on torture or other cruel, inhuman, or degrading treatment or punishment. The Ambassador and other U.S. government officials emphasized that the United States takes seriously assurances from the government the evidentiary and witness standards in the SPC will be, as a matter of procedure and policy, so exacting as to effectively guarantee that these extreme punishments will not be carried out in practice. The Ambassador and other U.S. government officials urged the government at the highest levels to defer the implementation of phases two and three of the SPC and encouraged the

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government to consider signing the UN Convention Against Torture (UNCAT) and the International Covenant on Civil and Political Rights (ICCPR).

Section I. Religious Demography

The U.S. government estimates the total population at 422,675 (July 2014 estimate). According to the Government of Brunei, 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 religious groups, including adherents of indigenous beliefs, as well as non-theists.

There is significant variation in religious identification among ethnic groups. According to official statistics, ethnically Malay Bruneians, who are 66 percent of the population, are all Muslims. This is considered to be an inherited status according to a 2013 lecture by a former minister of education. Of the Chinese population, which is approximately 11 percent of the total population and includes both citizens and permanent residents, 65 percent is Buddhist and 20 percent is Christian. Indigenous tribes such as Dusun, Bisaya, and Murut make up about 4 percent of the population and are approximately 50 percent Muslim, 15 percent Christian, and the remainder followers of 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 from 2011, 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 that 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 by the persons professing them in any part of the country. Laws and policies place restrictions on religious groups, including Muslims who do not adhere to the Shafi'i school. Laws and regulations can limit access to religious literature and public religious gatherings for non-Muslims. 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 may also play a role.

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On May 1, Brunei began to implement the first phase of the SPC in parallel with the existing common law-based criminal law system, which remains in place. Phase one of the SPC primarily involves offenses punished by fines or imprisonment. It expands existing restrictions on drinking alcohol, eating in public during the fasting hours of Ramadan, cross-dressing, and propagating religions other than Islam. It includes a vague new prohibition of “indecent behavior,” which criminalizes any act if it “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. The second phase of the SPC, which includes amputating the hands of thieves, will be implemented one year after the publication of a Sharia Courts Criminal Procedure Code (CPC). Phase three –which will include severe punishments such as stoning to death for those found guilty of fornication, adultery or having anal sex, and execution of persons for apostasy without permission or contempt of the Prophet Muhammad – will be implemented two years after the publication of the CPC. Government officials state that the harshest punishments will rarely if ever be applied because of the extremely high standards of proof required, such as requiring four pious men to personally witness an act of fornication to support a sentence of stoning.

The Attorney General has said MORA’s Religious Enforcement Division will lead investigations on crimes that exist only in the SPC (such as male Muslims failing to pray on Fridays). Cases involving crimes that do not exist in the SPC will be investigated by the Royal Brunei Police Force (RBPF). Cases involving crimes (such as murder or theft) covered by both the SPC and Brunei’s existing civil code, which is based on common law, will also be investigated by the RBPF and referred to the Attorney General’s Chamber (AGC). In these cases, the AGC will determine 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 that 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. Officials have stated that children are otherwise presumed to be of the same religion as their parents.

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The law requires all organizations, including religious groups, to register and provide the names of their members. 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 are subject to fines. Individuals who participate in or influence others to join unregistered organizations can be fined, arrested, and imprisoned. Applicants are subject to background checks, and proposed organizations are subject to naming requirements. In practice there are no organizations dealing with issues such as religious freedom. Government officials report no religious group sought to register.

The government bans several religious groups that it considers deviant, including Al-Arqam, Abdul Razak Mohammad, Al-Ma'unah, Saihoni Taispan, Tariqat Mufarridiyyah, Silat Lintau, Qadiyaniah, and the Bahai Faith. Anyone who teaches or promotes any “deviant” beliefs or practices in public may be charged and punished with three months’ incarceration and a fine of 2,000 Brunei dollars (BND) (\$1,600). The SPC significantly expands the scope of this law and the potential punishment for conviction. For crimes such as propagating religions other than Islam the penalty is five years in prison and a fine of BND 20,000 (\$15,900). There were no reports of prosecutions under this section of the law.

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 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.

The law mandates that all Muslim children aged seven to 15, who reside in Brunei and have at least one parent who is a citizen or permanent resident of Brunei, must be enrolled in Islamic religious education in public or private schools. The law propagates the officially recognized Shafi’i beliefs and does not make accommodations for Muslims who have non-Shafi’i beliefs. Public and private schools are prohibited from providing religious instruction in other faiths. *Ugama* instruction (an additional seven to eight- year course that teaches Sunni Islam according to the Shafi’i school) is mandatory for Muslim students aged seven to fourteen that hold Brunei citizenship or permanent residency. Muslim parents who

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fail to enroll their children in religious school face a BND 5,000 (\$4,000) fine, imprisonment for a term not exceeding one year, or both.

There are long-standing restrictions on non-Muslims proselytizing to Muslims. The SPC expands that to cover proselytizing to people who have no religion. During a brief to U.S. citizens on the implementation of the SPC, a panel comprising representatives of MORA and the AGC said it is permitted, nevertheless, to educate children of non-Muslims in the religion of their parents and to answer children's questions about other religions, as Islam promotes learning. They said it is only an offense if a non-Muslim actively tries to persuade a Muslim or someone of no faith to follow a religion other than Islam.

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 order also requires practitioners to receive official permission before teaching any matter relating to Islam.

All parental rights are awarded to the Muslim parent if a child is born to mixed-faith parents, and the non-Muslim parent is not recognized in any official document, including the child's birth certificate.

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.

Relevant authorities permit Chinese religious temples to celebrate seasonal religious events. The temples must reapply for permission annually.

Government Practices

The government continued to restrict the religious freedom of non-Muslims as well as Muslims who did not belong to the Shafi'i school. It continued to apply the SPC to non-Muslims, resulting in arrests, fines, and confiscations, as well as impose traditional Islamic social norms more broadly, imposing limitations on businesses, activities suspected of encouraging mingling of men and women, proselytizing, and religious education.

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Authorities continued to arrest persons for offenses under sharia, such as *khalwat* (close proximity between the sexes) and alcohol consumption by Muslims. Figures provided by the AGC stated that, out of 42 individuals investigated for *khalwat*, only two cases were prosecuted, which resulted in the conviction of eight people. Both cases were prosecuted under longstanding law as opposed to the SPC. Of those individuals investigated, 15 were non-Bruneian. Most of those detained for a first offense of *khalwat* were fined and released. Men were subject to a BND 1,000 (\$797) fine and women to a BND 500 (\$399) fine if convicted of *khalwat*. Following the announcement of the implementation of sharia in October 2013 religious authorities moved swiftly to ban karaoke booths, stating they could encourage people to commit *khalwat* due to the private and dark nature of the booths.

An Indonesian Muslim man was charged with failing to respect Ramadan by smoking in public during fasting hours. According to a government official, the man was unable to pay the imposed fine and so was sentenced to serve six months in jail.

There were reports from individuals who believed they were being monitored for comments they had made online that touched on the SPC or religious issues. In one case, a man who posted a link on social media to an article in a Malaysian newspaper calling for Muslims to like and touch dogs (which are considered unclean in Shafi'i Islam) reportedly was summoned for questioning by religious enforcement officers for possible, unspecified charges under the SPC. The man was reportedly released after questioning.

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

Following a directive that banned all restaurants from serving dine-in food during the fasting hours of Ramadan, religious enforcement officers visited several establishments which had disobeyed the directive and delivered warning letters. There were no reports of restaurants being prosecuted, and several non-halal restaurants submitted a letter seeking exemption from the policy.

In December MORA Religious Enforcement Officers told several businesses in Bandar Seri Begawan displaying Christmas decorations (a longstanding annual practice in many Brunei businesses) to remove the decorations, warning them that they were violating the SPC. MORA later issued a statement noting that Muslim

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children and adults could be seen wearing Santa hats and clothing and that such actions constituted an offense under sections of the SPC which prohibit teaching doctrine contrary to Islam; propagating religions other than Islam; persuading Muslims to change religion; persuading persons with no religion to join a religion other than Islam; and exposing Muslim children to religions other than Islam. Those sections include possible punishments of up to five years in prison and BND 20,000 fines (\$15,949). The MORA release quoted a *hadith* (statement attributed to the Prophet Muhammad) warning Muslims against imitating the practices of other people because “whoever imitates a people is one of them.” MORA stated that non-Muslims may continue to practice their religious festivities as long as the celebrations are not disclosed or displayed publicly to Muslims. MORA’s actions prompted a number of businesses to remove their Christmas decorations early. There were no reports that churches or private homeowners were told to remove decorations.

The government maintained 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 government stated that any publication in which any part describes, depicts, or expresses 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 is deemed to be objectionable under the law. The same law states that it is an offense for a person to import any objectionable publication.

The government prohibited proselytizing by any group other than the official Shafi’i school. It 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 April the Islamic Religious Council canceled a series of speeches planned by a Canadian preacher over concerns that he would promote Wahhabism.

The government required residents to carry identity cards that stated the bearer’s ethnicity, which were used in part to determine whether they were Muslim. Ethnic Malays traveling in the country were generally assumed to be Muslim and required to follow certain Islamic religious practices or face fines or potential arrest and imprisonment. Religious enforcement officers said they currently were issuing only warnings to non-Muslims suspected of violating the sections of the SPC that have been implemented. Religious authorities checked identity cards for ethnicity when conducting raids against suspected violators of sharia. Visitors to the

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country were asked to identify their religion on their visa applications and foreign Muslims were subject to SPC; however, many persons did not identify their faith and were not challenged.

Religious authorities regularly participated in raids to confiscate alcoholic beverages and non-halal meats brought into the country without proper customs clearance. They also monitored restaurants and supermarkets to ensure conformity with halal practices. Religious authorities allowed non-halal restaurants and non-halal sections in supermarkets to operate without interference, but held public outreach sessions to encourage restaurants to become halal.

In the early stages of the SPC's implementation, there was public speculation that the broad prohibition of "indecent behavior" would be applied to mandate religiously acceptable clothing, including head coverings, for Muslim women. In a meeting with his religious council, the Sultan criticized advisors for confusion over the SPC. He asked why this speculation was persisting, noting the SPC does not have a dress code but only bars indecent behavior. Since then speculation on the dress code subsided.

The Ministry of Education (MOE) required courses on Islam and MIB in all schools that adhered to the state curriculum. 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. The MOE prohibited the teaching of other religions and comparative religious studies in schools.

The government continued to favor the propagation of Shafi'i beliefs and practices, particularly through public events and the education system. Authorities prohibited non-Muslims and non-Shafi'i Muslims from receiving non-Shafi'i religious education in schools, but tolerated religious education in private settings, such as the home. The government sometimes pressured non-Muslims to conform to Islamic guidelines.

Among the incentives offered to prospective converts to the Shafi'i school, especially those from the indigenous communities in rural areas, were monthly financial assistance, new homes, electric generators, and water pumps, as well as funds to perform the Hajj. The government held presentations encouraging restaurants to adopt halal standards and gave presentations on the benefits of converting to Islam that received extensive press coverage. Official government

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policy supported the Islamic faith through the national MIB philosophy as well as through government pledges to make Brunei a *zikir* nation, or a nation that remembers and obeys Allah.

Lawyers reported that while there was no specific law barring Muslims from marrying non-Muslims, if a Muslim tried to marry a non-Muslim, the officiant would require the non-Muslim to convert.

There was no legal requirement for women to wear head coverings in public; however, religious authorities reinforced social customs to encourage Muslim women to wear the *tudong*, a traditional head covering, and many women did so. Women employed by the government were expected to wear a *tudong* to work. In government schools and institutions of higher learning, Muslim female students were required to wear a uniform which included a head covering. Male students were expected to wear the *songkok* (hat), although this was not required in all schools.

All government meetings and ceremonies commenced with a Muslim prayer, which the government stated was not a legal requirement, but a matter of custom.

A U.S. Department of State magazine describing the experience of Muslims living in the United States was denied distribution to schools and public libraries in Brunei by MORA. In its letter of denial, MORA noted that the magazine had a picture that seemed to advocate that all religions are united, and said that in Brunei, “The freedom to practice another religion for the non-Muslim is not forbidden, but to spread the understanding of other religions except Islam is not allowed.” The government did not clarify this policy, and there were no reports of persons charged for proselytizing under the SPC or the preexisting laws.

Christian churches and associated schools were allowed, for safety reasons, to repair and renovate buildings on their sites, but the approval process was often lengthy and difficult. All church associated schools were recognized by the Ministry of Education and offered a full curriculum, including lessons on Islam. The schools were open for students of any religion but non-Islamic students did not have to attend classes on Islam.

Section III. Status of Societal Respect for Religious Freedom

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Non-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. If parents converted to Islam, there was often family and official pressure for the children to do the same.

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. Individuals who questioned the SPC in online comments sometimes received online abuse, in some cases consisting of statements that they should leave Brunei, photos or personal details published without their permission, or death threats. While many of these comments came from self-described Bruneians, it was not possible to determine their origin. Individuals who had criticized the SPC online said these comments combined with reports of official monitoring and investigation had an overall chilling effect on religious discourse online.

There were comments disparaging Jewish people collectively posted online and in at least one case they were published as a letter to the editor of a leading newspaper. Such comments were generally linked to Israel's actions in the Gaza conflict.

Section IV. U.S. Government Policy

The Ambassador and other U.S. officials repeatedly expressed to government officials on all levels that the United States believes 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 of expression, and prohibitions on torture or other cruel, inhuman, or degrading treatment or punishment. The Ambassador and other U.S. government officials emphasized the United States takes seriously assurances from the government that the evidentiary and witness standards in the SPC will, 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. In May the State Department spokesperson expressed serious concerns about provisions of the SPC in comments that generated significant media coverage.

The U.S. Special Representative to Muslim Communities visited the country October 21-23, meeting with the sultan, key ministers, young entrepreneurs,

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environmental activists, Islamic legal students, reporters, and interfaith leaders. He urged the government to consider signing the UNCAT and the ICCPR. He noted there was no contradiction between Islam and human rights. He stressed that the government should proceed with great deliberation on implementing the SPC, just as it did in formulating it. In a meeting with Sharia students, he urged them in their legal careers to demonstrate that Islam and human rights are compatible and to ensure that laws implemented in the country respect human rights. His meetings and public appearances received wide and positive press coverage.

Embassy officials urged Brunei officials to defer the publication of the procedure code that is a necessary precursor to the remaining phases of the SPC, which include the severe penalties, and encouraged Brunei to sign the UNCAT and the ICCPR.

Embassy representatives, including the Ambassador, continued to encourage the government to adhere to the provisions of its constitution and declarations on human rights. The embassy advocated with the government and religious leaders for families to be free to determine what kind of religious education their children receive. The embassy also supported exchange programs that encouraged students to participate in research about religious life in other countries and to discuss religion and religious freedom with individuals of other faiths.

Although there are no nongovernmental organizations in the country dealing with issues of religious freedom, embassy officials engaged with individuals concerned with these issues and representatives of all minority religions, as well as with lawyers defending individuals charged with violating the SPC. Embassy officials also engaged with religious enforcement officers and officials involved in drafting, implementing, and enforcing the SPC.

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 trends among congregations, obstacles to practicing religions and beliefs other than Shafi'i Islam, laws and policies affecting religious freedom, and sharia. Embassy officials, including the Ambassador, engaged legal, religious, and political leaders on questions of how the SPC can be implemented in accordance with religious freedom principles.