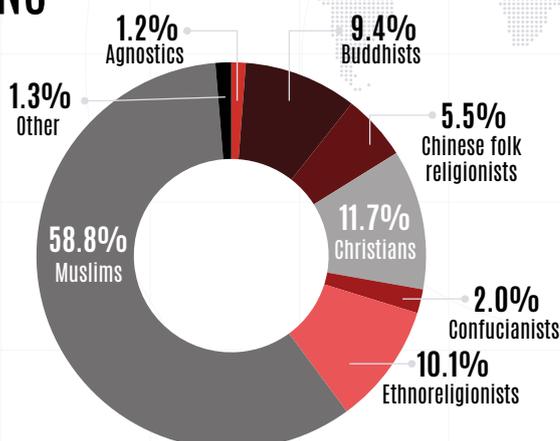




# BRUNEI

## RELIGIONS



## LEGAL FRAMEWORK ON FREEDOM OF RELIGION AND ACTUAL APPLICATION

Brunei is located on Borneo, an island that it shares with Malaysia and Indonesia. Once a major empire, Brunei declined during the 19th century becoming a British Protectorate in 1888. The Japanese occupied the country during the Second World War. Brunei did not recover its full independence from the United Kingdom until 1984.

Its current constitution was adopted in 1959 and revised in 2006. Under Article 2 (1), the official religion is Islam “according to the Shafeite sect of Ahlis Sunna Waljamaah.” The “Shafeite sect,” also referred to as the Shafi’i School, is one of the four major schools or forms of Islamic jurisprudence (fiqh). Article 3 provides a certain measure of protection for religious freedom insofar as it declares that “all other religions may be practised in peace and harmony by the persons professing them.”<sup>1</sup>

The Government of Brunei, which is an absolute monarchy, promotes the national philosophy of Melayu Islam Beraja (MIB), or Malay Islamic Monarchy,<sup>2</sup> through a Supreme Council, whose mandate is to boost the MBI

philosophy and promote the practice of Islam.<sup>3</sup>

Brunei’s civil and Shari’a courts operate in parallel. The civil courts are based on English common law and a secular penal code. Shari’a courts are based on Islamic law as interpreted by the Shafi’i School. Shari’a courts hear criminal, family and other civil cases. They apply long-standing Shari’a legislation. They also apply the new Syariah (Shari’a) Penal Code (SPC). The government enacted the first phase of the SPC in 2014, followed by the second and third phases in April 2019.

Shari’a applies to Muslims and non-Muslims. All Bruneians, Muslim and non-Muslim, as well as foreign visitors cannot engage in conduct considered un-Islamic and are subject to criminal sanction. Shari’a prohibitions include drinking alcohol and eating in public during the hours of the Ramadan fast, which are routinely enforced. However, non-Muslims are not subject to some of the specific requirements of Islamic religious practice, such as Friday prayers and zakat (alms giving).

Sweeping legal provisions protect the official religion in other ways. Any act that “tends to tarnish the image of Islam” is a criminal offence. It is also illegal to criticise the Syariah Penal Code. Public celebrations of Christmas, including putting up decorations and singing car-

ols, have been banned since 2014 on the grounds that they could damage the “aqidah (beliefs) of the Muslim community.”<sup>4</sup> Likewise, since 2015, the government has tightened restrictions on the public celebration of Chinese religious festivals.<sup>5</sup>

All religious groups must register with the authorities. This entails providing information about their organisation, membership and activities.<sup>6</sup> Registration is essential, but the Registrar’s Office has discretionary powers and can deny registration. Failure to register may lead to a charge of unlawful assembly and result in a fine. Membership in an unregistered organisation is punishable under criminal law, including a custodial sentence not exceeding three years. Any gathering in public of five people or more, including for the purpose of worship, requires official permission. Religious group activities are treated like private gatherings.<sup>7</sup>

Attempts to expand or renovate buildings operated by non-Muslim religious groups are constrained and, as a result, facilities are often too small or otherwise inadequate.<sup>8</sup> A few churches exist in Brunei, along with a small number of Buddhist, Taoist, and Hindu temples. While churches and church-run private schools may in principle repair their sites, in practice the approval process is lengthy, complex, and subject to delays. A standing fatwa discourages Muslims from assisting non-Muslims in sustaining their beliefs and this also hinders work on non-Muslim facilities.

The government has banned several religious groups. These include the ‘Ahmadi form of Islam, Al Arqam (a Malaysian-based Islamic sect), the Baha’i faith and the Jehovah’s Witnesses. The bans are included in fatwas issued by the State Mufti and the Islamic Religious Council. Muslims who wish to renounce their faith may do so at present, but must formally notify the Islamic Religious Council.<sup>9</sup>

Schools administered by the Ministry of Religious Education or the Ministry of Religious Affairs provide Islamic religious education. In these schools, Islamic education is compulsory for Muslim children and optional for non-Muslim students. Muslim parents are also required to enrol their children in schools that provide supplemental religious education. If they fail to do so, they may be fined or imprisoned for up to one year. Government-approved religious education curricula do not cover non-Muslim faiths.<sup>10</sup>

The Ministry of Education recognises private Church schools, which can accept pupils of any religion. However, even Church-run private schools are not permitted to offer Christian religious instruction; failure to comply may result in criminal charges. No provision is made for the teaching of other forms of Islam. Faiths other than Shafi’i Islam may be taught only in private settings, such as family homes, or in registered churches.<sup>11</sup>

The Ministry of Religious Affairs dictates the content of sermons at Friday prayers, which can be delivered only by imams registered with the state. The government has warned the population against other forms of Islam, such as liberal Islam, Salafism and Wahhabism. The approach to Islam in the country is sometimes justified as a bulwark against extremism.<sup>12</sup>

Most official meetings open with Islamic prayers. Businesses are closed during Friday prayers and restaurants do not serve food during the fasting hours of Ramadan. Residents are required to carry identity cards, which, in practice, are used to identify the religion of the bearer. Visitors to the country are asked to specify their religion when making a visa application.<sup>13</sup>

Brunei media regularly carry stories of conversion to Shafi’i Islam. The state incentivises conversions, offering converts welfare payments, new homes, generators, water pumps, or sums of money to enable them to undertake the Hajj. These incentives are aimed especially at members of indigenous groups in rural areas.<sup>14</sup>

## INCIDENTS AND DEVELOPMENTS

In April 2019, the government proceeded to implement the long-awaited second and third phases of the Syariah Penal Code (SPC).<sup>15</sup> This followed the enactment of a Criminal Procedure Code (CPC) in March 2018.<sup>16</sup> The SPC imperils religious freedom and other fundamental human rights in numerous ways. For example, the SPC prohibits defaming the Prophet Mohammad, a crime punished with the death penalty for both Muslims and non-Muslims.

The SPC criminalises apostasy, punishes any acts of “delivering or giving publications relating to religion other than Islam”, and outlaws the use of Islamic terms to express any “fact, belief, idea, concept, act, activity, [or] matter” related to non-Muslim religions.<sup>17</sup> The punishments for certain crimes include death by stoning (for

blasphemy, apostasy, and adultery) and whipping (for alcohol consumption by Muslims). This has sparked a global outcry.

In addition, since April 2019 the SPC criminalises the propagation of any religion other than Islam among Muslims and others, exposing Muslim children to non-Islamic faiths, and criticising Islamic religious authorities. The SPC also prescribes punishments for helping people engaged in prohibited behaviours. According to Human Rights Watch, “all these provisions place non-Muslim religious believers and non-believers in general in a disfavored status, and severely limits their freedom of religion in violation of international human rights law.”<sup>18</sup>

Apparently responding to intense international criticism of the Syariah Penal Code, the Sultan of Brunei Hassanal Bolkiah announced on 5th May 2019 “a de facto moratorium on the execution of death penalty for cases” arising under any part of the SPC. However, such a “de facto” moratorium permits the sultan to reinstate capital punishment at any time for capital crimes such as blasphemy, apostasy, sodomy, and adultery.<sup>19</sup>

## PROSPECTS FOR FREEDOM OF RELIGION

While non-Muslims reported no new restrictions on their religious practice during the period under review, the full implementation of the Syariah Penal Code threatens to reinforce a social and political climate already hostile to religious freedom. Given that Muslims and non-Muslims already experience enormous pressure to conform to Islamic norms – particularly Christians who reported workplace discrimination and occasional social media hostility – the SPC is likely to create an even more repressive atmosphere in part through self-censorship, even if its provisions are not formally applied. The prospects for freedom of religion in Brunei, therefore, are poor.

## SOURCES / ENDNOTES

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