

BRUNEI 2017 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 non-Muslim religious minorities to practice their faiths, but has banned several religious groups it considers "deviant." Phase one of the Sharia Penal Code (SPC) has operated in parallel with the existing common law-based criminal justice system since 2014 and primarily involves offenses punished by fines or imprisonment, such as propagating religions other than Islam, eating in public during the fasting hours of Ramadan, cross-dressing, close proximity of unmarried people of the opposite sex, and "indecent behavior," which is defined broadly. The SPC applies to both Muslims and non-Muslims, including foreigners, with non-Muslims exempted from certain sections. During the year, the government 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 government has not published the criminal procedure code that would be a necessary precursor to implementation of these phases of the SPC. During the year, a government health official was charged under the sedition law for posting what the government said were inflammatory comments on Facebook regarding the Ministry of Religious Affairs' new halal policy. In November the sultan called for the rejection of Islamic teachings that repudiate local practices. A fatwa barring church and temple expansion or renovation remained in force, but the government granted a school associated with the Christian community permission to build a parking lot. Throughout the year, the government published guidance for respecting Islam; however, unlike in previous years, the government did not issue warnings that public displays of Christmas decorations and Chinese New Year's traditional lion dances could amount to an offense under the SPC. Six Christian churches and one Chinese temple were recognized in the country, which practitioners said were not sufficient for the number of believers.

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 and Christians who wished to convert to another religion feared social retribution, such as ostracism by friends, family, and their community. Religious freedom continued to be debated on social media platforms,

with some commentators calling for increased “Islamification” and the removal of non-Malays from the country.

Throughout the year, the U.S. Ambassador expressed to government officials at all levels concern 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 also urged the government at the highest levels to defer the implementation of phases two and three of the SPC and encouraged the government to ratify the UN Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment; sign and ratify the International Covenant on Civil and Political Rights; and engage in interfaith dialogue and open academic discussions on religion and human rights.

Section I. Religious Demography

The U.S. government estimates the total population at 444,000 (July 2017 estimate). According to the 2011 census, approximately 78.8 percent of the population is Muslim, 8.7 percent Christian, and 7.8 percent Buddhist, while the remaining 4.7 percent consists of other religions including indigenous beliefs.

There is significant variation in religious identification among ethnic groups. According to 2015 official statistics, ethnically Malay Bruneians comprise 66 percent of the population, and are presumed to be Muslim as an inherited status. The Chinese population, which is approximately 10 percent of the total population and includes both citizens and permanent residents, is 65 percent Buddhist and 20 percent Christian. Indigenous tribes such as Dusun, Bisaya, and Murut make up approximately 4 percent of the population and are estimated to be 50 percent Muslim, 15 percent Christian, and the remainder followers of other religious groups, including adherents of traditional practices. The remaining fifth of the population includes foreign-born workers, primarily from Indonesia, Malaysia, the Philippines, and South Asia, or are 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" by the persons professing them.

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. The civil courts are based on common law. The sharia courts follow Islamic jurisprudence, in which there is no law of precedence and judges are not bound by the decisions of a higher court. Sharia courts have jurisdiction over both criminal law and civil/family matters involving Muslims and hear cases brought under long-standing sharia legislation as well as under the SPC. In some cases non-Muslims are subject to sharia courts, such as *khalwat* (close proximity between the sexes) if the other accused party is Muslim.

Phase one of the SPC, which came into force in 2014, 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 long-standing domestic 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," including pregnancies out of wedlock, and 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, as well as to offenses committed outside the country by citizens or permanent residents. Non-Muslims are exempted from certain sections, such as requirements for men to join Friday prayers or payments of *zakat* (obligatory annual alms giving). It states that Muslims will be identified for purposes of the law by "general reputation."

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). To date, the government has not published the CPC. Phase three of the SPC, which includes punishments – stoning to death for rape, adultery, or sodomy, and execution for apostasy, contempt of the Prophet Muhammad, or insult of the Quran – 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 at the discretion of a sharia judge.

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 and its main defense against extremism. A government body, 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. The 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 are not covered by sharia legislation such as human trafficking are investigated by the Royal Brunei Police Force (RBPF). Cases involving crimes covered by both sharia and the 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.

The government bans religious groups it considers deviant, including the Ahmadiyya Muslim Community, Al-Arqam, Abdul Razak Mohammad, Al-Ma’unah, Saihoni Tasipan, Tariqat Mufarridiyyah, Silat Lintau, Qadiyaniah, the Bahai Faith, and Jehovah’s Witnesses. The list is based on fatwas proclaimed by the state mufti or the Islamic Religious Council – a government body and the sultan’s highest authority on matters on Islam – and is publicly available on the Ministry of Religious Affairs’ website. The SPC also bans any practice or display of “black magic.”

The SPC includes a list of words and expressions, including the word “Allah,” reserved for use by only Muslims or in relation to Islam. In 2016 the government clarified that the use of certain words, such as “Allah” by non-Muslims, did not constitute an SPC offense when used in a nonreligious context or social activity.

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 20,000 Brunei dollars (BND) (\$14,900), or both. The SPC includes a provision that makes it illegal to criticize Islam, including the SPC itself, although no cases, arrests, or charges under this provision have been reported.

Muslims are legally permitted to renounce their religion until phase three of the SPC is implemented but must inform the Islamic Religious Council in writing. A person must be at least 14 years and seven months old to convert to a different religion. If parents convert to Islam, their children automatically become Muslim.

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. Registered organizations must furnish information on leadership, election of officers, members, assets, activities, and any other information requested by the registrar. Benefits of registration include the ability to operate, reserve space in public buildings, and 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. Organizations are prohibited from affiliation with any organization outside the country without written approval by the registrar. Unregistered organizations may face charges of unlawful assembly and may be subject to fines. Individuals who participate in or influence others to join unregistered organizations may 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 BND (\$7,500), imprisonment for up to three years, or both.

The law states that any public assembly of five or more persons requires official approval in advance. Under long-standing emergency powers, this applies to all forms of public assembly, including religious assembly. In practice, however, places of worship are viewed as private.

Laws and regulations limit access to religious literature. The law states 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.” The law also bans distributing materials relating to religions other than Islam to Muslims or persons of no faith.

The law establishes two sets of schools: those offering the national or international curriculum and administered by the Ministry of Education (MOE), and those offering supplemental religious education (*ugama*) that are administered by MORA. *Ugama* instruction in MORA schools is a seven-to-eight-year course that teaches the day-to-day practice of Sunni Islam according to the Shafi’i school and is mandatory for Muslim students ages seven to 14 who hold citizenship or permanent residency. Alternatively, MORA also administers a set of schools taught in Arabic that offer the national curriculum combined with *ugama* religious education. The law states that Muslim parents who fail to enroll their children in an *ugama* school face a 5,000 BND (\$3,700) fine, imprisonment for a term not exceeding one year, or both. The law promulgates the officially recognized Shafi’i school and does not make accommodations for Muslims who have non-Shafi’i beliefs. MOE schools are also required to teach a course on Islamic religious knowledge, which is required for all Muslim children ages seven to 15 who reside in the country and who have at least one parent who is a citizen or permanent resident.

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 during school hours. Schools may 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 religious affiliation 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. Churches and religious schools are permitted to offer non-Shafi’i Islamic education in private settings.

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. The law bans any Muslim from surrendering custody of a minor or dependent in his or her guardianship to a non-Muslim.

Under the SPC, non-Muslims may be arrested for *zina* (fornication or adultery) or *khalwat*, provided that the other accused party is Muslim. Foreigners are also subject to these laws.

In July the government introduced a regulation requiring businesses that produce, supply, and serve food and beverages to obtain a halal certificate or apply for exemption if serving non-Muslims.

The Ministry of Religious Affairs has declared circumcision for Muslim girls (*sunat*) a religious rite obligatory under Islam and described it as the removal of the hood of the clitoris (Type I per World Health Organization classification). The government has stated it does not consider this practice to be female genital mutilation/cutting (FGM/C) and has expressed support for the World Health Organization's call for the elimination of FGM.

The country is not a party to the International Covenant on Civil and Political Rights.

Government Practices

Summary Paragraph: The government continued to enforce sharia restrictions and prosecute offenses under the SPC. It continued to apply sharia to Muslims and, for certain offenses, non-Muslims, resulting in arrests, fines, and confiscations. The government continued to impose traditional Islamic social norms more broadly, including placing limitations on businesses suspected of encouraging mingling of men and women, proselytizing, and religious education. In November the sultan called for the rejection of Islamic teachings that repudiate local practices. A fatwa barring church and temple expansion or renovation remained in force; however, the government granted a school associated with the Christian community permission to build a parking lot.

The authorities continued to arrest and prosecute persons for offenses under both the SPC and long-standing sharia.

The chief sharia court judge announced that the number of sharia court cases dropped to 148 cases from 259 cases in 2016. Of the 148 cases, 98 were for *khalwat*. The judge said *khalwat* cases were “mainly committed by Muslim and non-Muslim youth and civil servants.” He noted that a review of the penalties imposed by sharia judges for *khalwat* had so far been unsuccessful in deterring people from committing the offense. He added that *khalwat* could lead to other sharia criminal offenses such as “adultery, pregnancy out of wedlock, and the abandonment of babies.”

Not all of those investigated or accused of sharia crimes 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. The government had not issued implementing regulations governing sharia proceedings by year's end.

Following the introduction of the regulation requiring businesses in the food service industry to provide a halal certificate, authorities charged a government health official under the sedition law for criticizing MORA's halal policy on Facebook. In the post, the individual criticized the halal certification requirements' negative impact on small businesses and called for MORA to instead investigate "why all sexual offenders are religious teachers." His post quickly went viral on social media but was removed. Local attorneys noted this was the first case of an individual being charged with sedition in 30 years. If found guilty of sedition, the individual could face a fine of 5,000 BND (\$3,700), up to three years in prison, or both. At year's end, the defendant Shahiransheriffuddin bin Shahrani Muhammad, was free on bail and ordered not to post such comments against government policy on social media. His next hearing was scheduled for August 2018.

MORA continued to provide texts for Friday sermons to all mosques, which were required to deliver the approved texts, and the government required the sermons to be preached by registered imams.

There was no legal requirement for women to wear head coverings in public; however, religious authorities continued to reinforce social customs to encourage Muslim women to wear the *tudong* (a traditional Islamic head covering), and many women did so. When applying for passports, drivers' licenses and national identity cards, Muslim females were made to wear a *tudong*, and all females were given a black jacket to ensure their shoulders were covered in their identity photographs. Muslim women employed by the government were expected to wear a *tudong* to work, although 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*.

Unlike in previous years, religious leaders and government officials did not officially warn citizens against publicly displaying symbols of religions other than

Islam during Christmas and Chinese New Year, although many businesses still chose not to display decorations. As with past years, the government limited traditional Lunar New Year lion dance performances to a three-day period and restricted them to the Chinese temple, Chinese school halls, and private residences of Chinese Association members. The government also introduced a new online application for event permits, making it easier for Chinese Dragon dances to take place during Chinese New Year. Members of the royal family and the minister of religious affairs again publicly attended Lunar New Year celebrations and lion dance performances during the allowed period, with coverage in state-influenced media.

The government continued to enforce restrictions on non-Muslims proselytizing to Muslims or people with no religious affiliation. The government periodically warned the population about “outsiders” preaching non-Shafi’i versions of Islam, including both “liberal” practices and those associated with jihadism, Wahhabism, or Salafism. In November during a *titah* (royal proclamation), the sultan said the country “could not afford to let anyone carry out or import any teachings that could disintegrate Muslims in the country” and called for the rejection of Islamic teachings that repudiate local practices, which include offering prayers for the dead, celebrating the Prophet Muhammad’s birthday, and Quran readings prior to work and public events.

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. Authorities continued to generally ban non-Islamic texts from import, and the censorship board continued to review Islamic texts to ensure they did not contain text that deviates from the Shafi’i school of Islam. Personal packages entering the country continued to be checked by customs to ensure they did not contain anything of a non-Shafi’i Islamic or sexual nature, such as magazines showing women in swimsuits.

Churches confirmed that a long-standing fatwa discouraging Muslims from assisting in perpetuating non-Muslim faiths continued to inhibit expansion, renovation, or construction of new facilities. Christian churches and associated schools, however, were generally allowed to repair and renovate buildings on their sites if required for safety. This approval process remained lengthy and difficult, and there were reports of the government stalling new construction projects for not meeting the complicated permit process requirements. The government, however, granted a school associated with the Christian community, with students from various religious backgrounds, permission to build a parking lot to reduce traffic

congestion. With only six approved churches in the country, facilities were often too small to accommodate their congregations without significant overflow seating outdoors. Chinese temples were also subjected to the same fatwa, with only one official Chinese temple preserved as a cultural heritage. Data from 2015 indicated there were 99 registered mosques. Christian worshippers reported difficulty accessing churches on many Sundays because of road closures by the government for official events, with some services being rescheduled to other times.

The MOE required courses on Islam and MIB in all schools, with non-Muslims exempted from some religious requirements. The government reported many non-Muslim children elected to take courses on Islam. Reportedly, those applying for government-funded scholarships believed having such courses could be advantageous. MORA 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 *tudong*. There were no depictions of the practices of other religious groups in textbooks.

Authorities continued to prohibit non-Muslims and non-Shafi'i Muslims from receiving non-Shafi'i religious education in schools. The government tolerated non-Islamic religious education in private settings, such as at home or in approved churches. All church-associated schools were recognized by the MOE and remained open to students of any religion, although they were not permitted to teach religions other than Shafi'i Islam.

Throughout the year, the government enforced business hour restrictions for all businesses, requiring they close for the two hours of Friday prayers. Religious enforcement officers reportedly continued to enforce a ban on restaurants serving dine-in food during the fasting hours of Ramadan, although take-out food to be consumed in private was permitted, and officers issued verbal warnings to restaurants and customers found in breach of the ban. Several Chinese restaurants, however, said that, in contrast with previous years, they did not experience government inspections on this issue. 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.

The government maintained a long-standing ban on the sale of alcoholic beverages and cigarettes, and a restriction against the import or consumption of alcoholic beverages by Muslims. Religious authorities partnered with the RBPF in conducting "antivice raids" in which they confiscated alcoholic beverages and nonhalal meats brought into the country without proper customs clearance. In

September the state mufti warned worshippers not to deviate from the path of Allah, as alcohol was still being smuggled and sold in the country, and blamed the increasing numbers of tourists and foreign workers for its illicit sale. Authorities 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 continued to hold 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, which remained solely based on the Al-Shafi'i school. In October the crown prince opened an event at Universiti Islam Sultan Sharif Ali to launch 25 books on the topic of the Al-Shafi'i school.

The government offered incentives to prospective converts to Islam and the Shafi'i school, especially those from indigenous communities in rural areas, including help with housing, welfare assistance, or help to perform the Hajj. During the year, Hajj participants received designer luggage from the government. The government gave presentations on the benefits of converting to Islam that received extensive press coverage in state-influenced media. For example, media reported Ramadan guidance classes for new converts headed by the Tutong District's religious authorities. Government statistics again showed that each year an average of 500 people converted to Islam. Converts included citizens and permanent residents, as well as foreigners. Official government policy supported Islam through the national MIB philosophy as well as through government pledges to make the country a *zikir* nation (a nation that remembers and obeys Allah). While in London in December, the sultan met with Bruneian expatriates and reminded them that the "mold for our identity and character is MIB" and cautioning them from being derailed from the MIB track or from trying anything apart from MIB.

Despite the absence of a legal prohibition of Muslims marrying non-Muslims, all Muslim weddings required approval from the sharia courts, and officiants, who were required to be imams approved by the government, required the non-Muslim party 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; for example, all Malays were assumed to be Muslim. Female Muslim citizens were required to wear a *tudong* in photographs on national identity cards as well as passports, and non-Muslim women were required to dress conservatively. 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.

Section III. Status of Societal Respect for Religious Freedom

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

Religious freedom continued to be debated on social media platforms with some commentators calling for increased "Islamification" and the removal of non-Malays from the country. Residents who questioned the SPC or Islamic values on social media sometimes reported receiving online abuse and threats, and official monitoring. Some vocal activists who challenged established norms reported family and friends would pressure them to keep quiet due to fear they would attract the attention of authorities or damage the family's reputation.

Some Muslims who wished to convert to another religion reportedly continued to fear 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. Some non-Muslims said they felt pressured in the workplace or in social groups to convert to Islam.

The new halal certificate order was widely criticized on social media by commentators as being detrimental to the government's efforts to promote entrepreneurship.

There were more reports of Muslims being open to allowing other religious groups to celebrate their holidays than in the years since the SPC launched. For example, Christian leaders continued to report more Muslims wished Christians a "Merry Christmas" and attended holiday parties.

Section IV. U.S. Government Policy and Engagement

The Ambassador and other embassy officials continued to raise concerns and recommendations about religious freedom throughout the year to government officials at all levels. U.S. officials continued to coordinate with other governments, including Australia and the United Kingdom, regarding shared concerns about implementation of the SPC and continued to encourage the government to postpone implementation. U.S. embassy officials emphasized the seriousness with which the United States takes 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 embassy officials also continued to raise concerns that a confession could be used in lieu of evidence, and that those accused could be coerced by 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 urged that religious enforcement officers and officials involved in drafting, implementing, and enforcing the SPC comply with international human rights norms.

Embassy officials met with religious enforcement officers as well as lawyers defending individuals charged with violations of sharia.

Embassy officials visited places of worship, spoke with leaders of all principal religious groups, and facilitated discussions on the SPC and laws and policies affecting religious freedom in the country, including obstacles to practicing religions and beliefs other than Shafi'i Islam in addition to provisions of sharia.

The embassy hosted a holiday reception that convened representatives from the various religious communities in the country. The Ambassador emphasized religious tolerance by participating in numerous Lunar New Year celebrations and attending Christian events that many locals also attended.