

BRUNEI 2019 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." In April the government implemented the second and third phases of the Sharia Penal Code (SPC), which includes offenses punishable by corporal and capital punishments, including stoning to death, amputation of hands or feet, and caning. The SPC, which is in force in parallel with the common-law-based secular penal code, applies to both Muslims and non-Muslims, including foreigners, with non-Muslims exempted from certain sections. Under full SPC implementation, Royal Brunei Police Force (RBPF) and Religious Enforcement Division officers cooperate on investigations of crimes covered by both secular law and sharia. Following international condemnation, the sultan announced in May that the de facto moratorium on the death penalty would be extended to include cases under the SPC and that "individual privacy" would be respected. He also declared the government would ratify the United Nations Convention against Torture (UNCAT). Responding to UN expressions of concern regarding the SPC, the foreign minister reiterated that the constitution recognizes the right of non-Muslims to practice their religions "in peace and harmony." Non-Muslims reported no significant changes with respect to the practice of minority religions following the full implementation of the SPC but noted that the law imposes new restrictions on the ability of non-Muslims to proselytize other non-Muslims, which until April had been legal. The government continued to prohibit non-Muslims from proselytizing among Muslims or persons with no religious affiliation. In October sharia courts charged non-Muslim defendants in two criminal cases. The government permitted Shafi'i Muslims and members of non-Muslim religious minorities to practice their faiths but continued to ban several religious groups it considers "deviant." The sultan publicly warned the government to strengthen its stance against deviation from what he called authentic Islamic teachings. Government limitations on the construction of new churches and temples, and the renovations or expansion of existing places of worship, resulted in facilities that were too small to accommodate some congregations. Islamic authorities organized a range of proselytizing activities and incentives to explain and propagate Islam.

Non-Muslims and Muslims faced social pressure to conform to Islamic guidelines regarding behavior. According to media reports and sources within the country, although some members of the lesbian, gay, bisexual, transgender, and intersex (LGBTI) community worried that new SPC laws would encourage homophobia,

few believed that the harshest SPC punishments, such as stoning, would be enforced. In discussions of religion and religious freedom on social media, some Muslims and non-Muslims posted comments questioning the relevance of the Malay Islamic Monarchy (MIB) national philosophy or criticizing the SPC, while others called for increased Islamification and increased restrictions on non-Muslims. 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.

The Ambassador, other embassy officers, and visiting senior U.S. government officials engaged with senior government officials regarding the negative religious freedom implications of full SPC implementation, as well as the importance of ratification of UNCAT and the protection of minority rights. In meetings with senior economic officials and business leaders, the Ambassador highlighted U.S. concerns relating to the SPC, including those of the private sector. He also met with minority religious leaders to discuss the concerns of religious minorities regarding the implications of the SPC. The Assistant Secretary of State for East Asian and Pacific Affairs echoed concerns regarding implementation of the SPC during a visit in September.

Section I. Religious Demography

The U.S. government estimates the total population at 458,000 (midyear 2019 estimate). According to the 2011 census (the most recent), 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 2016 official statistics, ethnically Malay citizens comprise 66 percent of the population and are presumed by the government to be Muslim as an inherited status. The ethnic Chinese population, which is approximately 10 percent of the total population and includes both citizens and stateless 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 20 percent of the population includes foreign-born workers, primarily from Indonesia, Malaysia, the Philippines, and South Asia. 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 secular law and sharia, which have 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 the Shafi'i school of Islamic jurisprudence, in which there is no concept of legal precedent 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 longstanding sharia legislation as well as under the SPC.

The government fully implemented the final phases of the SPC in April. The SPC spells out provisions for corporal and capital punishment for murder, theft, adultery, rape, sodomy, apostasy, blasphemy, and other acts deemed crimes under sharia. Depending on the type and specifics of the offense, these punishments include fines, imprisonment, whipping, caning, amputation of hands or feet, or death (including by stoning). The SPC identifies murder, adultery, rape, sodomy, apostasy, and blasphemy as capital offenses, although the law requires either a confession or the testimony of multiple pious Muslim male eyewitnesses to support a death sentence. Most SPC sections apply to both Muslims and non-Muslims, including foreigners, and are applicable to offenses committed outside the country by citizens or permanent residents. Non-Muslims are exempt from certain sections, such as requirements for men to join Friday prayers and pay *zakat* (obligatory annual almsgiving). The SPC states that Muslims will be identified for purposes of the law by "general reputation."

The SPC incorporates longstanding domestic laws based on sharia that prohibit drinking alcohol, propagating religions other than Islam, eating in public during the fasting hours of Ramadan, cross-dressing, and close physical proximity between unmarried persons of the opposite sex. It prohibits "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."

Punishments included under the SPC have different standards of proof from 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, may be supported by a confession in lieu of witness testimony at the discretion of a sharia judge. If neither qualifying testimony nor a confession is available, the possible sentences are limited to caning, imprisonment, and fines.

The government describes its official national philosophy as Melayu Islam Beraja (MIB), or Malay Islamic Monarchy, which it 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) 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 RBPF. Since full SPC implementation began in April, RBPF and Religious Enforcement Division officers cooperate on investigations of crimes covered by both the secular and sharia laws. In such cases, an “assessment committee” composed of secular and sharia prosecutors and secular and sharia law enforcement officers decides which court system will try the case. The deliberations of the assessment committee to determine whether specific cases would proceed through secular or sharia court are not public, and the government does not make public the committee’s bases for its decisions.

The government bans several 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 Baha’i 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 available on MORA’s 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. MORA has clarified to embassy officials that the use of certain words such as “Allah” by non-Muslims, does not constitute an SPC offense when used in a nonreligious context or social activity.

Under the SPC, Muslims are not permitted to renounce or change their religion. Non-Muslims must be at least 14 years and seven months old to convert or renounce their religion. If parents convert to Islam, their minor 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 penalty for violating laws on the registration and activity of organizations is a fine of up to 10,000 Brunei dollars (BND) (\$7,400), 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 longstanding emergency powers, this applies to all forms of public assembly, including religious assembly. In practice, however, places of worship are viewed as private places in which gatherings do not require approval.

The law forbids the teaching or promotion of any religion other than Islam to Muslims or to persons of no faith. Under the SPC, the penalty for propagating religions other than Islam is up to five years in prison, a fine of up to 20,000 BND (\$14,900), or both. The SPC includes a provision that makes it illegal to criticize Islam, including the SPC itself.

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 that are administered by the Ministry of Education (MOE), and those offering supplemental religious education (*ugama*) that are administered by MORA.

MOE schools are required to teach a course on Islamic religious knowledge that 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. Non-Muslims are exempted from all religious study requirements and receive teaching on moral behavior.

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. Under a 2012 government order, *ugama* instruction is mandatory for Muslim students ages seven to 14 who hold citizenship or permanent residency; many students attend *ugama* schools in the afternoon after MOE schools have adjourned. Parents may be fined up to 5,000 BND (\$3,700), imprisoned for a term not exceeding one year, or both for failure to comply with the order. The law does not make accommodations for Muslims who have non-Shafi’i beliefs. MORA also administers a set of schools taught in Arabic that offer the national curriculum combined with *ugama* religious education.

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 as part of the school’s curriculum. 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 requires that any person wishing to teach on matters relating to Islam must obtain official permission. Churches and religious schools are permitted to offer private religious education in private settings, such as someone’s home.

All parental rights are awarded to the Muslim parent if a child is born to parents who are not both Muslim. 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* (the crime of close physical proximity between two unmarried individuals of opposite sexes), provided that the other accused party is Muslim. Foreigners are also subject to these laws.

A regulation requires businesses that produce, supply, and serve food and beverages to obtain a halal certificate or apply for an exemption if serving non-Muslims.

MORA has declared circumcision for Muslim girls (*sunat*) a religious rite obligatory under Islam and describes 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/C. In his 2017 fatwas, the state mufti declared that both male and female circumcision are required and specified that female circumcision involves a "small cut above the vagina."

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

Government Practices

In March amid international criticism of the SPC by several governments, celebrities, and social media commentators, the government issued a statement asserting its right to enforce its own laws as a "sovereign Islamic and fully independent country." The statement declared that the SPC would "educate, respect, and protect the legitimate rights of all individuals, society or nationality of any faiths and race" and that the country's parallel sharia and common law judicial systems would "maintain peace and order and preserve our religion, life, family, and individuals regardless of gender, nationality, race, and faith."

In April the government distributed a set of points on the implementation of the SPC to foreign diplomatic missions highlighting that the country's constitution

“provides that Islam shall be the official religion, but also explicitly recognizes the right of non-Muslims to practice their religions in peace and harmony.” The points also stated the government “reaffirms its commitment to its international obligations in promoting and protecting human rights as enshrined in the Charter of the United Nations and the Universal Declaration of Human Rights” and that the government’s 2015 signing of UNCAT “testifies our strong rejection to acts of torture.”

On April 1, the United Nations Office of the High Commissioner for Human Rights issued a letter to the government expressing concern about “the imposition of cruel, inhuman, and degrading punishments” under the SPC and urging the government to “repeal it completely as it would not be in conformity with international human rights law.” Minister of Foreign Affairs II Dato Erywan Pehin Yusof responded with a letter reiterating that the constitution recognized the right of non-Muslims to practice their religions “in peace and harmony” and that the SPC “aims to respect and protect the legitimate rights of all individuals” and had no intention “to victimize a person’s status based on sexual orientation or belief.”

In May the sultan announced that the de facto moratorium on the death penalty would be extended to include cases under the SPC and that “individual privacy” would be respected. He also declared that the government would ratify the UNCAT.

Non-Muslims reported no significant changes with respect to the practice of minority religions in the country following the full implementation of the SPC but noted that the law imposed new restrictions on the ability of non-Muslims to proselytize to other non-Muslims, which until April had been legal. The government continued to prohibit non-Muslims from proselytizing among Muslims or persons with no religious affiliation. Non-Muslims continued to express concern that the SPC had the potential to enable abuses in the future. Some non-Muslims described the SPC as a “scare tactic” that, alongside other government policies, would pressure non-Muslims to convert to Islam. They noted the SPC’s blasphemy provisions could be used to constrain non-Muslim groups’ activities but expressed greater concern about subtle pressure by the government than about the possibility of harsh sharia punishments.

Government-provided statistics indicated sharia courts convicted 107 individuals between January and October. In August authorities completed the first criminal prosecution in the sharia courts following the implementation of the SPC in April. The defendant, a local Malay Muslim, was sentenced to five months in prison for

the theft of 100 BND (\$74). During the year, the sharia courts convicted a total of 10 individuals under the newly implemented sections of the SPC – all relatively minor theft offenses resulting in a fine or prison sentence.

The sharia courts charged three non-Muslim defendants in two criminal cases during the year. In October an ethnic Iban (an indigenous group) man who local church officials stated was Catholic, was sentenced to four months' imprisonment for theft. In a case that was pending at year's end, two Vietnamese men became the first non-Muslim foreigners to be charged in the sharia courts under the newly implemented SPC sections, accused of "causing hurt" for allegedly assaulting a colleague at their workplace.

The government periodically warned the population about the preaching of non-Shafi'i versions of Islam, including both "liberal" practices and those associated with jihadism, Wahhabism, or Salafism. It permitted Shafi'i Muslims and members of non-Muslim religious minorities to practice their faiths.

MORA continued to provide all mosques with approved sermons for Friday services. The government required that the sermons be delivered by registered imams, and deviance from the approved text was forbidden. In May, following a nationally televised interview in which a local government Muslim cleric claimed to have met the Prophet Muhammad in a dream, the sultan publicly urged the government to strengthen its stance against what he considered inauthentic Islamic teachings, including non-Shafi'i versions of Islam. Religious authorities reportedly chastised the cleric and required him to undergo additional training.

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 a head covering (known locally as a *tudong*), and many women did so. When applying for passports, drivers' licenses, and national identity cards, Muslim females were required to wear a *tudong*. 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*.

As in 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 residencies of Chinese Association members. Members of the royal family publicly attended Lunar New Year celebrations and lion dance performances during the allowed period, with front-page coverage in state-influenced media.

The government continued to enforce strict customs controls on importing non-Islamic religious texts such as Bibles, as well as on Islamic instructional materials or scriptures intended for sale or distribution. Authorities generally continued to ban non-Islamic religious texts from import, and the censorship board continued to review Islamic texts to ensure they did not contain text that deviated from the Shafi'i school of Islam. Customs continued to check personal packages entering the country to ensure they did not contain anything of a non-Shafi'i Islamic or perceived sexual nature, such as magazines showing women in swimsuits.

Christian leaders stated that a long-standing fatwa discouraging Muslims from perpetuating non-Islamic faiths continued to inhibit the expansion, renovation, or construction of new facilities. Christian religious groups, however, said authorities generally permitted churches and associated schools to repair and renovate buildings on their sites if required for safety. The process for obtaining approval to renovate church buildings remained lengthy and difficult, and there were continuing reports of the government stalling new construction projects for not meeting the complicated requirements. With only six approved churches in the country, facilities were often too small to accommodate their congregations without significant overflow seating outdoors. Chinese Buddhist temples were also subject to the same fatwa. Government data from 2015, the latest available, indicated there were 99 registered mosques. Christian worshippers continued to report difficulty accessing churches on many Sundays because of road closures by the government for official events, with some services being rescheduled.

The government reported that many non-Muslim children elected to take courses on Islam. Reportedly, those applying for government-funded scholarships believed having such courses on their transcripts could be advantageous. 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.

In February the sultan publicly called for extending Quranic education and encouraged all high schools to introduce “specialized Al-Quran education” in

addition to their Islamic Religious Knowledge syllabus. School officials reported that by year's end the government had not yet required them to introduce new Quranic studies programs.

Authorities continued to prohibit non-Muslims and non-Shafi'i Muslims from receiving non-Shafi'i religious education in schools. All church-associated schools were recognized by the MOE and remained open to students of any religion, although they were not permitted to offer religious instruction other than for Shafi'i Islam.

Throughout the year, the government enforced restrictions requiring all businesses to close for the two hours of Friday prayers. In May the *Borneo Bulletin*, citing the SPC, warned local eateries not to serve dine-in customers during fasting hours and cautioned the public not to eat, drink, or smoke in public places during daylight hours throughout Ramadan. There were no reports during the year of raids or of religious enforcement officers enforcing the ban on restaurants serving dine-in food during the fasting hours of Ramadan.

The government maintained a longstanding ban on the sale of alcoholic beverages and cigarettes and a restriction against the import or consumption of alcoholic beverages by Muslims. After a period of increased enforcement on the ban of alcohol in 2018, enforcement reportedly returned to previous levels of routine customs checks at the border. Religious authorities allowed nonhalal restaurants and nonhalal sections in supermarkets to operate without interference, but they continued to hold public outreach sessions to encourage restaurants to become halal.

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. The government gave presentations on the benefits of converting to Islam that received extensive press coverage in state-influenced media. According to government statistics, 292 individuals converted to Islam during the year, lower than previous years. Converts included citizens and permanent residents, as well as foreigners. Government policy supported Islam through the national MIB philosophy as well as through government pledges to make the country a *zikir* nation (one that remembers and obeys Allah).

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 and were used in part to determine whether he or she were Muslim; for example, all ethnic Malays, including those traveling in the country, were assumed to be Muslim. Malays were required to follow certain Islamic religious practices or potentially face fines, arrest, and imprisonment. 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. Male members of the Islamic community reportedly felt pressure from family and friends to attend Friday prayers despite not having strong religious beliefs. Members of the LGBTI community expressed fears about openly expressing their sexual and/or gender identity, since they believed it would bring shame on their families for violating religious mores. According to media reports and sources within the country, although some members of the LGBTI community worried that new SPC laws would encourage homophobia, few believed that the harshest SPC punishments, such as stoning, would be enforced.

Religion and religious freedom continued to be discussed on social media outlets such as Facebook and Reddit. Muslims and non-Muslims posted comments questioning the relevance of the MIB national philosophy, and some commenters called for religion to play no part in government policy. Others called for increased Islamification and increased restrictions on non-Muslims. Residents who questioned the SPC or Islamic values on social media sometimes reported receiving online abuse, threats, and official monitoring. Some members of the LGBTI community, however, used social media to criticize the SPC and said they did so without fear of government reprisal.

Anecdotal reports indicated that some Muslims and Christians 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.

Section IV. U.S. Government Policy and Engagement

The Ambassador, other embassy officers, and visiting senior U.S. government officials engaged throughout the year with senior government officials regarding the full implementation of the SPC, the ratification of UNCAT, and the protection of minority rights. In all such engagements, the Ambassador or other officers highlighted U.S. concerns regarding the harsh and degrading punishments included in the SPC, the criminalization of same-sex activity, and the law's impact on the freedom to change or disseminate religious beliefs.

In meetings with senior economic officials and private sector representatives, the Ambassador highlighted U.S. private sector concerns related to the SPC and emphasized the importance of the sultan's commitments in his May 5 moratorium proclamation. The Ambassador and other embassy officials frequently met during the year with government and religious leaders to discuss the concerns of religious minorities regarding the implications of the SPC for the non-Muslim community and the limitations placed on the open practice of other religions.

In September the visiting Assistant Secretary of State for East Asian and Pacific Affairs echoed U.S. concerns regarding implementation of the SPC with senior government officials and reinforced the need to take affirmative steps to meet human rights obligations and follow through on commitments relating to the SPC.

U.S. officials continued to coordinate with other governments, including Australia and the United Kingdom, regarding shared concerns about implementation of the SPC. 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 sharia and obstacles to practicing religions and beliefs other than Shafi'i Islam.