

Status of Human Rights in Brunei for the 47th Session of the Universal Periodic Review

Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organization dedicated to promoting and protecting human rights around the world. The ECLJ also holds Special Consultative status before the United Nations Economic and Social Council. The purpose of this report is to raise concerns regarding human rights violations in Negara Brunei Darussalam (Brunei) for the 47th Session of the Universal Periodic Review (UPR).

Background

2. Brunei is a country located in southeastern Asia and has a population of approximately 455,000 people.¹ The country is predominately Muslim, with 80.9% of the population identifying as Muslim, 7.1% as Christian, 7.1% as Buddhist, and 4.9% as other.² In its 2024 World Watch List, Open Doors (an international human rights organization) ranked Brunei as the 44th worst place for Christians to live in.³ This ranking stems from the growing implementation of Sharia law on both Muslims and non-Muslims and the fact that converting to another religion from Islam is illegal.⁴

3. Brunei's last review was held on May 10, 2019.⁵ As a result of the review, Brunei received 220 recommendations, 108 of which it accepted.⁶ In particular, it was recommended by Oman, and supported by Brunei, that the government “[f]urther promote religious, cultural and social harmony, and consolidate a culture of peace and coexistence.”⁷ It was further recommended by Brazil, but only noted by Brunei, that the government “[r]eview its legislation to effectively guarantee the rights to freedom of expression and religion and to combat intolerance on the grounds of religion or belief, promoting dialogue and understanding among all communities.”⁸ Additionally, it was recommended by Ghana, but only noted by Brunei, that the government “[e]nsure that the right to freedom of religion or belief, as enshrined in the Constitution, is implemented, and that religious minorities are allowed to practise freely.”⁹ Moreover, it was recommended by numerous countries, but only noted by Brunei, that the government “[r]atify the International Covenant on Civil and Political Rights.”¹⁰

¹ WORLDOMETER, <https://www.worldometers.info/world-population/brunei-darussalam-population/> (last visited Feb. 23, 2024).

² Mohamad Yusop Damit et al., *Brunei*, BRITANNICA (Feb. 23, 2024), <https://www.britannica.com/place/Brunei>.

³ *World Watch List 2024*, OPEN DOORS, <https://www.opendoors.org/en-US/persecution/countries/> (last visited Feb. 21, 2024).

⁴ *Brunei*, OPEN DOORS, <https://www.opendoors.org/en-US/persecution/countries/brunei/> (last visited Feb. 21, 2024).

⁵ *Universal Periodic Review – Brunei Darussalam*, OHCHR, <https://www.ohchr.org/en/hr-bodies/upr/bn-index> (last visited Oct. 10, 2023).

⁶ *Brunei Darussalam Infographic*, OHCHR, <http://media.aclj.org/pdf/ECLJ-UPR-45-Saudi-Arabia-July-2023.pdf> (last visited Oct. 10, 2023).

⁷ OHCHR, UPR of Brunei Darussalam (3rd Cycle – 33rd session): Thematic List of Recommendations, https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session33/BN/UPR33_Brunei_Darussalam_Thematic_List_of_Recommendations_E.docx (last visited Oct. 10, 2023).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

4. On the issue of human trafficking, it was recommended by the United Kingdom of Great Britain and Northern Ireland, and supported by Brunei, that the government “[s]trengthen measures for investigating, prosecuting and punishing those responsible for modern slavery offences, and ensure adequate victim protection and care.”¹¹

Legal Framework

Religious Persecution

5. Article 3 of the Constitution of Brunei establishes Islam as the official religion but also states that “all other religions may be practised in peace and harmony by the persons professing them.”¹²

6. However, Brunei’s Syariah Penal Code Order, 2013, undermines religious freedom and restricts the religious freedom of non-Muslims. Article 209 of this law criminalizes the propagation of religions other than Islam.¹³ Additionally, Article 210 prohibits persuading Muslims to change religions:

(1) Any person who persuades, tells, causes, offers payment to, influences, incites, encourages or lets a Muslim-

(a) to become a believer or a member of a religion other than the religion of Islam or to become inclined to that religion; or

(b) to leave or dislike the religion of Islam,

is guilty of an offence and shall be liable on conviction to a fine not exceeding [B]\$20,000 and imprisonment for a term not exceeding 5 years.¹⁴

7. Further, Article 214 prohibits distributing non-Muslim religious literature to Muslims and people who have no religion:

Any person who sends or delivers or causes to be sent or delivered to a Muslim or person having no religion, any publication relating to religion other than the religion of Islam, or any advertising material for such publication, that the other person did not request for, is guilty of an offence and shall be liable on conviction to a fine of not exceeding [B]\$2,000, imprisonment for a term not exceeding 6 months or both.¹⁵

8. Moreover, under Article 220:

Any person who, orally, in writing, by visible representation or in any other manner contempts or brings into contempt, disputes, questions, insults, makes fun of, mocks,

¹¹ *Id.*

¹² CONSTITUTION OF BRUNEI DARUSSALAM 1959 (rev. 2006) art. 3, https://www.constituteproject.org/constitution/Brunei_2006.

¹³ SYARIAH PENAL CODE ORDER, 2013, art. 209, <https://www.agc.gov.bn/AGC%20Images/LAWS/BLUV/SYARIAH%20PENAL%20CODE%20ORDER,%202013.pdf>.

¹⁴ *Id.* art. 210 §1.

¹⁵ *Id.* art. 214 §1.

mimics or ridicules –

- (a) the teaching of the religion of Islam;
- (b) the practice or ceremony related to the religion of Islam;
- (c) words that are regarded as holy by Muslims;
- (d) any law in forced related to the religion of Islam;
- (e) any *sahabat*;
- (f) the tenets of any recognised sect; or
- (g) any *fatwa* published in the *Gazette*,

is guilty of an offence and shall be liable on conviction to a fine not exceeding [B]\$12,000, imprisonment for a term not exceeding 3 years or both.¹⁶

9. Although Brunei is a member of the United Nations, it is not a party to the most basic human rights treaty, the International Covenant on Civil and Political Rights (ICCPR).¹⁷ However, Brunei does have an obligation under the Universal Declaration of Human Rights (UDHR) to uphold the rights enshrined in it. Under Article 18 of the UDHR:

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.¹⁸

Human Trafficking

10. Under Article 5 of the Anti-Trafficking in Persons Order, 2019:

- (1) Any person who recruits, transports, transfers, harbours or receives any person or persons for the purpose of exploitation. . .

is guilty of an offence and liable on conviction to a fine not exceeding [B]\$1,000,000 and not less than [B]\$10,000 in respect of each trafficked person, imprisonment for a term of not less than 4 years but not exceeding 30 years and whipping.¹⁹

11. Further, under Article 6:

¹⁶ *Id.* art. 220.

¹⁷ *Ratification Status for Brunei Darussalam*, OHCHR, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=25&Lang=EN (last visited Oct. 10, 2023).

¹⁸ G.A. Res. 217 (III) A, Universal Declaration of Human Rights, art. 18, (Dec. 10, 1948).

¹⁹ ANTI-TRAFFICKING IN PERSONS ORDER, 2019 art. 5, https://www.agc.gov.bn/AGC%20Images/LAWS/Gazette_PDF/2019/EN/S017.pdf.

Any person who, with the intention of inducing another person to enter into an engagement to provide sexual services, deceives that other person about –

- (a) the fact that the engagement will involve the provision of sexual services;
- (b) the nature of sexual services to be provided;
- (c) the extent to which the person will be free to cease providing sexual services;
- (d) if there is or will be a debt owed or claimed to be owed by the person in connection with the engagement, the *quantum*, or the existence, of the debt owed or claimed to be owed;
- (e) the fact that the engagement will involve debt bondage or the confiscation of the person’s travel documents,

is guilty of an offence and liable on conviction to a fine not exceeding [B]\$1,000,000, imprisonment for a term of not less than 4 years but not exceeding 30 years and whipping with not less than 5 strokes.²⁰

12. Brunei is also a party to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.²¹ Under Article 9 section 1 of this protocol:

1. States Parties shall establish comprehensive policies, programmes and other measures:

- (a) To prevent and combat trafficking in persons; and
- (b) To protect victims of trafficking in persons, especially women and children, from revictimization.²²

13. Moreover, under Article 4 of the UDHR, “[n]o one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.”²³

Religious Persecution

²⁰ *Id.* art. 6.

²¹ *Chapter XVIII Penal Matters: 12. a Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime*, UNITED NATIONS TREATY COLLECTION, https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18&clang=_en (Oct. 18, 2023, 9:15 AM).

²² Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime art. 9, § 1, adopted on Nov. 15, 2000, 2237 U.N.T.S. 319, <https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-prevent-suppress-and-punish-trafficking-persons>.

²³ G.A. Res. 217 (III) A, Universal Declaration of Human Rights, art. 4, *supra* note 18.

14. In Brunei, Christians face persecution from the government as well as from friends and family.²⁴ Christians, particularly those who have converted from Islam, have been reportedly disowned by their own family, had their children taken away from them, forced into marriage, and have been forced to attend Islamic rehabilitation programs.²⁵ Additionally, Christians have been confronted by authorities who have pressured them into renouncing their Christian faith.²⁶ Further, the government monitors all church activity and church leaders are warned not to conduct public outreach.²⁷ There have been reports of police raiding house churches in order to prevent people from worshipping in their homes.²⁸

15. Moreover, the government prohibits public Christian celebrations.²⁹ This ban even includes the public display of religious decorations such as crosses, Christmas trees, and singing religious songs in public.³⁰ The government also controls the importing of Bibles.³¹ In fact, Bibles in the official language of Brunei are illegal and bookstores are prohibited from selling them.³² Further, Christian churches are prohibited from registering as churches and instead have to register as businesses or secular organizations.³³

16. Sadly, things in Brunei have not improved since its last UPR. In fact, Brunei has taken action to further restrict the rights of Christians in the country and legislation has now gone into effect which severely restricts the ability of Christians to freely practice their faith. On April 3, 2019, the Syariah Penal Code Order, 2013, went into full force. It implements harsh punishments for non-Muslims seeking to practice their faith.³⁴ The Prime Minister's office stated the Syariah Code's purpose in the following manner: “‘apart from criminalizing and deterring acts that are against the teachings of Islam, [the penal code] also aims to educate, respect and protect the legitimate rights of all individuals.’”³⁵ However, that statement is inherently contradictory.

17. Syariah Penal Code Order is extremely problematic as it severely restricts the religious freedom of non-Muslims. Under this law, non-Muslims are expressly prohibited from sharing their faith, distributing religious literature, or making critical remarks regarding Islam. The reason that this is problematic is because many religions such as Christianity, call on their adherents to speak publicly and peacefully about their religions so that others may believe. This is an essential element to practicing one's religion and this right is expressly enshrined in Brunei's Constitution, which states that “‘all other religions may be practised in peace and harmony by the persons professing them,’”³⁶ as well as international human rights instruments.

²⁴ *Brunei*, OPEN DOORS UK, <https://www.opendoorsuk.org/persecution/world-watch-list/brunei/> (last visited Oct. 3, 2023).

²⁵ *Id.*

²⁶ *Brunei: Full Country Dossier*, OPEN DOORS (Jan. 2024), https://www.opendoors.org/persecution/reports/Brunei-Full_Country_Dossier-ODI-2024.pdf.

²⁷ *Id.*

²⁸ *Brunei*, OMF, <https://omf.org/us/portfolio-posts/brunei/> (last visited Oct. 18, 2023).

²⁹ *Brunei: Full Country Dossier*, *supra* note 26.

³⁰ *Id.*

³¹ *Brunei*, *supra* note 24.

³² *Brunei*, VOICE OF THE MARTYRS,

https://www.persecution.com/globalprayerguide/brunei/?_source_code=WHPB20C (last visited Feb. 21, 2024).

³³ *Brunei*, *supra* note 24.

³⁴ Dr. Ewelina U. Ochab, *Against the Tide of Humanity – Brunei's New Penal Code*, FORBES (May 13, 2019), <https://www.forbes.com/sites/ewelinaochab/2019/05/13/against-the-tide-of-humanity-bruneis-new-penal-code/?sh=4de9664e2f42>.

³⁵ *Id.*

³⁶ CONSTITUTION OF BRUNEI DARUSSALAM 1959 (rev. 2006) art. 3, *supra* note 12.

18. We are also extremely concerned about Brunei’s blasphemy law, which among other things, criminalizes simply calling into question the teachings of Islam.³⁷ Unfortunately, these types of blasphemy laws are extremely common in Islamic countries³⁸ and have been applied egregiously. Questioning Islam or simply sharing contrary religious beliefs could be seen as blaspheming against Islam. For Christians, this means that professing that Jesus Christ is the only way to achieve salvation could subject them to a blasphemy charge because it could be seen as treating Islam lesser than Christianity.

19. For example, in 2020, an American Christian was arrested after preaching about Jesus Christ on public streets.³⁹ The Christian shared that he

was just talking about who Jesus is and trying to make subtle distinction between the Koran and the Bible without being disrespectful, and tried to make a point about how Jesus is greater and higher than anyone else — that He’s more than a prophet and that He has the ability to set you free and save you and heal you.⁴⁰

He was taken into custody and questioned by the Ministry of Religious Affairs.⁴¹ The Christian man was then later allowed to leave the country but was told that he was never allowed to preach in Brunei again.⁴²

20. In addition to persecution by the government, Christians in Brunei also face societal persecution.⁴³ One Christian girl shared her story of being harassed by her roommates when she went to college: “I was sitting in a corner by myself reading [the Bible], when a few girls approached me asking why I brought a Bible to school. They yelled, ‘Leave that book at home!’ I was so frightened. These were my friends. I had never seen them that angry before.”⁴⁴ She further shared how her roommates forced her to wear a hijab and hide her cross necklace when she was out in public because she would be accused of trying to spread Christianity.⁴⁵

21. Brunei has shown no willingness to change its laws to promote and protect religious freedom. This is demonstrated by the fact that the government failed to support the international community’s recommendations calling for changes in legislation to guarantee religious freedom. In addition to violating Brunei’s own Constitution, Brunei’s laws also violate the UDHR. As a member of the U.N., Brunei is obligated to uphold the provisions of the UDHR and must not violate the universal and fundamental right to freedom of religion.

³⁷ SYARIAH PENAL CODE ORDER, 2013, art. 220, *supra* note 13.

³⁸ Virginia Villa, *Four-in-Ten Countries and Territories Worldwide had Blasphemy Laws in 2019*, PEW RESEARCH CENTER (Jan. 25, 2019), <https://www.pewresearch.org/short-reads/2022/01/25/four-in-ten-countries-and-territories-worldwide-had-blasphemy-laws-in-2019-2/>.

³⁹ Heather Clark, *American Evangelist Preaches Gospel on Streets of Brunei, Muslim Country Governed by Sharia Law*, CHRISTIAN NEWS (Mar. 21, 2020), <https://christiannews.net/2020/03/21/american-evangelist-preaches-gospel-on-streets-of-brunei-muslim-country-governed-by-sharia-law/>.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Brunei*, *supra* note 4.

⁴⁴ *Brunei*, *supra* note 24.

⁴⁵ *Id.*

Human Trafficking

22. Brunei largely serves as a transit and destination country for human trafficking.⁴⁶ Women are particularly vulnerable and targeted by human traffickers who withhold wages, confiscate their passports, and subject them to involuntary servitude and physical abuse.⁴⁷ For example, two Thai women were trafficked from Thailand to Brunei under the impression that they would be making between 100,000 – 200,000 baht a month working as masseuses in Brunei.⁴⁸ However, once they arrived in Brunei, the women's money and passports were taken from them and they were forced to work as prostitutes.⁴⁹

23. Brunei's efforts to combat human trafficking are severely lacking as the government failed to convict any human traffickers between 2017 and 2021.⁵⁰ In 2022, the government only prosecuted two human traffickers and identified fourteen victims of labor trafficking.⁵¹ That same year, the government opened two shelters for victims of human trafficking.⁵²

24. A lack of understanding and training is one of the biggest barriers to effectively combat human trafficking in Brunei. Oftentimes, law enforcement officials are not aware of what constitutes human trafficking, and they lack the ability to identify human trafficking victims.⁵³ Further, victims are often deported or, in some cases, are mistaken as irregular workers and are prosecuted instead of being identified as victims of trafficking.⁵⁴

25. Brunei is failing to uphold its obligations under the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, which requires Brunei, among other things, to prevent and combat human trafficking as well as to protect victims. Brunei's lack of prosecutions coupled with the fact that the government has only opened two shelters for victims since the last UPR, shows that Brunei still has a long way to go to combat human trafficking.

Recommendations

26. Brunei's laws and practices violate its citizens' rights to freedom of religion and speech. It is imperative that Brunei reform its laws to bring them in line with international standards and permit all religious groups openly to practice their faith, including Muslims who may want to change their faith. Christians and other religious groups must be able to practice the tenets of their faith openly and freely without fear of being arrested or fined simply for sharing their faith with others. We also ask that Brunei immediately ratify the ICCPR and begin protecting the rights enshrined in it, particularly those respecting religious freedom.

⁴⁶ *Brunei*, ORGANIZED CRIME INDEX, <https://ocindex.net/country/brunei> (last visited Oct. 18, 2023).

⁴⁷ *Id.*

⁴⁸ Wassayos Ngamkham, *Men Arrested for Trafficking Thais Into Prostitution in Brunei*, BANGKOK POST (Jan. 13, 2021), <https://www.bangkokpost.com/thailand/general/2050427/men-arrested-for-trafficking-thais-into-prostitution-in-brunei>.

⁴⁹ *Id.*

⁵⁰ Carolina Cadena, *The Fight Against Human Trafficking in Brunei*, BORGEN PROJECT.

⁵¹ *Brunei Govt in all Effort in Putting a Stop to Labour Trafficking*, THE STAR (June 17, 2023), <https://www.thestar.com.my/aseanplus/aseanplus-news/2023/06/17/brunei-govt-in-all-effort-in-putting-a-stop-to-labour-trafficking>.

⁵² *Id.*

⁵³ *Brunei*, *supra* note 46.

⁵⁴ *Id.*

27. Additionally, Brunei must increase its efforts to effectively combat human trafficking. While Brunei has passed anti-trafficking legislation since its last UPR, the fact remains that, since 2016, Brunei has only prosecuted two human traffickers. It is imperative that Brunei allocate resources and training to prosecutors and law enforcement personnel so that they are properly equipped to identify victims of human trafficking and ensure the prosecution and conviction of the perpetrators. Further, Brunei must allocate more resources towards victim protection and rehabilitation.