



UNIVERSAL PERIODIC REVIEW SUBMISSION FOR BRUNEI DARUSSALAM

NGO Submission

October 3, 2018

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The Brunei Project

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ABOUT HRF

The Human Rights Foundation (HRF) is a nonpartisan nonprofit organization that promotes and protects human rights globally, with a focus on closed societies. HRF unites people in the common cause of defending human rights and promoting liberal democracy. Our mission is to ensure that freedom is both preserved and promoted around the world.

We focus our work on the founding ideals of the human rights movement, those most purely represented in the 1948 Universal Declaration of Human Rights (UDHR) and the 1976 International Covenant on Civil and Political Rights (ICCPR).

The Human Rights Foundation Center for Law and Democracy (HRF-CLD) is a program of the Human Rights Foundation (HRF). HRF-CLD promotes legal scholarship in the areas of comparative constitutional law and international law, with a focus on international human rights law and international democracy law.

ABOUT THE BRUNEI PROJECT

The Brunei Project is an independent initiative that monitors and raises awareness about human rights issues in Brunei. Founded in May 2015 as a social media-based platform for the promotion of human rights, The Brunei Project actively seeks out opportunities to engage and collaborate with like-minded individuals and organizations within Brunei, throughout Southeast Asia, and around the world. Through our engagement with leading regional and international human rights organizations, we aim to create opportunities for the development of future human rights advocates within Brunei.

INTRODUCTION

This submission was prepared by the Human Rights Foundation (HRF) and The Brunei Project for the Universal Periodic Review (UPR) of Brunei. In this submission, HRF evaluates Brunei's implementation of recommendations made in the previous UPR, sets forth the national human rights framework, and details violations of LGBT+ rights, restrictions on freedom of speech, and restrictions on freedom of religion.

FOLLOW UP TO THE PREVIOUS REVIEW

On September 19, 2014, the Human Rights Council considered and adopted the outcome of the review of Brunei Darussalam at its 25th meeting. After reviewing a total number of 189 recommendations made by member states, the government of Brunei fully accepted 97 recommendations, partly accepted 14 recommendations, and rejected 78 recommendations.ⁱ

Although Brunei accepted a large number of recommendations, it did not accept many of those that suggested Brunei ratify or accede to various international human rights instruments. Of the 32 recommendations Brunei received regarding ratification or accession to international human rights instruments,ⁱⁱ five recommendations were accepted, two were partially accepted, and 25 were not accepted.ⁱⁱⁱ Brunei accepted recommendations concerning ratification of the Optional Protocol to the Convention on the Rights of the Child of Children in Armed Conflict (OP-CRC-AC),^{iv} the Convention on the Rights of the Child (CRC),^v and the Convention on the Rights of Persons with Disabilities (CRPD).^{vi} The CRC had already been ratified by Brunei in 1995 with some reservations^{vii} and, following the HRC's recommendations, Brunei ratified both the OP-CRC-AC and the CRPD in 2016. Despite ratification of the CRPD, Brunei has made little progress toward meeting its obligations to people living with disabilities. There is still no national legislation to protect the rights of persons with disabilities, and it was reported in 2018 that of the 9,282 people in Brunei who are registered as having a disability, only 56 have secured fulltime employment.^{viii}

In response to the recommendations to ratify or accede treaties, Brunei stated that it remains committed to its international obligations, is already a party to the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) and the CRC, and was looking to ratify the CRPD and OP-CRC-AC,^{ix} which, as noted above, Brunei did in 2016. Although Brunei did not accept any of the recommendations for it to ratify or accede to the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT),^x it nevertheless signed the CAT in 2015, but as yet has failed to accede to it.

Most of the other core international human rights instruments have not been acceded to or ratified by Brunei, including the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social, and Cultural Rights (ICESCR),^{xi} the International Convention on the Elimination of All Forms of Racial Discrimination (CERD),^{xii} the Convention for the Protection of All Persons from Enforced Disappearance (CED),^{xiii} and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW).^{xiv}

In the 2014 periodic review, nine member states recommended that Brunei abolish the death penalty or maintain the moratorium on its application with a view to abolishing it.^{xv} Although Brunei has not carried out a death sentence since 1957, the death penalty continues to be applied in some cases. Brunei rejected all nine recommendations on the grounds that the death penalty is still maintained by the country's laws and that abolition is not required by international law.^{xvi}

Some member states also expressed concern about the use of corporal punishment, including against children, and called for its discontinuation.^{xvii} These recommendations were not accepted by Brunei and a number of national laws continue to make corporal punishment in the form of whipping a lawful sentence for males, including for male children between the ages of 8 and 18.¹

The impending full implementation of the Syariah Penal Code will expand the number of offenses punishable by death and corporal punishment. Under the Syariah Penal Code, the consumption of alcohol by any Muslim will be punishable by whipping of up to 80 strokes, while apostasy and consensual sexual activity between unmarried adults will be punishable by either whipping or the death sentence, depending on how guilt is determined.² ^{xviii} In the case of theft, punishment may take the form of the amputation of limbs,^{xix} and those found guilty of adultery or sexual intercourse between two males may be punished with death by stoning or a combination of whipping and imprisonment.^{xx}

The expanded list of offenses punishable by death under the Syariah Penal Code does not meet the threshold of "most serious crimes" as determined by international law. Additionally, corporal punishment in the form of whipping and the amputation of limbs constitute acts of torture,^{xxi} as does stoning to death. This puts Brunei in violation of its obligations as a signatory to the CAT.

Many member states recommended revisions to, or the postponement of, the Syariah Penal Code to ensure its compliance with international human rights standards, particularly in

¹ For example, Section 257(1) of the Criminal Procedure Code allows whipping of up to 18 strokes for youthful offenders. Section 2 of the Criminal Procedure Code defines a youthful offender as aged between 8 and 17. Section 258 states that whipping shall not be carried out on females, males sentenced to death and males over the age of 50.

² For offenses carrying the death penalty under the Syariah Penal Code, the offense must be confessed by the accused or have been witnessed by between two and four witnesses (depending on the offense) in order for the punishment to be carried out. If guilt is determined by some other means, the punishment will usually involve a combination of whippings and imprisonment.

relation to corporal punishment and the death penalty.^{xxii} Although further implementation of the Syariah Penal Code has been delayed, the Brunei government announced in March 2018 that it is moving toward implementation of the next phase.^{xxiii} There has been no indication from the Brunei Government that recommendations to revise the Syariah Penal Code have been considered, with the government having stated that provisions toward a number of Standard Operating Procedures have already been provided by various departments and agencies, including in relation to whipping, death sentences, and amputations.^{xxiv}

The 78 recommendations that Brunei rejected in the 2014 UPR were not accepted on the grounds that they may be contrary to the constitution of Brunei Darussalam, the official religion of Brunei, and/or its national legislation.^{xxv}

BRUNEI'S NATIONAL FRAMEWORK FOR PROTECTING HUMAN RIGHTS

The constitution of Brunei Darussalam does not contain a sufficient framework for protecting the human rights of its citizens, except for their religious freedom, which states:

Article 3

1. The official religion of Brunei Darussalam shall be the Islamic Religion: Provided that all other religions may be practiced in peace and harmony by the persons professing them.

Other than protection for religious freedom, the constitution does not contain any articles that safeguard the protection of other individual rights, such as the rights to expression, free association, and a fair trial.

In its 2018 report, Freedom House categorizes Brunei as “not free,” and gives it low ratings on political rights and civil liberties. As Brunei is ruled by an absolute monarchy, political competition does not exist in the country, and independent civil society groups cannot operate freely within its borders.

HRF categorizes Brunei as a fully authoritarian regime. A State of Emergency first declared in 1962 is still in effect, granting the Sultan virtually unlimited executive powers, with no end in sight. The Sultan's powers also extend to legislative and judicial bodies. Its political structure does not allow citizens to participate in the government of their country, and places additional limitations on minority ethnic and religious groups. The Sultan appoints all judges, which

leaves no room for judicial independence. Meanwhile, all national-level legislative, ministerial, and advisory positions are appointed by the Sultan. Brunei has not held direct, national legislative elections since 1962. Some local level officials are elected, but all candidates are pre-approved by government officials based on vague and subjective criteria. Village chiefs are required to be male and to have knowledge of Islam, while subdistrict chiefs must be male, Malay, and profess Muslim faith, requirements that bar other genders, faiths, and ethnicities from public office. There are no true opposition parties in Brunei, and any future parties will have to seek government approval for registration. Even if an opposition party existed, it would not be able to seek power through an election.

Additionally, Brunei has several laws and practices that contravene the civil and political rights of the Bruneian people. The Internal Security Act of 1982 allows authorities to arrest and detain suspects without trial for renewable, two-year periods, and does not offer the detainees the presumption of innocence. The country's Sedition Act criminalizes criticizing the Sultan, the royal family, or the Malay Islamic Monarchy philosophy, and the Newspapers Act allows the government to revoke permits and shutter newspapers on a whim, and to levy fines and multi-year prison sentences for the publication of false news and "incorrect particulars."^{xxvi} Additional permit systems greatly limit the freedoms of assembly and association. Bruneians must apply for a permit for all gatherings of 10 or more people, and nonprofit and nongovernmental organizations must be registered to operate.

During the previous UPR cycle, Brunei did not accept recommendations to repeal the state of emergency, Sedition Act, Newspaper Act, and Internal Security Act. These rights violations persist today.

VIOLATION OF LGBT+ RIGHTS

As part of Brunei's 2014 UPR, the Brunei Government received five recommendations relating to the decriminalization of homosexuality and the enhancement of LGBT+ rights.^{xxvii} None of the five recommendations were accepted and homosexuality remains a criminal offense that is punishable by up to 10 years imprisonment under section 377 of the Penal Code.^{xxviii} The Government of Brunei did not explicitly state its reasons for not accepting the recommendations to decriminalize homosexuality, instead choosing to highlight its commitment to gender equality and stating that the laws of Brunei Darussalam apply to everyone without discrimination.^{xxix}

The implementation of the first phase of the Syariah Penal Code in May 2013 made cross-dressing an offense under Brunei law. Offenses under phase one of the Syariah Penal Code are punishable with fines, imprisonment, or both. In March 2015, Roslani Hj Metasan was fined \$1,000 after pleading guilty to crossdressing in a public place.^{xxx} Failure to pay the fine would

have resulted in a 60 day jail term.^{xxxii} In August 2016, a second, unnamed person was reportedly arrested and charged for the same offense under Section 198 (1) of the Syariah Penal Code.^{xxxii} The maximum penalty under Section 198 (1) of the Syariah Penal Code is a \$1,000 fine and three months imprisonment, while the charge of crossdressing in public with “immoral purposes” is punishable by a fine of up to \$4,000, imprisonment of up to one year, or both under Section 198 (2).^{xxxiii}

The proposed implementation of phases two and three of the Syariah Penal Code in their current form will see the rights of LGBT+ persons in Brunei violated even further. Phase two will include corporal punishment for certain offenses, while phase three will implement the death penalty. These punishments will apply to “offenses” like consensual sexual relations between adults of the same gender. Section 92 of the Syariah Penal Code will make sexual acts between two women punishable with a fine of up to \$40,000, imprisonment of up to 10 years, whipping of up to 40 strokes, or a combination of any two of these punishments.^{xxxiv} Under Section 82 of the Syariah Penal Code, sexual intercourse between two consenting adult men will be an offense punishable by up to 100 strokes, up to seven years in prison, or death by stoning, depending on how the guilt of the accused is determined.^{xxxv}

Brunei has been a signatory to the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT) since September 22, 2015. As defined by Article 1 of the CAT, the use of whipping and stoning to death as punishment constitutes an act of torture, and yet Brunei intends to employ these for victimless crimes. Brunei already prescribes whipping as punishment for a number of offenses, and if the country proceeds with implementing the current form of the Syariah Penal Code, it will be in further violation of its obligations under the CAT.

RESTRICTIONS ON FREEDOM OF SPEECH

Brunei does not have sufficient legal safeguards to ensure its citizens’ freedom of speech. In some cases, Brunei’s government has used the Sedition Act to target dissidents in the country. Under the Act, it is unlawful to “bring into hatred or contempt or to excite disaffection” against the Sultan and his government. This law falls under the category of incitement law and violates international standards on freedom of speech. Incitement laws in authoritarian or dictatorial regimes tend to be brief, overbroad, and vaguely worded, without illustrations or explanations of broad umbrella terms. These characteristics allow the laws to be abused by those in power to silence free speech. In authoritarian states, such laws are often arbitrarily defined to fit the prosecution’s agenda.

In a recent case in 2017, Shahiransheriffuddin bin Shahrani Muhammad was charged under Section 4(1)(c) of the Sedition Act, an article that relates to distributing seditious publication.

Shahrani was charged after he published a Facebook post that criticized the new Halal certification regulation released by the Ministry of Religious Affairs. Shahrani stated that the new regulation harmed small, home-based businesses. He pled “not guilty” and was allowed to post bail, and now faces a fine of up to \$5,000 and two years’ imprisonment. Shortly after he posted bail, a group of men forced Shahrani to go to the Enforcement Unit of the Ministry, where he was further charged with “insulting a member of the Muslim Council” and for “questioning the rulings of the Muslim Council” under the Syariah Penal Code. He was questioned for over two days without legal counsel, and was not provided a copy of the charges levied against him. He faces 11 years in prison and a fine of \$15,000 to \$25,000 under the Syariah charges. The Syariah proceedings will initiate after his sentencing hearing for sedition charges on October 25, 2018.

According to HRF’s legal analysis of the ICCPR and the Human Rights Committee’s previous general comments, incitement laws must pass the scrutiny of a six-prong test in order to comply with international legal norms. The test requires (1) that the law not be overbroad; (2) that the law protects the right of others, or acts in interest of national security, public order, or public health or morals; (3) that the restriction on expression is necessary; (4) that the restriction is proportionate to the interest being protected; (5) that there be the existence of the intent to incite discrimination, hostility, or violence; and (6) that there be causation between the expression and threat. In Shahrani’s case, the six-prong test is not satisfied. The Sedition Act contains overbroad language,³ and there was no legitimate ground to charge Shahrani, as his statement was a personal opinion that did not pose an immediate threat to others. The only reason Shahrani was arrested and charged was because he criticized government policy on a public platform.

Shahrani’s case is emblematic of how the Bruneian government manipulates the Sedition Act, a speech restrictive legislation, to impede freedom of expression and quash dissent. While Brunei is not a signatory to the ICCPR, as a member state of the U.N., it is nevertheless bound to respect freedom of expression as stated in Article 19 of the Universal Declaration of Human Rights.

Additionally, the fact that Shahrani’s case stemmed from a Facebook post is alarming. In nearby countries like Malaysia, Thailand, and Vietnam, there has been increased criminal prosecution of cases based on individual Facebook posts. In many cases, the defendant criticized government policies or public officials on Facebook, and was then arrested and prosecuted under a variety of vaguely worded criminal articles, charged with “defamation” and “incitement.” This practice violates the ICCPR and the UDHR, and instills fear in citizens to self-censor. Shahrani’s case suggests that the government of Brunei is following this trend and is surveilling personal opinions posted on popular online public forums such as Facebook.

³ Section 4(1)(c) of the Sedition Act states that “Any person who prints, publishes, sells, offers for sale, distributes or reproduces any seditious publication is guilty of an offence.” “Seditious intention” is defined under Section 3(1) as “to bring into hatred or contempt or to excite disaffection against the . . . government,” “to excite the inhabitants of Brunei Darussalam to attempt to procure the alteration,” “to bring into hatred or contempt or to excite disaffection against the administration of justice,” and “to raise discontent or disaffection amongst the inhabitants of Brunei Darussalam,” amongst other definitions.

RESTRICTIONS ON FREEDOM OF RELIGION

The official religion in Brunei is the Shafi'i school of Sunni Islam^{xxxvi} and the national philosophy in Brunei, as referenced earlier in this submission, is Melayu Islam Beraja or the Malay Islamic Monarchy, an ideology proclaiming "Islam as the state religion and monarchical rule as the sole form of government to uphold the rights and privileges of the Brunei Malay race."^{xxxvii} There is a supreme council that ensures that the Malay Islamic Monarchy philosophy is enforced in the government's legislation and policies, and the philosophy is a compulsory school subject. There is also the Religious Enforcement Division under the Ministry of Religious Affairs, which is the main government body that deals with investigations pertaining to religious issues. This division has jurisdiction over crimes falling under the 2013 Syariah Penal Code Order^{xxxviii} as well as other Syariah-related laws. The Syariah Penal Code is applicable to both Muslims and non-Muslims (with certain exceptions). According to Freedom House, civil and criminal law are based on the English common law system and are enforced in secular courts, while Syariah law is enforced in Syariah courts. Cases that relate to both civil and Syariah law are investigated by the Royal Brunei Police Force.

In May 2014, the first phase of the Syariah Penal Code came into force. As noted in the U.S. Department of States' 2017 Human Rights report for Brunei,^{xxxix} acts such as propagating religions other than Islam, eating in public during the fasting hours of Ramadan, drinking alcohol, and cross-dressing are now punishable by fines or imprisonment. For example, under Article 209 (1) of the Syariah Penal Code, anyone who proselytizes a religion other than Islam "to a Muslim or a person having no religion is guilty of an offense and shall be liable on conviction to a fine not exceeding \$20,000, imprisonment for a term not exceeding 5 years, or both." Pregnancies out of wedlock and failure to attend mandatory Friday prayers also are punishable under phase one of the Syariah Penal Code,^{xl} as is "indecent behavior,"^{xli} which is broadly defined as an act that is deemed 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." As it relates to indecent behavior, Article 197 (1) states that "any person who commits an act of indecent behaviour in any public place is guilty of an offense and shall be liable on conviction to a fine not exceeding \$2,000, imprisonment for a term not exceeding 6 months or both," while Article 197(2) states that "any person who organises, persuades or encourages any other person to commit any act of indecent behaviour is guilty of an offense and shall be liable on conviction to a fine not exceeding \$8,000, imprisonment for a term not exceeding 2 years or both."

The second and third phases of the Syariah Penal Code have not yet been implemented, but according to the 2017 International Religious Freedom report for Brunei,^{xlii} it is anticipated that

they will include harsher and more severe punishments, including amputations for stealing (phase two); stoning to death for adultery, sodomy, and rape (phase three); and execution for apostasy, contempt of the Prophet Muhammad, or insult of the Quran (phase three). As mentioned in an earlier section of this submission, as of March 2018, Brunei's government is making moves to approve and implement the second phase of the Syariah Penal Code, following the approval of a draft on the Criminal Procedures Code on Syariah.^{xliii}

In Brunei, there are bans on religious groups that have been considered deviant by the government as noted in the United States State Department's 2017 Religious Freedom Report. Among these religious groups are the Ahmadiyya Muslim Community, the Bahai faith, and the Jehovah's Witnesses. The list of "deviant" religious groups is based on fatwas that have been issued by either the state mufti or the Islamic Religious Council which is "the sultan's highest authority on matters on Islam."^{xliv}

The education system in Brunei has been used to promote the state religion and national philosophy. The Ugama religious education curriculum is administered by the Ministry of Religious Affairs. According to the 2017 Religious Freedom report, Muslim parents can be fined up to \$3,700, imprisonment for up to a year, or both if they do not enroll their children in ugama schools. These schools promulgate "the officially recognized Shafi'i school" and do "not make accommodations for Muslims who have non-Shafi'i beliefs." Additionally, "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."^{xlv} Official permission needs to be granted in order to teach anything related to Islam, although in private settings, such as churches and religious schools, teachers are allowed to teach non-Shafi'i education.

The Ministry of Religious Affairs also distributes the text that is to be used by registered imams in mosques during Friday sermons. Furthermore, the government of Brunei has banned the import of non-Islamic religious literature, and there is a censorship board that screens Islamic literature for content that is contrary to the Shafi'i school of Islam.

Overall, despite a clause in Brunei's constitution protecting the freedom of religion, there are extensive restrictions on the freedom of religion in Brunei's legal system. The Syariah Penal Code makes it difficult and dangerous for citizens of Brunei to practice a religion other than Islam, and specifically the state-sanctioned Shafi'i school of Sunni Islam.

RECOMMENDATIONS

HRF and The Brunei Project call on the Brunei government to:

1. Amend the constitution to create protections for individual freedoms other than freedom of religion, including freedom of expression, freedom of movement, and freedom of association.
2. Decriminalize homosexuality, cross-dressing, and other “offenses” used to target the LGBT+ community.
3. Amend the Sedition Act to better define overbroad and vague articles.
4. Drop all charges against Shahiransheriffuddin bin Shahrani Muhammad.
5. Extend invitation to and/or respond to requests for visits from various special rapporteurs.
6. Ratify or accede to the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social, and Cultural Rights (ICESCR), the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention for the Protection of All Persons from Enforced Disappearance (CED), and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW).
7. Delay or pause the implementation of the Syariah Penal Code and conduct an official review to ensure its compliance with international legal standards.

ⁱHuman Rights Council, *Report of the Human Rights Council on its Twenty-Seventh Session*, A/HRC/27/2, December 22, 2014, para 641.

ⁱⁱHuman Rights Council, *Report of the Working Group on the Universal Periodic Review - Brunei Darussalam*, A/HRC/27/11, recommendations 113.1-113.21 (Argentina, Kazakhstan, Ghana, Germany, Algeria, Spain, Japan, Romania, Egypt, Tunisia, Australia, Czech Republic, Djibouti, France, Portugal, Sierra Leone, Sweden, Portugal, Uruguay, Slovenia, Italy), 11.28-38 (Burkina Faso, Sierra Leone, India, Republic of Korea, Indonesia, Argentina, Armenia, Philippines, Uruguay, Uruguay, Philippines).

ⁱⁱⁱHuman Rights Council, *Report of the Working Group on the Universal Periodic Review - Brunei Darussalam (Addendum)*, A/HRC/27/11/Add.1.

^{iv}A/HRC/27/11, recommendation 113.28 (Burkina Faso).

^vIbid, recommendation 113.29 (Sierra Leone).

^{vi}Ibid, recommendations 113.30-113.32 (India, Republic of Korea, Indonesia).

^{vii}Upon acceding to the CRC, the Government of Brunei Darussalam expressed its reservations on articles 14, 20 and 21. In August 2015, the Government partially withdrew its reservations to articles 20(1), 20(2) and 21(a).

^{viii}*The Scoop*, March 26, 2018. <http://thescoop.co/2018/03/26/disability-rights-activists-equal-opportunity-employment/>

^{ix}A/HRC/27/11/Add.1.

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- ^xA/HRC/27/11, recommendations 113.10-113.17 (Tunisia, Australia, Czech Republic, Djibouti, France, Portugal, Sierra Leone, Sweden).
- ^{xi}Ibid, recommendations 113.3-113.17 (Ghana, Germany, Algeria, Spain, Japan, Romania, Egypt, Tunisia, Australia, Czech Republic, Djibouti, France, Portugal, Sierra Leone, Sweden).
- ^{xii}Ibid, recommendations 113.10 (Tunisia), 113.14-115.15 (France, Portugal).
- ^{xiii}Ibid, recommendation 113.33 (Argentina).
- ^{xiv}Ibid, recommendation 113.38 (Philippines).
- ^{xv}Ibid, recommendations 113.18 (Portugal), 113.58 (Ireland), 113.61 (Netherlands), 113.126-113.130 (France, Australia, Czech Republic, Germany, Montenegro), 113.132 (Sweden).
- ^{xvi}A/HRC/27/11/Add.1.
- ^{xvii}A/HRC/27/11. Recommendations 113.41 (Montenegro), 113.136-113.137 (Uruguay, Costa Rica).
- ^{xviii}Syariah Penal Code Order, 2013, Sections 92, 104, 112-113.
- ^{xix}Ibid, Section 55.
- ^{xx}Ibid, Sections 69-85.
- ^{xxi}Article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) defines torture as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.” See: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx>
- ^{xxii}A/HRC/27/11, recommendations 113.56 (Czech Republic), 113.58 (Ireland), 113.60-113.61 Italy, Netherlands), 113.63-113.68 (Sweden, United Kingdom of Great Britain and Northern Ireland, Australia, Spain, Canada).
- ^{xxiii}*Borneo Bulletin*, March 11, 2018. <https://borneobulletin.com.bn/next-phase-of-syariah-penal-code-underway/>
- ^{xxiv}Ibid.
- ^{xxv}A/HRC/27/11/Add.1, para 3.
- ^{xxvi}Newspapers Act: <http://www.commonlii.org/bn/legis/na105211/>
- ^{xxvii}A/HRC/27/11, recommendations 113.56 (Czech Republic), 113.69-72 (Netherlands, Spain, Canada, France).
- ^{xxviii}Penal Code, revised edition 2001, section 377.
- ^{xxix}A/HRC/27/11/Add.1.
- ^{xxx}*The Brunei Times*, March 11, 2015. <https://btarchive.org/news/national/2015/03/11/bruneian-civil-servant-fined-1-000-cross-dressing>
- ^{xxxi}Ibid.
- ^{xxxii}BruDirect.com, August 16, 2016. <http://www.bruirect.com/news.php?id=11708>
- ^{xxxiii}Syariah Penal Code Order, 2013, Section 198, Articles 1 and 2.
- ^{xxxiv}Ibid, Section 92.
- ^{xxxv}Ibid, Section 82.
- ^{xxxvi}See Freedom House, Freedom in the World 2016: Brunei (2016), <https://freedomhouse.org/report/freedom-world/2016/brunei> (last visited September 27, 2018).
- ^{xxxvii}See US Department of State Brunei 2017 Human Rights Report, <https://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper> (last visited September 27, 2018).
- ^{xxxviii}See Syariah Penal Code Order, 2013, http://www.agc.gov.bn/AGC%20Images/LAWS/Gazette_PDF/2013/EN/s069.pdf (last visited September 27, 2018).
- ^{xxxix}See US Department of State Brunei 2017 Human Rights Report.
- ^{xl}See Bill Orzanick, The Implications of Brunei’s Sharia Law (2015), <https://thediplomat.com/2015/05/the-implications-of-bruneis-sharia-law/> (last visited September 27, 2018).
- ^{xli}See Syariah Penal Code Order, 2013.
- ^{xlii}See Brunei 2017 International Religious Freedom Report, <https://bn.usembassy.gov/wp-content/uploads/sites/196/IRF-report-2017-Brunei.pdf> (last visited September 27, 2018).
- ^{xliii}See Rokia Mahmud, Next phase of Syariah penal code underway, <https://borneobulletin.com.bn/next-phase-of-syariah-penal-code-underway/> (last visited September 27, 2018).
- ^{xliv}See Brunei 2017 International Religious Freedom Report.
- ^{xlvi}Ibid.