

BRUNEI DARUSSALAM

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Part 1: Overview of Brunei Darussalam

A. Country Background

Brunei Darussalam Facts	
Geographical size	5,765 sq km ¹
Population	423,196 ²
Ethnic breakdown ³	Main ethnic groups: Malay – 66% Chinese – 10.1% Other (includes indigenous groups, e.g. Dusun, Belait, Kedayan, Murut, and Bisaya, and Iban (or Sea Dayak)) – 23.9%
Official language	Malay
Literacy rate (aged 15 and above)	96.4% ⁴
Life expectancy	77.07 ⁵
GDP	US\$11.4 billion (per capita US\$26,938) ⁶
Government	Absolute monarchy with a constitution; unitary and Islamic state
Political and social situation	Governed by the Constitution and Melayu Islam Beraja (MIB) which emphasises the Malay language, Islam, and the monarchy. His Majesty Sultan Haji Hassanal Bolkiah Mu'izzaddin Waddaulah is head of state, holding full executive powers. Officially adopted Islamic Sharia law in 2014. No elections held since 1962 when a state of emergency was declared.

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¹ 'Country facts' Permanent Mission of Brunei Darussalam to the United Nations, available at <https://www.un.int/brunei/brunei/country-facts>, accessed on 21 July 2017.

² Data from 2016. 'Brunei Darussalam' The World Bank, available at <https://data.worldbank.org/country/brunei-darussalam>, accessed on 21 July 2017.

³ Data from 2016. 'Population' Economic Planning and Development, Prime Minister's Office, available at <http://www.depd.gov.bn/SitePages/Population.aspx>, accessed on 22 July 2017.

⁴ Data from 2015. 'Brunei Darussalam' United Nations Development Program (UNDP), Human Development Reports, available at <http://hdr.undp.org/en/countries/profiles/BRN>, accessed on 22 July 2017.

⁵ Data from 2015. The World Bank (see note 2 above).

⁶ Data from 2016. The World Bank (see note 2 above).

Brunei Darussalam is a small, independent sultanate separated into two parts by Malaysia. The country's official name is Negara Brunei Darussalam which translates as State of Brunei, the Abode of Peace. Sharing a 266km border with Malaysia, Brunei lies on the northwest coast of Borneo island where it faces the South China Sea. With a land area of 5,765km² and a coastline of 161km, it shares a common border with Sarawak, an east Malaysian state which divides the country into two – Temburong district in the east, and Brunei-Muara, Tutong and Belait districts to the west.

Brunei Darussalam has a population of 423,196 people.⁷ Official statistics report 66% of the population to be Malay, 10% to be Chinese, while 24% are designated as 'Other'.⁸ The official language of the country is Malay as laid out in the Melayu Islamic Beraja or Malay Islamic Monarchy (MIB) philosophy. Other languages spoken include English and Chinese.

Brunei is a government-sector driven economy; the petroleum industry currently makes up close to 67% of its gross domestic product, representing close to 90% of the government's revenues and accounting for 96% of its national exports.⁹

Brunei Darussalam ranks 30 on the United Nations Development Programme (UNDP) Human Development Index (HDI). Between 1990 and 2015, its HDI value increased from 0.782 to 0.865, an increase of 10.6%.¹⁰ The country's ranking is based on a strong welfare system which provides free healthcare, subsidised housing, and a minimum of 12 years of compulsory education to its citizens. Public universities in the country are also free and students are paid a monthly allowance throughout the duration of their studies.¹¹ In addition, citizens of Brunei Darussalam do not pay any income tax to the government.

System of governance

Brunei Darussalam is an absolute monarchy albeit with a constitution.¹² Succeeding his father in 1967, His Majesty Sultan Haji Hassanal Bolkiah Mu'izzaddin Waddaulah is head of state and government, and concurrently, the Prime Minister, Defence Minister,

⁷ 72% of the population resides in Brunei Muara, 11% in Tutong, 15% in Belait, and 2% in Temburong. See, 'Brunei at a glance: Fast facts' in Borneo Bulletin Yearbook 2016, Brunei: Brunei Press Sdn Bhd, 2016, available at <http://2016.borneobulletinyearbook.com.bn/files/assets/basic-html/page-42.html>, accessed on 1 September 2017, at 42.

⁸ Borneo Bulletin (see note 7 above).

⁹ 'Economic diversification' in Borneo Bulletin Yearbook 2016, Brunei: Brunei Press Sdn Bhd, 2016, available at <http://2016.borneobulletinyearbook.com.bn/files/assets/basic-html/page-34.html>, accessed on 1 September 2017, at 34.

¹⁰ 'Briefing note for countries on the 2016 Human Development Report: Brunei Darussalam' UNDP, available at http://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/es/BRN.pdf, accessed on 1 September 2017.

¹¹ 'Higher education' in Borneo Bulletin Yearbook 2016, Brunei: Brunei Press Sdn Bhd, 2016, available at <http://2016.borneobulletinyearbook.com.bn/files/assets/basic-html/page-163.html>, accessed on 1 September 2017, at 163.

¹² However, Art 4(1) of the Constitution vests executive authority to the Sultan.

Finance Minister, and the Minister of Foreign Affairs and Trade. He also presides over the Council of Ministers. His Majesty is assisted by the Privy Council (whose members he appoints under Art 4(2) of the Constitution), the Council of Succession, the Religious Council, and the Legislative Council.

Political and social situation

Since 1984, Brunei Darussalam has adopted the three pillars of MIB philosophy as its foundation, consisting of: (1) the Malay language, (2) Islam, and (3) loyalty to the institution of absolute monarchy. MIB philosophy, including its culture and customs, Islamic laws and values, and the traditions of monarchy are protected by the Constitution¹³ and must be respected and practiced by all.

In 2014, Brunei became the first East Asian country to officially adopt Islamic Sharia law, introducing punishments such as stoning for adultery, amputation for theft, and flogging for the consumption of alcohol. The first phase of Sharia law was enforced on 1 May 2014 but the second and third phases have yet to be imposed. As a result, international rights groups such as Human Rights Watch and Amnesty International have condemned the move as a step backwards for human rights in the country.

B. International Human Rights Commitments and Obligations

Brunei Darussalam has accepted neither individual complaints mechanisms nor the inquiry procedures related to any of the conventions. It has yet to even ratify the Convention against Torture and Other Cruel Inhuman or Degrading Punishment. For the treaties it has ratified, the country holds reservations to any provisions deemed contrary to the Constitution or to the beliefs and principles of Islam.

¹³ Article 3(1) of the Constitution enshrines Islam as the official religion of the country. Article 4 vests executive authority in the Sultan. Article 82(1) declares Malay to be the official language of Brunei Darussalam.

Table 1: Ratification Status of International Instruments – Brunei¹⁴

Treaty	Signature Date	Ratification Date, Accession (a), Succession (d) Date
Convention against Torture and Other Cruel Inhuman or Degrading Punishment (CAT)	22 Sep 2015	
Optional Protocol of the Convention against Torture		
International Covenant on Civil and Political Rights (ICCPR)		
Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to the abolition of the death penalty		
Convention for the Protection of All Persons from Enforced Disappearance (CED)		
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)		24 May 2006 (a)
International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)		
International Covenant on Economic, Social and Cultural Rights (ICESCR)		
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW)		
Convention on the Rights of the Child (CRC)		27 Dec 1995 (a)
Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict		17 May 2016 (a)
Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography		21 Nov 2006 (a)
Convention on the Rights of Persons with Disabilities (CRPD)	18 Dec 2007	11 Apr 2016

¹⁴ 'Ratification status for Brunei Darussalam' United Nations Office of the High Commissioner on Human Rights, available at http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx, accessed on 25 August 2017.

CEDAW: Brunei Darussalam maintains its reservations regarding Art 9(2) on the nationality of children and Art 29(1) on disputes between State Parties.¹⁵ Under the Brunei Nationality Act, only fathers can confer nationality to their children, thus discriminating against the rights of women.

CRC: the government has attached reservations to Art 14 on freedom of thought, conscience, and religion, Art 20(3) on alternative care for children, and Arts 21(b) to 21(e) on inter-country adoption.¹⁶ However, in its national report presented to the Human Rights Council (HRC) for the Universal Periodic Review (UPR) of 2014, the country withdrew its reservations to Arts 20(1) and (2) relating to the protection of children without families, as well as Art 21(a) pertaining to adoption.

CRPD: although no reservations have been attached to specific articles, a blanket reservation covers any provisions contradicting either the Constitution or the Islamic religion.¹⁷

Brunei Darussalam has submitted two national reports to the HRC for its UPR, the first in 2009, and the second in 2014. The country accepted 33 recommendations and submitted responses to 25 others at the 13th Session of the HRC on 19 March 2010. The 2014 National Report notes that human rights achievements in the country have occurred through inter-agency consultative mechanisms in co-operation with non-governmental organisations.¹⁸

Although human rights are not covered by specific legislation, laws have been passed for the protection of the rights of citizens such as the Adoption of Children Act, the Births and Death Registration Act, the Brunei Nationality Act, the Child Care Centre Act, the Children and Young Persons Act, the Compulsory Education Act, the Criminal Procedure Code, the Education Act, the Employment Order, the Geneva and

¹⁵ Article 9(2) of CEDAW states Parties shall grant women equal rights with men as regards the nationality of their children. Article 29(1) maintains any disputes between Parties not settled by negotiation shall, at the request of one of them, be submitted to arbitration or failing that, the International Court of Justice. See, 'Declarations, reservations and objections to CEDAW' UN Women, available at <http://www.un.org/womenwatch/daw/cedaw/reservations-country.htm>, accessed on 10 October 2017.

¹⁶ Articles 14(2) and 14(3) also urge Parties to respect the rights and duties of parents in this matter but limits the freedom to those prescribed by law and which are necessary to protect public safety, order, health/morals, or the rights of others; Art 20(3) deals with a child's alternative care if its parents/guardians are unable to look after him or her; and Arts 21(b)-(e) ensure that the safeguards/standards of inter-country adoption are equivalent to those existing in national adoptions, that measures will be taken to ensure no one gains financially from the adoption, and that agreements may be made to ensure the adoption is carried out competently.

¹⁷ 'Declarations and reservations: Brunei Darussalam' United Nations Treaty Collection, available at https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-15&chapter=4&lang=en#EndDec, accessed on 10 October 2017.

¹⁸ 'National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21: Brunei Darussalam' United Nations General Assembly (UNGA), HRC, 30 January 2014, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/106/65/PDF/G1410665.pdf?OpenElement>, accessed on 10 October 2017.

Red Cross Act, the Geneva Convention Order, the Guardianship of Infants Act, the Immigration Act, Islamic Family Law, the Marriage Act, the Married Women Act, the Mental Health Order, the National Registration Act, the Offenders Act, the Old Age and Disability Pensions Act, the Penal Code, the Pensions Act, the Retirement Age Order, the Unlawful Carnal Knowledge Act, and the Workplace Health and Safety Act. Further, in its second report to the HRC, Brunei Darussalam claimed the enactment of Sharia law was “aimed at providing basic human rights.”¹⁹

Part 2: Outstanding Human Rights Issues

A. National Laws Threatening Human Rights

Sharia law

Brunei Darussalam became the first country in Southeast Asia to adopt Sharia law in 2014 when the Sultan declared, “Theory states that Allah’s law is cruel and unfair but Allah himself has said that his law is indeed fair.”²⁰ As per the announcements, this law will be implemented in three phases through the Sharia Penal Code²¹ with the first phase taking effect on 1 May 2014.²²

Among the punishable sections in the first phase, ss.94(1) and (2) cover Muslim women giving birth out of wedlock, and Muslim women giving birth to a fully-developed child within a period of less than six months from the date of their marriage. In both cases, women would be subject to a fine up to BN\$8000 and imprisonment depending on the offender’s age. Any man impregnating a woman out of wedlock would also be guilty of an offence and both may be fined up to BN\$8000 and a maximum of two years’ imprisonment under s.94(5).

Although the second and third phases have not yet been implemented, punishments for certain offences have already been laid out in the Sharia Penal Code. Thus, penalties for proven offences related to ‘sariqah’ or stealing under s.55, range from amputation of the right hand from the wrist joint for a first offence, amputation of the left foot up to the ankle for a second offence, and imprisonment for a term not exceeding 15 years for a third or subsequent offence. Proven offences under ‘hirabah’ or taking another person’s property by force or threat under s.65 or attempting such an act will be punishable by a maximum of 15 years’ imprisonment and whipping (not to exceed 30 strokes). Similarly,

¹⁹ UNGA HRC (see note 18 above), at 3.

²⁰ ‘Sultan of Brunei unveils strict Sharia penal code’ The Guardian, 30 April 2014, available at <http://www.theguardian.com/world/2014/apr/30/sultan-brunei-sharia-penal-code-flogging-death-stoning>, accessed on 4 September 2017.

²¹ Sharia Penal Code 2013, available at http://www.agc.gov.bn/AGC%20Images/LAWS/Gazette_PDF/2013/EN/s069.pdf, accessed on 3 September 2017.

²² Parts I-III, s.94, ss.184-185, ss.189-205, and ss.207-220. Sections 228-253, s.254 (except references to ss.172, 194, and 195 of the Religious Council and the Kadis Courts Act (Ch 77)) were also enforced.

a person guilty of abetting hirabah may be imprisoned for a term not exceeding 30 years and whipping (not to exceed 40 strokes). In addition, under s.68, proven offences of 'zina' (a man and a woman engaging in sexual intercourse out of wedlock) may be punishable by stoning to death as witnessed by a group of Muslims. Underage Muslims guilty of the same offence may be punished by whipping (100 strokes) as witnessed by a group of Muslims and a year in prison. In addition, Muslims guilty of drinking liquor or intoxicating drinks may be punished by whipping (40 strokes for a first offence, 80 strokes for the second, and 80 strokes and imprisonment for a term not to exceed 2 years for a third or subsequent offence) under s.104. Moreover, non-Muslims may also be subject to the same punishments under conditions laid out in the Code.

In an open letter to the Sultan, the International Commission of Jurists (ICJ) stressed that Sharia Penal Code Order 2013 was explicitly incompatible with international human rights law and standards. Viewing its adoption as a regression, it stated that:

*if implemented, the code would lead to serious human rights violations by reintroducing the death penalty and imposing other cruel and inhuman punishments including stoning [...] for conduct that should not even be considered criminal.*²³

Death penalty

Prior to the adoption of the Sharia Penal Code, the Criminal Procedure Code also prescribed the death penalty as punishment for certain crimes such as murder, offences resulting in death, terrorism-related charges, and treason to name but a few. But as noted by the ICJ, the last time Brunei actually implemented it was as far back as 1957.²⁴ With the introduction of the Sharia Penal Code, more offences would be liable to the death penalty including denouncing Islam as a religion and homosexual acts, thus reversing what many considered a de facto abolition of the practice.

Sedition Act

In Brunei Darussalam, the Sedition Act²⁵ applies to all materials with the intent of inciting dissatisfaction towards the monarch, the royal family, religion, the laws of the land, and the administration of justice. All offences under the Act are punishable – the

²³ 'Brunei: New penal code a blueprint for human rights violations' International Commission of Jurists, 27 January 2014, available at <https://www.icj.org/brunei-new-penal-code-a-blueprint-for-human-rights-violations/>, accessed on 3 September 2017.

²⁴ '59th Session of the UN Committee on the Elimination of Discrimination against Women' International Commission of Jurists, 3 October 2014, available at http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/BRN/INT_CEDAW_NGO_BRN_18687_E.pdf, accessed on 4 September 2017.

²⁵ Sedition Act (Ch 24 of 1951), available at http://www.agc.gov.bn/AGC%20Images/LAWS/ACT_PDF/cap024.pdf, accessed on 5 September 2017.

first offence with a fine of BN\$5,000 and 2 years' imprisonment, and any subsequent offence by a fine and 3 years' imprisonment. In certain cases, any police officer with the rank of inspector or above can arrest suspects without a warrant. In addition, journalists can face up to 3 years in prison if found guilty of reporting false or fabricated news.

Homosexuality

Under s.82 of the Sharia Penal Code, homosexuality or 'liwat' is illegal and punishable by stoning; however, as of 2016, the provision has not yet been implemented.²⁶ Likewise, cross-dressing is banned in the country under s.198. Prior to 2014, homosexuality was also illegal under secular law (based on British common law) although only punishable by up to 10 years' imprisonment and/or commensurate fines. Considered as contravening public morals and the country's social values, depictions of homosexuality deemed to incite public sympathy towards the practice are banned from broadcast by the media and internet sites under the Broadcasting Act 2000. Further, the Act also cautions against depicting any information or themes about homosexuality, lesbianism, and bisexuality, particularly those glamorising such lifestyles, while any explicit homosexual scenes are prevented from being broadcast at all. Accordingly, concerns for the lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI) community have been raised in Brunei Darussalam. Among the human rights violations faced by the LGBTQI community are discrimination in amenities and services, both for personal and professional purposes, and intimidation by the police and religious authorities.²⁷

B. Recent Court Cases Relating to Human Rights

Currently, no listed cases specific to human rights have come to trial in Brunei.²⁸ Indeed, as per the United States Department of State Bureau Report (2016), to date, the country has no specific provisions allowing individuals or groups to bring civil suits for human rights violations against the government; nor are there customary practices permitting individuals to present written complaints about rights violations directly to the Sultan for review.²⁹ However, secular law, which is based on English common law, provides for the right to a fair trial and the judiciary has generally enforced this right.

C. Other Human Rights Issues

The Constitution (enshrining MIB philosophy) and other legislation in the country limit political and civil rights as will be examined in the following section.

²⁶ 'Liwat' is a broader term for sodomy and includes sex between a man and a woman.

²⁷ 'Brunei 2016 Human Rights Report' US Department of State: Bureau of Democracy, Human Rights and Labor, available at <https://www.state.gov/documents/organization/265534.pdf>, accessed on 5 September 2017.

²⁸ 'Judgements' Prime Minister's Office of Brunei Darussalam, Judiciary, available at <http://www.judiciary.gov.bn/Lists/Judgments/AllItems.aspx>, accessed on 10 October 2017.

²⁹ US Department of State (see note 27 above).

Elections and political participation

Brunei's last Legislative Council elections were held as far back as 1962. Even so, the results were annulled and a state of emergency declared when the Brunei People's Party, whose campaign had advocated internal democratic reform and the rejection of a proposal that Brunei join a Malaysian federation as opposed to a Borneo federation, won almost all the seats.³⁰ This led to armed rebellion which was suppressed by the Sultan who then ruled by decree, a state of emergency that exists to this day. Moreover, political parties, including the Brunei National Democratic Party (BNDP) and the Brunei National Solidarity Party (BNSP), which had been legalised by the government in 1985 and 1986, were banned in 1988. The former advocated free elections and an end to emergency rule but was de-registered for failing to conform with the requirements of the law. Although the BNSP was allowed to operate again in 1995, it remained inactive. In fact, the only legal and registered political party at the moment is the National Development Party.³¹ However, all members of the Legislative Council are still appointed by the Sultan.

Lack of judicial review

Article 84C(1) of the Constitution states explicitly that the remedy of judicial review shall not be available in Brunei Darussalam for any suit or action relating to or arising out of any act, decision, grant, revocation or suspension, or refusal or omission to do so, any exercise of, or refusal or omission to exercise any power, authority or discretion conferred on His Majesty the Sultan.³²

Right to assemble

Section 141 of the Public Order Act designates an assembly of five or more persons an "unlawful assembly" if the common object of the persons composing that assembly is to use criminal force to overawe any public servant or the government. As such, permits are required for meetings and processions in public spaces, which can be denied if the Minister believes it may jeopardise public safety.³³ It is also unlawful for such assemblies to resist the execution of any law or any legal process. Punishments can include both imprisonment and a fine. In addition, harbouring persons who have participated in an "unlawful assembly" is also punishable by jail time and a fine.

Freedom of the press and media

While the Sedition Act prevents anyone from releasing information opposing the monarchy and the government, other laws set parameters for the press and media.

³⁰ Lea, D, and Milward, C (eds), *A Political Chronology of South-east Asia and Oceania*, London: Europa Publications, 2001, at 19.

³¹ 'Brunei Darussalam: Constitution and politics' The Commonwealth, available at <http://thecommonwealth.org/our-member-countries/brunei-darussalam/constitution-politics>, accessed on 10 October 2017.

³² Constitution of Brunei Darussalam (Rev Ed 2011), available at http://www.agc.gov.bn/AGC%20Images/LAWS/ACT_PDF/constitution_i.pdf, accessed on 30 August 2017.

³³ Public Order Act 2013 (Ch 148 of 2013), available at http://www.agc.gov.bn/AGC%20Images/LAWS/ACT_PDF/cap148.pdf, accessed on 3 September 2017.

Launched in 1955, the Borneo Bulletin is published by Brunei Press Sdn Bhd and is the country's leading source of information. It is, however, mostly owned or controlled by the Sultan's family. Likewise, the country's daily Malay newspaper, Media Permata, was launched by Brunei Press Sdn Bhd and Pelita Brunei in 1995 and is printed three times a week by the Prime Minister's Office.³⁴ In 2006, the Brunei Times, which was launched by a businessman with permission from the Sultan, was shut down in November 2016, when (according to the UK's Independent) it published an article on 26 October "reportedly [suggesting] that economic problems in Saudi were the reason for a hike in the price of visas for the Hajj and Umrah to Mecca." Following which, the newspaper abruptly closed down.³⁵ As a result, Brunei ranks 155 out of 180 countries³⁶ in the Reporters Without Borders 2016 World Press Freedom Index.³⁷ In addition, no legislation exists to facilitate the right to access official information in Brunei.

Media is regulated through the Broadcasting Act 2000³⁸ which also covers the internet. Section 3(3)(c) of the former entrusts the Minister of Broadcasting to ensure nothing against public interest or national harmony or which is offensive to good taste or decency shall be included in any broadcast service. As such, subsidiary legislation³⁹ specifying service guidelines, requires programmes take into account issues like national security (s.1), racial and religious harmony (s.2), and public morals and social values (s.6).⁴⁰ Also, depictions of antisocial and improper behaviour (s.7), sex and nudity (ss.9 and 10), gambling (s.12), crime and violence (s.8), the supernatural (s.11), and even hypnotism (s.16) are restricted or prohibited, while factual programmes (i.e. news, current affairs, and documentaries) must present information in an objective, fair, accurate, and balanced manner taking care not to portray "distinguished individuals" in a denigratory way (s.13). In addition, all programmes must be promoted through the values laid out in the MIB concept which can be corrected by the government at any time. Any person broadcasting material contravening the above stipulations will be guilty of an offence and may face imprisonment.

³⁴ Other newspapers, e.g. Malaysia's Borneo Post, Berita Harian, New Straits Times, Sin Chiew Daily, See Hua Daily, United Daily, and Singapore's Straits Times are also available in Brunei with the permission of the Sultan.

³⁵ 'The Brunei Times suddenly closes after criticising Saudi Arabia's Mecca visa price-hike' Independent, 8 November 2016, available at <http://www.independent.co.uk/news/world/asia/brunei-times-newspaper-close-saudi-arabia-mecca-visa-hajj-economy-a7404616.html>, accessed on 5 September 2017.

³⁶ Brunei Darussalam was ranked 121 in the Reporters Without Borders 2015 Report.

³⁷ 'Brunei' Reporters Without Borders, available at <https://rsf.org/en/brunei>, accessed on 3 September 2017.

³⁸ Broadcasting Act (Ch 180 of 2000), available at http://www.agc.gov.bn/AGC%20Images/LAWS/ACT_PDF/Chp.180.pdf, accessed on 5 September 2017.

³⁹ Subsidiary Legislation Notification Under Section 9 Broadcasting (Code of Practice) Notification, available at [http://www.agc.gov.bn/AGC%20Images/LAWS/ACT_PDF/Chp.180\(subN1\).pdf](http://www.agc.gov.bn/AGC%20Images/LAWS/ACT_PDF/Chp.180(subN1).pdf), accessed on 3 September 2017.

⁴⁰ Other provisions seek to defend the public against such social problems as divorce (s.6(a)), homosexuality, single motherhood (by choice), and multiple or free sexual relations (s.6(b)) including scenes depicting kissing or sexual physical intimacy (s.6(f)). In addition, programmes portraying and/or promoting discrimination against people on a variety of grounds including disability, old age, low income or status, race, nationality, colour, or religion should be avoided unless a documentary, a current affairs programme, or dramatic work done without malice (s.6(e)).

Similarly, under powers conferred by s.9 of the Broadcasting Act, the Internet Code of Practice 2001⁴¹ demands all internet service providers and internet content providers be licensed under the Broadcasting (Class License) Notification 2001 and comply with the Code of Practice to the satisfaction of the Minister. As such, licensees must use their “best efforts” to ensure content will not: incite hatred or contempt of, e.g. the Sultan, the government, or the administration of justice (s.2(a)); incite hatred between the races, denigrate any race or Islam, or preach any religion aside from the Shafeite sect of Islam (s.2(b)); permit broadcast of any material depicting promiscuity, violence, pornographic or any acts of “sexual perversion” including homosexuality and paedophilia (s.2(c)). Thus, the government ran an awareness campaign “aimed at warning citizens about the misuse and social ills associated with social media, including the use of social media to criticise Islam, Sharia, or the monarchy.”⁴²

Freedom of expression

The 2016 Freedom of Thought Report by the International Humanist and Ethical Union (IHEU)⁴³ listed three grave violations of freedom of expression and the advocacy of humanist values in Brunei: (1) expression on democracy, freedom, and human rights is brutally repressed; (2) it is illegal to advocate secularism or church-state separation, or such advocacy is suppressed; and (3) it is illegal or unrecognised to identify as an atheist or non-religious. Thus, under Sharia law, any Muslim declaring him or herself no longer a Muslim (apostasy) may be imprisoned for up to 30 years, whipped, or even executed.⁴⁴ Blasphemy is also a punishable crime in Brunei Darussalam.

Part 3: Conclusion

Brunei Darussalam is a small country, rich in oil resources whose inhabitants enjoy an exceptionally high standard of living. For example, the government invests in welfare services and no income taxes are levied on its people. This has enabled the country to attain high-literacy levels for both men and women, substantially reduce infant mortality, and generally perform extremely well on performance indicators measuring quality of life. However, as reflected in the current political and social situation, a different side to the country also exists. Because MIB is integral to the way of life in Brunei Darussalam, the Constitution enshrines the Malay language, Islam, and the monarchy as three pillars under which the country is governed. Therefore, speaking standard and Bruneian Malay is integral to procuring citizenship and attaining an education. Islam is also a way of life that is propagated from the top down, ensuring

⁴¹ Broadcasting Act – Internet Code of Practice Notification 2001, available at http://www.agc.gov.bn/AGC%20Images/LAWS/Gazette_PDF/2001/EN/s012.pdf, accessed on 4 September 2017.

⁴² US Department of State (see note 27 above).

⁴³ ‘Brunei Darussalam’ The Freedom of Thought Report, available at <http://freethoughtreport.com/countries/asia-south-eastern-asia/brunei-darussalam/>, accessed on 4 September 2017.

⁴⁴ See, Sharia Penal Code 2013, ss.112(1) and (2).

its influence seeps deep into all spheres of life. Accordingly, any deviation from life as prescribed by the state in terms of prayers, compulsory religious education, or religious wear may result in punishment.

Moreover, following the adoption of Sharia law, Brunei Darussalam has moved a step closer towards aligning religion with not only a way of life but, more disturbingly, a way of justice for both Muslims and non-Muslims alike. As such, crimes which were once punishable by imprisonment and fines under the Criminal Code, are now also punishable by whipping, amputations, and even stoning to death. This implementation of Sharia law has caused Brunei Darussalam to regress in its obligations to international human rights standards. Though criticised internationally, the Sultan, who serves all key executive positions in the country, believes it to be the way forward alongside economic development. Further, the Sultan's exalted position leaves little to no room for the advocacy of political and civil rights, boding ill for human rights in the years to come.

