

Country Updates on Human Rights and Democracy 2019

Brunei

1. Overview of the human rights and democracy situation: Brunei Darussalam is a de facto absolute monarchy ruled by the Sultan as the Head of State and Government with full executive powers, a position he has held since 1967. The legal system is based on common law. A parallel Sharia law system was fully implemented in 2019, which now should apply to both Muslims and non-Muslims. There remains some lack of clarity about the legal route, which should be followed where offences exist under both penal codes. In May 2019, the Sultan announced that the moratorium on the death penalty would apply to the crimes under the amendments to the Sharia Criminal Code. Brunei confirmed this decision during the Universal Periodic Review, where it also indicated that it would continue to uphold its obligations and adhere to the international treaties to which it is a party.

The Sharia Penal Code is the culmination of years of Islamisation of Brunei's laws based on the specific concept of Malay Islamic Monarchy (Melaya Islam Beraja/MIB). Freedom of religion or belief remains a key issue. Islam – Shafi'i Islam, other forms are banned – is Brunei's official religion and four other religions (Buddhism, Christianity - Catholic and Anglican-, Hinduism and Taoism) are officially recognised although their practice is considerably restricted. For instance, Christian schools are not permitted to teach their religion; new construction of religious buildings and places of worship is not allowed; and public religious services and celebrations are illegal, even though Christmas remains a public holiday. Non-Muslims suffer discrimination by the State (e.g. social benefits, access to the army or the public administration). These discrimination practises are primarily enforced at the government level, while ordinary Muslims in Brunei remain largely tolerant. The Common Law criminal code stipulates harsh physical punishments such as whipping, which are regularly used. The new Sharia Penal Code introduced potential punishments such as death by stoning and amputation, although they have not been used. However, the Sultan announced a moratorium on the use of the death penalty in May 2019.

Other serious human rights issues relate to civil and political rights, most notably the absence of free and fair elections. There is a Legislative Council, whose members have been appointed by the Sultan, which meets once a year for one month. There is an independent Judiciary, with two parallel systems: one based on common law and one (mostly for family matters) based on Sharia.

2. EU action - key focus areas: The EU uses its bilateral meetings with Brunei's authorities to raise human rights issues and has regularly urged Brunei to accede to further core UN human rights conventions. There is no dialogue on human rights with Brunei but human rights concerns are regularly raised by the local EU representation and during the annual visit of the non-resident Head of EU Delegation, the most recent of which took place on 26 February – 1 March 2019.

In 2019, the EU raised the issue of the new Sharia Penal Code with the authorities of Brunei-Darussalam, by issuing a statement of the EEAS Spokesperson on 3 April and by conducting a demarche in May 2019. The issue was also raised during the Universal Periodic Review on

Brunei-Darussalam at the United Nations Human Rights Council.

3. EU bilateral political engagement: Bilateral relations are very limited given the fact that the negotiations for a Partnership and Cooperation Agreement (PCA) remains on hold.

4. Multilateral context: In May 2019, Brunei appeared before the UN Human Rights Council as part of the third cycle of the Universal Periodic Review (UPR). It received 220 recommendations out of which it supported 108 (an increase of 16% with respect to the second UPR cycle). The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was signed in 2015, but remains not ratified. During the UPR, Brunei indicated that it was working on the ratification of the Convention. Also in 2019, the Sultan publicly committed to its ratification.