



# Sharia Law and Western Travelers in Southeast Asia



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## Executive Summary

Brunei, Malaysia, and the Indonesian province of Aceh all enforce at least some form of Sharia law, a civil and criminal legislative framework derived from the legal precepts of Islam. While the application of Sharia law on non-Muslims and non-residents in these countries varies, this report identifies a number of common behaviors that could offend local sensitivities or result in legal action. Private-sector travelers who understand local customs and obey local laws may reduce the likelihood of conflict or controversy while in the region.

## Background

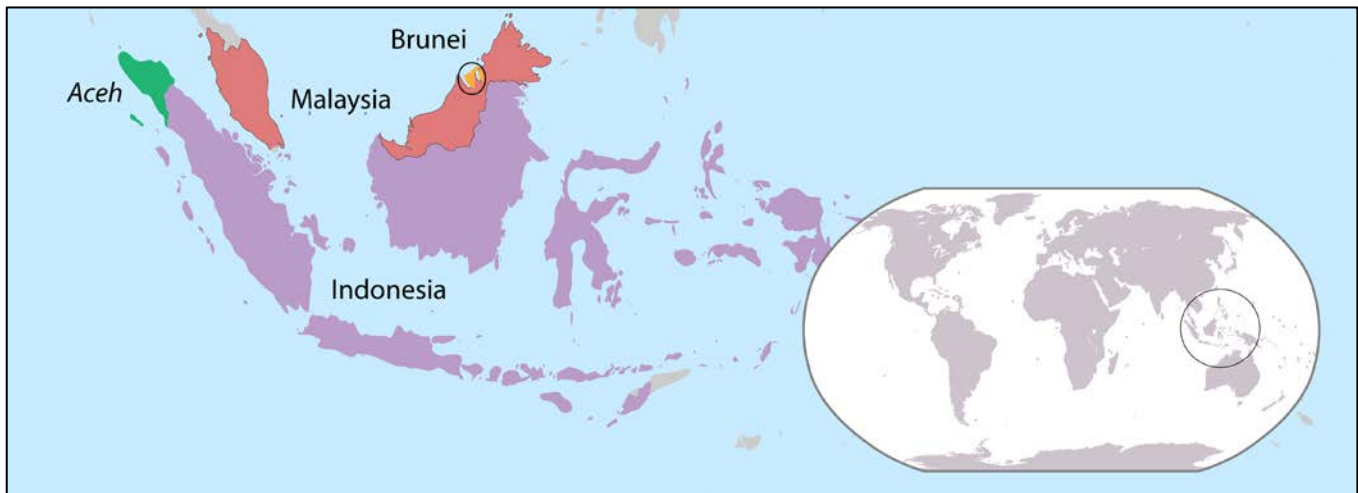
Recent developments underscore the important (and possibly increasing) role that Sharia law plays in influencing legal frameworks in Southeast Asia. In late 2013, the Sultan of **Brunei** announced that the country would begin a [process to institute Sharia Penal Codes \(SPC\)](#), which would expand the existing application of Sharia law to include public activities and criminal proceedings. Brunei's SPC announcement initially divided the implementation into three phases, with each eventual phase increasing in terms of the severity of the crimes and their respective punishments. The first phase, which generally covers laws punishable by fines or imprisonment, went into effect May 1, 2014. Phases two and three, which cover more severe penalties including amputation and/or execution for crimes such as theft, apostasy, and sodomy, have not yet been implemented and no implementation dates have been announced.

**Malaysia's** Muslims are subject Sharia laws in accordance with the Criminal Jurisdiction Act of 1965. This legislation, known commonly as "RUU 355" or "Act 355" established the Sharia Court system to handle moral crimes not already covered under the country's criminal laws, with limited maximum sentencing. In March 2017, the Malaysian Parliament debated whether Act 355 should be modified to markedly increase these maximum punishment limits. Those opposing the change fear it is a precursor to the expansion of Sharia Court jurisdiction (a stated goal of Islamist politicians), including the implementation of *hudud*, the Islamic penal code. Already, the debate over Act 355 has resulted in periodic [protests both for and against expanding the application of Sharia law](#), including a demonstration in Kuala Lumpur favoring the punishment increase this February involving at least 20,000 people. As of March 30, Prime Minister Najib Razak announced his ruling coalition would not support the Act 355 amendments at this time, although debate over the measure will continue.

In **Indonesia**, Aceh Province has unique authority to implement Sharia regulations under the terms of a 2005 peace agreement that ended a separatist conflict. The law allows for provincial implementation and regulation of sharia. Authorities in Aceh have stated that Sharia does not apply to non-Muslims, foreigners, or Muslim Indonesians not resident in Aceh. While Aceh's Muslims are automatically subject to the province's application of Sharia law, non-Muslims can choose to be punished under Sharia law.

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### Private-sector impact

The enforcement of Sharia regulations in Brunei, Malaysia, and Indonesia, particularly as it impacts foreigners or non-Muslims is not entirely clear. Although OSAC has not received any reports of U.S. private-sector personnel being fined, detained, or imprisoned explicitly for violating Sharia law in any of these contexts, open-source reporting highlights a number of examples in which the law has been exercised. It is important to remember that foreign travelers remain subject to the local laws and regulations of the countries that they are in, not their countries of origin. A brief understanding of the following customs or behaviors may help private-sector travelers prevent possible conflicts.

#### *Alcohol*

Islamic scripture prohibits the consumption of alcohol. In **Brunei**, although alcohol cannot be purchased legally, non-Muslims are allowed to consume alcohol privately in their hotel room or residence. Additionally, foreign travelers may be permitted to import alcohol in small quantities; however, gifting alcohol or providing alcohol to a Muslim may be considered a crime.

**Malaysia's** alcohol laws depend on the state; more urbanized regions are generally more tolerant of alcohol, and more rural areas may have a more conservative view. State Department travel guidelines for Malaysia note that Malaysian religious police occasionally raid and investigate [establishments where there is potential for “un-Islamic behavior”](#) such as gambling and adultery.

In **Aceh**, [selling and drinking alcohol is reportedly illegal](#); A Christian women chose to be punished under Sharia law in April 2016. This was the [first case of a non-Muslim choosing to be punished under Sharia Law](#).

#### *Intimacy: adultery and close proximity of unmarried couples*

*Khalwat* is the term used to describe unmarried couples engaged in intimate contact, wherein at least one of the individuals is Muslim. This offense, also translated as “close proximity,” can include sharing a hotel room, living together, and, in rare instances, even [working in close proximity](#). *Zina* refers to sex outside of marriage, wherein one of the parties is non-Muslim.

While “close proximity” is technically legal for two non-Muslims in **Brunei**, foreign couples have reportedly been involved in *khalwat* arrests in [the past](#) (predating the implementation of the SPC). Additionally, hotels have reportedly notified Bruneian religious enforcement authorities of unmarried couples suspected of *khalwat* offenses.

Although *khalwat* requires that one partner in an unmarried couple be Muslim, **Malaysian** religious authorities have reportedly arrested [married Muslim couples](#) and, in one instance, a mother and son who were sharing a hotel room.

In **Aceh**, adultery carries a possible penalty of 100 strokes from a cane; those who accuse someone of adultery without proof could themselves be subject to 80 lashings, according to [open-source reporting](#).

#### *LGBTI travelers*

In **Brunei**, LGBTI sex acts are criminalized in Brunei under Civil Law and also under Brunei’s Sharia Penal Code (SPC), with possible punishments including fines and sentences of up to 10 years in prison. [Additional penalties in the proposed future phases of the SPC](#) include caning and even death by stoning, though these have not yet been implemented and there is no timeline for implementation.

In **Malaysia**, while homosexual *identities* are not illegal, [the country’s penal code criminalizes homosexual acts](#), which are termed “carnal intercourse against the order of nature,” with punishments of whipping or up to 20 years in prison and/or whipping. Transgender individuals have been arrested and charged with “indecent behavior,” and received fines and prison sentences of up to three months. LGBTI individuals may face discrimination or even violence especially in more conservative rural areas. Although OSAC is unaware of any specific instances involving private-sector travelers detained, fined, or arrested for their sexual orientation, the sentencing of Malaysia’s former deputy prime minister to five years in prison for a sodomy conviction illustrates that the law has been exercised.

In **Aceh**, unlike the rest of Indonesia, there is legislation banning homosexual activity between Muslim men and women, including both locals and foreigners. While the degree of enforcement is unclear, the primary focus appears to be those caught having homosexual sex, as well as LGBTI activists, rather than casual travelers with LGBTI sexual orientation.

#### *Fasting during Ramadan*

According to religious belief, *Ramadan* is the ninth month of the Islamic holy calendar and is observed by Muslims worldwide to commemorate the first revelation of the Quran to the Prophet Muhammad. In some contexts, individuals may be prohibited from eating, drinking, or smoking publicly during the hours of fasting, which are typically from sunrise to sunset.

In **Brunei** during Ramadan, Muslims *and* non-Muslims are prohibited from eating, drinking, or smoking publicly during the fasting hours. Accordingly, many restaurants are likely to be closed during daytime; establishments that do may remain open and are likely to provide carry-out only service to customers, who are legally permitted to eat and drink in their own private residences. Establishments that host customers may seat patrons out of public view to mitigate the risk of being reported by passersby to the

police. Although the official punishment for a non-Muslim eating during Ramadan is 4,000 Bruneian dollars (approximately US \$3,000) and/or a maximum of one year in jail, one source reports that the actual punishment is [roughly a 300 Bruneian dollar fine](#). Smoking is also prohibited. According to the [2017 Brunei Crime and Safety Report](#), an Indonesian worker who was convicted of smoking during Ramadan served a six-month jail sentence in lieu of a fine.

In **Malaysia**, non-Muslims are allowed to eat publicly during Ramadan, though they [may be asked about their ethnicity and religion](#), as it is illegal for restaurants to serve food to Muslims before sundown and the Malaysian Constitution considers all ethnic Malays to be Muslim.

In **Aceh**, all businesses are reportedly [prohibited from selling food](#) between sunrise and 4:00 p.m. during Ramadan regardless of the customer or business owner's religion.

#### *Friday Prayer Ordinance*

Friday is considered to be the most important day of prayer in the Muslim faith. In **Brunei**, [all businesses must be closed between noon and 2:00 p.m. every Friday](#) in observance of Friday prayer, regardless of the faith of the proprietor.

**Aceh** and **Malaysia** do not appear to have an equivalent requirement, though customs may differ based on the locality and businesses in more conservative areas may see a decline in patrons during this time period.

#### *Proselytizing to Muslims*

In **Brunei**, it is illegal to proselytize to Muslims any religion other than Islam. In recent years, Brunei has [outlawed public celebrations of Christmas](#), purportedly under the belief that symbols including the crucifix, candles, Christmas trees, the exchange of Christmas greetings, and the singing of Christmas carols are all un-Islamic and may tempt Muslims to leave their faith. Prohibitions also include the spreading of Christian imagery, such as a recent incident involving a marketing campaign where paper crowns were given out to customers and Bruneian religious police were called. Private observations of faith, however, may be tolerated, provided they are conducted in the privacy of one's own home. When in public, travelers should consider removing religious jewelry and concealing religious tattoos.

Non-Muslim faith-based organizations may also face increased pressure from conservative Bruneians. In June 2016, for example, a Bruneian contributor to the popular social media site Reddit [posted pictures of churches in the Malaysian border city of Miri](#) featuring Christian slogans and iconography and called for the government to demolish the churches or send the religious police to have the signs taken down. His claim was that the Malaysian churches know that Bruneians frequent the town and are trying to convert them to Christianity.

In **Aceh**, while it is not outlawed, Christian businesses overtly displaying religious or holiday symbols [have been threatened by local conservative elements](#). Outside of Aceh, the Indonesian government ensures that other religions [can openly celebrate holidays](#).

In **Malaysia**, non-Muslims are legally [allowed to celebrate religious holidays](#).

### *Immodesty and other offenses*

Although head coverings are not compulsory for non-Muslims in Brunei, Malaysia, or Indonesia, female travelers may consider carrying a scarf to drape around their head while traveling to more conservative areas in order to avoid attracting unwanted attention from local authorities or members of the community. According to open-source reporting, in April 2016 two German tourists were confronted by religious enforcement personnel in Aceh after a resident [reported them for wearing bikinis on a public beach](#). The two were taken to the local police office where an officer explained to them Aceh's regulations on improper dress under Sharia. Although the two individuals were eventually released, the incident suggests that travelers may reduce possible conflicts or controversies by dressing and behaving in accordance with local customs.

Additionally, visitors to **Brunei** (though generally speaking, to Malaysia and Indonesia as well) should be mindful of laws concerning what authorities refer to as "outrage of modesty." These include unwanted advances, touching, or statements can result in criminal charges and jail time.

### **Further Information**

Travelers should consult the Consular Information pages for [Indonesia](#), [Malaysia](#), and [Brunei](#) for up-to-date information on local laws and customs before traveling to these locations. In the event that are you arrested abroad, immediately contact the nearest U.S. embassy or consulate via its emergency number. U.S. private-sector organizations with employees or staff traveling to the region are also encouraged to contact OSAC's East Asia Pacific Team at [OSACEAP@state.gov](mailto:OSACEAP@state.gov) with any additional questions or concerns.

For additional information on this report or any other questions on North or South Korea, please contact [OSAC's East Asia and the Pacific Team](#).