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Brunei's revised Penal Code a dangerous step backwards for human rights

Human Rights Council adopts Universal Periodic Review outcome on Brunei Darussalam

Amnesty International is disappointed that Brunei Darussalam has rejected numerous recommendations aimed at strengthening respect for and protection of human rights.

A number of states raised concerns about the revisions to the Penal Code based on Shari'a law, which came in to force earlier this year.¹ Amnesty International shares these concerns and notes that the revised law now includes a range of provisions that violate key human rights, by widening the scope of offences punishable by the death penalty, expanding the imposition of cruel and degrading punishment, restricting the rights to freedom of expression and religion, and in openly discriminating against women and girls.

In measures that could amount to torture, relatively minor offences, such as drinking liquor or theft, can be punished by whipping or amputation.² Even children can be sentenced to amputations. Judicial caning remains a common punishment for crimes such as theft, possession of drugs, and immigration offences. At least three caning sentences are known to have been carried out in 2014.

Amnesty International notes that Brunei has yet to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and is disappointed that Brunei has rejected all recommendations to this effect.³

While Brunei retains the death penalty in law it has remained abolitionist in practice. However, under the revised Penal Code, conduct such as extramarital sexual relations and consensual sex between people of the same gender, which is not criminal under international law, is not only criminalized, but punishable with stoning to death. The revised law also imposes the death penalty for a range of offences which do not meet the threshold of the "most serious crimes" under international law, including robbery and rape.⁴

The revised Penal Code also introduces laws that discriminate against women and girls, including by punishing abortion with public flogging, and out-of-marriage pregnancy with fines or jail terms.

¹ A/HRC/27/11, recommendations 113.48 (USA), 113.58 (Ireland), 113.60-113.61 (Italy, Netherlands), 113.63-113.69 (Sweden, UK, Australia, Spain, Canada, Netherlands)

² <http://www.amnesty.org/en/news/brunei-darussalam-penal-code-2014-04-30>

³ A/HRC/27/11, recommendations 113.10-113.17 (Egypt, Tunisia, Australia, Czech Republic, Djibouti, France, Portugal, Sierra Leone, Sweden).

⁴ http://www.un.org/apps/news/story.asp?NewsID=47552#.U_9SH_IdVho

Criticism of the new Penal Code has been met with a stark warning by the Sultan of Brunei that mocking the king, Islamic scholars, or Shari'a law itself would be categorised as offences under the Penal Code.⁵

Despite guarantees in Brunei's Constitution of religious freedom, laws and policies restrict this right for Muslims and non-Muslims alike. The revised Penal Code significantly expands the scope of the restriction and the penalties for offences, including by imposing the death penalty on offences such as mocking the Prophet Muhammad and by criminalizing exposing Muslim children to the beliefs and practices of any religion other than Islam.

Amnesty International strongly urges the government to reconsider its decision to reject key human rights recommendations. In particular, it must urgently bring its new Penal Code in line with international human rights law and standards.

Background

The UN Human Rights Council adopted the outcome of the Universal Periodic Review of Brunei Darussalam on 19 September 2014 during its 27th session. Prior to the adoption of the review outcome, Amnesty International delivered the oral statement above.

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⁵ <http://advocacy.globalvoicesonline.org/2014/03/05/sultan-of-brunei-threatens-critics-of-sharia-law/>