



Presentation of Findings:
Keeping the Faith:
A Study of Freedom of
Thought, Conscience, and
Religion in ASEAN
22nd Annual International Law and Religion Symposium





LAOS



MYANMAR



VIETNAM



PHILIPPINES



THAILAND



CAMBODIA



BRUNEI

MALAYSIA



SINGAPORE



INDONESIA



Rationale

In 2012, the Heads of State of the ASEAN Member States signed the ASEAN Human Rights Declaration (“AHRD”), uniformly affirming and committing to respect, promote, and protect human rights and fundamental freedoms in the region, including that:

“Every person has the right to freedom of thought, conscience and religion. All forms of intolerance, discrimination and incitement of hatred based on religion and beliefs shall be eliminated.”



Organisation of the Study

Country Reports

- Part I: Legislative and Policy Framework
- Part II: Trends in Freedom of Thought, Conscience, and Religion
- Part III: Contributing Factors and Surrounding Circumstances

Synthesis Report

- Key observations of the factors motivating and underlying these conflicts and acts of persecution
- Highlights some trends across ASEAN



*Overview of
State-Religion
Relationship in ASEAN*
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International Instruments Relating to Freedom of Thought, Conscience and Religion

Inst.	BRN	KHM	IDN	LAO	MYS	MMR	PHL	SGP	THA	VNM
ICCPR (on civil and pol rights)		(A)	(A)	(R)			(R)		(A)	(A)
ICERD (on racial discrimination)		(R)	(A)	(A)			(R)		(A)	(A)
ICESCR (on eco, soc, cult rights)		(A)	(A)	(R)			(R)		(A)	(A)
CEDAW (on women)	(A)	(A)	(R)	(R)	(A)	(A)	(R)	(A)	(A)	(R)
CRC (on child rights)	(A)	(A)	(R)	(A)	(A)	(A)	(R)	(A)	(A)	(R)
CAT (on torture)		(A)	(R)	(S)			(A)		(A)	
CPPCG (on genocide)		(A)		(A)	(A)	(R)	(R)	(A)		(A)
ICRMW (on migrant workers)		(S)	(R)				(R)			
CRSR (on status of refugees)		(A)					(A)			

Constitutional Protection of Freedom of Religion

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

Cambodia: “Khmer citizens of either sex shall have the right to freedom of belief.”

Indonesia: “The state guarantees all persons the freedom of worship, each according to his/her own religion or belief.”

Lao PRD: “Lao citizens have the right and freedom to believe or not to believe in religions.”

Malaysia: “Every person has the right to profess and practice his religion, and ... to propagate it.”

Myanmar: “Every citizen is equally entitled to freedom of conscience and the right to freely profess and practise religion...”

Philippines: “The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed.”

Singapore: “Every person has the right to profess and practice his religion and to propagate it.”

Thailand: “A person shall enjoy full liberty to profess religion, religious sect and creed...”

Vietnam: “Everyone has the right to freedom of belief and of religion, and has the right to follow any religion or follow no religion.”

Declared State-Religion Relationship

Brunei: “The official religion of Brunei Darussalam shall be the Islamic religion.”

Cambodia: “Buddhism shall be the state religion.”

Malaysia: “Islam is the religion of the Federation, but other religions may be practiced in peace and harmony in any part of the Federation.”

Myanmar: “The Union recognizes the special position of Buddhism as the faith professed by the great majority of citizens of the Union.”

Thailand: “The State shall patronise and protect Buddhism as the religion observed by most Thais for a long period of time and other religions, promote good understanding and harmony among followers of all religions...”

Indonesia: “The State shall be based upon the belief in the One and Only God.”

Lao PDR: No declared relationship between state and religion.

Singapore: No declared relationship, but secularism widely used.

Vietnam: No declared relationship between state and religion.

Philippines: “The separation of Church and State shall be inviolable.”

**States Facing Challenges
Maintaining Intra/Inter-
Religious Harmony
...**



Malaysia: Religious Minorities

- Minorities or dissenters within Islam
 - Apostates – *detained for rehabilitation*
 - Non-orthodox (non-Sunni) Islamic groups – *prosecuted for deviant teachings*
 - Shi'a Muslims- *persecuted through harassments and detentions*
- Non-Muslim religious minorities
 - Symbolic violence – demolition of places of worship
 - Restrictions on worship
- Conflicts between Muslims and Christians in the aftermath of the 'Allah' case



Myanmar: Muslim Minorities

- Significant increase since 2012
- Most extensively documented: Rohingya Muslims in Northern Rakhine State- Lack of the right to citizenship, restrictions on freedom of movement, obstacles to family development, confiscations of land, forced labour, arbitrary taxation, and exclusion from the local economy
- Government has failed or neglected to protect the Muslim minority from widespread violence

Sectarian Conflicts Since 2012

Place & Time	Casualties	Alleged Cause
Rakhine (June, October 2012)	200	Rape of Thida Htwe
Meikhtila (March 2013)	34	Brawl between Muslim gold shop owner & Buddhist customer
Okkan (May 2013)	1	Muslim woman bumping into Buddhist novice
Lashio (May 2013)	1	Muslim man pouring petrol at and burning Buddhist woman
Htan Gone/Kanbalu (August 2013)	-	Alleged sexual harassment of a Buddhist woman by a Muslim man
Thandwe (September 2013)	7	Brawl over a Buddhist-owned trishaw with a Buddhist flag parked in front of a Muslim shop
Mandalay (July 2014)	2	Alleged rape of a Buddhist staff by two Muslim teashop owners
	Total: 245	

Indonesia: Religious Minorities

- Ahmadiyah Muslims
 - Fatwa: outside Islam
 - Calls for ban
 - Attacks on mosques and other properties
- Shi'a Muslims
 - Increased calls for ban and two violent attacks
- Other groups, to a lesser degree: other Muslim groups, Aliran Kepercayaan, and Christians



Brunei: Strong State Control

- General lack of political and civic space for dissent
- Systemic state surveillance of non-Muslim groups
- Challenge: Syariah Penal Code Order 2013
 - Significant restrictions on the religious freedom of Muslims and non-Muslims

Brunei Syariah Penal Code Order 2013

- **Blasphemy:** Both Muslims and non-Muslims found to have insulted the Prophet could be sentenced to death, or alternatively to a maximum of 30 years imprisonment and 40 strokes if they do not repent.
- **Apostasy** outlawed and punishable by death by stoning.
- **Sexual conduct** such as extramarital sex, homosexual intercourse, and sexual intercourse against the order of nature is criminalized and is punishable by death by stoning.



Factors Influencing Persecution and/or Discrimination

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1. Politicization of religion

- Politicization: invoked in political discourse for political aims or to discredit political opponents
- Politically expedient not to criticize religious extremists
- E.g. Malaysia, Indonesia, Myanmar

2. Ethno-Religious Nationalism

- Social movement that claims to speak in the name of the nation and *which defines the nation in terms of religion* (Gorski & Türkmen-Derviřođlu)
- High level of political animosity: outside the 'nation'; Religious dissenter = national traitor
- Notable in religious nationalist movements in ASEAN. E.g.: Malay-Muslim nationalism (Malay Supremacy) in Malaysia, and Ma-Ba-Tha in Myanmar

3. Weak Rule of Law

- Usually transitional period following sustained period of authoritarianism
- Religious extremists exploit emerging democratic space
- State complicit or not in position to defend the persecuted groups

- Unequal application of the law

- Decentralization - double-edged sword
 - Local authorities unable or unwilling to protect the rights of religious minorities

