

Baseline Impact Assessment of FORB situation in Southeast-Asia

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Introduction

This analysis includes the ten member states of ASEAN, namely Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam. The condition for FORB is generally poor across the region, with "high" government restrictions (6,0) and "moderate" social hostilities (2,9) on average according to Pew Research Center's 2019 ratings. Of the ten countries assessed, five of these (Malaysia, Myanmar, Indonesia, Singapore, Brunei) have "very high" government restrictions. Over a ten-year period, the overall trend has been worsening in most countries.

In terms of demography, Southeast-Asia can broadly be divided between the Buddhist-majority countries (Myanmar, Thailand, Laos, Cambodia), Muslim-majority countries (Malaysia, Brunei and Indonesia) and Catholic Philippines. Vietnam and Singapore have a more mixed picture. Myanmar and Vietnam have been designated as "countries of particular concern" by the U.S. State Department over many years, while Malaysia and Indonesia are on its Watch List. Consequently, this assessment will focus mostly on FORB violations in those four countries. Groups most severely impacted by FORB violations include ethno-religious minorities in Myanmar and Vietnam, the majority Muslim population and Islamic sects in Malaysia and Indonesia, and women. Rohingya Muslims have faced ethnic cleansing and "genocidal intent" by the Burmese military.

FORB violations in Southeast-Asia range from denying the existence of certain religious groups, restricted or forced conversions, intimidation and violence in relation to performing religious rites and obtaining houses of worship, lack of access to social services, societal discrimination, intolerance and violence. The primary offenders are the state and violent religious groups.

Legal restrictions on FORB

The right to have a religion.

While most countries in Southeast-Asia constitutionally acknowledge the right to freely choose and practice the religion of one's choice, this right might be denied specific religious groups or come with certain conditions. In Malaysia and Brunei, ethnic Malays are constitutionally defined as Muslim and are not entitled to renounce their faith. The constitutions of Indonesia, Thailand, Laos and Myanmar specifically mentions their officially recognized religions, leaving those outside these categories vulnerable to violations.

In Indonesia and Malaysia, Islamic sects like Ahmadiyya, Shi'a and Milla Abraham, and the Bahai and the Al-Arqam sect in Malaysia, are declared deviant and effectively banned. Atheism is not accepted.

Myanmar bans Buddhist organizations outside the nine state-recognized monastic orders. Singapore has banned the Jehovah's Witnesses, Hare Krishna and the Unification Church. In Vietnam, religious groups must be approved by the government in order to operate legally.

The right to change one's religion.

Restrictions on the right to change religion in Southeast-Asia is primarily related to apostasy legislation for Muslims. However, religious conversion is not socially acceptable throughout the region in general due to the strong links between ethnicity and religion. It is not unusual for converts from Buddhism to be evicted from their villages or face other social sanctions which might deter conversion. Forced conversions or pressure to recant persists for Christian minorities in Myanmar and Vietnam. In Myanmar, conversions must be legally approved by a governmental oversight body consisting of government officials and religious representatives.

Brunei introduced death penalty for apostasy in 2019. Two Malaysian states have the death penalty, yet another five states criminalize apostasy with fines, imprisonment, and/or detention in a "rehabilitation" center. Some converts have won the right to adopt their new religious identity openly, but only after taking the issue to the High Court. Some Malaysians who identify with or convert to non-Muslim religions have been falsely labeled as Muslims or prevented from changing their religious identity on their identity cards, which brings them under the jurisdiction of the Shari'a courts. All religious conversions, including between non-Muslim faiths, face serious restrictions. Indonesia does not have apostasy laws, but Muslim converts can be charged under blasphemy laws.

The right to manifest religion.

Religious communities experience different types of restrictions on the manifestation of religion, depending on country and religious adherence. For Christians in Malaysia and Laos, proselytizing is banned, and the distribution of religious materials are tightly monitored. The Sunni Muslim majority of Malaysia are required to adhere to a strict, state-approved interpretation of Islam and the government regulates the internal affairs of Muslims, leaving them little freedom to practice according to their conscience. In conservative states, traditional dances and dramas have been banned for being "un-Islamic". The federal religious authority JAKIM runs a conversion therapy camp portrayed as a job program that targets LGBTI Muslims to guide them to the "correct path."

In Vietnam, the 2018 Law on Belief and Religion require all religious groups to formally register their organizations, activities, and places of worship with the government. Due to the high level of government oversight, many groups refuse to register for fear of persecution or concern for their independence. Unregistered religious groups compete for legitimacy vis-à-vis state-sponsored organizations of the same religion. They face severe oppression by the authorities and by state-sponsored religious groups who targets the land, houses of worship, and other property of independent Cao Dai, Catholics, Hoa Hao Buddhists, and Mahayana Buddhists.

In Indonesia, the 2006 Joint Regulation on houses of worship remains an ongoing and systemic barrier to the religious freedom of minority communities, requiring at least 90 congregation members and approval from 60 local households of other religions. In some areas of the country, Muslim fundamentalists misuse the regulation to shut down religious buildings or decline building permits for religious minority communities by putting pressure on local politicians or, in some cases, using violence. Obtaining building or renovation permits for houses of worship remains an ongoing challenge for religious minorities in Malaysia and Myanmar as well.

Several countries across the region adhere to strict blasphemy laws, including Brunei, Indonesia, Malaysia, Myanmar and Thailand. According to USCIRF, Indonesia has the highest number of reported blasphemy cases in the region. Blasphemy laws are typically enacted to punish unpopular viewpoints like alternative religious interpretations, or to prevent the “insult of religious feelings” by imprisonment or fines. Brunei introduced the death penalty for insulting the prophet Muhammad in 2019. In Malaysia and Indonesia, the threat of evoking blasphemy prohibitions is used to silence political opposition. For example, the former governor of Jakarta, Ahok, served a two-year prison sentence for blasphemy because he quoted the Quran. According to USCIRF, there was an increase in blasphemy allegations in Indonesia during the pandemic. In Malaysia, Catholics received a court ruling in 2013 against the use of “Allah” as the name for God.

Restrictions for women

Restrictions on women’s religious rights are most prominent for Muslims in Brunei, Malaysia and Indonesia. In Malaysian states where Sharia law is enacted, Muslim women who choose not to wear a headscarf often face societal discrimination with no legal recourse. Muslim girls have fewer protections when it comes to preventing child marriages. Marriage between Muslims and non-Muslims remains illegal unless the non-Muslim partner converts. In Indonesia’s Aceh province, the religious police adhere to a strict interpretation of Shari’a law that seek to regulate moral behavior. In December 2019, the first all-female flogging squad was introduced to punish women convicted in the Shari’a courts. Unmarried sexual activity and public affection, women straddling motorbikes and the lack of hijabs can provoke corporal punishment.

In 2015, four laws on “race and religion” were enacted in Myanmar, severely impacting FORB and the rights of women. The laws complicate family planning, inter-religious marriages and the process to convert to a new religion.

Harassment and violence against religious minorities

Harassment

Religious minorities in Laos and Vietnam experience **arrest and imprisonment** for unauthorized religious activities or resisting pressure by authorities to renounce their faith. The Vietnam Human Rights Network estimates that 288 people were imprisoned in Vietnam for their beliefs in 2021, including journalists, social media users, religious figures, and land rights and anti-corruption activists. In 2019, Amnesty International reported 128 political prisoners in Vietnam, of which USCIRF believed 61 to be held on religious grounds. In Malaysia, more than 30 people were arrested for practicing Shia Islam in the states of Selangor and Johor during 2019.

Malaysia has experienced at least three **enforced disappearances** on religious grounds since 2016. All three cases involve religious minority leaders and have striking similarities. The case that has received most public attention was the abduction of pastor Raymond Koh who was surrounded by a car convoy on the highway in 2017. It is believed that elements of proselytization and religious conversion is a common thread, and that state intelligence are behind.

In Myanmar, Vietnam and Cambodia alike, the government use Facebook to spread disinformation and **hate speech** against religious groups and leaders. In Myanmar, hateful speech and incitement to violence, particularly towards Muslims, has been a continuous problem at least since 2012. Buddhist Nationalist groups, the military and mainstream media are the main perpetrators. Anti-Muslim propaganda was an explicit factor in stoking intercommunal riots between Buddhists and Muslims between 2012-2014 across the country.

In Vietnam, government-sponsored “Red Flag Associations” has spread online messages of discrimination and intolerance against Catholic priests, Montagnard Christians, and independent Cao Dai adherents since 2020. These groups are known to have violently attacked Catholics in the past, forcing them to relinquish land. Similarly, independent Cao Dai followers **face pressure** to relinquish their temples, have religious activities disrupted and burials desecrated by the state-approved Cao Dai Administrative Council. In 2020, local officials interfered with religious activities of independent Hao Hao Buddhists, the Unified Buddhist Church of Vietnam (UBCV), and Falun Gong practitioners.

Muslims and Christians experience disruption of religious gatherings, destruction of religious sites, pressures to stop the construction of religious buildings, and desecration of cemeteries in Myanmar. During the Covid-19 pandemic, Rohingya Muslim refugees in Malaysia were temporarily banned from entering mosques.

Discrimination.

Across the ten nation-states of Southeast-Asia, three of these (Brunei, Malaysia and Cambodia) have official state religions. Another three (Thailand, Myanmar, Laos) recognizes the “special position” of Buddhism in the constitution. Countries with de jure/de facto state religions actively support religious teachings, clergy and infrastructure of the majority at the expense of minority religions. Politicization of religion can lead to favoritism of the majority, as in Indonesia where civil laws on local levels tend to align with Islamic law to cater to Muslim voters.

Mandatory religious affiliation on national identity cards remains a source of discrimination for religious minorities in Malaysia, Myanmar and Indonesia. Malaysia has institutionalized religious discrimination by giving ethnic Malays preferential treatment in education and employment in the constitution. An estimated 10,000 Hmong and Montagnard Christians in the Central Highlands of Vietnam lack access to housing and government services because local authorities have refused to issue household registration documents and identity cards, primarily in retaliation for refusal to renounce their faith.

In Myanmar, ethnic and religious minorities are discriminated against in the national school curriculum. Muslims and Christians are systematically overlooked and excluded from promotion in the civil service, police and military. Ethnic and religious minorities experience discrimination, arbitrary practices, and corruption when applying for identity documents and are often denied the right to self-identify. The lack of government-issued identification cards limits access to education, marriage certificates, freedom of movement, private ownership, political rights (like voting or running for election), and access to jobs. This is especially severe for groups excluded from citizenship through the 1982 Citizenship Law (including Rohingya, persons of Indian, Chinese, Nepali and Pashtu descent, and Muslims). Muslims experience business boycotts and exclusion from housing through so-called “Muslim-free villages”, established with the complicity of officials. The government has effectively institutionalized discrimination against Rohingya Muslims over several decades through restrictions on participation in elections, marriage, family planning, employment, education, religious choice, property rights, and freedom of movement.

Violence.

In Myanmar, Christian and Muslim minorities have faced discrimination and violence by the military for decades. In recent years, conversions from Buddhism to Christianity or attempts at re-conversion have led to violence at the village level. Violent conflict between the military and ethnic armed groups in minority areas have put Rakhine, Chin, Shan, Karen and Kachin in the crossfire, resulting in civilian casualties, displacement, and property destruction, including of houses of worship. Clashes in minority

areas have increased after the military coup in February 2021. In Wa region, Christian pastors, believers, and church buildings have suffered from the United Wa State Army's crackdown on religious activity since 2018.

After decades of targeting the Rohingya with killings, mass rape, and other sexual violence; disappearances; forced starvation; arbitrary detentions and arrests; and looting, burning, and property confiscations, the Burmese military perpetrated mass killings and rapes with what the UN described as genocidal intent against the Rohingya in Rakhine State in 2017. 700,000 fled to Bangladesh within days while approximately 130,000 remain in government-run internment camps where travel restrictions prevent them from obtaining employment, healthcare, education and information. The International Criminal Court (ICC) investigation launched in November 2019 into the military's action in Rakhine remains ongoing.

In Indonesia, religious extremists continued to represent a serious threat against religious minorities and others, conducting sectarian attacks and burning houses.

Harassment and violence against women

Women residing in ethnic conflict areas in Myanmar have experienced the military's weaponization of sexual violence for decades. Gender-based violence in conflict zones particularly affects women from ethnic and religious minority backgrounds. Between 2010-2015, Women's League of Burma's member organizations documented 92 cases of conflict-related sexual violence, although the real numbers are believed to be significantly higher.

Muslim women in Brunei, Malaysia and Indonesia experience increased legal and social pressures to adhere to strict religious laws and religious dress. A 2019 report by the Jakarta-based Alvara Research Centre found that 75 percent of Muslim women in Indonesia, or approximately 80 million women and girls, were wearing the hijab. It is unclear how many do so voluntarily and how many do so under legal, social, or familial pressure or compulsion. Following a 2014 national regulation, most of Indonesia's public schools, particularly in the 24 predominantly Muslim provinces, require Muslim girls to wear a head and shoulder covering (the jilbab) as part of their school uniform. Only non-Muslims can be exempt, although Christians and other minorities feel pressure to wear the standard uniform too. State officials feel such social pressure related to the dress code that their jobs depend on it.

Future developments?

Southeast-Asia has experienced authoritarian turns in government over the last years, severely impacting fundamental rights and political opposition. Examples include the Burmese military coup in February 2021, the Filipino President Duterte's "war on drugs" and military rule in Thailand. In many countries, including Cambodia, Philippines, Malaysia and Thailand, Covid-19 was used as a pretext to extend political powers and curtail rights. Unless there is a regime change in these countries over the next years, the human rights situation is likely to remain stagnant or worsen.

While observers hoped that Vietnam's look to the West in trade and security matters could improve the country's appalling human rights record, this seems not to have materialized. Vietnamese human rights defenders attempting to monitor the implementation of the 2020 EU trade agreement have already been arrested, despite its contractual agreements. During the Covid-19 pandemic, several critics and rights defenders were arrested. Vietnam has released political prisoners after diplomatic pressure, including pastor A Dao, but this often comes with the condition of exile. On a positive note, the government in Lam Dong Province announced a plan to resettle stateless Hmong Christians and

to issue them household registration documents in 2020. If successfully implemented, Subdivision 179 could serve as a model for central and local government officials to improve conditions for other ethnic and religious minority communities.

The most promising of countries in the region for positive developments in the coming years is Indonesia where the 2020-appointed Minister of Religious Affairs, Yaquut Cholil Qoumas, has pledged to protect Shia and Ahmadiyah minorities and promote dialogue among different religious groups. Since 2019, the Indonesian parliament has discussed a new penal code which includes the expansion of the criminalization of blasphemy to include insulting a religious leader during a religious service, persuading someone to become an atheist, and defiling or unlawfully destroying houses of worship or religious artifacts. Civil society groups led massive protests in response to these and other proposed restrictions, leading the government to delay the bill indefinitely. Throughout 2020, this draft code was neither amended nor removed from consideration in the legislature. The parliament's response to pressure from civil society groups indicate that it could be possible to soften provisions.

Further, the much-criticized 2006 decree on places of worship was requested reviewed by the Supreme Court in 2020 by a group of petitioners calling themselves the People's Lawsuit Presidium (PRM), but so far, the request made no subsequent progress.

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