

# **BRUNEI 2016 HUMAN RIGHTS REPORT**

## **EXECUTIVE SUMMARY**

Brunei Darussalam is a monarchy governed since 1967 by Sultan Haji Hassanal Bolkiah under emergency powers in place since 1962 that place few limits on his authority. The Legislative Council (LegCo), composed of appointed, indirectly elected, and ex officio members, met during the year and exercised a limited role in recommending and approving legislation and budgets.

The sultan maintained effective control over the security forces.

The most serious human rights problems were the inability of citizens to choose their government through free and fair elections, restrictions on religious freedom, and exploitation of foreign workers.

Other human rights problems included limitations on freedoms of speech, press, assembly, and association. The partial implementation of a sharia-based penal code (Sharia Penal Code or SPC) continued to raise significant human rights concerns; however, the government deferred further implementation of the SPC, with only the first phase operating in parallel with the existing common law-based criminal law system. The country did not ratify the UN Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, which it signed in 2015.

No officials were accused of human rights abuses, but the government investigated, prosecuted, and punished police, soldiers, and other officials accused of crimes such as corruption or rape. There were no reports of impunity.

### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

#### **a. Arbitrary Deprivation of Life and other Unlawful or Politically Motivated Killings**

There were no reports the government or its agents committed arbitrary or unlawful killings.

#### **b. Disappearance**

There were no reports of politically motivated disappearances.

### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The law does not specifically prohibit torture. There were no reports of torture, rape, or sexual abuse by government agents, hazing, or medical abuse during the year. Caning may be ordered for 95 offenses under 12 different pieces of legislation including secular law, and it is mandatory for some offenses. The phase of the SPC that includes offenses punishable by caning had not been implemented, and the SPC prohibits caning of those under the age of 15. Caning under secular law is prohibited for women, children under eight, men over 50, or those ruled unfit by a doctor. Juveniles older than eight may be caned with a “light rattan.” Canings were carried out in the presence of a doctor, who could interrupt the punishment for medical reasons. The government generally applied impartially laws carrying a sentence of caning, although there were some reports of foreigners being deported in lieu of caning.

### **Prison and Detention Center Conditions**

Prison and detention center conditions generally met international standards. There were no significant reports regarding prison or detention center conditions that raised human rights concerns.

Physical Conditions: Prisons for male offenders were designed for 400 but held 636 as of October. Women were housed in separate facilities from men, as were inmates awaiting trial. Prison conditions did not vary by gender, except that women of all religions were required to wear head coverings (hijab).

Juveniles were not subject to imprisonment, although the law permits imprisonment of juveniles who cannot be detained in other facilities. Courts sent juvenile offenders to detention centers, rehabilitation homes, and approved schools. The maximum sentence for juvenile offenders in a detention center is six months, where they are held separately from adult inmates, or three years in an approved school.

Administration: A government-appointed committee composed of retired government officials monitored prison conditions and investigated complaints of problematic conditions.

The prison system has in place an ombudsman system under which visiting judiciary, community leaders, and representatives of public institutions visit inmates on a monthly basis. A prisoner may make a complaint to a visiting judge, the superintendent, the officer in charge, and, in the case of female prisoners, the matron in charge.

Independent Monitoring: It was not known whether the government would allow independent nongovernmental organizations (NGOs) to monitor prison conditions, and there were no reports of such requests.

#### **d. Arbitrary Arrest or Detention**

The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions, although the government may supersede these prohibitions through the invocation of emergency powers.

#### **Role of the Police and Security Apparatus**

The Royal Brunei Police Force and Internal Security Department (ISD), which fall under the direct control of the Prime Minister's Office, have primary responsibility for enforcing laws and maintaining order. The Departments of Labor and Immigration in the Ministry of Home Affairs also hold limited law enforcement powers for labor and immigration offenses. Religious enforcement officers under the Ministry of Religious Affairs are responsible for enforcing sharia (Islamic law). By law they have the same powers of arrest as police, but in practice, their powers to detain were reportedly limited to cases of disturbing the peace or refusing to provide identification; arrests were made in cooperation with civilian enforcement agencies. Civilian authorities maintained effective control over the police, the ISD, and the labor, immigration, and religious enforcement departments. The government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces.

#### **Arrest Procedures and Treatment of Detainees**

A magistrate must endorse a warrant for arrest, except when police are unable to obtain an endorsement in time to prevent the flight of a suspect or when a suspect is apprehended in the act. After arrest, police may detain a suspect up to 48 hours for investigation before bringing the individual before a magistrate. Police stations maintain a policy of no access to detained individuals during that time. Authorities detained persons without a hearing only in cases of detention/arrest under the

Internal Security Act (see below). Authorities reportedly informed detainees promptly of the charges against them. Information on detainees was made public. After the 48-hour investigative period, police may deny visitor access in exceptional cases, such as probable cause to suspect witness tampering. This includes denying access to counsel, although there were no reports of authorities using this provision except in cases involving the Internal Security Act (ISA). Authorities may hold detainees beyond the initial 48 hours with a magistrate's approval. The criminal procedure code allows for bail except in cases designated as "discretionary" by law. There is no provision to provide affordable legal counsel for poor defendants, except in capital cases. In non-capital cases, indigent defendants may act as their own lawyers in court. Some civil society organizations provided pro bono legal service to indigent defendants in non-capital cases before civil, criminal, and sharia courts.

Because the sharia criminal procedure code had not been published, the secular criminal procedure code applied to all criminal proceedings in sharia court unless expressly noted in the SPC.

The ISA permits the government to detain suspects without trial for renewable two-year periods. The government convenes an independent advisory board consisting of executive and judicial branch officials to review individual ISA detentions and report to the Minister of Home Affairs. The minister is required to notify detainees in writing of the grounds on which their detention was made and relevant allegations of fact. The advisory board must review individual detentions annually. Two police officers arrested in 2014 under the ISA reportedly remained in detention during the year. An Indonesian national was released from ISA detention following his arrest in 2014 for suspected membership in a violent extremist group.

Detainee's Ability to Challenge Lawfulness of Detention before a Court: There is no judicial or administrative review in practice to challenge the legal basis of an arrest or detention.

#### **e. Denial of Fair Public Trial**

The law does not provide specifically for an independent judiciary, but the government generally respected judicial independence and there were no known instances of government interference with the judiciary in the secular courts. There were some reports of procedural flaws and bias in the sharia courts. The sultan appoints all higher court judges and they serve at his pleasure.

## **Trial Procedures**

Secular law, based on English common law, provides for the right to a fair trial, and the judiciary generally enforced this right. Defendants in criminal proceedings are presumed innocent. Trials are public and conducted by a judge or panel of judges. Defendants have the right to counsel and an interpreter (if needed), to be present at their own trials, to confront accusers, to cross examine and call witnesses, to present evidence, and to be informed promptly and in detail of the charges. There were no reports defendants were not allowed adequate time or facilities to prepare their defense. Lawyers have access to the accused, but not during the 48-hour investigatory period unless the investigation is concluded and charges are filed. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants have the right not to testify or confess guilt. Defendants have a right of appeal.

Individuals detained under the ISA neither have the right to legal counsel nor are they presumed innocent. Those detained under the ISA are entitled to make representation against a detention order to an advisory board and may make oral representation personally or be represented by an advocate and solicitor.

While sharia courts have long had jurisdiction over civil matters where at least one party is Muslim, the SPC applies to non-Muslims as well, depending on the crime. Implementation of the first phase of the SPC, which began in 2014, includes fines and jail terms that expanded existing restrictions on drinking alcohol, eating in public during the fasting hours of Ramadan, cross-dressing, and propagating religions other than Islam. Implementing regulations governing sharia proceedings under the SPC were not issued by year's end. In general, defendants in sharia proceedings had the same rights as defendants in criminal cases under secular law. There were some reports of defendants in sharia courts not being informed promptly and in detail of the charges against them, not being allowed adequate time or facilities to prepare their defense or receive adequate interpretation, and not being offered communication with an attorney. There were also instances where minor sharia court officials suggested a defendant was guilty during a trial or the outcome appeared predetermined.

The government continued to defer implementing two additional phases of the SPC, which would introduce severe punishments such as stoning to death or amputation of limbs. These phases involve evidentiary and witness standards different from secular law, unless the defendant freely admits the act.

## **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

## **Civil Judicial Procedures and Remedies**

There is no specific provision of law to bring a civil suit for human rights violations. By customary practice individuals may present written complaints about rights violations directly to the sultan for review. There are no provisions in the law to allow individuals or local organizations to appeal domestic decisions to regional human rights bodies.

## **Property Restitution**

On June 2, the government published amendments to the Land Code that ban non-Bruneians (including foreign investors, permanent residents, and stateless individuals) from holding land via a power of attorney or trust deeds, and retroactively declares all such contracts null and void. The amendments do not provide for any financial compensation or restitution. The new amendments were not implemented by years' end.

## **f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

The law permits government intrusion into the privacy of individuals, families, and homes. The government monitored private e-mail, cell phone messaging, and internet chat room exchanges suspected of being subversive or propagating religious extremism. An informant system was part of the government's internal security apparatus to monitor suspected dissidents, religious minorities, or those accused of crimes. Persons who published comments on social media critical of government policy, both on public blogs and personal sites such as Facebook, reported their comments were monitored. In some cases persons were told by friends or colleagues in the government they were being monitored; in other cases it appeared critical comments were brought to the attention of authorities by private complainants.

Longstanding sharia law and the SPC permit enforcement of "khalwat," a prohibition on the close proximity of a Muslim and a member of the opposite sex other than a spouse or close relative. Non-Muslims may be arrested for violating

khalwat if the other accused party is Muslim. Between January and August, the government reported 55 khalwat cases, of which 46 resulted in convictions. Not all suspects accused of violating khalwat were formally arrested. There were some reports of administrative penalties, such as travel bans or suspension from government jobs, being imposed on individuals accused but not convicted of violating khalwat, but the use of such measures was inconsistent.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Speech and Press**

Under the emergency powers and the Sedition Act, the government restricted freedoms of speech and press.

Freedom of Speech and Expression: Members of the LegCo are allowed to “speak their opinions freely,” but they are prohibited from using language or exhibiting behavior deemed “irresponsible, derogatory, scandalous, or injurious.” Under the Sedition Act, it is an offense to challenge the royal family’s authority. The act also makes it an offense to challenge “the standing or prominence of the national philosophy, the Malay Islamic Monarchy concept.” This concept, the all-pervasive ideology that underscores the Sedition Act, proclaims Islam as the state religion and monarchical rule as the sole form of government to uphold the rights and privileges of the Brunei Malay race. The law also criminalizes any act, matter, or word intended to promote “feelings of ill will or hostility” between classes of persons or “wound religious feelings.” No cases of persons charged under the Sedition Act were reported.

The SPC includes provisions barring contempt for or insult of the sultan, administration of sharia, or any law related to Islam. There were no known cases of persons charged under these sections, but online criticism of the law was largely self-censored, and online newspapers ceased allowing comments on stories after the sultan issued repeated warnings.

All public musical or theatrical performances required prior approval by a censorship board made up of officials from the Prime Minister’s Office and the Ministries of Home Affairs and Religious Affairs. The SPC was interpreted by the government as prohibiting public celebration of religions other than Islam, including displaying Christmas decorations.

Press and Media Freedoms: The Sedition Act requires local newspapers to obtain operating licenses and prior government approval of foreign editorial staff, journalists, and printers. The law also gives the government the right to bar distribution of foreign publications and requires distributors of foreign publications to obtain a government permit. The law allows the government to close a newspaper without giving prior notice or showing cause. In November, one of the two English-language dailies ceased operations without prior notice; the newspaper's website and social media presence were removed without access to archives. Although the Board of Directors attributed the closure to business sustainability, poor journalistic standards, and competition from alternative media, there were widespread reports that the government shuttered the paper as a result of a complaint from the Saudi Arabian Embassy regarding alleged "inaccurate" reporting on a change in visa costs for Bruneians visiting Saudi Arabia.

Foreign newspapers were routinely available, although the government must approve their distribution. Internet versions of local and foreign media were routinely available without censorship or blocking.

The government owned the only domestic television station. Three Malaysian television stations were also available, along with two satellite television services. Some content was subject to censorship based on theme or content, including sexual or religious content, but such censorship was not consistent.

Censorship or Content Restrictions: The Sedition Act provides for prosecution of newspaper publishers, proprietors, or editors who publish anything allegedly having a seditious intent. The government may suspend publication for up to one year and prohibit publishers, printers, or editors from publishing, writing, or editing any other newspaper. The government may also seize printing equipment. Persons convicted under the act face fines of up to 5,000 Brunei dollars (BND) (\$3,640) and jail terms of up to three years. Journalists deemed to have published or written "false and malicious" reports may be subjected to fines or prison sentences. During the year the government reprimanded the media for their portrayal of certain events and encouraged reporters to avoid covering controversial topics such as the territorial disputes in the South China Sea. At least one editorial viewed as critical of government policy was removed from news sites, but there were no reports of fines or charges. The government maintained that most censorship aimed to stop violent content from entering the country.

The SPC includes regulations barring the publication or importation of publications giving instruction in Islam contrary to sharia. It also bars the



distribution of publications related to religions other than Islam to Muslims or persons with no religion. The SPC bars the publication, broadcast, or public expression of a list of words generally associated with Islam (such as the Quran) in a non-Islamic context. The SPC also prohibits religious teaching without written approval. There were no reports of charges under these regulations.

Journalists commonly reported practicing self-censorship because of social pressure, reports of government interference, and legal and professional concerns.

### **Internet Freedom**

The government monitored private e-mail and internet chat room exchanges believed to be propagating religious extremism or otherwise subversive, including those of religious minorities or on topics deemed immoral. The Ministry of Communications and the Prime Minister's Office enforced the law that requires internet service providers and internet cafe operators to register with the director of broadcasting in the Prime Minister's Office. The Attorney General's Chambers and the Authority for Info-Communications Technology Industry advised internet service and content providers to monitor for content contrary to public interest, national harmony, and social morals. The government blocked websites promoting violent extremism and some websites containing sexually explicit material. Internet companies self-censor content and reserve the right to cut off internet access without prior notice. The government also ran an awareness campaign aimed at warning citizens about the misuse and social ills associated with social media, including the use of social media to criticize Islam, sharia, or the monarchy.

The great majority of the population had access to the internet and the country had a high rate of social media usage. Social media websites were widely accessible.

### **Academic Freedom and Cultural Events**

While there are no official government restrictions on academic freedom, quasi-governmental authorities must approve public lectures, academic conferences, and visiting scholars. Academics reported practicing self-censorship, and some researchers chose to publish from overseas under a pseudonym when they perceived that certain subject matter would not be well received. Religious authorities reviewed publications to ensure compliance with social norms.

A censorship board made up of officials from the Prime Minister's Office and the Ministries of Home Affairs and Religious Affairs determined the suitability of

concerts, movies, cultural shows, and other public performances, and censored, banned, or restricted these activities. Traditional Chinese New Year lion dance performances were limited to a two-day period and confined to Chinese temples, Chinese school halls, and private residencies of Chinese association members.

## **b. Freedom of Peaceful Assembly and Association**

### **Freedom of Assembly**

The emergency powers restrict the right to assemble. Public gatherings of 10 or more persons require a government permit, and police may disband an unofficial assembly of five or more persons deemed likely to cause a disturbance of the peace. Permits require the approval of the minister of home affairs. The government routinely issued permits for annual events, but occasionally used the restrictions to disrupt political gatherings. Organizers of events on sensitive topics tended to hold meetings in private locations rather than apply for permits, or practiced self-censorship at public events.

In March, 10 individuals including foreign nationals were fined BND 300-2,000 (\$220-1,460) for organizing and taking part in an “unlawful assembly” in 2015 outside of a mosque that called for the ousting of Malaysian Prime Minister Najib Razak. The sentencing magistrate said the defendants should have been “more sensitive to the country’s norms” after having worked and lived in Brunei most of their lives.

### **Freedom of Association**

The law does not provide for freedom of association. It requires formal groups, including religious, social, business, labor, and cultural organizations, to register with the Registrar of Societies and provide regular reports on membership and finances. The government reported the majority of applications to form associations were accepted, but applicants were subject to background checks, and proposed organizations were subject to naming requirements, including a prohibition on names or symbols linked to triad societies (Chinese organized crime networks). Some new organizations reported delaying their registration application after receiving advice that the process would be difficult. The government may suspend the activities of a registered organization if it deems such an act in the public interest.

Organizations seeking to raise funds or donations from the general public are required to get permission to do so from the Ministry of Home Affairs, and each individual fundraising opportunity required separate permits. Approved organizations dealt with matters such as pollution, wildlife preservation, arts, entrepreneurialism, and women in business. An organization called Youth Against Slavery founded in 2015 continued to raise awareness about human trafficking, forced labor, and modern-day slavery, but it had not officially registered as of November.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

### **d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons**

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

Abuse of Migrants, Refugees, or Stateless Persons: During the year a refugee family traveling on UN Convention Travel documents and in possession of valid Brunei entry visas was denied entry and informed their travel documents were not recognized by the government and their entry permits had been issued in error.

Foreign Travel: Government employees, including both citizens and foreigners working on a contractual basis, must apply for approval to go abroad. The government's guidelines state no government official may travel alone and unrelated male and female officers may not travel together, but this was enforced inconsistently based on ministry and gender. Brunei tourist passports state the bearer may not travel to Israel. There were reports of individuals suspected of violating sharia law being told they were on a travel blacklist or being refused exit from the country, without being notified of the charges against them or of how to appeal the ban.

Exile: By law the sultan may forcibly exile, permanently or temporarily, any person deemed a threat to the safety, peace, or welfare of the country. There have been no cases of banishment since the country became fully independent in 1984.

### **Protection of Refugees**

Access to Asylum: The law does not provide for the granting of asylum or refugee status, and the government has not established a system for providing protection to refugees.

### **Stateless Persons**

The 2011 Population and Housing Census reported 13,310 stateless persons normally resident in the country. A significant number of stateless persons were of Chinese or aboriginal descent. The vast majority of stateless persons held a certificate of identity (COI), which looks like and functions as a passport. COI holders have rights including to subsidized health care and education similar to those of permanent residents. The government had no data available on stateless persons who hold no form of residency or COI.

Stateless persons may apply for citizenship if they are permanent residents who have contributed to the country's economic growth, spouses married to citizens for two years, women married to permanent residents for five years, or children of permanent resident fathers older than two years and six months. All applicants must pass a test demonstrating sufficient knowledge of Malay culture and language. From January to October, according to the government, 244 holders of COIs obtained citizenship, more than in the entirety of 2014 (220).

Stateless persons without permanent resident status or a COI were ineligible for most benefits or services from the government and for government employment. Nonetheless, government agencies offered welfare services to stateless parents unable to gain access to basic needs. The Ministry of Home Affairs also pushed to expedite the permanent resident registration of the country's stateless persons if they met all necessary requirements. The strict procedure in assessing the applications continued to cause bureaucratic delays.

### **Section 3. Freedom to Participate in the Political Process**

Citizens do not have the ability to choose their government. The sultan rules through hereditary birthright. While the country is a constitutional sultanate, in 1962 the then ruler invoked an article of the constitution that allowed him to assume emergency powers. The present sultan continued the practice, which places few limits on his power.

### **Elections and Political Participation**

Political authority and control rested entirely with the sultan. A Legislative Council (LegCo) of primarily appointed members with little independent power provided a forum for public discussion of proposed government programs, budgets, and administrative deficiencies. It convenes once a year for approximately two weeks. The 11th LegCo session was held in March. Council members serve a five-year term at the pleasure of the sultan.

Persons ages 18 and older may vote by secret ballot in village consultative council elections, which are based on a traditional system of village chiefs. Candidates must be Muslim, approved by the government, and citizens or permanent residents for more than 15 years. The councils communicate constituent wishes through a variety of channels, including periodic meetings chaired by the minister of home affairs. The government also meets with “mukim” (collections of villages) representatives to allow for expressing local grievances and concerns.

Political Parties and Political Participation: The National Development Party is the only registered political party. The party pledged to support the sultan and the government. The party criticized administrative deficiencies, but its few activities received limited publicity, and restrictions hindered its membership. The Brunei People’s Party has been banned since 1962.

Participation of Women and Minorities: The constitution requires that all ministers be of Malay ethnicity and Muslim except as permitted by the sultan. The cabinet included two ethnic Chinese and members of tribal minorities also held senior government positions. Women accounted for more than half of the civil service and many held senior positions. Women are subject to an earlier mandatory retirement age (55 versus 60), which may inhibit their career progression.

#### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials, and the government generally implemented these laws effectively, although officials sometimes engaged in corrupt practices.

Corruption: Corruption was not pervasive, although isolated incidents of low-ranking officials accepting small bribes reportedly occurred. As of September the Anticorruption Bureau reported seven government officials to the courts for corruption, and two officials were charged. The bureau was appropriately resourced and held regular corruption prevention programs.

In June a police officer found guilty of accepting a BND 40 (\$30) bribe not to write a traffic ticket in 2007 was sentenced to one year in prison. The chief magistrate of the court declined the defense's request for probation and community service as a matter of principle, saying that being lenient on a law enforcement officer for this type of offense would not serve the public's interest. In October a Bangladeshi national found guilty of offering a bribe to a police officer to not write a traffic ticket was sentenced to serve 18 months in prison.

Financial Disclosure: Government officials are not subject to financial disclosure reports, but by law officials must declare their assets if subject to investigation.

Public Access to Information: There is no law that specifically provides for public access to government information. No court can compel any person to give evidence relating to unpublished government records unless the relevant ministry's permanent secretary gives consent.

## **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

No registered civil society organizations dealt directly with human rights. A few domestic organizations worked on humanitarian issues such as assistance for domestic violence victims or free legal counsel for indigent defendants. They generally operated with government support, and the government was somewhat cooperative and responsive to their views, although they reported practicing self-censorship and avoiding sensitive issues. Youth Against Slavery (see section 2.b.) sought to work with the government but officials did not always welcome cooperation. Regional and other foreign human rights organizations occasionally operated in the country but faced the same restrictions as all unregistered organizations. At least one foreign activist was blacklisted from entering the country without being told the reason or how to appeal the decision.

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

### **Women**

Rape and Domestic Violence: The law stipulates imprisonment of up to 30 years and caning with no fewer than 12 strokes for rape. The law does not criminalize spousal rape and explicitly states that sexual intercourse by a man with his wife is not rape, as long as she is not under age 14 or, if ethnic Chinese, 15, (see section 6,

Children). Islamic family law provides protections against spousal abuse and for the granting of protection orders, and it has been interpreted to cover sexual assault. The penalty for breaching a protection order is a fine not exceeding BND 2,000 (\$1,460), imprisonment not exceeding six months, or both. The government reported rape cases, but the crime did not appear prevalent. There were no reports of rape or sexual abuse during an arrest or detention.

There is no specific domestic violence law, but authorities arrested individuals in domestic violence cases under the Women and Girls Protection Act. The police investigated domestic violence only in response to a report by a victim, but were otherwise responsive in such cases. The government reported domestic abuse cases, but the crime did not appear prevalent. The criminal penalty for a minor domestic assault is one to two weeks in jail and a fine. An assault resulting in serious injury is punishable by caning and a longer prison sentence.

A special police unit staffed by female officers investigated domestic abuse and child abuse complaints. A hotline was available for persons to report domestic violence. The Department of Community Development in the Ministry of Culture, Youth, and Sports provided counseling for women and their spouses. Based on individual circumstances, some female and minor victims were placed in protective custody at a government-sponsored shelter while waiting for their cases to be brought to court. No such facility was available for men, but there were no reported victims in need of such a facility.

Islamic courts staffed by male and female officials offered counseling to married couples in domestic violence cases. Officials did not encourage wives to reconcile with flagrantly abusive spouses, and Islamic courts recognized assault as grounds for divorce.

Female Genital Mutilation/Cutting (FGM/C): No law criminalizes or mandates FGM/C, although severe cases could be charged under laws against endangering the life or safety of others. There were no reports of FGM/C on women over age 18.

There were no statistics on the prevalence of FGM/C, but the government reported that in general it is done within 40 days of birth on the basis of religious belief, health, and custom. The Ministry of Religious Affairs declared circumcision for Muslim women (sunat) a religious rite obligatory under Islam and described it as the removal of the hood of the clitoris (Type I per World Health Organization (WHO) classification). The government does not consider this practice to be

FGM/C and expressed support for WHO's call for the elimination of FGM and the call for member countries to enact and enforce legislation to protect girls and women from all forms of violence, including FGM. The government claimed that the practice rarely resembles the type I description and had not caused medical complications or complaints.

Sexual Harassment: The law prohibits sexual harassment and stipulates that whoever assaults or uses criminal force, intending thereby to outrage or knowing the act is likely to outrage the modesty of a person, shall be punished by caning and imprisonment for up to five years. Sexual harassment cases were reported, but the crime did not appear prevalent. A survey on sexual harassment in the workplace conducted by a local professional association found more than half of respondents had experienced harassment in the workplace; nearly 60 percent believed "the higher authorities are unfair" in handling complaints of harassment; and less than 10 percent made reports to the police.

Reproductive Rights: Couples have the legal right to decide the number, spacing, and timing of their children; manage their reproductive health; and have the information and means to do so, free from discrimination, coercion, or violence. Social, cultural, and religious pressures may have affected some women's access to contraception or health care for sexually transmitted infections. Unmarried Muslim women had difficulty obtaining contraception from government clinics and instead turned to private clinics or sought reproductive services abroad. Women seeking medical assistance for complications arising from illegal abortions were reported to police after being given care.

Discrimination: In accordance with the government's interpretation of the Quran's precepts, Muslim women and men are accorded different rights. For example, Islamic family law considers women the "most entitled person" to custody of children in the case of divorce as long as she is Muslim, and it requires that men receive twice the inheritance of women.

Secular civil law permits female citizens to own property and other assets, including business properties. Noncitizen husbands of citizens may not apply for permanent resident status until they reside in the country for at least seven years, while noncitizen wives may do so after two years of marriage. While citizenship is automatically inherited from citizen fathers, citizen mothers may pass their nationality to their children only through an application process in which children are first issued a COI (and considered stateless).



## Children

Birth Registration: Citizenship is derived from one's father, or, following an application process, mother. Birth registration is universal and equal for girls and boys, except among indigenous Dusun and Iban people in rural areas (see section 6, Indigenous People). Stateless parents must apply for a special pass for a child born in the country. Failure to register a birth is against the law, and also makes it difficult to enroll the child in school.

Child Abuse: Child abuse occurred and was prosecuted, but the crime did not appear prevalent. The Royal Brunei Police Force hosts a specialized Woman and Child Abuse Crime Investigation Unit, and the Ministry of Culture, Youth, and Sports provided shelter and care to victims.

Early and Forced Marriage: The legal minimum age of marriage for both boys and girls is 14 with parental and participant consent, unless otherwise stipulated by religion or custom under the law, which generally set a higher minimum age. The Islamic Family Act sets the minimum marriageable age at 16 for Muslim girls and 18 for Muslim men and makes it an offense to use force, threat, or deception to compel a person to marry against his or her will. Ethnic Chinese must be age 15 or older to marry, according to the Chinese Marriage Act, which also stipulates sexual intercourse with an ethnic Chinese girl under age 15 is considered rape even if it is with her spouse.

Female Genital Mutilation/Cutting (FGM/C): See information in "Women" above.

Sexual Exploitation of Children: By law sexual intercourse with a girl under age 14 constitutes rape and is punishable by imprisonment for at least eight and not more than 30 years and not fewer than 12 strokes of the cane. The law provides for protection of women, girls, and boys from exploitation through prostitution and "other immoral purposes," including pornography. The government applied the law against "carnal intercourse against the order of nature" to prosecute rape of male children. Child prostitution was not common, and the country was not a destination for sex tourism.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction at [travel.state.gov/content/childabduction/en/legal/compliance.html](http://travel.state.gov/content/childabduction/en/legal/compliance.html)*.

## **Anti-Semitism**

There was no known Jewish community in the country. Comments disparaging Jewish persons collectively were posted online and on social media.

## **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

## **Persons with Disabilities**

The law does not prohibit discrimination against persons with disabilities or mandate accessibility or other assistance for them. The government provided “inclusive” educational services for children with disabilities in both government and religious schools. All persons regardless of disability received the same rights and access to health care. There was no information available on abuse in educational and mental health facilities. The Department for Community Development conducted several programs targeted at promoting awareness of the needs of persons with disabilities.

Nine registered NGOs represented persons with disabilities in the country. They worked to supplement services provided by the three government agencies that support persons with disabilities. The NGOs received some funding from the government through the Ministry of Culture, Youth, and Sports; the Yayasan Sultan Haji Hassanal Bolkiah Foundation; and through charitable events by local businesses. Public officials, including the sultan, called for persons with disabilities to be included in everyday activities. Access to buildings, information, and communications for persons with disabilities was inconsistent.

## **National/Racial/Ethnic Minorities**

The government favors ethnic Malays in society through the national Malay Islamic Monarchy philosophy, which is enshrined in the constitution. Under the constitution, ministers and most top officials must be Malay Muslims, although the sultan has the discretion to make exceptions. Members of the military must be indigenous Malay, a member of a specified indigenous group, or non-indigenous Malay Muslim. The government pressured both public and private sector employers to increase hiring of Malay citizens. Land Code amendments published in June would ban noncitizens from holding land via the power of attorney, trust

deeds, or long-term leases and retroactively declare all such contracts null and void with no specified recourse or restitution. The amendments, which primarily affect ethnic Chinese and some indigenous minorities, had not been implemented as of year's end.

### **Indigenous People**

Some indigenous persons were stateless. In rural areas some indigenous persons did not register births, creating difficulties in school enrollment, access to health care, and employment. Indigenous lands were not specifically demarcated, and there were no specially designated representatives for indigenous groups in the LegCo or other government entities. Indigenous persons generally had minimal participation in decisions affecting their lands, cultures, and traditions and in the exploitation of energy, minerals, timber, or other natural resources on and under indigenous lands.

### **Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity**

Secular law, based on British common law, criminalizes “carnal intercourse against the order of nature” and, upon conviction, imposes punishments of up to 10 years’ imprisonment and/or commensurate fines. The law was primarily applied in cases of rape or child abuse when both attacker and victim are male, as existing law covers only assault of a woman by a man. The SPC bans “liwat” (anal intercourse) between men or between a man and a woman not his wife and, if this phase is implemented, would impose death by stoning. The SPC also prohibits men from dressing as women or women dressing as men “without reasonable excuse” or “for immoral purposes.” During the year there were no convictions for cross-dressing.

Members of the lesbian, gay, bisexual, transgender, and intersex (LGBTI) community reported unofficial and societal discrimination in public and private employment, housing, recreation, and in obtaining services including education from state entities. Some LGBTI job applicants were asked directly about their sexual identity and reported their answers affected hiring decisions. LGBTI individuals reported intimidation by the police, including threats to make public their sexuality; to hamper their ability to obtain a government job; or to bar graduation from government academic institutions. In some cases LGBTI individuals were threatened by police with religious penalties such as stoning to death, although the officers were not from religious enforcement and the phase of

the SPC that includes the death penalty had not been implemented. Members of the LGBTI community reported that the government monitored their activities and communications. There were no NGOs working explicitly on LGBTI rights. Events on LGBTI topics were subject to restrictions on assembly and expression, and were held in private with the understanding that no permits would have been issued by the government for such events.

### **HIV and AIDS Social Stigma**

HIV and HIV-related stigma and discrimination occurred, as the disease continued to be associated with LGBTI behavior and drug use. By law foreigners infected with HIV are not permitted to enter or stay in the country, although no medical testing is required for short-term tourists. One NGO operated in the country specifically on AIDS issues and was generally supported by the government.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law provides for the right of workers to form and join independent unions, but it prohibits strikes and does not provide for collective bargaining. The law prohibits employers from discriminating against workers in connection with union activities, but it does not provide for reinstatement for dismissal related to union activity.

By law unions must be registered with the government under the same process as other organizations (see section 2.b., “Freedom of Association”). While the law permits the formation of trade union federations for most professions, it forbids affiliation with international labor organizations unless the minister of home affairs and its Department of Labor provides consent. The law requires officers of trade unions to be “bona fide” (without explanation), which has been interpreted as allowing broad discretion to reject officers, and that such officers have been employed in the trade for at least two years. Unions are subject to laws limiting freedom of assembly, which require a government permit for public gatherings of 10 or more persons and approval by the minister of home affairs (see section 2.b.). By law the general penalty for violating laws on unions and other organizations is a fine up to BND 10,000 (\$7,280), imprisonment for up to two years, or both. Penalties were sufficient to deter violations. Data on government enforcement efforts were not available.

There were no active unions or worker organizations in the country. The collective agreement for the only known union in recent history, the Brunei Oilfield Workers Union, expired “years ago due to lack of interest” according to the government, an assessment that was reportedly confirmed in a visit by the International Labor Organization. There were NGOs involved in labor issues, such as wages, contracts, and working conditions. These NGOs largely operated openly in cooperation with relevant government agencies, but they reported avoiding confrontation with the government and engaged in self-censorship.

### **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor. Conviction for forced labor could lead to penalties, including fines of up to one million BND (\$728,000), imprisonment for a period of four to 30 years, and caning, but most labor disputes were settled out of court and the penalties were seldom applied.

The government did not investigate any cases of debt bondage or forced labor compelled through threats of deportation, although these practices continued to occur. The heads of Specialist Trafficking Units within the police continued to meet regularly to coordinate antitrafficking policy and implement the national action plan to combat trafficking, including for forced labor.

All employment agencies must be endorsed by the government and undergo government vetting and training before operating. Employment agencies must apply to the Department of Labor for permission to recruit foreign workers. Once hired foreign nationals must sign an approved contract before a government official. The Department of Labor continued some efforts to enforce licensing requirements for labor recruitment agencies.

The government did not always effectively enforce the law and forced labor occurred. Some of the approximately 100,000 foreign migrant workers in the country faced involuntary servitude, debt bondage, non-payment of wages, passport confiscation, abusive employers, and/or confinement to the home. Female migrant workers, who made up most of the domestic workers in the country, were particularly vulnerable to forced labor. Although it is illegal for employers to withhold wages from domestic workers, some employers, notably domestic and construction workers, did so to recoup labor broker or recruitment fees or to compel continued service by workers. Foreign workers could take legal action against employers for non-payment of wages, usually done so outside of court, and were often, but not always, successful.

Although the government forbade wage deductions by employers to repay in-country agencies or sponsors and mandated that employees receive their full salaries, many migrant workers arrived in debt bondage to actors outside the country. Although prohibited by law, retention of migrant workers' travel documents by employers or agencies remained a common practice.

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

Various domestic laws prohibit the employment of children under age 16. Parental consent and approval by the Labor Commission are required in order for those under 18 to work. Female workers under 18 may not work at night or on offshore oil platforms. The Department of Labor, which is part of the Ministry of Home Affairs, effectively enforced child labor laws. Penalties for child labor violations include a fine not exceeding BND 2,000 (\$1,460), imprisonment of up to two years, or both, and were sufficient to deter violations. There was no list of hazardous occupations prohibited for children. There were no reports of violations of child labor laws.

### **d. Discrimination with Respect to Employment and Occupation**

The law does not explicitly prohibit discrimination with respect to employment and occupation. There is no law requiring equal pay for equal work. The law limits employment in certain government positions and the military based on ethnic origin (see section 6). Many foreign workers had their wages established based on national origin.

Some professions were designated as women's professions, and men noted discrimination during hiring. Many public and private employers showed hiring biases against foreign workers, particularly in key sectors such as oil and gas. Some LGBTI job applicants faced discrimination and often were asked directly about their sexual identity.

### **e. Acceptable Conditions of Work**

The law does not set a minimum wage for the private sector. Wages were set by contract between the employee and employer, and were sometimes calculated

based on national origin. Published reports calculated the average monthly compensation in the private sector to be BND 1,830 (\$1,330) per worker. In the public sector, which employed the majority of citizens, salaries followed a scale determined by job, responsibility, qualifications, and time in service. There was no established poverty line.

The standard workweek for most government agencies and many private companies is Monday through Thursday and Saturday, with Friday and Sunday off, allowing for two rest periods of 24 hours each week. The law provides for paid annual holidays, overtime for work in excess of 48 hours per week, and double time for work performed on legal holidays. The law also stipulates an employee may not work more than 72 hours of overtime per month. Government regulations establish occupational health and safety standards. Individuals were encouraged to report violations of health and safety standards, but the law does not explicitly protect the right to remove oneself from a hazardous workplace.

Immigration law allows prison sentences and caning for foreign workers who overstay their work permits, for workers who fall into irregular status due to their employers' negligence, for illegal immigrants seeking work, and for foreign workers employed by companies other than their initial sponsor. The government enforced this law with regular immigration sweeps. There were reports of foreigner workers being deported in lieu of caning/imprisonment.

The Department of Labor inspected working conditions both on a routine basis and in response to complaints. There were approximately 40 labor inspectors in the Labor Department, which was adequate to conduct mandated inspections. The government usually moved quickly to investigate allegations of labor law violations, and employers faced criminal and civil penalties, although the focus was primarily on illegal workers rather than worker protection. The Labor Department has the power to terminate the licenses of abusive employers and revoke their foreign labor quotas, and it did so occasionally.

The commissioner of the Department of Labor is responsible for protecting foreign workers' rights. Foreign laborers (predominantly Filipinos, Malaysians, Indonesians, and Bangladeshis) dominated most low-wage professions, such as domestic workers, construction, maintenance, retail, and restaurants.

The government prosecuted employers who employed illegal immigrants or did not properly process workers' documents. When grievances could not be resolved, regulations require employers to pay for the repatriation of the foreign workers and

all outstanding wages. Although the practice is illegal, some employers held employee passports and restricted employee activities during non-work hours, particularly for low-skilled workers and household staff (see section 7.b.).

Most reported violations of labor law not involving foreign workers' status were resolved through government mediation by the Department of Labor. The majority of abuse cases were settled out of court through agreements under which the employer paid financial compensation to the worker. Employers who violate laws regarding conditions of service, including pay, working hours, leave, and holidays, may be fined BND 800 (\$580) for a first offense and for further offenses BND 1,600 (\$1,160), imprisoned for one year, or both. Observers did not indicate whether the penalties for violations of wage, hour, and health and safety standards were sufficient to deter violations.

The government sought to enforce labor, health, and safety regulations effectively. Enforcement in sectors employing low-skilled labor, such as construction or maintenance, however, was weak. This was especially the case for foreign laborers at construction sites, where wage arrears and inadequate safety and living conditions were reported. Laws regarding working hours were frequently not observed for either citizen or foreign workers.

Many employed citizens commanded good salaries with numerous allowances, but complaints about low wages were common, especially in entry-level positions. The government found that local employees in the private sector had an average monthly compensation rate of BND 2,257 (\$1,640), compared with BND 1,565 (\$1,140) for foreign workers. Wages for employed foreign residents were wide ranging. Some foreign embassies negotiated agreements with the Brunei government covering minimum wage requirement for their nationals working in the country.