

Brunei - United States Department of State

BRUNEI: Tier 2 Watch List

The Government of Brunei does not fully meet the minimum standards for the elimination of trafficking but is making significant efforts to do so. These efforts included passing the 2019 Anti-Trafficking in Persons Order, which separated the crimes of migrant smuggling and human trafficking; formalizing the government's interagency anti-trafficking in persons committee within the prime minister's office; instituting a committee to review foreign worker recruitment practices; ratifying the ASEAN Convention against Trafficking in Persons in January 2020; acceding to the UN TIP Protocol in March 2020; and continuing awareness-raising campaigns for employers of foreign workers. However, the government did not demonstrate overall increasing efforts compared to the previous reporting period. Despite a significant number of migrant workers in Brunei who exhibit multiple trafficking indicators, the government did not formally identify any cases of trafficking. The government did not prosecute or convict any traffickers for the third consecutive year. While the 2019 Anti-Trafficking in Persons Order upheld a fund created in 2004 for victim compensation and repatriation, the government has never allocated funding to it. The government continued to detain, deport, and charge potential victims for crimes without employing a victim-centered approach to discern if traffickers compelled the victims to engage in the unlawful acts. The government continued not to provide shelter or services for adult male trafficking victims. Therefore Brunei remained on Tier 2 Watch List for the second consecutive year.

PRIORITIZED RECOMMENDATIONS:

Increase efforts to investigate, prosecute, convict, and punish both sex and labor traffickers, including complicit government officials, with strong penalties. • Widely disseminate standard operating procedures for victim identification and train all front-line police, immigration, and labor officials on the procedures. • Finalize, approve, and implement the national action plan. • Cease the arrest, deportation, and punishment of trafficking victims for unlawful acts their trafficker compelled them to commit. • Increase protective services to provide incentives for victims to participate in investigations and prosecutions, including by providing shelter to adult male victims, allowing adult victims in government shelters to move freely, allowing at-will communication with people outside shelter facilities, and issuing work permits to all victims. • Ensure migrant worker contracts and information on their rights and obligations under Brunei law are available in migrant workers' primary language and that workers can retain a copy. • Issue guidelines on the prohibition of recruitment agencies charging or receiving worker-funded fees and enforce the prohibition. • Allocate resources for the completion of the pending dedicated trafficking victims' shelter. • Train judges on accurate and effective implementation of trafficking laws. • Allocate government resources to the victims' fund and allow those funds to be paid directly to victims as compensation. • Strengthen efforts to enforce laws prohibiting acts that facilitate trafficking, such as retention or confiscation of migrant workers' identity documents and partial or full withholding of wages. • Offer foreign victims long-term alternatives to removal from the country. • Expand comprehensive and visible anti-trafficking awareness

campaigns directed at employers of foreign workers and buyers of commercial sex.

PROSECUTION

The government demonstrated mixed law enforcement efforts. During the reporting period, the government enacted the 2019 Anti-Trafficking in Persons Order, which criminalized sex trafficking and labor trafficking and prescribed penalties of four to 30 years' imprisonment and fines of between 10,000 and one million Brunei dollars (\$7,430 and \$743,490), which were sufficiently stringent and, with respect to sex trafficking, commensurate with penalties prescribed for other serious offenses, such as rape. While the passage of this law did not substantively change the trafficking in persons criminal provisions under the pre-existing 2004 law, it successfully separated trafficking crimes from migrant smuggling crimes, which are now addressed under a separate law and had been frequently conflated. The penal code also criminalized travel outside the country for commercial sex with children, prescribing a punishment of up to 10 years' imprisonment, a fine, or both.

Royal Brunei Police Force (RBPF), labor, and immigration officers referred cases of suspected trafficking to the human trafficking unit (HTU) for further investigation. The HTU also reviewed case reports from other RBPF units to look for trafficking indicators, particularly in cases involving commercial sex, unpaid wages, workers fleeing their place of employment, or physical abuse of workers. The HTU reported it screened 90 cases in 2019 for trafficking indicators compared with 46 cases in 2018. Separately, the labor department screened 16 cases of domestic workers who reported unpaid wages and other issues for trafficking indicators. The government conducted one potential sex trafficking investigation of three defendants that resulted in non-trafficking charges. Authorities did not refer any cases to the attorney general's chambers (AGC) for prosecution; the most recent cases that authorities identified and referred to the AGC were two cases in 2017. For the third consecutive year, the AGC did not initiate any new trafficking prosecutions and the courts did not convict any traffickers. The government's most recent trafficking convictions were of three traffickers in 2016. Law enforcement officials charged a Department of Immigration officer, in addition to two Bruneian labor recruiters, under the Prevention of Corruption Act for knowingly committing visa application fraud in connection with an illegal operation to bring Bangladeshi workers to Brunei on false visa applications although the jobs did not exist; the case was ongoing at the close of the reporting period. Related to the same allegations, in November 2019, authorities cooperated with the Government of Bangladesh to detain and deport 11 Bangladeshi nationals accused of exploiting Bangladeshi migrant workers; however, the government did not report investigating or prosecuting these cases for labor trafficking. The HTU continued to train RBPF, immigration, labor, and anti-vice officers on trafficking and victim identification.

PROTECTION

The government maintained inadequate efforts to protect victims. The government identified seven potential sex trafficking victims in a case that resulted in non-trafficking charges against the perpetrators, compared with two potential victims identified in 2018. The HTU continued to report it employed standard operating procedures (SOPs) to identify potential trafficking victims when apprehending persons in commercial sex and when accompanying immigration and labor officials on operations where trafficking was suspected. Police, immigration, and labor

officers, who would be most likely to encounter potential trafficking victims, reported they also used these SOPs. According to past reports, in some cases, authorities employed identification measures only after detaining victims during law enforcement operations, such as raids in which police arrested foreign women for prostitution crimes. Officials may have also detained and deported unidentified trafficking victims for labor or immigration violations. Foreign government officials continued to report Bruneian authorities deported several of their citizens after their Bruneian employers withheld wages or medical care and then reported to immigration officials that the migrant workers had run away. According to observers, the practice of detention and deportation perpetuated victims' fear of communicating with law enforcement officers, exacerbating significant identification and service provision gaps.

The government maintained a secure, general-purpose shelter and provided medical care, counseling, psychological assessment, clothing, meals, and access to vocational training programs and recreational activities to all female trafficking victims and male trafficking victims under the age of 18. The government required victims to apply to leave the shelter and permitted movement only when the victim was accompanied by a chaperone. Shelter officials permitted victims to make calls home in the presence of an official from their embassy who could translate the conversation for authorities. Shelter officials reported housing seven female potential trafficking victims from Thailand for one month before they were repatriated. The government did not provide shelter or services to adult male victims. For the fourth consecutive year, the government reported budget constraints delayed its ongoing renovation of a dedicated trafficking shelter.

The 2019 law maintained a fund, previously established in 2004, to compensate victims and cover repatriation costs. However, the government's decision to not allocate money to the fund and convicted traffickers' ability to elect additional prison time in lieu of paying fines resulted in the fund's continued lack of resources. The departments of labor and immigration could grant victims temporary work passes on an ad hoc basis; the government did not report granting any victims work passes during the reporting period. The government did not have legal alternatives to removal for victims who may face hardship or retribution upon return to their home countries.

PREVENTION

The government maintained limited efforts to prevent trafficking. The government's anti-trafficking interagency committee regularly met to review government efforts. After approving the 2019 Anti-Trafficking in Persons Order, the sultan formalized the interagency committee and appointed a senior prime minister's office official to lead it. The sultan also raised concerns about trafficking and labor issues during publicized inspections of several government ministries and agencies, and the government subsequently instituted a new, high-level committee to review foreign worker recruitment processes. For the sixth consecutive year, the government did not complete its draft national action plan to combat trafficking. The government continued its public awareness campaign with printed materials in English and Malay.

Brunei's 2004 Employment Agencies Order (EAO) mandated licensing and regulation of recruitment agents. The EAO prohibited agencies from charging or receiving any form of fees, remuneration, profit, or compensation; however, since

the labor department had not yet issued guidelines on this prohibition, authorities had not implemented oversight of this provision. The labor department required foreign workers to sign their contracts in the presence of a labor officer to prevent forgery and enable the labor official to provide information to the worker on their rights and obligations; however, many workers' lack of literacy or fluency in local languages hindered disseminating information to and capturing information from workers. Brunei did not have a minimum wage; salary payments were negotiated in individual contracts. Without legal guidance, labor officials could not determine the fairness of the contracts. The 2009 Employment Order did not require employers to provide a written record of terms to employees not covered under the order, namely domestic workers and fishing crews.

Although Bruneian law prohibited employers from withholding wages more than seven days or retaining employees' passports, foreign embassies continued to report their citizens commonly experienced both practices. The labor department provided workers with business cards containing the department's hotline for reporting labor violations and continued its awareness roadshow to educate the public on labor laws, including on passport retention. However, when labor officials inspected worksites they only required migrant workers to show a copy of their passport and visa, and the government did not report taking administrative or legal action against employers for passport retention during the reporting period. The government did not make efforts to decrease the demand for commercial sex acts.

TRAFFICKING PROFILE

As reported over the past five years, human traffickers exploit foreign victims in Brunei. There are approximately 100,000 foreign workers in Brunei. Men and women migrate to Brunei primarily for domestic, retail, and construction work. Upon arrival, traffickers exploit some migrant workers through involuntary servitude, debt-based coercion, contract switching, non-payment of wages, passport confiscation, physical abuse, or confinement. Although it is illegal for employers to withhold the wages from their employees for more than seven days, some employers withhold wages to recoup labor broker or recruitment fees or to compel the continued service of workers. Retention of migrant workers' travel documents by employers or agencies remains a widespread practice, although the law prohibits it. Traffickers may force some female migrants who arrive in Brunei on tourist visas into prostitution. Some traffickers who exploit migrants in Malaysia or Indonesia for sex or labor trafficking use Brunei to transit victims.