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Brunei Darussalam is a sultanate ruled by the same family for more than 600 years, and it has a population of approximately 391,000. Sultan Haji Hassanal Bolkiah governed under emergency powers that place few limits on his power. The Legislative Council, made up of appointed, indirectly elected, and ex-officio members, with a limited role in recommending and approving legislation, met during the year. The sultan maintained control over the security forces.

The following human rights problems were reported: inability of citizens to change their government; arbitrary detention; limits on freedom of speech, press, assembly, and association; restrictions on religious freedom; discrimination against women; restricted labor rights; and exploitation of foreign workers.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that 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 prohibits mistreatment of prisoners, and there were no reports of such mistreatment. Caning is mandatory for 42 criminal offenses, and as of October official statistics reported 184 persons caned, most commonly for drug-related offenses and immigration violations. Canings were carried out in the presence of a doctor, who had the authority to interrupt the punishment for medical reasons.

Prison and Detention Center Conditions

Prison conditions generally met international standards. There were 372 convicted persons and 14 persons awaiting trial. Jerudong Prison holds "serious offenders," and, separately, approximately 40 female prisoners. Juveniles are not subject to imprisonment. The maximum designed capacity of the prison system is 400 persons.

In previous years conditions in police station detention cells were considered Spartan.

In January four policemen were charged for culpable homicide not amounting to murder and voluntarily causing grievous hurt on Abdul Rahim Abdullah Tan, who died in police custody. At year's end the trial of four accused continued.

During the year there were no reports that human rights monitors requested prison visits; foreign diplomats had consular access to detained nationals. Family members were permitted to visit prisoners and bring food.

d. Arbitrary Arrest or Detention

The law provides for prompt judicial determination regarding the validity of an arrest, but in practice these provisions were superseded through invocation of emergency powers.

Role of the Police and Security Apparatus

The police force and Internal Security Department (ISD) are under the direct control of the Prime Minister's Office. The police and the ISD were considered free of major corrupt practices, although there were reports of petty corruption. There were no reports of prosecution or conviction of police or military personnel for corruption.

Arrest Procedures and Treatment While in Detention

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. Police officers have broad powers to make arrests without warrants of persons caught in the act of committing a crime. After arrest police may detain a suspect up to 48 hours before bringing the individual before a magistrate. There were instances of persons considered a threat to the public who were detained for years without trial.

The Internal Security Act (ISA) permits the government to detain suspects without trial for renewable two-year periods. According to reports, detainees were promptly informed of the charges against them. Information on detainees was made public only after their release.

The government regularly convened an independent advisory board consisting of executive and judicial branch officials to review individual ISA detentions and recommend whether they should be renewed for an additional two years.

In January foreign national Aji Ajak was released from detention under the ISA. Aji Ajak was detained for his involvement in counterfeiting activities.

The criminal procedure code allows for bail except in cases indicated as "discretionary" by law. Detainees generally had prompt access to lawyers and family visitations; however, police may deny access in exceptional cases, such as probable cause to suspect witness tampering. There is no legal provision to provide affordable legal counsel for poor defendants, except in capital cases. In noncapital cases indigent defendants may act as their own lawyers in court.

e. Denial of Fair Public Trial

The law does not provide specifically for an independent judiciary, but the courts appeared to act independently, and there were no known instances of government interference with the judiciary. All higher-court judges are appointed by and serve at the pleasure of the sultan.

The judiciary consists of the Supreme Court, intermediate courts, and subordinate courts, with a final appeal for civil cases available through the Privy Council in the United Kingdom. A Shari'a (Islamic law) court with three levels supersedes the secular courts for Muslims in cases of divorce, inheritance, and some sexual crimes. Shari'a is not applied to non-Muslims.

A court run by the military legal unit provides military personnel with the same rights as in civilian criminal court.

Trial Procedures

Secular law, based on English common law, provides all citizens with a fair and efficient judicial process. Procedural safeguards include the right to defense counsel, an interpreter, and a speedy trial, as well as the right to confront accusers and to avoid self-incrimination. Lawyers have access to the accused once charges are filed through the trial process, but not during initial questioning. Defendants in criminal proceedings are presumed innocent. Most criminal cases are conducted in public trials by a judge or panel of judges. ISA detainees were denied the right to legal counsel and were not presumed to be innocent.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees. The government confirmed that as of November there were no detainees being held under the ISA.

Civil Judicial Procedures and Remedies

There is no specific provision of law to bring civil suit for human rights violations. In customary practice individuals may present written complaints about rights violations to the sultan directly for review. Such complaints typically were handled privately, and there were no reports of civil remedies handled in this manner during the year. Individual government servants who act outside their authority resulting in a civil wrong may be subject to fines or prosecution. Civil courts were generally unbiased.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law permits government intrusion into the privacy of individual persons, families, and homes. Shari'a permits enforcement of khalwat, an Islamic prohibition on the close proximity of a Muslim and a member of the opposite sex other than a spouse or close male relative. During the year 262 khalwat cases were reported.

The government monitored citizens' private e-mail, cell phone messaging, and Internet chat room exchanges believed to be subversive. An informant system was used as part of the government's internal security apparatus to monitor suspected dissidents.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Under the emergency powers, the government significantly restricted freedom of speech and of the press. Members of the legislative council are allowed to "speak their opinions freely," but they are prohibited from using language or exhibiting behavior deemed "irresponsible, derogatory, scandalous, or injurious," and they may be disqualified for service

on the basis of various offenses, including disloyalty to the sultan.

Under the Sedition Act, it is an offense to challenge in any way the authority of the sultan or members of the royal family. The act also makes it an offense to challenge "the standing or prominence of the national philosophy, the Malay Muslim Monarchy concept." This ideology permeates the country's life and government administration, promoting Islam as the state religion and monarchical rule as the sole acceptable governing system, and upholding the rights and privileges of the Brunei Malay race.

The act provides for prosecution of newspaper publishers, proprietors, or editors who publish anything allegedly having a seditious intent. Publication may be suspended for up to one year, and publishers, printers, or editors can be prohibited from publishing, writing, or editing any other newspaper. Printing equipment can also be seized. Persons convicted under the act face fines of up to B\$5,000 (approximately \$3,500) and jail terms of up to three years.

The law 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. Journalists deemed to have published or written "false and malicious" reports may be subjected to fines or prison sentences.

The country's daily newspapers, the *Borneo Bulletin* and the *Brunei Times*, practiced self-censorship. However, letters to the editor often included comments critical of government handling of certain social, economic, and environmental issues. On occasion the government responded to public opinion on topics concerning social or environmental problems and the delay of public services.

Foreign newspapers were routinely available, although the government must approve their distribution. Internet versions of foreign media were routinely available.

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

Internet Freedom

According to International Telecommunication Union statistics for 2008, approximately 55 percent of the country's inhabitants used the Internet. The government monitored private e-mail and Internet chat room exchanges of citizens believed to be subversive. There was anecdotal information that fear of government surveillance reduced the number of visitors to Internet forums. The primary Internet service provider was state owned.

Academic Freedom and Cultural Events

The government generally respected academic freedom; however, some researchers chose to publish under a pseudonym from overseas when they perceived that subject matter would not be well received.

A Censorship Board made up of officials from the Ministries of Home Affairs, Religious Affairs, and the Prime Minister's Office determines the suitability of concerts, movies, cultural shows, and other public performances. Religious authorities also review publications to ensure compliance with social norms.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

Under the emergency powers, the government significantly restricted the right to assemble. According to the Societies Order, public gatherings of 10 or more persons require a government permit, and police have the authority to stop an unofficial assembly of five or more persons deemed likely to cause a disturbance of the peace.

Freedom of Association

The law requires formal groups, including religious, social, or cultural, to register with the Registrar of Societies (ROS) and provide regular reports on membership and finances. The government continued to restrict the activities of international service organizations such as Rotary, Kiwanis, and the Lions, which developed out of the established business community. Religious regulations promulgated by the Ministry of Religious Affairs and the State Mufti's Office prohibited Muslims from joining these organizations.

In November 2008 the ROS deregistered the Football Association of Brunei for failing to submit annual general meeting reports for the previous two years.

A Brunei political party maintained that government restrictions limited the party's growth.

c. Freedom of Religion

The law states that "the religion of Brunei Darussalam shall be the Muslim religion according to the Shafi'i sect of that religion: Provided that all other religions may be practiced in peace and harmony by the person professing them in any part of Brunei Darussalam." However, in practice the government restricted non-Islamic religions and non-Shafi'i Islamic groups, reinforcing the legitimacy of the observance of traditional and Islamic values through its national Malay Muslim Monarchy ideology. All mosques are government controlled, and the Ministry of Religious Affairs prepared the weekly Friday sermons delivered in mosques countrywide.

The government used its internal security apparatus against persons it considered to be purveyors of radical Islam, non-Muslims who attempted to proselytize, and religious groups that did not belong to the official religion.

Registration is required by law for a group to worship communally. An organization that fails to register can face charges of unlawful assembly. All non-Shafi'i religious groups are required to register as associations. There continued to be credible reports that certain Christian groups were denied permission to register or chose not to register out of the expectation that their applications would be rejected.

The government routinely restricted the practice of non-Muslim religions by prohibiting proselytizing and, in the past, occasionally denying entry to foreign clergy, banning the importation of religious teaching materials or scriptures such as the Bible, and denying requests to expand or build new churches, temples, and shrines.

Muslims who wished to change or renounce their religion faced considerable difficulties. Born Muslims faced both official and societal pressure not to leave Islam; permission from the Ministry of Religious Affairs must be obtained to do so. During the year the ministry recorded four applications from Muslims wishing to renounce the religion. Applicants were required to undergo counseling prior to the finalization of an endorsement. In 2008 the ministry sanctioned one renunciation of Islam. There were instances of persons who converted to Islam (often foreign nationals) as a prelude to marrying Muslims; conversion is required by the country's Islamic law. As of July 2008, 653 persons had converted to Islam. After marriage those who wished to return to their former religion faced intense official pressure not to do so or encountered extraordinary delays in obtaining permission.

Authorities continued to arrest Muslims for offenses under Shari'a, such as khalwat and consumption of alcohol.

The Ministry of Education requires courses on Islam and the national ideology, and prohibits the teaching of other religions and comparative religious studies. Private Christian schools were not allowed to give Christian instruction to Christian or Muslim students but could offer voluntary, Islamic instruction to Muslim students. During the year the government warned Christian schools that they or their personnel could be fined or imprisoned for teaching non-Muslim religious subjects. However, the government did not prohibit or restrict parents from giving religious instruction to children at home.

The government routinely censored magazine articles on other faiths by blacking out or removing photographs of crucifixes and other religious symbols. Government officials also confiscated religious materials and prevented public display, distribution, and sale of items featuring non-Islamic religious symbols. However, some Christian churches displayed crosses on their buildings.

The government requires residents to carry an identity card that states the bearer's ethnicity, which is used in part to determine whether they are subject to Shari'a law. Visitors to the country were asked to identify their religion on their visa applications. Ethnic Malays are assumed to be Muslim and therefore subject to Shari'a law. Non-Muslims are not held accountable to Shari'a precepts. Religious authorities checked identity cards for ethnicity when conducting raids.

Only Islamic groups belonging to the Shafi'i school were permitted to organize public religious processions; however, the government allowed public lion dances to celebrate the Lunar New Year.

Societal Abuses and Discrimination

The country's various religious groups coexisted peacefully. There were no known Jewish communities in the country, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2009 International Religious Freedom Report* at www.state.gov/g/drl/rls/irf.

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

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. Government employees, both citizens and foreigners working on a contractual basis, must apply for approval to go abroad. In September the government introduced guidelines stating that no government officials may travel alone and nonrelated male and female officers may not travel together. The government restricts the movement of former political prisoners during the year following their release. The country is not a party to the Convention relating to the Status of Refugees and its 1967 Protocol and does not cooperate with office of the UN High Commissioner for Refugees.

By law the sultan may forcibly exile, permanently or temporarily, any person deemed a threat to the safety, peace, or welfare of the country. However, there have been no cases of banishment since 1984.

Protection of Refugees

The laws do not provide for the granting of asylum or refugee status in accordance with the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and the government has not established a system for providing protection to refugees. In practice the government did not provide protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

Stateless Persons

The law, which was administered on a case-by-case basis, allows citizenship to permanent residents who have contributed to the country's economic growth, to women married to citizens for two years, to women married to permanent residents for five years, and to children of permanent resident fathers after the age of two years and six months. According to unofficial sources there were approximately 20,000 "stateless" persons in the country, including persons born and raised in the country who were not automatically accorded citizenship and its attendant rights but were granted permanent resident status. The births of members of the Dusun and Iban indigenous groups living in rural areas often were not registered. This coupled with illiteracy made it difficult to issue certificates of identity to such persons. Government policy mandates that a child of stateless parents born in the country must apply for a special pass. These individuals did not enjoy full privileges of citizenship, they did not have the right to own land, and were not entitled to subsidized health care or higher education. In July the Land Code Strata Act, which allows permanent residents to own unit/s of multistory property for a maximum of 99 years, came into force. In lieu of passports, the government issued "certificates of identity" to allow these persons international travel and reentry; foreign visas may be entered in the certificates.

Primary education is free for citizens and permanent residents. Secondary education (above grade 10 equivalent) fees of B\$140 (approximately \$100) per month are required for noncitizens. University fees for noncitizens are B\$2,800 to B\$3,500 (approximately \$2,000 to \$2,500).

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens did not have the right to change their government peacefully.

The same family has ruled the country for more than 600 years. In 1962 the then sultan invoked an article of the constitution that allowed him to assume emergency powers for two years. These powers have been renewed every two years since 1962. The state of emergency places few limits on the sultan's power. The sultan also serves as prime minister, minister of defense, minister of finance, chancellor of the national university, inspector general of the Royal Brunei Police Force, and head of the Islamic faith.

Elections and Political Participation

Political authority and control rested entirely with the sultan. A 29-person legislative council (LegCo), which has no independent power and was made up primarily of appointed members, provided a forum for public discussion of proposed government programs as well as administrative deficiencies. It convenes once a year.

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

The Brunei National Development Party (NDP) remained the country's only registered political party. The NDP, as had other parties when they were registered, pledged to support the sultan and the government. Although the parties

criticized administrative deficiencies, their few activities received limited publicity and they were hindered by membership restrictions.

In October the NDP cohosted a public seminar on party development and the importance of civil society that included a foreign guest speaker. Reportedly, the authorities confiscated documents on the speaker and the event. Customs officials attempted to confiscate the speaker's books on politics upon his arrival in the country.

Individuals sought to express their views or influence government decisions and policies by posting messages to Internet discussion boards, writing letters to local newspapers, and petitioning the sultan or handing him letters when he appeared in public.

There were no female ministers in the government or female members of the LegCo. Two women held ministerial rank--the sultan's sister, Princess Masna, ambassador-at-large, in the Ministry of Foreign Affairs and Trade, and Datin Hayati, appointed in August, the first female attorney general. There were two female permanent secretaries, one in the Prime Minister's Office and one in the Ministry of Foreign Affairs and Trade. One cabinet-level post and two LegCo positions were held by ethnic Chinese.

Section 4 Official Corruption and Government Transparency

There were reliable reports of corruption in the government. In accordance with its zero tolerance policy for corrupt practices, the government successfully prosecuted a number of low-level officials. At year's end the case of a former government minister accused of corruption in awarding government projects was pending a final ruling from the chief justice. In September the former minister's alleged partner in crime was declared absconded and an arrest warrant was issued. In December six of 24 custom officers suspended from duty for their alleged role in smuggling heavily subsidized fuel to a neighboring country, were charged under the Prevention of Corruption Act, which carries a penalty of seven years' imprisonment and B\$30,000 fine (\$21,000). The Anticorruption Bureau, under the purview of the Prime Minister's Office, reports directly to the sultan.

Government officials were not subject to financial disclosure reports.

During the year the LegCo approved, and the government published, a summary of the fiscal year government budget. However, the government continued to restrict and classify as confidential some information on the financial dealings of the government and the royal family. The law provides that 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

Few if any civil society organizations dealt directly with human rights. A nongovernmental organization (NGO) seeking to operate in the country is required to apply for permission under the Companies Act and provide a list of members. The government may suspend the activities of a registered NGO if it deems such an act in the public interest. In the past the Consumers' Association of Brunei attempted to address human rights, but the government impeded these attempts. However, the association remained active in building relationships with other NGOs in the region dealing with consumer protection issues. There were NGOs that dealt with such issues as assisting victims of domestic violence.

The government was not known to have interacted with international human rights NGOs.

Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

The law does not contain specific provisions prohibiting discrimination based on race, sex, disability, language, or social status.

Women

The law stipulates imprisonment of up to 30 years and caning with not fewer than 12 strokes for rape. The law does not criminalize spousal rape; it explicitly states that sexual intercourse by a man with his wife, as long as she is not under 13 years of age, is not rape. During the year 27 rape cases were reported; at year's end police were investigating 23 and had forwarded four to the Attorney General Chambers.

There is no specific domestic violence law, but arrests have been made in domestic violence cases under the Women and Girls Protection Act. The police will investigate domestic violence only in response to a report by a victim. The police were generally responsive in the investigation of such cases. During the year there were a total of 124 cases of spousal abuse reported; at year's end 122 cases were under investigation and two had been forwarded to the Attorney General Chambers. 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 unit staffed by female officers existed within the police department to investigate domestic abuse and child abuse complaints. A hotline was available for persons to report domestic violence. The Ministry of Culture, Youth, and Sport's Department of Community Development (DCD) provided counseling for women and their spouses. Based on individual circumstances, some female and minor victims were placed in protective custody while waiting for their cases to be brought to court.

Islamic courts staffed by both 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.

Prostitution is illegal. Women who entered the country for purposes of prostitution generally were tried, sentenced, and deported swiftly. There were isolated instances of women forced into prostitution, and there were also reports that women arrested for prostitution attested to having been victims of trafficking. However, the government did not identify any trafficking victims during the year.

The law prohibits sexual harassment and stipulates that whoever assaults or uses criminal force, intending thereby to outrage or knowing it is likely to outrage the modesty of a person, shall be punished with imprisonment for as much as five years and caning.

Couples and individuals have the right to decide the number, spacing, and timing of their children, and have access to contraceptive devices and methods through the government and private clinics. Citizens enjoy free medical and health care, including skilled attendance during childbirth and essential obstetric and postpartum care. Women had equal access to diagnostic and treatment facilities for sexually transmitted infections.

In accordance with the government's interpretation of Koranic precepts, Muslim women have rights similar to those of Muslim men in areas such as divorce and child custody. The law requires that males receive twice the inheritance of women. The law permits female citizens to pass their nationality on to their children and to own property and other assets, including business properties.

Men were eligible for permanent positions in government service whether or not they had university degrees. In previous years married women without university degrees were eligible to hold government positions only on a month-to-month basis. However, since December 2008 such women were eligible for permanent positions, although they could not apply for travel allowances for their husbands and children. With this exception, they received the same allowance privileges as their college-educated counterparts. According to government statistics, women made up 57 percent of the civil service force and held 28 percent of senior management posts.

Women's issues were addressed by the Women's Council of Brunei, an NGO consisting of 14 women's associations; its objective is to improve the status of women in all areas.

Children

Birth registration is universal except for Dusun and Iban indigenous persons in rural areas (see section 2.d.). Citizenship is derived through one's parents rather than through birth within the country's territory. Parents with stateless status are required to apply for a special pass for a child born in Brunei; should they fail to register their child, it would be difficult to enroll the child in school.

No statistics were available regarding the welfare of children. The strong commitment to family values within society, the high standard of living, and government funding for children's welfare provided most children a healthy and nurturing environment.

By law sexual intercourse with a female under 14 years of age constitutes rape and is punishable by imprisonment for not less than eight years and not more than 30 years and not less than 12 strokes of the cane. The law protects women, girls, and boys from exploitation through prostitution and "other immoral purposes," including pornography.

Trafficking in Persons

The country is a destination for men and women trafficked for the purpose of forced labor and commercial sexual exploitation. The Trafficking and Smuggling Persons Order of 2004 prohibits sex and labor trafficking, and violations are punishable by up to 30 years' imprisonment, but there have never been any prosecutions under the order. It was believed that trafficking of foreign workers recruited from Indonesia, the Philippines, Pakistan, India, and Bangladesh took place. Such workers occasionally faced harsh, exploitative conditions in which their freedom of movement was restricted. Many of the 25,000 female domestic workers in the country were required to work exceptionally long hours without being granted a day for rest, creating an environment consistent with involuntary servitude. There were reports that women

arrested for prostitution subsequently claimed to have been victims of trafficking. There were also reports that the country was used as a transit stop for traffickers transporting women to third countries. However, the government did not identify any victims of trafficking during the year.

Immigration and other law enforcement officials were trained to investigate and prosecute suspected offenders and to deal with trafficking victims. During the year there were no trafficking cases investigated or prosecuted by the authorities, and there were no reports of government officials involved in trafficking.

The government made limited efforts to protect foreign trafficking victims. There was no formal system of protection or benefits for foreign trafficking victims. While immigration authorities were active in identifying violators of immigration law after they had entered the country, there were no cases reported of immigration authorities identifying potential trafficking victims among such immigration violators. There were no specific NGOs to assist trafficking victims as such, and victims were subject to prosecution for violations of immigration and labor codes. In cases where the government considers a victim to be a material witness in the prosecution of traffickers, police can provide temporary protection and shelter as necessary. Several foreign embassies also provided shelter for persons who may have been victims of trafficking.

The Department of State's annual *Trafficking in Persons Report* can be found at www.state.gov/g/tip.

Persons with Disabilities

The law does not mandate accessibility or other assistance for persons with disabilities. The government provided educational services for children with disabilities, but countrywide the level of services available was uneven. The DCD conducted several programs targeted at promoting awareness of the needs of people with disabilities.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

There were no reports of societal violence or discrimination based on sexual orientation. The law makes it a criminal offense to have "sexual intercourse against the order of nature." There were no reports of official discrimination based on sexual orientation in employment, housing, access to education, or health care.

Other Societal Violence or Discrimination

There were no reports of societal violence or discrimination against persons with HIV/AIDS.

Section 7 Worker Rights

a. The Right of Association

Under the Trade Unions Act, unions are legal and must be registered with the government. All workers, including civil servants other than those serving in the military and those working as prison guards or police officers, may form and join trade unions of their choice without previous authorization or excessive requirements; however, in practice trade union activity was minimal. The government discouraged union formation, and employers in the industrial sector did not encourage foreign workers to form unions. The three registered trade unions were in the oil sector and had a total membership of less than 5 percent of the industry's total work force. Official statistics reported 87,867 foreign workers, including 4,636 garment industry workers. None were members of any trade union.

While the law permits the formation of trade union federations, it forbids affiliation with international labor organizations unless there is consent from the home affairs minister and Department of Labor (DOL).

The law makes no explicit provision allowing the right to strike. There were no strikes reported during the year.

b. The Right to Organize and Bargain Collectively

The law prohibits employers from discriminating against workers in connection with union activities but provides no legal framework for collective bargaining. There was very little union activity in the country, and employer discrimination against union members was not reported.

There is a free trade zone in Muara Port, known as the Muara Export Zone (MEZ). Labor laws are fully applicable in the MEZ.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor; however, there were credible reports of some nationals from Asian countries experiencing nonpayment of wages and many of the 25,000 female domestic workers were required to work exceptionally long hours without being granted a day for rest, creating an environment consistent with involuntary servitude.

d. Prohibition of Child Labor and Minimum Age for Employment

Various laws prohibit the employment of children under age 16. Parental consent and approval by the Labor Commission is required for those under 18. Female workers under 18 may not work at night or on offshore oil platforms. The DOL, which is part of the Ministry of Home Affairs, effectively enforced laws related to the employment of children. There were no reports of violations of child labor laws.

e. Acceptable Conditions of Work

Most employed citizens commanded good salaries. There is no minimum wage. The standard workweek is Monday through Thursday and Saturday, with Friday and Sunday off, allowing for two rest periods of 24 hours each week. Overtime is required for work in excess of 48 hours per week, and double time is required for work performed on legal holidays, but this frequently was not the case in practice.

Occupational health and safety standards were established by government regulations. The DOL inspected working conditions on a routine basis and in response to complaints. The DOL generally enforced labor regulations effectively, but enforcement in the unskilled labor sector was lax, especially for foreign laborers at construction sites, where pay arrearage and inadequate safety and living conditions were reported. The DOL may close a workplace where health, safety, or working conditions are unsatisfactory. The law permits a worker to leave a hazardous job site without jeopardizing his employment, but generally, this did not occur.

According to government data, 87,867 foreigners worked in the country. Foreign workers are excluded from most labor law protections, including freedom of association. In the past the rights of the estimated 25,000 female domestic workers frequently were abused and they had little access to legal remedies. During the year the minister responsible for labor was given additional authority to protect their rights, and the government was usually quick to investigate and impose fines and punishment. Employers found guilty of abuses typically were fined or sentenced to prison and ordered to compensate the victim.

Government protective measures for foreign workers included arrival briefings for workers, inspections of facilities, and a telephone hotline for worker complaints. Government mediation continued to be the most common means used to resolve labor disputes. Abusive employers faced criminal and civil penalties. When grievances could not be resolved, repatriation of foreign workers was at the expense of the employer, and all outstanding wages were ordered paid. The majority of abuse cases were settled out of court by the employer paying financial compensation to the worker.

Foreign migrant workers, most notably in the garment industry, signed contracts with employment agents or other sponsors in their home countries that reduced their promised salaries through payments to the agencies or sponsors. The government forbade wage deductions to agencies or sponsors and mandated that employees receive their full salaries; nevertheless, foreign workers continued to pay high fees to manpower agents to obtain work in the country.

There were credible reports of domestic and construction workers from neighboring countries paying the equivalent of two months' wages to fictitious employers to obtain labor passes and work freelance in the local economy. There were also credible reports of nationals from South Asian countries working for little or no pay for up to two years to pay back foreign agents for securing jobs for them.

During the year there were 10 cases reported of nonpayment of salaries. Eight of the complaints were made by domestic workers and were referred to Attorney General Chambers. Two cases involved complaints made by workers in the formal sector and at year's end both were under investigation.

The government also prosecuted employers who employed illegal immigrants or did not process workers' documents, rendering them in illegal status.

Immigration law allows for prison sentences and caning for workers who overstay their work permits and illegal immigrants seeking work, as well as for foreign workers employed by companies other than their initial sponsor. While the majority of prosecutions were for long-term overstayers, many workers stayed in an illegal status due to their former employers' negligence.

