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## U.S. Department of State

### Brunei Country Report on Human Rights Practices for 1998

Released by the Bureau of Democracy, Human Rights, and Labor, February 26, 1999.

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#### BRUNEI

Brunei Darussalam, a small, wealthy monarchy located on the north coast of Borneo, is a sultanate ruled by the same family for 600 years.

The 1959 Constitution provided for the first delegation of political power by the late Sultan Omar Ali Saifuddin to an appointed council of state, but in 1962 the then Sultan invoked an article of the Constitution that allowed him to assume emergency powers for 2 years. These powers have been regularly renewed, most recently by the current Sultan in July. In September the Foreign Minister, Prince Mohamed, stated that the review of the Constitution, which has been in process for several years, would be completed in the near future. Although not all the articles of the Constitution are suspended, the state of emergency places few limits on the Sultan's power. He also serves as Prime Minister, Minister of Defense, Minister of Finance, chancellor of the national university, superintendent general of the Royal Brunei Police Force, and leader of the Islamic faith.

The police force, which has responsibility for internal security, reports to the Prime Minister's office, which includes an Internal Security Department, and is firmly under the control of civil authorities.

Brunei's large oil and natural gas reserves, coupled with its small population, give it a very high per capita gross national product. Lower oil prices and the effect of the region's economic downturn had an impact on the economy during the year. Some local firms have closed, including the Amedeo Group, a large holding company controlled by the Sultan's brother, Prince Jefri. The primary effect of these

economic difficulties fell on the large expatriate work force.

Human rights remain broadly circumscribed. In practice citizens do not have the right to change their government, and they generally avoid political activity of any kind. Nor, constitutional provisions notwithstanding, do they genuinely exercise the freedoms of speech, press, assembly, and association. Other human rights problems, including discrimination against women and restriction of religious freedom, continued.

## **RESPECT FOR HUMAN RIGHTS**

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

#### **a. Political and Other Extrajudicial Killing**

There were no reports of political killings.

In June an assistant superintendent of police was arrested and charged with the manslaughter of an Indian national. The police official allegedly used police premises to interrogate the Indian national over a personal business matter. During the interrogation, the police official allegedly beat and kicked the Indian national, who subsequently died of internal injuries. The police official was granted bail, and the case was pending at year's end.

#### **b. Disappearance**

There were no reports of politically motivated disappearances.

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

There were no reports of police mistreatment of prisoners. Any report of police mistreatment of prisoners would be investigated as a violation of the law. In 1988 caning became mandatory punishment for 42 drug-related and other criminal offenses and for vandalism. Since then, sentences of caning have been handed down and carried out in the presence of a doctor who monitors implementation and has the authority to interrupt and postpone the punishment for medical reasons. Caning is generally included as part of the sentencing in 80 percent of criminal convictions. Many convicted persons reportedly prefer caning to lengthy incarceration.

Prison conditions meet minimum international standards. There is no overcrowding; however, there is a growing prison population, and a new facility to supplement the 60-year-old prison was completed. Prisoners receive regular medical checkups. Remand cells at police stations are Spartan.

Human rights monitors are not known to have requested prison visits; foreign diplomats have visited prisoners.

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

The law provides for a prompt judicial determination of the validity of an arrest. However, those provisions, like the Constitution itself, may be superseded, either partially or wholly, through invocation of the emergency powers. The Internal Security Act (ISA) permits the Government to detain suspects without trial for renewable 2-year periods. The Government occasionally has used the ISA to detain persons suspected of antigovernment activity; however, information on the detainees is published only

after they are released. In 1997 two former rebel leaders were pardoned and released, after undergoing "religious indoctrination" and swearing loyalty to the Sultan (see Section 1.e.). As far as is known, all former rebel leaders are out of prison; there may, however, be a few political detainees arrested subsequent to the 1962 rebellion who are still in detention.

In August authorities arrested several citizens under the ISA for distributing defamatory letters containing allegations about the royal family and senior government officials connected with the collapse of the Amedeo Group, a large holding company headed by the former Finance Minister and Sultan's brother, Prince Jefri. The Government warned citizens that it would take action against anyone involved in such activities.

Police officers have broad powers to make arrests, without warrants, of persons caught in the act of committing a crime. However, under normal circumstances, a magistrate must endorse a warrant for arrest. Warrants are issued without this endorsement on rare occasions, such as when police are unable to obtain the endorsement in time to prevent the flight of a suspect.

Under the colonial-era Banishment Act of 1918, any person deemed to be a threat to the safety, peace, or welfare of Brunei, may be forcibly exiled either permanently or temporarily by the Sultan. Since independence, there have been no cases of banishment of citizens.

#### e. Denial of Fair Public Trial

The Constitution does not specifically provide for an independent judiciary. In 1996 in a landmark legal decision, however, the appellate-level, High Court ruled that the court has powers independent of the prosecution, and ordered a discharge in a car theft case under review, which amounted to an acquittal under the Criminal Procedure Code. So far the Government has not challenged the court's finding that magistrates have the legal power to discharge and acquit a defendant, even when the prosecution does not request the discharge.

The judicial system consists of five levels of courts, with final recourse in civil cases available through the Privy Council in London. In 1995 Brunei terminated appeal to the Privy Council in criminal cases. Procedural safeguards include the right to defense counsel, the right to an interpreter, the right to a speedy trial, and the right to confront accusers. There were no known instances of government interference with the judiciary and no trials of political opponents.

The civil law, based on English common law, provides citizens with a fair and efficient judicial process. Shari'a (Islamic law) supersedes civil law in some areas, including divorce, inheritance, and some sexual crimes. Shari'a law is not applied to non-Muslims.

In 1997 two "returnees" (individuals accused or convicted of participating in the 1962 rebellion, who fled or escaped the country, and subsequently returned) were released after going through "religious indoctrination," and swearing loyalty to the Sultan. As far as is known, all former rebel leaders are out of prison; there may, however, be a few political detainees arrested subsequent to the 1962 rebellion who are still in detention (see Section 1.d.).

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

Although the law permits government intrusion into the privacy of individual persons, families, or homes, this rarely happens. There were no reports of mail having been opened prior to delivery during the year. The Government at times prevents the importation of foreign newspapers and magazines (see

Section 2.a.).

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

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

While there are no laws restricting freedom of speech and freedom of the press, the Government has used its authority to protect public safety, morals, health, and domestic security to restrict these freedoms. Editions of foreign newspapers or magazines with articles that are found objectionable, embarrassing, or critical of the Sultan, royal family, or government are not allowed into the country. Magazine articles with a Christian theme reportedly invariably are censored. However, the growing use of fax machines, the Internet, and access to satellite transmissions make it increasingly difficult to keep such material from entering. The independently owned local newspaper, the Borneo Bulletin, appears to practice self-censorship in its choice of topics to avoid angering the Government, but it has instituted a new feature of letters to the editor, by which citizens--some by name and some anonymously--criticize the Government's handling of certain social, economic, and environmental issues. The Government's reactions to the letters have been mixed. On the one hand, it has clearly been responsive to public opinion on some issues such as dealing with social or environmental problems. On the other hand, the Internal Security Department allegedly has been attempting without success to obtain the names of people who have complained to the newspaper about government services. In 1997 the newspaper expanded its letters column to reflect the increase in letters.

Throughout the year, the Borneo Bulletin published articles and veiled commentaries on the rift between the Sultan and Prince Jefri. Muted criticism of Amedeo's financial dealings and Prince Jefri's statement claiming that Amedeo had been viable until a group of religious conservatives within the Government interfered with its operations also were published.

Although the only Brunei-based television station is governmentowned, three Malaysian television channels are also received locally. A 10-channel cable network of television stations is widely available. This network includes the Cable News Network, the British Broadcasting Corporation World News, and several entertainment channels.

The Government's tolerance of political criticism has not been tested recently because there is no organized opposition. Moreover, citizens generally make almost no criticism of their government. In the past, the Government has not hesitated to arrest those who attempted to propagate unwelcome political views.

The Government respects academic freedom.

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

Freedom to assemble for political purposes has not been seriously tested in recent years.

Following a 1967 ban on political parties, the Government allowed two parties to form in 1985 and 1986. It disbanded one of the parties in 1988. Political parties are allowed but they are not to engage in activities that endanger people. Membership is open to all citizens, except civil servants and security force personnel, who make up 60 percent of all employed citizens.

The remaining party, the Brunei Solidarity National Party (BNSP), which had been inactive for several years, held an assembly in February 1995, reportedly with the consent of the Government. About

50 people attended. In May 1995, the party president resigned. In a September 1995 interview in a local newspaper, he said that he had resigned after the Home Affairs Ministry warned him not to involve himself in political activity because he is a former political detainee. He told the interviewer that he was seeking authorization from the Government to resume political activity.

In April the BNSP enjoyed a brief revival at its General Assembly. Fewer than 50 persons attended the meeting. Since April party leaders had expressed support for the Government's determination to investigate the Amedeo crisis, but the party appeared to be largely inactive. In October the Prime Minister's Office rebuked BNSP President Haji Mohamed Hatta over an interview he gave to a regional newsmagazine. The Prime Minister's Office described Hatta's portrayal of Brunei as "irresponsible, untrue, inaccurate, misleading, and embarrassing."

The activities of international service organizations such as Rotary, Kiwanis, and the Lions, continued to be constrained by the Government, which in 1995 reminded local leaders of these organizations that Muslims may not be members.

### c. Freedom of Religion

The Constitution states that, "The religion of Brunei Darussalam shall be the Muslim religion according to the Shafeite 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." The Government sporadically voiced alarm about "outsiders" preaching radical Islamic fundamentalist or unorthodox beliefs. Citizens deemed to have been influenced by such preaching (usually students returning from overseas study) have been "shown the error of their ways" in study seminars organized by mainstream Islamic religious leaders. The Government seems more concerned about these so-called Islamic "opportunists" than unwelcome political views. Moreover, the Government does not hesitate to investigate and to use its internal security apparatus against these purveyors of radical Islam.

In 1991 the Government began to reinforce the legitimacy of the hereditary monarchy and the observance of traditional and Muslim values by reasserting a national ideology known as the Malayhu Islam Beraja (MIB) or "Malay Muslim monarchy," the genesis of which reportedly dates back to the 15th century. The Government in 1993 participated in issuing the Kuala Lumpur Declaration, which affirms the right of all persons to a wide range of human rights, including freedom of religion. Despite this and constitutional provisions providing for the full and unconstrained exercise of religious freedom, the Government routinely restricts the practice of non-Muslim religions by: Prohibiting proselytizing; occasionally denying entry to foreign clergy or particular priests, bishops, or ministers; banning the importation of religious teaching materials or scriptures such as the Bible; and refusing permission to expand, repair, or build new churches, temples, and shrines. However, in February the Government allowed the Catholic Church to establish the first apostolic prefecture in the country and to install Monsignor Cornelius Sim, a Bruneian of Chinese origin, as the country's first apostolic prefect.

In September officials of the Islamic Propagation Center confiscated gold and other precious Buddhist and Christian icons from a number of goldsmiths in the capital, stating that the open display of these items "offended local sensitivities." The confiscations were made under the Undesirable Publications Act, which gives the Government wide-ranging powers. Several days later, the goldsmiths were informed that they could recover their property from the Ministry of Home Affairs.

In July the authorities began to raid clubs frequented by foreign residents and foreign workers, in order to confiscate alcohol and foodstuffs that were not prepared in accordance with "halal" requirements (the Islamic requirements covering the slaughter of animals and the prohibition on inclusion of pork products

in any food).

The Ministry of Education has also restricted the teaching of the history of religion or other courses on religion in non-Islamic schools while requiring courses on Islam or the MIB in all schools. Only the Bandar Seri Begawan and Jerudong International Schools are exempted from these restrictions.

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Government restricts the movement of former political prisoners during the first year of their release. Otherwise, generally, the Government does not restrict freedom of movement of its citizens, visitors, and permanent residents. Government employees, both citizens and foreigners working on a contractual basis, must apply for approval to go abroad; it is routinely granted.

Brunei has no legal provision for granting temporary refuge, first asylum, or refugee status to those seeking such refuge or asylum. Under the law, persons arriving without valid entry documents and means of support are considered illegal immigrants and are refused entry. There were no reported cases of individuals seeking temporary refuge in 1998.

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

Citizens are unable to change their government; Brunei is a monarchy and there are no established democratic processes. Under the continuing state of emergency, there is no parliament, and political authority and control rests in the hands of the ruling monarch. Individuals may seek to express their views or to influence government decisions and policies by writing letters to the local newspaper or by petitioning the Sultan or handing him letters when he appears in public.

A form of popular representation lies in a traditional system of village chiefs who, since 1992, are elected by secret ballot by all adults. These leaders communicate constituents' wishes through a variety of channels, including periodic meetings chaired by the Home Affairs Minister, with several officials appointed by the Sultan. In 1996 the Sultan officiated at the first General Assembly of the "mukim" (a group of villages) and village consultative council. Over 1,000 village chiefs from 150 villages and 35 mukim participated as delegates. The delegates were elected from among individual villagers, and the Government described the Assembly as "a grass roots level political system." The Sultan, however, appoints all the council's advisers. The Government insists that ordinary citizens actually use these councils to present their grievances and to obtain redress.

The lack of representative democratic government seriously limits the role of both men and women in government and politics; however, women are making progress. In 1997 the Sultan's sister, Princess Masna, was confirmed as the second ranking official in the Ministry of Foreign Affairs, and for the first time two women were appointed as permanent secretaries in the Ministries of Education, and Culture, Youth and Sports.

### **Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

There are no government or private organizations that deal specifically with the protection of human rights. However, in 1997, for the first time, the Government entered into a human rights dialog with a foreign embassy. There were no known allegations of abuses or requests to visit by international human rights groups.

## **Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status**

Except for religion (see Section 2.c.), the Constitution does not contain specific provisions prohibiting discrimination based on the factors listed above.

### **Women**

The extent to which spousal abuse may occur and go unreported is not known. However, in response to a perception that domestic violence is a serious problem, the police established a special unit to investigate allegations of spousal abuse in 1994. Approximately 16 cases of domestic abuse were reported to police in the first half of 1995. The Government has established a shelter for abused women, and reportedly there were less than 10 women and their children resident in 1998. In general Islamic religious authorities oppose divorce and encourage spouses to return even to flagrantly abusive husbands. However, they recognize wife beating as grounds for divorce. In 1995 the Government initiated a well-publicized telephone hot line to report abusers.

The criminal penalty for a minor domestic assault is 1 to 2 weeks in jail and a fine. An assault resulting in serious injury would be punished by caning and a longer jail sentence. One area of apparent abuse involves female domestic servants. While the level of violence in society is low, beating of servants--or refusing them the right to leave the house on days off, sometimes on grounds that they "might encounter the wrong company"--is less socially unacceptable behavior. Since most female domestics are foreign workers who are highly dependent on their employers, those subject to abuse may be unwilling or unable to bring complaints, either to the authorities or to their governments' embassies. When such complaints are brought, however, the Government generally is quick to investigate allegations of abuse and impose fines and punishment as warranted.

In accordance with Koranic precepts, women are denied equal status with men in a number of important areas, such as divorce, inheritance, and custody of children. Under the Brunei Nationality Act, citizenship is transmitted through males only. Female citizens who are married to foreigners or bear children by foreign fathers cannot transmit citizenship to their children, even when such children are born in Brunei. This has resulted in creation of a sizable population of stateless children, estimated at more than 5,000 residents, who are entitled to live in the country and to be documented for travel by the Government, but who cannot enjoy the full privileges of citizenship, including the right to own land.

Although men are eligible for permanent positions in government service whether or not they hold university degrees, women who do not have university degrees are eligible to hold government positions only on a month-to-month basis. While recent changes eliminated some previous inequities, women in month-to-month positions continue to receive slightly less annual leave and fewer allowances than their male and female counterparts in permanent positions.

Religious authorities strongly encourage Muslim women to wear the tudong, a traditional head covering, and many women do so. Some Muslim women do not, however, and there is no official pressure on non-Muslim women to do so. All female students in government-operated schools are required to wear the tudong; students in nongovernment schools are encouraged to wear it. All public schools are secular.

There are no separate pay scales for men and women, and in recent years there has been a major influx of women into the work force. Women serve in a wide variety of capacities in the armed forces, although they may not serve in combat. The number of female university graduates is increasing, and nearly two-thirds of Brunei University's entering class is female.

## **Children**

There are no published statistics 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 provides most children a healthy and nurturing environment. With a few exceptions involving small villages in extremely remote areas, nutritional standards are high, and poverty is almost unknown. There were 18 reported cases of child abuse in the first half of 1995. In 1996 the Brunei High Court convicted a father of 11 of child abuse. The Chief Justice sentenced him to 20 years in prison and ordered him caned with 20 strokes of the rattan for causing the death of his 3-year-old daughter and grievous hurt to another 2 of his children.

## **People With Disabilities**

No legislation mandating accessibility or other assistance for disabled persons has been passed. The Government is attempting to provide educational services for children with disabilities, although these efforts are not yet adequate to address the situation. Teachers are still being trained to deal with disabled children and some children have no educational opportunities. A special facility with trained educators is needed to accommodate the disabled children who cannot be assimilated into normal classrooms, and the Ministry of Education is studying the problem.

## **Indigenous People**

The 6 percent of the population that is composed of indigenous people long has been integrated into society, and enjoys the same rights as other citizens.

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

Some members of non-Malay minorities, such as ethnic Chinese, including those born and raised in Brunei, are not automatically accorded citizenship and must travel abroad as stateless persons. Brunei's colonial-era naturalization laws are widely viewed as out of date and in need of reform.

## **Section 6 Worker Rights**

### **a. The Right of Association**

Trade unions are legal in Brunei but must be registered with the Government. There are three registered trade unions, one passive and two generally inactive, all of them in the oil sector, and with a total membership amounting to less than 5 percent of that industry's work force. All workers, including civil servants other than those serving in the military and police, may form or join trade unions. Unions are independent of the Government.

The Trade Unions Act of 1962 permits the formation of trade union federations, but forbids affiliation with labor organizations outside Brunei. An individual contract is required between an employer and each employee, but legal trade union activities cannot be deemed to violate employee contracts. Local legal experts interpret this provision as conferring the right to strike, but there have been no strikes. Brunei is not a member of the International Labor Organization.

### **b. The Right to Organize and Bargain Collectively**

The Government has not prevented the legal registration of trade unions, nor has it dissolved any. The

Government did not interfere with lawful union activity. It is illegal to refuse employment or discriminate against an employee on the basis of membership or nonmembership in a trade union. While unions are legal and easy to register, conditions are not conducive to the development of trade unions. There is little interest on the part of workers in forming trade unions, and existing unions are not very active. The law is silent on collective bargaining, and it occurs in only a few industries. There are few industries of the kind in which unions have traditionally developed. Also, cultural tradition favors consensus over confrontation. Wage and benefit packages are based on market conditions and tend to be generous.

There is a free trade zone in Muara Port, known as the Muara Export Zone (MEZ), established in May 1994.

#### c. Prohibition of Forced or Compulsory Labor

The law prohibits forced labor including forced and bonded labor by children, and it is not practiced.

In 1997 a foreign beauty contest winner brought suit in a foreign court against members of the Brunei royal family alleging that she and six other women were brought to Brunei in 1996 and subsequently held against their will for purposes of sexual exploitation. A statement by the royal family called the case "frivolous and groundless." The Sultan's sovereign immunity was recognized, and the court accepted Prince Jefri's claim of immunity. An appeal of Prince Jefri's immunity was pending at year's end.

#### d. Status of Child Labor Practices and Minimum Age for Employment

The Labor Enactment Laws of 1954 prohibits employment of children below the age of 16. Parental consent and approval by the Labor Commission is required for those below the age of 18. Female minors under age 18 may not work at night or on offshore oil platforms. The Department of Labor (DOL), which is a part of the Ministry of Home Affairs, effectively enforces laws on the employment of children. There were no reports of violations of the child labor laws. Forced and bonded labor by children is prohibited and it is not practiced (see Section 6.c.).

#### e. Acceptable Conditions of Work

Skilled labor is in short supply, and market forces enable most citizens to command good salaries. There is no minimum wage. The standard workweek is Monday through Thursday and Saturday, with Friday and Sunday off, allowing for two 24-hour rest periods each week. Overtime is paid for work in excess of 48 hours a week, and double time is paid for work performed on legal holidays. Occupational health and safety standards are established by government regulations. The DOL inspects working conditions on a routine basis and in response to complaints. The DOL generally enforces labor regulations effectively. However, in the unskilled labor sector enforcement is lax, especially for foreign laborers (see Section 5). The DOL is empowered to close any workplace where health, safety, or working conditions are unsatisfactory, and it has done so in the past.

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