

# **BRUNEI 2012 HUMAN RIGHTS REPORT**

## **EXECUTIVE SUMMARY**

Brunei Darussalam has been ruled by the same family for more than 600 years. Sultan Haji Hassanal Bolkiah governed under longstanding emergency powers that placed few limits on his authority. The Legislative Council (LegCo), made up of appointed, indirectly elected, and ex officio members, met during the year and exercised a limited role in recommending and approving legislation. Security forces reported to Sultan Haji Hassanal Bolkiah.

Restrictions on religious freedom; exploitation of foreign workers; and limitations on freedom of speech, press, assembly, and association were the most prevalent human rights problems.

The following human rights problems were also reported: inability of citizens to change their government, trafficking in persons, and discrimination against women.

There were no known reports of human rights abuses by government officials during the year and impunity was not a problem.

### **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**

There were no reports of torture or rape and sexual abuse during the year. Caning is mandatory for 12 criminal offenses and, as of September, authorities caned 75 male inmates, most commonly for drug-related offenses, immigration violations, theft, and breaking and entering. Canings were carried out in the presence of a

doctor, who had the authority to interrupt the punishment for medical reasons. The government applied laws carrying a sentence of caning impartially to all groups in the country, without displaying favoritism.

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

Prison and detention center conditions generally met international standards. There were no reports that human rights monitors requested prison visits during the year. However, there were no indications that the country would not accept such a visit if requested.

Physical Conditions: As of September 2012, there were 507 inmates in prison facilities. Jerudong Prison held 246 inmates and Maraburong Prison held 218 inmates. There were 43 female inmates held at a separate facility in the Jerudong Prison compound. There were 43 inmates awaiting trial at year's end. Prison conditions did not vary by inmate gender. Prisoners had access to potable water. Juveniles were not subject to imprisonment; however, courts sent juvenile offenders to detention centers and rehabilitation homes. The maximum sentence for a juvenile offender is six months in a detention center, where they are held separately from adult inmates.

Administration: The government amended the Children and Young Person's Order so that juvenile offenders can be sentenced to probation and ordered to perform community service instead of serving time in a detention or rehabilitation center. The courts sentenced 12 adult offenders convicted of nonviolent crimes to alternative sentences in lieu of imprisonment and fines. Inmates were permitted to practice their religions. A government-appointed committee composed of retired government officials monitored prison conditions and investigated complaints of inhumane conditions. Recordkeeping on prisoners appeared to be adequate, and prisoners and detainees had access to visitors.

The prison has an ombudsmen system in place. "Visiting justices," including prominent businessmen, community leaders, and representatives of public institutions, visited prisons once a month.

Monitoring: During the year there were no reports that human rights monitors requested prison visits. Foreign diplomats had consular access to detained nationals, but not to cells or facilities inside the prison. Prison authorities permitted family members to visit prisoners and bring food.

Improvements: During the year the country completed its second prison facility begun in 2011. The Prison Department moved approximately half of the inmates from the first facility, which previously held over 400 inmates and had a capacity of 366, to the new facility on completion. Both facilities are within capacity and have room for growth.

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

The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions; however, they could be superseded through the invocation of emergency powers.

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

The 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. Civilian authorities maintained effective control over the police force, the ISD, and the labor and immigration departments. The government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

#### **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 for investigation before bringing the individual before a magistrate. Police stations maintain a policy of no access to detained individuals during that time. There were no reports that persons were detained without a hearing. Detainees reportedly were informed promptly of the charges against them. Information on detainees was made public only after their release. The criminal procedure code allows for bail except in cases designated as "discretionary" by law. Detainees generally had prompt access after the 48-hour investigation period 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.

The Internal Security Act (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 recommend whether they should be renewed for an additional two years. There were no detainees held under the ISA during the year.

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

The law does not provide specifically for an independent judiciary, but there were no known instances of government interference with the judiciary. All higher court judges are appointed by Sultan Haji Hassanal Bolkiah and serve at his pleasure.

#### **Trial Procedures**

Secular law, based on English common law, provides all citizens with the right to a fair and efficient judicial process, and the judiciary generally enforced this right.

Defendants in criminal proceedings are presumed innocent. Most criminal cases are conducted in public trials by a judge or panel of judges. Defendants do not enjoy the right to trial by jury. Procedural safeguards include the right to defense counsel and an interpreter, and the right to confront accusers, cross-examine witnesses, call witnesses, present evidence, and avoid self-incrimination. There were no reports that defendants were not allowed adequate time or facilities to prepare their defense. Lawyers have access to the accused once charges are filed through the trial process, but not during initial questioning. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants have a right of appeal. Authorities denied ISA detainees the right to legal counsel; detainees were not presumed to be innocent.

Sharia courts have long had jurisdiction over civil matters in which at least one party is Muslim. In July Sultan Haji Hassanal Bolkiah approved the Sharia Penal Code Order and called for the order to be implemented in parallel with non-Sharia criminal law.

#### **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 civil suit for human rights violations. In customary practice individuals may present written complaints about rights violations to Sultan Haji Hassanal Bolkiah directly for review. Such complaints most often were handled privately, and there were no reports of civil remedies handled in this manner during the year.

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

The law permits government intrusion into the privacy of individual persons, families, and homes. The government monitored private e-mail, cell phone messaging, and Internet chat room exchanges suspected of being subversive. An informant system was used as part of the government's internal security apparatus to monitor suspected dissidents.

Sharia permits 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. The government reported 106 khalwat cases during the year, of which 52 were pending or in trial. Of the 214 individuals involved in the 106 cases, 15 were non-Muslims. While Sharia courts do not prosecute non-Muslims for khalwat, non-Muslims can be arrested for the offense.

There was no change in the status of the Brunei People's Party, which has been banned since 1962.

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

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

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

Freedom of Speech: 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 authority of the royal family. The act also makes it an offense to challenge "the standing or prominence of the national philosophy, the

Malay Islamic 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 for the country, and upholding the rights and privileges of the Brunei Malay race.

Freedom of Press: 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.

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. Much of the censored content is Malaysian in origin.

On May 5, in celebration of World Press Freedom Day, one of the two local English dailies published an editorial from its Jakarta contributor calling for more freedom of the press as it applies in a democracy.

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 can suspend publication for up to one year, and prohibit publishers, printers, or editors from publishing, writing, or editing any other newspaper. The government can also seize printing equipment. Persons convicted under the act face fines of up to BN\$5,000 (\$4,000) and jail terms of up to three years. Journalists deemed to have published or written “false and malicious” reports could be subjected to fines or prison sentences.

The country’s major newspapers practiced self-censorship.

On October 6, Sultan Haji Hassanal Bolkiah firmly denounced the film *Innocence of Muslims*, stating that insults to the Prophet Mohammed or Islam should not be protected under free speech and that the country had the right to block Internet

sites which do so. “No individual has the rights to insult another group, what more insulting a prophet,” he was quoted as saying.

### **Internet Freedom**

Social media Web sites are widely accessible. The government monitored private e-mail and Internet chat room exchanges believed to be subversive. The Ministry of Communications and the prime minister’s office enforce the Broadcasting Act, which 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 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 Web sites with sexually explicit material, and Internet companies may self-censor content and reserve the right to cut off Internet access without prior notice. There were no reports of prosecution or punishment for the expression of political or religious views via the Internet or by email. There was anecdotal information that fear of government surveillance reduced the number of visitors to Internet forums. A majority of the population has access to the Internet, and the country has one of the highest percentage rates of Facebook usage in the world. The combination of low bandwidth and high volume usage resulted in access issues, and Internet companies blocked video streaming during the year.

On September 26, following protests in other countries over the film *Innocence of Muslims*, the government called on users of new media to avoid spreading material that insults religion and promotes violent reactions.

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

There were no government restrictions on academic freedom; however, some researchers chose to publish from overseas under a pseudonym when they perceived that subject matter would not be well received.

A censorship board made up of officials from the prime minister’s office and the Ministries of Home Affairs and Religious Affairs determines the suitability of concerts, movies, cultural shows, and other public performances. Religious authorities 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. Government permits require the approval of a minister, but the government routinely issued permits for annual events.

## **Freedom of Association**

The law does not provide for freedom of association. It requires formal groups, including religious, social and cultural organizations, to register with the Registrar of Societies 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. Regulations promulgated by the Ministry of Religious Affairs and the State Mufti's Office prohibited Muslims from joining these organizations. There were no reports of demonstrations, attempted demonstrations, or use of force to prevent demonstrations.

The National Development Party maintained that government restrictions limited the party's growth.

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

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

### **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 in practice.

Foreign Travel: Government employees, both citizens and foreigners working on a contractual basis, must apply for approval to go abroad. The government's 2009 guidelines state that no government official may travel alone and that nonrelated male and female officers may not travel together.

Exile: By law Sultan Haji Hassanal Bolkiah 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 the country became fully independent in 1984.

### **Protection of Refugees**

Access to Asylum: The country's laws do not provide for the granting of asylum or refugee status, and the government has not established a system for providing protection to refugees. 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. However, as in past years, there were no such expulsions or returns during the year.

### **Stateless Persons**

Citizenship is derived through one's parents rather than through birth within the country's territory. As of January 2012, UNHCR reported 20,992 stateless persons in the country; however, unofficial sources counted approximately 150,000 stateless persons, including persons born and raised in the country who were not automatically accorded citizenship and its attendant rights, but were granted permanent resident status. A significant number of stateless persons were of Chinese or aboriginal descent. Chinese are the largest non-Malay minority group. All citizenship applicants must pass a test demonstrating sufficient knowledge of Malay culture and language.

Stateless persons can obtain citizenship through an application process if they are permanent residents who have contributed to the country's economic growth, women married to citizens for two years, women married to permanent residents for five years, or children of permanent resident fathers after the age of two years and six months. In 2006 the following three categories were added: applicants who contribute to the economic growth and development of the country; professionals who contribute to the economic growth and development of the country; and husbands of Brunei citizen women. Citizenship is also granted to permanent residents born abroad, if they have reached 18 years of age, hold an entry permit, and have continuously resided in the country for at least 20 years. Men married to Brunei citizen women fall under this chapter. The same citizenship requirements apply to permanent residents born in Brunei Darussalam,

but these individuals are required to have held an entry permit for more than 12 years and to have lived continuously in the country for at least two years.

Children of citizen mothers are subject to a separate application process to confirm citizenship because transmission of citizenship can only be automatically assumed for children of citizen fathers. A citizen mother must apply for citizenship for her child if the father is not present. The government then grants the child a certificate of identity, the same as stateless permanent residents. Government policy mandates that a child born in the country to stateless parents must apply for a special pass. Births to members of the Dusun and Iban indigenous groups living in rural areas often were not registered, making it difficult for such persons to obtain citizenship.

The government differentiated between stateless permanent residents (PRs) and stateless persons without status of any kind (stateless). A PR is defined as “A person to whom a Residence Permit has been issued under subsection (1) of Section 67 of the Immigration Enactment 1956 ( Enactment No 23 of 1956) or to whom an Entry Permit has been issued under subsection (2) of Section 10 of the Immigration Act (Chapter 17).” The government views PRs as “registered” members of society, who do not receive the same standard of benefits as citizens, but have access to limited forms of these amenities. PRs do not have the right to own land and are not entitled to full subsidized health care or higher education. The Land Code Strata Act allows permanent residents to own units of multistory property for a maximum of 99 years. 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.

The stateless without PR status receive no benefits from the government and hold no form of identification, which makes them ineligible for any of the government-provided amenities such as health care, education, and to a large extent, employment. The government cannot under any circumstances employ the stateless due to their lack of papers, and the private sector employs the stateless at its own risk. Government policies leave the stateless in an employment status similar to foreign laborers without a work permit. However, government agencies do offer welfare services to stateless parents unable to gain access to basic needs. The Ministry of Home Affairs also has pushed to expedite the permanent resident registration of the country’s stateless if they meet all necessary requirements. However, the strict procedure in assessing the applications continues to create obstacles for the stateless.

Based on 2011 reports, as of December 2010 about 50,000 applicants had been issued permanent resident status and given an entry permit for the country. From 1962 to 2010, 42,370 persons were granted citizenship at an average of 865 individuals every year. Of the total figure, 21,522 (56 percent) were Malays, 11,432 (27 percent) were Chinese, 5,945 (14 percent) were from indigenous groups, and the remaining 3,471 were other nationalities. About 60 percent (25,386) were children whose parents or guardians were citizens, and most of these children were adopted as babies. A total 8,988 women (21 percent) attained citizenship through marriage to a citizen. Of the 8,988, 5,164 were Malays, 1,999 were Chinese, 1,117 were from indigenous groups, and 708 were other nationalities.

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

Citizens do not have the right to change their government peacefully. Sultan Haji Hassanal Bolkiah rules through hereditary birthright. While the country is a constitutional sultanate, in 1962 the former ruler invoked an article of the constitution that allowed him to assume emergency powers. Sultan Haji Hassanal Bolkiah continued the practice, which places few limits on his power.

#### **Elections and Political Participation**

Recent Elections: Political authority and control rested entirely with Sultan Haji Hassanal Bolkiah. A LegCo of primarily appointed members and little independent power provides a forum for public discussion of proposed government programs, as well as administrative deficiencies. It convenes once a year for approximately two weeks, after which it is dissolved. The Eighth LegCo session met in March. Council members may be disqualified from service on the basis of various offenses, including disloyalty to the head of state.

Persons age 18 years 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, 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 airing of local grievances and concerns.

Political Parties: The Brunei National Development Party is the country's only registered political party. The party pledged to support Sultan Haji Hassanal Bolkiah and the government. The party criticized administrative deficiencies, its few activities received limited publicity, and restrictions hindered its membership.

Participation of Women and Minorities: In 2009 Sultan Haji Hassanal Bolkiah appointed the first female cabinet member, Datin Hayati, as attorney general. Two other women held ministerial rank--Sultan Haji Hassanal Bolkiah's sister, Princess Masna, ambassador-at-large in the Ministry of Foreign Affairs and Trade; and Deputy Minister for Culture Youth and Sports Datin Adina, appointed in 2010. There were three female permanent secretaries--one each in the Ministries of Defense, Foreign Affairs and Trade, and Industry and Primary Resources, as well as three deputy permanent secretaries. There were two women appointed to the LegCo and four ambassadors.

The government reported that ethnic Chinese held one cabinet-level post and two LegCo positions.

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

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

On August 30, a magistrate's court convicted a customs officer for accepting bribes under the Prevention of Corruption Act and sentenced him to 36 months in prison. Another corruption case involved a surveyor general from the Ministry of Development charged with graft and accepting bribes. At year's end, the trial date was still pending.

Government officials were not subject to financial disclosure reports. The law provides for public access to government information. There was no information available regarding financial disclosure policies for government officials. During the year the LegCo approved, and the government published, a summary of the budget for the fiscal year. 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 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 issues such as assisting victims of domestic violence.

## **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**

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; it explicitly states that sexual intercourse by a man with his wife is not rape, as long as she is not under age 13. The legal age of marriage is 14 unless otherwise regulated by religion or custom under law. The Islamic Family Order set the minimum marriageable age at 16 for Muslim women and 18 for Muslim men. Ethnic Chinese must be age 15 or older to marry according to the Chinese Marriage Act, which also stipulates that sexual intercourse with an ethnic Chinese woman under 15 is considered rape even if it is with her spouse. Protections against sexual assault by a spouse are provided under the amended Islamic Family Law Order 2010 and Married Women Act Order 2010, and the penalty for breaching a protection order is a fine not exceeding BN\$2,000 (\$1,600) or imprisonment not exceeding six months. As of November, 21 rape cases had been reported; 17 of these were under investigation, three prosecuted and one convicted. In December a man pleaded not guilty in High Court on two charges of raping his daughter. While awaiting trial the court released the man on BN\$20,000 (\$16,129) bail, ordered him to report to the investigating officer once a week, and not contact any of the prosecution's witnesses. At year's end the trial was pending.

There is no specific domestic violence law, but arrests were made in domestic violence cases under the Women and Girls Protection Act. The police 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 77 cases of domestic abuse reported; at year's end 68 cases were under investigation, three prosecuted, and six convicted. 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 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.

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.

Sexual Harassment: 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 many as five years and caning. The government reported 13 cases of sexual harassment, of which six were under investigation at year's end, four prosecuted, and three convicted.

Reproductive Rights: Couples and individuals have the right to decide the number, spacing, and timing of their children and have access to modern contraceptive devices and methods through the government and private clinics. Citizens enjoy free medical and health care, prenatal care, and essential obstetric and postpartum care. Women had equal access to diagnostic and treatment facilities for sexually transmitted diseases.

Discrimination: In accordance with the government's interpretation of the Quran's precepts, Muslim women have rights similar to those of Muslim men in areas such as divorce and child custody. Islamic law requires that males receive twice the inheritance of women. Civil law permits female citizens to own property and other

assets, including business properties. Male spouses of female citizens could not apply for permanent resident status until they had resided in the country for at least 20 years immediately preceding their application. Female spouses of male citizens on the other hand could apply for permanent resident status after only two years of marriage. Female citizens may pass their nationality to their children, but only through an application process.

Women with permanent positions in the government could apply for travel allowances for their children; however, they could not do so for their husbands working in the private sector. With this exception, they received the same allowance privileges as their male counterparts. According to government statistics, women made up 57 percent of the civil service force and held 28 percent of senior management posts. Women were not discriminated against in access to employment and business. Some professions such as meteorology are designated as women's professions, and men noted discrimination during hiring.

In September an internationally known Islamic scholar, Dr Zakir Naik, spoke in the country. His visit sparked a great deal of public discussion as he contended that although men and women are equal in the eyes of Islam, it was "not appropriate" for women to be government leaders. Local discussion focused on his argument that a woman's modesty could not be protected if she had to conduct a meeting alone with male colleagues, so Muslim women should not be in mixed company or speak in front of a group of men. The English-language newspaper *Brunei Times* in a September 28 article asserted that "it is not permissible for a woman to assume positions of senior public authority."

In practice the country continued to have women in positions of senior leadership up to the minister-level. In the Ministry of Foreign Affairs and Trade, as well as in other government agencies, women constituted the majority of the workforce. In the private sector as well, women held senior positions at major companies in most sectors.

## **Children**

Birth Registration: Citizenship is derived through one's father rather than through birth within the country's territory. Female citizens may pass their nationality to their children, but only through an application process. Birth registration is universal and immediate except for Dusun and Iban indigenous persons in rural areas (see section 6, Indigenous People). Parents with stateless status are required

to apply for a special pass for a child born in the country; failure to register a child makes it difficult to enroll the child in school.

Child Abuse: As of October the government reported 18 cases of child abuse and one case of child abandonment. The Royal Brunei Police Force hosts a specialized Woman and Child Abuse Crime Investigation Unit, and the Ministry of Culture, Youth, and Sports provides shelter and care to victims.

Child Marriage: The legal minimum age of marriage for both boys and girls is 14 unless otherwise stipulated by religion or custom under the law, which generally set a higher minimum age. There was anecdotal evidence that child marriages occurred.

Harmful Traditional Practices: There is no law criminalizing Female Genital Mutilation/Cutting (FGM/C). There were no reports of FGM/C during the year. On August 29, the Ministry of Religious Affairs issued a statement declaring that circumcision for Muslim females is a religious rite obligatory under Islam. The State Mufti declared that circumcision is obligatory to a mature Muslim male and female on condition that he or she can bear the ritual of circumcision carried out upon them. The ministry noted the confusion between the term circumcision as a common practice that is advisable in Islam, where only the hood of the female clitoris is removed, and FGM/C, which is the entire or partial removal of the genitalia. The ministry further noted that the FGM/C procedure or the removal of the clitoris to which World Health Organization objects is contrary to the practice prescribed by Sharia law. Information boards at the Kampong Ayer Culture and Tourism Gallery stated that while male circumcisions are done in a hospital, female circumcisions are conducted through traditional procedures in the home.

Sexual Exploitation of Children: By law sexual intercourse with a girl under age 14 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.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

## **Anti-Semitism**

There were no known Jewish communities in the country, and there were no reports of anti-Semitic acts.

### **Trafficking in Persons**

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

### **Persons with Disabilities**

The law does not prohibit discrimination against or mandate accessibility or other assistance for persons with disabilities. The government provided educational services for children with disabilities, but the level of services available was uneven. There were no reports of 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.

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

Government policy provides for preferential programs designed to boost the economic position of ethnic Malays, who constitute approximately two-thirds of the population.

In March the government announced land reforms that retroactively annulled powers of attorneys used in land ownership and proposed to turn any land purchased under a power of attorney into 66-year leases, affecting up to 49,000 PRs and stateless persons. There is no legal ban on foreigners or non-Malay citizens in land ownership, but in practice non-Malays and foreigners have encountered obstacles in land purchases. Stateless persons in particular did not have the documentation to purchase land and relied on the powers of attorney to own land, often for generations. The reform particularly affects the ethnic-Chinese owned land and aboriginal tribal lands, as these minorities comprise most of the PRs and stateless in the country. Government officials stated that "any land owned by a Malay person cannot be sold to those who are not Malay, and a Malay cannot buy land from owners who are not Malay."

### **Indigenous People**

A large percentage of indigenous Iban were stateless. In rural areas some indigenous Iban did not register the birth of their children, which created

difficulties during school enrollment, access to healthcare, and employment. Indigenous lands of the Iban and Dusun are not specifically demarcated, and there were no specially designated representatives for the indigenous groups in the LegCo or other government entities. In general indigenous persons had minimal participation in decisions affecting their lands, cultures, and traditions and in the exploitation of energy, minerals, timber, or other natural resources on indigenous lands.

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

The law makes it a criminal offense to have “sexual intercourse against the order of nature.” In cultural practice this included sexual relations between men. There were no reports of official or societal discrimination based on sexual orientation in employment, housing, access to education, or health care, likely because societal stigma may cause affected individuals to withhold reporting such problems. Anecdotal information, however, indicated that individuals avoided disclosing sexual orientations not traditionally accepted in fear of societal or legal retribution. There are no NGOs working on LGBT human rights in the country.

### **Other Societal Violence or Discrimination**

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

## **Section 7. Worker Rights**

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

The law, including related regulations and statutory instruments, protects the right of workers to form and join unions. Under the Trade Unions Act, unions 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. Foreign workers are excluded from most labor law protections, including freedom of association. Government data indicated approximately 120,000 foreigners worked in the country.

While the law permits the formation of trade union federations, it forbids affiliation with international labor organizations unless there is consent from the minister of

home affairs and the Department of Labor. The only union in the country is made up of Brunei Shell Petroleum workers. There are no other unions or worker organizations.

The government prohibits strikes, and the law makes no explicit provision for the right to 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.

There were no reports of government interference in union activity, and worker organizations were independent of the government. Employer discrimination against union members was not reported.

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

The law prohibits all forms of forced or compulsory labor. However, there were credible reports of forced labor, including debt bondage and involuntary domestic servitude. Foreign embassies with a large population of citizens working in the country reported cases of nonpayment of wages for up to a year as well as a lack of access to travel documents. For many cases in which abuses were committed, the government levied fines and prosecuted offenders.

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 on the local economy. To end this problem, the government has begun to issue labor passes only to registered recruiting agencies. There were also credible reports of citizens from South Asian countries working for little or no pay for up to one year to repay foreign agents for securing jobs for them.

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

#### **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 for those under age 18. Female workers under age 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 laws related to the employment of children. There were no reports of violations of child labor laws.

#### **d. Acceptable Conditions of Work**

The law does not set a minimum wage, but most employed citizens commanded good salaries; per capita annual income stands at BN\$40,700 (\$32,800). Wages for employed foreign residents were wide-ranging. Low-skill workers, including domestic employees, may earn an annual income as low as BN\$2,400 (\$1,900). High-skill foreign workers, such as engineers in the oil and gas industry, can command annual incomes of more than BN\$100,000 (\$80,600). Some foreign embassies set minimum wage requirements for their nationals working in the country. The standard workweek 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 that an employee may not work more than 72 hours of overtime a month. Laws regarding hours were frequently not observed in practice.

Occupational health and safety standards were established by government regulations.

The Labor Department inspected working conditions on a routine basis and in response to complaints. The government usually moved quickly to investigate abuses, and abusive employers faced criminal and civil penalties. The Labor Department had the power to terminate the license of abusive employers and revoke their foreign labor quota. The majority of abuse cases were settled out of court through agreements where the employer paid financial compensation to the worker. There are approximately 40 labor inspectors in the Labor Department.

The government generally enforced labor, health, and safety regulations effectively, but enforcement in the unskilled labor sector was lax. This was true especially for foreign laborers at construction sites, where pay arrearage and inadequate safety and living conditions were reported. The government may close a workplace where health, safety, or working conditions are unsatisfactory.

The law protected the rights of foreign workers through arrival briefings for workers, inspections of facilities, and a telephone hotline for worker complaints. However, immigration law allows for prison sentences and caning for workers who

overstay their work permits, for workers who fall into irregular status due to their employers' negligence, for irregular immigrants seeking work, as well as for foreign workers employed by companies other than their initial sponsor. The law also requires recruiting agencies to be registered. By custom, particularly for low-skill workers, employers generally hold employee passports and restrict employee activities during non-work hours.

Government mediation by the Labor Department continued to be the most common means used to resolve labor disputes. The commissioner responsible for labor has the additional authority to protect foreign worker rights. The government prosecuted employers who employed irregular immigrants or did not process workers' documents, rendering them irregular. When grievances could not be resolved, regulations require employers to pay for the repatriation of the foreign workers and all outstanding wages.

In practice foreign workers who filed grievances sometimes did not receive their back wages. Foreign migrant workers often 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.

During the year there were cases reported of nonpayment of salaries. The majority of cases involved domestic and construction workers. In many cases courts levied judicial penalties including convictions and fines against employers found guilty of nonpayment of wages.