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## 2010 Human Rights Report: Brunei Darussalam

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

### 2010 Country Reports on Human Rights Practices

April 8, 2011

Brunei Darussalam is a sultanate ruled by the same family for more than 600 years, and it has a population of approximately 428,000. 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. Security forces reported to the sultan.

The following human rights problems were reported: inability of citizens to change their government; limits on freedom of speech, press, assembly, and association; restrictions on religious freedom; discrimination against women; trafficking in persons; 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 53 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.

At year's end the trial continued of four police officers accused in January 2009 of "culpable homicide not amounting to murder and voluntarily causing grievous harm" to Abdul Rahim Abdullah Tan, who died in police custody.

#### Prison and Detention Center Conditions

Prison and detention center conditions generally met international standards. There were 374 convicted persons and 22 persons awaiting trial. Jerudong Prison holds "serious offenders," and, separately, approximately 40 female prisoners. Juveniles are not subject to imprisonment.

Approximately 30 percent of the inmate population consisted of foreigners of various religions. 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.

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.

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

#### d. Arbitrary Arrest or Detention

The law provides for prompt judicial determination regarding the validity of an arrest, and in practice the government generally observed this provision; however, it could be superseded through the 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. Civilian authorities maintained effective control over the police force and ISD, and 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 before bringing the individual before a magistrate. There were no reports that persons were detained without a hearing.

The Internal Security Act (ISA) permits the government to detain suspects without trial for renewable two-year periods. The government regularly 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.

According to reports, detainees were promptly informed 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 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 the sultan and serve at his pleasure.

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#### Trial Procedures

Secular law, based on English common law, provides all citizens with a fair and efficient judicial process. Defendants in criminal proceedings are presumed innocent. Most criminal cases are conducted in public trials by a judge or panel of judges. 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 and their attorneys have access to government-held evidence relevant to their cases. Defendants have a right of appeal. 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.

#### 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 civil wrongdoing 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. Sharia (Islamic law) 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 51 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."

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 BN\$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.

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.

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

#### Internet Freedom

According to International Telecommunication Union statistics for 2009, approximately 81 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 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 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 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.

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

#### c. Freedom of Religion

For a complete description of religious freedom, please see the *2010 International Religious Freedom Report* at [www.state.gov/g/drl/irf/rpt/](http://www.state.gov/g/drl/irf/rpt/).

#### 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 2009 the government introduced guidelines stating that no government officials may travel alone and that nonrelated male and female officers may not travel together. The government restricted the movement of former political prisoners during the year following their release.

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 country is not a party to the Convention relating to the Status of Refugees and its 1967 Protocol. 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. 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. However, as in past years, there were no such expulsions or returns during the year.

#### Stateless Persons

The law, 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. Coupled with illiteracy, this 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. Individuals who do not have a certificate of identity or special pass do not enjoy full privileges of citizenship, do not have the right to own land, and are not entitled to full subsidized health care or higher education. In July 2009 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.

#### 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. 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 composed primarily of appointed members, provides a forum for public discussion of proposed government programs as well as administrative deficiencies. It convenes once a year. Council members may be disqualified from service on the basis of various offenses, including disloyalty to the sultan.

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 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.

The Brunei National Development Party was the country's only registered political party. The party pledged to support the sultan and the government. Although the party criticized administrative deficiencies, its few activities received limited publicity, and it was hindered by membership restrictions.

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.

On May 29, the sultan appointed the first female cabinet member, Datin Adina, as deputy minister for culture, youth, and sports. Two other 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 2009, the first female attorney general. There were three female permanent secretaries--in the Ministry of Education, Ministry of Defense, and the Ministry of Foreign Affairs and Trade. There were no female members appointed in the LegCo.

Ethnic Chinese held one cabinet-level post and two LegCo positions.

#### Section 4 Official Corruption and Government Transparency

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

In accordance with its zero tolerance policy for corrupt practices, the government successfully prosecuted a number of low-level officials. On February 18, a former government minister accused of corruption in awarding government projects was sentenced to seven years in prison and ordered to pay 90 percent of the prosecution costs, which amounted to approximately \$403,000 and restitution to the government. The total amount he received in gratuities was BN\$4.2 million (\$3.2 million). The former minister's alleged partner was sentenced in absentia to seven years in prison, and an arrest warrant was issued. If captured, he would also be liable for 10 percent of the prosecution costs, amounting to HK\$347,000 (\$44,700).

The police and the ISD were considered free of major corrupt practices, although there were reports of petty corruption.

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.

The law provides for public access to government information. 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 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. 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 (\$1,538) or imprisonment not exceeding six months. During the year 23 rape cases were reported; at year's end police were investigating 11 and had forwarded 10 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 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 62 cases of spousal dispute abuse reported; at year's end 55 cases were under investigation, and eight 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 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 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.

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. According to information gathered by the UN, in 2008 the maternal mortality rate was an estimated 21 deaths per 100,000 live births. Citizens enjoy free medical and health care, including skilled attendance during childbirth, prenatal care, and essential obstetric and postpartum care. Women had equal access to diagnostic and treatment facilities for sexually transmitted diseases. Women had equal access to HIV treatment and counseling, as well as follow-up treatment.

In accordance with the government's interpretation of Qur'anic 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 pass their nationality on to their children and to own property and other assets, including business properties.

Unlike in previous years, 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 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 are not discriminated against in access to employment and business.

#### 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 the country; failure to register a child made it difficult to enroll the child in school.

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.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at [http://travel.state.gov/abduction/resources/congressreport/congressreport\\_4308.html](http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html) as well as country-specific information at [http://travel.state.gov/abduction/country/country\\_3781.html](http://travel.state.gov/abduction/country/country_3781.html).

#### Anti-Semitism

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

#### Trafficking in Persons

For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://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 the level of services available was uneven. The Department for Community Development conducted several programs targeted at promoting awareness of the needs of persons 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. Foreign workers are prohibited from forming or joining trade unions. In practice trade union activity was minimal, and the government discouraged union formation. 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.

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.

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

##### 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. Employers in the industrial sector did not encourage foreign workers to form unions.

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, and there were no credible reports of forced labor.

##### 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 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.

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 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. It 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. It 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 in general this did not occur.

According to government data, 87,867 foreigners worked in the country; such workers are excluded from most labor law protections, including freedom of association. During the year the minister responsible for labor was given additional authority to protect their rights, and the government usually was 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 on the local economy. There were also credible reports of citizens 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 the Attorney General Chambers. Two cases involved complaints made by workers in the formal sector; at year's end both were under investigation.

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

Immigration law allows for prison sentences and caning for workers who overstay their work permits and for irregular immigrants seeking work, as well as for foreign workers employed by companies other than their initial sponsor. While the

majority of prosecutions were for those who overstayed their work permits, many workers stayed in an irregular status due to their former employers' negligence.

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