

BRUNEI 2022 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Brunei Darussalam is a monarchy governed since 1967 by Sultan Haji Hassanal Bolkiah. Emergency powers in place since 1962 allow the sultan to govern with few limitations on his authority. The Legislative Council, composed of appointed, indirectly elected, and ex officio members, exercises a purely consultative role in recommending and approving legislation and budgets.

The Royal Brunei Police Force and the Internal Security Department are responsible for law enforcement within the country and come under the purview of the Ministry of Home Affairs and the Prime Minister's Office, respectively. For crimes that fall under the Sharia Penal Code, both entities are supported by religious enforcement officers from the Ministry of Religious Affairs. The Departments of Labor and Immigration in the Ministry of Home Affairs also hold limited law enforcement powers for labor and immigration offenses, respectively. The armed forces under the Ministry of Defense are responsible for external security matters but maintain some domestic security responsibilities. The secular and sharia judicial systems operate in parallel. The sultan maintained effective control over the security forces. There were no reports of security force abuses.

Significant human rights issues included credible reports of: degrading treatment or punishment by government authorities; arbitrary or unlawful interference with privacy; serious restrictions on freedom of expression and media, including censorship; the inability of citizens to change their government peacefully through free and fair elections; serious restrictions on political participation; trafficking in persons; lack of investigation of and accountability for gender-based violence; widespread practice of Type 4 female genital mutilation/cutting; and the existence of laws criminalizing consensual same-sex sexual conduct between adults, although the law was not enforced.

The government had mechanisms in place to identify and punish officials who may commit human rights abuses or engage in corruption. The government conducted anti-corruption prosecutions.

Section 1. Respect for the Integrity of the Person

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were no reports the government or its agents committed arbitrary or unlawful killings.

b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, and Other Related Abuses

The law does not specifically prohibit torture. Caning may be ordered for certain offenses under both secular and sharia law, and it is mandatory for some offenses. The Sharia Penal Code (SPC) includes offenses punishable by corporal and capital punishments, including stoning to death, amputation of hands or feet, and caning. Neither stoning nor amputation was imposed or carried out.

The SPC prohibits caning persons younger than 15. Secular law prohibits caning for women, girls, boys younger than eight, men older than 50, and those a doctor rules unfit for caning. Juvenile boys older than eight may be caned with a “light rattan” stick. Canings were conducted in the presence of a doctor, who could interrupt the punishment for medical reasons. The government generally applied laws carrying a sentence of caning impartially; the government sometimes deported foreigners in lieu of caning. The sharia court did not hand down any sentences imposing other corporal or capital punishments.

There were no reports of impunity involving the security forces.

Prison and Detention Center Conditions

The government reported prison overcrowding.

Abusive Physical Conditions: In 2021, the Ministry of Home Affairs reported 841 prison inmates, exceeding the maximum prison capacity of 585.

Administration: A government-appointed committee composed of retired government officials monitored prison conditions and investigated complaints concerning prison and detention center conditions.

The prison system has an ombudsman's office through which judicial officials, Legislative Council members, community leaders, and representatives of public institutions visit inmates monthly. A prisoner may complain to a visiting judge, the superintendent, the officer in charge, or, in the case of women prisoners, the matron in charge.

"Spiritual rehabilitation" programs were compulsory for Muslim inmates.

Sharia convicts were held in the same prison facilities but separated from inmates convicted in the secular courts. Sharia convicts were subject to the same regulations as secular convicts.

Independent Monitoring: There were no reports of independent domestic or international nongovernmental organizations (NGOs) monitoring prison conditions.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention and provides for the right of persons arrested for secular (not sharia) offenses to challenge the lawfulness of their arrest or detention in court. The government generally observed these requirements but may supersede them by invoking emergency powers.

Arrest Procedures and Treatment of Detainees

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 or when a suspect is apprehended in the act of committing a crime. After an arrest, police may detain a suspect for a maximum of 48 hours for investigation before bringing the suspect before a magistrate or sharia judge. Secular and sharia law enforcement agencies respected and upheld this right. Police stations maintained a policy of no access to detained individuals during the 48-hour investigative period, including by attorneys. Authorities may hold detainees beyond the initial 48 hours with the

approval of a magistrate or sharia judge.

Authorities reportedly informed detainees promptly of the charges against them. Authorities made information on detainees public after the 48-hour investigative period. Subject to court order, police may deny visitor access after the 48-hour investigative period in exceptional cases, such as probable cause to suspect witness tampering.

The law allows for bail at the discretion of the judge overseeing the case. There is no provision for providing pro bono legal counsel to poor defendants, except in capital offenses. In noncapital cases, indigent defendants may have to act as their own lawyers. Some NGOs provided pro bono legal service to indigent defendants in noncapital cases before secular courts. There were no reports of suspects being held incommunicado or without access to an attorney after the initial 48-hour investigative period, except in Internal Security Act cases (see below).

Authorities may detain persons without a hearing in cases of detention or arrest under the Internal Security Act, which permits the government to detain suspects without trial for renewable two-year periods. In these cases, the government convenes an independent advisory board consisting of senior security and judicial officials to review individual detentions and report to the minister of home affairs. The minister is required to notify detainees in writing of the grounds for their detention and of relevant allegations of fact. The advisory board must review individual detentions annually.

Sharia law operates in parallel with the country's common law courts. In cases involving offenses covered by both the SPC and secular law – such as murder, rape, and theft – an “assessment committee” including a secular law prosecutor, a sharia prosecutor, a regular police officer, and a religious enforcement officer determines whether the secular or sharia court system should try the case. The committee's deliberations and the grounds for its decisions are not made public. If a dispute arises, the attorney general acts as final arbiter.

e. Denial of Fair Public Trial

The law does not provide specifically for an independent judiciary, and both the secular and sharia courts fall administratively under the Prime Minister's Office,

run by the sultan as prime minister and the crown prince as senior minister. The government generally respected judicial independence, however, and there were no known instances of government interference with the judiciary. In both judicial systems, the sultan appoints all higher-court judges, who serve at his pleasure.

Trial Procedures

Secular law provides for the right to a fair, timely, and public trial, and the judiciary generally enforced this right. The Internal Security Act, which is part of secular law, allows for preventative detention in cases of subversion and organized violence. Sharia procedures do not specifically provide for the right to a fair trial.

In general, defendants in sharia proceedings have the same rights as defendants in criminal cases under secular law.

While sharia courts have long had jurisdiction in certain civil matters when at least one party is Muslim, many SPC elements apply to all persons in the country, regardless of nationality or religion; some sections of the law have specific applicability to Muslims. The sharia courts continued to prosecute criminal, divorce and probate cases; unlike in secular courts, sharia court cases are not reported in the local media, although sharia court hearings are open to members of the public.

The Internal Security Act establishes significant exceptions to the rights granted in secular law. Individuals detained under the act are not presumed innocent and generally do not have the right to legal counsel. Those detained are entitled to make representation against a detention order to an advisory board, either personally or through an advocate or attorney.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

The law does not provide for individuals or organizations to seek civil remedies for human rights violations, and there is no provision for judicial review of any action of the government. By customary practice, individuals may present written

complaints about rights violations directly to the sultan for review.

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

The law permits government intrusion into the privacy of individuals, families, and homes. The government reportedly monitored private email, mobile telephone messaging, and internet chat-room exchanges suspected of being subversive or propagating religious extremism. An informant system was part of the government's internal security apparatus for monitoring suspected dissidents, religious minorities, or those accused of crimes. Persons who published comments on social media critical of government policy, both on public blogs and on personal sites such as Facebook, reported that authorities monitored their comments. In some cases, persons were told by friends or colleagues in the government they were being monitored; in other cases, it appeared critical comments were brought to the attention of authorities by private complainants.

Longstanding sharia law and the SPC permit 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. Non-Muslims may be arrested for violating *khalwat* if the other accused party is Muslim. Not all suspects accused of violating *khalwat* were formally arrested; some individuals received informal warnings.

Section 2. Respect for Civil Liberties

a. Freedom of Expression, Including for Members of the Press and Other Media

Under the law and emergency powers, the government restricted freedom of expression, including for media.

Freedom of Expression: There is no provision for freedom of speech in the constitution or laws. Members of the Legislative Council may “speak their opinions freely” on behalf of citizens, but they are prohibited from using language or exhibiting behavior deemed “irresponsible, derogatory, scandalous, or injurious.” Under the law it is an offense to challenge the royal family's authority.

The law also makes it an offense to challenge “the standing or prominence of the national philosophy, the Malay Islamic Monarchy concept.” This philosophy identifies Islam as the state religion and monarchical rule as the sole form of government to uphold the rights and privileges of the Brunei Malay race. The law also criminalizes any act, matter, or word intended to promote “feelings of ill will or hostility” between classes of persons or to “wound religious feelings.”

The SPC includes provisions barring contempt for or insult of the sultan, the administration of sharia, or any law related to Islam. SPC sections provide, in certain circumstances, for death sentences for apostasy from Islam, deriding Islamic scriptures, and declaring oneself as God, among other offenses. There were no known cases of persons charged under these sections, but online criticism of the law was largely self-censored, and online newspapers did not permit comments or stories on these subjects.

The government interpreted the SPC to prohibit public celebration of religions other than Islam, including publicly displaying Christmas decorations. Some establishments, however, openly sold Christmas decorations or advertised Christmas-themed events. Christmas remained an official national holiday.

Censorship or Content Restrictions for Members of the Press and Other Media, Including Online Media: The law allows the government to close a newspaper without giving prior notice or showing cause. The law requires local newspapers to obtain operating licenses and prior government approval for hiring 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. Foreign newspapers generally were available. Internet versions of local and foreign media were generally available without censorship or blocking.

The government owns the only local television station. Three Malaysian television channels are also available, along with two satellite television services. Some content was subject to censorship based on theme or content, including religious content, but such censorship was not consistent.

The government held regular press conferences on the COVID-19 situation in the

country and allowed media to publicly question the health minister and other officials. In a November 2021 newspaper article, the then minister of home affairs said COVID-19 required the government to be “more transparent” in its “communication with the public.”

The law provides for prosecution of newspaper publishers, proprietors, or editors who publish anything the government deems as having seditious intent. Punishments include suspension of publication for a maximum of one year; a prohibition on publishers, printers, or editors from publishing, writing for, or editing any other newspaper; and the seizure of printing equipment. Persons convicted under the law also face a significant fine and a maximum prison term of three years. Journalists deemed to have published or written “false and malicious” reports may be subject to fines or prison sentences.

Observers reported prohibitions against covering a variety of topics, such as aggression by the People’s Republic of China in the South China Sea and reporting on topics such as crime until the relevant government agency issued an official press release on the topic.

The SPC prohibits publication or importation of publications giving instruction about Islam contrary to sharia. It also bars the distribution to Muslims or to persons with no religion of publications related to religions other than Islam. The SPC bars the publication, broadcast, or public expression of a list of words generally associated with Islam (such as Quran) in a non-Islamic context. The SPC also prohibits religious teaching without written approval. There were no reports of charges under these regulations.

Journalists commonly reported practicing self-censorship because of social pressure, reports of government interference and pressure, and legal and professional concerns.

Libel/Slander Laws: The law prohibits bringing into hatred or contempt, or exciting disaffection against, the sultan or the government. Persons convicted under the law face a significant fine, a maximum of three years in prison, or both. There were no reports of such cases.

Internet Freedom

The government restricted access to the internet, censored online content, and had the capability to monitor private online communications. The government monitored private email and internet chatroom exchanges it believed to be propagating religious extremism or otherwise subversive views, including those of religious minorities, or material on topics deemed immoral. The Ministry of Transport and Infocommunications and the Prime Minister's Office enforced the law requiring 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 the Authority for the Infocommunications Technology Industry advised internet service and content providers to monitor items posted on their sites for content contrary to the public interest, national harmony, and social morals.

Internet companies self-censored content and reserved the right to cut off internet access without prior notice. The government continued awareness campaigns warning citizens about the misuse of and social ills associated with social media, including the use of social media to criticize Islam, sharia, or the monarchy. The government maintained a hotline for reporting fake or malicious information circulated on social media that involved public or national interests.

Restrictions on Academic Freedom and Cultural Events

Although there are no official government restrictions on academic freedom, government authorities must approve public lectures, academic conferences, and visiting scholars, and the sultan serves as chancellor of all major universities.

Academics reported practicing self-censorship. Unlike in previous years, there were no known cases of researchers who published overseas under a pseudonym when they perceived certain topics would not be well received by authorities. Religious authorities reviewed publications to verify compliance with social norms.

There were government restrictions on cultural events. Authorities restricted traditional Chinese New Year lion dance performances to Chinese temples, Chinese school halls, and private residences of Chinese association members. All

public musical or theatrical performances require prior approval by a censorship board composed of officials from the Prime Minister's Office, the Ministry of Home Affairs, and the Ministry of Religious Affairs. Public entertainment is generally barred on specified Islamic holidays. The board determines the suitability of concerts, movies, cultural shows, and other public performances, and censored, banned, or restricted some activities. Although the board rarely required changes in performances, delays associated with the censorship process posed logistical hurdles for performing arts organizations. Some movies were censored or not shown at cinemas, often because of lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) content.

b. Freedoms of Peaceful Assembly and Association

The government limited and restricted freedoms of peaceful assembly and association.

Freedom of Peaceful Assembly

The government's emergency powers restrict the right to assembly. Public gatherings of 10 or more persons require a government permit, and police may disband an unofficial assembly of five or more persons deemed likely to cause a disturbance of the peace. Permits require the approval of the minister of home affairs. The government routinely issued permits for annual events but has in recent years occasionally used its authority to disrupt gatherings deemed politically or otherwise sensitive. Civil society leaders reported challenges in advancing social causes in the country's heavily censored and insular society. A transgender advocate explained that while the LGBTQI+ community was generally safe so long as it did not assemble openly or speak out, these conditions made it difficult to reach out to youth who might be struggling to find support. Organizers of events on sensitive topics tended to hold meetings in private rather than apply for permits, or practiced self-censorship at public events.

Freedom of Association

The law does not provide for freedom of association. The law requires formal groups, including religious, social, business, labor, and cultural organizations, to register with the Registrar of Societies and provide regular reports on membership

and finances. Applicants were subject to background checks, and proposed organizations were subject to naming requirements, including for example a prohibition on names or symbols linked to triad societies (Chinese organized crime networks). The government reported it accepted most applications to form associations. The government may suspend the activities of a registered organization if it deems such an act to be in the public interest.

Organizations seeking to raise funds or donations from the public are required to obtain permission from the Ministry of Home Affairs, and each individual fundraising activity requires a separate permit. Approved organizations dealt with matters such as pollution, wildlife preservation, arts, entrepreneurship, and women in business.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

d. Freedom of Movement and the Right to Leave the Country

The government generally respected the legal right to freedom of internal movement and the right to emigrate but imposed restrictions on foreign travel and repatriation.

Foreign Travel: Government employees and government contractors must apply for exit permits to travel abroad. Government guidelines state no government official may travel alone, and unrelated male and female officers may not travel together, but the government enforced this policy inconsistently and usually only with women. The country's tourist passports state the bearer may not travel to Israel.

Exile: By law the sultan may forcibly exile, permanently or temporarily, any person deemed a threat to the safety, peace, or welfare of the country. There have been no cases of banishment since the country became fully independent.

e. Protection of Refugees

Access to Asylum: The law does not provide for granting asylum or refugee status, and the government has not established a system for providing protection to refugees.

f. Status and Treatment of Internally Displaced Persons

Not applicable.

g. Stateless Persons

There were no recent, reliable statistics on the number of stateless persons in the country, but observers estimated there were tens of thousands, most of whom had permanent resident status. Most stateless residents were native born, of Chinese heritage, and from families that have resided in the country for generations. Other stateless residents included members of Indigenous tribes, whose lands span Brunei and the neighboring Malaysian state of Sarawak, and the foreign wives of Malay Muslim men. Most stateless persons held a certificate of identity, which functions as a passport. Certificate holders have some rights like those of citizens, including to subsidized health care and education. There were no known reliable data on stateless persons who hold no form of residency or certificate of identity.

Stateless persons may apply for citizenship if they are adults born in the country and resident for 12 of the last 15 years, provided they pass a test demonstrating sufficient knowledge of Malay culture and language. Women married to citizens and the minor children of citizens who did not obtain citizenship at birth – such as children of citizen mothers and permanent resident fathers – may also apply. Members of the stateless community who passed the Malay culture and language test have for years reported a de facto suspension of citizenship approvals for stateless adult residents, with many reporting that although five to 10 years had elapsed since they passed their test, they still had not been granted citizenship. In May, 442 persons were awarded citizenship; most were wives of Malay Muslim men. One ethnic Chinese recipient reported he had waited 12 years since passing his citizenship test.

Section 3. Freedom to Participate in the Political Process

Citizens do not have the ability to choose their government. The sultan rules through hereditary birthright. While the country is a constitutional sultanate, in 1962 the then ruler invoked an article of the constitution that allows him to assume emergency powers. The sultan has renewed the emergency powers every two years.

Elections and Political Participation

Recent Elections: Political authority and control rest entirely with the sultan. The Legislative Council, composed primarily of appointed members with little independent power, provided a forum for limited public discussion of proposed government programs, budgets, and administrative deficiencies. It convenes once per year in March for approximately two weeks. Council members serve five-year terms at the pleasure of the sultan.

Persons age 18 and older may vote by secret ballot in village consultative council elections. Candidates must be Malay Muslim men, approved by the Ministry of Home Affairs, and must have been a citizen or permanent resident for more than 15 years. The councils communicated constituent wishes to higher authorities through a variety of channels, including periodic meetings chaired by the minister of home affairs. The government also met with groups of elected village chiefs to allow them to express local grievances and concerns.

Political Parties and Political Participation: The National Development Party was the only registered political party. The party pledged to support the sultan and the government and made no criticisms of the government.

Participation of Women and Members of Minority Groups: The constitution requires that all ministers be of Malay ethnicity and Muslim except as permitted by the sultan. The cabinet included an ethnic Chinese minister. Members of non-Malay Indigenous communities lacked representation at all levels of government. Women accounted for more than half of civil service employees but were not equally represented in senior leadership positions.

In a surprise June 7 cabinet reshuffle broadcast live on national media, the sultan

broke more than six decades of tradition by appointing the country's first woman cabinet minister as the minister of education; the sultan also appointed the first woman deputy minister to the Ministry of Finance and Economy.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials, and the government generally implemented the law effectively.

Corruption: Although corruption was not pervasive, the sultan warned cabinet ministers that no one was above the law during a swearing-in ceremony for his new cabinet in June. Government officials were prosecuted throughout the year under corruption charges. In November, seven customs officers were brought up on charges of corruption, conspiring to commit criminal breach of trust, and misuse of public office.

Section 5. Governmental Posture Towards International and Nongovernmental Investigation of Alleged Abuses of Human Rights

Neither domestic nor international human rights groups could operate freely due to government restrictions. No registered civil society organizations dealt directly with human rights, mostly due to self-censorship. A few domestic organizations worked on humanitarian issues, such as assistance for victims of domestic violence or provision of free legal counsel for indigent defendants. They generally operated with government support, and the government was somewhat cooperative and responsive to their views, although they reported practicing self-censorship and avoiding sensitive issues. Regional and other international human rights organizations occasionally operated in the country but faced the same restrictions as all unregistered organizations.

Section 6. Discrimination and Societal Abuses

Women

Rape and Domestic Violence: Secular law stipulates imprisonment from eight to 30 years plus caning with a minimum of 12 strokes as punishment for rape. The SPC provides stoning to death as the maximum punishment for rape. The punishment of stoning has never been imposed or carried out.

The law does not criminalize rape against men or spousal rape and explicitly states that sexual intercourse by a man with his wife is not rape if she is not younger than 14 (or 15 if she is ethnic Chinese). There is no specific domestic violence law, but authorities arrested individuals in domestic violence cases under the law on protection of women and girls. The criminal penalty under the law is one to two weeks in jail and a fine for a minor assault; an assault resulting in serious injury is punishable by caning and a prison sentence of up to five years. Islamic family law provides protections against spousal abuse and for the granting of protection orders, and it has been interpreted to cover sexual assault. The penalty for violating a protection order is a significant fine, maximum imprisonment of six months, or both. In October a man was sentenced by the High Court to 21 years in jail and 12 strokes of the cane after he pled guilty to raping his niece on four occasions.

The government reported rape cases, but there were no data available on the prevalence of the crime. All rape cases are tried under the secular criminal law. A special police unit staffed by women officers investigated domestic abuse and child abuse complaints. Police investigated domestic violence only in response to a report by a victim but reportedly did respond effectively in such cases.

In June a local NGO working on women's and children's issues emphasized the need for legal reforms to give victims of gender-based violence, particularly those from Indigenous communities, greater protections. Activists described a culture of complacency, distrust, and a lack of government support for marginalized members of society.

The Department of Community Development in the Ministry of Culture, Youth,

and Sports provided domestic violence and abuse counseling for women and their spouses. Some women and minor victims of domestic violence and rape were placed in protective custody at a government-sponsored shelter while waiting for their cases to be scheduled in court. Sharia courts staffed by male and female officials offered counseling to married couples in domestic violence cases. Both secular and sharia courts recognized assault as grounds for divorce.

Female Genital Mutilation/Cutting (FGM/C): No law criminalizes FGM/C for women of any age. There were no statistics on the prevalence of FGM/C, but international media and others reported that in general Type 4 FGM/C was done within 40 days of birth based on religious belief and custom and that the practice was widespread. Contacts also reported that the procedure was sometimes performed outside of a medical setting. The Ministry of Religious Affairs declared “circumcision” for Muslim girls (*sunat*) to be a religious rite obligatory in Islam and described it as the removal of the hood of the clitoris although some contacts characterized the procedure as a minor incision of the hood of the clitoris (Type 4 per World Health Organization classification).

Sexual Harassment: The law prohibits sexual harassment and states that whoever utters any word, makes any sound or gesture, or exhibits any object intending to insult the modesty of a woman shall be punished by up to three years in prison and a fine. The law also stipulates that whoever assaults or uses criminal force, intending thereby to outrage, or knowing the act is likely to outrage the modesty of a person, shall be punished by caning and a maximum imprisonment of five years. During the 2021 Legislative Council sessions, members reported a government study showed 55 percent of female civil servants faced sexual harassment in the workplace, 75 percent of those who encountered sexual harassment did not report the incident, and 85 percent were unaware there were laws to protect them.

Reproductive Rights: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

While neither law nor policy limits access to contraception, sociocultural and religious pressures affected some women’s access to contraception or health care for sexually transmitted infections. Unmarried Muslim women had difficulty obtaining contraception from government clinics, turning to private clinics or

reproductive services abroad instead. Women seeking medical assistance for complications arising from illegal abortions were reported to police after being given care. Unenforced provisions of the law set imprisonment or fines as punishments for abortion; there have been no prosecutions for illegal abortions for several years. The government provides access to health services, including emergency contraception, for sexual violence survivors.

Discrimination: In accordance with the government's interpretation of the Quran, Muslim women and men are accorded different rights, particularly as codified in sharia. Secular civil law permits female citizens to own property and other assets, including business properties. Noncitizen husbands of citizens may not apply for permanent resident status until they reside in the country for a minimum of seven years, whereas noncitizen wives may do so after two years of marriage and residence in the country. Although citizenship is automatically inherited from citizen fathers, citizen mothers may pass their nationality to their children only through an application process in which children are first issued a certificate of identity (and considered stateless), normally resulting in approval.

Systemic Racial or Ethnic Violence and Discrimination

There are no specific laws protecting members of racial or ethnic minority groups. Under the Nationality Act, which favors ethnic Malays, full legal rights are accorded only to citizens; some members of ethnic minority groups have been awarded citizenship and enjoy rights like those of the Malay majority.

The government favors ethnic Malays in society through the national Malay Islamic Monarchy philosophy. Under the constitution, ministers and most top officials must be Malay Muslims, although the sultan may make exceptions. Members of the military must be Malay.

There were no reports of governmental or societal violence against members of ethnic minority groups, but discriminatory government policies were in effect in many areas. Racial and ethnic minority groups faced discrimination in education, where the curriculum was delivered only in Malay and English. There were pro-Malay policies on land ownership, employment, and service in the armed forces. Opaque nationality laws and pro-Malay policies denied most minority populations

adequate representation in government and society and rendered them largely voiceless in public affairs.

Indigenous Peoples

Some Indigenous persons were stateless. Indigenous lands were not specifically demarcated, and there were no designated representatives for Indigenous groups in the Legislative Council or other government entities. Indigenous persons generally had minimal participation in decisions affecting their lands, cultures, and traditions or in the exploitation of energy, minerals, timber, or other natural resources on and under Indigenous lands.

Children

Birth Registration: Citizenship derives from the father, or, following an application process, the mother. Citizenship is not derived by birth within the country's territory. Birth registration is universal and equal for girls and boys. Stateless parents must apply for a special pass for a child born in the country. Failure to register a birth is against the law and later makes it difficult to enroll the child in school.

Child Abuse: Child abuse is a crime and was prosecuted but did not appear prevalent. On October 6, a man was sentenced to six years in jail with four strokes of the cane for sexually abusing his daughter. The Royal Brunei Police Force includes a specialized Woman and Child Abuse Crime Investigation Unit, and the Ministry of Culture, Youth, and Sports provided shelter and care to victims.

Child, Early, and Forced Marriage: The legal minimum age for marriage for both boys and girls is 14 years and seven months with parental and participant consent, unless otherwise stipulated by religion or custom under the law, which generally sets a higher minimum age. The Islamic Family Act sets the minimum marriageable age at 16 for Muslim girls and 18 for Muslim men and makes it an offense to use force, threat, or deception to compel a person to marry against his or her own will. Ethnic Chinese must be 15 or older to marry, according to the Chinese Marriage Act, which also stipulates sexual intercourse with an ethnic Chinese girl younger than 15 is considered rape even if with her spouse. Observers

reported that, although permitted by the law, marriages involving minors were rare and generally prohibited by social custom.

Sexual Exploitation of Children: By law sexual intercourse with a girl younger than 14 (15 if ethnically Chinese) constitutes rape and is punishable by imprisonment of from eight to 30 years plus a minimum of 12 strokes of the cane. The law provides for protection of women, girls, and boys from commercial sexual exploitation and “other immoral purposes,” including pornography. The government applied the law against “carnal intercourse against the order of nature” to prosecute rape of male children. The minimum age for consensual sex outside of marriage is 16. The government enforced the law against commercial sexual exploitation of children and child pornography.

Antisemitism

There was no known Jewish community in the country. Comments disparaging Jewish persons collectively were occasionally posted online and on social media.

Trafficking in Persons

See the Department of State’s *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation, Gender Identity or Expression, or Sex Characteristics

Criminalization: The government does not support the human rights of LGBTQI+ persons. Secular law criminalizes “carnal knowledge against the order of nature,” understood to mean sex between men. The minimum prison sentence for such acts is 20 years. The SPC bans anal intercourse between men or between a man and a woman who is not his wife, with a maximum penalty of death by stoning. The SPC also criminalizes same-sex sexual conduct between women, with punishment of up to 10 years’ imprisonment or caning. The SPC additionally prohibits men from dressing as women or women dressing as men “without reasonable excuse” or “for immoral purposes.”

Violence against LGBTQI+ Individuals: There were no known incidents of violence by police or other government agents or by nonstate actors against LGBTQI+ persons.

Discrimination: Members of the LGBTQI+ community continued to report familial pressure toward heterosexual marriage and childbearing in addition to societal discrimination in public and private employment, housing, recreation, and obtaining public services including education. Members said the absence of online or in-person support injured their mental health but that they were reluctant to seek counseling at government health centers. In addition to finding support among older members of the local LGBTQI+ community, some sought support from similar communities and NGOs in other countries. The LGBTQI+ community regularly relies on foreign diplomatic missions to create safe spaces for expression and free assembly.

Availability of Legal Gender Recognition: The government does not allow an individual to change their name or the gender assigned at birth on any official documents. There is no mechanism for legal gender recognition and gender affirmation surgery is not allowed.

Involuntary or Coercive Medical or Psychological Practices Specifically Targeting LGBTQI+ Individuals: The government does not ban involuntary or coercive medical or psychological practices targeting LGBTQI+ individuals (so called “conversion therapy” practices and intersex normalization surgeries) and such practices are available and advertised. In August, the country’s largest English-language newspaper, the Borneo Bulletin, reported that the Islamic Studies Department under the Ministry of Religious Affairs delivered a nationwide program for religious and Arabic schools, including warnings against unhealthy relationships such as same-gender sex and having sex with multiple partners. A Ministry of Religious Affairs lecturer stated, “Those who choose to be a part of this unhealthy or abnormal culture are disrespectful of family and religious institutions as well as our culture and customs.”

Restrictions of Freedom of Expression, Association, or Peaceful Assembly: Some members of the LGBTQI+ community reported the government monitored their activities and communications. Like all events in the country, events on

LGBTQI+ topics were subject to restrictions on assembly and expression and members of the LGBTQI+ community reported that the government would not issue permits for community events on LGBTQI+ topics.

Persons with Disabilities

The law does not prohibit discrimination against persons with disabilities or mandate accessibility or the provision of most public services. Access to public buildings, government information and communication on disability concerns, and transportation for persons with disabilities was inconsistent. The law does not specifically address the right of persons with disabilities to seek legal remedies for rights violations. All persons regardless of disability, however, have the same legal rights and access to health care.

Although not required by law, the government provided inclusive educational services for children with disabilities who attended both government and religious schools alongside peers without disabilities. There are limited provisions for accommodations enabling persons with disabilities to vote.

Under a September 2021 Persons with Disabilities Order, newly constructed government office buildings must meet access requirements for persons with disabilities. The Department for Community Development continued outreach programs promoting awareness of the needs of persons with disabilities.

The Old Age and Disabilities Act provides persons with a disability a “careers allowance,” a disability allowance, and an old age pension after turning 60. Nine registered NGOs worked to supplement services provided by government agencies for persons with disabilities.

Other Societal Violence or Discrimination

Cases of HIV and HIV-related discrimination continued to occur. By law, foreigners with HIV are not permitted to enter or stay in the country, although no medical testing is required for short-term tourists.

The Brunei Darussalam AIDS Council, a government-linked NGO, provided free HIV testing and anonymous counseling for all men to encourage those at risk to

seek resources and assistance without fear of scrutiny into the cause or source of infection.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for the right of workers to form and join unions, with significant oversight by the Registrar of Trade Unions; there were, however, no unions or worker organizations in the country. The law does not provide for collective bargaining and prohibits strikes. The law prohibits employers from discriminating against workers for union activities, but it does not provide for reinstatement for dismissal related to union activity.

By law unions must register with the government under the same process and are subject to the same laws as other organizations (see section 2.b., Freedom of Association). Unions that do not register with the Trade Union Registrar face penalties. The registrar is prohibited from registering unions whose pursuit is unlawful, where there is already a union deemed to be representative, or if it represents more than one industry. While the law permits the formation of trade union federations if their member unions are from the same economic sector, it forbids affiliation with international labor organizations unless the minister of home affairs and the ministry's Department of Labor consent. The law prescribes the use of trade union funds, prohibiting contributions to political parties or payment of court penalties. The law requires officers of trade unions to be "bona fide" (without explanation), which has been interpreted to allow authorities broad discretion to reject officers and require that such officers have been employed in the trade for a minimum of two years.

Penalties for violating laws on unions include fines, imprisonment, or both. Penalties were commensurate with those for those under other laws involving denials of civil rights and were never applied against violators.

Given the absence of unions or worker organizations, there were no reports of government enforcement of laws respecting their establishment or operation. NGOs were involved in labor issues, such as wages, contracts, and working

conditions. These NGOs largely operated openly in cooperation with relevant government agencies, but they reported avoiding confrontation with the government and they engaged in self-censorship.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor, although the government did not effectively enforce the law, and forced labor occurred. Convictions for forced labor could lead to penalties including fines, imprisonment, and caning, but most cases alleging forced labor were settled out of court. An interagency committee under the Prime Minister's Office coordinated government efforts to counter human trafficking.

The government investigated and charged two men in March and May, respectively, under the Trafficking and Smuggling of Persons Order 2004 for trafficking six Bangladeshi men between 2018 and 2019 for the purpose of forced labor. As of November, the case was ongoing.

Some of the approximately 100,000 foreign migrant workers in the country faced involuntary servitude, debt bondage, nonpayment of wages, passport confiscation, abusive employers, or confinement to the home. Although it is illegal for employers to withhold wages, some employers, notably of domestic and construction workers, did so to recoup labor broker or recruitment fees or to compel continued service.

Although the government forbade wage deductions by employers to repay in-country agencies or sponsors and mandated that employees receive their full salaries, many migrant workers arrived in debt bondage to actors outside the country. Contacts reported, once in country, Bangladeshi workers were charged 2,000-5,000 Brunei dollars (\$1,450-3,630) to change contracts and, if they did not pay, were blackmailed with threats to report them as "runaways"; some were allegedly physically assaulted. Employers reported workers as "runaways" to avoid paying wages, knowing law enforcement agencies would deport such workers with minimal investigation.

Although prohibited by law, retention of migrant workers' travel documents by employers or agencies remained a common practice.

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

c. Prohibition of Child Labor and Minimum Age for Employment

The law does not prohibit all the worst forms of child labor. The law on procuring or offering children younger than 18 for commercial sexual exploitation or illicit intercourse refers only to girls and not to boys (also see Section 6). Various laws prohibit the employment of children younger than 16. Parental consent and approval by the Labor Commission are required for those between ages 16 and 18 to work. Girls younger than 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 child labor laws. Penalties for child labor violations included a fine, imprisonment, or both, and were commensurate with those for analogous serious crimes, such as kidnapping. There were no confirmed reports during the year of the worst forms of child labor. There was no list of hazardous occupations prohibited for children. There was also no list of types of light work activities legal for children ages 14 to 16.

d. Discrimination with Respect to Employment and Occupation

The law does not explicitly prohibit discrimination with respect to employment and occupation. There is no law requiring equal pay for equal work. The law limits employment in certain government positions and the military based on ethnic origin (see section 6). The law restricts women from serving in certain military combat roles, such as infantry. Women are prohibited from working in certain jobs, at night, or on offshore oil platforms. The law does not explicitly prohibit discrimination with respect to employment and occupation.

The government's executive training program for middle managers introduced several initiatives to increase public awareness of sexual harassment in the workplace, including discussion and outreach to members of the government and private sectors as well as NGOs.

Reflecting government policy, most public and many private employers showed hiring biases against foreign workers, particularly in key sectors such as oil and

gas. Many foreign workers had their wages established based on national origin, with those from certain foreign countries receiving lower wages than others.

Some LGBTQI+ job applicants faced discrimination and were often asked directly about their sexual identity.

e. Acceptable Conditions of Work

Wage and Hour Laws: The law does not set a minimum wage. Wages were set by contract between the employee and employer and were sometimes calculated based on national origin. Many employed citizens received adequate salaries with numerous allowances, but complaints about low wages were common, especially in entry-level positions. The standard workweek for most government agencies and many private companies is Monday through Thursday and Saturday. The law provides for overtime for more than 40 hours per week. The law also stipulates that weekly maximum hours of work shall not exceed 56 hours.

Occupational Safety and Health: Government regulations establish and identify appropriate occupational safety and health (OSH) standards. The law clarified that the responsibility for identifying unsafe conditions lies with OSH experts, not workers. OSH experts actively identified unsafe conditions, including lack of personal protective equipment against COVID-19, in addition to responding to workers' OSH complaints. Individuals were encouraged to report violations of health and safety standards, but the law does not explicitly protect the right to remove oneself from a hazardous workplace.

Wage, Hour, and OSH Enforcement: The government did not effectively enforce working hour or OSH laws. The commissioner of the Department of Labor is responsible for enforcing labor laws. The Department of Labor inspected working conditions both on a routine basis and in response to complaints. Inspectors have the authority to make unannounced inspections and initiate sanctions. The number of labor inspectors in the department was adequate to conduct mandated inspections. The Department of Labor reportedly increased its inspections of migrant workers' housing; when it found the housing unsuitable, it instructed employers to rehouse workers adequately. The inspections, however, primarily focused on detecting undocumented foreign workers rather than worker

protection. The department has the power to terminate the licenses of abusive employers and revoke their foreign labor quotas; it did so rarely.

Employers who violate laws regarding conditions of service – including payment of wages, working hours, leave, and holidays – may be fined for a first offense and, for further offenses, be fined, imprisoned, or both. Penalties for violations of wage, hour, and health and safety standards were not commensurate with those for similar crimes, such as fraud or negligence and penalties were rarely applied against violators.

Foreign laborers (predominantly Filipinos, Indonesians, and Bangladeshis) dominated most low-wage professions, such as domestic service, construction, maintenance, retail, and food service, in which violations of wage, overtime, and health and safety regulations most frequently occurred.

Government enforcement in sectors employing low-skilled labor in small-scale construction or maintenance projects was inadequate. This was especially true for foreign laborers at construction sites, where complaints of wage arrears, inadequate safety, and poor, unsafe living conditions were reported.

There were some reports of industrial accidents, most commonly in the construction sector, where the labor force is overwhelmingly foreign. In January, a construction worker was crushed to death by a dump truck. Following the incident, the Safety, Health and Environment National Authority issued safety advisories to the relevant industry actors.