



Brunei

Foreign Nationals and the Death Penalty

Death Penalty Overview

The last known execution in Brunei was in 1957, making the 5,770km² nation on the island of Borneo de facto abolitionist in status. There are thought to be at least 6 inmates on death row, yet this figure is unknown and could be higher (Amnesty International 2022). The last individual sentenced to death was a Malaysian national sentenced for drug trafficking in February 2017. Despite the lack of implementation of the death penalty, Brunei nevertheless voted against the UNGA resolution on a death penalty moratorium in 2022.

In 2013, the Syariah Penal Code Order (SPCO) was introduced, which represented the adoption of a dual legal system in Brunei, combining civil law with Shari'a, or Islamic, law. The introduction of Shari'a law into Brunei's justice system reflected the more conservative form of Islam that has been adopted by the state in recent years, particularly under the current Sultan of Brunei, Hassanal Bolkiah (Ellis-Petersen 2019). The SPCO underwent a phased implementation, with the most recent phase - 'Phase 3' - ushering in the full enforcement of the Penal Code in April 2019. The full force of the SPCO included offences punishable by

death. Offences such as rape, adultery, sodomy, robbery and insult or defamation of the Prophet Muhammad became punishable by death under the SPCO (BBC 2019).

Brunei received international condemnation over its adoption of laws that would criminalise acts such as homosexuality. Celebrities such as George Clooney, Elton John and Ellen DeGeneres all voiced their opposition to the anti-LGBT laws, coordinating a boycott of nine hotels across the US and Europe that had ties to Brunei's Sultan Hassanal Bolkiah. In a rare response to public criticism, the Sultan extended the moratorium on the death penalty to exclude legislation on capital punishment for gay sex.

Executions are, in theory, carried out either by hanging or stoning. Crimes punishable by death by hanging include: murder; abetting the suicide of a person unable to give legal consent; participation in a gang robbery during which a murder takes place; arson; terrorism-related offences (including illegal possession of firearms and explosives); kidnapping; drug trafficking and possession of drugs; treason; military offences; perjury resulting in the conviction of an innocent defendant charged with a capital offence. Under Phase 3 of the SPCO 2013, implemented in 2019, the following crimes

are punishable by death by stoning: adultery; sodomy; rape; apostasy; blasphemy; insulting Islam. Brunei's SPCO does not replace civil law, but rather works alongside it. Before a case can proceed in court, it must be decided whether it should be prosecuted under civil or Shari'a law (Amnesty 2019).



Indonesian Ambassador visiting the 32 Indonesian citizens in Brunei Prison at the time

Foreign Nationals

Whilst Brunei administers death sentences infrequently, the two most recent individuals sentenced to death were foreign nationals. In 2015, a Filipino national was sentenced for murder, and 2017 saw a Malaysian national sentenced for drug trafficking. There are currently thought to be over 60,000 foreigners working in Brunei with valid work

permits (un-registered workers are thought to substantially increase this figure). Of this 60,000, the most employed foreign workers were Indonesian, Bangladeshi and Filipino nationals (Department of Labour and Employment, Brunei 2021). Of these workers, men most commonly work in the construction sector whilst women frequently take up employment as domestic workers. Whilst most of these foreign workers are attracted to Brunei for its higher wages and better working conditions (seen since 1996, see: Mani 1996), employees still report social problems such as feeling homesick and culture shock, as well as unpaid or underpaid wages and physical abuse from employers (ibid).

Although the number of individuals on death row is thought to be under ten, looking to the case of Indonesian prisoners in Brunei Darussalam can give us an indication as to how foreign nationals are criminalised in the country. In 2021, the Indonesian Ambassador visited 32 Indonesian citizens incarcerated in Maraburong Prison and the Women's Prison in Jerudong. The majority of these individuals were incarcerated for immigration violations, buying and selling prohibited goods, and other criminal cases (Embassy of the Republic of Indonesia 2021).

Acknowledgements
With special thanks to Francesca Rigg who contributed to this research in Brunei, among others.



Death Penalty Research Unit, University of Oxford
For more research see:
foreign-nationals.uwazi.io or tinyurl.com/mappingdeathrow