



ADDITIONAL STATEMENT ON RECENT DEVELOPMENTS ON THE HUMAN RIGHTS SITUATION IN BRUNEI DARUSSALAM

UPR Pre-session on Brunei Darussalam
Geneva, 5 April 2019

Statement by the Global Campaign for Equal Nationality Rights

1. The Global Campaign for Equal Nationality Rights is deeply troubled by the government's new Syariah penal code – including punishments of amputation, a dramatic expansion of the death penalty, including stoning for consensual sex by adults – in flagrant violation of universal human rights standards and the country's own commitments under international law, including under the Convention Against Torture. Though the law provides for nationals to apply for their minor child to acquire citizenship, women could now face the death penalty by alerting the authorities to any children born out of wedlock. We are also especially troubled by the penal code's targeting of sexual and gender minorities. Such a system further undermines gender equality and exacerbates the wide-ranging human rights violations experienced by those in the state territory, as a result of the Brunei's highly discriminatory legal system and horrific Syariah penal code.

Statement by the Institute on Statelessness and Inclusion, on behalf of The Brunei Project

2. The Brunei Project is deeply concerned by this week's implementation of harsh new laws under Brunei's Syariah Penal Code that undermine basic human rights and include acts of torture and the death penalty as punishments.¹ In many instances, torture, imprisonment and the death penalty may now be applied as punishment for "offences" that should not even be considered crimes. Among the most horrendous aspects of these laws is the amputation of limbs for those found guilty of theft, the death sentence for apostasy and stoning to death for consensual sex between adults.

¹ A more elaborate list of punishments, as provided by The Brunei Project can be found on the last page of this document.

3. In 2015, Brunei became a signatory to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). Although it has never ratified the Convention, by signing it Brunei has committed itself to upholding and honouring the principles of the Convention. By now implementing the final phases of the Syariah Penal Code less than four years after signing the CAT, Brunei is demonstrating its disregard for international law and is in clear violation of its obligations under the Convention.
4. We are also concerned by the expansion of the death penalty under these newly implemented phases of the Syariah Penal Code. The last known execution in Brunei was in 1957, although there continues to be some instances in which the death penalty is prescribed. Whereas most countries in the world have abolished the death penalty or are moving towards its abolition, Brunei is among the shrinking minority of states who have retained it and is the only country actively seeking to expand application of the death penalty.

Recommendations provided by The Brunei Project in writing

5. Based on the two statements above, we call on States to recommend the following to Brunei Darussalam:
 - I. **Ratify the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and revise the Syariah Penal Code Order 2013 to comply with the CAT;**
 - II. **Put in place a formal moratorium on the use of the death penalty, with a view towards its abolition; and,**
 - III. **Ensure that the criminalisation of offences in the Syariah Penal Code Order of 2013 is compliant with international human rights standards by undertaking immediate efforts to review, revise and repeal provisions that are contrary to its legal obligations under the Universal Declaration of Human Rights and human rights treaties that Brunei Darussalam has signed or ratified.**

Articles within the Syariah Penal Code² Requiring Revision to Make them CAT Compliant

Chapter I, Articles:

55	<i>Sariqah</i> (theft) – amputation of limbs
63, 65, 66	<i>Hirabah</i> (theft by force) – amputation of limbs
69 – 74	<i>Zina</i> (adultery) – stoning to death or whipping*
76 – 81	<i>Zina bil-jabar</i> (rape) – stoning to death or whipping*
82, 84, 85	<i>Liwat</i> (sodomy, either between two men or between a man and a woman other than his wife) – stoning to death or whipping*
90	<i>Ityan al-mayyitah</i> (necrophilia) – whipping
91	<i>Ityan al-bahimah</i> (bestiality) – whipping
92	<i>Musahaqiah</i> (sexual acts between two women) – whipping
98 – 103	<i>Qazaf</i> (false accusation of <i>zina</i> , <i>zina bil-jabar</i> or <i>liwat</i>) – whipping
104	Consumption of alcohol – whipping
108 – 111	<i>Irtidad</i> (blasphemy) – whipping
112	Apostasy – whipping
113, 114	Attempting & abetting <i>irtidad</i> – whipping

Chapter III, Articles:

187, 188	Withdrawal of <i>syahdah</i> and <i>syadah ihshan</i> (the witness testimony in court used to determine a person's guilt) – whipping
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Chapter IV, Articles:

206	False claim declaring self as <i>Imam Mahdi</i> – whipping
221	Contempt of <i>Nabi</i> by non-Muslim – whipping
222	Deriding, etc. verses of the <i>Al Qur'an</i> or <i>hadiths</i> by non-Muslim - whipping

² <https://www.icj.org/wp-content/uploads/2013/10/Brunei-Syariah-Penal-Code-Order-2013-eng.pdf>.

* Punishment depends on the circumstances (e.g. age, marital status, etc.) of the “offender”.