



# BRUNEI DARUSSALAM

## BASELINE ASSESSMENT OF R2P IMPLEMENTATION



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The following Baseline Assessment Annex provides an overview of Brunei Darussalam's efforts in implementing R2P as of 2019. For a full description of the methodology used in this study, see Part II of 'Implementing the Responsibility to Protect in the Asia Pacific: An Assessment of Progress and Challenges', available [here](#).

# BRUNEI DARUSSALAM

Brunei Darussalam is a small state with a population of less than 500,000. Brunei is a monarchy that has been governed under emergency powers since 1962, and there are various concerns about human rights protection and discrimination, especially concerning children, women, citizenship/statelessness and migrant workers. It has neither explicitly endorsed nor rejected R2P and abstained in the General Assembly's 2017 and 2018 votes on R2P as part of the UN's formal agenda. Brunei has sent officials to participate informally in international and regional discussions on atrocity prevention but has not made a formal contribution. It has generally abstained from voting on General Assembly resolutions relating to country specific human rights violations, including in relation to atrocity crimes and prevention.

Brunei has not experienced atrocity crimes and there are no serious risks associated with atrocity crimes. Although there are no reports of major or violent violations of human rights, civil society and press freedom is compromised by emergency governing powers, and freedom of assembly and association is highly restricted. The new Syariah Penal Code criminalizes exposing Muslim children, or the children of parents who have no religion, to the beliefs and practices of any religion other than Islam.

Brunei has ratified only four and signed one of the twelve key human rights instruments most relevant to R2P. It is not a signatory to the Rome Statute, although it established an Extradition Order (2006) which applies to numerous states and potentially allows for the extradition of those accused of genocide. It has participated in the Universal Periodic Review process of the Human Rights Council (where it has just one overdue report). Additionally, equal access to judicial institutions is weak, as are laws protecting vulnerable groups. Brunei has ratified the Geneva Conventions but there is very limited domestic legislation addressing atrocity crimes.

Given its size, it is not surprising that Brunei has not taken measures to implement R2P and it must be acknowledged that neither has Brunei looked to block R2P related measures or activities, either at the UN or within the region. It has made no formal statements on R2P, and has largely abstained from voting on General Assembly resolutions relating to country specific human rights violations. However, Brunei has on occasion supported collective action to protect populations from atrocity crimes. It supported General Assembly resolutions on Syria (e.g. A/RES/71/130 and /RES/67/262) and, for its size, makes a decent contribution to UN peacekeeping, especially in Lebanon (UNIFIL).

# BRUNEI DARUSSALAM

Assessment	Indicator
<b>Very Strong</b>	Protection of populations from atrocity crimes
	Reduction of atrocity crime risks
	Dealing with past atrocities
<b>Fair</b>	Participate in international peer review processes, including the Universal Periodic Review (UPR) of the UN Human Rights Council
	Cooperate fully with UN Human Rights mandate holders and those of relevant regional organisations
	Take measures to counter and prevent violent extremism
	Ensure a legitimate, effective and civilian controlled security sector
	Contribute to United Nations peacekeeping operations (especially those with a protection of civilians mandate)
<b>Weak</b>	Ensure equal access to justice
	Criminalise incitement to commit genocide, war crimes, ethnic cleansing and crimes against humanity
	Enact and implement laws protecting vulnerable groups, particularly in relation to sexual and gender-based violence
	Protect individuals and groups fleeing atrocity crimes and their risk, in accordance with International Refugee Law
	Ensure the education system reflects the ethnic, national and cultural diversity of society, and sets examples of inclusiveness
	Prevent nationals committing atrocity crimes overseas
	Participate in international, regional and national discussions on the further advancement of R2P
	Strengthen regional and international networks for atrocity crime prevention
	Support the development and work of regional human rights and other preventive capacities
	Support the early warning and capacity building efforts of the UN Office on Genocide Prevention and R2P
	Support the strengthening of the UN's capacity for atrocity prevention, including through the UN Human Rights system
	Develop the capacities needed to support civilian protection, including through the training of military and civilian personnel for peacekeeping
<b>Very Weak</b>	Appoint national R2P Focal Point
	Incorporate atrocity crime risks and dynamics into conflict analysis and/or development partnerships
	Establish domestic mechanisms to hold the government accountable for upholding its responsibility to protect
	Sign, ratify and implement relevant instruments of international law
	Sign and ratify the Rome Statute of the International Criminal Court and cooperate fully with the Court
	Establish and maintain National Human Rights Institutions in accordance with the Paris Principles
	Ensure domestic promotion and protection of human rights, focusing on the elimination of discrimination

	Conduct a national assessment of risk and resilience
	Cultivate and protect an active, diverse and robust civil society
	Leverage existing mechanisms and institutions (including regional and sub-regional organisations) to encourage States to fulfil their responsibility to protect
	Encourage and assist States to fulfil their R2P in situations of emerging and ongoing crisis, such as good offices and preventive diplomacy
	Strengthen the role and capacity of regional organisations
	Support preventive actions on atrocity crimes
	Support the Kigali Principles
	Support UN Security Council veto restraint on issues relating to atrocity prevention

### Brunei Score: 23

A small kingdom, Brunei has an ambiguous position having neither affirmed nor rejected R2P. This is reflected in practice. It confronts no serious atrocity crime risks, and has no major human rights problems, yet it has also adopted relatively few proactive measures. It has not promoted atrocity prevention internationally, but has not looked to block it either.

Thematic Area	Indicator	Assessment	Notes
Basic Compliance	Protection of populations from atrocity crimes.	Very Strong	There is no sign of atrocity crimes occurring currently, or in the near future, in Brunei.
	Reduction of atrocity crime risks.	Very Strong	Despite the mediocre record on human rights and lack of an independent judiciary, Brunei's citizens are not at significant risk of being victims to atrocity crimes. Its capacity remains limited, yet recent policies put in place by the government have focussed on development and growth. The recent moratorium on the death penalty can only benefit human rights in the country and further lower the risks of atrocity crimes.
	Dealing with past atrocities.	Very Strong	Unique amongst nations of the Asia Pacific, Brunei, despite human rights abuses and previous conflicts, has not felt the effects of atrocity crimes at all in its recent history.
Policy Mechanisms	Appoint national R2P Focal Point.	Very Weak	Brunei has not appointed an R2P Focal Point. <sup>1</sup>
	Incorporate atrocity crime risks and dynamics into conflict analysis and/or development partnerships.	Very Weak	Brunei has not incorporated any atrocity crime risk factors into its conflict analysis.
	Establish domestic mechanisms to hold the government accountable for upholding its responsibility to protect.	Very Weak	There are no such mechanisms in place to hold the government of Brunei accountable for its responsibility to protect.
International Human Rights Obligations	Sign, ratify and implement relevant instruments of international law.	Very Weak	<p>Brunei has ratified four and is a signatory to one other, of the twelve key international human rights laws (IHRL) most relevant to R2P.<sup>2</sup> The ratified treaties are:</p> <ul style="list-style-type: none"> <li>• <b>Geneva Conventions</b> (Ratification/Accession: 1991).</li> <li>• <b>Geneva Protocol I</b> (Ratification/Accession: 1991).</li> <li>• <b>Convention on the Elimination of All Forms of Discrimination against Women [CEDAW]</b> (Ratification/Accession: 2006).</li> <li>• <b>Convention on the Rights of the Child [CRC]</b> (Ratification/Accession: 1995).</li> </ul> <p>Brunei is a signatory to the <b>Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment [CAT]</b> (Date of Signature: 2015).</p> <p>Brunei has neither signed nor ratified the following:</p>

<sup>1</sup> Global Centre for the Responsibility to Protect (GCR2P), 2017. *Global Network of R2P Focal Points*, [http://www.globalr2p.org/media/files/regional-breakdown\\_global-network-of-r2p-focal-points.pdf](http://www.globalr2p.org/media/files/regional-breakdown_global-network-of-r2p-focal-points.pdf).

<sup>2</sup> United Nations Human Rights Office of the High Commissioner (UNOHCHR), n.d. *View the ratification status by country or by treaty*, [http://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/Treaty.aspx](http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx); United Nations Treaty Collection (UNTC), 2019. 1. *Convention on the Prevention and Punishment of the Crime of Genocide*, [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-1&chapter=4&clang=en](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-1&chapter=4&clang=en); UNTC, 2019. 8. *Arms Trade Treaty*, [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XXVI-8&chapter=26&clang=en](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXVI-8&chapter=26&clang=en); United Nations High Commissioner for Refugees (UNHCR), 2015. *States Parties to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol*, <https://www.unhcr.org/protect/PROTECTION/3b73b0d63.pdf>; International Committee of the Red Cross (ICRC), n.d. *Treaties, States Parties and Commentaries: Brunei Darussalam*, [https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/vwTreatiesByCountrySelected.xsp?xp\\_countrySelected=BN](https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/vwTreatiesByCountrySelected.xsp?xp_countrySelected=BN); International Criminal Court, n.d. *The States Parties to the Rome Statute*, [https://asp.icc-cpi.int/en\\_menus/asp/states%20parties/Pages/the%20states%20parties%20to%20the%20rome%20statute.aspx#B](https://asp.icc-cpi.int/en_menus/asp/states%20parties/Pages/the%20states%20parties%20to%20the%20rome%20statute.aspx#B).

		<ul style="list-style-type: none"> <li>• <i>Convention on the Prevention and Punishment of the Crime of Genocide.</i></li> <li>• <i>International Covenant on Civil and Political Rights</i> [ICCPR].</li> <li>• <i>International Covenant on Economic, Social and Cultural Rights</i> [ICESCR].</li> <li>• <i>Convention on the Elimination of All Forms of Racial Discrimination</i> [CERD].</li> <li>• <i>1951 Refugee Convention</i> and its <i>1967 Protocol.</i></li> <li>• <i>Rome Statute of the International Criminal Court.</i></li> <li>• <i>Arms Trade Treaty</i> [ATT].</li> </ul> <p>Brunei has noted various but minor reservations regarding the treaties it has signed.</p>
Sign and ratify the Rome Statute of the International Criminal Court and cooperate fully with the Court.	Very Weak	Brunei has neither signed nor ratified the <i>Rome Statute of the International Criminal Court.</i> <sup>3</sup>
Establish and maintain National Human Rights Institutions in accordance with the Paris Principles.	Very Weak	Brunei has no national human rights institution or an ombudsman's office to receive and investigate human rights complaints.
Ensure domestic promotion and protection of human rights, focusing on the elimination of discrimination.	Very Weak	<p>Brunei is a monarchy governed since 1967 by Sultan Haji Hassanal Bolkiah Mu'izzaddin Waddaulah, with emergency powers in place since 1962. There is no specific provision of law to bring a civil suit for human rights violations. By customary practice individuals may present written complaints about rights violations directly to the sultan for review.<sup>4</sup></p> <p>Numerous human rights bodies have continued to raise concerns over the years on the state of human rights in the country.<sup>5</sup> The main areas of concern regard children, women, citizenship/statelessness and the rights of LGBTIQ persons.</p> <p>In February 2016, the UN Committee on the Rights of the Child urged the government to raise the minimum age on marriage, repeal <i>Penal Code</i> amendments which would impose the death penalty and corporal punishment on children and prepare a comprehensive policy on children.<sup>6</sup></p> <p>The Committee on the Elimination of Discrimination against Women reported in 2014 amendments in Brunei's <i>Penal Code</i> discriminate against women. The noted that under its third phase of implementation, the <i>Code</i> imposes death by stoning for several 'crimes', in particular adultery and extramarital relations.<sup>7</sup> The Committee also noted there is an absence of a definition of discrimination in the State party's legislation, contrary to Article 1 of CEDAW.<sup>8</sup></p>

<sup>3</sup> International Criminal Court (ICC), n.d. *The States Parties to the Rome Statute.*

<sup>4</sup> U.S Department of State, 2016. *Brunei 2016 Human Rights Report*, <https://www.state.gov/documents/organization/265534.pdf>.

<sup>5</sup> For example: Amnesty International, 2017. *Brunei Darussalam 2017/2018*, <https://www.amnesty.org/en/countries/asia-and-the-pacific/brunei-darussalam/report-brunei-darussalam/>.

<sup>6</sup> United Nations, Committee on the Rights of the Child (CRC), Concluding observations on the combined second and third periodic reports of Brunei Darussalam, 24 February 2016, CRC/C/BRN/CO/2-3.

<sup>7</sup> United Nations, Committee on the Elimination of Discrimination against Women (CEDAW), Concluding observations on the combined initial and second periodic reports of Brunei Darussalam, 14 November 2014, CEDAW/C/BRN/CO/1-2, para. 12.

<sup>8</sup> *Ibid.*, para. 14.



In 2016, there was a reported 20,524 stateless persons in Brunei.<sup>9</sup> Often ethnic Chinese who have lived in the kingdom for generations, they struggle to gain citizenship which requires individuals to pass rigorous tests on Malay culture, customs and language. The difficulties associated with a stateless status has resulted in a mass migration to other countries. This has caused a brain drain and potential capital flight from within Brunei. Some commentators claim such a circumstance is not accidental, and the continued bureaucratic malaise surrounding issues of statelessness is not haphazard but is a conscious effort by the government to discriminate against non-citizens.<sup>10</sup> As well as these stateless persons, there are approximately 100,000 migrant workers in Brunei. They remain largely unprotected by labor laws and vulnerable to exploitation.<sup>11</sup>

Consensual same-sex sexual activity is a criminal offence, punishable by up to 10 years imprisonment. The amended *Penal Code* would make the punishment of stoning to death for sodomy mandatory. In August 2016, a man was arrested for ‘cross-dressing and improper conduct’.<sup>12</sup> Article 198 of the *Code* states “Man posing as a woman or vice versa...” is a crime.

In April 2019, Brunei’s *Penal Code* was updated to impose the death penalty on same-sex relationships, adultery and childbirth out of marriage as well as the introduction of other harsh penalties for a multitude of crimes.<sup>13</sup> They did, however, invoke a moratorium on the death penalty before its third UPR in May 2019.<sup>14</sup>

Participate in international peer review processes, including the Universal Periodic Review (UPR) of the UN Human Rights Council.

Fair

Brunei participated in the UPR in 2009, 2014 and 2019. Regarding its first UPR, in response to 85 recommendations, Brunei accepted three, rejected 27 and had no clear position on 24.<sup>15</sup>

At its second UPR in 2014, Brunei responded to 189 recommendations. It accepted 97, 14 received partial support and 78 were not accepted, due to being potentially contrary to the constitution.<sup>16</sup>

<sup>9</sup> Central Intelligence Agency (CIA), 2018. *The World Factbook*, ‘Brunei’, <https://www.cia.gov/library/publications/the-world-factbook/geos/bx.html>.

<sup>10</sup> Tolman, Alana, 2016. *Brunei’s Stateless Left in a State of Confusion*, <http://www.newmandala.org/bruneis-stateless-left-in-a-state-of-confusion/>.

<sup>11</sup> United Nations, Human Rights Council (HRC), Summary Prepared by The Office of the High Commissioner for Human Rights, in Accordance with Paragraph 15 (C) of the Annex to Human Rights Council Resolution 5/1, 21 July 2009, A/HRC/WG.6/6/BRN/3; see also: U.S Department of State, 2017. *Trafficking in Persons Report 2017: Country Narratives*, p. 101, <https://www.state.gov/documents/organization/271341.pdf>.

<sup>12</sup> Amnesty International, 2017. *Brunei Darussalam 2017/2018*.

<sup>13</sup> UN News, 2019. *UN agencies urge Brunei to repeal new ‘extreme and unjustified’ penal code*, <https://news.un.org/en/story/2019/04/1036121>.

<sup>14</sup> The Commonwealth, 2019. *Secretary-General welcomes Brunei death penalty moratorium*, <http://thecommonwealth.org/media/news/secretary-general-welcomes-brunei-death-penalty-moratorium>.

<sup>15</sup> UPR Info, 2012. *Responses to Recommendations – Brunei Darussalam*, [https://www.upr-info.org/sites/default/files/document/brunei\\_darussalam/session\\_6\\_-\\_november\\_2009/recommendationstobruneidarussalam2009.pdf](https://www.upr-info.org/sites/default/files/document/brunei_darussalam/session_6_-_november_2009/recommendationstobruneidarussalam2009.pdf).

<sup>16</sup> UPR Info, 2014. *2RP: Responses to Recommendations & Voluntary Pledges – Brunei Darussalam*, [https://www.upr-info.org/sites/default/files/document/brunei\\_darussalam/session\\_19\\_-\\_april\\_2014/recommendations\\_and\\_pledges\\_brunei\\_darussalam\\_2014.pdf](https://www.upr-info.org/sites/default/files/document/brunei_darussalam/session_19_-_april_2014/recommendations_and_pledges_brunei_darussalam_2014.pdf).



		<p>Brunei participated in its third UPR in May 2019. At the time of writing, they have not made a response to the recommendations they received.<sup>17</sup></p> <p>Brunei currently has three overdue reports. Two are overdue by less than five years (CEDAW and CRPD) and the other is overdue by over 10 years (CRC-OP-SC).<sup>18</sup></p>
Cooperate fully with UN Human Rights mandate holders and those of relevant regional organisations.	Fair	<p>UNOHCHR noted in its submission during Brunei's first UPR that it had no mandate holders has visited the country in any official capacity. The country responded that it would welcome a request to issue a standing invitation,<sup>19</sup> but has yet to do so. A visit by a Special Rapporteur on Torture has been requested, with the date set sometime in 2019.<sup>20</sup></p>
Ensure equal access to justice.	Weak	<p>The law does not specifically provide for an independent judiciary, but the government has generally respected judicial independence. There are reports of procedural flaws and bias in the Syariah (Malay for Sharia) courts which, at present, primarily covers civil matters.<sup>21</sup> Moreover, the Sultan receives immunity in both a private and public capacity.<sup>22</sup></p> <p>The central role that Islam plays in Brunei is evident in its legal framework, which has increasingly prioritised Syariah as the bedrock of the judicial system. The <i>Syariah Courts Act</i> of 2000 introduced a three-tier Islamic court system consisting of the Syariah Subordinate Courts, the Syariah High Court and the Syariah Appeal Court. Originally the jurisdiction of the Syariah courts was limited to Muslims. In civil law matters, its jurisdiction was confined mostly to family law. In criminal matters, it was confined to specific religious offenses mentioned in the Religious Council and <i>Kadis Court Act 1984</i>; the <i>Islamic Family Law Emergency Order 1999</i>; the <i>Syariah Court Act 2000</i> and the Syariah Courts' <i>Civil Procedure Order 2005</i>.<sup>23</sup></p> <p>The new <i>Syariah Penal Code Order 2013</i> has had far-reaching consequences on the judicial structure in Brunei, broadening the criminal jurisdictions of the Syariah courts and making it applicable to non-Muslims as well. For instance, the public consumption or advertisement of alcohol by non-Muslims can result in imprisonment.<sup>24</sup> The government claims that despite the implementation of this order, "...every case remains subjected to the judicial process and due process of law will</p>

<sup>17</sup> For more information, see: UPR Info, 2019. *Brunei Darussalam*, <https://www.upr-info.org/en/review/Brunei-Darussalam/Session-33---May-2019>.

<sup>18</sup> UNOHCHR, n.d. *Late and non-reporting States*, [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/LateReporting.aspx](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/LateReporting.aspx).

<sup>19</sup> Human Rights in ASEAN, 2013. *Brunei Darussalam*, 'Rule of Law & Human Rights', <https://humanrightsinasean.info/brunei-darussalam/rule-law-human-rights.html>.

<sup>20</sup> UNOHCHR, n.d. *View Country visits of Special Procedures of the Human Rights Council since 1998*, [https://spinternet.ohchr.org/\\_layouts/15/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=en&country=BRN](https://spinternet.ohchr.org/_layouts/15/SpecialProceduresInternet/ViewCountryVisits.aspx?Lang=en&country=BRN).

<sup>21</sup> U.S Department of State, 2016. *Brunei 2016 Human Rights Report*, p. 4.

<sup>22</sup> Human Rights Resource Centre, 2016. *Update on the Rule of Law for Human Rights in ASEAN: The Path to Integration*, p. 14, <http://hrrca.org/wp-content/uploads/2016/06/Update-on-the-Rule-of-Law-for-Human-Rights.pdf>.

<sup>23</sup> U.S Department of State, 2016. *Brunei 2016 Human Rights Report*, p. 8.

<sup>24</sup> Ibid.

		continue. The principle that someone is innocent until proven guilty will continue.” <sup>25</sup>
Criminalise incitement to commit genocide, war crimes, ethnic cleansing and crimes against humanity.	Weak	Brunei has ratified the <i>Geneva Conventions</i> and these have been codified in domestic legislation via the <i>Geneva Conventions Order 2005</i> . This action therefore prescribes punitive actions for those accused of war crimes within Brunei.
Take measures to counter and prevent violent extremism.	Fair	There was no specific reference that could be found to the crimes of genocide, ethnic cleansing or their incitement in relevant legislation. Brunei is part of the Manila Declaration, formalised in 2017, which holds all ASEAN members to efforts to stop radicalisation and violent extremism. <sup>26</sup>  It is also active in working with partners in the region to counter the movement of foreign fighters and participates in various meetings and working groups to enhance training and communication. <sup>27</sup>
Enact and implement laws protecting vulnerable groups, particularly in relation to sexual and gender-based violence.	Weak	While Brunei has no law specifically dedicated to domestic violence, Brunei does have legislation which criminalises sexual and gender-based violence. This includes the <i>Penal Code</i> (Cap. 22), the <i>Women and Girls Protection Act</i> (Cap. 120), <i>Islamic Family Law Order 2000</i> , the <i>Married Women Act</i> (Cap. 190) and the <i>Children and Young Persons Order 2006</i> . <sup>28</sup>  The <i>Penal Code</i> was amended in 2012 in order to strengthen laws protecting young and vulnerable persons from sexual exploitation. <sup>29</sup> The <i>Penal Code</i> (Cap. 22) provides protection for women generally, by criminalising rape, incest, insult to the modesty of a woman and voluntarily causing a woman with a child to miscarry. <sup>30</sup> The <i>Penal Code</i> also penalises criminal acts against children. <sup>31</sup> The <i>Women and Girls Protection Act</i> (Cap. 120) provides further protection for women and girls, <sup>32</sup> whilst the <i>Islamic Family Law Order 2000</i> and the <i>Married Women Act</i> (Cap. 190) were amended in 2010 to include provisions on domestic violence and protection orders. <sup>33</sup>  The Women and Child Abuse Protection Unit of the Royal Brunei Police Force was established in April 1997 for the purpose of tackling any form of violence against women and children. The

<sup>25</sup> United Nations, CEDAW, List of issues and questions in relation to the combined initial and second periodic reports of Brunei Darussalam, 12 June 2014, CEDAW/C/BRN/Q/1-2/Add.1, p.3-4.

<sup>26</sup> ASEAN, 2017. *Manila Declaration To Counter The Rise of Radicalisation and Violent Extremism*, <https://asean.org/wp-content/uploads/2012/05/Manila-Declaration-to-Combat-RRVE-Adopted-by-the-11th-AMMTC.pdf>.

<sup>27</sup> The Borneo Bulletin, 2018. ‘Minister: Brunei committed to counter-terrorism measures’. *The Borneo Bulletin*, 7 November. Available at: <https://borneobulletin.com.bn/minister-brunei-committed-to-counter-terrorism-measures-2/>.

<sup>28</sup> See: United Nations, CEDAW, CEDAW/C/BRN/CO/1-2, p. 18.

<sup>29</sup> United Nations, CRC, List of issues in relation to the combined second and third periodic reports of Brunei Darussalam, 23 December 2015, CRC/C/BRN/Q/2-3/Add.1, p. 12.

<sup>30</sup> United Nations, CEDAW, CEDAW/C/BRN/CO/1-2, p. 12-13.

<sup>31</sup> United Nations, HRC, National Report Submitted in Accordance with Paragraph 15 (A) of the Annex to Human Rights Council Resolution 5/1, 9 September 2009, A/HRC/WG.6/6/BRN/1, p. 7.

<sup>32</sup> United Nations, CEDAW, CEDAW/C/BRN/CO/1-2, p. 11 and 18.

<sup>33</sup> Ibid.

	Protect individuals and groups fleeing atrocity crimes and their risk, in accordance with International Refugee Law.	Weak	<p>government also provides helpline services, mainly counselling over the phone.<sup>34</sup></p> <p>Brunei is not party to the <b>1951 Refugee Convention</b> and its <b>1967 Protocol</b>. It has previously stated there are no refugees or asylum seekers within its borders.<sup>35</sup></p> <p>Brunei has shown some concern for the Muslim Rohingya refugees in Myanmar and Bangladesh, with the Sultan himself showing interest in helping to find an effective solution.<sup>36</sup> It has provided those currently living in camps in Bangladesh with supplies and access to water.<sup>37</sup> There is however, no evidence of the government attempting to support the Rohingya through more robust action.</p>
Domestic Implementation	Conduct a national assessment of risk and resilience.	Very Weak	There is no evidence of a national assessment of risk and resilience having been undertaken in Brunei.
	Cultivate and protect an active, diverse and robust civil society.	Very Weak	<p>The Sultan of Brunei is head of state and the prime minister, and wields broad powers under a long-standing state of emergency in place since 1962. Elections are held for village-level councils that play a consultative role, though candidates are vetted by the government and must be Muslim and Malay (unless the sultan grants an exception). Hence, ethnic and religious minorities have few opportunities for political participation. Moreover, genuine political activity by opposition groups remains extremely limited. Since the National Solidarity Party was deregistered without explanation in 2008, the National Development Party has been Brunei's sole legal political party.<sup>38</sup></p> <p>Overall, press freedom is weak. Reporters Without Borders ranks Brunei at 152 (out of 180) in its World Press Freedom Index for 2019, citing large levels of self-censorship amongst journalists.<sup>39</sup> Freedom House similarly characterised Brunei's level of press freedom as 'not free' in 2017.<sup>40</sup></p> <p>Journalists have reported practising self-censorship because of social pressure, reports of government interference and legal and professional concerns.<sup>41</sup> There is no freedom of information law in Brunei.<sup>42</sup> The <i>Sedition Act</i>, as amended in 2005, makes it an offense to criticise the Sultan or the royal family.<sup>43</sup></p>

<sup>34</sup> United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) & UN Women, 2014. *Asian and Pacific Conference on Gender Equality and Women's Empowerment: Beijing +20 Review: Brunei Darussalam Country Report*, p. 10, [http://www.unescapsdd.org/files/images/Beijing20\\_national\\_review\\_Brunei.pdf](http://www.unescapsdd.org/files/images/Beijing20_national_review_Brunei.pdf).

<sup>35</sup> United Nations High Commissioner for Refugees (UNHCR), n.d. *Submission by the United Nations High Commissioner for Refugees for the Office of the High Commissioner for Human Rights' Compilation Report – Universal Periodic Review: Brunei Darussalam*, p. 1, <https://www.refworld.org/pdfid/528346844.pdf>.

<sup>36</sup> Seri Begawan, Bandar, 2019. 'Brunei Sultan for 'just, permanent solution' to Rohingya crisis'. *The Daily Star*, 22 April. Available at: <https://www.thedailystar.net/rohingya-crisis/news/brunei-sultan-just-and-permanent-solution-rohingya-crisis-1733023>.

<sup>37</sup> Bandial, Ain, 2017. 'As humanitarian crisis mounts, more Brunei NGOs step up to help Rohingya refugees'. *The Scoop*, 16 October. Available at: <https://thescoop.co/2017/10/16/humanitarian-crisis-mounts-brunei-ngos-step-help-rohingya-refugees/>.

<sup>38</sup> Freedom House, 2016. *Brunei: Freedom in the World 2016*, <https://freedomhouse.org/report/freedom-world/2016/brunei>.

<sup>39</sup> Reporters Without Borders (RSF), 2019. *Brunei*, <https://rsf.org/en/brunei>.

<sup>40</sup> Freedom House, 2017. *Freedom of the Press 2017: Brunei*, <https://freedomhouse.org/report/freedom-press/2017/brunei>.

<sup>41</sup> U.S Department of State, 2016. *Brunei 2016 Human Rights Report*, p. 9.

<sup>42</sup> Freedom House, 2013. *Freedom of the Press 2013: Brunei*, <https://freedomhouse.org/report/freedom-press/2013/brunei>.

<sup>43</sup> Amnesty International, 2009. *Brunei Darussalam: Submission to the Universal Periodic Review: Sixth Session of the UPR Working Group of the Human Rights Council, November – December 2009*, p. 4, <https://www.amnesty.org/en/documents/asa15/001/2009/en/>.

		<p>Emergency laws continue to restrict freedoms of assembly and association. No more than 10 people can assemble for any purpose without a permit, strikes are illegal and collective bargaining is not recognised. Civil servants may not join a political party.<sup>44</sup> Civil society consists of mostly voluntary organisations. Any NGO seeking to operate in the country is required to apply for permission from the government and provide a complete list of members.<sup>45</sup></p> <p>The Human Rights Resource Centre states the conflation of religious identity with national identity – part of the official ‘Melayu Islam Beraja (Malay Islamic Monarchy) ideology effectively excludes non-Muslims from full citizenship rights and status. This is said to limit open discussion on religious doctrines and religious freedoms.<sup>46</sup></p>
	<p>Ensure a legitimate, effective and civilian controlled security sector.</p> <p>Fair</p>	<p>The Royal Brunei Police Force and the Internal Security Department, which fall under the direct control of the Prime Minister’s Office, have primary responsibility for enforcing laws and maintaining order. The Departments of Labor and Immigration in the Ministry of Home Affairs also hold limited law enforcement powers, primarily related to labor and immigration offenses. Religious enforcement officers – under the Ministry of Religious Affairs – are responsible for enforcing Syariah law. They have the same powers of arrest as police, but in practice their powers to detain were reportedly limited to cases of disturbing the peace or refusing to provide identification.<sup>47</sup></p>
	<p>Ensure the education system reflects the ethnic, national and cultural diversity of society, and sets examples of inclusiveness.</p> <p>Weak</p>	<p>The <i>Constitution of Brunei Darussalam</i> does not guarantee the right to education nor does it specify any provision regarding education nor the principle of non-discrimination.<sup>48</sup> Regardless, the <i>Compulsory Education Order 2007</i> provides for nine years of compulsory education for all children. The government has invested a considerable portion of its budget to provide free education. This has led to good gender parity and one of the highest literacy rates in Asia.<sup>49</sup></p> <p>The primary concern with education in Brunei revolves around religion, freedom of thought and inclusivity.<sup>50</sup> The Ministry of Education prohibits the teachings of ‘comparative religious studies’<sup>51</sup> and the new <i>Syariah Penal Code</i> further criminalises exposing Muslim children, or the children of parents who have no religion, to the</p>

<sup>44</sup> Freedom House, 2016. *Freedom in the World 2016: Brunei*.

<sup>45</sup> Amnesty International, 2009. *Brunei Darussalam: Submission to the Universal Periodic Review: Sixth Session of the UPR Working Group of the Human Rights Council, November – December 2009*, p. 5.

<sup>46</sup> Human Rights Resource Centre, 2015. *Keeping the Faith: A Study of Freedom of Thought, Conscience, and Religion in ASEAN*, p. 29. [http://hrrca.org/wp-content/uploads/2015/11/Book-of-Keeping-the-Faith\\_web.pdf](http://hrrca.org/wp-content/uploads/2015/11/Book-of-Keeping-the-Faith_web.pdf).

<sup>47</sup> U.S Department of State, 2016. *Brunei 2016 Human Rights Report*.

<sup>48</sup> Attorney General of Brunei Darussalam, 2008. *Constitution of Brunei Darussalam*, [http://www.wipo.int/wipolex/en/text.jsp?file\\_id=198527](http://www.wipo.int/wipolex/en/text.jsp?file_id=198527).

<sup>49</sup> United Nations, HRC, Report of the Working Group on the Universal Periodic Review, 4 January 2010, A/HRC/13/14, para. 12.

<sup>50</sup> United Nations, CRC, CRC/C/BRN/Q/2-3/Add.1, p. 7.

<sup>51</sup> UNOHCHR, 2009. *Institute on Religion and Public Policy: Religious Freedom in Brunei Darussalam*, p. 3, [http://lib.ohchr.org/HRBodies/UPR/Documents/Session6/BN/IRPP\\_BRN\\_UPR\\_S06\\_2009.pdf](http://lib.ohchr.org/HRBodies/UPR/Documents/Session6/BN/IRPP_BRN_UPR_S06_2009.pdf).

			<p>beliefs and practices of any religion other than Islam.<sup>52</sup></p> <p>This restrictive philosophy extends to tertiary and higher education institutions, with researchers explicitly required to practice self-censorship about matters pertaining to ‘Islam and the Monarchy’.<sup>53</sup></p> <p>The education system does not cater for persons with disabilities.<sup>54</sup></p>
	Prevent nationals committing atrocity crimes overseas.	Weak	<p>Brunei is not a signatory to the <i>Rome Statute of the International Criminal Court</i>, however, it established an <i>Extradition Order</i> in 2006, which applies to numerous countries and potentially allows for the extradition of those accused of genocide. The order specifies that “... there is an extradition objection in relation to an extradition offence for which the surrender of a person is sought by an extradition country if – (a) the extradition offence is regarded as a political offence.”<sup>55</sup></p>
Bilateral and Multilateral Relations	Participate in international, regional, and national discussions on the further advancement of R2P.	Weak	<p>Brunei has not made statements at any of the UN General Assembly’s Informal Interactive Dialogues on R2P.</p> <p>Brunei’s clearest statement of support for R2P came in November 2007, when the Minister for Foreign Affairs and Trade endorsed R2P at the Commonwealth Heads of Government Meeting (GHOGM) in Uganda. The Minister said the responsibility to protect populations from atrocity crimes is a fundamental Commonwealth value, and reiterated Brunei’s commitment to ensure the responsibility to protect is carried out by the international community in accordance with the UN Charter.<sup>56</sup></p>
	Leverage existing mechanisms and institutions (including regional and sub-regional organisations) to encourage States to fulfil their responsibility to protect.	Very Weak	<p>Brunei has not yet served on the UN Human Rights Council.<sup>57</sup></p> <p>Brunei is a member of the Organization for Islamic Cooperation’s Contact Group on the Rohingya Muslim Minority. This group has been vocal regarding the spread of anti-Muslim violence in Myanmar and has called “...upon the government to ensure Buddhist extremists put an end to the use of force and violence.”<sup>58</sup></p> <p>While not explicitly referencing R2P, at the 68<sup>th</sup> Opening Session of the UN General Assembly Brunei articulated its condemnation of the use of chemical weapons in Syria. “The worsening</p>

<sup>52</sup> U.S Department of State, 2015. *Brunei 2015 International Religious Freedom Report*, p. 5, <https://www.state.gov/documents/organization/256303.pdf>.

<sup>53</sup> Human Rights Resource Centre, 2015. *Keeping the Faith: A Study of Freedom of Thought, Conscience, and Religion in ASEAN*, p. 73.

<sup>54</sup> United Nations, CRC, CRC/C/BRN/CO/2-3, para. 49.

<sup>55</sup> Attorney General’s Chamber, 2006. *Constitution of Brunei Darussalam (Order under Article 83(3)) Extradition Order, 2006*, p. 308, [http://www.agc.gov.bn/AGC%20Images/LAWS/Gazette\\_PDF/2006/EN/s010.pdf](http://www.agc.gov.bn/AGC%20Images/LAWS/Gazette_PDF/2006/EN/s010.pdf).

<sup>56</sup> Cf. Bellamy, Alex J. and Sara E. Davies, 2009. ‘The Responsibility To Protect in the Asia-Pacific Region’, *Security Dialogue*, vol. 40, no. 6, p. 564.

<sup>57</sup> Past members can be searched for by their regional group or by their year served: United Nations Human Rights Council, 2018. *List of past members of the Human Rights Council*, <http://www.ohchr.org/EN/HRBodies/HRC/Pages/PastMembers.aspx>.

<sup>58</sup> GCR2P, 2015. *Timeline of International Response to the Situation of the Rohingya and Anti-Muslim Violence in Burma/Myanmar*, p. 6. <http://www.globalr2p.org/media/files/timeline-of-international-response-to-burma-22.pdf>.



situation in Syria continues to be of serious concern. We join the international community in condemning the use of chemical weapons, which has caused the loss of lives in the country. More importantly, we support all efforts, particularly by the UN, in finding a peaceful solution to the crisis. In this regard, we welcome the US - Russia Framework for the Elimination of Syrian Chemical Weapons and the recent adoption of the UN Security Council resolution on Syria.”<sup>59</sup>

Brunei has largely abstained from UN General Assembly Resolutions that have referenced atrocity crimes or relate to R2P.

**UN General Assembly Resolutions:**<sup>60</sup>

- 2013: The situation in the Syrian Arab Republic A/RES/67/262: **yes**.
- 2014: Situation of human rights in the Democratic People’s Republic of Korea A/RES/69/188: **abstained**.
- 2014: Situation of human rights in the Syrian Arab Republic A/RES/69/189: **abstained**.
- 2015: Situation of human rights in the Democratic People’s Republic of Korea A/RES/70/172: **abstained**.
- 2015: Situation of human rights in the Syrian Arab Republic A/RES/70/234: **abstained**.
- 2016: The situation in the Syrian Arab Republic A/RES/71/130: **yes**.
- 2016: Situation of human rights in the Syrian Arab Republic A/RES/71/203: **abstained**.
- 2017: Situation of human rights in the Democratic People’s Republic of Korea A/RES/72/188: **adopted without vote**.
- 2017: Situation of human rights in the Syrian Arab Republic A/RES/72/191: **abstained**.

Brunei has also co-sponsored numerous resolutions regarding the situation of the Palestinian people.<sup>61</sup> Little evidence could be found that Brunei invests in its own capacity, or that of others, in employing diplomatic tools in crisis situations.

Encourage and assist States to fulfil their R2P in situations of emerging and ongoing crisis, such as good offices and preventive diplomacy. Very Weak

Strengthen regional and international networks for atrocity crime prevention. Weak

Brunei has sent delegations to meetings hosted by the Asia Pacific Centre for the Responsibility to Protect (APR2P) in the past. However, there is little evidence to suggest Brunei has actively worked to strengthen regional or international networks for atrocity crime prevention.

<sup>59</sup> GCR2P, 2013, *The Responsibility to Protect at the Opening of the 68<sup>th</sup> Session of the United Nations General Assembly*, p. 12. <http://www.globalr2p.org/media/files/2013-ga-quotes-summary-2.pdf>.

<sup>60</sup> GCR2P, 2017. *UN General Assembly Resolutions Referencing R2P*, <http://www.globalr2p.org/resources/1133>. (Voting records for each resolution accessed using the UNGA’s voting records search, available at: <http://www.un.org/en/ga/documents/voting.asp>).

<sup>61</sup> For example: Resolutions - A/C.4/70/L.19; A/C.4/70/L.20; A/C.4/70/L.21; A/C.4/70/L.22; A/C.4/70/L.19; A/C.4/71/L.11; A/C.4/71/L.12; A/C.4/71/L.13; A/C.4/71/L.14; A/C.4/71/L.15.

	Strengthen the role and capacity of regional organisations.	Very Weak	Brunei, perhaps due to its limited capacity, has done very little to strengthen the capacity of organisations it is a part of.
	Support the development and work of regional human rights and other preventive capacities.	Weak	Given the level of its domestic implementation of human rights, it is not surprising that there is little evidence of Brunei supporting human rights outside of its borders. However, during its tenures as ASEAN chair in 2001 and 2013, ASEAN was encouraged to take steps towards improving human rights, notably violence against women and treatment of HIV/AIDS. <sup>62</sup>
	Support atrocity prevention through development and assistance partnerships.	N/A	No evidence found.
United Nations, prevention, Peacekeeping, and assistance	Support the early warning and capacity building efforts of the UN Office on Genocide Prevention and R2P.	Weak	There is very little information to suggest Brunei has worked to support the Office of Genocide Prevention and R2P.  Brunei abstained – along with 50 other countries – from voting on the Venezuelan-led amendment to remove all references to war crimes, crimes against humanity and ethnic cleansing in the final budget allocations for the Office. <sup>63</sup>
	Support the strengthening of the UN’s capacity for atrocity prevention, including through the UN Human Rights system.	Weak	There is little evidence that Brunei has helped in supporting the UN in furthering atrocity prevention.  However, while not linked directly to atrocity prevention, Brunei has made significant progress towards attaining the 2030 Sustainable Development Goals (SDGs) adopted at the UN in 2015. The Sultan has initiated Wawasan Brunei 2035, a national development plan with some of its goals matching those of the SDGs. <sup>64</sup>
	Support preventive actions on atrocity crimes.	Very Weak	No specific information could be found of Brunei supporting preventive actions.
	Contribute to United Nations peacekeeping operations (especially those with a protection of civilians mandate).	Fair	In 2008 Brunei dispatched its first peacekeepers to Lebanon as part of UNIFIL, which has a protection of civilians mandate. Despite having a national military of just three battalions and relying on the continued presence of British Gurkhas for its own security, Brunei has maintained regular deployments to UNIFIL since that time. In August 2014, 30 troops from Brunei left for the Middle East, where they would be under the command of the Malaysian battalion (MALBAT 850-2). This deployment was Brunei’s largest to date.  Brunei has also supported peace operations in the southern Philippines. The country sent a small number of troops as part of the Implementation Monitoring Team overseeing the ceasefire between the Moro Islamic Liberation Front and the Philippines government in Mindanao. <sup>65</sup>
	Develop the capacities needed to support civilian protection, including through the training of	Weak	Brunei does not provide specific training regarding atrocity crime risks and dynamics. However, Brunei has assisted in regional humanitarian operations. In 2005, along with four other ASEAN members

<sup>62</sup> Human Rights in ASEAN, 2013. *Brunei Darussalam*, ‘In ASEAN’, <https://humanrightsinasean.info/brunei-darussalam/asean.html>.

<sup>63</sup> GCR2P, 2011. *ACABQ and Fifth Committee Negotiations on the Joint Office*, p. 9-10, <http://www.globalr2p.org/media/files/report-acabq-and-fifth-committee-negotiations.pdf>.

<sup>64</sup> United Nations, HRC, National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, 22 February 2019, A/HRC/WG.6/33/BRN/1, p.2.

<sup>65</sup> Capie, David. 2015. “Evolving Attitudes to Peacekeeping in ASEAN”, in K. Tsukamoto (ed.) *New Trends in Peacekeeping: In Search of a New Direction*. Tokyo: National Institute for Defence Studies, p. 115-116.



	military and civilian personnel for peacekeeping.		(Malaysia, the Philippines, Singapore, and Thailand), Brunei participated in an EU-led civilian mission to Aceh, assisting in implementing the Memorandum of Understanding between the government of Indonesia and Gerakan Aceh Merdeka (GAM, or the Free Aceh Movement). <sup>66</sup>
	Support the Kigali Principles.	Very Weak	As of 2018, Brunei does not support the Kigali Principles of the Protection of Civilians. <sup>67</sup>
	Support UN Security Council veto restraint on issues relating to atrocity prevention.	Very Weak	Brunei is not a signatory to the Code of Conduct regarding Security Council action against atrocity crimes, <sup>68</sup> nor is it a supporter of the French/Mexican initiative on veto restraint in the case of mass atrocities. <sup>69</sup>

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<sup>66</sup> Tay, Simon S. C. and Aaron Choo. n.d. *Peacekeeping, Peacebuilding, and Preventive Diplomacy*, p. 234, [http://www.jcie.org/japan/j/pdf/pub/publst/1451/13\\_tay-choo.pdf](http://www.jcie.org/japan/j/pdf/pub/publst/1451/13_tay-choo.pdf). (Chapter from “Beyond 2015: ASEAN-Japan Strategic Partnership for Democracy, Peace, and Prosperity in Southeast Asia” – see a summary here: <http://www.jcie.or.jp/books/abstracts/A/asean-japan-partnership.html>).

<sup>67</sup> APR2P, 2018. *The Kigali Principles on the Protection of Civilians*, [https://r2pasiapacific.org/files/2942/2018\\_kigali\\_principles.pdf](https://r2pasiapacific.org/files/2942/2018_kigali_principles.pdf).

<sup>68</sup> GCR2P, 2017. *List of Supporters of the Code of Conduct regarding Security Council action against genocide, crimes against humanity and war crimes, as elaborated by ACT*, <http://www.globalr2p.org/media/files/2017-01-25-coc-list-of-supporters.pdf>.

<sup>69</sup> GCR2P, 2016. *Support to the French Mexican initiative on veto restraint in case of mass atrocities*, <http://www.globalr2p.org/media/files/veto-list.pdf>.