

Death Penalty

Submitted by: The Advocates for Human Rights and the World Coalition Against the Death Penalty.

MECHANISM

Universal Periodic Review (UPR)

SESSION

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Summary: Brunei Darussalam is a *de facto* abolitionist state having no reported executions since 1957. Nonetheless, the courts continue to sentence people to death by hanging. Brunei has begun implementation of a death penalty by stoning for many lesser crimes although it has delayed the implementation of this penalty.

Brunei Darussalam does not limit the death penalty to the most serious crimes.

- Brunei Darussalam imposes death by hanging for crimes, including murder, abetting the suicide of a person unable to give legal consent, participation in a gang robbery during which a murder takes place, arson, and terrorism-related offenses.
- The laws of Brunei Darussalam do not limit the death penalty to the “most serious crimes.” In many instances, a crime does not have to involve intentional death or death at all to carry a mandatory death sentence, including drug offenses and treason.
- Under Syariah Penal Code Order, 2013, adultery, sodomy, rape, apostasy, blasphemy, and insulting Islam are all punishable by death by stoning.

Imposition of death sentences has continued since the last UPR.

- Brunei Darussalam’s courts continue to impose and uphold new mandatory death sentences, although no sentences have been carried out in recent years. The Sultan of Brunei holds ultimate responsibility for the implementation of any death sentence.
- Since 2014, two people have been sentenced to death, one for murder and one for a drug offense. Both are foreign nationals.
 - In 2017, a Malaysian national was sentenced to the mandatory death penalty for drug trafficking. The sentence was upheld by the Court of Appeals.
 - In 2015, a Filipino national was convicted of murder and sentenced to death.

The Penal Code authorizes amputation and the death penalty by stoning.

- Under Phase 3 of the Syariah Penal Code Order, 2013, Brunei Darussalam instituted a death penalty by stoning for crimes that do not result in death.
- The Syariah Penal Code Order, 2013, also calls for the amputation of limbs as punishment for certain lesser crimes.
- Brunei Darussalam became a signatory to the Convention Against Torture in 2015 but has not yet ratified it.
- Brunei Darussalam is not a State Party to the International Covenant on Civil and Political Rights or its Second Optional Protocol.

Recommendations

- Immediately adopt a formal moratorium on the death penalty.
- Commute all existing death sentences to terms of imprisonment.
- Ratify the Convention Against Torture (CAT).
- Sign and Ratify the International Covenant on Civil and Political Rights and its Second Optional Protocol.
- Prohibit imposition of the death penalty for any crime in which the person accused is not proven to have committed an intentional killing, consistent with international human rights standards.
- Eliminate the mandatory death penalty and give sentencing judges discretionary authority to impose alternate penalties, taking into account the facts and circumstances of the crime and the defendant.
- Repeal Phase 3 of the Syariah Penal Code Order, 2013 and amend the Code to bring it in line with the Convention Against Torture and international law standards regarding the death penalty and torture or other cruel, inhuman or degrading treatment or punishment.