

Country	Brunei Darussalam
SIGI 2019 Category	N/A
SIGI Value 2019	N/A

Discrimination in the family		80%
	Legal framework on child marriage	50%
	Percentage of girls under 18 married	3%
	Legal framework on household responsibilities	75%
	Proportion of the population declaring that children will suffer if mothers are working outside home for a pay	-
	Female to male ratio of time spent on unpaid care work	-
	Legal framework on inheritance	100%
	Legal framework on divorce	100%

Restricted physical integrity		N/A
	Legal framework on violence against women	75%
	Proportion of the female population justifying domestic violence	-
	Prevalence of domestic violence against women (lifetime)	-
	Sex ratio at birth (natural =105)	105.4
	Legal framework on reproductive rights	75%
	Female population with unmet needs for family planning	-

Restricted access to productive and financial resources		N/A
	Legal framework on working rights	75%
	Proportion of the population declaring this is not acceptable for a woman in their family to work outside home for a pay	-
	Share of managers (male)	66%
	Legal framework on access to non-land assets	0%
	Share of house owners (male)	-
	Legal framework on access to land assets	0%
	Share of agricultural land holders (male)	-
	Legal framework on access to financial services	0%
	Share of account holders (male)	-

Restricted civil liberties		N/A
	Legal framework on civil rights	100%
	Legal framework on freedom of movement	75%
	Percentage of women in the total number of persons not feeling safe walking alone at night	-
	Legal framework on political participation	50%
	Share of the population that believes men are better political leaders than women	-
	Percentage of male MP's	91%
	Legal framework on access to justice	75%
	Share of women declaring lack of confidence in the justice system	-

Note: Higher values indicate higher inequality. Percentages range from 0 to 100, while legal variables are categorised as 0%, 25%, 50%, 75% or 100%. See data source [here](#).

Source: OECD (2019), Gender, Institutions and Development Database, <https://oe.cd/ds/GIDDB2019>.

1. Discrimination in the family

a) Overarching legal framework for marriage

The law does not provide women with the same rights as men to enter into marriage, as the *wali* (male guardian of the woman) needs to give his consent on behalf of the woman for the marriage (Islamic Family Law Act, sect. 8). Nonetheless, the law stipulates that consent from both spouses is necessary to enter into marriage (Islamic Family Law Act, sect. 12). Forced marriage is prohibited under the legal framework and anyone who compels a person to marry against their will is punishable of a fine and/or imprisonment of no more than six months (Islamic Family Law Act, sect. 35). The law provides for official registration of religious marriages (Registration of Marriages Act, sect. 4). The law does not provide for official registration of customary marriages or informal unions and informal or de-facto unions are not regulated by law.

In 2014, Brunei Darussalam established the first phase of new criminal regulations based on Sharia law (Freedom House, 2015). Under those, sexual intercourse between unmarried persons (*zina*) is criminalised and is liable to stoning or whipping upon confession of one of the parties or upon the testimony of four witnesses (who witnessed the act of penetration) (Syariah Penal Code Order, sect. 68 & 69). While the sentence is the same for women and men, the CEDAW Committee (2014) stresses that women are disproportionately affected by punishment for crimes involving sexual relations and are more vulnerable to discriminatory investigations.

b) Child marriage

The legal age of marriage for women and men is 18 years old (Registration of Marriages Act, sect. 4). There are legal exceptions to the legal age of marriage that allow women and men under the legal age of marriage to marry with the consent of a parent or a guardian (Registration of Marriages Act, sect. 4). The law does not set a minimum age of marriage of minors with the consent of a parent or a guardian. Child marriage is prohibited (Registration of Marriages Act, sect. 14).

The Chinese Marriage Act regulates on marriages contracted according to established Chinese law or custom (sect. 2). Under the Chinese Marriage Act, no Chinese marriage shall be registered or be valid until the girl is 15 years old (sect. 6).

The CEDAW Committee (2014) reports that the minimum age of marriage under customary marriage laws is 14 years old, 15 for ethnic Chinese, 16 years old for Muslim girls and 18 years old for Muslim boys. The Committee on the Rights of the Child (2016) stresses the high incidence of child marriages of girls.

c) Household responsibilities

The law provides women with the same rights as men to be recognised as the head of household as the Married Women Act stipulates that the wife and husband shall have equal rights in the running of the matrimonial household (sect. 4).

However, the law requires a married woman to obey her husband and there are legal consequences if a wife disobeys her husband (Islamic Family Law Act, sect. 61). As such, a wife will lose maintenance from her husband if she unreasonably refuses to obey the lawful wishes or commands of her husband, including when she withholds her association with her husband, when she leaves her husband's home against his wishes or when she refuses to move with him to another home or place without any valid reason (Islamic Family Law Act, sect. 61). Additionally, a wife who wilfully disobeys an order by her husband is guilty of an offense and liable to a fine of up to \$1000 (Islamic Family Law Act, sect. 130).

The law does not provide women with the same rights as men to be the legal guardians of their children during marriage and in informal unions (Islamic Family Law Act, sect. 95). The father is the primary guardian of his minor child (even if custody is vested in someone else) (Islamic Family Law Act, sect. 95). If the father is deceased, guardianship is devolved to one of the persons in the following order: the paternal grandfather, the father's or grandfather's executor, the executor of the father's or grandfather's executor or a Judge (Islamic Family Law Act, sect. 95). Additionally, the law does not provide women with the same rights and responsibilities as men with regards to their children during marriage (Islamic Family Law Act, sect. 75 & 88). The father is obligated to provide maintenance for his children while the mother is the custodian of her minor children (Islamic Family Law Act, sect. 75 & 88).

The law does not provide married women with the same rights as married men to choose where to live (Islamic Family Law Act, sect. 61). Additionally, the law does not provide unmarried women with the same rights as unmarried men to choose where to live. The Syariah Penal Code Order stipulates that any person who entices, induces or persuades a female Muslim to leave the custody of her parents or guardian is liable to a fine and/or imprisonment of up to two years (sect. 202). Additionally, any unmarried Muslim female who leaves the custody of her parents or guardian without reasonable excuse is liable to a fine and/or imprisonment of up to three months and the Court shall order her return to her parents or guardian (Syariah Penal Code Order, sect. 203).

The Committee on the Rights of the Child (2016) stresses the prevalent gender stereotypes concerning the tasks and roles of women and girls in the family. The CEDAW Committee (2014) reports that deep-rooted patriarchal attitudes and stereotypes continue to place women in a subordinate position within the family. Women are mostly expected to perform household duties and caring for the children, whether they are engaged professionally are not (Musawah, 2014).

d) Divorce

The law does not provide women with the same rights as men to initiate divorce and women do not have the same requirements as men to finalise a divorce or annulment (Islamic Family Law Act, sect. 40-53). Upon application by the wife or the husband before the Court with the consent of the other party, the Court shall advise the husband to pronounce a *talaq* (pronouncing divorce by the husband) (Islamic Family Law Act, sect. 42). If the husband is unwilling to pronounce a *talaq*, the Court shall refer the case to an arbitrator (Islamic Family Law Act, sect. 43). The Court may also order the husband to pronounce a divorce by way of *khulu'* which means that the wife may obtain divorce by returning to her husband her marital gift if the husband consents (Islamic Family Law, sect. 48).

The law provides for fault-based divorce if the husband habitually assaults or make the life of his wife unbearable by cruelty of conduct; if the husband leads an immoral life; if he attempts to force his wife to lead an immoral life; if he disposes of her property or prevents her from exercising her legal rights over it; if he obstructs her from the observance or performance of her religious obligations or practice; or he has more than one wife, he does not treat her equitably (Islamic Family Law Act, sect. 44). Additionally, a wife may make an application for divorce if the whereabouts of the husband is not known for a period of one year or more, if he is in detention for a period of one year or more, if he has neglected or failed to provide maintenance for his wife for a period of four months, if he has been sentenced to imprisonment for a period of three or more, if he has failed to perform without reasonable cause his marital obligations, if he is impotent and the wife was unaware at the time of the marriage, if he is insane or sick, if he refuses to consummate the marriage, if the wife did not consent to the marriage or her consent was not valid or if the wife is incapacitated and unable to have sexual intercourse (Islamic Family Law Act, sect. 46).

Other forms of divorce are provided in the law such as divorce by way of *li'an* which stipulates that if a husband makes an allegation of adultery on the part of his wife in front of a Syar'ie Judge and she rejects it, the Judge shall then separate them forever (Islamic Family Law Act, sect. 49). The divorce by way of *ila* means that whenever the husband has taken an oath not to have sexual intercourse with his wife for four months or more and after that period the husband did not comply, the Court shall order the husband to have sexual intercourse with his wife or to divorce his wife (Islamic Family Law Act, sect. 50). Divorce by way of *zihar* means that if a husband who has committed *zihar* (*an act by a husband making the back or any parts of the body of his mother or any person he is forbidden to be married with the same as his wife's*), the Court shall order a divorce and the payment of *kaffarah zihar* (*punishment imposed on a husband who commits zihar to his wife*) to the wife (Islamic Family Law Act, sect. 51).

The law does not provide women with the same rights as men to be the legal guardian of their children after divorce as the father remains the legal guardian in marriage and after divorce (Islamic Family Law Act, sect. 95). The law does not provide women with the same rights and responsibilities as men with regards to their children after divorce (Islamic Family Law Act, sect. 88 & 90-91). The mother is vested with the custody of her children who are not *mumaiyiz* upon divorce (Islamic Family Law Act, sect. 88). While the law does not specify the age of children who are *mumaiyiz*, it is defined as a child who is capable to differentiate a matter (Islamic Family Law Act, sect. 2). A woman will lose the custody of her children if she marries another man, if she is of bad conduct, if she changes her place of residence with the intention of preventing the father from exercising the necessary supervision over the child, if she becomes an apostate or if she neglects or abuses her children (Islamic Family Law Act, sect. 90). Children who are *mumaiyiz* can choose if they want to live with their mother or father unless the Court orders otherwise (Islamic Family Law Act, sect. 91).

Divorce by *talaq* (a husband will pronounce three times the *talaq* and the divorce will be valid) is reportedly common (Musawah, 2014).

e) Inheritance

The Sharia Courts' civil jurisdiction cover all actions and proceedings which relate to inheritance (Syariah Courts Act, sect. 15). The law does not provide daughters with the same rights as sons to

inherit land and non-land assets as daughters are awarded half of what sons are awarded in the distribution of family inheritance (Musawah, 2014). Additionally, the law does not provide female surviving spouses with the same rights as male surviving spouses to inherit land and non-land assets as a female surviving spouse will be awarded one quarter of her deceased husband's property if there are no children and one eighth if there are children while a male surviving spouse will be awarded one half of his deceased wife's property if there are no children and one quarter if there are children (Musawah, 2014). The Penal Code sanctions property grabbing of a deceased person which is punishable of up to three years of imprisonment and a fine (sect. 404). The law provides women with the same rights as men to make a will (Wills Act, sect. 2).

2. Restricted Physical integrity

a) Violence against women

There is no law in Brunei Darussalam addressing violence against women with specific provisions for investigation, prosecution and punishment of the perpetrator and protection and support services for victims.

Brunei Darussalam is a Member State of the Association of Southeast Asian Nations (ASEAN) and has signed the ASEAN Declaration on the Elimination of Violence against Women and Elimination of Violence against Children (ASEAN, 2016). The regional declaration sets to investigate, prosecute, punish and where appropriate to rehabilitate perpetrators; to protect women and children victims and witnesses; to provide victims with access to justice, legal assistance, protection, social welfare services, education and health services; to instil awareness; to promote family support services, parenting education, education and public awareness on the rights of women and children; to create an enabling environment for the participation of women and children and to develop effective strategies to eliminate harmful practices (ASEAN, 2016).

A hotline has been put in place by the Department of Community Development and provides counselling and assistance to women victims of abuse (UN Women, n. d.).

There is an increase of crimes against women which are associated with broader social issues such as domestic violence and drug abuse (Human Rights Resource Centre, 2012).

b) Domestic violence

Domestic violence is not a criminal offense under the law. Two Acts cover domestic violence: the Married Women Act and the Islamic Family Law Act. The Married Women Act (sect. 25) and the Islamic Family Law Act (sect. 60B) provide for protection orders and expedited orders which provide for removal of the perpetrator from the home. The domestic violence legislation covers physical, emotional and economical abuse within the family and from former partners (Married Women Act, sect. 25 & Islamic Family Law Act, sect. 60A).

The law does not forbid mediation and/or conciliation in cases of domestic violence as the Islamic Family Law Act stipulates that a protection order may provide, amongst others, the following order: requiring the person against whom the order is made, the protected person, both of them or their children to attend counselling provided by the Director of Community Development or as the Court

may direct (sect. 60B). However, it is reported that judicial staff would not advise wives to reconcile with an abusive spouse and the Sharia Courts include abuse as a ground for divorce (US Department of State, 2016).

Under the Islamic Family Law Act, a police officer who believes on reasonable grounds that domestic abuse has been committed or is likely to be committed by any person against a family member may arrest without warrant any person (sect. 60F). Additionally, if there is a breach of a protection order as made under the Married Women Act, police officers may arrest without warrant a person whom he has reasonable cause for suspecting that he has or is likely to use violence against the person of the applicant, to use violence against a child of the family or enter the matrimonial home (Married Women Act, sect. 27).

Victims are entitled to compensation in case of domestic abuse under the Islamic Family Law Act (sect. 60E). Compensation is determined by taking into account of the pain and suffering of the victim and the nature and extent of the physical or mental injury suffered; the cost of medical treatment for any such injury; any loss of earnings arising from any such injury; the amount or value of the property destroyed, damaged or lost; in certain cases, lodging expenses to be contributed to a place of protection, transport and moving expenses, the expenses required in setting up a separate household (Islamic Family Law Act, sect. 60E). Additionally, the enforcement officers are tasked with assisting a victim to file a complaint; providing or arranging transportation for the victim to an alternative residence or to a place of protection; providing or arranging transportation for the victim to the nearest hospital or medical facility for treatment of injuries; or explaining to the victim his rights (Islamic Family Law Act, sect. 60H).

A police unit composed of female officers in charge of domestic abuse has been put in place (US Department of State, 2016).

However, cases of domestic violence are underreported to the authorities due to stigma, reluctance, shame and fear for personal safety by the victims (Musawah, 2014). The economic dependency of wives is also a reason for underreporting of cases of domestic violence (Human Rights Resource Centre, 2012). A number of cases are reportedly dropped additionally due to threats by the perpetrators (Human Rights Resource Centre, 2012). Domestic violence is considered a private matter to be dealt with within the community and that requires counselling (Human Rights Resource Centre, 2012). The reported causes of domestic violence are stress, feelings of despair, rage and discontent by the perpetrator (Human Rights Resource Centre, 2012).

c) Rape

Rape is a criminal offense and is punishable of up to 30 years of imprisonment and whipping (Penal Code, sect. 376). The law is based on lack of consent and requires proof of penetration (Penal Code, sect. 375). The legal definition of rape does not include marital rape and a wife cannot file a complaint (Penal Code, sect. 375). The law stipulates that sexual intercourse between spouses is not considered rape (Penal Code, sect. 375). The law provides for increased penalties for aggravated forms of rape and sexual violence, such as if there was the use of force to the victim or any other person, if the victim was put in fear of death or harm to herself, or if the victim is less than 14 years old (Penal Code, sect. 376).

Sexual intercourse between unmarried persons and adultery (*zina*) is criminalised (Syariah Penal Code Order, sect. 68 & 69). The CEDAW Committee (2014) notes the difficulty for women to prove rape to gather evidence and the fear of being accused of *zina* may deter some women to report rape.

d) Sexual harassment

The legal framework provides legal protection from sexual harassment and includes criminal penalties (Penal Code, sect. 509). Sexual harassment is liable to imprisonment for up to three years and a fine (Penal Code, sect. 509). The definition of sexual harassment does not cover the workplace, educational establishments, sporting establishments, public places and cyber harassment.

Sexual harassment is believed to be prevalent in the workplace, but victims seldom report cases (US Department of State, 2016).

e) Female genital mutilation

There is no criminal law addressing female genital mutilation (FGM) as a harmful practice. The Committee on the Rights of the Child (2016) reports on the persistence of female genital mutilation which is admitted in Brunei Darussalam as female circumcision. The Ministry of Religious Affairs reportedly recognises female circumcision as religious rite (US Department of State, 2016).

f) Abortion

Abortion is illegal (Penal Code, sect. 312-316). A woman who seeks an abortion for herself or anyone who helps a woman to have an abortion is liable to imprisonment of up to three years and/or a fine (Penal Code, sect. 312). The sentence can be extended to seven years in prison if the woman is “quick with child” (Penal Code, sect. 312). There are no grounds to justify for legal abortion.

3. Restricted Access to productive and financial resources

a) Secure access to land and assets

Regarding land, property and other non-land assets, the law provides married/unmarried women with the same rights as married/unmarried men to own, use, make decisions and use as collateral (Married Woman Act, sect. 6 & 7). Additionally, regarding land, property and other non-land assets, the law provides women and men with the same rights after divorce or separation to own, use, make decisions and use as collateral (Islamic Family Law Act, sect. 59). Regarding marital property, a married woman has the same rights as a married man to administer (Married Women Act, sect. 4). No legal provisions were located that would restrict joint land titling for land used or acquired by married couples or informal unions.

Inheritance rights are discriminatory towards women and girls (Musawah, 2014). Based on religious law, daughters will receive half the share of the inheritance of sons and a female surviving spouse will receive one quarter of her deceased husband’s property if there are no children and one eighth if there are children while a male surviving spouse will receive one half of his deceased wife’s property if there are no children and one quarter if there are children (Musawah, 2014).

b) Secure access to formal financial resources

The law provides married women with the same rights as married men to open a bank account at a formal financial institution and married women are not required to obtain the signature and authority of their husbands to open a bank account (Married Women Act, sect. 6). Additionally, the law provides women with the same rights as men to obtain credit (Married Women Act, sect. 6).

c) Workplace rights

The law does not mandate non-discrimination on the basis of sex in employment and does not specifically cover job advertisements, selection criteria, recruitment, hiring, terms and conditions, promotions, training, assignments and termination. The law does not mandate equal remuneration for work of equal value. No legal provisions were located that would prohibit women from entering certain professions or that would not allow women to work the same night hours as men.

Female employees are entitled to a maternity leave of 15 weeks with 100% of wages paid by the employer (Employment (Amendment) Order, sect. 3). The law does not mandate for paid paternity leave or parental leave. The law protects women's employment security when they are on maternity leave (Employment Order, sect. 98). The law does not require women to have permission from their husband or legal guardian to choose a profession, occupation or work or to register a business (Married Women Act, sect. 4).

While women represent an important share of the labour force (62%), the CEDAW Committee (2014) stresses the persistence of the gender wage gap and the horizontal and vertical segregation in the labour market. Women are more vulnerable to poverty which limit their opportunities in terms of education and economic empowerment (Brunei Darussalam, 2014).

4. Restricted Civil liberties

a) Citizenship rights

The law provides unmarried women with the same rights as unmarried men to acquire, change and retain their nationality (Nationality Act, sect. 8 & 10). The law does not provide married women with the same rights as married men to acquire, change and retain their nationality (Nationality Act, sect. 5). Additionally, the law does not provide married women with the same rights as married men to confer nationality to their spouse (Nationality Act, sect. 5). As such, the law stipulates that a foreign woman who is married to a Bruneian man will acquire automatically the Bruneian citizenship, whereas a foreign man who is married to a Bruneian woman will go through standard procedure to acquire citizenship (Nationality Act, sect. 5). Moreover, the law does not provide married/unmarried women with the same rights as married/unmarried men to confer nationality to their children as citizenship is transmitted by descent primarily by the father (Nationality, sect. 4).

Furthermore, the law provides married/unmarried women with the same rights as married/unmarried men to register the birth of their children (Births and Deaths Registration Act, sect. 12). Delayed birth registration is allowed for an additional fee (Births and Deaths Registration Act, sect. 14). The Constitution does not recognise and prohibit multiple or intersectional discrimination.

The law provides married/unmarried women with the same rights as married/unmarried men to apply for identity cards (National Registration Regulations, sect. 4 & 5). The law provides married/unmarried women with the same rights as married/unmarried men to apply for passports (Passport Regulations, sect. 4 & 5). The law provides women with the same rights as men to acquire passports and other travel documents for their minor children (Passport Regulations, sect. 12). No legal provisions were located that would restrict unmarried women's right to travel outside the country. However, the law does not provide married women with the same rights as married men to travel outside the country (Islamic Family Law, sect. 61).

b) Voting

The law provides married/unmarried women with the same rights as married/unmarried men to vote (US Department of State, 2016). Brunei Darussalam is a constitutional sultanate (Freedom House, 2015). No national legislative elections have been held since 1962 (Freedom House, 2015). Citizens vote through universal suffrage for local elections, notably the government-vetted councils of elected village chiefs (Freedom House, 2015).

c) Political voice

The law provides women with the same rights as men to hold public and political office including within the legislature, the executive and the judiciary (Constitution, art. 29 & 4). There are no legal quotas nor special measures in place to promote women's political participation at the national or local level. Brunei Darussalam is a constitutional sultanate (Freedom House, 2015). The Sultan is the head of state and prime minister (Freedom House, 2015). The Sultan is advised by the Council of Cabinet Ministers, the Legislative Council, the Privy Council and the Religious Council, all of which are composed of appointed members (Freedom House, 2015).

Women are active as civil servants and account for half of the civil service (US Department of State, 2016). However, the CEDAW Committee (2014) notes that women are underrepresented at decision-making level, including in the State Legislative Council, at the ministerial level and among the heads of overseas missions of the foreign service. Patriarchal attitudes and stereotypes concerning women's role within society continue to limit women's access to political and public life (CEDAW, 2014).

d) Access to justice

The law provides married/unmarried women with the same capacity as married/unmarried men to be sued and to sue (Married Women Act, sect. 6). A married/unmarried woman's testimony carries the same evidentiary weight in court as a married/unmarried man's in all types of court cases such as civil, criminal, family court and tribunal (Married Women Act, sect. 6). The Sharia Courts can hear any proceeding or any part in camera if the Court is satisfied that there is sufficient reason to do so or ask for the anonymity of the witness (Syariah Courts Act, sect. 7A).

The specialized body tasked with monitoring gender equality is the Special Committee on Family Institution and Women (CEDAW, 2014). The mandate of the Special Committee is to recommend policies, legislations, and plans of action; to review, analyse, and implement the plans of action and programmes on women and the family; and ensure close cooperation between relevant stakeholders from government and non-government organisations (UN Women, n. d.).

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