

TRENDS AND DEVELOPMENTS IN CRIMINAL JUSTICE IN BRUNEI DARUSSALAM- WHAT A GOVERNMENT OFFICER NEEDS TO KNOW

Public Officers' Law Seminar: Understanding the Law 26th and 27th October 2016

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www.agc.gov.bn

Scope of Presentation

- Corruption and the New Offence of Misconduct in Public Office
- Requesting for Information from AGC concerning a Criminal Case involving your department/ministry/employee
- Social Media and the Government Officer

Corruption

- There is no comprehensive, and universally accepted definition of corruption. The origin of the word is from the Latin *corruptus* (spoiled) and *corrumpere* (to ruin; to break into pieces)
- "The misuse of a public or private position for direct or indirect personal gain"
- Receiving or Giving a bribe either in a form of money, gifts, assets, services etc with corrupt intention as a gratification to do something based on your official position or for your own personal interest or for someones behalf

Corruption Offences in Brunei Darussalam

- Investigations done by the Anti Corruption Bureau (ACB)/ Biro Mencegah Rasuah (BMR)
- Prevention of Corruption Act (PCA), Chapter 131

Offences under the Prevention of Corruption Act, Chapter 131

"SECTION 6 (a)"

An offence for any staff of the Public Body to accept or solicit for bribes either by his person or on his behalf as inducement forbearing to do any act in relation to his principal's affairs. .

Penalty Up To \$30,000 and imprisonment 7 years "SECTION 6(b)"

Any person corruptly gives or agrees to give or offers any gratification to any staff of the Public Body as inducement forbearing to do any act in relation to his principal's affairs.

Penalty Up To \$30,000 and imprisonment 7 years

Offences under the Prevention of Corruption Act, Chapter 131

"SECTION 6(c)"

Knowingly Submitting false document and false claims with intent to deceive his/her principal.

Penalty Up To \$30,000 and imprisonment 7 years.

Offences under the Prevention of Corruption Act, Chapter 131

"SECTION 16"

Without reasonable excuse fail to report any incidences of corruption which had come to his attention (INCLUDES ALL members of Public Body).

Penalty, a fine \$500 and imprisonment 6 months

"Public Body"

- The Government of Brunei Darussalam"
- "Any Department, Service, Undertaking of the Government of Brunei Darussalam"

Misconduct in Public Office

- New offences introduced under the Prevention of Corruption Amendment Order 2015
- Offences under Section 12A and 12B aim to discourage abuse of power or official position and encourage public officers to declare "conflicts of interest" when performing their duties;

Section 12A

- "Public officer using public funds for private purposes, giving undue preferential treatment, misusing information etc
- **12A.** (1) Whoever, being a public officer, in the course of or in relation to his public office or official functions, wilfully –
- (a) uses public funds or resources for private purposes or in furtherance of private interests;
- (b) fails to act impartially, or gives undue preferential treatment to any person;

Section 12A

- c) misuses information acquired in the course of his duties;
- (d) conducts himself in such a manner as to bring his private interests into conflict with his public duties; or conducts himself in such a manner as he knows or can be reasonably expected to know is likely to cause a reasonable suspicion that he (i) has allowed his private interest to come into conflict with his public duties; or (ii) has used his public position for private advantage;
- (e) interferes in, or seeks to influence, otherwise than as part of his duty, the appointment, promotion, suspension, demotion or dismissal of a public officer or other person, is guilty of an offence:

Section 12A

•(2) An offence under subsection (1)(c) is committed whether or not the person is still a public officer at the date of the offence.

Section 12B

Public officer willful misconduct or neglect of duty

- 12B. (1) Whoever, being a public officer, wilfully -
- (a) misconducts himself; or
- (b) neglects to perform his duty,

to such a degree as to amount to an abuse of public trust in the office holder is guilty of an offence:

Punishment for Section 12A and 12B

Fine of \$30,000 and Imprisonment of 7 years

Examples of MIPO

- Public Officer responsible for procurement matters channeled, over a period of 4 years, nearly 400 purchase orders to companies owned by wife and friends
- Public Officer who is in charge of examination paper for recruitment provides family and friends with classified information relating to the examination
- Health worker disclosing or accessing confidential information about patient's medical record for unauthorized purposes

Example of MIPO

- Law Enforcement Officer tipping off friends that their crimes have been discovered; warning friends of their impending arrest, where searches would take place, where to hide evidence and what evidence to destroy
- Clerk taking out and personally delivering cheques to private company in return for "sedekah".
- Public Officer using government driver to carry out food delivery business

What is not MIPO?

- Misconduct which is insufficiently serious;
- Misconduct which is the result of accident, error of judgment or mere negligence
- Misconduct for which there is a reasonable excuse or justification
- Misconduct which does not involve abuse of powers, discretion or duties entrusted to public officer in his official position for public benefit

Which areas are prone to MIPO?

- Procurement of Service/ Award of Contracts;
- Law Enforcement;
- Handling of Claims and Payment;
- Handling of Classified Information;
- Having access to resources and services provided by government contractors

Requesting for Information from AGC concerning a Criminal Case involving your department/ministry/employee



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Man in court for crashing into workshop

| FADLEY FAISAL |

AN INCIDENT that went viral on WhatsApp involving a car crashing into a workshop counter last week has landed in court yesterday as a case of mischief.

Zulhilmi bin Mat Jeneh, 25, is alleged to have committed mischief by driving a car into the display counter of Yeo Motor Workshop in Tutong at 2.55pm on April 7 leading to damage.

Magistrate Dewi Norlelawati binti Haji Abdul Hamid did not take the defendant's plea as Deputy Public Prosecutor Vuina Song informed the magistrate that the prosecution has reasons to doubt the defendant's mental health status.

Magistrate Dewi fixed the case for April 18 whilst ordering the defendant to be remanded at Raja Isteri Pengiran Anak Saleha (RIPAS) Hospital to undergo a psychological evaluation.

Man denies assaulting wife

| FADLEY FAISAL |

A LOCAL man has denied the charge of assaulting his wife after the prosecution finalised the allegations against him in court yesterday.

Mohammad Faizal bin Burot @ Karim, 27, allegedly gripped the wrist, punched the arm and hit the head of his 30-year-old wife repeatedly while they were in for further mention on April 25.

a car at Airport Mall, Berakas, at 12.45pm on March

Deputy Public Prosecutor Sharon Yeo informed the magistrate that seven witnesses are available to testify while the defendant indicated having none when the case goes to trial.

Magistrate Azrimah Abdul Rahman fixed the case

Bail granted to hubby accused of abuse

FADLEY FAISAL

A LOCAL man was named as a suspect in the Magistrate's Court yesterday for the assault of his 29-year-old wife.

Mohammad Yusof bin Haji Latif, 29, allegedly strangled his wife when they were at the vicinity of Sungai Bunga Car Park at 7.30pm on April 8.

Department under Sec Corruption

Magistrate Dewi Norlelawati binti Haji Abdul Hamid withheld taking the defendant's plea as Deputy Public Prosecutor Sharon Yeo awaits a medical report on the victim from Raja Isteri Pengiran Anak Saleha (RIPAS) Hospital.

Magistrate Dewi fixed the case for further mention on April 14 whilst releasing the defendant on bail of \$3,000 or in one local surety.

Company denies smuggling fuel out of country

| FADLEY FAISAL |

A BRUNEI registered company and its representative have denied the charge of smuggling diesel fuel out of the country vesterday.

The case has been fixed by the Magistrate's Court for trial from lune 27 to 30 this year.

ADBS Sendirian Berhad and Haji Ibrahim bin Haji Damit, 54, are alleged to have instructed their driver to illegally export 84 litres of diesel fuel inside an additional fuel tank on a Mitsubishi Fuso bus from Brunei to Miri through the Sungai Tujoh Control Post at 5.20pm on June 26, 2013.

The penalty for such an offence carries a minimum fine of \$10,000 and a maximum of \$500,000 for the first offence. and a subsequent offence carries a minimum fine of \$20,000 and a maximum of \$500,000 or minimum imprisonment of six months and a maximum of five years, or both.

Fine, jail for false representation at Kuala Lurah Control Post

FADLEY FAISAL

MALAYSIAN woman was fined and jailed for entering Brunei illegally as well as falsely representing herself to the immigration for arrival and departure clearance.

Puvok Brunei without a valid pass on April 2, falsely represented herself as a Malaysian named

Veronica Serawan J Martin 10 the immigration officer at Kuala Lurah Control Post for departure clearance at 9.38am and for arrival clearance at 10,52am the

Lucilla paid her total fines of \$3,800 and immediately served her jail term vesterday.

Magistrate Dewi Norlelawati binti Haji Abdul Hamid presided over the case.

IN THE COURTS WITH FADLEY FAISAL

Malaysian fined for obtaining sexual services

A MALAYSIAN man was ordered to pay a fine of \$2,500, or serve four months' jail in default after he pleaded guilty in the Magistrate's Court to obtaining sexual services of a 17-year-old Thai

Jessie Wong @ Clarence Wong, 39, received a WhatsApp voice message from a 46-year-old Thai man at 8.26pm on March 9, 2016 inviting the defendant to come 'tonight' if he could.

Chief magistrate Muhammed Faisal bin Pehin Dato Kefli further heard from the prosecution that it turned out that the defendant and the Thai man had previously liaised with each other in order to

obtain sexual services from a woman.

Then a photo of the 17-year-old Thai girl was sent to the defendant by the Thai man and the defendant indicated his assent.

The defendant met the Thai man at a house in Kampong Jangsak that evening around 9pm, paid the Thai man \$30 and entered the room and had sex with the Thai girl.

Police from the Anti-Vice and Gambling Suppression Unit raided the premises and found the defendant just exiting the room at 9.20pm.

Deputy Public Prosecutor Vuina Song conducted the prosecution of the case.

Local jailed for failing to pay \$40,000 fine

A 29-YEAR-OLD local man was ordered to serve Bolkiah 'A', Kampong Ayer, which was discovered 12 months' jail for failing to pay a \$40,000 fine ordered by the Magistrate's Court after he at 10.25am on June 22, 2015. pleaded guilty to being in possession of smuggled

Mohd Solehin bin Roslan kept 119 cartons of smuggled cigarettes at his house in Kampong and was sent to jail yesterday.

by a raiding party of Customs preventive officers

Senior magistrate Lailatul Zubaidah binti Hussain ordered the defendant to pay the fine immediately, to which he confirmed his inability

Local man jailed for theft, mischief

A LOCAL man was sentenced to nine months jail by the Magistrate's Court yesterday after he pleaded guilty to stealing an iPad Mini, pet birds and damaging a bird cage.

Awangku Saiful Nizam bin Pengiran Metassan. 34. stole two Cocktail and three Bebe birds together with its bird cages from a house in RPN Rimba at 4am on October 30, 2014. He also committed mischief by causing damage to one of

the bird cages he stole.

The iPad Mini was stolen by the defendant at Ilam on March 21, 2016 from Omran Sitai Utd Trading in Kampong Sungai Hanching.

Deputy Public Prosecutor Dayangku Hazirah binti Pengiran Yusof informed Chief Magistrate Muhammed Faisal bin Pehin Dato Kefli that the defendant was caught by police in the act of selling a Cocktail bird with another person.

erfeit note case

Heng, 35, of Malaysia and 37-yea July permanent resident Alex Matth in are discharged and acquitted by be codullah Soefri bin Pehin Dato *824 pened in 2014.

was represented by lawyer Christin

Customs officer jailed for 30 months over bribes

A FEMALE customs officer was sentenced to 30 months' imprisonment after she was convicted of accusting distributes the she was convicted of accusting distributes the she was convicted of accusting the she was convicted of accustoment and the she was acc



RBPF, reignournood watch conduct patrol

Department of Islamic Religious Council, Ministry of Religious Affairs.

DPP Rozaimah binti Abdul Rahman's DPP Rozaimah binti Abdul Rahman's Council Rahman's Council Rahman's Council Rahman's Council Rahman Rahma

a complaint to the Zakat collection and distribution office after not receiving any payments up until July 5, 201.

Internal investigations revealed that the defendant had not deposited the Zakat Fitrah he received from the appointed Amil into the department's bank account. The defendant's superior officers constructed him about the missing money.

The defendant's superior officers aestioned him about the missing money which he initially claimed was stolen

from his unlocked vehicle while he west

ore

from his unlocked vehicle while he write use a tollet at a shop in the defendant did not respond the defendant did not respond to the shop in the shop in the apolice report but instead asked for gas periods repeatedly to return the misse amount, which he failed to meet. Judge Haji Nabil Daraina bin Pehn use take. Haji Badaruddin presided over the



Officer jailed 12 months for Zakat embezzlement | FADLEY FAISAL |

THE Intermediate Court yesterday sentenced a Zakat officer to jail for 12 months following his guilty plea earlier last week to embezzlement of over \$11.000 in Zakat Fitrah money. Junaidi bin Haji Duraman, 49, was an

officer at the Belait District Zakat Fitrah Collection and Distribution Unit Office,

cor

The Media

- Probably the first point of finding out information about a criminal case;
- Media reporting now active where criminal cases are concerned-Brunei Times, Borneo Bulletin have reported dedicated to reporting cases that are being prosecuted in Court
- Reporting on cases is subject to a number of restrictions based on the Laws of Brunei Darussalam. However, generally, all criminal proceedings are PUBLIC and open to reporting

Requesting Information on Criminal Cases from AGC

- Has to be written in officially;
- Can be addressed to the Attorney General /Public Prosecutor or specifically to the Head of the Criminal Justice Division

Difference between AGC and Court

- AGC is <u>not</u> the Court
- AGC is Pejabat Peguam Negara / Court is Mahkamah Rendah/Tinggi
- Both are <u>different</u> departments
- Important to know the distinction as your letter might not be responded to if it goes to the wrong place
- Example: PENDAKWA RAYA, MAHKAMAH MAJISTRET, BANDAR SERI BEGAWAN

What we can provide you

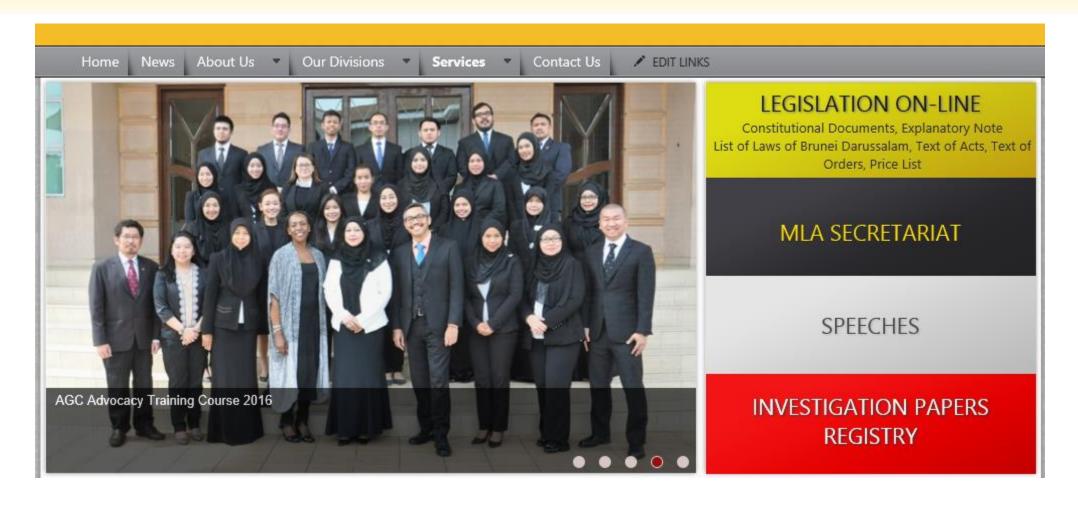
- Update on status of case has it been completed? Is the file even with us? Has the accused been sentenced, etc
- Result of case/ Verdict/ Sentence
- Charge Sheet involving accused person
- Statement of Facts (If accused has pleaded guilty)
- Judgement of the Court if in our possession

What we cannot provide you

- Notes of Proceedings (Court's notes on the Case)
- Judgment of the Court (If not in our possession)- Please note that the Magistrates Court does not issue out written judgements for all cases
- Any confidential records that may be in the Court's possession
- Any information if the case is still under investigation i.e. if the case is still with the enforcement agency and has not yet been received by AGC

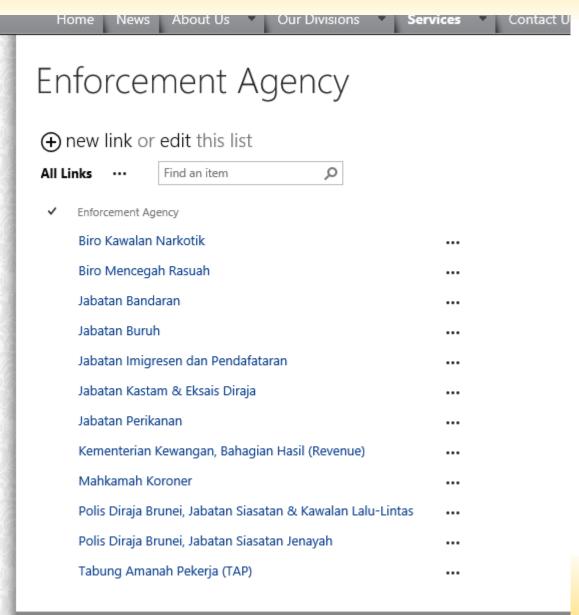


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Jabatan Siasatan Jenayah, Polis Diraja Brunei

List of Investigation Papers

new item

✓ Report No IP No Enforcement Agency No Date Received

Year Received : 2013 (632)

Year Received : 2014 (803)

Year Received : 2015 (1046)

Year Received : 2016 (278)



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4Voor	Received	- 2016	(279)
- rear	Received	. 2010	(2/0)

	BSB/CR/345/2016 tied with BSB/CR/210/2016	NIL	NIL	31-Mar-2016
~	TT/CR/142/2016	NIL	NIL	31-Mar-2016
	BKS/CR/1918/2015	NIL	NIL	30-Mar-2016
	BKS/CR/428/2015	NIL	NIL	30-Mar-2016
	BSB/CR/1165/2014 tied with BSB/CR/1124/2014	NIL	NIL	30-Mar-2016
	BKS/CR/1265/2015 tied with BKS/CR/1230/2015	NIL	BKS/UPWKK/20/15,	29-Mar-2016
	BKS/CR/1346/2011	NIL	BKS/UPWKK/38/2011	29-Mar-2016
	BKS/CR/893/15	NIL	BKS/UPWKK/10/15	29-Mar-2016
	BSB/CR/1604/2015	NIL	BSB/UPWKK/76/2015	29-Mar-2016
	BSB/CR/2108/2014	NIL	BSB/UPWKK/50/14	29-Mar-2016
	BSB/CR/3196/2015	NIL	BSB/UPWKK/134/15	29-Mar-2016
	SK/CR/171/2015	NIL	SK/UPWKK/03/15	29-Mar-2016
	SK/CR/210/2016	NIL	SK/UPWKK/09/2016	29-Mar-2016
	SK/CR/660/2014	NIL	SK/IPWKK/12/14	29-Mar-2016
	SK/CR/723/2014	NIL	SK/UPWKK/15/14	29-Mar-2016
	SK/CR/747/2015	NIL	SK/UPWKK/14/15	29-Mar-2016
	SR/CR/76/2014	59/2014	SR/UPWKK/7/2014	29-Mar-2016
	DCD /CD /2750 /2015 tiped with DKC /CD /1502 /2015 DKC /CD /222 /2015 DCD /CD /222 /2015	NIII	MII	20 Mar 2016

Report Number is IMPORTANT

- •Always quote the report number for easy reference
- If you make a report to an enforcement agency, your case will be given a report number
- •E.G. BSB/CR/144/2016, KB/BKN/IP/67/2015

Social Media and the Government Officer









Issues

- Social Media not inherently bad has its benefits
- Some issues however need to be addressed

- a) "Keyboard Warriors"
- b) Viral WhatsApp Messages
- c) Sedition

Keyboard Warriors

- It is generally acceptable to participate in discourse on the internet via message boards, social media forums, etc.
- However, it is important to bear in mind that the information that you convey or use is
- accurate,
- not misleading and;
- non defamatory



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brudirect.com

IN THE MAGISTRATES COURT OF BRUNEI
DARUSSALAM
HOLDEN AT BANDAR SERI BEGAWAN
CRIMINAL CASE NO. 2107 OF 2016

PUBLIC PROSECUTOR

V

KHANOL ZUKRIA BIN ALIAS

[M. 31] [BYIC <u>00-307304</u>]

Amended Charge:

That you, at about 5.15 P.M on 28th day of September 2016, at address, No. 4, Spg 1241, Kg Tunggulian, Sg Liang in Brunei Darussalam, in a building used as a human dwelling, did commit theft of property of 1 gas cylinder in possession of Mohammad Ismail, and that you have thereby committed an offence punishable under section 380 of the Penal Code, Chapter 22

Penalty under Section 380 of the Penal Code

Shall be punished with imprisonment for a term which may extend to 7 years and with fine

Dated this 10th day of October 2016

Ø Email ■ Word ← Sa

Cotober 13th, 2016 | 10:18 AM | 285 views BANDAR SERI BEGAWAN

A local man was sentenced to 14 months' imprisonment yesterday by the Magistrate's Court for stealing a gas cylinder. Khanol Zulaia bin Alias, 31, said be committed the offence out of desperation to buy milk for his three-month-old child.

17:14

He committed the offence at a house in Kampong Tunggulian, Sungai Liang at 5.15pm on September 28, 2016.

Magistrate Azrimah Abdul Rahman rebuked the defendant's plea in mitigations saying that it is not a reason to commit theft and the defendant has not learned his lesson, seeing he has a previous record of theft recently.

DPP Kamaliah Ibrahim prosecuted the case.

Source: @BRUDIRECT.COM by BruDirect.com



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If you have any stories or news that you would like to share with the

Mr S case

- Mr S posted on a Facebook Group Forum threats to cause physical injury to police officers.
- He attacked the integrity and independence of the Court.
- He was prosecuted for committing criminal intimidation.

- "As for the CID named Awg I who uses the ugly orange Lancer, it is not just one person who is after you, thousands. See how you die later".
- "For Puan M, the DPP from CID who abused her power. Just you wait and see what your family life is like after this....be prepared with what you have started."



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Viral Whatsapp Messages

- Photographs of accidents and deaths.
- Details of alleged robbery, theft, suspicious cars, accidents and roadblocks.
- Video of child being abused by mother's girlfriend while the mother recorded the abuse.
- Untrue information



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Messenger Notifications

- No cases of sending viral Whatsapp messages brought to Court yet.
- But there has been police investigations carried out and it is possible to trace the users who first sends these messages and the subsequent users who forward them.
- These things can be funny and to some, informative, but think of the consequences before you forward messages!

- If information you forward on are untrue and are humiliating or impute reputation of another person, you could be charged in Court for criminal defamation.
 - And if the person who is defamed are not satisfied, they could bring a civil suit against you.
- If you circulate information which are false and are likely to cause public alarm, you can be charged in Court under the Public Order Act and will be liable to imprisonment for 3 years and a fine of \$3,000.

Sedition

- To bring into hatred or contempt or to excite disaffection against His Majesty the Sultan and Yang Di-Pertuan or the Government;
- To bring into hatred or contempt or to excite disaffection against the administration of justice in Brunei Darussalam;
- To raise discontent or disaffection amongst the inhabitants of Brunei Darussalam;
- To promote feelings of ill-will and hostility between different classes of the population of Brunei Darussalam;
- To directly or indirectly lower or adversely affect the standing or prominence of the National Philosophy of Melayu Islam Beraja (known in English as Malay Islamic Monarchy)



Public Officers' Law Seminar: Understanding the Law

26th and 27th October 2016



Syariah supporter 44 minutes ago

"Two committees were religious practices and teachings and control tl religions, he added."

Words can't describe ho For so long I have been BRUNEI and Christianity are reli forward to divide us hur ubuh 05:01 authorities are taking st sar 15.51 too many deviant teach that 19:31 religions. I hope one da Iis Majesty consented Christmas can be bann o something we truly want to achieve by 2035.

l urge every like-minded Itan Haji Omar 'Ali Saifuddien Sa'adul the government to ban Christmas as soon as p are actually haram to us a Majesty is also the greatest individual that has ever temple in Bandar shoul isted on the planet. Don't you forget it. the Buddhists and Chris place of worship, it is ve Limbang or Miri instead



Brunei Memes added 5 new photos to the album: Anatomy of a Bruneian Newspaper.

30 November - 🚱

In Brunei there are two sides to a story. There's the official version.

And then there's the truth.

Maghrib 18.31

Prayer Times (Muara)

Asar 15:50 Maghrib 18.30 Isha 19:30

bawah Duli Yang Maha Mulia Paduka ri Baginda Sultan Haji Hassanal Bolkiah a'izzaddin Waddaulah ibni Al-Marhum nairi Waddien, Sultan dan Yang Di-Pertuan gara Brunei Darussalam consented to



HRH graces event with his

HRH officiates launching of a huge event. Also present was Minister of Sound, Deputy Minister of Noise and Secretary General of Chicken Rice. Because he is royalty he is automatically a better a person than you. Don't forget that too. It is crucial to your well-being as a Bruneian



Letters to the Editor Brunei Internet





else and shame o most of

158 Likes 19 Comments

• Under Section 4 (c) of the Sedition Act, it is an offence for any person who prints, publishes, sells, offers for sale, distributes or reproduces any seditious publication by which the penalty for the first offence would be a fine of \$5000 and imprisonment for 2 years.

• Section 32 of the Public Order Act, Chapter 148 makes it an offence for any person who imports, makes, prints, publishes, sells, offers for sale, issues, distributes, circulates or reproduces any subversive article shall be guilty of an offence: Penalty, imprisonment for 10 years and a fine of not less than \$10,000.



QUESTION AND ANSWER SESSION

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THANK YOU