



**Convention on the Elimination  
of All Forms of Discrimination  
against Women**

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**Committee on the Elimination of Discrimination  
against Women**

**List of issues and questions in relation to the combined  
initial and second periodic reports of Brunei Darussalam**

**Addendum**

**Replies of Brunei Darussalam\***

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\* The present document is being issued without formal editing.



**General****Response to issues raised in paragraph 1**

1. Collaboration and cooperation between the Government and non-Government organizations (NGOs) in Brunei Darussalam has long been established before the accession to CEDAW. NGOs are regularly consulted on issues of concern affecting vulnerable groups including women and they are also represented in Government-led committees such as the Special Committee on Family Institution and Women Issues.

2. Prior to the accession to CEDAW, a task force was set up comprising several government agencies and NGOs to analyse and discuss the feasibility of acceding to CEDAW. Members of this taskforce included the Council of Women of Brunei Darussalam (CWBD), which is a major active women NGO representing 13 CSOs of more than four thousand women and girls. The main objectives of CWBD being formed are, among others, to increase the effective participation of women and girls in economic, social and political development of Brunei. CWBD has and continues to take up cross-cutting and emerging issues and concern affecting the lives of women, for example: human rights of women and children; sustainable development and access to climate justice.

3. After the accession to CEDAW, a drafting committee was established to gather information for the preparation of the report. Besides relevant stakeholders from the Government sector, CWBD and another CSO, Brunei Darussalam's Council of Social Welfare (BDCSW) are members of the CEDAW Drafting Committee. The CWBD is also a member to the interministerial Special Committee on Family Institution and Women Issues. Both CWBD and BDCSW are members of the interministerial Special Committee on Disabled and Elderly. CEDAW principles are integrated into the Plan of Action of both these Special Committees such as promoting and protecting women's rights. Both Special Committees report to the National Council on Social Issues.

4. With regards to laws regulating the registration of NGOs, the Societies Act (Cap 203) governs all aspects of societies including the definition of a society, requirements for compulsory registration, details and documents required when applying for registration, requirement of reporting, and the conditions of cancellation of registration. Section 2 of the Act defines society to include any club, company, partnership or association of 10 or more persons whatever its nature or object, whether temporary or permanent. A society does not include for profit companies, any registered trade union, cooperative society or any organization that forms part of school or government department or ministry. Section 8(2) of the same Act states "Every such application shall be made in such form and manner and accompanied by such documents and particulars, as the Registrar may determine."

5. The procedure to apply for registration of a society is that applicants need to fill in the forms provided by Registration of Society Office. Once the application is approved, the applicant is required to make payment for registration fee of BND200 (two hundred only) as stated under First Schedule section 8(3) of the Societies Act. The estimated duration/time for the process for registering a society is 3 months.

## **Declaration and Reservations**

### **Response to issues raised in paragraph 2**

6. Efforts to review Brunei Darussalam's declaration have been made through several consultations with the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), Office of the High Commissioner for Human Rights (OHCHR), International Women's Rights Action Watch (IWRAP), ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC), National Machineries in charge of implementation of CEDAW and CRC in ASEAN Member States, Special Representative of the United Nations Secretary-General on Violence against Children, CRC and CEDAW Committee experts, representatives from United Nations agencies at regional and national levels as well as selected regional CSOs through regional dialogues and workshops with the objective of sharing experience and best practices on the implementation of CEDAW.

7. Such dialogues and workshops that Brunei Darussalam had attended include, among others:

- The South East Asia Regional Dialogue with National Women Machineries, National Human Rights Institutions and Other Partners on Advancing Women's Human Rights and Promoting Gender Equality in 2012;
- The Regional Workshop on Promoting the Rights of ASEAN Women and Children Through Effective Implementation of the Common Issues in the CRC and CEDAW Concluding Observations with Focus on Girl Child in August 2013 in Da Nang, Vietnam; and
- The Regional Workshop on Promoting the Rights to Nationality for Women and Children in the Implementation of CEDAW and CRC in ASEAN: ACWC-UNHRC Potential Partnership on 19 August 2013.

8. Without prejudice to the generality of CEDAW, Brunei Darussalam wishes to retain its reservations with respect to Paragraph 2 of Article 9 and Paragraph 1 of Article 29, as well as any other aspects of CEDAW which may be contrary to the Constitution of Brunei Darussalam and to the benefits and principles of Islam, the official religion of Brunei Darussalam.

## **Constitutional, legislative and institutional framework**

### **Response to issues raised in paragraph 3**

9. Family Law for Muslims in Brunei Darussalam has, since 1999, been governed by Syariah Law. The objective of the Syariah Law is to create a society where religion, life, intellect, property and lineage are preserved and protected. Through the newly introduced Syariah Penal Code 2013, Syariah Law is now extended to cover criminal cases as well. The Syariah Law aims among others, at the protection of women.

10. In terms of criminal cases, Brunei Darussalam will have two criminal justice systems. Both the Penal Code (Chapter 22) and the Syariah Penal Code Order, 2013 will be in force. The provisions for the Syariah Penal Code Order, 2013 shall be applied if conditions required by *syarak* are fulfilled. Otherwise the current Penal Code (Chapter 22) will continue to apply. Every case is subjected to the judicial

process and due process of law will continue. The principle that someone is innocent until proven guilty will continue.

11. The standard of proof under the Syariah Penal Code is far stricter than the common law principle of beyond reasonable doubt. The basic rights of the accused persons are guaranteed throughout all stages of criminal proceedings as prescribed by the national law. The imposition of penalties under the Order acts as a deterrent, which aims to create a crime-free society.

### **Legal status of the Convention**

#### **Response to issues raised in paragraph 4**

12. In Brunei Darussalam, treaty law (including the Convention) and domestic law operate on different levels. Once a treaty has entered into force for Brunei Darussalam, it does not necessarily become part of its law. However, if the treaty confers rights or imposes obligations on persons, such rights are given effect by making it part of the domestic law of Brunei Darussalam.

13. The laws of Brunei Darussalam generally do not discriminate. The laws, which protect and safeguard the rights of women and children include;

- Women and Girls Protection Act (Cap 120);
- Married Women Act (Cap 190);
- Islamic Family Law Act (Cap 217);
- Children and Young Persons Act (Cap 219);
- Women and Girls Protection (Place of Safety) Rules 2001;
- Employment Order 2009;
- Workplace Safety and Health Order 2009;
- Old Age and Disability Pensions Act (Cap 18)
- Compulsory Education Act (Cap 211)
- Compulsory Religious Education Act (Cap 215)
- Penal Code (Cap 22)
- Criminal Procedure Code (Cap 7)
- Prison's Rules (under Section 62 of the Prisons Act (Cap 51));
- Trafficking and Smuggling of Persons Order 2004;
- Unlawful Carnal Knowledge Act (Cap 29)
- Chinese Marriage Act (Cap 126)

14. Brunei Darussalam, through its national women machinery — the Community Development Department (CDD), with the cooperation of the CWBD and Brunei Darussalam's Commissioners for ACWC, has organised several roadshows on the principles of CEDAW and its implementation in the country. The CDD with the cooperation of CWBD has organized public awareness roadshow for NGOs and community leaders at the grass root levels, during ASEAN Women's Day in 2012 and four national forums on CEDAW in 2013. The main objectives were to explain

the principles, implementation and relevance of CEDAW to women in Brunei Darussalam. Some issues that were raised include the urgency of Brunei Darussalam to submit the official first report to the CEDAW Committee of United Nations agency in Geneva and the relevancy of CEDAW principles to the women of the country and the importance of being a party of CEDAW.

15. The CDD has also continued to publish CEDAW materials and distribute them during all events especially during the International Women's Day celebration. Among other efforts is the dissemination of the Convention principles through continuous television programmes and talk shows.

### **Definition of discrimination**

#### **Response to issues raised in paragraph 5**

16. The rights and welfare of women in this country are and have always been protected and taken care of. Brunei Darussalam recognizes that gender equality and women's empowerment are crucial for the advancement of women towards national development. Women's rights to education, health, employment, political and public life, as well as participation at the international level are recognized and given importance. The laws of Brunei Darussalam apply to everyone without any discrimination. There are general and specific laws that address criminal acts against women.

### **Temporary special measures**

#### **Response to issues raised in paragraph 6**

17. The Government has undertaken several measures through the introduction of policies and regulations to promote gender equity in the public sector. These include, among others, the 2009 policy to replace the month-to-month terms of employment of women with that of a permanent term in order to ensure job security for women. With the introduction of this policy, men and women civil servants are entitled to the same benefits. One of the action lines under the Plan of Action on Women is to fulfil the rights of women in the workplace. As women have equal access as men to public services, employment and such, the need for temporary special measures, as yet, has not arisen.

### **Stereotypes and harmful practices**

#### **Response to issues raised in paragraph 7**

18. Regardless of the advancements of women in education and employment, the role of women in the family is still upheld, as it is crucial to maintain balance in the family institution. The main challenge of the modern Bruneian woman is how to strike a balance between her role in the workplace and her role as care-giver at home. Brunei Darussalam recognises that a sound work-life balance needs to be achieved. The Civil Service Institute Service runs quarterly courses on Work-Life Balance which emphasise on the need for both mothers and fathers to share parenting responsibilities.

19. The Government of Brunei Darussalam continues to undertake several measures to ease the burden of the dual responsibilities of women who work full time and also keep up with the traditional responsibilities. Women employees enjoy

the same work terms and fringe benefits as men and receive the same pay. They do not pay taxes and are entitled to free health and education services.

20. On 1st January 2011, the government enforced a new regulation called the Maternity Leave Regulation 2011 as a measure towards coordinating the pre and post natal needs and health interest of working mothers both in the public and private sector. Under the new regulation, women employees are now entitled to take maternity leave of 105 days as opposed to 9 weeks pre 2011. For those in the private sector, the Government will bear some of the costs of pay received during maternity leave.

21. In the public sector, other measures, which support Work Life Balance, include the provision of monthly educational allowances for children who attend private schools. Men and Women employees are also entitled to paid leave including air transportation for themselves and their children to a neighbouring country every four years. Special leave are also given, on compassionate grounds, to working parents to look after their sick members of the family. This supports the role of the employee as caregiver for the children as well as for the elderly members of the family. For those caring for the elderly, they are provided with more quota for employment passes for hired helpers.

22. A National Plan of Action for Women includes measures for “Work Life Harmony”. Among the recommendations are the provision of better working environment, family friendly centres and breast-feeding rooms at work places, training for employees on “time management” and roadshows to increase public awareness on the need for work-life balance. The provision of child care and crèche facilities at work place is also emphasised in the Brunei Darussalam Development Plan 2007-2012.

23. Other programmes undertaken by the government to support the roles of women in strengthening family institution include pre-marital course or Family Comprehension Course for couples who are married or recently married, post-marital courses, parenting skills, communication skills, family’s financial management, counselling as well awareness campaigns on family values, reproductive health, chronic diseases and domestic violence. Pre-marital courses, among others, aim to equip the young couples with the knowledge and necessary skills to enable them to cope with the challenges and to help them build a strong and healthy family relationship. Family campaigns are conducted from time to time to create and develop awareness of the vital role of parents in imparting desired social values to their children. Recently, Brunei Darussalam celebrated National Family Day as part of initiatives to strengthen the family institution in the country.

### **Violence against women**

#### **Response to issues raised in paragraph 8**

24. The issues of violence against women are adequately governed by the existing legislation including the Islamic Family Law Act (Cap 217), Married Women Act (Cap 190), the Women and Girls Protections Act (Cap 120) and the Penal Code (Cap 22). Both the Islamic Family Law Act (Cap 217) and the Married Women Act were recently amended to include provisions on domestic violence. In addition, the Penal Code (Cap 22) also contains provisions which can be invoked in cases of violence against women.

### **Response to issues raised in paragraph 9**

25. If there are elements of violence against women in her household, provisions under the Married Women Act (Cap 190) and the Islamic Family Law Act (Cap 217) may be used to address the problem. The two laws provide extensive protection for abused family members through, among others, the issuance of protection orders when it is satisfied that domestic violence has been committed or is likely to be committed by any person against a family member and that it is necessary for the protection of that family member.

26. The laws also give the power to the court to give award of compensation if the victim suffers personal injuries, destruction or damage to property, loss of property or financial loss as a result of the domestic violence. In addition, the laws also give the police officers the power to make arrest without warrant any person who is believed to have committed or is likely to commit domestic violence against his family member and that it is necessary for the protection of the family member for the person to be detained.

27. Under Syariah Penal Code Order, 2013: Section 75- *Zina bil-jabar* (rape), there is no marital rape in Islam.

28. With regards to reporting cases of violence against women, the 24-hour “141” Helpline provides an accessible avenue for reporting, complaints and airing of grievances in anonymity. Besides complementing office-hour services, the helpline also facilitates outreach by receiving reports of abuse, neglect, exploitation or cases relating to violence; as well as providing advisory and counselling services for family problems or any issues affecting social welfare in the country.

### **Trafficking in women and exploitation of prostitution**

#### **Response to issues raised in paragraph 10**

29. The Women and Girls Protection Act (Cap 120) criminalises the trafficking of any woman or girl (whether or not for the purpose of present or subsequent prostitution). This offence is punishable with imprisonment which may extend to 5 years and to a fine of \$20,000. The Act was enacted long before the Trafficking and Smuggling of Persons Order 2004 (TSPO) came into force. The penalty provision imposed for a trafficking offence under the Act is considerably lower than the penalty imposed for a similar offence under TSPO. Furthermore, the act of trafficking is not comprehensively defined under the Act as it is under the TSPO.

30. The TSPO enacts more specific provisions for human trafficking and smuggling. The offence of trafficking is punishable by a fine not exceeding \$1,000,000, imprisonment for a term of not less than 4 years but not exceeding 30 years and whipping. “People trafficking” is defined under the Order as the recruitment, transportation, transfer, harbouring or receipt of a person for the purposes of exploitation through means such as threat, use of force, abduction, fraud, deception, abuse of power of a position of vulnerability and the giving/receiving of payments or benefits to achieve the consent of a person having control over another person. Unlike the Women and Girls Protection Act, the offence of trafficking under the TSPO is not limited to trafficking of women and girls, but can also include offences which involve men and children.

31. Under the Penal Code (Cap 22), the provisions criminalise the exploitation of women and girls for the purpose of prostitution only. It also covers such exploitation by way of false pretence, false representation or fraudulent or deceitful means only. Therefore the Penal Code provisions do not cover cases where such exploitation took place as a result of threats, use of force, abduction, abuse of power or the giving/ receiving of payments or benefits. Such provisions also only cover cases where the exploitation is sexual exploitation.

32. As a general rule, the exercise of prosecutorial discretion in such cases is guided by a checklist of trafficking indicators as provided by the Royal Brunei Police Force. Should the facts of the case coupled with the evidence collected during investigations indicate a majority of the trafficking indicators, then the Public Prosecutor may be inclined to prefer charges under the TSPO. Among the factors that are taken into account when deciding on charges to be preferred are: whether another person is in control of the victim's travel documents, whether the victim was recruited for a particular purpose but was instead engaged in another job, whether the victim was forced to engage in sexual acts and whether the victim had freedom of movement or otherwise.

33. Charges under the TSPO may also be preferred as opposed to the Penal Code and the Women and Girls Protection Act as the TSPO encompasses a wider range of factors leading to the exploitation (threat, use of force etc.) compared to the two latter legislation, and also covers cases where the trafficking is carried out for purposes other than sexual exploitation, e.g. forced labour or services, slavery or practices similar to slavery, servitude and the removal of organs. The TSPO also provides heavier penalties for trafficking offences which more closely reflects the gravity of the offences, a factor of public interest that the Public Prosecutor will take into account when considering what the appropriate charges are. In any case, as with any criminal investigations, the charges to be preferred as a result of suspected trafficking of persons investigations will be decided on a case-to-case basis by the Public Prosecutor.

34. The Human Trafficking Investigation Unit (HTU) has not received direct complaints on trafficking in persons. However, HTU conducts preliminary investigations on cases such as unpaid wages, physical abuse on employees, runaway workers, prostitution raids from all four districts to look for elements and indicators of trafficking in persons offences.

35. The frontline agencies such as the Royal Brunei Police Force (RBPF), the Department of Labour (DoL) and the Department of Immigrations and National Registration (Imm) have their own procedures and checklist to identify potential victims of trafficking and identified potential victims will be referred to HTU for further investigation. The Community Development Department (CDD) provides temporary shelter for victims of trafficking in persons during the course of investigation. However, victims will also be provided an option if they would want to be sheltered in their respective embassies.

36. Statistics on the number of prosecutions, convictions and penalties imposed for crimes on prostitution for the period 2011-2014, as recorded by the Anti-Vice and Gambling Suppression Unit, are as follows:



**2011**

- 2 investigated cases
- 2 convicted cases
- a. 1 female Thai was sentenced to 2 years imprisonment for pimping.
- b. 2 female China nationals were sentence to a fine of \$500 for soliciting.

**2012**

- 2 investigated cases
- 2 convicted cases
- a. 3 female prostitutes were sentenced 2 months imprisonment for soliciting and 1 male was sentenced to 4 years imprisonment and 2 strokes of cane for pimping.
- b. 2 female prostitutes were sentenced 1 month imprisonment for soliciting and 1 male customer was sentenced 1 month imprisonment.

**2013**

- 4 investigated cases
- 4 convicted cases
- a. 4 women were sentenced to 2 month imprisonment for soliciting, 1 man was sentenced 12 months and 2 strokes for pimping.
- b. 6 Thai women were sentenced to 2 months imprisonment for soliciting. 1 Indonesian man believed to be the pimp was sentenced to 2 months imprisonment and 2 strokes under section 5 Women and Girl Protection Act.
- c. 1 Filipino woman was sentenced to 2 months imprisonment for soliciting.
- d. 2 Indonesian women and 1 Vietnamese woman were sentenced to 2 months imprisonment for soliciting. 1 Indonesian woman was sentenced to and 5 months imprisonment and 1 Vietnam man was sentenced to 4 months imprisonment and 4 strokes for pimping.

37. Statistics on the number of prosecutions, convictions and penalties imposed on perpetrators of trafficking in persons crimes for the period 2011-2014, as recorded by the Human Trafficking Investigation Unit, are as follows:

**2011**

- 5 cases investigated
  - 1 convicted case
- Convicted under the Women and Young Girls' Protection Act. 2 males were sentenced to two months imprisonment.
  - 1 case was acquitted.
- 2 cases were classified as case undetected (CU) due to unable to locate the alleged offender because of lack of information.

- 1 case was classified as no further action taken (NFA) due to no element of trafficking in persons offence.

**2012**

- 4 investigated cases
  - 1 convicted case:
- Offender sentenced to 4 years imprisonment, fine of BND\$20,000 (20 months imprisonment in default) and 2 strokes. Since the defendant did not pay the fine, his total sentence was imprisonment of 5 years and 8 months and 2 strokes.
  - 2 cases were classified as no further action taken (NFA) due to no element of trafficking in persons offence and lack of evidence to prosecute.
  - 1 ongoing trial.

**2013**

- 2 investigated cases
  - 1 case was classified as no further action taken (NFA) due to the victim did not want to proceed with the case and requested to be sent home to her country.
  - 1 ongoing investigation.

**2014**

- 1 case investigated
- 1 ongoing investigation.

**Participation in political and public life and at the international level****Response to issues raised in paragraph 11**

38. Women have contributed actively to decision-making processes and attained senior positions in various legal, political, financial and managerial professions. The highest posts attained include Ambassador-at-Large and the Attorney-General with ministerial rank, Deputy Minister, Judicial Commissioner of the Supreme Court, Members of the Legislative Council, Permanent Secretaries, Auditor-General, Solicitor-General, Accountant-General, Judge in the Civil High Court, Ambassador and as Chief Executive Officers in both the public and private sectors including banks. Two of the four universities in Brunei Darussalam are currently headed by women. Women also serve in Islamic institutes of higher education and as Prosecutors both in the Syariah courts and Civil courts.

39. The Government of Brunei Darussalam encourages equal opportunities for women in the workforce and in nation building as mentioned in the “Economic Strategy” of the Strategy and Policy Development Outline. Women issues are being addressed and coordinated through the Plan of Action on Family Institution and Women, particularly to increase efforts in helping single mothers, women with disabilities and poor women to attain economic reliance through employment,

entrepreneurship and capacity building. This Plan also stipulates the need to review national legislations and regulations so as to incorporate the gender perspective and women's rights in the workplace as well as to mobilise technical and financial support for women in need. Empowerment programmes and its supporting mechanisms are also undertaken for the advancement and development of women in the country. All these programmes are implemented in close cooperation among Government agencies, NGOs, the corporate sector and all stakeholders within the community.

40. There are 25 ministers and deputy ministers within the Government, including three (3) posts of ministerial rank namely the Ambassador-at-Large, the Attorney General and the State *Mufti*. Three or 12% of these posts are currently held by women. Meanwhile, the State Legislative Council consists of 36 members and two or 6% of these members are women. In addition, 15% of Permanent Secretaries or CEOs of Government Ministries, 26% of Deputy Permanent Secretaries and 15% of Heads of Overseas Missions are women.

## **Nationality**

### **Response to issues raised in paragraph 12**

41. The Brunei Nationality Act (Cap 15) allows for either a Bruneian father or a Bruneian mother of a child to obtain nationality of the children in accordance with Section 4 and 6 respectively. Section 4 of the Brunei Nationality Act (Cap 15) spells out categories of concern that can acquire nationality by operation of law. Section 6 provides for the acquisition of nationality of a minor by way of registration i.e. application of the parent or guardian who is a Brunei national. As such, pursuant to Section 6 of the Act, children of women citizens married to foreign nationals may be accorded Brunei citizenship upon application.

42. Brunei Darussalam will retain its reservation on Article 9 para 2 as it has a policy of single nationality and does not recognize dual nationality. The current practice that children of women citizens have the choice either to be registered as Brunei nationals or the nationals as that of the father is still in place. Nationality is a policy issue that requires in-depth discussions.

43. Brunei Darussalam has discussed such issues at bilateral meetings and will continue to make comparison on the policy and norm practice of nationality carried out by other countries. However, nationality is an absolute right in accordance to the existing law.

## **Education**

### **Response to issues raised in paragraph 13**

44. In 2012/2013, there were 32 underage pregnant students in government secondary schools, of whom 9 returned back to school. In addressing social issues in schools, the Ministry of Education undertakes a three-pronged approach namely, prevention, enforcement and treatment/rehabilitation.

45. In order to prevent social problems, the Ministry of Education focuses its efforts on moral and personality development of students through school curriculum and co-curricular activities that inculcate four core values, i.e. Religious Awareness;

Self-Management; Nationality and Social Responsibility Skills; and Decision Making Skills.

46. Enforcement efforts are undertaken through the Education Order 2003; the Discipline Guidebook for Education Institutions and Hostels 2007; the Compulsory Education Act 2007; the Children and Young Persons Act 2006, and the Guidebook for students in secondary and college (Save Our Students Programme).

47. With regards to treatment/rehabilitation efforts, students who are involved in social problems are referred to participate in rehabilitation programmes organised by the Students Affairs Section/Welfare Office, School Counsellor, Religious Department and other strategic partners such as the Royal Brunei Police Force, the Community Development Department (CDD), and hospitals to assist in implementing the rehabilitation strategies.

48. Meanwhile, programs and training for teachers to raise awareness include workshops on social work, social issues and child protection for teachers in primary and secondary schools; roundtable dialogues with executive members of the Ministry of Education; discussions between the Student Affairs Department at the Ministry of Education and secondary schools and colleges; as well as school visits.

## **Health**

### **Response to issues raised in paragraph 14**

49. The Government of Brunei Darussalam health facilities provide free modern contraception to all female citizen and permanent residents in Brunei Darussalam. There are 5 different types of modern contraception available at the Government health facilities, namely, combined oral contraceptive pill; progestogen pill; injectable progestogen; intrauterine device (IUCD); and tubal ligation. The first 4 contraception methods mentioned above do not require spousal consent except for Tubal ligation. As the procedure is irreversible, it is standard procedure for doctors to acquire spousal consent before undergoing tubal ligation.

50. Abortion is prohibited and criminalized in Brunei Darussalam. It is illegal under the Brunei Darussalam's Penal Code and Syariah Penal Code, unless it is carried out in good faith to save the life of a pregnant woman. The Penal Code (Cap 22) makes it an offence to voluntarily cause a woman with child to miscarry if such miscarriage is not done in good faith for the purpose of saving the life of the woman. The Syariah Penal Code Order 2013 also criminalizes abortion as provided for under Section 158.

51. In Brunei Darussalam, women and men have equal access to health care and does not require wife's/husband's/legal guardian's authorization (in practice) to receive health-care services.

## **Disadvantaged groups of women**

### **Response to issues raised in paragraph 15**

52. The Disability Order is still in the negotiation process with the many stakeholders involved. This Order, once passed, will provide for the protection and promotion of the rights of all persons with disabilities regardless of gender and status. This Order will ensure that all persons with disabilities shall have access to health-care services, education, social protection, employment, public facilities,

amenities and service buildings, access to information, communication and technology, access to cultural life and access to recreation, leisure and sports.

53. Persons with disabilities in rural areas have access to health-care services provided by the government through flying medical services. The government also provides Home-Based or Community-Based Rehabilitation (CBR) programmes for them. Monthly disability pensions are also provided to them through their village heads. They can apply for other welfare aids such as wheel chairs, walking aids, Braille, prosthetic limbs and visual aids through their village heads who will then forward all the applications to the appropriate agencies.

#### **Response to issues raised in paragraph 16**

54. One of the core aims of the Department of Labour is the protection of the welfare of all workers in Brunei Darussalam through enforcement of the Employment Order, 2009. The Employment Order, 2009 and its provisions do not differentiate nor create a distinction between men and women, and fairly applies to all workers. The Order covers such employment rights and working conditions as; annual leave, sick leave, repatriation, working hours, rest days, payment of salary, among others.

55. In relation to domestic workers, the following regulations are applicable, i.e. Employment (Domestic Workers) Regulations, 2009, under the Employment Order, 2009 namely:

Part I (Preliminary);

Part II (Contracts of service);

Part III (Payment of Salaries);

Part VI (Truck System);

Sections 80, 83, 84, 86 and 87 of Part VIII (Health, accommodation and medical care);

Part XIII (Immigrant employees);

Part XIV (Repatriation);

Part XV (Inspection);

Part XVI (Complaints and inquiries); and

Part XVII (General).

56. Employers are also urged to obtain medical insurance coverage for migrant workers, men and women, in their employ. Such coverage ensures that workers are guaranteed and would not be required to bear the costs of repatriation, access to health services or hospitalization. Currently steps are being taken with a view to considering the possibility of implementing compulsory medical insurance for all migrant workers in Brunei Darussalam.

57. Furthermore, the Law Enforcement Section of the mentioned Department operates a complaints hotline, services counter and participates in joint operations with other relevant agencies (including the Department of Immigration & National Registration and the Municipal Department) — the collective aim of such initiatives

being the adherence of employers (and workers) to labour legislation and the overall protection of men and women at work.

58. To their best efforts, the Department of Labour aims to ensure that all disputes arising are settled outside of court (where the majority are). Of note, since 2009, only 7 cases have been brought to court and prosecuted under the Employment Order, 2009 (mostly related to non-payment of wages and not isolated purely on disputes related to migrant workers).

59. The Labour Department, Ministry of Home Affairs will convene the 5th Regional Tripartite Social Dialogue for Growth, Employment and Sound Industrial Relations in the Services Sector in ASEAN, with the theme “Building a People-centred ASEAN through constructive regional cooperation on occupational safety and health” to be held this year. The event is co-organized by ASETUC (ASEAN Services Employment Trade Union Council); UNI Global Union (UNI); Global unions of Building and Woodworkers International (BWI) and Public Services International (PSI) of the Asia Pacific Region; and Friedrich Ebert Stiftung (FES) Germany.

60. The event is also supported by local NGOs, particularly the Council of Women of Brunei Darussalam (CWBD), Women’s Institute, and BASMIDA, a National Association against Drug Abuse in Brunei Darussalam. The Women’s Institute and CWBD’s involvement is to ensure that women interests and perspectives are taken into consideration at this Social Dialogue while BASMIDA’s involvement is to ensure that principles of a drug-free workplace are considered in this Social Dialogue.

61. Non-government organizations are also active in promoting the rights of migrant workers particularly domestic helpers through public awareness programmes. A workshop on the protection of the rights of migrant workers was conducted on the sidelines of the ASEAN Civil Society Conference/ASEAN Peoples Forum in 2013 hosted by CWBD.

### **Marriage and family relations**

#### **Response to issues raised in paragraph 17**

62. Under Section 42 of the Islamic Family Law (Chapter 217), a wife has the same right as a husband to get a divorce. In fact a wife has more rights to dissolve a marriage. There are several ways to dissolve a marriage provided under the Islamic Family Law (Chapter 217), as follows

- (i) Divorce by Syiqaq (Section 43)
- (ii) Divorce by way of DhararSyarie (Section 44)
- (iii) Divorce under Ta’liq (Section 45)
- (iv) Order for dissolution of marriage by way of fasakh (Section 46)
- (v) Change of religion (Section 47)
- (vi) Divorce by way of Khulu’ (Section 48)
- (vii) Divorce by way of li’an (Section 49)
- (viii) Divorce by way of ila (Section 50)

(ix) Divorce by way of Zihar (Section 51)

(x) Presumption of death (53)

63. In Section 88, the mother is the most qualified person to take care of her children who are not yet *mumayiz* during her marriage or after the dissolution of the marriage on condition that qualifies in section 89 of the same act. (*Mumaiyiz* — a child who has attained the age of being capable to differentiate a matter).

64. Under Section 89, a person who has the right to the custody of a child shall be eligible to exercise those rights if —

(a) He/She is a Muslim;

(b) He/She is of sound mind;

(c) He/She does not suffer from any long term diseases which prevent him from looking after himself or is suffering from diseases such as leprosy or vitiligo or Acquired Immune Deficiency Syndrome (AIDS) or is a carrier of the HIV virus or venereal diseases in a communicable form;

(d) He/She is of an age that qualifies him to give the child care, love and affection that the child may need;

(e) He/She is of good conduct in terms of Islamic morality; and

(f) He/She lives in a place where the child will not face any moral or physical risks.

65. In Section 91(2), if the child has reached the age of *mumaiyiz*, the child shall be entitled to choose to live with the mother or father, unless the Court orders otherwise.

66. For certain cases involving the custody of children, the court will also take into account social reports from the Community Development Department, in order to safeguard the best interest of the children.

#### **Response to issues raised in paragraph 18**

67. Although the minimum age of marriage provided under the relevant laws is below 18 years, the laws lay certain conditions before a marriage can be concluded. These conditions are imposed to ensure that any party, who wishes to marry, including those under the age of 18 years, has been fully qualified and ready in all aspects to enter into marriage life.

68. For Muslims, Section 12 of the Islamic Family Law Act requires both parties to the marriage to give their consent before the marriage can be concluded. In addition, consent of the *wali* of the woman or a *wali Hakim*<sup>1</sup> in certain circumstances must also be obtained. The law also requires both parties to the marriage to submit application for permission to marry to the Registrar before the marriage is solemnized.

69. For Non-Muslims, Section 3 of the Marriage Act (Cap 76) spells out conditions which must be fulfilled by both parties to the marriage. The parties must,

<sup>1</sup> A jurunikah who has been authorized by general appointment by His Majesty the Sultan and Yang Di-Pertuan of Brunei Darussalam to give away a woman in marriage in accordance with Syariah Law.

among other things, freely consent to marry each other; and that they are capable of understanding the nature of the marriage contract.

70. The Compulsory Education Act (Cap 211) makes it compulsory for all children to receive at least 9 years of formal education. The Act provides nine-year compulsory education for a child from the age of 6, covering 6 years of primary school and 3 years of lower secondary education. In addition, Brunei Darussalam has a National Education Policy where 12 years of education provision is offered for all children covering 7 years of primary education, 3 years of lower secondary and 2 years of upper secondary or vocational or technical education. As such, all children of the said age should be in school and the attrition level is low.

#### **Response to issues raised in paragraph 19**

71. In section 23 of the of the Islamic Family Law (Chapter 217), a man can marry more than one woman provided that he obtains a written permission of the Court and accompanied by a written declaration stating the grounds on which the proposed marriage is claimed to be just and necessary. However if a man remarries during the subsistence of his marriage without obtaining prior written permission from the Court, he will be guilty of an offence under section 123 of the same act.

72. For Non-Muslims, polygamy is not permitted under the Marriage Act (Cap 76). Under Section 3(1) of the Act, one of the conditions imposed for the contract of marriage is that neither party to the intended marriage is bound by a valid subsisting marriage to a third person. A marriage is void if any of the conditions set out in Section 3(1) is not fulfilled.

#### **Optional Protocol and amendment to article 20, paragraph 1**

##### **Response to issues raised in paragraph 20**

73. Brunei Darussalam is still studying the Optional Protocol to the Convention and has no plans to ratify it at this time.

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