



Convention on the Rights of the Child

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Consideration of reports of States parties

List of issues in relation to the combined second and third periodic reports of Brunei Darussalam

Addendum

Replies of Brunei Darussalam to the list of issues*

[Date received: 22 December 2015]

* The present document is being issued without formal editing.



Part I

Reply to issues raised in paragraph 1 of the list of issues

1. Brunei Darussalam has a dual court system namely, the Syariah court system and the civil law system, which operate in parallel. The Syariah court and civil court possess both civil and criminal jurisdictions. In its civil jurisdiction, the Syariah Courts would hear cases such as :

- (a) Marriage, divorce, or any matrimonial matter;
- (b) Property;
- (c) Maintenance of dependence, legitimacy or guardianship or custody (hadanah) of infants;
- (d) Division of or claims to joint property (harta sepencarian); and
- (e) Other matters in respect of which jurisdiction is conferred by any written law.

2. In its criminal law jurisdiction, the Syariah Court would try any offence punishable under any written law, which provides for syariah criminal offences, under any written law relating to Islamic family law or under any other written law, which confers on the Syariah court jurisdiction to try any offence, and may impose any punishment provided.

3. The Syariah Courts Act (Cap 184), provides that at least one of the parties is a non-Muslim to decide on matters under its jurisdiction. The Syariah Courts Evidence Order 2001 also provides that non-Muslims may be called as witnesses in Syariah Courts.

4. The Syariah Courts Act (Cap 184) have indicated that non-Muslims may become one of the parties in matrimonial matters (among others, divorce, any disposition of or claim to any property arising out of it, maintenance of dependence) inheritance, adoption, custody, etc. The Syariah Courts Evidence Order 2001 also.

5. The Syariah Penal Code Order 2013 (SPCO) generally applies to both Muslims and non-Muslims, and its applicability depends on the types of offences as stated in the Order.

6. All other cases would be tried by the civil courts such as, matters related to commercial law, tort, family law for non-muslims and all criminal offences that are not covered by the SPCO.

7. The Brunei Darussalam legal system is transparent so as and certain as all laws and regulations are readily available. The cardinal principle that someone is innocent until proven guilty is still maintained, be it in the civil courts or Syariah courts.

Reply to issues raised in paragraph 2 of the list of issues

8. The ministerial level National Council on Social Issues or the Majlis Kebangsaan Isu Sosial (MKIS), under the chairmanship of the Ministry of Culture, Youth and Sports (MCYS), was established in April 2008 to replace the National Committee on Social Issues. Members of the MKIS include the Ministers of Finance, Education, Religious Affairs and Home Affairs; Deputy Minister at the Prime Minister's Office (PMO) and Chairman of the Sultan Haji Hassanal Bolkiah Foundation. The terms of reference of the National Council are:

- (a) To identify current social issues;
- (b) To formulate policies, legislation and plan of action for social issues;

(c) To coordinate and ensure implementation by relevant agencies of plan of action and programmes on social issues;

(d) To ensure research is conducted to identify root causes of social issues and the strategy to deal with them;

(e) To monitor and evaluate effectiveness of prevention, enforcement and rehabilitation programmes; and

(f) To ensure integrated approach and collaboration by all Government, private sector and NGOs and the community (Village Heads, ketua kampongs, parents and the public) in tackling social issues.

9. Under the MKIS, a number of Special Committees have been set up to focus on specific areas that address the identified social issues in Brunei Darussalam. MKIS and the Special Committees meet monthly, with the agenda to update the action lines as agreed by the Committees under each objective outlined in the Plan of Action.

10. The MKIS has identified eleven (11) issues which impact on the wellbeing of children, which includes issues on the family institution, persons with special needs or differently-abled, poverty, immoral activities and community mindset. These issues are constantly under review to ensure current social issues are addressed

11. Other inter-agency consultative mechanisms include the following.

(a) The Action Team On Child Protection (ATOCP) is chaired by the Permanent Secretary, Ministry Culture, Youth and Sports. The ATOCP committee members are from the Attorney General Chamber, Royal Brunei Police Force, Syariah High Court, the Department of Syari'ah Affairs, Department of Schools, Department of Immigrations and National Registration, and Ministry of Health. This committee enables the merging of expertise from various fields to discuss cases involving children or young persons who are or are suspected of being in need of protection. Paragraph 10 of the 2nd and 3rd report mentions the scope and mandate of this Action Team;

(b) A Children's Right's Convention (CRC) Task Force has been established under the Ministry of Culture, Youth and Sports. The task force reports on Brunei Darussalam's efforts in promoting and ensuring that policies and programs are in compliance to the Convention;

(c) In education, the Department of Schools (DOS) of the Ministry of Education (MOE) and the Community Development Department (CDD) of the MCYS collaborates to tackle cases which involve students with an absence rate of over 85%. For cases that are referred, relevant agencies will be consulted and joint social investigations will be conducted to implement possible interventions in ensuring the student's regular attendance at school;

(d) The Hospital Child and Young Persons' Protection Committee (HCYPPC) is a consultative inter-agency meeting chaired by the Ministry of Health held weekly to discuss at risk children and young persons who have received medical care and indicated any possible concerns. Further investigation will be conducted by the relevant agencies as and when needed to ensure necessary actions are taken for their wellbeing.

Reply to issues raised in paragraph 3 of the list of issues

12. One of the challenges that Brunei Darussalam faces in the collection of data to monitor the implementation of all aspects of the Convention are the availability of segregated data. This was mentioned under paragraph 191 in the 2nd and 3rd Report.

Reply to issues raised in paragraph 4 of the list of issues

13. The existence of an inter-agency consultative mechanism, which works closely with NGOs and civil societies, has ensured that human rights in the country are promoted and protected. At the regional level, the ASEAN Intergovernmental Commission on Human Rights (AICHR), where Brunei Darussalam was involved intensively in its establishment, sets the stage for further understanding of roles and functions of a human rights institution.

Reply to issues raised in paragraph 5 of the list of issues

14. Collaboration and cooperation between Government and non-Government organisations (NGOs) in Brunei Darussalam have long been established. NGOs are regularly consulted on issues concerning children including in the formulation of legislation, plans of actions and implementation of programmes. NGOs are represented in inter-agency committees set up by the Government to oversee the welfare of the child. For instance, Society for Management of Autism Related Issues-Training, Education and Resources of Brunei Darussalam (SMARTER), Special Olympics Brunei Darussalam (SOBD) and Learning Ladders are some of the NGOs that are active in the area of people with special needs or differently-abled and engaged in the preparation of the draft Disability Order.

15. The Government of Brunei Darussalam provides support to NGOs where possible, in terms of financial assistance, office premises and logistical support in order to enable them to organise activities and programmes especially in promoting the welfare of children and community. Some of these financial assistance are in the form of annual grants and some are project-based. The Department of Community Development (DCD), as the national focal point for children's issues, has an annual budget allocated specifically for NGOs.

16. NGOs in Brunei Darussalam play an active role in the implementation of programmes and campaigns related to children's issues at the national level. In line with Article 33, as an example, the National Anti Drug Association (BASMIDA) often collaborates with the Narcotics Control Bureau (NCB) in conducting anti-drug preventive programs. Other NGOs also participate in regional meetings and workshops to collaborate, exchange best practices and further advance children's issues which include juvenile justice, children in poverty, violence against children, among others. In addition, the Government provides protection and welfare assistance to children of parents and guardians undergoing rehabilitation for drug abuse.

Reply to issues in paragraph 6 of the list of issues

17. The minimum age for marriage varies between existing relevant legislation, taking into account the diverse religious and cultural background of the people in the country. The Marriage Act (Cap 3) requires both parties to be at least 14 years of age in order to be able to enter into contract of marriage. On the other hand, the Chinese Marriage Act (Cap 126) provides that the female must be 15 years of age and it is silent on the minimum age of marriage for male. In relation to the marriage of Muslims, there is no minimum age of marriage expressly provided in Islamic Family Law Act (Cap 217). However, it is an offence under the Act to prevent a man who has attained the age of 18 years or a woman has attained the age of 16 years from entering into a valid marriage. Currently, the minimum age for marriage within the existing legislations remains due to the absence of applications for amendment.

18. 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 a married life.

19. 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 nasab* of the woman or a *wali Hakim* in certain circumstances must also be obtained. “*Wali Hakim*” means a person who is appointed by His Majesty the Sultan and Yang Di-Pertuan to give away a woman in marriage in accordance with *Hukum Syara*’. “*Wali nasab*” means a person who can lawfully to give away in marriage a woman based on blood relationship in accordance with *Hukum Syara*’. The law also requires both parties to the marriage to submit application for permission to marry to the Registrar before the marriage is solemnized.

20. For Non-Muslims, Section 3 of the Marriage Act (Cap 76) describes conditions which must be fulfilled by both parties to the marriage. The parties must, among other things, freely consent to marry each other; and that they are capable of understanding the nature of the marriage contract.

Reply to issues in paragraph 7 of the list of issues

21. Registration in Brunei Darussalam can be divided into national registration (identity card), birth, death and adoption registration and national registration (citizenship).

22. National Registration Act (Cap 19) provides that all persons regardless of ethnicity when aged above 12 are required to be registered. While ethnicity is included as part of the identification cards, it is used for the purposes of identification only and not related to the differential treatment based on ethnicity.

23. The Brunei Nationality Act (Cap. 15) allows for either a Bruneian father or Bruneian mother of the child to obtain nationality of their children in accordance with its Section 4 and 6 respectively. Section 4 of the Act spells out categories of person who can acquire nationality by operation of law whilst Section 6 provides for the acquisition of nationality of a minor by way of registration i.e. upon application by a parent or guardian who is a Brunei national.

Reply to issues in paragraph 8 of the list of issues

24. In the case of Muslims, although men and women do not have the same rights with regards to inheritance, women are not denied their rights of inheritance. Although their share will not be equal to that of men, it does not preclude the heirs to equal division of inheritance as long as there is agreement by everyone. It is still open to the heirs to mutually agree on equal shares. In addition, Islamic law also encourages the making of a will or gifts for women. Islam imposes responsibility on men to provide financially for his wife, daughter, mother or sister. A woman is not required to support herself or her family even if she is wealthy. As such, men are considered the breadwinner of the family and thus more inheritance is given to them to provide financially for his family. It follows that the women are given less inheritance as their husbands / brother / father will be the one who financially supports them by assuming their inheritance. For non-Muslims, matters pertaining inheritance and wills are governed by the Probate and Administration Act (Cap 11) and Wills Act (Cap 193).

25. The school curriculum in Brunei Darussalam emphasizes both the roles of men and women in the upbringing of the family. Government efforts also include conducting annual work-life balance programs, which emphasises on the sharing of responsibilities in raising a family. Thus, children will be instilled with this understanding from their observations and practices within the family.

Reply to issues in paragraph 9 of the list of issues

26. The Registration of Births and Deaths Act, (Cap 79) provides that every child born in Brunei Darussalam is required to be registered. This includes all children in Brunei Darussalam including those living in Kampong Ayer and rural areas. The duty to register under the Act are as follows:

(a) 12(1) In the case of every child born alive, it shall be the duty of the father and mother of the child, and of the occupier of the house in which to his knowledge the child is born, and of each person present at the birth and of the person having charge of the child, to report such birth within 14 days after the birth shall have taken place to the Deputy Registrar of the registration area within which the birth shall have taken place;

(b) 16(1) It shall be the duty of all police officers and headmen to obtain information of every birth within their respective areas and respecting the father or mother of every child born in their respective areas and respecting the occupier of any house in their respective areas in which any birth or death may take place, and to give notice thereof to the Deputy Registrar of the registration area.

Reply to issues in paragraph 10 of the list of issues

27. Brunei Darussalam has a policy of single nationality and does not recognize dual nationality. The Brunei Nationality Act (Cap 15) however 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.

Reply to issues in paragraph 11 of the list of issues

28. Article 3(1) of the Constitution of Brunei Darussalam states that the official religion of Brunei Darussalam shall be the Islamic Religion. "Islamic Religion" is defined by Article 2(1) of the Constitution of Brunei Darussalam as the Islamic Religion according to the Shafeite sect of Ahli Sunnah Waljamaah. In Islam a child of parents who profess the religion of Islam should follow the religion of his or her parents. Nevertheless, although Islam is the official religion of Brunei Darussalam, all other religions may be practised in peace and harmony. This is clearly provided for under Article 3(1) of the Constitution of Brunei Darussalam. As such, there is no restriction for non-Muslims to practise their religions in this country.

29. All educational institutions under the National Curriculum and International Curriculum (for international schools) in Brunei Darussalam provide Islamic Religious Knowledge subjects as a core subject. Apart from these, there are also religious schools under the Ministry Of Religious Affairs (MORA). Islamic Religious Knowledge is taught from Year 1 up to Year 11 and in Year 12 students are able to choose various Islamic topics for Advanced Levels.

30. As for Muslim children, Islamic religious education is compulsory. In the Compulsory Religious Education Act (Cap.215), Muslim parents must enroll their children (who are of compulsory religious school age and fulfill the conditions) in religious school, but the Minister may exempt any child from attending such school if is desirable and in the interest of the child or the public (e.g. children with severe learning disability, not residing in Brunei Darussalam, those with serious health reasons).

31. Non-Muslim parents have the choice of whether or not to enrol their children in religious schools under the Ministry of Religious Affairs.

Reply to issues in paragraph 12 of the list of issues

32. There is no updated information on the legislation related to the prohibition of corporal punishment of children from the submission of the last report.

Reply to issues in paragraph 13 of the list of issues

33. The definition of children under the Employment Order, 2009 is: “a person who has not attained the age of 15 years.” Therefore, the Contractual Age (age capability for a person to enter into a contract of service) is 16, which is the minimum age submitted by Brunei Darussalam upon ratification of the ILO Minimum Age Convention [C.138]. As for migrant workers, they must be 18 years and above in order to be able to work in Brunei Darussalam including domestic workers.

34. Brunei Darussalam has legislation in place to safeguard the employment of children and young persons. According to the Employment Order, 2009 a child who has attained the age of 14 under may be employed in light work suited to his capacity in an undertaking which is not in industrial undertaking. However, they are permitted employment at any workplace that is approved and/or supervised by the Ministry of Education, the institute of Technical Education or any authorized government agency.

35. Brunei Darussalam has ratified the Worst Forms of Child Labour Convention [C.182] in 2011. One of the obligations contained within the provisions of this Convention requires countries that have not done so to adopt in its law a list of types of hazardous work in which children should not be involved / employed in. Brunei Darussalam is currently looking into a suitable list of hazardous work for children to be incorporated into the Employment Order, 2009.

36. Compulsory Education Act (Cap 211) provides that a child of compulsory school age above the age of 6 years who has not yet reached the age of 15 years is to receive primary and secondary education either in government schools or private schools. The Act has been in force since 24th November 2007.

Reply to issues in paragraph 14 of the list of issues

37. The practice of female circumcision done in Brunei Darussalam is not considered as female genital mutilation (FGM) which has been clarified at the 61st World Health Assembly on the 19th-24th May 2008.

38. This practice is *Wajib* (compulsory) in Islam. It is performed by excising the prepuce only, without partial or total excision of the clitoris. This practice of circumcision has not been seen to lead to any immediate and/or long-term health consequences. There has not been any increase in maternal morbidity as a result of the circumcision nor has there been any increase in perinatal and neonatal mortality rate among babies born to Muslim women who have been circumcised. In fact, perinatal and neonatal mortality rate in Brunei Darussalam have improved to a level that is comparable to other developed countries as has our maternal mortality ratio.

39. Brunei Darussalam has reservations against the definition of FGM Type 1a: removal of the clitoral hood or prepuce only. With evidence from the key health indicators, Brunei Darussalam disagrees with the definition of FGM Type 1a. Brunei Darussalam supports WHO call for the elimination of female genital mutilation and supports the call for member states to enact and enforce legislation to protect girls and women from all forms of violence including female genital mutilation.

40. The assumption that the practice of female circumcision is harmful could be due to the misconception of customs practiced in other parts of the world. The term FGM refers to the procedure which includes procedures that intentionally alter or injure female genital organs as well as all procedures that involve partial or total removal of the external female genitalia for non-medical reasons. However, the practice of female circumcision in Brunei Darussalam does not harm females.

41. In the event that there exists severe cases of female circumcision which may result in FGM, there are various provisions under the Penal Code [Cap.22] which may be used to convict such persons for such severity.

Reply to issues in paragraph 15 of the list of issues

42. The Mental Health Order, 2014 regulates the care and welfare of people with mental health issues. This is to ensure that people with mental disorders receive good treatment, and to safeguard their well-being.

43. Mental health clinics have been established in primary health centres in the community. This is to improve accessibility and acceptability of psychiatric or mental health services, and to reduce the stigma attached to mental health disorders. Community mental health teams and a community rehabilitation centre have also been established. In addition, a community psychiatric residential home to facilitate the rehabilitation of long-term institutionalised patients into the community have been established so that they can gain independence and have an improved quality of life. Brunei Darussalam is constantly improving the skills amongst general practice doctors in primary health clinics in the diagnosis and management of common mental disorders.

44. The Ministry of Health (MOH) in Brunei Darussalam intends to establish an early mental health promotion program which is built into maternal and child health services, school health and school counselling programs. Mental health promotion and the prevention of mental disorders should start at an early age, starting from the perinatal period, through childhood and adolescence to early adulthood. A high-risk child surveillance service have been in place, which helps to identify at-risk children, and provides early intervention in order to reduce the risk of subsequent mental health problems.

45. Brunei Darussalam has implemented several actions to prevent the cases of Sexually Transmitted Diseases (STD) from rising which include the following:

- (a) Health education at schools through lectures/briefings and expos;
- (b) Circulation of health information through school curriculum, media, etc.;
- (c) Capacity building trainings for teachers and councillors;
- (d) Collaborate with Brunei Darussalam AIDS Council in running health education activities for youths.

46. Currently, MOH is enhancing health promotion activities on health reproduction amongst teenagers through an action / strategic plan in collaboration with multiple relevant agencies. This is in response to directives from the National Council on Social Issues.

Reply to issues in paragraph 16 of the list of issues

47. The Ministry of Education has an inclusive education policy for persons with special needs or differently-abled, which does not allow for segregation of schools for them. Education for persons with special needs or differently-abled is coordinated by the Special Education Unit (SEU) of the MOE. The SEU is the coordinating unit which organises services with the support of the School-Based Team (SBT). This team includes Special

Education Needs Assistance (SENA) or Home-Room (HR) Teachers, regular classroom teachers, teacher aides, resource teachers, special educators, psychologists and other relevant specialist personnel.

48. The Government has established Centres of Excellence for special needs students who excel in their studies through Model Inclusive Schools providing Excellent Services for Children. Selected primary and secondary schools have been allocated additional funding and support to ensure they have the necessary school facilities, special learning equipment or resources, specialist support services, and teacher training programmes to provide quality inclusive education for a wide range of students with diverse learning needs.

49. The Compulsory Religious Education Act (Cap 215), was enacted to ensure that all Muslim children receive at least 7 years of formal compulsory Islamic religious education. This Act makes it compulsory for Muslim parents to ensure that their children are enrolled into Islamic religious schools and receive religious education. This is one of the State's efforts to ensure the future generation is equipped with the most basic Islamic religious knowledge and that no Muslim child is left out in acquiring Islamic religious education.

50. The Islamic religious special education is a program that provides educational services and facilities to special-needs students or differently-abled students, consisting of students with learning disabilities, emotional or behavioral disorders, communication, hearing, visual or physical problems. The Islamic religious special education has actually been implemented in religious schools in June 2004. In February 2012, the Special Religious Education Unit (Unit Pendidikan Khas Ugama (UPKU), under the purview of the Department of Islamic Studies (Jabatan Pengajian Islam (JPI) was established with the aim to assist special needs or differently-abled students to enable them to participate and subsequently achieve their fullest potential in the Islamic religious education system. This is in line with the aspiration of JPI that all Muslim children, including special needs or differently-abled children, should be able to obtain proper and formal Islamic religious education.

51. There is an Inter-agency School Progress Meeting (ISPM) which is held monthly and discusses all arising difficulties and challenges encountered by these special needs or differently-abled students (whether in government, private or religious schools) and its solutions. This meeting is attended by the UPKU, Child Development Centre (CDC), Special Education Unit (UPK), and Community Development Department. This collaboration enables a better handling of issues and challenges faced by the students.

52. Between 2013 and 2014 there has been an increase in the enrolment of children with special needs or differently-abled in religious schools. In 2013, there were a total of 260 male and 116 female children with special needs enrolled in religious schools. In 2014, the total numbers have risen to 332 male and 131 female children with special needs.

Reply to issues in paragraph 17 of the list of issues

53. In the case where any youthful offender is convicted of an offence punishable by fine or imprisonment or both, the court, by virtue of Section 262 and 263 of the Criminal Procedure Code (Cap 7), may instead of sentencing him to a fine or to a sentence of imprisonment of any kind, deal with him in the manner as provided by the Children and Young Persons Act (Cap 219) (CYPA) and the Offenders (Probation and Community Service) Act (Cap 220) respectively.

54. In practice, the discretion to divert the involvement of formal trial once a case is disclosed rests with the Public Prosecutor. Most decisions whether to proceed or not are based upon the juvenile's school report and previous criminal records. Detention pending trials in most instances are cases involving juvenile and where offences are not serious,

bails are not objected to and frequently granted. With the setup of the Juvenile Court in 2010, the approach taken in cases involving juvenile is of a more holistic approach.

55. Section 12 (2) in the CYPA states that a court shall not order a child who has attained the age of 10 years to be sent to an approved school, a remand home or place of detention unless for any reason, including the want of a suitable person of his own religious persuasion who is willing to take care of him, the court is satisfied that he cannot be suitably be dealt with otherwise.

56. The CYPA protects the identity and ensures the safety of the children who are brought before the Juvenile Court. Section 11(2) CYPA states that no person shall be present at a sitting of a Juvenile Court except:

- (a) Members and officers of the Court;
- (b) Parties to the case before the Court, their counsel and witnesses and other persons directly concerned in that case;
- (c) Bona fide representatives of the media; and
- (d) Such other persons as the Court may authorize to be present.

57. The Juvenile Court prioritises the welfare of any child and young person that is brought before it. The agencies involved in cases involving children and young persons will take steps to remove them from undesirable surroundings and secure the proper provision for his education and training. This is stated in Section 12(1) in CYPA.

58. Children under the age of 12 years, if found to be in conflict of the law under the Misuse of Drugs Act, Chapter 27, will have none of their offences disclosed. The children will be referred administratively to the psychoeducation scheme offered by the Narcotics Control Bureau. Under this scheme, the children will be provided with counselling service, peer mentoring support and educational visits.

59. The Narcotics Control Bureau has in place policy for administrative procedures which take into account the best interests and welfare of the child putting emphasis on treatment and rehabilitation. In many cases, the Bureau will not jeopardise the children's future education and employment prospects.

60. For children found to be committing non-serious offences under the Misuse of Drugs Act, (Cap 27) or the Intoxicating Substances Act (Cap 161) for the first time, they will be placed under the Bureau's supervision scheme for a period of not more than 24 months. This is a non-residential programme. Under the Supervision scheme, such child (or otherwise known as "Supervisee") will undergo regular urine tests, counselling sessions, peer group support and life-skills training. The Bureau also carries out periodic visits to the supervisees' place of residence to interview his/her family members on the well-being of the supervisee and also to conduct family counselling.

61. If the supervisee was found to commit a similar offence during his/ her supervision period, he/she will be referred to a medical officer for assessment on whether the supervisee will benefit from institutional care at the treatment and rehabilitation centre. Upon positive medical recommendation, the supervisee will undergo treatment and rehabilitation programme at "Pusat Al-Islah" for a period of 24 months under a Minister's Order, issued by the Minister of Home Affairs.

62. The Narcotics Control Bureau has in place policy for administrative procedures which take into account the best interests and welfare of the child putting emphasis on treatment and rehabilitation. In many cases, the Bureau will not jeopardize the children's future education and employment prospects.

63. The introduction of the juvenile justice system has empowered Magistrates with alternative sentencing options, which include the making of probation orders, community service orders, and placement in an approved school, home or a detention centre. In addition, the Juvenile Court is also committed to rehabilitating and reintegrating young offenders back into society in order to preserve and safeguard their future.

64. The juvenile justice system has now been in operation for over 5 years and has a presence in all 4 districts. Six Magistrates have been appointed as Juvenile Court Magistrates by The Honourable Chief Justice and have dealt with the growing caseload of Juvenile Court Cases since its inception.

65. Whilst the Juvenile Court Magistrates have not received “formal” training in the field of juvenile justice, some of the Magistrates were attached to the Subordinate Court of Singapore in 2009 and observed the workings of the Juvenile Court of Singapore. In 2011, 2 Magistrates accompanied the Honourable Chief Justice on a working visit to the New Zealand Youth Courts to get a close up view of the workings of the New Zealand youth justice system, believed to be the pioneer in propagating the philosophy of “restorative justice” in dealing with young offenders. The exposure to overseas institutions with established platforms has proved useful as the Brunei juvenile justice system now incorporates the best practices observed in those jurisdictions.

66. Under the Prison Act (Cap 51), youthful offenders are kept apart from adults and confined in separate buildings of the same penal institution (Rule 6 of the Prison Rules made pursuant to Section 62 of the Prison Act).

67. Under the CYPA, a “juvenile” is defined as a person who has attained the age of 7 years of age but who has not yet attained the age of 18 years. A child is defined as a person who has not yet attained the age of 14 years, and a young person is defined as a person who has attained the age of 14 years of age but who has not attained the age of 18 years.

68. Section 40 of CYPA prohibits the association of child or young person with an adult (not being a relative) while being detained in a police station or while being conveyed to or from any court or while waiting before or after attending in any criminal court.

69. Children in conflict with the law may be placed at a welfare home called *Kompleks Rumah Kebajikan Belimbing* (KRKB) for temporary remand or rehabilitation. The children are given medical attention, clothing, counselling, family visitations and programs such as recreational, educational, vocational and rehabilitative programs. KRKB also includes facilities such as a dining hall, a lecture theatre, an educational block, a sports hall, and a garden.

70. Capital punishment does not apply to person under 18 years of age as provided for under Section 238 of the Criminal Procedure Code (Cap 7).

71. Whipping is imposed for certain offences both under the Penal Code (Cap 22) and the Syariah Penal Code Order 2013. Under the Penal Code (Cap 22), whipping is not applicable to:

- (a) Females;
- (b) Males sentenced to death;
- (c) Males whom the Court considers to be more than 50 years of age.

72. In the case of a youthful offender, whipping shall be inflicted in the way of school discipline with a light rattan. This is pursuant to Section 257(4) of the Criminal Procedure Code (Cap 7).

73. As far as the SPCO is concerned, the whipping punishment imposed pursuant to the commission of ta’zir offences is applicable to person who is *mumaiyiz* whilst the imposition

of whipping and amputation punishment resulting from the commission of *hadd* offences is applicable to *mukallaf* i.e. a person who has attained 15 years and of sound mind. Section 13 of the SPCO provides that children who are *mumayyiz* but not *baligh* shall not be imposed with *hadd* or *qisas* punishment if they commit offences liable to those punishments. Section 56 of SPCO further provides that amputation shall not be imposed on offenders who are not *mukallaf* (i.e. under the age of 15 years and not of sound mind). *Mummayyiz* is a child who has attained the age of being capable to differentiate a matter. Whereas *baligh* is a person who has attained the age of puberty in accordance with *Hukum Syara*'.

74. Nonetheless, all punishments must follow judicial process and due process of law. The basic rights of the accused persons, whether prosecuted under the SPCO or the civil criminal law, are guaranteed throughout all stages of criminal proceedings as prescribed by the national law, which form the framework for fair trials consistent with the relevant international standards.

Part II

75. The Syariah Penal Code Order 2013: An order that relates to laws in respect of Syariah crimes and any matters connected therewith and is aimed at protecting basic human rights. The Order will be implemented in three (3) phases to ensure sufficient time to introduce the Order to the public and to allow for its proper and effective enforcement. The Order generally applies to both Muslims and non-Muslims, and its applicability to: i) Muslims only; ii) non-muslims only, and iii) both Muslims and non-Muslims, depends on the types of offences as stated in the Order.

76. Compulsory Religious Education Act (Cap 215): Enforced on 1 January 2013, the Act provides for 7 years of compulsory religious education for all Muslim children. The Act requires every parent whose child has attained a compulsory religious school age to ensure his child is enrolled as a pupil in a religious school in that year and remains as such for the duration of the compulsory religious education.

77. Penal Code (Cap 22): The Penal Code was amended in 2012 in order to strengthen the laws to further protect the young and vulnerable from sexual exploitation and also to provide prosecutors with a handle to prosecute a wider range of sexual offences. Among the new sexual offences introduced by the amendments are commercial sex, child pornography, prostitution, engaging in sexual activity in the presence of a person under the age of 16, sexual grooming, voyeurism, offences that use technology as a medium as well as offences related to the outraging of one's modesty. The new offences of commercial sex with a person under 18 outside Brunei Darussalam and tour outside Brunei Darussalam for commercial sex with a person under 18 allow for extra-territorial application on Bruneians who may commit such offences abroad and contributes towards the global fight against child sex tourism.

78. There has been an amendment made to the Islamic Family Law Act with regards to protection order for victims of domestic violence including children under the age of 18 years, called *Dharar Syar*'ie. *Dharar Syar*'ie provides immediate protection, protection in an area or institution, order for detention, isolation order and restraining order / protection order, power of arrest, compensation and mandatory counselling. The new amendment also covers giving exclusive rights to the victim by expelling the offender from the place of stay; to warn or restrict the person from entering the residential home, school, institution of the victim or communicate with the victim, and assigning an enforcement officer to accompany the offender when collecting his/her belongings from the victim's house.

79. Since the submission of Brunei Darussalam's 2nd and 3rd Periodic Reports, the names of some relevant legislation have been revised as follow:

- (a) Children and Young Persons Order 2006 to Children and Young Persons Act (Cap 219);
 - (b) Childcare Centres Order 2006 to Childcare Centres Act (Cap 218);
 - (c) Education Order 2001 to Education Act (Cap 210);
 - (d) Compulsory Education Order 2009 to Compulsory Education Act (Cap 211);
- and
- (e) Islamic Family Law Order 2000 to Islamic Family Law Act (Cap 217).

80. Brunei Darussalam remains committed to its international obligations. Brunei Darussalam is party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); and the Convention on the Rights of the Child (CRC); and Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. Brunei Darussalam is taking steps towards ratifying the Convention on the Rights of Persons with Disabilities (CRPD); and the Optional Protocol to the Convention on the Rights of the Child on the involvement of Children in Armed Conflict.

Part III

Reply to issues in paragraph 1 of the list of issues

81. Brunei Darussalam has no record of working children.

Reply to issues in paragraph 2 of the list of issues

82. There exists differences between the number of births as recorded at the hospitals, and the number of nationality registrations. This is due to the differences in time of birth and time of registrations.

Table 1

Total Births Registered at the Department of Immigrations and National Registration according to Years

	2011			2012			2013			2014		
	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female
Live Births												
Total	6,724	3,439	3,285	6,909	3,611	3,298	6,680	3,467	3,213	6,891	3,585	3,306
District												
Brunei Muara	5,642	2,892	2,750	5,725	2,990	2,735	5,506	2,861	2,645	5,654	2,948	2,706
Belait	852	427	425	938	499	439	976	507	469	1,020	528	492
Tutong	203	106	97	203	102	101	173	88	85	191	98	93
Temburong	27	14	13	43	20	23	25	11	14	26	11	15
Citizenship Level												
Brunei Citizen	5,278	2,710	2,568	5,523	2,897	2,626	5,339	2,779	2,560	5,497
Permanent Resident	553	261	292	501	273	228	495	239	256	452		
Temporary Resident	893	468	425	885	441	444	846	449	397	942		

	2011			2012			2013			2014		
	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female
<i>Live Births</i>												
Ethnicity												
Malay	4,853	2,464	2,389	4,998	2,633	2,365	4,892	2,529	2,363	5,010	2,596	2,414
Chinese	471	245	226	486	235	251	452	238	214	463	232	231
Others	1,400	730	670	1,425	743	682	1,336	700	636	1,418	757	661

Source: Department of Immigrations and National Registration.

Table 2

Live Births Recorded From Government Hospital And Medical Centre

<i>Year</i>	<i>Place of Birth</i>					<i>Total</i>
	<i>RIPAS</i>	<i>SSB</i>	<i>PMMPMHAMB</i>	<i>PIHM</i>	<i>JPMC</i>	
2011	5,353	866	198	26	393	6,836
First Quarter	1,288	202	49	6	94	1,639
Jan	433	59	17	3	32	544
Feb	417	72	15	1	27	532
Mar	438	71	17	2	35	563
Second Quarter	1,324	205	40	5	89	1,663
Apr	437	70	17	3	24	551
May	445	70	14	2	29	560
Jun	442	65	9	0	36	552
Third Quarter	1,351	224	50	9	108	1,742
Jul	473	60	18	3	33	587
Aug	446	69	10	1	36	562
Sep	432	95	22	5	39	593
Fourth Quarter	1,390	235	59	6	102	1,792
Oct	478	71	14	2	32	597
Nov	427	85	27	0	36	575
Dec	485	79	18	4	34	620
2012	5,351	938	195	41	368	6,893
First Quarter	1,303	234	53	8	114	1,712
Jan	446	77	13	1	38	575
Feb	375	76	16	3	43	513
Mar	482	81	24	4	33	624
Second Quarter	1,313	233	46	10	83	1,685
Apr	392	81	16	1	30	520
May	446	76	20	4	25	571
Jun	475	76	10	5	28	594
Third Quarter	1,344	260	58	13	85	1,760
Jul	419	92	19	2	25	557
Aug	436	80	20	5	37	578
Sep	489	88	19	6	23	625
Fourth Quarter	1,391	211	38	10	86	1,736
Oct	497	73	16	2	31	619
Nov	419	74	11	3	32	539
Dec	475	64	11	5	23	578

<i>Year</i>	<i>Place of Birth</i>					<i>Total</i>
	<i>RIPAS</i>	<i>SSB</i>	<i>PMMPMHAMB</i>	<i>PIHM</i>	<i>JPMC</i>	
2013	5,351	987	175	32	212	6,757
First Quarter	1,381	236	55	6	36	1,714
Jan	474	98	23	1	25	621
Feb	405	74	13	4	11	507
Mar	502	64	19	1	-	586
Second Quarter	1,332	253	40	11	39	1,675
Apr	391	83	10	4	8	496
May	480	94	18	5	12	609
Jun	461	76	12	2	19	570
Third Quarter	1,317	241	50	10	64	1,682
Jul	423	72	20	2	19	536
Aug	440	81	13	7	24	565
Sep	454	88	17	1	21	581
Fourth Quarter	1,321	257	30	5	73	1,686
Oct	452	96	10	2	18	578
Nov	434	69	14	1	32	550
Dec	435	92	6	2	23	558

Source: Labour room at the Specific Hospital / Medical Centre.

Note: RIPAS Raja Isteri Pengiran Anak Saleha Hospital, B. S. B.
SSB Suri Seri Begawan Hospital, Kuala Belait.
PMMPMHAMB Pengiran Muda Mahkota Pengiran Muda Haji Al-Muhtadee Billah Hospital, Tutong.
PIHM Pengiran Isteri Hajjah Mariam Hospital, Temburong.
JPMC Jerudong Park Medical Centre.

Reply to issues in paragraph 3 of the list of issues

83. In 2015, a total of 630 students are enrolled in Pusat Bahagia which are located in all the four districts in Brunei Darussalam. 110 (17.5%) of these students are children who are aged 18 and below.

Table 5
Statistics on Registration at Pusat Bahagia under the Community Development Department in All Districts in 2015 as of 19th October 2015

<i>District</i>	<i>Gender</i>		<i>Total (District)</i>
	<i>Male</i>	<i>Female</i>	
Brunei Muara	168	135	303
Tutong	79	58	137
Belait	107	55	162
Temburong	22	6	28
Total	376	254	630

Source: Community Development Department.

Table 6
Statistics on Registration at Pusat Bahagia under the Community Development Department based on Age as of 19th October 2015

<i>Age</i>	<i>Total</i>
0-18	110
19-34	372
35-59	130
60 Above	15
Total	627

Source: Community Development Department.

Reply to issues in paragraph 4 of the list of issues

Table 7
Civil Marriages involving under 18 Below by District for the Years 2012-August 2015

	2012	2013	2014	Jan-Aug 2015
<i>District</i>	<i>Total Marriages</i>			
Brunei/ muara	2	0	0	1
Tutong	0	0	0	
Belait	0	0	0	0
Temburong				
Total	2	0	0	1

Source: The Prime Minister's Office.

Table 8
Number of Reported Cases of Domestic Violence Involving Under the Age of 18 Years Old

<i>Year</i>	<i>Total amount of reported cases of domestic violence</i>	<i>Victim under the age of 18 years old</i>
2012	127	2
2013	114	1
2014	93	0
Jan-aug 2015	75	1
Total	409	4

Table 9
Reports Received on Domestic Violence Based on Police Station

<i>Year</i>	2012		2013		2014		Up to August 2015	
<i>Where reported</i>	<i>Total</i>	<i><18</i>	<i>Total</i>	<i><18</i>	<i>Total</i>	<i><18</i>	<i>Total</i>	<i><18</i>
Central Police Station (BSB)	45	0	47	0	37	0	34	0
Muara Police Station	8	0	3	1	4	0	5	0

<i>Year</i>	<i>2012</i>		<i>2013</i>		<i>2014</i>		<i>Up to August 2015</i>	
<i>Where reported</i>	<i>Total</i>	<i><18</i>	<i>Total</i>	<i><18</i>	<i>Total</i>	<i><18</i>	<i>Total</i>	<i><18</i>
Sengkurong Police Station	18	0	14	0	5	0	6	0
Berakas Police Station	30	0	25	0	19	0	9	0
Tutong Police Station	14	1	8	0	7	0	6	0
Kuala Belait Police Station	10	1	16	0	21	0	14	1
Bangar Police Station	2		1				1	0
Total	127	2	114	1	93	0	75	1

Source: The Royal Brunei Police Force.

Adolescent pregnancies 2012-2014

Table 10

Total number of married adolescents 18 years & below and pregnant for the first time

	<i>2012</i>	<i>2013</i>	<i>2014</i>
Married; First pregnancy; 18 years & below	82	53	63

Table 11

Age-group breakdown

	<i>2012</i>	<i>2013</i>	<i>2014</i>
11-12	0	1	1
13-14	2	5	4
15-16	15	11	25
17-18*	65 (79%)	36 (68%)	33 (53%)
Total	82	53	63

Largest group (**inclusive** of 18 year olds)

Source: Ministry of Health.

Note: These data have been derived from MCH clinics only. They represent adolescents who registered at our antenatal clinics between 2012 and 2014, and do not include those adolescents who did not seek antenatal care.

Reply to issues in paragraph 5 of the list of issues

84. There are no updated data on recent data collected or have been affected by new developments.

Reply to issues in paragraph 6 of the list of issues

85. There are no updated data on areas affecting children with regard to the implementation of the Convention.