

## QUICK GUIDE TO ADDRESS WOMEN'S ISSUES DURING THE UNIVERSAL PERIODIC REVIEW ON BRUNEI DARUSSALAM

These Guides include:

- A list of issues mentioned in the National Report, the Compilation of official UN Documents and the Summary of Other Stakeholders Submissions, with references to the particular paragraphs in which they can be found.
- A reference to "gaps", that is, issues on which the National Report should/could have applied a gender perspective but failed to do so.
- In those cases in which the Sexual Rights Initiative has submitted reports, we have included an Annex with our recommendations.
- In all cases we have included suggested questions and recommendations

References in the two working languages of the Council (English and French) have been kept in their original language.

**Issues** are highlighted. References from the National Report are *in Italics*.

**Recommendations - including those from UN treaty-monitoring bodies, are at the end of the document.**

All women's rights issues (included sexual rights' issues related specifically to women) are referred to in this Guide. Other sexual rights issues are referred to in the Sexual Rights Guides for each state under review

CEDAW ratified with reservations<sup>1</sup> [arts 9 (2) and 29 (1)]; OP-CEDAW not ratified. Rome Statute not ratified. Palermo Protocol not ratified.

### Gaps

The National Report should/could have applied a gender perspective -that is, make reference to how the issue affects women and men in particular ways- but failed to do so in the following sections: Children (29-32), Persons with Disabilities (39-46), The Elderly (47-50), Adequate Housing (72-77), Religious Tolerance (78), Treatment and Rehabilitation of Offenders (79-82), Economic Opportunities (83-89); Challenges, Constraints And National Priorities: Human Development (90 -91), Health Care (92), Children (93), Disabilities (95), The Elderly (96).

ISSUE	N Report	Compilation	Summary
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<sup>1</sup> "The Government of Brunei Darussalam expresses its reservations regarding those provisions of the said Convention that may be contrary to the Constitution of Brunei Darussalam and to the beliefs and principles of Islam, the official religion of Brunei Darussalam and, without prejudice to the generality of the said reservations, expresses its reservations regarding paragraph 2 of Article 9 and paragraph 1 of Article 29 of the Convention."

#### Article 9

2. States Parties shall grant women equal rights with men with respect to the nationality of their children.

#### Article 29

1. Any dispute between two or more States Parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

<b>Early / forced marriage</b>		Minimum age set at 14. Recommendation to amend legislation (24)	
<b>Economic rights/ Right to development</b>	Right to land and housing, micro credits, Women Business Council (38)		
<b>Equality and Non discrimination</b>		Not included in legislation. It remains based in sex and birth. Negative social attitudes in practice (13) In civil rights for application of religion laws (15)	
<b>Family/ Cultural Values</b>	Different laws for Islamic and non Islamic persons/families (18)		
<b>Gender mainstreaming</b>	Challenges to achieve equality (94). Significant towards country development (33). Women Council (NGO coalition) as support (20)		
<b>HIV/AIDS</b>	Low level of incidence. NGO in awareness and education programmes (70)		
<b>Laws that discriminate against women</b>		Unequal rights in citizenship transmission. Need to amend Nationality Act (14)	
<b>Maternal mortality /maternal health</b>	MDG 5 achieved. Figures (36). High reduction as result of better standards of health and education (69)		
<b>Public and political participation</b>		Figures. Low rates at legislative level. (27)	
<b>Ratification and Domestication of CEDAW</b>			Reservations: art 9 and 29 (2)
<b>Reproductive health/rights</b>	Optimization of prenatal and natal care to prevent disabilities (40)	Need to ensure reproductive health services and education for adolescents (39)	
<b>Right to education</b>	Achievements in girls literacy and tertiary education (35)	High enrolment rates in primary education (37)	
<b>Right to work</b>	Labour Act. Increase in employment rates. (37)	Government intends to include gender equality and better conditions in private	

		employment (29)	
<b>Sensitization on women human rights / education on women's issues</b>		Gender training for judiciary recommended (22)	
<b>Sexual Violence</b>	Penal Code criminalizes rape, incest, cause to abortion (22)		Marital rape legitimated. Need to criminalize rape without considering gender or marital status (6)
<b>State Institutions/ Plans of Actions</b>	Committee on Women and Family Institution (17)		
<b>Trafficking of women/ Forced prostitution</b>	Legislation to criminalize trafficking, smuggling and sexual exploitation. Women and Girls Protection Act (18)		
<b>Women in prison</b>	Prison Rules (18)		

### Early / forced marriage

The Committee on the Rights of Child (CRC) was concerned that the **minimum age** for marriage is **14**, which it considered far too low, and that even younger children may marry under Islamic law. (Para 24, Compilation)

### Economic rights/Right to development

*In Brunei Darussalam, there is no restriction for women in gaining **ownership right to land and housing**. Women are also active participants in business and accounts for 62 per cent of the beneficiaries of micro-credit financing schemes. Small-Medium Enterprises (SMEs) contribute 92 per cent of the **employment opportunities** in the private sector and more than half of these SMEs are owned by women. **The Brunei Women Business Council** was established in 2000 specifically to oversee the economic activities and promote the business development of women in the country (Para 38, NR)*

### Equality and non-discrimination

Concerned that the principle of **non-discrimination is not included in** Brunei Darussalam's **legislation** and that discrimination persists, CRC referred specifically to discrimination **against girls () born out of wedlock** under the existing personal status law. (Para 13, Compilation)

In a 2008 report, the Special Rapporteur on freedom of religion or belief noted that women in Brunei Darussalam **face discrimination in the application of religious laws**, in particular in areas such as **divorce, inheritance, custody of children and transmission of citizenship**, citing a report of 2000. In its response to the original report, the Government said that women in Brunei Darussalam enjoy equal opportunity in education, employment, economic activities and the right to health care. It clarified, inter alia, that

the Nationality Act provides that the minor child of any subject of His Majesty may be registered as a subject of His Majesty upon application made in the prescribed manner by a parent or guardian. The Government also stated that this had no religious connotation. (Para 15, Compilation)

### **Family/Cultural Values**

• *Married Women Act (Cap 190): provides for the rights of married women and to provide for matters incidental there to such as rights to maintenance, respect of property, remedy, civil actions and legal representation and protection of a spouse physically injured. This Act shall not apply in any matter if any of the parties professes the Islamic religion.*

• *Islamic Family Law Order 1999: governs the relations within a Muslim family. The Order provides protection for () women by preserving and safeguarding their interests and rights in order to guarantee and promote their welfare, such as: Ill treatment of husband or wife; Maintenance of dependants; Custody and maintenance of an illegitimate child; Maintenance and accommodation of married women; and Division of and partaken in matrimonial property for women after divorce. (Para 18, NR)*

### **Gender mainstreaming**

*Challenges faced with respect to eliminating all forms of discrimination against women, include the following:*

• *The need to enhance capacity building in gender mainstreaming, such as gender responsive budget, gender responsive policy analysis and advocacy;*

• *Technical support in engendering statistical system (gender disaggregated data);*

• *To further educate women on their rights with regard to domestic violence, especially on accessibility to counselling and other forms of assistance and to enhance public awareness and unacceptability of such act. (Para 94, NR)*

*Currently, women comprise 47 per cent of the total population and Brunei Darussalam has recognised that gender equality and women's empowerment are crucial for the advancement of women towards national development. (Para 33, NR). Women's issues in Brunei Darussalam are strongly supported by the Women's Council of Brunei Darussalam, an NGO, representing (fourteen) 14 women's associations affiliated under it. The main objective of the Women's Council is to improve the status of women in all area especially in education, economy, welfare, culture and society (Para 20, NR)*

### **HIV/AIDS**

*Brunei Darussalam continues to be on track and vigilant in combating HIV and AIDS of which the incidence continues to be at a low level. Besides the efforts undertaken by the Ministry of Health, the Brunei Darussalam AIDS Council, a non-governmental agency, has also been active in the collaboration of awareness and educational programmes particularly targeting youth and women. (Para 70, NR)*

### **Laws that discriminate against women**

*UNHCR cited CRC concerns that under the Brunei Nationality Act, citizenship is not automatically granted to children of female citizens married to non-nationals, while it is granted where the father is a citizen. It cited the Committee's recommendation that the State party revise the Brunei Nationality Act to ensure that children who have a parent who is a citizen of Brunei Darussalam acquire citizenship in an equal manner regardless of whether the parent is the father or the mother. (Para 14, Compilation)*

### **Maternal mortality/maternal health**

Brunei Darussalam has achieved the fifth goal of the MDGs which is the reduction by three quarters of the maternal mortality ratio. Currently, the maternal mortality ratio is 15.8 per hundred thousand live births. While the infant mortality and child mortality are comparable to that of developed countries and way below the world average. The figures were significantly reduced from over 30 deaths per thousand live births in the 1970s to the current figure of 7.6 per thousand live births (Para 36, NR)

Brunei Darussalam ( ) has been classified as an early achiever in the MDGs, including most of the health goals with significant reductions in Under-5, perinatal and infant mortality rates as well as for maternal mortality ratio. Improvement in these indicators is a result of rising standards of accessible health services, higher standard of living with improved hygiene and sanitation, improved levels of education and literacy and increasing empowerment of women. (Para 69, NR)

### **Participation in public and political life**

According to the Human Development Report 2007/2008 statistics on Brunei Darussalam, 26 per cent of legislators, senior officials and managers were female between 1999 and 2005. In 2005, 9.1 per cent of Government officials at ministerial level were women. (Para 27, Compilation)

### **Ratification and Domestication of CEDAW**

Amnesty International noted reservations to sections of articles 9 and 29 of the Convention on the Elimination of All Forms of Discrimination Against Women, ( ) on the grounds that these articles may be contrary to the Constitution of Brunei Darussalam and the principles of Islam, the official religion of Brunei. (Para 2, Summary)

### **Reproductive health/rights**

Priorities in health care are given to the young population in particular the prevention of disabilities by optimising prenatal, perinatal and postnatal care (Para 40, NR)

CRC was concerned that there is insufficient information available in relation to adolescent health and inadequate access by adolescents to reproductive ( ) health counselling services. (Para 30, Compilation)

### **Right to education**

Recently, the Education For All (EFA) Development Index (EDI) for 2009 classified Brunei Darussalam as being close to achieving the four most quantifiable EFA goals - Universal Primary Education, Adult Literacy, Gender Parity and Quality, as well as Quality Education (Para 59, NR). The literacy rate for girls has improved since 2001, from 91.5 per cent to 98.2 per cent as estimated in 2007-2008. Girls significantly outnumber boys in tertiary education with the number of female graduates at 73 per cent of total graduate population in 2007. (Para 35, NR)

CRC welcomed, inter alia, ( ) the very high school enrolment rates. A 2008 United Nations Statistics Division source indicated that the net enrolment ratio in primary education was 97.4 per cent in 2006. (Para 37, Compilation)

### **Right to work**

There are also various legislations which are enforced in Brunei Darussalam to ensure the promotion and protection of human rights: **Labour Act (Cap 93)** provides for laws relating to employment of workers, including immigrant workers. Special provisions relating to the **employment of women**, are also provided under this Act (Para 18, NR)

Education has led to an **increase in the participation rate** of women in the labour force, working in professional, technical, managerial and administrative jobs, from a figure of only 20 per cent in 1971 to 56.9 per cent in 2008. Women now constitute about **56.9 per cent of the civil service force** where they occupy **28 per cent of senior management posts**. More women are now employed in male-dominated fields such as in the army, police force as well as fire and rescue. (Para 37, NR)

According to information from ILO, ( ) The Government's work in the **private sector** is on matters including **gender equality**, social security, better occupational safety and health, more informed labour migration, increased social dialogue, and other ways of strengthening the labour market. (Para 29, Compilation)

### **Sensitization on women human rights / education on women's issues**

See recommendations (Para 22, Compilation)

### **Sexual Violence**

( ) In **abuse cases**, the Penal Code (Cap 22) also provides protection for women generally, by criminalising acts that cause hurt and grievous hurt to any person, **rape, incest, insult the modesty of women and voluntarily cause a woman with a child to miscarry**. (Para 18, NR)

Noting that Brunei's Penal Code with regards to rape stipulates that "sexual intercourse by a man with his own wife, the wife not being under thirteen years of age, is not rape," AI said this amounts to **legalization and legitimization of marital rape**, in flagrant violation of international human rights law. It added that the offence of rape is confined to acts against **women and girls**, thus providing **no protection for men and boy victims of rape**. (Para 6, Summary)

### **State Institutions/Plans of Actions**

In addition, a Ministerial level National Council on Social Issues was established in April 2008. ( ). The Council is chaired by the Minister of Culture, Youth and Sports. Special Committees were also set up under the Council namely, **Special Committee on Women and Family Institution** ( ) among others. (Para 17, NR)

### **Trafficking of women/Forced prostitution**

• *Trafficking and Smuggling of Persons Order 2004*: is an Order to criminalise the activities of human trafficking, human smuggling and exploitation of the trafficked persons. The **Women and Girls Protection Act (Cap 120)** also **criminalises the trafficking of women and girls**.

• *Women and Girls Protection Act (Cap 120)*: gives protection for women and girls by stipulating provisions that criminalises any acts that may harm and endanger them, including the following acts: **Selling or hiring** women and girls for the purpose of **prostitution**; **Harbouring** women and girls by false pretences or fraudulent means; **Setting up of brothels**; **Detaining** women and girls in a brothel or in any place for prostitution; **Trafficking in women and girls**; and **Living in or trading in prostitution**.



• Penal Code (Cap 22): ( ) The Penal Code also penalizes: ( ) Procreation of minor girl and importation of girl from foreign country for the purpose of forceful illicit intercourse. (Para 18, NR)

### Women in prison

In case of the protection of women prisoners, the **Prison's Rules** (under section 62 of the Prisons Act Cap 51) sets out provisions for their **welfare** and interests in respect of their **accommodation, employment, education and health** (Para 18, NR)

### Suggested questions and recommendations

#### CRC

- To review and, accordingly, take steps to amend the legislation so that the minimum-age requirements are gender neutral and explicit, ensure that they are enforced by law, and increase the minimum **age for marriage**, making it the same for boys and girls. (Para 24, Compilation)
- To take effective measures to prevent and eliminate **discrimination** on the grounds of sex and birth in all fields of **civil, economic, political, social and cultural life** and ensure full compatibility of national legislation and practices with the Convention. It also recommended taking measures, such as comprehensive public education campaigns, to prevent and combat negative societal attitudes in this regard (Para 13, Compilation)
- To ensure that adolescents have access to and are provided with, education on **reproductive health** and other adolescent health issues, as well as with child-sensitive and confidential counseling services. (Para 30, Compilation)
- That members of the legal profession, especially the judiciary, should be trained to be **gender sensitive** and religious leaders should be mobilized to support such efforts. (Para 22, Compilation)

#### Amnesty International

- To **remove all its reservations** to sections of articles 9 and 29 of the Convention on the Elimination of All Forms of Discrimination Against Women, on the grounds that these articles may be contrary to the Constitution of Brunei Darussalam and the principles of Islam. (Para 2, Summary)
- To revise Section 375 of the Penal Code so as to criminalize all acts of **rape** without exception and irrespective of the marital status and gender of the victim. (Para 6, Summary)

#### Sexual Rights Initiative

- To include a **definition of discrimination** in its legislation, in accordance with article 1 of the Convention on the Elimination of all Forms of Discrimination Against Women.