



28 November 2019

Excellency,

I have been following the third cycle of the Universal Periodic Review (UPR) of Brunei Darussalam and welcome the constructive engagement of your Government during the 33rd session of the UPR Working Group in May 2019.

As the final outcome report on the review of Brunei Darussalam has been recently adopted by the Human Rights Council at its 42nd session, I would like to take this opportunity to follow up on a number of areas raised in the two reports that my Office had prepared for the review of Brunei Darussalam – the Compilation of United Nations information and the Summary of Stakeholders' submissions – which I consider in need of particular attention over the next four and a half years, until the next cycle of the UPR. In identifying those areas, I have considered the statements and/or recommendations made by 91 delegations and the presentation made and responses provided by the delegation of Brunei Darussalam. I have also considered the actions taken by the Government to implement the 97 recommendations supported during the second cycle of the UPR. The aforementioned areas cover a range of issues, which appear in the annex to this letter.

I welcome the announcement made that a de facto moratorium on the execution of death penalty for cases under the common law has been extended to cases under the “Syariah” Penal Code Order, 2013 (SPCO), which provided a wider scope for remission. I encourage a declaration of a formal moratorium be made, as my Office stands always against death penalty.

I noted that during the review, Brunei Darussalam committed that the basic rights of the accused were guaranteed throughout all stages of criminal proceedings, to ensure a fair and proper administration of justice. I urge Brunei Darussalam to review its legislation by repealing sections in the Syariah Penal Code to ensure that the criminalization of offences, including the prohibition of torture and other cruel, inhuman and degrading punishments or treatments, that are contrary to international human rights law is compliant with Brunei Darussalam obligations and is fully consistent with all international and regional human rights commitments.

While I welcome Brunei Darussalam acceptance of recommendations to consider extending a standing invitation to all Special Procedures mandate-holders of the Human Rights Council in the first cycles, I hope that this can soon materialise. I also strongly encourage Brunei Darussalam to establish an independent national human rights institution in accordance with the Paris Principles (General Assembly resolution 48/134 and its annex) and my Office would be available to share best practices in this regard.

His Majesty Sultan Haji Hassanal Bolkiah
Brunei Darussalam

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I encourage Brunei Darussalam to develop a comprehensive national human rights action plan in order to achieve concrete results in the areas highlighted in the annex to this letter and to facilitate the preparations for Brunei Darussalam's fourth cycle of the UPR. My advice to all Member States is to develop and implement national action plans in close consultation and cooperation with all stakeholders, in particular with all civil society organizations and, where necessary, with the support of international organizations, including my Office and other United Nations entities, under the leadership of the United Nations Resident Coordinator.

I also encourage Brunei Darussalam to establish a national mechanism for comprehensive reporting and follow-up in relation to recommendations received from all international and regional human rights mechanisms and to treaty obligations, linking this to the Sustainable Development Goals. I strongly recommend the use of the OHCHR practical guide on this topic, which is available at:

http://www.ohchr.org/Documents/Publications/HR_PUB_16_1_NMRF_PracticalGuide.pdf.

Please, kindly note that I am sharing my advice with all Member States as they go through the third cycle of the UPR with a view to assisting them with the implementation of the recommendations, following the review. An important measure that can contribute positively to follow-up action is voluntary mid-term reporting. Therefore, I strongly encourage all Member States to submit a voluntary mid-term report two years after the adoption of the UPR outcome report. In this regard, I encourage Brunei Darussalam to consider submitting a mid-term report on follow-up to the third cycle of the review, by 2022.

As stated by the Secretary-General in his 2017 report on the work of the Organization (A/72/1, paragraph 98): *"The Human Rights Council's universal periodic review process is now entering a new cycle, with every Member State scheduled for a third round of scrutiny. We will work to strengthen the relevance, precision and impact of the Council's recommendations, including by providing better support to Member States in implementation, stronger collaboration with United Nations country teams and the establishment of national mechanisms for human rights reporting and follow-up to link the universal periodic review to the implementation of the Sustainable Development Goals."*

I look forward to discussing with you ways in which my Office may assist Brunei Darussalam in relation to the areas identified in this letter and its annex.

Please, accept, Excellency, the assurances of my highest consideration.

Michelle Bachelet
High Commissioner for Human Rights

cc: H.E. the Honourable Dato Erywan Mohd Yusof
Second Minister of Foreign Affairs
Brunei Darussalam



Annex

Scope of international obligations and cooperation with international human rights mechanisms and bodies

- Ratifying the core human rights instruments to which Brunei Darussalam is not yet a party, namely the International Covenant on Economic, Social and Cultural Rights and its Optional Protocol; the International Covenant on Civil and Political Rights and its two Optional Protocols; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and its Optional Protocol; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the International Convention for the Protection of All Persons from Enforced Disappearance; the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women; the Convention on the Rights of Persons with Disabilities and its Optional Protocol; the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict; and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.
- Ratifying the International Labour Organization Conventions Nos. 100, 111 and 189, and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.
- Acceding to the Convention relating to the Status of Refugees of 1951 and its 1967 Protocol; the Convention relating to the Status of Stateless Persons of 1954; and the Convention on the Reduction of Statelessness of 1961.
- Withdrawing the general reservation of, including the reservation to article 9 (2), the Convention on the Elimination of All Forms of Discrimination against Women and reservations to articles 14, 20 (3) and 21 (b)–(e) to the Convention on the Rights of the Child.

National human rights framework

- Strengthening the institutional and legal framework with respect to the promotion and protection of human rights, especially in rural areas.
- Speeding up the adoption of legislation to ensure full compliance with international instruments ratified by the State.
- Establishing an independent national human rights institution that is compliant with the Paris Principles.
- Promoting international and regional cooperation in the field of human rights and technical cooperation related to gender mainstreaming and building institutional capacity, data and knowledge to integrate environment and climate considerations into the national regulatory framework and to develop new capacities and systems for implementation and compliance monitoring across all sectors.
- Encouraging participation of relevant officials in workshops, seminars, and training programmes that can contribute towards better understanding of Brunei's obligations to international conventions and agreements that the country is party to, in order to ensure their effective implementation of these instruments.

Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Cross-cutting issues

Equality and non-discrimination

- Enhancing efforts to recognize equal rights for all citizens, irrespective of their religious affiliation, and incorporating into the Constitution and other relevant legislation a definition of discrimination against women, encompassing direct and indirect discrimination in both the public and the private spheres.
- Repealing the provisions of the revised “Syariah” Penal Code Order 2013 which are discriminatory towards women, and ensuring that the implementation of the law will not infringe on human rights and will be fully consistent with the international and regional human rights commitments and obligations.

Development, the environment, and business and human rights

- Promoting sustainable economic and social development, and further raising living standards, by pursuing the effective implementation of the Brunei Vision 2035 development plan, including national priorities to achieve the Sustainable Development Goals.
- Further enhancing programmes on the economic participation of women and youth, and implementing the youth empowerment programme, based on the effective enforcement of relevant legal frameworks and programmes, including those related to entrepreneurship.
- Continuing the implementation and review of the National Youth Policy with the view to make it relevant to current developments.
- Continuing efforts to implement national priorities to achieve Sustainable Development Goals.
- Reforming the relevant legislative framework to address cross-sectoral environmental challenges, including climate-change mitigation and adaptation.

B. Civil and political rights

Right to life, liberty and security of person

- Repealing the provisions of the new Penal Code providing for the death penalty for several crimes, which is in contravention of the international human rights commitments of Brunei Darussalam.
- Repealing the provisions of the new Penal Code providing for corporal punishment.

Administration of justice, including impunity, and the rule of law

- Bringing the juvenile justice system fully in line with the Convention on the Rights of the Child and other relevant standards, ensuring that staff working with children, particularly judges, legal representatives, probation officers and social workers receive regular and appropriate training; and seeking technical assistance to improve juvenile justice so that it serves the best interest of the child.

- Raising without delay the minimum age of criminal responsibility to an internationally acceptable standard.
- Abolishing the sentence of whipping/flogging.

Fundamental freedoms

- Reforming laws and policies limiting freedoms of expression and association, such as the Sedition Act and the Local Newspapers Order, to ensure their full compliance with international human rights standards; and fostering a pluralistic and independent media environment, including by adopting legislation to protect the rights to freedom of expression and freedom of the press and to abolish censorship.
- Fostering a culture of peace and coexistence, including by further promoting religious and cultural understanding and social harmony.

Prohibition of all forms of slavery

- Combating trafficking in persons and strengthening measures to effectively investigate, prosecute and punish those responsible for modern slavery offences; and ensuring adequate victim protection and care.

C. Economic, social and cultural rights

Right to work and to just and favourable conditions of work

- Strengthening programmes to provide employment and assistance to the poor, underprivileged and low-income groups.

Right to social security

- Continuing efforts to ensure social security programmes.
- Ensuring food security for disadvantaged groups.
- Tackling outstanding social issues especially poverty, particularly the challenges faced by low-income families.

Right to an adequate standard of living

- Strengthening programmes and plans aimed at alleviating and eradicating poverty, and promoting access to health and education for all as well as cultural diversity.
- Updating and improving the National Housing Programme, the Landless Citizens' Scheme and the National Housing Scheme to ensure the provision of sustainable and affordable housing.
- Investing in improving water and sanitation infrastructure to ensure that all people have access to clean, safe and affordable water, and to adequate sanitation facilities.



Right to health

- Ensuring the effective implementation of the Health System and Infrastructure Master Plan, including universal health coverage and quality health care, and strengthening health services, through the allocation of sufficient financial and human resources.
- Taking effective measures to ensure mental health care for adolescents, including by facilitating their access to the necessary consultations and treatment.
- Maintaining the allocation of resources for programmes aimed at raising public awareness about the harmful impact of narcotic drugs.

Right to education

- Strengthening partnerships with regional and international bodies in the area of education with a view to providing quality and inclusive education.
- Ensuring access to education, including to all children with disabilities, and allocating adequate financial and technical resources for schools to effectively strengthen inclusive education.
- Strengthening services for the education of children, particularly those who have suffered from abuses or come from dysfunctional families.

D. Rights of specific persons or groups

Women

- Aligning national legislation, policies and programmes for women with the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child, and taking into account the recommendations of the Committee on the Elimination of Discrimination against Women.
- Developing and implementing targeted strategies and activities to expand the rights of women and accelerating the ongoing work to develop a plan of action to improve the promotion and protection of their rights; and strengthening the implementation of the policy aimed at achieving equality between women and men and their empowerment and advancement, by allocating sustainable human and financial resources.
- Taking measures to increase the participation of women in political and public life, particularly in positions of responsibility.
- Adopting a comprehensive strategy to eliminate gender stereotypes and structural barriers to women's and girls' enrolment in non-traditional fields, such as technical or vocational sectors.
- Pursuing efforts to combating discrimination against women, especially in the labour market, and addressing the gender pay gap between men and women.
- Strengthening mechanisms to address domestic violence, and improving access to temporary security shelter homes, counselling and other forms of assistance to victims.



Children

- Continuing efforts towards aligning legislation, policies and programmes on children with the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women; and strengthening efforts to promote and protect the rights of children, including by developing a specific policy on children's rights in line with the Convention on the Rights of the Child.
- Taking measures to consistently apply the principle of the best interests of the child in all legislative, administrative and judicial procedures.
- Expanding and accelerating the ongoing work with regards to the establishment of childcare centres in workplaces and ensuring allocation of adequate human, technical and financial resources to alternative childcare centres and relevant child protection services.
- Training professionals and public officials to improve the lives and conditions of children in their care.
- Ensuring the revision of legislation so that the minimum age for marriage is 18 years for both men and women.
- Combating child labour, including by ensuring that the minimum age applies to all types of work, including outside a contractual employment relationship.

Persons with disabilities

- Adopting legislation to protect and guarantee the rights of persons with disabilities, in compliance with the Convention on the Rights of Persons with Disabilities.
- Ensuring that all children with disabilities have access to education, including by allocating sufficient human and financial resources for schools to strengthen inclusive education.
- Improving the welfare and well-being of persons with disabilities and addressing their needs, including by implementing the relevant programme of action and promoting integration into society, building their capacity and life skills training, ensuring access to services, and increasing employment opportunities, including through increased collaboration with local NGOs.
- Continuing developing an efficient system for the early detection and diagnosis of disabilities.
- Respecting the rights of persons with mental health conditions and psychosocial disabilities, in line with the Convention, including by preventing institutionalization, over-medicalization, violence and stigmatization.
- Protecting the rights of the elderly, by continuing to enhance their welfare and social protection, and ensuring the sustainability of senior citizens' activity centres.

Minorities

- Ensuring that the right to freedom of religion or belief, as enshrined in the Constitution, is fully protected and that religious minorities are allowed to practice freely, and amending

legislation to effectively guarantee the right to freedom of religion or belief and to combat intolerance on those grounds.

- Promoting religious dialogue and understanding among all communities in society.

Migrants

- Protecting the rights of migrant workers, including by improving their living and working conditions and adopting specific legislation to criminalize all forms of violence against women, including female migrant.

Stateless persons

- Amending the Nationality Act to enable women to transmit their nationality to their children and foreign spouses, on a basis of equality with male nationals of Brunei Darussalam, and to address statelessness.