



Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women

Concluding observations on the combined initial and second periodic reports of Brunei Darussalam*

1. The Committee considered the combined initial and second periodic reports of Brunei Darussalam ([CEDAW/C/BRN/1-2](#)) at its 1259th and 1260th meetings, on 29 October 2014 (see [CEDAW/C/SR.1259](#) and 1260). The Committee's list of issues and questions is contained in [CEDAW/C/BRN/Q/1-2](#) and the responses of Brunei Darussalam are contained in [CEDAW/C/BRN/Q/1-2/Add.1](#).

A. Introduction

2. The Committee appreciates that the State party submitted its combined initial and second periodic reports, albeit late. It also appreciates the State party's written replies to the list of issues and questions raised by the pre-sessional working group and welcomes the oral presentation by the delegation and the further clarifications provided in response to the questions posed orally by the Committee during the dialogue.

3. The Committee commends the State party for its large delegation, which was headed by the Deputy Minister of Culture, Youth and Sports, Hajah Adina Othman, and included the President of the Council of Women and representatives of the Prime Minister's office, the Attorney General's chambers, the Royal Brunei Police Force and the Permanent Mission of Brunei Darussalam to the United Nations Office and other international organizations in Geneva, as well as the Ministry of Health, the Ministry of Foreign Affairs and Trade, the Ministry of Home Affairs, the Ministry of Education and the Ministry of Religious Affairs.

B. Positive aspects

4. The Committee welcomes the progress achieved since the ratification of the Convention in undertaking legislative reforms, in particular the adoption of the following:

* Adopted by the Committee at its fifty-ninth session, meeting from 20 October to 7 November 2014.



(a) Maternity Leave Regulation (2011), which provides for 105 days of maternity leave for women working in both the public and private sectors;

(b) Compulsory Education Act (Cap. 211), which provides for nine years of compulsory education for all girls and boys.

5. The Committee welcomes the State party's efforts to improve its institutional and policy framework aimed at accelerating the elimination of discrimination against women and promoting the equality of women and men, such as the adoption of the National Plan of Action for Women.

6. The Committee welcomes the fact that, in the period since the ratification of the Convention, the State party has ratified or acceded to the following international instruments:

(a) Minimum Age Convention, 1973 (No. 138), of the International Labour Organization, in 2011;

(b) Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, in 2006.

C. Principal areas of concern and recommendations

Legislative Council

7. The Committee stresses the crucial role of the legislative power in ensuring the full implementation of the Convention (see the statement by the Committee on its relationship with parliamentarians, adopted at the forty-fifth session, in 2010). It invites the Legislative Council to take the necessary steps regarding the implementation of the present concluding observations between now and the next reporting period under the Convention.

Reservations

8. The Committee notes with concern that the State party expresses its wish to retain its general reservation to any other aspects of the Convention which may be contrary to the Constitution of Brunei Darussalam and to the beliefs and principles of Islam and its reservation to article 9 (2). It considers that the State party's general reservation is contrary to the object and purpose of the Convention and thus impermissible under article 28 of the Convention (see the Committee's statement on reservations contained in [A/53/38/Rev.1](#)). The Committee is also concerned that no time frame has been set to review and withdraw the reservations.

9. The Committee strongly encourages the State party to consider withdrawing or narrowing down its general reservation and withdrawing its specific reservation to article 9 (2) of the Convention, with a view to ensuring that women fully benefit from all the rights enshrined in the Convention. It recommends that the State party use as examples the best practices of States parties with similar social, cultural, religious and legal systems that have withdrawn similar reservations and successfully brought their legislation into conformity with the Convention.

Visibility of the Convention and the Committee's general recommendations

10. The Committee notes with concern the inadequate knowledge among all branches of the Government of the rights of women under the Convention, the concept of the substantive equality of women and men and the Committee's general recommendations.

11. The Committee recommends that the State party:

(a) **Enhance women's awareness of their rights and the remedies available to them to claim violations of their rights under the Convention, and ensure that information on the Convention and the Committee's general recommendations is provided to all women, including women migrant workers, women domestic workers and stateless women;**

(b) **Ensure that the Convention is sufficiently known and applied by all branches of the Government, including the judiciary, as a framework for laws, court decisions and policies on gender equality and the advancement of women.**

Constitutional framework and discriminatory laws

12. The Committee is gravely concerned at the State party's restrictive interpretation of sharia law and at the adverse impact on women's human rights of the recently adopted Sharia Penal Code Order 2013, which, under its third phase of implementation, will impose the death penalty by stoning for several "crimes", in particular adultery and extramarital relations (*zina*). While noting that the same penalties apply to women and men, the Committee is seriously concerned that women are disproportionately affected by punishment for "crimes" involving sex, and are at a higher risk of being convicted of adultery and extramarital relations, owing to discriminatory investigative policies and provisions on the weighing of evidence. In particular, it notes with concern that women will face greater difficulty in collecting the evidence necessary to prove rape, meaning that the fear of being accused of *zina* is likely to prevent women from reporting rape.

13. The Committee urges the State party:

(a) **To immediately review the new Sharia Penal Code Order 2013 with a view to repealing its direct and indirect discriminatory provisions affecting women;**

(b) **To compile information on the best practices of States parties with similar legal systems and cultural and religious backgrounds, where more progressive interpretations of Islamic law have been codified in legislative reforms;**

(c) **To undertake law reform to eliminate all discrimination against women, including through partnerships and collaboration with Islamic legal research institutions, women's non-governmental organizations and community leaders.**

Definition of discrimination against women

14. The Committee notes that the State party recognizes that gender equality and women's empowerment are crucial for the advancement of women towards national development. It is, however, concerned at the absence of a definition of

discrimination, in accordance with article 1 of the Convention, in the State party's legislation.

15. The Committee recommends that the State party incorporate into its Constitution or other relevant legislation a definition of discrimination against women, encompassing both direct and indirect discrimination in both the public and private spheres, in line with article 1 of the Convention.

National machinery for the advancement of women

16. The Committee notes that the Special Committee on Family Institution and Women is responsible for the advancement of women and the formulation of policies on women's and family affairs. It is concerned, however, that the focus on women in the context of the family may perpetuate discriminatory stereotypes and detract from the full advancement of women. The Committee is also concerned about the lack of a coordinated gender mainstreaming strategy, including the use of gender-responsive budgeting in all public institutions, as well as adequate human and financial resources.

17. The Committee recommends that the State party:

(a) **Take steps to accord greater visibility as well as increased capacity and authority to the national machinery for the advancement of women by ensuring the provision of sufficient and sustainable budgetary allocations and adequate staff with the necessary technical capacity, in order to fully enable it to implement programmes and projects on gender equality and the advancement of women;**

(b) **Strengthen the capacity of the national machinery to act as a coordination mechanism, and develop a gender mainstreaming strategy that includes gender-responsive budgeting and can be applied in the formulation of all policies and programmes to address various aspects of women's lives. The process should also include strengthening the capacity of all ministries and other government bodies to use the gender mainstreaming strategy effectively, in particular through training and capacity-building for all public officials, including law enforcement personnel.**

Temporary special measures

18. The Committee is concerned by both the lack of understanding of temporary special measures by the State party and the fact that no temporary special measures, such as a system of quotas aimed at accelerating equality between women and men, have been adopted or envisaged in the near future as part of a strategy to accelerate the achievement of de facto or substantive equality between women and men in all areas addressed by the Convention.

19. Recalling its general recommendation No. 25 on temporary special measures, the Committee recommends that the State party:

(a) **Familiarize all relevant officials and policymakers with the concept of temporary special measures, and adopt and implement such measures, including time-bound goals and quotas, directed towards the achievement of de facto or substantive equality between women and men in all areas where women are underrepresented or disadvantaged, including in political and public life and decision-making;**

(b) **Include in its legislation provisions to encourage the use of temporary special measures in both the public and private sectors.**

Stereotypes and harmful practices

20. The Committee is concerned at the persistence of deep-rooted patriarchal attitudes and stereotypes concerning women's roles and responsibilities that discriminate against women and perpetuate their subordination within the family and society and that, among other things, are reflected in women's academic and professional choices, their limited participation in political and public life and their unequal position in the labour market and in marriage and family relations. The Committee recalls that such stereotypes are also root causes of violence against women and is deeply concerned at the high prevalence of harmful practices that discriminate against women, such as child marriage and polygamy and female genital mutilation and circumcision.

21. **The Committee urges the State party:**

(a) **To put in place a comprehensive strategy with proactive and sustained measures targeted at women and men at all levels of society, including religious leaders, to eliminate stereotypes and patriarchal attitudes about the roles and responsibilities of women and men in the family and in society, as well as harmful practices that discriminate against women, in conformity with the Convention;**

(b) **To establish a mechanism to monitor and assess the implementation of public and media campaigns to overcome gender stereotypes, including through Internet-based surveys, discussion forums and consultation processes.**

Violence against women

22. The Committee is concerned:

(a) At the absence of specific legislation on violence against women or on domestic violence;

(b) That women rarely report cases of violence against them, and that marital rape is not criminalized;

(c) At the lack of statistical data, disaggregated by sex, and research and documentation on the incidence of violence against women, including women migrant workers, women domestic workers and stateless women;

(d) At the low number of investigations, prosecutions and convictions of perpetrators.

23. **Recalling its general recommendation No. 19 on violence against women, the Committee urges the State party:**

(a) **To adopt specific legislation to criminalize all forms of violence against women, including domestic violence and marital rape, within a clear time frame, and provide appropriate redress to all women, including women migrant workers, women domestic workers and stateless women, and ensure that perpetrators are prosecuted and adequately punished;**

(b) **To amend the penal code with a view to criminalizing marital rape;**

(c) **To strengthen such support services for women who are victims of violence as shelters, medical treatment, psychological counselling, legal assistance and rehabilitation throughout the territory of the State party;**

(d) **To provide gender-sensitive training for the judiciary, law enforcement officers and health professionals;**

(e) **To ratify the Domestic Workers Convention, 2011 (No. 189), of the International Labour Organization and the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.**

Trafficking and exploitation of prostitution

24. The Committee notes with concern that there are three different laws on trafficking in women and girls that do not address the issue systematically, as well as a lack of information on the number of complaints, investigations, prosecutions and convictions relating to trafficking in women and girls and on support and rehabilitation programmes for victims. It also notes with concern the criminalization of women in prostitution in the State party and the heavy prison sentences and fines imposed on women involved in prostitution, as well as the absence of any measures taken to address the demand side of prostitution.

25. **The Committee recommends that the State party:**

(a) **Review the relevant legislation on trafficking with a view to harmonizing it with the Convention by adopting a comprehensive law on trafficking;**

(b) **Increase international, regional and bilateral cooperation with countries of origin, transit and destination to prevent trafficking through the exchange of information and the harmonization of legal procedures for prosecuting and punishing traffickers;**

(c) **Conduct comparative studies on trafficking in women and exploitation of prostitution, including collecting data, disaggregated by sex, ethnicity and age, to identify and address the root causes of the phenomena, and include such data in its next periodic report;**

(d) **Ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and other relevant international instruments;**

(e) **Amend existing laws and regulations to decriminalize women in prostitution, adopt a comprehensive approach to address the phenomenon of prostitution, provide exit programmes for women who wish to leave prostitution and take measures against the demand side of prostitution.**

Participation in political and public life

26. The Committee is concerned at the low participation of women in political and public life, in particular their low representation in decision-making positions at all levels, including in the State Legislative Council (6 per cent), at the ministerial level (12 per cent) and among heads of overseas missions of the foreign service (15 per cent), owing to persistent traditional and patriarchal attitudes regarding the role of

women in society. The Committee is also concerned at the lack of policies and measures, including temporary special measures, to increase the participation of women in political and public life.

27. The Committee urges the State party:

(a) **To take measures to increase the participation of women in political and public life at all levels, including by adopting such temporary special measures as statutory quotas, in accordance with article 4 (1) of the Convention and the Committee's general recommendation No. 25;**

(b) **To build the capacity and self-esteem of women politicians to prepare them to compete effectively with their male counterparts, and conduct awareness-raising activities for politicians, community leaders, journalists and the general public on the importance of women's participation in decision-making.**

Nationality

28. The Committee notes with concern that a Bruneian woman who is married to a foreign national is required to submit an application under the Nationality Act in order to transmit her Bruneian citizenship to her children, while the children of a Bruneian father and a non-Bruneian mother automatically acquire such nationality. The Committee is also concerned that the foreign husband of a Bruneian woman and the foreign wife of a Bruneian man do not enjoy equal status when applying for permanent residence status.

29. The Committee encourages the State party:

(a) **To withdraw its reservation to article 9 (2) of the Convention;**

(b) **To amend its Nationality Act with a view to bringing it into full compliance with the Convention and enabling Bruneian women to transmit their nationality to their children and foreign spouses on a basis of equality with Bruneian men.**

Education

30. The Committee notes the high literacy rate and the high level of enrolment of women and girls in tertiary education. It also notes that the State party allocates 13 per cent of its national budget to education and that it is planning to increase the length of compulsory formal education from 9 to 12 years. The Committee is concerned, however, that women and girls continue to choose traditionally female-dominated fields of education and remain underrepresented in technical and vocational education. While noting the continuing review of school curricula and textbooks, the Committee remains concerned about the persistence of some negative stereotypes against women in textbooks and curricula.

31. The Committee recommends that the State party:

(a) **Give priority to eliminating negative stereotypes and structural barriers to the enrolment of girls in non-traditional fields of education at the secondary and tertiary levels, and provide career counselling for girls on non-traditional career paths that ensures a corresponding transition into the labour market;**

(b) **Intensify efforts to review textbooks and curricula to eliminate any stereotypical images of the roles of women;**

(c) **Provide, in its next periodic report, updated disaggregated data on the educational choices of women and girls.**

Employment

32. The Committee notes with appreciation the increase in the participation of women in the State party's labour force from 58.8 per cent in 2001 to 62.9 per cent in 2011. It is concerned, however, at the persistent gender wage gap and the lack of a provision on equal pay for women and men for work of equal value in the Employment Order of 2009, as well as at continued horizontal and vertical segregation in the labour market. The Committee is also concerned at the absence of a specific legal framework prohibiting discrimination and sexual harassment in the workplace. It is further concerned that the State party has not ratified the Equal Remuneration Convention, 1951 (No. 100), or the Discrimination (Employment and Occupation), 1958 (No. 111), of the International Labour Organization.

33. **The Committee recommends that the State party:**

(a) **Intensify its efforts to create an enabling environment for women to become economically more independent, including by raising the awareness of employers in the public and private sectors of the fact that discrimination against women in employment is prohibited;**

(b) **Adopt legislation guaranteeing equal pay for work of equal value, in order to narrow and close the gender wage gap;**

(c) **Urgently adopt comprehensive legislation to combat discrimination and sexual harassment in the workplace, in line with the Committee's general recommendation No. 19;**

(d) **Ratify the Equal Remuneration Convention, 1951 (No. 100), and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), of the International Labour Organization, without delay, and consider ratifying other relevant international conventions.**

Health

34. The Committee is deeply concerned at the high prevalence and denial of the grave nature of female genital mutilation and circumcision in the State party, the practice of which is in violation of the Convention, according to general recommendations No. 14 on female circumcision (updated by the joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child on harmful practices), No. 19 and No. 24 on women and health. The Committee is also concerned at the criminalization of abortion and the absence of exceptions in cases of rape or incest.

35. **The Committee urges the State party:**

(a) **To eliminate female genital mutilation and circumcision by changing attitudes through awareness-raising campaigns for families and practitioners, as well as for community, traditional and religious leaders, health and**

education professionals and the general public, in order to explain that female genital mutilation and circumcision are forms of sex- and gender-based discrimination and violence and are not sanctioned by religion;

(b) To compile disaggregated statistical data on the practices, and conduct comparative studies on their elimination in other States parties and regions;

(c) To expeditiously adopt legislation to specifically criminalize female genital mutilation and circumcision and ensure that perpetrators are prosecuted and adequately punished;

(d) To amend the penal code to decriminalize abortion in cases of pregnancy arising from rape and incest.

Disadvantaged groups of women

36. The Committee is concerned at the situation of women who face multiple and intersecting forms of discrimination, in particular women with disabilities, women migrant workers, women domestic workers and stateless women.

37. **The Committee recommends that the State party:**

(a) Adopt measures, including temporary special measures within the meaning of article 4 (1) of the Convention and the Committee's general recommendation No. 25, to ensure equal rights and opportunities for women who face multiple and intersecting forms of discrimination, including women with disabilities, women migrant workers, women domestic workers and stateless women;

(b) Take measures to improve access to education, employment and health care for such women and to protect them from violence, abuse and exploitation;

(c) Adopt targeted policies to promote the integration of such groups of women into society.

Marriage and family relations

38. The Committee is concerned at the persistence of a significant number of discriminatory laws, including provisions relating to marriage and divorce. It is particularly concerned about:

(a) Discriminatory provisions in personal status laws, including the requirement for a woman to obtain the permission of her guardian (*wali*) in order for her to marry, recently introduced penal sanctions against unmarried Muslim women who leave the custody of their parents or *wali* and provisions relating to divorce, property relations and inheritance that are not fully compatible with the provisions of the Convention;

(b) The very low minimum age of marriage, which is 14 years under customary marriage laws, 15 years for ethnic Chinese and 16 years for Muslim girls, as compared with 18 years for Muslim boys;

(c) The permissibility of polygamy and unequal and limited rights for women in relation to divorce and inheritance.

39. **The Committee recommends that the State party:**

(a) **Reform the Islamic Family Law Act, taking into consideration the experiences of countries with similar religious backgrounds and legal systems that have successfully harmonized their national legislation with their legally binding obligations under the Convention, specifically with regard to matters of property, divorce, inheritance and the requirement of authorization from the guardian (*wali*) in order to enter into marriage;**

(b) **Repeal the law that penalizes unmarried women who leave their parents or *wali*;**

(c) **Raise the minimum age of marriage for all girls and boys to 18 years;**

(d) **Take systematic and proactive measures to discourage polygamy, with a view to prohibiting it, in accordance with joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child on harmful practices.**

National human rights institution

40. The Committee is concerned at the absence of an independent national human rights institution in the State party.

41. **The Committee recommends that the State party consider establishing an independent national human rights institution, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), with a strong mandate to promote the equality of women and men and to advance women's rights.**

Data collection

42. The Committee is concerned at the general lack of updated statistical data, disaggregated by sex, age, ethnicity, geographical location and socioeconomic background, which is necessary for accurately assessing the situation of women and for determining whether they suffer from discrimination, as well as for informed and targeted policymaking and the systematic monitoring and evaluation of progress achieved towards the realization of women's substantive equality in all areas covered by the Convention.

43. **The Committee calls upon the State party to develop a gender indicator system to improve the collection of data disaggregated by sex and other relevant factors necessary to assess the impact and effectiveness of policies and programmes aimed at mainstreaming gender equality and enhancing women's enjoyment of their human rights. In this regard, the Committee draws the State party's attention to its general recommendation No. 9 on statistical data concerning the situation of women and encourages the State party to seek technical assistance from relevant United Nations agencies and to enhance its collaboration with women's associations that could assist in securing the collection of accurate data.**

Optional Protocol and amendment to article 20 (1) of the Convention

44. **The Committee encourages the State party to ratify the Optional Protocol to the Convention and to accept, as soon as possible, the amendment to article 20 (1) of the Convention concerning the meeting time of the Committee.**

Beijing Declaration and Platform for Action

45. **The Committee calls upon the State party to use the Beijing Declaration and Platform for Action in its efforts to implement the provisions of the Convention.**

Millennium Development Goals and the post-2015 development framework

46. **The Committee calls for the integration of a gender perspective, in accordance with the provisions of the Convention, into all efforts aimed at the achievement of the Millennium Development Goals and into the post-2015 development framework.**

Dissemination

47. **The Committee recalls the obligation of the State party to systematically and continuously implement the provisions of the Convention. It urges the State party to give priority attention to the implementation of the present concluding observations and recommendations between now and the submission of the next periodic report. The Committee therefore requests that the present concluding observations be disseminated in a timely manner, in the official languages of the State party, to the relevant State institutions at all levels (national, regional and local), in particular to the Government, the ministries, the Legislative Council and the judiciary, to enable their full implementation. It encourages the State party to collaborate with all stakeholders concerned, such as employers' associations, trade unions, human rights and women's organizations, universities, research institutions and the media. It recommends that the present concluding observations be disseminated in an appropriate form at the local community level to enable their implementation. In addition, the Committee requests the State party to continue to disseminate the Convention and the Committee's general recommendations to all stakeholders.**

Technical assistance

48. **The Committee recommends that the State party link the implementation of the Convention to its development efforts and that it avail itself of regional or international technical assistance in this respect, including through the Office of the High Commissioner for Human Rights and the United Nations Entity for Gender Equality and the Empowerment of Women.**

Ratification of other treaties

49. **The Committee notes that the adherence of the State party to the nine major international human rights instruments¹ would enhance the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. The Committee therefore encourages the State party to consider ratifying**

¹ The International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Rights of the Child; 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; and the Convention on the Rights of Persons with Disabilities.

the following instruments to which it is not yet a party: the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; 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; 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; and the Convention on the Rights of Persons with Disabilities.

Follow-up to the concluding observations

50. The Committee requests the State party to provide, within two years, written information on the steps taken to implement the recommendations contained in paragraphs 9, 13 (a) and 39 (a) above.

Preparation of the next report

51. The Committee invites the State party to submit its third periodic report in November 2018.

52. The Committee requests the State party to follow the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents ([HRI/GEN/2/Rev.6](#), chap. I).