

Disclaimer

The International Bureau for Children's Rights is pleased to share with the visitors of its official website this draft country profile on the status of the CRC implementation. This draft profile is the preliminary result of the ongoing research project that will eventually cover all the States parties to the Convention.

This draft is based on data that IBCR interns were able to collect from various Internet sources. As the information on the Internet is often limited and may contain inaccuracies, this profile is not meant to be complete or absolutely accurate. Still, IBCR has decided to publicize this draft profile for the purpose of awareness-raising and exchanging of information.

In the meantime, IBCR remains open to any comments, corrections and feedback readers may have. IBCR is seeking additional resources to improve this draft country profile and bring it to the expert level. The reports on Cambodia, Indonesia, Sri Lanka, Timor Leste, and Viet Nam are examples of expert level reports and are available on IBCR's official website thanks to the financial contribution of CIDA. The ultimate goal of this endeavour is to bolster international understanding of children's rights, disseminate knowledge about the CRC and assist Governments in its implementation.

NEGARA BRUNEI DARUSSALAM

Introduction

Negara Brunei Darussalam (Brunei) is a tiny country is nestled between Malaysia and the South China Sea. Officially Muslim, the country has a population of about 365 000 people. One of the last absolute monarchies in the world, Brunei has been governed by the same family for the last 600 years. Brunei became independent from the British protectorate in 1984. Sultan and Prime Minister Hassanal Bolkiah has been the leader since 1967. In September 2004, he signed a new constitution providing for a partly democratically elected Parliament.¹ This move came over 40 years after an anti-monarchist uprising, prompted by the last election's call for a democracy, which resulted in the royal family continuing to rule under an official state of emergency.² Many observers see the move towards a partially elected Parliament as a small, positive step towards giving citizens more political power. However, as of April 2006, no election date has been set.³

Brunei has a wealthy economy based on oil and natural gas. In contrast to its poor neighbouring countries, the people of Brunei have one of the highest standards of living in the world.⁴ Unemployment is estimated at below 5%. Health care and education through university level are both free, and the government also subsidizes rice and housing.⁵ However, most of the country outside of the capital remains undeveloped and unexploited.⁶

Issues of concern include: rampant discrimination against women, the exploitation of vulnerable foreign workers, an inability to change citizens to change their Government and the absence of freedom of speech, press, assembly and association.⁷

International Conventions and Treaties

- Convention on the Rights of the Child (CRC), ratified: December 27, 1995

The CRC is the only international human rights treaty Brunei is a party to.

Children's Rights

¹ "Brunei", The World Factbook, 13 June 2006, available on-line at <http://www.cia.gov/cia/publications/factbook/geos/bx.html> (last accessed 15 June 2006)

² "Brunei's limited scope for change", Humphrey Hawksley, BBC News, 29 November 2004, available on-line at <http://news.bbc.co.uk/1/hi/world/asia-pacific/4051967.stm> (last accessed 15 June 2006)

³ "Country Profile: Brunei", BBC News, 6 April 2006, available on-line at http://news.bbc.co.uk/1/hi/world/asia-pacific/country_profiles/1298607.stm (last accessed 15 June 2006)

⁴ Ibid

⁵ Supra note 1

⁶ Supra note 3

⁷ "Country Reports on Human Rights Practices 2005: Brunei", US Department of State, 8 March 2006, available on-line at <http://www.state.gov/g/drl/rls/hrrpt/2005/61602.htm> (last accessed 15 June 2006)

The CRC is the only international human rights treaty Brunei has ratified.⁸ Yet, the country maintained an umbrella reservation on provisions contrary to the Constitution and to the beliefs and principles of Islam as well as specific reservations concerning articles 14 (freedom of thought, conscience and religion), 20 (protection of a child without a family) and 21 (adoption). While the National Children's Council established in 2001 is in charge of the implementation of the CRC within national policies, it is generally the Ministry of Culture, Youth and Sports that is the main authority in implementing the CRC with regards to the welfare and development of children.⁹ Since the State religion is Islam, Shariah law overrides the civil law for Muslim citizens (67% of the population¹⁰) in certain topics. Therefore, in many social and family matters, the legislation differentiates between Muslim and non-Muslim citizens. This has a direct impact on children's lives, for instance in cases of divorce or inheritance.¹¹

Public services are largely financed or subsidized by the State. Statistical data is hard to find, but it is thought that poverty and malnutrition are rare. Free **education** and **health** services are very well developed and the traditional extended family is extremely important in Bruneian society. In general, children therefore grow up healthy and protected. School at all levels is free for all citizen children.¹² Brunei has a primary school enrolment rate as well as a literacy rate of over 90%.¹³ Moreover, the under-five mortality rate is low and comparable with western countries and the vaccination rates are nearly 100%.¹⁴ Within a well-organized vaccination system, parents are legally obligated to bring their children regularly to a public vaccinator. Doctors and nurses are easy to access. Free School Health Service and Dental Service for all pupils have been established and children receive early health screening to detect problems at the earliest possible stage. Thus, according to the Government, Brunei is free from all major communicable diseases and nearly the entire population has access to approved drinking water.¹⁵

Concerns remain about the welfare of **children with disabilities**. Following ratification of the CRC, the Government established a National Advisory and Coordinating Committee for Children with Special Needs as well as Guidance Classes for Handicapped Children. Both programs help ensure appropriate basic education and social skills for children with disabilities.¹⁶ However, the law does not mandate accessibility or other assistance for persons with disabilities nor does it explicitly prohibit discrimination based on disability. Furthermore, the US

⁸ "Status by Country", Office of the United Nations High Commissioner for Human Rights, available on-line at <http://www.unhchr.ch/tbs/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=25#25> (last accessed 15 June 2006)

⁹ "Committee of the Rights of the Child: Consideration of Reports Submitted by States Parties Under Article 44 of the Convention: Brunei Darussalam", Office of the United Nations High Commissioner for Human Rights, 20 December 2001, available on-line at [http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/f32141f97386afc7c1256d2e0045fdbb/\\$FILE/G0340706.pdf](http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/f32141f97386afc7c1256d2e0045fdbb/$FILE/G0340706.pdf) (last accessed 15 June 2006)

¹⁰ Supra note 1

¹¹ Supra note 7

¹² Supra note 7

¹³ "Brunei Darussalam", United Nations Development Programme, available on-line at http://hdr.undp.org/statistics/data/cty/cty_f_BRN.html (last accessed 15 June 2006)

¹⁴ "At a glance: Brunei Darussalam: Statistics", UNICEF, available on-line at <http://www.unicef.org/infobycountry/bruneidarussalam.html> (last accessed 15 June 2006)

¹⁵ Supra note 9

¹⁶ Supra note 9

Department of State reports that the Bruneian Government's efforts do not meet international standards.¹⁷

The **minimum age for marriage** is fixed by civil law at 14 years; in accordance with Sharia law, marriage is legal for a person below the age of 14 years. In marriage, sexual relations between a husband and wife who is at least 13 years old is not seen as rape. Outside of marriage, it is unlawful to have sexual relations with a girl who is under 16 years of age.¹⁸ Corresponding to certain Islamic traditions, women are deprived of equal status with men, especially in areas such as marriage, divorce, inheritance or custody of children. In recent years, some progress relating to women's rights has occurred which directly impacts on children's lives. For instance, female citizens are now able to pass their nationality onto their children, which was previously only a male privilege. Also, Islamic Courts will accept assault committed by the husband as a reason for divorce.¹⁹

Within the police force, a special unit has been established to deal with the complaints of children and women. Victims of abuse are may receive shelter, education and training at the Taman Noor Hidayah centre run by the State since 1987. Women and girls who have been "engaged in adverse social activities" are given moral rehabilitation at the centre. The Children's Order 2000 is the main law protecting **abused and neglected children**. It provides for a protector for the victim and contains provisions against abuse and neglect of a child, defined as anyone under the age of 18.²⁰ In 2005, between 20 and 30 female victims of rape or sexual abuse between the ages of 9 and 15 were housed at the Taman Noor Hidayah.²¹

For children in conflict with the law, criminal responsibility normally starts at the age of 7. However, criminal responsibility may be delayed up until age 12 if the child is not mature enough to understand the consequences of its conduct. The Penal Code defines a **youthful offender** as any child above 7 years of age and below 18 years of age. Capital punishment is prohibited for offenders below the age of 18 years. There is no special treatment for youthful offenders relating to criminal investigations, arrests, remands or bail. A youthful offender is treated in the same manner as an adult offender. The law provides for juvenile courts, though these have not been established.²² Young offenders typically serve their sentences in adult detention centres although a few were housed at a Government rehabilitation centre. In general, according to the US Department of State, Bruneian prison conditions meet international standards. However, concern remains about caning as an acceptable, and for some offences a mandatory, punishment. In 2005, caning was mandatory for 42 offences and was included as part of the sentence in 80% of criminal convictions.²³

The issue of **corporal punishment** was a matter of concern in 2003 for the Committee on the Rights of the Child. The Committee was worried that legislation does not prohibit corporal punishment, neither within the family nor in schools or other public institutions. It recommended the prohibition of corporal punishment and awareness campaigns to fight the

¹⁷ Supra note 7

¹⁸ Supra note 9.

¹⁹ Supra note 7

²⁰ Supra note 9

²¹ Supra note 7

²² Supra note 9

²³ Supra note 7

idea that caning or whipping is acceptable.²⁴ Some parents expressed concerns about the use of corporal punishment in schools in 2004 and the Ministry of Education was reported to say that corporal punishments are no longer tolerated.²⁵ Information is hard to find, however, it seems that corporal punishment in the form of whipping and caning is still reported to occur against juveniles in schools and remains legal.²⁶

Regarding Brunei's reservation to article 21 (**adoption**) of the CRC, Bruneian children are instead adopted under either the 2001 Islamic Adoption of Children Order (for Muslim children) or the Adoption of Children Order (for non-Muslim children). Some provisions favour Muslims when deciding who can adopt a child and children are often presumed to be a Muslim. For **orphans**, normally covered under CRC article 20 (protection of a child without a family), the Government of Brunei instead emphasizes the Bruneian tradition of the extended family taking in orphans. All 2,000 orphans (an orphan is defined as a child without a father below the age of 18) registered at the Social Affairs Unit are reportedly living with their immediate families. The Religious Council and Kadis Court Act (for Muslim children) and the Emergency (Guardianship of Infants) Order (non-Muslim children) rule matters of child custody. There is no orphanage in Brunei.²⁷ The Committee on the Rights of the Child also recommended that Brunei ratify the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, which the Government has not yet done.²⁸

The Government of Brunei also has a reservation regarding **freedom of thought, conscience and religion** (article 14 of the CRC). The Bruneian Constitution approves Islam as the State religion but provides, as well, for the right to practice all religions other than Islam "in peace and harmony."²⁹ Accordingly, the Government states that non-Muslim religions are freely practised within the country.³⁰ But, in reality, freedom of religion is reportedly restricted. Whereas Muslim education is mandatory as part of the school curriculum, even private Christian Schools do not have the right to give Christian lessons and must give instructions on Islam. Only at home are parents allowed to teach their children the Christian ideology. Furthermore, citizens must indicate their religion on their identity cards. The Constitution does not prohibit discrimination based on gender, ethnicity, religion, disability or language.³¹ The Committee on the Rights of the Child expressed concerns about religious discrimination and noticed disparities in the enjoyment of rights, adversely affecting children practising religions other than Islam.³²

The Bruneian Children's Order defines a child as a person under the age of 18, whereas the national Labour Act differentiates between a child, a person under 14 years old, and a young

²⁴ "Committee of the Rights of the Child: Thirty-fourth session: Consideration of Reports Submitted by States Parties Under Article 44 of the Convention: Concluding Observations: Brunei Darussalam", Office of the United Nations High Commissioner for Human Rights, 27 October 2003, available on-line at [http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/39be9d499b7a0157c1256df00031b980/\\$FILE/G0344676.pdf](http://www.unhchr.ch/tbs/doc.nsf/898586b1dc7b4043c1256a450044f331/39be9d499b7a0157c1256df00031b980/$FILE/G0344676.pdf) (last accessed 15 June 2006)

²⁵ "Call to stop harsh penalties in school", Rosli Abidin Yahya, Borneo Bulletin, 2 June 2004, available on-line at <http://www.corpun.com/bns00406.htm> (last accessed 14 June 2006)

²⁶ "Judicial caning in Singapore, Malaysia and Brunei", Colin Farrell, World Corporal Punishment Research, July 2005, available on-line at <http://www.corpun.com/singfeat.htm> (last accessed 15 June 2006)

²⁷ Supra note 9

²⁸ Supra note 24

²⁹ Supra note 7

³⁰ Supra note 9

³¹ Supra note 7

³² Supra note 24

person, a person between 14 and 18 years old. According to the Labour Act, a young person may be employed with certain restrictions and obligations. Even if activity in the family business by children under 14 years of age might be officially considered illegal **child labour**, it is tolerated by the State. Brunei did not consider such work to actually amount to child labour but saw this kind of activity as training for the future.³³ Brunei has not signed the Convention concerning the Elimination of the Worst Forms of Child Labor (182) from the International Labour Organization. Nevertheless, the country was reported to meet this standard and to enforce the national laws concerning child labour successfully. The Government did not report any violations of child labour laws for 2005.³⁴

The US Department of State reports that prostitution is outlawed and, possibly because of tough laws and religious beliefs, not a large problem in Brunei.³⁵ Few statistics are available regarding **child prostitution, child pornography** or the **sexual exploitation of children**.³⁶

Very specific laws prohibiting human trafficking were introduced in December 2004. There are believed to be a small number of persons who were trafficked into the country for sexual purposes but most were believed to have come voluntarily. Thousands of foreign workers find work in Brunei's garment or agricultural industries.³⁷

There are no legal provisions for **refugees** arriving in Brunei. The State reports that any child refugees found will be returned to their rightful parents on humanitarian grounds. Brunei is not a party to any international treaties regarding refugees. The Government, keeping in mind the small population of Brunei, considers the presence of refugees as a social, political and security risk.³⁸ The country is not party to the 1951 UN Convention relating to the Status of Refugees. Any persons arriving without valid entry documents and means of support are considered illegal immigrants and are refused entry. However, in 2005, the US Department of State said that there were no reported cases of individuals seeking temporary refuge in Brunei.³⁹

Landmines do not seem to be an important issue in Brunei. Nevertheless, the country has signed, but not yet ratified, the Mine Ban Treaty. Ratification was reported to be in its final stage in 2004 however no new progress has since been reported. Brunei has recently shown interest in this area, attending several international meetings and supporting the universal implementation of the Mine Ban Treaty.⁴⁰ Yet, Brunei has not signed the Optional Protocol to the CRC on the involvement of **children in armed conflict**. According to the Government, Brunei has no

³³ Supra note 9

³⁴ Supra note 7

³⁵ Supra note 7

³⁶ "Brunei", End Child Prostitution, Child Pornography and Child trafficking for Sexual Purposes, available on-line at

http://www.ecpat.net/eng/Ecpat_inter/projects/monitoring/online_database/countries.asp?arrCountryID=25&CountryProfile=facts&CSEC=Overview&Implement=&Nationalplans=&DisplayBy=optDisplayCountry#cp0 (last accessed 15 June 2006)

³⁷ Supra note 7

³⁸ Supra note 9

³⁹ Supra note 10

⁴⁰ "LM Report 2005: Brunei Darussalam", Landmine Monitor, 10 November 2005, available on-line at <http://www.icbl.org/lm/2005/brunei.html> (last accessed 15 June 2006)

experience or problems in this area.⁴¹ There is no conscription and enlistment is reported to be voluntary. Recruiting officers may recruit “eligible persons who have attained the age of 17½ years” for the Armed Forces and the Reserve Regiment. However, the armed forces includes a “boys’ wing” in which 15 to 17 year olds can enroll for training. Child Soldiers reports that, although it is not completely clear, provisions seem to exist for members of the boy’s wing to be enlisted into the armed forces under some circumstances.⁴²

About two-thirds of the Bruneian population is Malay. Minorities include Chinese (15%) and indigenous peoples (6%) (such as the Dayaks, Iban and Kelabit⁴³). About 40% of the labour force consists of temporary residents.⁴⁴ Some of the minorities, mostly ethnic Chinese, are not systematically granted **citizenship**, leaving a large number of persons “stateless.” Some reform has been made in this area to allow stateless persons access to citizen services. For example, in 2003, all stateless persons and permanent residents became entitled to free education at Government schools. During 2005, 680 formerly stateless persons were granted citizenship, including more than 150 children.⁴⁵

The Committee on the Rights of the Child further requests that the Bruneian Government collect additional statistical data regarding the welfare of Bruneian children, including children with disabilities and children abused or mistreated within the family or in public institutions.⁴⁶

⁴¹ “Child Soldiers: CRC Country Briefs”, The Coalition to Stop the Use of Child Soldiers, 1 February 2003, available on-line at http://www.child-soldiers.org/document_get.php?id=731 (last accessed 15 June 2006)

⁴² “Brunei Darassalam”, The Coalition to Stop the Use of Child Soldiers, 2004, available on-line at http://www.child-soldiers.org/document_get.php?id=847 (last accessed 15 June 2006)

⁴³ “Country Info”, Asean Virtual University, available on-line at http://aunvirtualu.dlsu.edu.ph/Countries/Brunei_content.htm (last accessed 15 June 2006)

⁴⁴ Supra note 1

⁴⁵ Supra note 7

⁴⁶ Supra note 24