Summary:
A compilation of extracts featuring child-rights issues from the reports submitted to the first Universal Periodic Review. There are extracts from the 'National Report', the 'Compilation of UN Information' and the 'Summary of Stakeholder's Information'. Also included is the 'Final Report' and 'Conclusions and Recommendations' from the Review.

Brunei Darussalem - 6th Session - 2009
8th December, 9am - 12pm

National Report

5. On education, the country’s youth will be educated and taught skills to face modern world challenges. With regard to economy, there will be jobs for people and wider business opportunities also for small and medium enterprises (SME). The field of security will ensure Brunei Darussalam’s political stability and uphold its sovereignty. The government will maintain top governance levels in the public and private sectors and development institutions. Structure Development will ensure the government and private investments in world class infrastructure development particularly in the field of education, health and industry. Under social guarantees, people will get proper care while the environment will be protected.

18. There are also various legislations which are enforced in Brunei Darussalam to ensure the promotion and protection of human rights, including safeguarding the welfare of all, especially women and children in the country.

These include:

• Children Order 2000 stipulates provisions for the care and protection of children. This Order, among others, specifically establishes Action Team on Child Abuse. It enumerates situations where a child is in need of protection, such as, if the child is in a substantial risk that he/she will be physically injured or emotionally injured or sexually abused by his/her guardian. In addition, it provides provisions on offences in relation to the health and welfare of children which include ill-treatment, neglect, exposure and abandonment of children. The Order also criminalises begging or any illegal activities; acts of leaving a child without reasonable supervision; and trafficking in children.

• Children and Young Persons Order 2006 has been gazetted and will replace the Children Order 2000 once it comes into force. This Order provides for the protection and rehabilitation of children and the establishment of the Juvenile Courts and Action Teams on Child Protection. The latter has been enumerated for the purposes of co-ordinating locally-based services to families, children and young persons in cases where children or young persons are or are suspected of being in need of protection. To ensure that children are protected whilst under police custody, this Order prohibits them from being associated with adult offenders. It also ensures protection of their identity in any court proceedings.

• Childcare Centres Order 2006 regulates the registration, supervision an inspection of Childcare Centres, to ensure that the well-being, health and safety of every child under the childcare centres are given the utmost priority. The Department of Community Development is the licensing authority for Childcare Centres and coordinates the registration process with all relevant government agencies.

• Dana Pengiran Muda Mahkota Al-Muhtadee Billah for Orphans (Cap 185) provides for the establishment of a fund or Dana to render assistance to orphans in order to enable them to obtain proper upbringing, guidance and education, and ensure that they continue to be a part of the community. The benefit or assistance may be granted to any orphan who is in resident in Brunei Darussalam regardless of citizenship, race or religion.

29. The 2008 National Statistics indicated that children comprised 35.3 per cent of the population of the country. Brunei Darussalam is a caring society and gives freedom and dignity to young people in which they can develop their potential and look forward to a full and satisfying adult life. It has progressed significantly on matters relating to children and upholds the principles as stipulated in the Convention on the Rights of the Child (CRC). All children are given fair and equal opportunities with respect to their involvement in educational, health, leisure, recreational and cultural activities in-line with the CRC and MDGs. In general, children in Brunei Darussalam enjoy free health and educational facilities. The Community Development Department under the Ministry of Culture, Youth
30. The Government also plays a critical role in promoting the understanding on the basic rights of children through awareness campaigns such as roadshows to schools, dissemination of leaflets, celebration of Children’s Day and educating parents and families.

31. To date, there is no evidence of child labour, commercial sexual exploitation and trafficking of children in this country. Children who are victims of violence are given special attention by the legal system and all other relevant agencies. Medical, legal services and shelter through welfare homes are provided for protection and rehabilitation of children. The Children and Young Persons Order 2006 provides protection and rehabilitation to children below 18 years as well as the establishment of Juvenile Courts. The Department of Community Development also operates a toll free helpline for children.

32. Brunei Darussalam places emphasis on the institution of the family as the basic unit of the society. Family values remain an important factor in their development as well as in securing a safe and loving environment. Traditions and cultures also play an important role in the upbringing of children. A range of welfare measures for marginalised groups, provided by the Government and NGOs serve as a social safety net.

33. 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.

34. The national machinery responsible for all matters pertaining to women is the Department of Community Development, Ministry of Culture, Youth and Sports. Brunei Darussalam has benefited from various programmes organised by regional and international bodies such as ASEAN Committee on Women (ACW), Non-Aligned Movement (NAM) Centre for the Advancement of Women, Commonwealth and the United Nations Development Fund for Women (UNIFEM).

35. 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.

36. 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 (Annex III).

37. 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 (Annex IV). 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.

38. 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.

39. Providing universal access to education has always been a fundamental objective of Brunei Darussalam’s education policy. All levels of education in government schools is provided free of charge for citizens though there is also the option of private schooling (Annex V). Continued substantial investments have been made by the Government in improving educational infrastructure and providing quality teaching at all levels. The rural-urban divide has also been taken into consideration with more primary schools built over the last few years to increase and improve access to quality education to the population as a whole.

40. Brunei Darussalam’s commitment towards enhancing the quality of life of the people, has formulated a mission to provide holistic education to achieve the fullest potential for all by giving quality education to our children, the future of the country. To meet future challenges in an ever changing world, the Government has developed a vision of ‘Quality education towards a developed, peaceful and prosperous nation’. Brunei Darussalam believes this vision will realise the nation’s aspirations and produce citizens with the necessary skills and knowledge to participate and contribute towards the continued growth, stability and prosperity of the country.

41. In its endeavour to develop the fullest potential of the child, Brunei Darussalam continuously reviews the education system in order to meet with the demands and future challenges of the nation so as to cater to every child’s ability and to meet the country’s need for an educated and marketable workforce. While placing strong emphasis on literacy and numeracy, the education system also aims to develop and equip children morally, intellectually, physically, socially and aesthetically with the right values, skills and characters to become responsible, dynamic and high quality citizens to contribute positively to the nation. School children are also exposed to ICT skills to promote creativity, independent learning and enhance higher order thinking skills.

42. There is increasingly widespread awareness in the country that education and skills are fundamental for contributing to national development and individual prosperity. While making progress in realising the Millennium Development Goal on universal primary education, a new legislation called “Compulsory Education Order” was enforced on 24 November 2007. The main objective of the order is to ensure that all children from the age of six to be in school for at least nine years. Failure to do so amounts to a contravention of the Order and renders each parent of such child liable to legal action.

43. Other educational policies to support the effort towards national development and individual prosperity include:
• To provide a 12-year education policy;
• To provide a well balanced curriculum as well as suitable and uniform public examinations administered according to the level of education, including those with special needs, in all schools throughout the nation;
• To provide facilities for mathematics, science, technical and information and communication technology education in order to enable students to obtain knowledge and skills that are relevant and necessary in the constantly changing world of employment;
• To provide self-development and enrichment programmes through co-curricular activities in accordance with the national philosophy;
• To offer a wide range of opportunities and choices in higher education for those with appropriate qualifications and experiences with such opportunities to be offered based on national needs as and when they arise;
• To provide the best possible educational infrastructure in order to fulfil national needs.

56. In addition, to further raise the quality of education received and the learning experiences of children in the country, the Government has also taken steps towards raising the standards of teachers' professional development needs so that they are given the opportunity to upgrade appropriate skills where needed.

57. To fulfill the aspirations of the National Development Plan and the Brunei Vision 2035, through the Ministry of Education, Brunei Darussalam has implemented a national action plan to comply with the Dakar Framework and Jomtien Declaration on Education for All, including the implementation of the Inclusive Education Policy and the ICT Strategy in education. Brunei Darussalam has also adopted three major themes in its 2007-2011 strategic plan, namely (i) Quality Education; (ii) Teaching and Learning Excellence; and (iii) Professional, Accountable and Efficient Organisation.

93. Challenges faced with respect to protecting and promoting the rights of the child, include the following:
• The need to strengthen existing mechanism of data collection and indicators disaggregated by gender, age and urban and rural areas. This covers all children up to the age of 18 years with specific emphasis on those who are particularly vulnerable, including child victims of abuse, neglect, or ill-treatment; children with disabilities and adopted children;
• To further increase awareness of children's rights and role/function in family and social settings;
• The need to strengthen and systematise the dissemination of the principles and provisions of the Convention on the Rights of the Child through social mobilisation;
• To promote the proper use of technologies, with urgent attention to the internet, television and mobile communications, based on human values, respect for self and others and child rights;
• Train children to be self-sustainable and in resiliency skills to strengthen them in the face of adversity;
• Require technical assistance in terms of strengthening the counselling services and training in life skills.

Compilation of UN information

12. In a letter to the High Commissioner for Human Rights the Government of Brunei Darussalam in 2008 explained that in order to implement the World Programme for Human Rights Education, the Ministry of Education's Strategic Plan 2007-2011 was formulated to revitalise and re-energize the education system so that all students, including those with special needs, would receive the best quality education required to succeed. The Ministry's Special Education Unit upholds the integration of human rights in the primary and secondary education system through actively promoting inclusive education in the education system. 33

13. 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 and children born out of wedlock under the existing personal status law. 37 It recommended that Brunei Darussalam 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. 38

14. UNCHR 39 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. 40 It cited the Committee’s recommendation 41 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. 42

16. In 2003, CRC was concerned, as highlighted also by UNCHR, 45 that race is indicated on identity cards, as this may lead to de facto discrimination. 46 CRC recommended that Brunei Darussalam take all necessary measures to ensure that all children within its jurisdiction enjoy all the rights set out in the Convention without discrimination, in accordance with article 2. 47 CRC also requested information in the next periodic report on measures and programmes undertaken to follow up on the Durban Declaration and Programme of Action as relevant to the Convention. 48

17. CRC welcomed the establishment, in 1997, of the special police unit to deal with child victims of abuse and violence, but remained concerned that there is insufficient information and awareness in Brunei Darussalam of the ill-treatment and abuse of children within the family and institutions. 49 CRC recommended, inter alia, that Brunei Darussalam conduct a study to assess the nature and extent of ill-treatment and abuse of children, and design policies and programmes to address these practices and take legislative measures to prohibit all forms of physical and mental violence, including corporal punishment and sexual abuse of children, in the family and in institutions. It also recommended public education campaigns about the negative consequences of ill-treatment of children, establishing effective child-sensitive complaint procedures and investigation and prosecution of cases of ill-treatment, while ensuring that the abused child is not victimized in legal proceedings. 50

18. CRC was concerned that corporal punishment is not prohibited at home, in schools or institutions and remains acceptable in the society. It also noted that the new book of discipline for schools does not specifically prohibit corporal punishment, nor does it even refer
to it as a form of discipline. 51 It strongly recommended that Brunei Darussalam prohibit corporal punishment at home, in schools and institutions and undertake campaigns to educate families on alternative forms of discipline. 52 Concerned that whipping is used as a form of punishment for boys in conflict with the law, 53 it recommended that it be abolished. 54

21. CRC was concerned that the minimum age of criminal responsibility is 7 years, which is far too low. CRC was further concerned that there is no juvenile justice system. 58 CRC recommended, inter alia, that Brunei Darussalam ensure that its legislation and practice concerning juvenile justice fully reflect the provisions of the Convention, in particular articles 37, 39 and 40, in this regard, as well as other relevant international standards. It also recommended raising the minimum age of criminal responsibility to an age which is internationally acceptable. 59

22. CRC recommended 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. 60

24. 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. 62 It recommended reviewing and, accordingly, taking 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. 63

25. Noting the existence of a premarital course for every couple prior to their marriage, CRC recommended the course be used to include teachings about the principles and provisions of the Convention. 64

26. UNHCR 65 highlighted the CRC concern at the disparities in the enjoyment of all rights covered by the Convention on the Rights of the Child by children practising religions other than Islam and by non-national children. 66 CRC recommended taking all necessary measures to ensure that all children within Brunei Darussalam’s jurisdiction enjoy all the rights set out in the Convention without discrimination. 67

28. CRC expressed concern that the minimum age for employment is not clear. 69 CRC recommended that the State party establish a clear minimum age for employment in line with existing international standards such as those enshrined in ILO Conventions No. 138 concerning the Minimum Age for Admission to Employment of 1973 and No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour of 1999. 70

30. CRC was concerned that there is insufficient information available in relation to adolescent health and inadequate access by adolescents to reproductive and mental health counselling services. 72 CRC recommended, inter alia, that the State party ensure that adolescents have access to, and are provided with, education on reproductive health, mental health and other adolescent health issues, as well as with child-sensitive and confidential counselling services. 73

31. On children with disabilities, CRC recommended, inter alia, conducting a survey to assess the causes and extent of disability among children, and reviewing existing policies and practice in relation to children with disabilities, involving the children and their families in developing and reviewing such policies.

34. CRC noted the very good education indicators, the broad scope of education in schools, encompassing a development-oriented co-curriculum besides the academic curriculum, and the intention to incorporate the Convention into school curricula. 76 An ILO report noted that in 2007, 94.9 per cent of the adult population in Brunei Darussalam was literate. 77 However, CRC was concerned that insufficient services are provided for children with learning difficulties. 78 CRC recommended, inter alia, that Brunei Darussalam integrate human rights education, including education about children’s rights, into the curricula. 79

37. CRC welcomed, inter alia, the excellent health care system reflected in very good indicators and the very high school enrolment rates. 82 A 2008 United Nations Statistics Division source indicated that the net enrolment ratio in primary education was 97.4 per cent in 2006. 83

Summary of Stakeholder information

7. The Global Initiative to End All Corporal Punishment of Children (GIEACPC) noted that corporal punishment is lawful in the home, in schools, and in penal institutions as a disciplinary measure and not prohibited in alternative care settings. GIEACPC further noted that corporal punishment can be used in the penal system as a sentence for a crime. For instance, males aged 7 – 17 may be sentenced to be whipped up to 18 strokes for a wide range of offences under the Penal Code and other laws. The Children and Young Persons Order would allow such a sentence to be passed only by the High Court. GIEACPC highlighted the concerns of the Committee on the Rights of the Child on corporal punishment and its recommendations for explicit prohibition in the home, schools and institutions, and as a sentence of the courts. 12 AI also recommended that Brunei repeal or amend all provisions in domestic laws which provide for caning, whipping or any other cruel, inhuman or degrading punishment. 13

Final Report

30. The Netherlands noted that Brunei Darussalam had not acceded to most of the core international human rights instruments and had made broad reservations to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC). The Netherlands also expressed that the Penal Code does not criminalize marital rape if the wife is not under 13 years of age, and the rape of men and boys. It further expressed concern at the existence of criminal sanctions against “carnal intercourse against the order of nature” and that such provisions may be applied to criminalize sexual activity between consenting adults. The Netherlands made recommendations.
34. Turkey asked whether a timetable had been set to sign and ratify treaties such as the International Convention on the Elimination of Racial Discrimination (ICERD), 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 (OP-CRC-AC). It welcomed the adoption of various legislative measures with respect to children’s rights, but noted that the age of criminal responsibility was set at seven years. It encouraged raising this age to an internationally acceptable level and establishing a juvenile system in line with recommendations of the Committee on the Rights of the Child. Given that the last execution in Brunei Darussalam took place in 1957, it encouraged Brunei Darussalam to consider recommendations made for abolition of the death penalty. Turkey made a recommendation.

36. Brazil commended, inter alia, Brunei Darussalam’s eradication of extreme poverty. It expressed concern about information regarding corporal punishment of children, and in relation to migrants in irregular situations, as well as about alleged incidents of arbitrary deprivation of liberty under the Internal Security Act. It asked about further measures to combat ethnic, religious and gender discrimination and guarantee fundamental freedoms such as freedom of expression, association, religion and belief. Brazil made a number of recommendations.

39. Germany expressed concerns related to the minimum age of criminal responsibility and the lack of a juvenile justice system. It asked how Brunei Darussalam would ensure full compatibility with its obligations under articles 37, 39 and 40 of CRC in this regard. Germany made a number of recommendations.

44. Slovenia welcomed Brunei Darussalam’s work regarding the right to adequate housing and future plans in this regard. It noted with concern however that Brunei Darussalam was neither a party to most core international human rights treaties nor to core International Labour Organization (ILO) conventions. Slovenia also noted that existing legislation did not criminalize marital rape, including against children, and expressed concern over restrictions on freedom of expression and media, especially through the Sedition Act and Newspaper Act. Slovenia made recommendations on the above issues.

57. Japan commended Brunei for maintaining a high standard of education, reflected in the 94.9 per cent adult literacy rate, for providing education free-of-charge up to university level and guaranteeing equal opportunities in education. Japan asked, in relation to the human rights of foreign workers, about the contents and implementation of the Employment Order 2009 and the Employment (Domestic Workers) Regulation 2009. It also asked what improvements had been made to the situation in response to the recommendation made by the Committee on the Rights of the Child in 2003 to abolish corporal punishment. Japan made a recommendation.

58. Latvia noted, citing the Committee on the Rights of the Child, good education indicators, the broad scope of education and high enrolment rates. Latvia touched upon the issue of standing invitations to special procedures and made a recommendation in this regard.

79. On children’s rights, Brunei Darussalam stated that the Government had made great efforts to ensure that the welfare of all citizens was well taken care of. This was apparent in both the Syariah law and Civil law which ensured the rights of children were protected without discrimination.

80. In relation to questions on corporal punishment and sexual violence, Brunei Darussalam explained that its society was underpinned by the family system, but that there were also specific laws that sought to address all forms of physical and psychological violence and sexual abuse against children. These laws were generally in conformity with the principles and articles of CRC. Furthermore, regular and systematic awareness programmes were undertaken by the Department of Community Development to publicize and sensitize society on the rights of the child, for instance, by having weekly road shows in schools and weekly media programmes. On corporal punishment in schools, the delegation indicated that it had been prohibited since 1984.

Conclusion and Recommendations

4. Undertake, as recommended by the Committee on the Rights of the Child, a comprehensive review of existing legislation from a rights-based perspective, to ensure its conformity with the principles and provisions of CRC (Turkey);

12. Consider taking necessary steps to develop technical expertise to gain a better understanding of its obligations in ensuring effective implementation of human rights instruments (Pakistan); consider creating, with international technical assistance, the required national human and institutional expertise that would contribute to gaining a better understanding of its obligations and to the implementation of human rights-related treaties to which it is a party (Egypt);

17. Continue efforts to combat ill-treatment of children and design policies and programmes to address these practices (Brazil);

18. Specifically prohibit corporal punishment at home and in schools and undertake appropriate campaigns to educate families on alternative forms of discipline (Germany);

19. Prohibit corporal punishment at home and in schools and sensitize families in this respect (Italy);

20. Establish an appropriate system of juvenile justice in conformity with international standards and its international commitments (Argentina);

21. Take further practical steps to enhance the administration of juvenile justice (Belarus);

27. Continue to carry out its excellent effort to ensure nine years’ compulsory education for all children from the age of six (Bhutan);