

BRUNEI DARUSSALAM

CRC CRC/C/133 (2003)

325. The Committee considered the initial report of Brunei Darussalam (CRC/C/61/Add.5), submitted on 20 December 2001, at its 906th and 907th meetings (see CRC/C/SR.906 and 907), held on 25 September 2003, and adopted, at the 918th meeting, held on 3 October 2003, the following concluding observations.

A. Introduction

326. The Committee welcomes the submission of the State party's initial report, which followed the established guidelines, and the written replies to its list of issues (CRC/C/Q/BRN/1) which provided the Committee with the necessary information. The Committee acknowledges that the presence of a highly qualified delegation directly involved with the implementation of the Convention allowed for a better understanding of the rights of the child in the State party.

B. Positive aspects

327. The Committee welcomes, *inter alia*:

- (a) The enactment of the Children's Order 2000;
- (b) The establishment of the National Children's Council in 2001;
- (c) The excellent health-care system reflected in very good indicators;
- (d) The very high school enrolment rates.

C. Principal subjects of concern and recommendations

1. General measures of implementation

Reservations

328. The Committee is deeply concerned that the broad and imprecise nature of the State party's general reservation potentially negates many of the provisions and principles of the Convention as to its compatibility with the object and purpose of the Convention, as well as the overall implementation of the Convention.

329. The Committee strongly recommends that the State party expeditiously undertake the re-examination of its reservations with a view to reconsidering and ultimately withdrawing them, in accordance with the Vienna Declaration and Plan of Action of the World Conference on Human Rights (1993). In this regard, the Committee considers that the State party should benefit from the recent withdrawal of a similar reservation by another State party. In addition, the Committee

recommends that the State party study its reservations to articles 14, 20 and 21 of the Convention with a view to withdrawing them.

Legislation

330. The Committee notes the adoption of various legislative measures with respect to children's rights (e.g. the 2000 Children's Order, the Emergency Islamic Family Order, the Islamic Adoption of Children Order and the 2001 Adoption of Children Order), but remains concerned that they do not sufficiently reflect a comprehensive rights-based approach to the implementation of the Convention.

331. The Committee recommends that the State party:

(a) Undertake a comprehensive review of existing legislation from a rights-based perspective, to ensure its conformity with the principles and provisions of the Convention;

(b) Ensure the speedy promulgation of legislation relating to child rights and its effective implementation;

(c) Ensure that laws are sufficiently clear and precise, are published and are accessible to the public.

332. The Committee is concerned that the State party has not acceded to any of the main human rights instruments, with the exception of the Convention on the Rights of the Child.

333. The Committee recommends that the State party take the necessary steps for the ratification of 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, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Coordination

334. The Committee notes that the National Children's Council is entrusted with the coordination of the activities of the various bodies with regard to children, while the Social Affairs Services Unit of the Ministry of Culture, Youth and Sports is the coordinating body for the implementation of the Convention. The Committee is therefore concerned that this may lead to duplication and lack of effectiveness in the implementation of the Convention.

335. The Committee recommends that the State party establish a clear mandate for the National Children's Council enabling it to perform an effective coordination of the activities of government ministries and NGOs for the implementation of the Convention with adequate power, a legal framework and a general secretariat with sufficient human, financial and other resources.

Plan of action

336. The Committee welcomes the establishment of a cross-sectoral committee to formulate the national plan of action.

337. The Committee recommends that the national plan of action cover comprehensively the Convention with due consideration to the outcome document, “A World Fit for Children”, of the General Assembly special session on children. The Committee further recommends that there be a monitoring system and indicators to measure the progress achieved.

Cooperation with civil society

338. The Committee is concerned that insufficient efforts have been made to involve civil society in the full implementation of the Convention and in the reporting process.

339. The Committee recommends that the State party involve systematically non-governmental organizations (NGOs) and other civil society groups, including children’s associations, throughout all stages of the implementation of the Convention, including the formulation of the national plan of action, policies and programmes, and in the drafting of the next report to the Committee.

Independent monitoring structures

340. The Committee notes that two committees within the Ministry of Culture, Youth and Sports, as well as the National Children’s Council, are tasked with monitoring the implementation of the Convention. The Committee is therefore concerned that this may lead to duplication and lack of effectiveness in the monitoring of the Convention. In addition, the Committee is concerned that there is no independent monitoring mechanism with a mandate to receive individual complaints from children.

341. The Committee recommends that the State party:

(a) Establish a 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, General Assembly resolution 48/134, annex) and in light of the Committee’s general comment No. 2 on national human rights institutions, to enable it to monitor and evaluate progress in the implementation of the Convention at the national and, if appropriate, the local level. In addition, the institution should be empowered to receive and investigate complaints of violations of child rights in a child-sensitive manner, and address them effectively;

(b) Review the role of existing institutions in order to avoid any overlap in their functions;

(c) Allocate sufficient financial and human resources to the national human rights institutions;

(d) Seek technical assistance from, among others, the Office of the United Nations High Commissioner for Human Rights (OHCHR).

Data collection

342. The Committee is concerned at the existing lack of systematic and comprehensive collection of disaggregated data for all areas covered by the Convention and in relation to all groups of children in order to monitor and evaluate progress achieved and assess the impact of policies adopted with respect to children.

343. The Committee recommends that the State party develop a system of data collection and indicators consistent with the Convention and disaggregated by gender, age, and urban and rural area. This system should cover 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; children belonging to ethnic groups; refugee and asylum-seeking children; children in conflict with the law; working children; adopted children; street children; and children living in urban areas. It further encourages the State party to use these indicators and data to formulate policies and programmes for the effective implementation of the Convention.

Training and dissemination

344. The Committee is aware of the measures undertaken to promote widespread awareness of the principles and provisions of the Convention and welcomes the translation of the Convention into Malay, but is of the opinion that these measures are not sufficient and need to be strengthened by providing the necessary resources. In this respect, the Committee is concerned at the lack of a systematic plan to introduce training and raise awareness among professional groups working for and with children.

345. The Committee recommends that the State party:

- (a) Strengthen its efforts and systematize the dissemination of the principles and provisions of the Convention as a measure to sensitize society to children's rights through social mobilization;
- (b) Undertake systematic education and training on the provisions of the Convention for all professional groups working for and with children, in particular parliamentarians, judges, lawyers, law enforcement officials, civil servants, personnel working in institutions, teachers, health personnel, including psychologists, and social workers;
- (c) Seek technical assistance from, among others, OHCHR and the United Nations Educational, Scientific and Cultural Organization (UNESCO).

2. Definition of the child

346. The Committee is concerned that the minimum age for marriage is 14 years which the Committee considers as being far too low. The Committee is further concerned that even younger children may marry under Islamic law.

347. The Committee recommends that the State party:

(a) Review and, accordingly, take steps to amend its legislation so that the minimum-age requirements are gender neutral and explicit and ensure that they are enforced by law;

(b) In particular, increase the minimum age for marriage and make it the same for boys and girls.

3. General principles

Right to non-discrimination

348. The Committee is concerned that the principle of non-discrimination is not included in the legislation of the State party and that discrimination, contrary to article 2 of the Convention, still persists in the State party. In particular, the Committee is concerned about discrimination against girls and children born out of wedlock under existing personal status law (e.g. in inheritance, custody and guardianship).

349. The Committee recommends that the State party:

(a) Ensure full compatibility between national legislation and practices with the Convention;

(b) Take effective measures, including enacting or rescinding legislation where necessary, to prevent and eliminate discrimination on grounds of sex and birth in all fields of civil, economic, political, social and cultural life;

(c) Take all appropriate measures, such as comprehensive public education campaigns, to prevent and combat negative societal attitudes in this regard, particularly within the family;

(d) Train members of the legal profession, especially the judiciary, to be gender-sensitive. Religious leaders should be mobilized to support such efforts.

350. The Committee is concerned at the disparities in the enjoyment of all rights covered by the Convention by children practising religions other than Islam and by non-national children. The Committee is further concerned that race is indicated on identity cards, as this may lead to de facto discrimination.

351. The Committee recommends that the State party 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.

352. The Committee requests that specific information be included in the next periodic report on the measures and programmes relevant to the Convention undertaken by the State party to follow up on the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and taking account of the Committee's general comment No. 1 on article 29, paragraph 1, of the Convention on the aims of education.

Best interests of the child

353. The Committee is concerned that, in actions concerning children, the general principle of the best interests of the child contained in article 3 of the Convention is not always a primary consideration, such as in matters relating to family law.

354. The Committee recommends that the State party review its legislation and administrative measures to ensure that article 3 of the Convention is duly reflected therein and that this principle is taken into account when administrative, policy, court or other decisions are made.

Respect for the views of the child

355. While noting, inter alia, the right of the child to choose who she/he wishes to live with in cases of divorce and the presence of student councils in some schools, the Committee remains concerned that traditional attitudes towards children in society and local communities may limit respect for their views, especially within the family and schools.

356. The Committee recommends that the State party:

(a) Continue to promote and facilitate within the family, the school, institutions, the courts and administrative bodies respect for the views of children and their active participation in all matters affecting them, in accordance with article 12 of the Convention;

(b) Develop skills-training programmes in community settings for parents, teachers, social workers and local officials so that they can learn how to help children to express their informed views and opinions and to take those views into consideration;

(c) Seek assistance from intergovernmental organizations.

4. Civil rights and freedoms

Birth registration

357. The Committee notes with appreciation the work done by the “Flying Doctors Team” to ensure registration of children in remote areas, but remains concerned that certain children, notably abandoned children, may still not be registered at birth.

358. The Committee recommends that the State party continue its efforts to ensure the registration at birth of all children, notably by carrying out awareness-raising campaigns about birth registration.

Nationality

359. The Committee is concerned that under the Brunei Nationality Act (cap. 15), citizenship is not automatically granted to children of Brunei women married to non-nationals, while it is where the father is Brunei.

360. The Committee recommends that the State party revise the Brunei Nationality Act in order to ensure that children who have a Brunei parent acquire Brunei citizenship in an equal manner,

regardless of whether the Bruneian parent is the father or the mother.

Corporal punishment

361. The Committee is concerned that corporal punishment is not prohibited at home, in schools or institutions and remains acceptable in the society. The Committee also notes 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.

362. The Committee strongly recommends that the State party prohibit corporal punishment at home, in schools and institutions and undertake education campaigns to educate families on alternative forms of discipline.

5. Family environment and alternative care

Premarital course

363. The Committee notes the existence of a premarital course for every couple prior to their marriage.

364. The Committee recommends that the State party uses this premarital course to include teaching about the principles and provisions of the Convention.

Adoption

365. The Committee welcomes the enactment of the Islamic Adoption of the Children's Order 2001 and Adoption of Children Order 2001, which both came into force on 26 March 2001 but remains concerned that the State party has not ratified the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption.

366. The Committee recommends that the State party ratify the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993 in order to complete the protection of adopted children.

Violence, abuse, neglect and maltreatment

367. The Committee notes the adoption of the Children's Order 2000 and welcomes the special unit of the police established in 1997 to deal with child victims of abuse and violence, but remains concerned that there is insufficient information and awareness in the State party of the ill-treatment and abuse of children within the family and institutions.

368. The Committee recommends that the State party:

(a) 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;

(b) 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;

(c) Carry out public education campaigns about the negative consequences of ill-treatment of children, and promote positive, non-violent forms of discipline as an alternative to corporal punishment;

(d) Establish effective child-sensitive procedures and mechanisms to receive, monitor, and investigate complaints, including intervening where necessary;

(e) Investigate and prosecute cases of ill-treatment, ensuring that the abused child is not victimized in legal proceedings and that his/her privacy is protected;

(f) Provide care, recovery and reintegration for child victims;

(g) Train teachers, law enforcement officials, care workers, judges and health professionals in the identification, reporting and management of cases of ill-treatment;

(h) Rehabilitate offenders;

(i) Seek assistance from, among others, the World Health Organization (WHO).

6. Basic health and welfare

Adolescent health

369. The Committee is concerned that there is insufficient information available in relation to adolescent health and inadequate access by adolescents to reproductive and mental health counselling services.

370. The Committee recommends that the State party:

(a) 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;

(b) Strengthen efforts in the area of adolescent health education within the education system;

(c) Seek assistance from, among others, WHO.

Children with disabilities

371. The Committee notes the establishment of the National Advisory and Coordinating Committee for Children with Special Needs and the drafting process of the Emergency (Education) Order 2000, but remains concerned at the insufficient information on children with disabilities.

372. The Committee recommends that the State party:

- (a) Conduct a survey to assess the causes and extent of disability among children;
- (b) Review the existing policies and practice in relation to children with disabilities, taking due regard of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and of the Committee's recommendations adopted at its day of general discussion on the issue of "The rights of children with disabilities" (see CRC/C/69);
- (c) Speed up the process of enacting the Emergency (Education) Order 2000;
- (d) Involve children with disabilities and their families in developing and reviewing policies relevant to their situation;
- (e) Undertake greater efforts to make available the necessary professional and financial resources;
- (f) Undertake greater efforts to promote and expand community-based rehabilitation programmes, including parent support groups, and inclusive education of children with all forms of disability;
- (g) Seek assistance from, among others, WHO.

7. Education, leisure and cultural activities

373. The Committee notes 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, but remains concerned that:

- (a) Education is not compulsory;
- (b) Insufficient services are provided for children with learning difficulties.

374. The Committee recommends that the State party:

- (a) Ensure that primary education is made compulsory by law;
- (b) Taking into account the Committee's general comment No. 1 on the aims of education, include human rights education, including about children's rights, in the curricula, particularly with respect to the development of and respect for human rights, tolerance and equality of the sexes and religious and ethnic minorities;
- (c) Further develop services for children with learning difficulties;
- (d) Seek assistance from UNESCO.

8. Special protection measures

Economic exploitation, including child labour

375. The Committee acknowledges that the State party is not a member of the International Labour Organization (ILO) and is concerned that the minimum age for employment is not clear.

376. The Committee recommends that the State party establish a clear minimum age for employment which should be 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. In addition, the Committee recommends that the State party consider joining ILO and ratifying the aforementioned Conventions.

Substance abuse

377. The Committee notes the State party's non-punitive approach to victims of drug abuse, but is concerned that children abusing drugs may be placed in a closed institution for a period of up to three years.

378. The Committee recommends that the State party develop non-institutional forms of treatment of children who abuse drugs and make the placement of children in an institution a measure of last resort. In addition, the Committee recommends that children living in such institutions be provided with basic services such as health, education and other social services and maintain contact with their family during their stay. Finally, the Committee recommends that the State party set clear standards for existing institutions and ensure periodic review of the placement of children, in light of article 25 of the Convention.

Children in conflict with the law

379. The Committee is concerned that the minimum age of criminal responsibility is set at 7 years, which is far too low. The Committee is further concerned that there is no juvenile justice system although it is foreseen in law, that children are detained with adults and that whipping is used as a form of punishment for boys.

380. The Committee recommends that the State party:

(a) Ensure that its legislation and practice concerning juvenile justice fully reflect the provisions of the Convention, in particular articles 37, 39 and 40, as well as other relevant international standards in this area, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, and the Vienna Guidelines for Action on Children in the Criminal Justice System;

(b) Raise the minimum age of criminal responsibility to an age which is internationally acceptable;

(c) Ensure that deprivation of liberty is used only as a measure of last resort, for the shortest possible

time, and that persons under 18 are not detained with adults;

(d) Ensure that children have access to legal aid and independent and effective complaints mechanisms;

(e) Develop and implement alternative measures to deprivation of liberty, such as probation, community service or suspended sentences;

(f) Train professionals in the area of rehabilitation and social reintegration of children;

(g) Abolish the sentence of whipping for boys;

(h) Seek assistance from, among others, OHCHR.

9. Optional Protocols

381. The Committee recommends that the State party ratify the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict.

10. Dissemination of documentation

382. In light of article 44, paragraph 6, of the Convention, the Committee recommends that the initial report and written replies submitted by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and concluding observations adopted thereon by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention, its implementation and monitoring within the Government, the Parliament and the general public, including concerned NGOs. The Committee recommends that the State party seek international cooperation in this regard.

11. Periodicity of submission of reports

383. The Committee underlines the importance of a reporting practice that is in full compliance with the provisions of article 44 of the Convention. An important aspect of States parties' responsibilities to children under the Convention includes ensuring that the Committee on the Rights of the Child has regular opportunities to examine the progress made in the implementation of the Convention. In this regard, regular and timely reporting by States parties is crucial. The Committee recognizes that some States parties experience difficulties in reporting in a timely and regular manner. As an exceptional measure, in order to help the State party catch up with its reporting obligations so as to be in full compliance with the Convention, the Committee invites the State party to submit its consolidated second and third periodic report by 25 January 2008, date on which the third periodic report is due. Such a report should not exceed 120 pages (see CRC/C/118). The Committee expects the State party to report thereafter every five years, as foreseen by the Convention.