



COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2008)¹: BRUNEI DARUSSALAM

THE EFFECTIVE ABOLITION OF CHILD LABOUR (CL)

REPORTING	Fulfillment of Government's reporting obligations	YES, under the 2008 Annual Review (AR).	
	Involvement of Employers' and Workers' organizations in the reporting process	YES, according to the Government: Involvement of the employers' organizations (the National Chamber of Commerce and Industry, NCCI) and workers' organizations (the Brunei Oilfield Workers Union, BOWU) by means of consultation and communication of a copy of the Government's report and country baseline.	
OBSERVATIONS BY THE SOCIAL PARTNERS	Employers' organizations	2008 AR: Observations by the NCCI and its three affiliates.	
	Workers' organizations	2008 AR: Observations by the BOWU.	
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Ratification	Ratification status	Brunei Darussalam has ratified neither the Minimum Age Convention, 1973 (No.138) (C.138) nor the Worst Forms of Child Labour Convention, 1999 (No. 182) (C.182). However, Brunei Darussalam ratified in 1996, by accession, the United Nations Convention on the Right on the Child (CRC).
		Ratification intention	YES, for C.182, and under consideration for C.138 in consultation with employers' and workers' organizations. 2008 AR: The Government plans to ratify Convention No. 182, and is also considering the possibility to ratify Convention No. 138 in consultation with employers' and workers' organizations. The BOWU and the NCCI supported the ratification of these two Conventions by Brunei Darussalam.
	Recognition of the	Constitution	NO

¹ Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: information provided by the Government under the Declaration Annual Review, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: www.ilo.org/ilolex

principle and right (prospect(s), means of action, basic legal provisions)	Policy, legislation and/or regulations	<ul style="list-style-type: none"> • Legislation (i) The Labour Act (CAP 93); (ii) The Penal Code (CAP 22); (iii) The Women and Girls' Protection Act (CAP 120); (iv) The Children's Order, 2000; (v) The Education Order, 2003; (vi) Trafficking and Smuggling of Persons Order, 2004; (vii) The Children and Young Persons Order, 2006 (will repeal the Children's Order 2000 once it comes into force); and (viii) The draft Employment Order (which would repeal the Labour Act (CAP 93)). 	
	Basic legal provisions	i) The Labour Act (CAP 93), sections 2, 48, 70-82; (ii) the Penal Code (CAP 22), sections 367-374; (iii) the Trafficking and Smuggling of Persons Order (2004); (iv) the Women and Girls Protection Act (CAP 120); (v) the Children Order 2000; (vi) the Education Order 2003, sections 6 and 16 and 25; (vii) the draft Employment Order (to repeal the Labour Act (CAP 93)); and (viii) the Children and Young Persons Order 2006 (to repeal the Children Order 2000).	
	Judicial decisions	NIL	
	Exercise of the principle and right	Compulsory education	YES , in practice there are 11 years of compulsory education (6 years of primary schooling and 5 years of secondary schooling). The minimum age into primary school shall be 6 years old, but may be at 5 years old in exceptional circumstances by a decision of the Minister of Education.
		Minimum age	<ul style="list-style-type: none"> • General Minimum Age: (i) 14 years for admission to employment or work in industrial undertakings, with exceptions; and (ii) under 16 years needs parental consent and allowed only on light work in approved occupations <p>2008 AR: According to the Government: Under the Labour Act (CAP 93), the general minimum age for admission to employment or work in industrial undertaking is 14 years for both boys and girls (Sections 2 and 48). Concerning young persons under the age of 16 years (i.e., between 14 and 16 years of age), Section 48 of the Labour Act (CAP 93) provides that this category of persons shall not be recruited unless their parents or guardians consent to for their employment, and only upon light work in an occupation approved by the Commissioner of Labour.</p> <ul style="list-style-type: none"> • Hazardous Work <p>2008 AR: According to the Government: Hazardous work is not defined in national laws. However, the draft Workplace, Safety and Health Order deals with hazardous substances and dangerous occurrences.</p>
		Worst forms of child labour	2008 AR: According to the Government, in addition to hazardous work as above: The Trafficking and Smuggling of Persons Order (2004) addresses the issue of worst forms of child labour and defines the child as a person aged up to 18 years of age (Section 2). It also defines: (i) «exploitation» as including all forms of sexual exploitation (including servitude and exploitation of another person's prostitution), forced labour or services, slavery or similar practices, servitude and the removal of organs; (ii) «people smuggling» as arranging or assisting a person's unlawful entry into any receiving country including Brunei Darussalam, of which the person is not citizen or permanent resident of the receiving country, knowing or having reason to suspect the person's entry is unlawful, in order to obtain a financial or other material benefit; (iii) «people

			trafficking» as the recruitment, transportation, transfer, harbouring or receipt of a person for the purpose of exploitation, as set out in Sections 4 and 5 of this Order (i.e., by means of threat, use of force or other forms of coercion, abduction, fraud, deception, abuse of power or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person); and (iv) «children trafficking» as the recruitment, transportation, transfer, harbouring or reception of a child by any means for the purposes of exploitation).
	Exercise of the principle and right	Special attention to particular situations	According to the Government: Children (especially girls) and young persons are specially protected under the Penal Code, the Women and Girls Protection Act (CAP 120), the Child and Young Persons Order 2006 (to repeal and replace the Children Order, 2000 once it is in force) and the Trafficking and Smuggling of Persons Order, 2004.
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT		Information/Data collection and dissemination	YES, in the <i>Brunei Darussalam Statistical Appendix, 2006</i> .
	Monitoring, enforcement and sanctions mechanisms		2008 AR: According to the Government: the following measures are implemented to enforce the minimum age for admission to employment and to eliminate the worst forms of child labour: (i) legal reform; (ii) inspection/monitoring mechanisms; (iii) penal sanctions; (iv) free compulsory education; (v) employment creation/income generation; (vi) social assistance (stipends, subsidies, vouchers); (vii) vocational and skills training for young workers; and (viii) awareness raising/advocacy. Concerning the worst forms of child labour, girls, children and young persons are specially protected under the Penal Code (CAP 22), the Women and Girls Protection Act (CAP 120), the Children and Young Persons Order, 2006 (to repeal and replace the Children Order, 2000 once it is in force) and the Trafficking and Smuggling of Persons Order, 2004. Cases of forced or compulsory labour, including trafficking and smuggling of persons, can be identified by the Ministry of Home Affairs (including the Labour Department and the Immigration Department), by the Police, or by any institution or individual person. Such cases can be reported to the Police and subsequently referred to the Attorney General's Chambers for prosecution. In case of forced or compulsory labour, sanctions, including fines and imprisonment, are provided under the Penal Code (CAP 22, the Trafficking and Smuggling of Persons Order 2004, the Employment Agencies Order 2004, etc.
	Involvement of the social partners		NO, according to the Government.
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Promotional activities		2008 AR: According to the Government: In November 2007, officials of the Labour Department of the Ministry of Home Affairs and of the Attorney General's Office worked with the ILO on the fundamental principles and rights at work, ILO fundamental Conventions and reporting issues. The NCCI stated that it promotes the fundamental principles and rights at work, decent work and sustainable enterprises through discussions among its members and with the Government. The BOWU stated that it organizes a monthly meeting to develop the knowledge on ILO and fundamental principles and rights at work among its members.
	Special initiatives/Progress		2008 AR: According to the Government: The Government is considering ratification of C.182. In addition, it has adopted a number of laws to realize the PR, for instance, the draft Children and Young Persons Order, 2006 (that repeals and replaces the Children Order 2000), the draft Employment Order (to repeal and replace the Labour Act (CAP 93)). Moreover, the Trafficking and Smuggling of Persons Order (2004) also provides for the establishment of a Trafficking and Smuggling of Persons Fund. This fund is under the Government's responsibility, and will serve in particular to: (i) finance the cost of repatriation of smuggled and trafficked persons; (ii) promote information and education of the public in preventing, suppressing or otherwise of people trafficking and people smuggling; and (iii) reward any person in preventing or suppressing people trafficking and people smuggling.

CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT	According to the social partners	Employers' organizations	2008 AR: According to the NCCI: Child labour is not a problem encountered in the country. Literacy rate is very high. Education is compulsory. In practice, workers are engaged in the labour market activities from 18 and above. Only few cases of child work may be found in the informal economy.
		Workers' organizations	2008 AR: According to the BOWU: There are no problems of child labour in the country. The BOWU is not aware of any practice of this kind in Brunei Darussalam.
TECHNICAL COOPERATION	Request	<p>2008 AR: According to the Government: ILO technical cooperation will be needed to facilitate the realisation of the PR in Brunei Darussalam, in particular in the following areas, by order of priority: (1) Capacity building of responsible government institutions (e.g. labour inspection and administration); data collection and analysis; cross-border cooperation mechanisms; (2) Legal reform; policy advise; training of other officials (e.g. police, judiciary, social workers, teachers); strengthening capacity of employers' and workers' organizations; awareness raising, legal literacy and advocacy; sharing experiences across countries/regions; inter-institutional coordination (3) Employment creation, skills training and income generation; social protection systems; and special programme for the elimination of the worst forms of child . These priorities may be satisfied through the preparation of survey/seminar to promote and realize the fundamental principles and rights at work in Brunei Darussalam, in consultation with the employers' and workers' organizations.</p> <p>The NCCI and the BOWU supported the Government's requests, including the capacity building of the employers' and workers' organizations and the preparation of a survey/seminar to promote and realise the fundamental principles and rights at work in Brunei Darussalam, in consultation with the employers' and workers' organizations.</p>	
	Offer	ILO (consultations on Decent Work Country Programme and assistance in reporting under the AR); UNICEF; UNESCO; ASEAN and INTERPOL.	
EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS	2008 AR: The ILO Declaration Expert-Advisers (IDEAs) recognized that the Office's focused efforts and assistance had helped some countries, including Brunei Darussalam, to comply with their reporting obligations. They considered that universal ratification of the child labour Conventions was not a distant dream but an achievable goal, in view of the number of States, including Brunei Darussalam, having expressed their intention to ratify C.138 and/or C.182 (Cf. Paragraphs 53 and 56 of the 2008 Annual Review Introduction – ILO: GB.301/3).		
GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS	NIL		