



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

THE ELIMINATION OF ALL FORMS OF FORCED OR COMPULSORY LABOUR (FL)

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 Forced Labour Convention, 1930 (No. 29) (C.29) nor the Abolition of Forced Labour Convention, 1957 (No. 105) (C.105).	
		Ratification intention	YES, for both C.29 and C.105. 2008 AR: The Government indicated its intention to ratify C. 29 and C.105. The BOWU and the NCCI supported the ratification of these two Conventions by Brunei Darussalam.	
	Recognition of the principle and right (prospect(s), means of action, basic legal provisions)	Constitution	NO	
		Policy, legislation and/or regulations	<p align="center">Legislation</p> The Penal Code (CAP 22); The Women and Girls Protection Act (CAP 120); The Children Order, 2000; The Trafficking and Smuggling of Persons Order, 2004; Employment Agencies Order, 2004; and The Children and Young Persons Order, 2006 (will repeal the Children's Order, 2000 once it is in force).	
		Basic legal provisions	(i) The Penal Code (CAP 22), Sections 367-374 ; (ii) The Women and Girls Protection Act (CAP 120), (iii)	

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

			the Trafficking and Smuggling of Persons Order, 2004, Sections 2-12 and 9-24; (iv) the Employment Agencies Order, 2004 , Section 31 (e); (v) Children Order , 2000; and (vi) the Children and Young Persons Order, 2006 (will repeal the Children’s Order, 2000 once it is in force)..	
		Judicial decisions	NIL	
		Definition of forced or compulsory labour	AR 2008: According to the Government: A definition of unlawful compulsory labour is given under Section 374 of the Penal Code, i.e.: when a person is unlawfully compelled to labour against his will. Moreover, the Trafficking and Smuggling of Persons Order, 2004 (section 2) defines: (i) «exploitation» as including any forms of sexual exploitation (including sexual servitude and exploitation of another person’s prostitution), forced labour or services, slavery or practices similar to slavery, 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 a 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; and «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 children trafficking as the recruitment, transportation, transfer, harbouring or reception of a child by any means for the purpose of exploitation).	
		Judicial decisions	NIL	
	Exercise of the principle and right	Special attention to particular situations and human trafficking	According to the Government: Women, 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 (which will repeal Children Order once it is in force) and the Trafficking and Smuggling of Persons Order, 2004.	
		Information/Data collection and dissemination	NIL	
Monitoring, enforcement and sanctions mechanisms	2008 AR: According to the Government: 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.			
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Involvement of the social partners	YES, according to the Government.		
	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.29 and C.105. In addition, it has adopted a number of laws and regulations to realize the PR, including a Penal Code (CAP 22), the Trafficking and Smuggling of Persons Order, 2004; a Woman and Girls Protection Act (CAP 120); and the Employment Agencies Order, 2004. The Trafficking and Smuggling of Persons Order, 2004 also provides for the establishment of a Trafficking and Smuggling of Persons Fund. This fund is financed by the Government and will serve in particular to: (i) finance the cost of repatriation of smuggled persons 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 these illegal activities.	
CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT	According to the social partners	Employers' organizations	2008 AR: According to the NCCI: No problems of forced or compulsory labour are being encountered in the country.
		Workers' organizations	2008 AR: According to the BOWU: There are no problems of forced or compulsory labour in the country. The BOWU is not aware of such practice in Brunei Darussalam.
	According to the Government	According to the Government: (i) Lack of public awareness on the PR; (ii) Lack of information and data; (iii) Lack of capacity of responsible government institutions; (iv) Lack of capacity of employers' and workers' organization; and (v) Lack of social dialogue on this principle. No cases of forced or compulsory labour have been reported so far in the country.	
TECHNICAL COOPERATION	Request	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) Awareness-raising, legal literacy and advocacy; sharing of experiences across countries/regions; capacity building of responsible government institutions; training of other officials (e.g. police, judiciary, social workers, teachers); strengthening capacity of employers' and workers' organization; cross-border cooperation mechanisms; (2) Strengthening data collection and analysis; cross-border cooperation mechanisms; Legal reform (labour law and other relevant legislation); policy advise; coordination between institutions (e.g. various ministries and relevant commissions); (3) Assessment in collaboration with the ILO of the difficulties identified and their implication for realising the principle; employment creation, skills training and income generation; rural development policies (for example, land reform, rural infrastructure, agricultural extension, marketing, microfinance). These priorities may be satisfied through the preparation of survey/seminar to promote and realise the fundamental principles and rights at work in Brunei Darussalam, in consultation with the employers' and workers' organizations. 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.	
	Offer	ILO (consultations on Decent Work Country Programme and assistance in reporting under the AR); ASEAN; INTERPOL.	
EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS	2008 AR: The ILO Declaration Expert-Advisers (IDEAs) listed Brunei Darussalam among the countries having expressed their intention to ratify C.29 and/or C.105 or to complete the ratification process. They encouraged these countries to accelerate this process so as to make an important step forward towards universal ratification. The IDEAs further noted that a number of governments, employers' or workers' organizations in various countries, including Brunei Darussalam, were willing to meet these challenges and had requested technical cooperation, with a view to realizing country assessments and workshops with the support of the ILO. (Cf. Paragraphs 41 and 51 of the 2008 Annual Review Introduction – ILO: GB.301/3).		

GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS	NIL
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