



United Nations Human Rights Council: 27th Session (8th – 26th September 2014)

UPR, Brunei Darussalam

Friday 19 September 2014

Speaker: BHA Representative, Amelia Cooper

The dangers of a Syariah Penal Code: Women and Children

Thank you Mr President.

In the first UPR cycle, Brunei Darussalam accepted some recommendations to ‘*harmonise its legislation with the international human rights norms*’,¹ which was an encouraging indication of progress. However, Brunei has disregarded such recommendations, and instead implemented a Syariah legal code, much of which works in diametric opposition to those standards set by international human rights law.

A number of States expressed their deep concern at the adoption of such a code, and we deeply regret Brunei’s rejection of a number of recommendations pertaining to the revision or review of the Code such that it is compatible with international human rights legislation.

Brunei’s claim that ‘*it remain(s) committed to its international obligations*’² is simply false, given that the Syariah code undermines the provisions made in CEDAW and the CRC, both of which Brunei has ratified. Some examples:

- The rejection of recommendation 113.74, to increase the age of criminal responsibility, which is currently set at seven years old, is telling. Brunei’s justification that ‘*in practice, cases involving child or young person offenders...are rarely brought to court*’³ must not detract from the fact that having such a legal framework sets a precedent which permits children to be subject to corporal punishment.
- Furthermore, the Syariah Penal Code necessarily discriminates against women. The refusal to amend Article 375 of the Penal Code,⁴ essentially excusing marital rape, on the feeble basis that women are accorded sufficient protection in Cap 190 and 217, is particularly concerning. If the application of Article 375 is subject to other clauses, rendering part of it moot, why not amend the Article itself to ensure that there is no legal precedent that could be misinterpreted to violate the bodily integrity of married women?

We urge the government of Brunei to review the Syariah Penal Code, and instead look to adopt a judicial code which will protect, rather than encroach upon, the rights of *all* its citizens.

Thank you.

¹ 89.3, A/HRC/13/14, http://www.upr-info.org/sites/default/files/document/brunei_darussalam/session_6_november_2009/ahrc1314bruneidarussalame.pdf. Accessed 18th September 2014

² 113.1A/HRC/27/11/Add.1.

³ 113.1A/HRC/27/11/Add.1.

⁴ Rejection of recommendation 113.57, A/HRC/27/11/Add.1