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PERWAKILAN TETAP NEGARA BRUNEI DARUSSALAM
KE PERTUBUHAN BANGSA-BANGSA BERSATU
DI GENEVA
Permanent Mission of Brunei Darussalam to
The United Nations at Geneva

Our Reference : GVA/HRC/SP

OHCHR REGISTRY

11 MAR 2015

Recipients : SPB

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11 Mac 2015

Mr. Karim Ghezraoui
Chief a.i.
Special Procedures Branch
Office of the High Commissioner for Human Rights

Dear Sir,

Reference is made to the letter from the Permanent Mission of Brunei Darussalam dated 13 November 2014 containing the request for an extension to respond to the Joint Communication from Special Procedures, as forwarded in your facsimile transmission dated 25 September 2014.

In relation to this, I am pleased to submit herewith the response of the Government of Majesty the Sultan and Yang DiPertuan of Brunei Darussalam, which reads as follows:

(QUOTE):

1. We have received your Joint Communication of 25 September 2014.
2. Before we set out our response and further explanation of Brunei Darussalam's position, Brunei Darussalam would like to take this opportunity to re-state its support for the UN human rights mechanisms including the Universal Periodic Review (UPR) process as well as the protection and advancement of human rights.
3. Brunei Darussalam's support for the protection and advancement of human rights is beyond question. For example:
 - (a) Brunei Darussalam has participated in the past two cycles of the UPR Working Group, the latest being in May 2014. During our second review, we have highlighted Brunei Darussalam's on-going work in continuously improving the welfare of people and also protecting the rights of vulnerable groups;
 - (b) Brunei Darussalam is also a party to the Convention on the Elimination of All Forms of Discrimination against Women and is fully committed to protecting and promoting the rights of women. In October 2014, Brunei Darussalam presented its combined initial and second periodic reports to the Committee on the Elimination of Discrimination against Women, during which it further elaborated on its continuous efforts in protecting the women of Brunei Darussalam; and

- (c) Brunei Darussalam's enduring commitment to human rights is also evidenced by its participation in the Convention on the Rights of Persons with Disabilities, the Convention on the Rights of the Child, and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.
4. Brunei Darussalam has, for some time now, continued to consider how else it can signal its continued commitment to the cause of protecting and upholding human rights. In this connection, after a review conducted at the initiative of the Government of Brunei Darussalam, Brunei Darussalam is pleased to announce its intention to sign the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT).
 5. We shall now address the Joint Communication.
 6. The Joint Communication deals mostly with issues arising out of the Syariah Penal Code Order, 2013 (**SPC**). In the course of our review, we found that there are some statements therein which suggest that there appear to be misunderstandings as to the application and/or interpretation of the provisions of the SPC. We will seek to clarify these points in this response.
 7. Brunei Darussalam has a unique legal system in that for many years now the common law system has run in parallel with the Syariah law system.
 8. The Penal Code and other criminal offences under the Laws of Brunei will still be applicable after the enactment of the SPC.
 9. Our Constitution provides that Islam shall be the official religion, but also explicitly recognises the right of non-Muslims to practice their religions in peace and harmony.
 10. The SPC codifies Syariah criminal law offences with the intention of preserving and protecting the Islamic religion and to eliminate activities which are deemed to contradict the beliefs and practices of Islam.
 11. The objective of Syariah law is to create a society where religion, life, intellect, property and lineage are preserved and protected. The Syariah criminal law system focuses more on prevention than punishment. Its aim is to rehabilitate and nurture rather than to punish. It seeks to strike the right balance between protecting the rights of the accused person and the rights of the victims and their families.



12. We fully recognise our international law commitments. Indeed, in line with our intention to align our practices with international norms, we have made the establishment of a crime very difficult, requiring proof of a standard higher than in a non-Syariah context.
13. The standard of proof in the case of *hadd* and *qisas* offences is such that the evidence must show that there is no doubt that an offence has been committed. This standard is much higher than the civil law principle of "beyond a reasonable doubt".
14. Basic rights of the accused persons (whether under the SPC or the non-Syariah criminal law) will be guaranteed and entrenched at all stages of criminal proceedings. This will ensure the fairness and integrity of the proceedings, with any benefit of the doubt being given to the accused.
15. This dual system has the full support of the people of Brunei Darussalam who today continue to enjoy a very high standard of living in a peaceful, safe and harmonious environment.
16. In conclusion, Brunei Darussalam looks forward to advancing the necessary steps for signature of UNCAT."
(UNQUOTE)

Please accept, Sir, the assurance of my highest consideration.

Yours sincerely,



[DATO MAHDI RAHMAN]
Permanent Representative