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*Plenary sitting*

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**B9-0145/2019**

22.10.2019

## **MOTION FOR A RESOLUTION**

with request for inclusion in the agenda for a debate on cases of breaches of human rights, democracy and the rule of law

pursuant to Rule 144 of the Rules of Procedure

on the proposed new Criminal Code of Indonesia  
(2019/2881(RSP))

**Heidi Hautala, Hannah Neumann, Anna Cavazzini, Kim Van Sparrentak,  
Michael Bloss, Alice Kuhnke, Yannick Jadot, Catherine Rowett, David  
Cormand, Michèle Rivasi, Ciarán Cuffe**  
on behalf of the Verts/ALE Group  
**Fabio Massimo Castaldo**

**B9-0145/2019**

**European Parliament resolution on the proposed new Criminal Code of Indonesia (2019/2881(RSP))**

*The European Parliament,*

- having regard to its previous resolutions, notably of 15 June 2017 on the human rights situation in Indonesia and of 19 January 2017 on Indonesia, notably the case of Hosea Yeimo and Ismael Alua and the Governor of Jakarta;
- having regard to the EU Guidelines on the Death Penalty; on Torture and other cruel, inhuman or degrading treatment or punishment; on Human Rights Defenders and on the promotion and protection of the enjoyment of all human rights by LGBTBI persons;
- having regard to the ongoing negotiations on the EU-Indonesia Free Trade Agreement;
- having regard to the ASEAN-EU Plan of Action 2018-2022;
- having regard to the Universal Declaration of Human Rights;
- having regard to the International Covenant on Civil and Political Rights;
- having regard to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- having regard to the Convention on the Elimination of All Forms of Discrimination against Women;
- having regard to the ASEAN Human Rights Declaration of 2012;
- having regard to the Yogyakarta Principles on International Human Rights Law in Relation to Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics;
- having regard to Rule 135 of its Rules of Procedure,

A. whereas Indonesia's draft criminal law, which will substantially amend the existing criminal code, was finalised by a parliamentary taskforce on 15 September 2019; whereas thousands of citizens across the country have protested against the draft law, calling for the suspension of its ratification; whereas the mass demonstrations were also targeting the "KPL Law", which undermines the authority and independence of the Corruption Eradication Commission;

B. whereas the vote on the draft criminal law in the Indonesian Parliament was due to take place on 26 September but has been postponed after the expressions of public outrage; whereas the problematic provisions of the draft criminal code may be re-introduced in the Indonesian Parliament after the October elections;

C. whereas the draft criminal law has at least 20 problematic articles that violate the rights of women, religious minorities and LGTBI people, as well as freedom of speech and association; whereas the proposed changes to the criminal law are perceived as a wider attempt to suppress criticism, particularly from civil society organisations and environmentalists;

D. whereas freedom of speech will become further restricted with the new provisions, which make it a criminal offence to insult the President and Vice-president of the country;

E. whereas several provisions of the draft criminal code target reproductive rights, including restrictions on abortion; whereas sexual and reproductive rights are human rights and their violation constitutes a breach to women's and girls' rights to equality, the right to life, the right to be free from torture and other ill-treatment and the right to health; whereas United Nations Treaty Monitoring bodies, including the Human Rights Committee (HRC) and the Committee on the Elimination of Discrimination against Women (CEDAW), have drawn attention to the connection between restrictive abortion laws, unsafe abortion, and high rates of maternal mortality and morbidity, urging states to review their abortion laws;

F. whereas Articles 414 and 416 of the draft criminal code restrict the provision of information about contraception and the facilitation of contraception to anyone under 18; whereas restricted access to contraception has a particular impact on marginalized groups who already shoulder most of the burden of Indonesia's HIV epidemic;

G. whereas the draft criminal code recognises the status of customary laws without listing the violations considered crimes; whereas customary laws at local level include provisions which discriminate against women, religious minorities and LGTBI people, and therefore could be used to prosecute already discriminated groups;

H. whereas the draft criminal law punishes sex outside marriage with up to a year in prison, which will effectively ban same-sex relations, and criminalises "obscene acts" in public, which could be used to target LGTBI people; whereas criminalisation of same-sex activities increases the stigma of the LGTBI persons and contributes to their discrimination, violence and harassment; whereas 70 UN Member States criminalise consensual same-sex sexual relations, seven of them providing the death penalty for such behaviour;

I. whereas there is an increased anti-LGBTI rhetoric and discrimination in the country after anti-LGBTI statements were made by public officials on the grounds of "defending the country's public morality and public security";

J. whereas human rights defenders in Indonesia continue to face intimidation, judicial harassment, arbitrary arrest, torture and limitations on their freedom of expression and assembly; whereas provisions of the current criminal code, including those on rebellion, incitement and blasphemy, the Electronic Information and Transaction Law and anti-terrorist legislation have been used to arbitrarily restrict the work of human rights defenders;

K. whereas human rights defenders such as Veronika Koman have been targeted for their work on denouncing human rights violations, especially in relation to the protests in West Papua; whereas since the start of the protests at least 40 people have been killed and at least 8000 indigenous Papuan and other Indonesians have been displaced from their homes in West

Papua; whereas UN experts have denounced the widespread pattern of violence, alleged arbitrary arrests and detention as well as methods amounting to torture used by the Indonesian police and military in West Papua; whereas journalists and UN independent bodies have repeatedly been denied access to the ground;

1. Urges the Indonesian authorities to immediately amend the draft criminal law in accordance with international human rights standards; calls on the Indonesian Government to ensure the full respect of rule of law, human rights and fundamental freedoms; strongly condemns the use of vaguely worded provisions in Indonesian laws to criminalise human rights defenders; in this regard, urges the Indonesian authorities to also modify its anti-terrorist legislation and its Electronic Information and Transaction Law in order to bring them in compliance with international human rights standards;
2. Calls on the Indonesian authorities to repeal the law on the Corruption Eradication Commission, which reduces the authority of the key body fighting corruption in the country and substantially undermines the credibility of the authorities in the fight against corruption;
3. Urges the Indonesian authorities to uphold universal human rights standards and promote equality and non-discrimination, including for LGBTI persons; calls on Indonesian officials to refrain from making inflammatory statements against LGTBI persons that will further stigmatise them; encourages the Indonesian authorities to foster political dialogue with key stakeholders in civil society in order to foster and safeguard the universal application of human rights;
4. Stresses that universal access to health, in particular sexual and reproductive health and the associated rights, is a fundamental human right, and emphasises the right to voluntarily access family planning services, including safe and legal abortion-related care, and the need for information and education aimed at reducing maternal and infant mortality; calls on the Indonesian government to ensure full access to reproductive and health services;
5. Highlights the right to express critical or satirical opinions on political leadership, religions and religious authorities as a legitimate expression of freedom of thought or artistic creation, enshrined in the international human rights framework;
6. Deplores that the HRVP and the EU Delegation in Jakarta have so far refrained from condemning the discriminatory provisions of the draft criminal code and have been silent over the human rights violations faced by indigenous Papuans; calls on the European Union and the EU Member States to take a strong and public stand if the draft bill is not amended in accordance with international human rights standards; calls on the EU Member States and the EU Delegation in Jakarta to raise the need to amend the draft criminal code with their Indonesian counterparts;
7. Calls on the EU Delegation in Jakarta to establish a mechanism to monitor the compliance of EU-based companies carrying out investments or other economic operations in Indonesia with the UN Guiding Principles on Business and Human Rights, and to ensure the free, informed and prior consent of indigenous peoples for activities undertaken by EU companies in indigenous territories; insists on the importance of establishing complaint mechanisms in relation to alleged violations of human rights by EU companies in the country;

8. Calls on the EEAS and the EU delegation in Jakarta, in line with the LGTBI guidelines, to prioritise the support of LGTBI rights defenders in areas where their action is most at risk;
9. Calls on the EEAS to include LGTBI rights as an item on the agenda of the next ASEAN-EU Policy Dialogue on Human Rights;
10. Calls on the EEAS and the Commission to support civil society groups and individuals defending human rights in Indonesia in an active manner, including by calling for the release of the human rights defenders and prisoners of conscience in all contacts they hold with Indonesian authorities;
11. Highlights the importance of including binding and enforceable provisions on respect to human rights in the EU-Indonesia Free Trade Agreement that is currently being negotiated;
12. Calls on Indonesia to extend a standing invitation to the visit of all Special Procedures of the UN Human Rights Council which includes unfettered access to the whole country, including West Papua;
13. Urges prompt and impartial investigations into the numerous cases of alleged killings, unlawful arrests, and cruel, inhuman and degrading treatment of indigenous Papuans by the Indonesian police and military in West Papua; strongly condemns the deeply entrenched discrimination and racism that indigenous Papuans face, including by Indonesian military and police, and the culture of impunity and lack of investigations into allegations of human rights violations in West Papua;
14. Calls on the Indonesian authorities to introduce an immediate moratorium on the use of the death penalty as a step towards abolition; calls for a review of all death sentences to ensure that these trials adhered to international standards;
15. Instructs its President to forward this resolution to the Council, the Commission, the High Representative of the Union for Foreign Affairs and Security Policy/Vice-President of the European Commission, the European External Action Service, the Government and Parliament of Indonesia, the UN Secretary General, the UN High Commissioner for Human Rights, the Commission on the Status of Women, the Human Rights Council, the ASEAN Secretariat and the ASEAN Intergovernmental Commission on Human Rights;