



Plenary sitting

B9-0148/2019

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))

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B9-0148/2019

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

The European Parliament,

- having regard to its previous resolutions on Indonesia,
- having regard to the Universal Declaration of Human Rights of 10 December 1948,
- having regard to the International Covenant on Civil and Political Rights, which Indonesia ratified in 2006,
- having regard to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1987,

- having regard to Rule 135 of its Rules of Procedure,

- A. whereas the long standing oppression in Indonesia against the communists and the atheists; whereas after the declassification of the documents of the CIA in 2017, it has been confirmed that these mass crimes were supervised by General Suharto's "Command for the Restoration of Security and Order" were planned and committed with the active complicity of the CIA; whereas this campaign of terror; the worst genocide after the holocaust of the Second World War by the Nazis; has made an estimated 600,000 to 2 million dead of PKI militants, but also students, women, peasants, workers, intellectuals suspected of Communist sympathies; whereas at least 2 million more were imprisoned or deported to the concentration camps with as consequences hundreds of thousands of children, abandoned after the disappearance of their father and mother, living in the streets, begging, victims of all kinds of traffics including prostitution;
- B. whereas the dictator Suharto died in 2008 without having been judged for his crimes; whereas the government never presented any apology to the victims of 1965 massacre; whereas in the archipelago, the survivors and relatives of the victims are still waiting for justice and reparations; whereas children of communists are still discriminated against by former presidential decrees identifying them as enemies of the state; whereas June 2015 the president Joko Widodo signed a bill to revise the Penal Code stipulating in its article 219 the prohibition to disseminate communist thought, and sanctioning any dissemination, whether verbally or in writing, by any channel of communication whatsoever, of a sentence of up to seven years of jail; whereas any attempt to found an organization suspected of communist collusion is punishable by up to ten years of prison;
- C. whereas the repression of atheists is a relic of this communist hunt; whereas freedom of thought, conscience and religion includes the freedom to believe or not to believe; whereas religious minorities, including Shiites, and atheists are sometimes prevented from accessing jobs in the public administration and services such as care or education on the basis of their beliefs;
- D. whereas Indonesia is currently facing multiple crises; whereas since the middle of September, tens of thousands of students have taken to the streets across the country in

protest; whereas the demonstrators have multiple complaints: a new law that could weaken Indonesia's anti-corruption body, the ongoing violence in West Papua province, and the massive rainforest wildfires; whereas the proposed new criminal code, abbreviated RKUHP, is driving the protest movement more than anything else;

E. whereas the country's existing penal code, dates back to the days of Dutch colonial rule; whereas the draft bill has been decades in the making, but was finalised by a parliamentary taskforce on 15 September this year;

F. Whereas the law if it is adopted will discriminate against non-Muslims, non-Sunni Muslims, and local religious minorities, as well as women and LGBT people; whereas provisions of the draft criminal code violate free speech and freedom of association notably the ability to engage in political speech,

G. Whereas the draft **Articles 304 to 309** expand the current Blasphemy Law and maintain the maximum five-year prison term; whereas according to these articles peoples can be punished deviations from the central tenets of Indonesia's six officially recognized religions – Islam, Protestantism, Catholicism, Hinduism, Buddhism, and Confucianism; whereas More than 150 individuals, most of them religious minorities and atheists , have been convicted under the Blasphemy Law since it was passed in 1965, including former Jakarta Governor Basuki “Ahok” Purnama, condemned to jail in 2017 and released in January 2019;

H. Whereas **Article 118** imposes up to a four-year prison sentence on anyone who spreads Marxist-Leninist teachings; whereas **Article 119** authorizes a 10-year sentence for associating with organizations that follow a Marxist-Leninist ideology “with the intent of changing the policy of the government.”

I. Whereas the provisions that effectively censor the dissemination of information about contraception and criminalize some abortions will set back women and girls' rights under international law to make their own choices about having children; whereas the freedom to choose for his/her own body is a fundamental right; whereas unintended pregnancies can affect a range of rights, including by ending a girl's education and contributing to child marriage, as well as putting women and girls' lives at risk and other health complications;

J. Whereas **Article 417** punishes extramarital sex by up to one year in jail; whereas **Article 419** states that couples who live together without being legally married could be sentenced to six months in prison;

K. Whereas since it was annexed by Indonesia in the 1960s, West Papua's land was highly priced and therefore seized to be exploited; whereas its people, however, still suffer structural colonialism and racism;

L. whereas, at the end of the Suharto regime, Indonesia is launching an extensive legislative process of decentralization and regional autonomies; whereas in 2003 western New Guinea was divided into two provinces, West Papua and Papua; whereas this administrative separation is particularly contested by the Free Papua Organization;

M. whereas the Indonesian government regularly makes arrests and dozens of Indonesian citizens are currently imprisoned for peacefully expressing their opinion in favour of Papuan self-determination;

N. Whereas in August 2019, West Papuans took to the streets of Jayapura and Manokwari, among other cities, to resist their dehumanization and call Indonesia out on its continuous, blatant racism ; whereas these demonstrations were followed by a military crackdown of the protesters ; whereas at least 26 people killed and 70 injured ; whereas the 10th of October 5 bodies (including 2 teenagers) have been found in the highlands of Indonesia's West Papua, with residents alleging them to be victims of a military attack ;

O. whereas since the beginning of September 2019, Veronica Koman a human rights defender and lawyer who advocates extensively for human rights, has been submitted to various threats and judicial harassment including the invalidation of her passport and freeze both her national and international bank accounts; whereas the Indonesian Minister of Law publicly announced that the Australian authorities will deport Veronica Koman once her passport is cancelled; whereas she's suspected for incitement (under Article 160 of the Criminal Code), spreading fake news (under Article 15 of Law number 1 of 1946 concerning criminal law and procedure), displaying race-based hatred (under Article 16 of Law number 40 of 2008 concerning the Elimination of Racial and Ethnic Discrimination), and disseminating information aimed at inflicting ethnic hatred (under Law number 19 of 2016 concerning Electronic Information and Transactions);

P. Whereas according to an Indonesian Air Force statement released on October 7th, more than 16,000 people from other provinces in Indonesia have been evacuated by military aircraft since the unrest in two cities in Papua province: Wamena, located inside, and Jayapura, the capital, overlooking the Pacific Ocean;

Q. Whereas the Indonesian security minister Wiranto was seriously injured in a knife attack Thursday 10 of October; whereas Indonesian police announced on Tuesday 15th of October that they had arrested twenty-seven suspects affiliated to ISIS; whereas the minister is still hospitalised;

R. Whereas 27,000 military and police were deployed in the capital, Jakarta, and demonstrations banned in anticipation of the inauguration ceremony of President Joko Widodo for a second term Sunday 20 of October;

1. Is extremely worried about the ongoing repression and violence in Indonesia and on the attend to restrain even more public freedoms under the scope of the decision of the Penal code;
2. Expresses is full solidarity with the students and peoples fighting for their self-determination, for the freedom of expression, religion and opinion as well as the right to choose for their own body;
3. Urge the Indonesian government to revise the Penal code in full accordance with international human rights and civil freedoms; stresses the need to withdraw all the provisions which are contrary to the international standards;
4. Stresses that light has not yet been shed on the 1965 genocide; strongly denounces the ongoing measures against the communists; urges the government of Indonesia to withdraw all the repressives measures against "marxist Leninist ideology" in the current

penal code as in the draft one; calls on the President to accede to the request of the National Commission for Human Rights to bring those responsible to justice; similarly calls for the establishment of an international jurisdiction into the complicity of foreign powers that provided orders and assistance to the Indonesian dictatorship during this period;

5. Reaffirms the freedom of thought, conscience and religion, which includes the rights to believe and not to believe; recalls its attachment to secularism as "the best way to ensure non-discrimination and equality between religions as well as between believers and non-believers" as defined in the European Parliament resolutions
6. Supports UN declarations on the necessary abrogation of the articles of the current and draft penal code regarding criticism of religion and blasphemy; stresses the need to ensure that perpetrators of religious violence and incitement to hatred are brought to justice; reiterates its call for a complete repeal of national and local laws relating to blasphemy, heresy and religious defamation used to restrict religious or belief freedom and to fuel tensions and violence;
7. Reminds that the access to health as well as contraception, genesis rights including abortion and information about sexual relations is a fundamental human right; highlights therefore the need to abandon the draft articles condemning extramarital sex, sexual informations and contraception;
8. Calls on the Indonesian Government to put an end to the repression and stop immediately anti-homosexual propaganda campaigns that only fuel violence and hatred; stresses once again that sexual orientation and gender identity are part of freedom of expression and the right of individuals to privacy in accordance with international law;
9. Deplores the impunity of security forces in Indonesia; calls for impartial and transparent investigations into all cases of human rights violations; urges the Government of Indonesia to revise the Penal Code to include torture as an offense, in line with the definition in Article 1.1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; to ensure that any act of torture is punishable by appropriate penalties that take into account the seriousness of the facts; invites the country to sign and implement the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Second Optional Protocol to the International Covenant on Civil and Political Rights, in a view to abolish the death penalty;
10. Is extremely worried about the continue violations of the rights of West Papuan peoples; demands to the Indonesian government to immediately stop the repression in the region and to ensure the equal rights for all Indonesian citizens as well as the right to self determination; calls to Immediately revoke the summons of Veronica Koman and drop all charges against her and to Guarantee in all circumstances that all human rights defenders in Indonesia are able to carry out their legitimate human rights activities without fear of reprisals and free of all restrictions, including judicial censorship ;

11. Expresses deep concern at the increase in inequalities in Indonesia, including rising unemployment and a large informal economy; calls on the government to effectively ban child labor, particularly in palm oil, rubber and tobacco plantations as well as mines, and to sign and ratify the World Health Organization Framework Convention on Tobacco Control; denounces the inaction of multinationals, especially European ones, to control their supply chains; Calls on Indonesia to put in place, as soon as possible, legislation on the origin of ores;
12. underlines the inalienable right of peoples to have access to their natural resources, stresses that the question of the distribution of income from the exploitation of resources between regions is key to the stability and prosperity of the country; calls for the issue of land and resource grabbing by multinationals to be a priority of the EU-Indonesia dialogue;
13. Opposes Free Trade Agreements with ASEAN countries including Indonesia which would exacerbate these inequalities and the multinationals' control over the country's resources; asks the European Commission for full transparency on these negotiations; calls for the establishment of new cooperation policies based on equality between the parties and the interests of peoples;
14. Reaffirms that the activities of European companies operating in third countries must fully respect international human rights standards; calls on the Member States, therefore, to ensure that companies falling under their national law do not lose their respect for human rights and the social, health and environmental standards that apply to them when they install or carry out activities in a third State notably regarding natural resources in Indonesia such as gas, oil, bauxite, nickel, copper, gold and wood, ; Calls on the European Commission and the Member States to take the necessary measures against European companies that do not respect these standards or that do not satisfactorily compensate victims of human rights violations directly or indirectly their responsibility, notably with regard to exploitation and the rights of children;
15. Instructs its President to forward this resolution to the Council, the Commission, the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy, the governments and parliaments of the Member States, the Government and Parliament of Indonesia, the Secretary-General of ASEAN, the ASEAN Intergovernmental Commission on Human Rights and the UN Human Rights Council.