



EUROPEAN PARLIAMENT

2009 - 2014

Plenary sitting

14.12.2010

B7-0708/2010

MOTION FOR A RESOLUTION

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

pursuant to Rule 122 of the Rules of Procedure

on the practice of caning in Malaysia

Véronique De Keyser, Marc Tarabella, Barbara Weiler
on behalf of the S&D Group

European Parliament resolution on the practice of caning in Malaysia

The European Parliament,

- having regard to the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment, a prohibition which applies in all circumstances and, as a peremptory norm in international law, to all states,
 - having regard to the articulation of this prohibition in a number of international and regional human rights instruments and documents, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (ICCPR) and the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture),
 - having regard to the UN Standard Minimal Rules for the Treatment of Prisoners,
 - having regard to the UN Convention Relating to the Status of Refugees
 - having regard to the Guidelines to EU policy towards third countries on torture and other cruel, inhuman or degrading treatment or punishment, adopted in 2001 and reviewed in 2008,
 - having regard to the EU-Malaysia Strategy Paper for the period 2007-2013,
 - having regard to Rule 122 of its Rules of Procedure,
- A. whereas corporal punishment in all its forms is prohibited in all circumstances under international law;
- B. whereas Malaysian law provides for punishment by caning for at least 66 known offences while the Malaysian authorities have in the recent years expanded the use of caning and extended notably the list of criminal and other offences punishable by caning;
- C. whereas there is evidence that Malaysia openly practices widespread torture and other ill-treatment by subjecting thousands of Malaysian citizens but also refugees and migrants to judicial caning each year ; whereas it is estimated that as many as 10 000 people are caned in Malaysian prisons every year;
- D. whereas the corporal punishment can amount to cruel, degrading punishment or even to torture; whereas this form of punishment causes severe pain and suffering and leaves long-term physical and psychological damage;
- E. whereas foreign caning victims are often not informed of charges, denied the right to interpretation and access to legal counsel, which is a violation of their right to objective and impartial trial;

- F. whereas in 2007 the Malaysian Bar Association has issued an appeal to the government to abolish caning for migrants and refugees as "*anachronistic and inconsistent with a compassionate society in a developed nation*";
- G. whereas Malaysia is currently member of the United Nations Human Rights Council whose members are required to "*uphold the highest standards in the promotion and protection of human rights*";
- H. whereas according to the provisions of the ASEAN Charter the ASEAN Intergovernmental Commission on Human Rights has been established;
1. Strongly condemns caning and all forms of torture and ill-treatment of prisoners; firmly believes that Malaysia cannot invoke its domestic laws to justify a practice that is clearly unlawful under international law;
 2. Urges Malaysia to immediately abolish all forms of judicial corporal punishment by taking the following measures:
 - immediately enacting a moratorium on caning as a punishment in all cases, with a view to its abolition in law and in practice,
 - ratifying the UN Convention against Torture and its Optional Protocol, as well as the International Covenant on Civil and Political Rights and its protocols,
 - amending legislation so as to treat immigration offences as administrative offences rather than crimes punishable by prison or corporal punishment,
 - amending legislation on drug-related offences to abolish corporal punishment,
 - instructing prison officials and medical officers in their obligations to prevent torture and ill-treatment of prisoners;
 3. Calls on the Human Rights Commission of Malaysia (SUHAKAM) and the Malaysia Law Reform Committee to make adequate recommendations to the government concerning the abolition of corporal punishment in law;
 4. Calls upon Malaysian authorities to implement international standards relating to protection of migrants, refugees, asylum-seekers, including in criminal proceedings against them, in order to ensure their effective protection against torture and ill-treatment;
 5. Calls on the Commission and the Council to systematically raise the issue of human rights situation in Malaysia in their political contacts with the country, especially the allegations of various abuses and ill-treatment of migrants and asylum seekers;
 6. Urges the Council and the Commission to continue the practice of demarches in respect of all of the European Union's international partners as regards the ratification and implementation of international conventions banning the use of torture and ill-treatment; calls on the European Union to consider the fight against torture and ill-treatment as a top priority of its human rights policy, in particular through enhanced implementation of the

European Union guidelines and all other European Union instruments such as the EIDHR;

7. Considers that the creation of the ASEAN Intergovernmental Commission on Human Rights constitutes a first step towards better understanding and effective implementation of international human rights standards across the region; believes in this respect that the caning of foreign nationals by Malaysia that are mostly citizens of other ASEAN Member States, should be tackled by this body;
8. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States, the Government and the parliament of Malaysia, the governments of the ASEAN Member States, the UN Special Rapporteur on Torture, and the Secretary-General of the United Nations.