



EUROPEAN PARLIAMENT

2009 - 2014

Plenary sitting

14.12.2010

B7-0717/2010

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

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on behalf of the Verts/ALE Group

European Parliament resolution on the practice of caning in Malaysia

The European Parliament,

- having regard to 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 ASEAN Charter relating to the promotion and protection of human rights and fundamental freedoms which entered into force on 15 December 2008 and the creation of the ASEAN Intergovernmental Commission on Human Rights on 23 October 2009,
 - having regard to the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers of 13 January 2007,
 - having regard to the UN Standard Minimum Rules for the Treatment of Prisoners adopted on 30 August 1955 by the [United Nations Congress on the Prevention of Crime and the Treatment of Offenders](#) and approved by the [Economic and Social Council](#) in resolutions of 31 July 1957 and 13 May 1977,
 - having regard to the UN Convention Relating to the Status of Refugees of 1954 and its protocol of 1967,
 - 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 Malaysian law provides for punishment by caning (known under Malaysian law as "whipping") for at least 66 known offences and whereas it is estimated that as many as 10 000 people are caned in Malaysian prisons every year;
- B. whereas the Malaysian authorities have in recent years expanded the use of caning notably to certain immigration offenses like illegal entry into the country or drug abuse;
- C. whereas in view of the estimated 2 million undocumented migrant workers and the great number of drug users (estimated between 350 and 900 thousand) a large population is potentially at risk of judicial caning ;
- D. whereas the UN Human Rights Council, to which Malaysia was elected in 2009, has adopted resolution 8/8 stating that "corporal punishment can be tantamount to torture", and whereas the practice of caning causes severe pain and suffering and leaves long-term

physical and psychological traumata;

- E. whereas the caning - a remnant of British colonial regulations - is still practiced in a small number of Commonwealth countries, Malaysia is the only country with a considerable population size and a high level of human development;
 - F. 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*";
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- 1. Strongly condemns caning and all forms of corporal punishment and ill-treatment of prisoners; firmly believes that Malaysia cannot invoke its domestic laws to justify a practice that amounts to torture and is clearly illegal under international law;
 - 2. Urges Malaysia to enact a moratorium on caning as a punishment in all cases, with a view to its abolition in law and in practice,
 - 3. Calls on the Malaysian authorities to immediately stop the current practice of pressuring prison officials and medical officers to be complicit in the ill-treatment of prisoners during the application of caning,
 - 4. Calls on the Malaysian Parliament to ratify the UN Convention against Torture and its Optional Protocol, as well as the International Covenant on Civil and Political Rights and its protocols; to amend legislation so as to treat immigration offences as administrative offences rather than crimes punishable by prison or corporal punishment as well as legislation on drug-related offences to abolish corporal punishment,
 - 5. 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 and practice;
 - 6. Calls upon Malaysian authorities to implement international standards relating to the protection of migrants, refugees, asylum-seekers, including in criminal proceedings against them, in order to ensure their effective protection against torture and ill-treatment;
 - 7. Calls on the Commission and the Council to systematically raise the issue in their political contacts with Malaysia, especially the allegations of various abuses and ill-treatment of migrants and asylum seekers;
 - 8. 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;

9. Considers that the creation of the ASEAN Intergovernmental Commission on Human Rights constitutes a welcome step towards a higher profile for human rights standards across the region; believes that the issue of caning in Malaysia which often concerns migrant workers coming from fellow ASEAN Member States, could be addressed by this body;
10. 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.