



Plenary sitting

B8-0246/2019

16.4.2019

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 135 of the Rules of Procedure

on Brunei
(2019/2692(RSP))

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on behalf of the EFDD Group

**European Parliament resolution on Brunei
(2019/2692(RSP))**

The European Parliament,

- Having regard to Brunei-Darussalam’s Syariah Penal Code Order of 2013
 - Having regard to the Statement by the Spokesperson on the implementation of the Penal Code Order in Brunei-Darussalam of 3 April 2019
 - Having regard to the 2012 ASEAN Human Rights declaration
 - Having regard to the Convention of the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women of which Brunei-Darussalam is party
 - Having regard to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of which Brunei-Darussalam is signatory
 - Having regard to the Universal Declaration of Human Rights
 - 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 LGTBI persons;
 - having regard to Rule 135 of its Rules of Procedure
- A. Whereas on 3 April, the third and last stage of implementation of the 2013 Penal Code Order of Brunei-Darussalam entered into force
- B. Whereas in this Sharia penal code there are provisions requiring, inter alia, death by stoning for extramarital sex, anal sex, same-sex relationships between men and abortion, amputation of limbs for stealing, up to 10 years in jail and/or up to 40 lashes for same-sex relationships between women
- C. Whereas the code also imposes the death penalty for some forms of robbery and rape as well as for defamation of the Prophet Mohammad by both Muslims and non-Muslims; whereas these punishments are inconsistent with the international principle that the death penalty should be reserved for only “the most serious crimes” and could not be used to sanction conducts, including adultery and homosexuality;
- D. Whereas some of these provisions are also applicable to children who can receive the same punishments as adults; whereas in particular, criminal liability and punishments, including the death penalty, can be imposed upon children who have reach puberty while children as young as 7 could be whipped; whereas these punishments clearly

violates the Convention on the Rights of the Child, which Brunei-Darussalam ratified in 1995

- E. Whereas the code punishes both Muslims and non-Muslims for printing, disseminating, importing, broadcasting, and distributing publications against Islamic beliefs as well as for “indecent” dressing and cross-dressing; whereas these provisions are disproportionate restrictions on the right to freedom of expression and constitutes forms of discrimination on the basis of gender expression;
- F. Whereas the new code is particularly problematic for Muslim women as it criminalizes anyone who prevents a legally married Muslim couple living together or entices married Muslim women to leave their matrimonial home or the custody of their parents or guardians, thus preventing Muslim women to seek help outside of their relationship if they feel they need to
- G. Whereas multiple provisions of the penal code violate Brunei-Darussalam’s regional and international commitments and obligations under international human rights law and customary international laws; whereas in particular the use of stoning or intentional amputation as punishment violates the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, of which Brunei-Darussalam is signatory
- H. Whereas all acts of torture could be considered crimes under international law as the prohibition of torture is recognized as a *ius cogens* in customary international law, thus meaning that every state is bound by it even if they are not party to a relevant human rights treaty
- I. Whereas Brunei-Darussalam is one of the last absolute monarchies of the world as well as one of the eight countries of the world that punishes consensual homosexual acts with the death penalty; whereas Brunei-Darussalam is ranked 153 out of 180 in the 2019 annual press freedom index
- J. whereas there is a glaring disconnect between the implementation of the reforms and the lavish lifestyle that the Sultan and his family have been enjoying in the last years, many of them allegedly incurring in adultery and misappropriation of public funds from Brunei when they were holding public positions, which under the new Penal Code provisions would be punished with death by stoning and amputation of limbs;
- K. Whereas an EU-Brunei Partnership and Cooperation Agreement, covering a range of political and economic areas, is in the process of being negotiated; whereas trade between the EU and Brunei amounts to hundreds of millions of euros annually
- L. Whereas since Brunei-Darussalam’s implementation of the new penal code was announced a number of celebrities started a protest campaign, leading a boycott on hotels owned by the Brunei government
- M. Whereas Brunei-Darussalam is a member of the Association of Southeast Asian Nations (ASEAN) and part of the ASEAN Intergovernmental Commission on Human Rights

- N. Whereas Brunei-Darussalam has not carried out an execution since 1957, despite maintaining the death penalty; whereas one new death sentence was imposed in 2017, for a drug related offence
1. Is extremely worried by the implementation in Brunei-Darussalam of the third phase of the 2013 Sharia penal code which foresee barbaric provisions that pose grave threats to basic human rights and are discriminatory for the most vulnerable people: women, children and LGBTI people in particular
 2. Considers that some of the punishments foreseen in the new Sharia Criminal code, in particular the stoning, the amputation of limbs and the lashing, amount to torture and to acts of cruel, inhuman or degrading treatment and as such are against the international and regional human rights commitments and obligations undertaken by Brunei-Darussalam
 3. Strongly believes that discrimination on the basis of sexuality is plain wrong and has no place in any society; reminds Brunei of its international human rights commitments, such as protection of the right to life, right to dignity and integrity, to protection against discrimination, to protection against harmful, degrading treatment and torture, which are universal, inalienable and indivisible, and apply to all including women, people of all faiths, non-believers, children and LGBTI people;
 4. Calls on Brunei-Darussalam to immediately withdraw the order enacting Syariah Penal Code Order 2013, and amend its provisions in accordance with international human rights standards.
 5. Calls on Brunei-Darussalam to maintain its de-facto moratorium on the use of death penalty and to establish an official moratorium on executions with a view to abolishing the death penalty
 6. Calls on regional actors and international organizations to engage in constructive dialogue with Brunei-Darussalam in order to convince the sultan to amend the new Sharia penal code; calls on the Commonwealth of Nation to consider suspending Brunei-Darussalam's Membership if steps are not taken in this direction and to discuss the issue of the new penal code introduced in Brunei-Darussalam at the 2020 Commonwealth Heads of Government Meeting;
 7. Reminds ASEAN human rights declaration of 2012 and its article 14 establishing that "no person shall be subject to torture or to cruel, inhuman or degrading treatment or punishment" and article 23 on the right to freedom of opinion and expression; calls on ASEAN members to raise and discuss the issue of Brunei-Darussalam new penal code which is in violation of the declaration;
 8. Looks forward to the forthcoming Universal Periodic Review, taking place from 6 to 17 May 2019, which will review Brunei-Darussalam's human rights record; believes this could be another important opportunity for constructive dialogue; encourages the EU and its Member States to actively participate in the forthcoming UPR,

9. Calls on the EU delegation in Indonesia, the Commission, the High representative and the Member states to raise the issue of the new penal code with Brunei-Darussalam's authorities; 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 Commission to make clear with Brunei-Darussalam that it won't be possible to go forward in the negotiations of a Partnership and Cooperation Agreement without meaningful changes to the newly introduced penal code
11. Calls on companies which are benefiting from business deals with Brunei state-owned business, particularly in the field of hydrocarbures, to publically denounce the implementation of the Sharia Penal Code; calls on Royal Dutch Shell to review its participation in the joint-venture company Brunei Shell Petroleum;
12. Calls on Brunei-Darussalam Darussalam to Ratify the International Covenant on Civil and Political Rights and its Optional Protocols and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and to extend a standing invitation to the visit of all Special Procedures of the UN Human Rights Council;
13. Calls on the EU institutions to ensure that no EU officials stay or EU-funded events take place in the Brunei-owned properties;
14. 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 UN Secretary General, the UN High Commissioner for Human Rights, the Commission on the Status of Women, the Human Rights Council, the ASEAN Secretariat, the ASEAN Intergovernmental Commission on Human Rights, the Sultan of Brunei Hassanal Bolkiah and the Government of Brunei;