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B7-0708/2010 }
B7-0713/2010 }
B7-0717/2010 }
B7-0725/2010 }
B7-0726/2010 }
B7-0730/2010 } RC1

JOINT MOTION FOR A RESOLUTION

pursuant to Rule 122(5) of the Rules of Procedure

replacing the motions by the following groups:

S&D (B7-0708/2010)
ALDE (B7-0713/2010)
Verts/ALE (B7-0717/2010)
ECR (B7-0725/2010)
PPE (B7-0726/2010)
GUE/NGL (B7-0730/2010)

on Malaysia: the practice of caning

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on behalf of the PPE Group

Véronique De Keyser, Marc Tarabella, Barbara Weiler

on behalf of the S&D Group

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on behalf of the ALDE Group

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on behalf of the Verts/ALE Group

Charles Tannock, Michał Tomasz Kamiński, Ryszard Antoni Legutko, Adam Bielan, Tomasz Piotr Poręba, Ryszard Czarnecki

on behalf of the ECR Group

Marie-Christine Vergiat, Rui Tavares

on behalf of the GUE/NGL Group

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European Parliament resolution on Malaysia: the practice of caning

The European Parliament,

- having regard to the absolute ban on torture and other cruel, inhuman or degrading treatment or punishment, a ban which applies in all circumstances and, as a peremptory norm in international law, to all states,
 - having regard to the practical expression given to this ban 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 Minimum Rules for the Treatment of Prisoners,
 - having regard to the UN Convention Relating to the Status of Refugees,
 - 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 Guidelines for EU policy towards third countries on torture and other cruel, inhuman or degrading treatment or punishment, adopted in 2001 and revised in 2008,
 - having regard to the EU-Malaysia Strategy Paper for the period 2007-2013,
 - having regard to Rule 122(5) 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 (known as 'whipping') for at least 66 offences, and whereas according to estimates by Amnesty International as many as 10 000 Malaysian citizens and increasing numbers of refugees and migrants are caned in Malaysian prisons every year,
- C. whereas the Malaysian authorities have in recent years expanded the list of offences punishable by caning to include illegal entry into the country and drug abuse,
- D. whereas the UN Human Rights Council, of which Malaysia is a member, has adopted Resolution 8/8 stating that 'corporal punishment can be tantamount to torture', and whereas

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the practice of caning causes severe pain and suffering and long-term physical and psychological trauma,

- E. whereas although caning – a remnant of colonial rule – is still practised in a small number of countries, Malaysia is the only country with a considerable population size and a high level of human development to retain this form of punishment,
 - F. whereas foreign caning victims are often not informed of the charges against them and denied the right to interpretation and access to legal counsel, in violation of their right to an objective and impartial trial,
 - G. whereas the doctors involved in the process – whose role is no more than that of certifying that prisoners are fit to be caned and resuscitating them should they lose consciousness – are violating medical ethics,
 - H. whereas the Malaysian Bar Association, which represents 8000 lawyers, has called for this form of punishment to be abolished, claiming that it contravenes all international human rights norms and various conventions on torture,
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 and all forms of corporal punishment in all cases, with a view to their abolition in law and in practice;
 3. Calls on the Malaysian authorities immediately to halt the current practice of pressuring prison officials and medical officers to be complicit in the ill-treatment of prisoners when canings are administered;
 4. Calls on the Malaysian Parliament to ratify the UN Convention against Torture and its Optional Protocol and the ICCPR and its protocols and to amend Malaysian law so that immigration offences are treated as administrative offences, rather than crimes punishable by imprisonment or corporal punishment, and that drug-related offences are no longer punishable by caning;
 5. Calls on the Human Rights Commission of Malaysia (SUHAKAM) and the Malaysia Law Reform Committee to make suitable recommendations to the government concerning the abolition of corporal punishment in law;
 6. Calls on the Malaysian authorities to implement international standards relating to the protection of migrants, refugees and asylum seekers, including in criminal proceedings against them, in order to ensure their effective protection against torture and ill-treatment;
 7. Calls on the High Representative of the Union for Foreign Affairs and Security Policy, the Commission and the Council systematically to raise the issue of the human rights situation in

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Malaysia, and, in particular, the allegations of various abuses and ill-treatment of migrants and asylum seekers, in their political contacts with the country;

8. Urges the High Representative of the Union for Foreign Affairs and Security Policy, the Council and the Commission to continue making representations to all of the European Union's international partners urging them to ratify and implement international conventions banning the use of torture and ill-treatment; calls on the European Union to give the fight against torture and ill-treatment top priority in its human rights policy, in particular through enhanced implementation of the European Union guidelines and all other European Union instruments, such as the European Instrument for Democracy and Human Rights;
9. Regards the creation of the ASEAN Intergovernmental Commission on Human Rights as a welcome step towards a more comprehensive approach and the more effective implementation of human rights standards across the region; believes that the issue of caning in Malaysia, which often concerns migrants and asylum seekers coming from fellow ASEAN Member States, could be addressed by this body;
10. Instructs its President to forward this resolution to the High Representative of the Union for Foreign Affairs and Security Policy, the Council, the Commission, the governments and parliaments of the Member States, the Government and Parliament of Malaysia, the governments of the ASEAN Member States, the UN Special Rapporteur on Torture and the UN Secretary-General.