

Thursday 18 April 2019

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Brunei**European Parliament resolution of 18 April 2019 on Brunei (2019/2692(RSP))**

(2021/C 158/03)

The European Parliament,

- having regard to the statement of 3 April 2019 by the Spokesperson of the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy (VP/HR) on the implementation of the Penal Code Order in Brunei Darussalam,
 - 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 LGBTBI persons,
 - having regard to the statement of 1 April 2019 by the UN High Commissioner for Human Rights, Michelle Bachelet, urging Brunei to stop the entry into force of the 'draconian' new penal code,
 - having regard to the Universal Declaration of Human Rights,
 - having regard to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which Brunei signed in 2015,
 - having regard to the Convention on the Rights of the Child,
 - having regard to the Convention on the Elimination of All Forms of Discrimination against Women,
 - having regard to the ASEAN Human Rights Declaration of 2012,
 - having regard to the ASEAN-EU Plan of Action 2018-2022,
 - having regard to the ASEAN-EU Policy Dialogue on Human Rights of 29 November 2017,
 - having regard to the statement of 2 April 2019 by the Deputy Spokesperson of the US State Department on the implementation of phases two and three of the Sharia Penal Code in Brunei,
 - having regard to Rules 135(5) and 123(4) of its Rules of Procedure,
- A. whereas in 2014 Brunei introduced the Sharia Penal Code, to be implemented in three phases; whereas the third phase of implementation entered into force on 3 April 2019; whereas this third phase puts into effect provisions including death by stoning for consensual same-sex acts, extramarital sex and abortion, as well as amputation of limbs for stealing; whereas the code also imposes the death penalty for insulting or defamation of Prophet Mohammad by both Muslims and non-Muslims; whereas the Sharia Penal Code applies to both Muslims and non-Muslims, including foreigners, as well as to offences committed outside the country by citizens or permanent residents;
- B. whereas children who have reached puberty and are convicted of the offences concerned can receive the same punishments as adults; whereas some younger children may be subjected to whipping;
- C. whereas, prior to the introduction of the Sharia Penal Code, homosexuality was illegal in Brunei and was punishable by up to 10 years' imprisonment;
- D. whereas the last elections in Brunei were held in 1962; whereas the Sultan occupies the roles of both Head of State and Prime Minister, and is invested with full executive authority;

Thursday 18 April 2019

- E. whereas the UN Special Rapporteur on Torture has stated that any form of corporal punishment is contrary to the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, and cannot be considered a lawful sanction under international law; whereas some of the punishments enshrined in the Penal Code amount to torture, cruel, inhuman and degrading treatment as prohibited by the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which Brunei has been a signatory since 2015;
 - F. whereas the provisions under the Sharia Penal Code violate Brunei's obligations in international human rights law, including the right to life, freedom from torture and other ill-treatment, freedom of expression, freedom of religion and the right to privacy; whereas the provisions of the code discriminate on the basis of sexual orientation, as well as against women and against religious minorities in Brunei, and may incite violence;
 - G. whereas the Joint UN Programme on HIV and AIDS (UNAIDS) and the UN Population Fund (UNFPA) have stated that the provisions of the Brunei Penal Code that criminalise homosexuality and punish forms of reproductive healthcare have a disproportionate impact on women and LGBTI people, creating barriers to accessing health information and services, impeding access to sexual and reproductive health and rights, and negatively affecting public health;
 - H. whereas tradition, religion and culture in Brunei are used to justify discrimination against women and LGTBI people; whereas the report on Brunei of 11 March 2019 of the Office of the UN High Commissioner for Human Rights i states that there are deep-rooted patriarchal attitudes and use of discriminatory stereotypes which are reflected in women's academic and professional choices, their unequal position in the labour market, and in marriage and family relations; whereas these stereotypes are root causes of violence against women;
 - I. whereas Brunei is known for its multi-ethnic population with a wide variety of religions, including Islam, Christianity, Buddhism, Hinduism and various indigenous religions, living peacefully together; whereas Brunei's constitution recognises religious freedom and prescribes that 'all religions may be practised in peace and harmony by the persons professing them'; whereas, despite Brunei's constitution, the Government has prohibited the proselytising and teaching of all religions but Islam, and has banned all public Christmas celebrations;
 - J. whereas Brunei has a de facto moratorium on the use of the death penalty, with the last execution having been carried out in 1957; whereas the Sharia Penal Code will effectively reintroduce the death penalty if implemented; whereas the EU condemns the death penalty, wherever, whenever;
 - K. whereas the adoption of the new laws has sparked international outrage and calls for a boycott of the hotels owned by the Brunei Investment Agency (BIA); whereas this agency is part of Brunei's Ministry of Finance and Economy and owns a variety of investment projects all over the world; whereas the BIA has stated that its core values include mutual respect and the positive valuation of difference and diversity;
 - L. whereas Brunei has only ratified two UN core international human rights conventions, the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women; whereas the third cycle of the Universal Periodic Review of Brunei will be launched on 10 May 2019;
 - M. whereas the EU has suspended the negotiations for a partnership and cooperation agreement with Brunei;
- 1. Strongly condemns the entry into force of the retrograde Sharia Penal Code; urges the Brunei authorities to immediately repeal it and to ensure that Brunei's laws comply with international law and standards consistently with Brunei's obligations under international human rights instruments, including with regard to sexual minorities, religious minorities and non-believers;
 - 2. Reiterates its condemnation of the death penalty; calls on Brunei to continue its moratorium on the use of the death penalty as a step towards abolition;

Thursday 18 April 2019

3. Strongly condemns the use of torture and cruel, degrading and inhuman treatment in all circumstances; underlines that the provisions of the Sharia Penal Code violate Brunei's obligations under international human rights law, and that the punishments under it violate customary international law prohibitions against torture and other ill-treatment;
4. Is deeply concerned by the fact that while many countries are decriminalising consensual same-sex conduct, Brunei has regrettably become the seventh country to punish consensual homosexual acts with the death penalty; calls on the authorities of Brunei to respect international human rights and to decriminalise homosexuality;
5. Calls on the Brunei authorities to ensure the principle of equality before the law of all citizens and respect for the fundamental rights of all citizens, without distinction on any grounds, including gender, sexual orientation, race or religion; is strongly concerned about the possible application of the criminal law to children; calls on Brunei under no circumstances to apply capital punishment, torture or imprisonment to such children;
6. Calls on the Brunei authorities to fully respect religious freedom in the Sultanate, as laid down in its own constitution, and to allow the public celebration of all religious festivals, including Christmas; stresses that legislation in this regard must strictly comply with human rights;
7. Encourages the Brunei authorities to foster political dialogue with key civil society stakeholders, human rights organisations, faith-based institutions and business organisations, both inside and outside Brunei, in order to foster and safeguard human rights on its territory; highlights the right to express critical or satirical opinions as a legitimate exercise of freedom of expression, enshrined in the international human rights framework;
8. Urges Brunei to ratify the remaining UN core international human rights instruments, including the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; calls on the Brunei authorities to extend a standing invitation to visit in the framework of all Special Procedures of the UN Human Rights Council;
9. Calls on the European External Action Service (EEAS), in the event of effective implementation of the Sharia Penal Code, to consider the adoption at EU level of restrictive measures related to serious human rights violations, including asset freezes and visa bans;
10. Calls on the VP/HR to make the relaunch of the negotiations for the EU-Brunei partnership and cooperation agreement subject to the conformity of the Penal Code with international law and international human rights standards;
11. Highlights the work of human rights defenders in promoting and protecting the rights of LGBTBI persons; calls on the EU institutions to increase their support to civil society organisations and human rights defenders in Brunei;
12. Calls on the EU Delegation to Indonesia and Brunei Darussalam in Jakarta, the EU Delegation to ASEAN and the EEAS to closely monitor the situation and to consult with the Brunei authorities, ambassadors and representatives in this regard; calls on the EEAS to include the situation in Brunei as an item on the agenda of the next ASEAN-EU Policy Dialogue on Human Rights;
13. Encourages the Member States to actively participate in the forthcoming Universal Periodic Review, which will take place from 6 to 17 May 2019 and will examine Brunei's human rights record;
14. Stresses that for as long as the current Penal Code is in force, the EU institutions must consider blacklisting the hotels owned by the Brunei Investment Agency;
15. Calls for the EU and its Member States to respect the international legal framework with regard to access to asylum procedures and humanitarian protection for victims of Brunei's current Penal Code;

Thursday 18 April 2019

16. 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 European External Action Service, the governments of the Member States, the UN Secretary-General, the UN High Commissioner for Human Rights, the UN Commission on the Status of Women, the UN Human Rights Council, the ASEAN Secretariat, the ASEAN Intergovernmental Commission on Human Rights, the Sultan of Brunei, Hassanal Bolkiah, and the Government of Brunei.
