



Committee on Social Affairs, Health and Sustainable Development

Abolish the death penalty, torture and inhuman treatment of children in Brunei

Declaration adopted by the Committee on 14 May 2019

The Committee on Social Affairs, Health and Sustainable Development of the Parliamentary Assembly is deeply concerned by the developments in Brunei Darussalam, where the Sharia Penal Code, which entered into force on 3 April 2019, allows for the death penalty for rape, adultery, sodomy, extramarital sexual relations, robbery and insult or defamation of the Prophet Muhammad. Abortion may be punished by public flogging and theft by amputation. Children who have reached puberty and are convicted of these offenses are subject to the same punishments as adults. Whipping is foreseen for younger children.

The Committee notes that in its response to the concerns expressed by the international community¹ Brunei emphasised a preventative focus of this law, introduced “in the interest of preserving its traditional, religious and cultural values” and to “safeguard the sanctity of family lineage and marriage”. It recalled the sovereign equality of the UN member States and pointed out that there is “no one standard that fits all”.² It is true that there is a broad diversity of cultures, religions and traditions among UN member States, and the universality of human rights is often contested and debated. Nevertheless, most countries accept a number of principles that transcend national borders and must be respected by all. The UN Convention on the Rights of the Child, ratified by Brunei, proclaims that “No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age”.

Europe itself has come a long way in accepting that death penalty and degrading treatment are not justice and are not an effective deterrent to crimes or undesired social behaviour. Other ways of improving morals and the wellbeing of society, such as education, public debate and constructive dialogue, are more likely to bring the acceptable results that will last. These approaches are also more likely to portray Brunei as a peaceful community, where both human rights and religious values are nurtured and protected.

The Committee calls on the government of Brunei to fully respect its commitments under international law and:

1. put in place an immediate moratorium on the implementation of the Sharia Penal Code with respect to children;
2. implement fully the recommendations that it has received in the framework of the review of the human rights records of all UN Member States (Universal Periodic Review);
3. ratify the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (UNCAT), and recognise the competence of the Committee against Torture to receive and consider individual complaints;
4. promote inclusive dialogue within the country and with the international community, to develop human and sustainable ways of preserving its traditional, religious and cultural values;
5. abolish the death penalty, torture and inhuman treatment and punishment of children.

¹ Statement by the UN High Commissioner for Human Rights, Michelle Bachelet, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24432&LangID=E>, and European Parliament resolution of 18 April 2019 on Brunei (2019/2692(RSP)), available at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2019-0424+0+DOC+XML+V0//EN&language=EN>, accessed on 24 April 2019.

² The letter of 15 April 2019 from the Mission of Brunei Darussalam to the European Union addressed to the European Parliament, available at: <https://www.documentcloud.org/documents/5974911-Mission-of-Brunei-letter-to-the-European-Union.html>, accessed on 24 April 2019.