

3RD ANNUAL CONFERENCE (2018)

Narrating Human Rights: Issues of Migration, Discrimination, and Protection of Human Rights in Southeast Asia

SEPTEMBER 17TH-19TH 2018

organized by:

supported by:



The Centre for Human Rights
Multiculturalism and Migration
University of Jember, Indonesia



Faculty of Law



Graduate School
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KELOMPOK ORGANISASI DAN
KEPERAWATAN ANTI-KORUPSI
KOMNAS PEREMPUAN
KOMISI NASIONAL ANTIBERKORUPSI
KERUKUNAN TERHADAP BERPIKIR

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PREFACE

Welcome!

The University of Jember is honored to host you at The Centre for Human Rights, Multiculturalism, and Migration (CHRM2)'s 3rd Annual International Conference: "*Narrating Human Rights: Issues of Migration, Discrimination, and Protection of Human Rights in Southeast Asia*." Our first conference was held in 2016 and each year we are expanding and improving the experience for our participants. This year's conference includes academicians, practitioners, and policymakers from around the world, including participants from Thailand, the Philippines, Vietnam, Pakistan, Taiwan, and Australia.

From over 150 submissions, our editorial team selected the top 15 papers to be included in this conference. During the next two days, you will hear from presenters who have researched a myriad of topics ranging from Constitutionalism to Indigenous Rights to Migration and Human Trafficking. In recognition of their hard work and prestige, these top papers will be published in the Journal of Southeast Asian Human Rights (Volume 2, Issue 2 or Volume 3, Issue 1). Additional papers will be selected for the book project on Political, Legal, and Epistemic Violence which is spearheaded by Dr. Al Khanif, director of CHRM2, and Dr. Vanja Hamsic, professor at SOAS, University of London.

This conference would not be possible without the dedication of our sponsors. We appreciate and thank the ongoing support of Asia Justice and Rights (AJAR), Migrant CARE, and SEPAHAM. I would also like to thank the National Commission on Violence Against Women and the National Commission on Human Rights of Indonesia (KOMNAS HAM) for joining us this year as conference sponsors.

I would also like to thank the consistent commitment of those working at the University of Jember in the Faculty of Law, the Graduate Law School, and CHRM2 for their aid in organizing this conference.

I hope you enjoy our conference.

Sincerely,

Mohammad Hasan
Rector of the University of Jember



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Issues of Migration, Discrimination,
and Protection of Human Rights
in Southeast Asia

SEPTEMBER 17TH-19TH 2018

BOOK CONTENTS

Preface	Ii
Book Contents	iv
Schedule	V
Pick Up and Drop Schedule	Xv
Abstract Contents	Xvi
Parallel Sessions Abstracts	xix
Abstracts	1
Participant List	57

SCHEDULE

Day 1: Monday 17 September 2018

Time	Activities	Explanation	Venue
Monday, 17th September 2018			
18.00 - 18.30	Pick up from hotel to Conference Venue	Committee	Royal Hotel & Aston Hotel
18.30 - 19.15	Cultural Performance & Welcoming Tea	Karawitan Universitas Jember	Ground Floor, CDAST Building
19.15 - 19.45	Opening Ceremony	Eleanor Jones (VIA) & Silvia Laurent (CHRM2)	5 minutes presentations from each organization
	Welcoming Speech from Steering Committee a. Indonesian National Commission on Violence against Women (Komnas Perempuan) b. AJAR c. Migrant CARE d. Indonesian National Commission on Human Rights (Komnas HAM) e. Rector - University of Jember f. Opening	Eleanor Jones (VIA) & Silvia Laurent (CHRM2)	
19.45 - 21.00	Welcoming Dinner	Karawitan Javanese Musical Instrument by Dharma Wanita University of Jember	
21.00 - Finish	Pick up participants to the Hotel		1 st Floor, Rectorat Building of University of Jember

Day 2: Tuesday 18 September 2018

Time	Activities	Explanation	Venue
Tuesday, 18th September 2018			
07.00 - 07.30	Breakfast		Hotel
07.30 - 08.00	Pick up Participants at hotel	Committee	Hotel
08.00 - 08.30	Registration of Participants	Committee	3 rd Floor - Conference Hall
08.30 - 09.30	Plenary Session I	Two Decades of Human Rights Development in Indonesia After New Order Regime by Ahmad Taufan Damanik , Chairman of the Indonesian National Commission on Human Rights	Plenary Hall 3 rd Floor of Teacher Training and Education Faculty Moderator: Dr. Rachmat Hidayat (CHRM2)
09.30 - 10.00	Coffee Break		3 rd Floor
10.00 - 12.00	Panel Session I	Title & Presenter	Panel Theme
	Panel 1: Plenary Hall	Constitutional Rights of Indonesian Citizens in Expressing and Purposing Opinions on Internet in the Regime of The ITE Law, by Zaka Firma Aditya , Constitutional Court of The Republic of Indonesia & Sholahuddin Al-Fatih , Faculty of Law Universitas Muhammadiyah Malang Indonesia	Maximizing Human Rights Fulfilment Through Human Rights Institutions: Lesson Learnt from Southeast Asian Countries Moderator: Mirza Satria Buana (SEPAHAM Indonesia)
		Establishment of Policy Reform of the Supreme Court of Republic Indonesia in the Constitution and Human Rights Paradigm, by Ditta Wisnu Indonesian Judicial Monitoring Society, Faculty of Law, University of Indonesia (MaPPI FHUI, Indonesia	
		Title: Explaining the Implication of the Regional Framework on Human Rights in ASEAN, by Yuyun Wahyuningrum, PhD Student , International Institute of Social Studies (ISS) - Erasmus University Rotterdam, The Netherlands	
		Breaching the Paradox of Humanitarian Intervention in South East Asia: A Study of UNHCR-IOM Agenda Setting in Transforming Rohingya Refugee into Economic Migrant, by Satria Rizaldi Alchatib , Political Analysis and Public Policy Department, National Research University Higher School of Economics Moscow	

	Panel 2: Seminar Room 1 (2 nd Floor)	The Contemporary Cambodian Constitutional Enforcement: Assessment of Constitutional Law-Making Process and the Right to Public Participation, by Vandanet Hing , <i>Royal University of Law and Economics (RULE) Cambodia</i>	A Dynamic of Constitutionalism and Human Rights Across Southeast Asia Moderator: Mina Chiang (CHRM2)
		An Overview on Constitutional, Legal and Policy Framework of Human Rights for Older Persons in Bangladesh, by Assist. Prof. Mohammad Didar Hossain , <i>Rajshai University of Engineering & Technology (RUET) Bangladesh</i>	
		Rights and Obligations of Citizens Based on Classical Constitutions of Indonesian Kingdoms and Modern Constitution of Indonesia, by Airin Liemanto , <i>Civilization Studies Centre, University of Brawijaya, Indonesia</i>	
		Legal Aspect of Tracking Technology and Its Implication to Citizens' Right to Privacy (A Study of Digitilized Business in Indonesia), by Masitoh Indriyani and Dwi Rahayu Kristianti <i>Airlangga University Indonesia</i>	
	Panel 3: Seminar Room 2 (3 rd Floor)	Inclusion and Cultural Preservation for the Ifugao People, by Ellisiah U. Jocson <i>OneLife Foundation Inc. Philippine</i>	Indigenous Rights in Southeast Asia Moderator: Tamara S. Biddle (CHRM2)
		Unraveling Disability Participation in Indigenous Peoples, by Isneningtyas Yulianti and Nurrahman Aji Utomo , <i>National Commission on Human Rights of Indonesia</i>	
		Climate Change-Resilient of Indigenous People: Questions on National and Regional Mechanism on Human Rights, by Nukila Evanty , <i>Asia Centre, Thailand.</i>	
		Hierarchical Reciprocities and Tensions between Migrants and Native Moluccas in the Post Reformation, by Dr. Hatib Kadir , <i>University of Brawijaya, Indonesia</i>	
12.00 - 13.00	Lunch		3 rd Floor of Conference Hall
13.00 - 15.00	Panel Session II	Title & Presenter	Panel Theme
	Panel 1: Plenary Hall	Involvement of Indonesian National Military in Legislation about Anti - Terrorism: Review of International Humanitarian Law,	Radicalism, Terrorism and Human Rights in Southeast Asia

	<p>by Satria Unggul Wicaksana Prakasa, Faculty of Law Muhammadiyah University of Surabaya Indonesia</p> <p>Dilemma of Prosecution and International Criminal Law under Transitional Justice, by Nicole Janisiewicz, AJAR Indonesia</p> <p>Vulnerability of Women Migrant Workers to Radicalism, by Anis Hidayah, Migrant CARE Indonesia</p> <p>Policy for Preventing Violent Extremists in Indonesia: Community-Centred Strategies, by Dr. I Gede Widhiana Suarda, University of Jember</p>	<p>Moderator: Dr. Rosnida Sari (CHRM2)</p>
<p>Panel 2: Seminar Room 1 (2nd Floor)</p>	<p>Qanun Jinayat Discriminates Against Women (Victims of Rape) in Aceh, by Faradilla Fadlia (Syah Kuala University) & Ismar Ramadani (Al Muslim University)</p> <p>Good Governance of China on The Exercise of Geopolitics and Regional Geo-Culture, As a Growth Promoter of Human Rights, by Fierro Garcia Curie Elizabeth, Universidad Autonoma Metropolitana Mexico</p> <p>Oplang Tokhang: Lived Experiences of Its Surrenderes in Barangay Ampayon, Butuan City by Connie Fern B. Miranda, Angelica M. Aguillar, Krishna May D. Atillo, & Stephanie C. Veloria, Department of Social Sciences and Humanities, College of Arts and Sciences, Caraga State University, Ampayon, Butuan City, Agusan del Norte, Philippines</p>	<p>State Authority, Discrimination, and Human Rights in Southeast Asia and Beyond Moderator: Eleanor C. Jones (CHRM2)</p>
<p>Panel 3: Seminar Room 2 (3rd Floor)</p>	<p>Towards Post - Transitional Justice: The Failures of Transitional Justice and the Roles of Civil Society in Indonesia, by Dr. Sri Lestari Wahyoeningrum, University of Indonesia</p> <p>Aceh Damee or Aceh Damee Damee: Questioning Transitional Justice and Human Rights in Aceh, by Ismar Ramadani and Faradilla Fadlia, Al Muslim University and University of Syiah Kuala</p> <p>Transnational Islam, Regional Terrorism, and Military Power: The Rise of Muslim Special Unit in the Philippines Armed Force, by Bayu Mitra A. Kusuma, Sunan</p>	<p>Justice, Transnationalism and Human Rights: A Cross Cultural Perspective Moderator: Masitoh Indriyani (SEPAHAM Indonesia)</p>

		<i>Kalijaga State Islamic University, Yogyakarta - Indonesia</i>	
		Building the Truth, Reconciling the Future: The Prospect and Challenge of Aceh Truth and Reconciliation Commission, by <i>Indria Fernida, AJAR Indonesia</i>	
15.00 - 15.30	Coffee break	Coffee break	Coffee break
15.30 - 16.30	Plenary Session II	Union and NGO Responses to Temporary Labour Migration in Asian Destination Countries, <i>Prof. Michele Ford, University of Sydney and Migrant CARE</i>	Plenary Hall 3 rd Floor Moderator: Mina Chiang (CHRM2)
16.30-17.30	Dinner		3 rd Floor
17.30-18.00	Pick Up Participants to Royal & Aston Hotel		1 st Floor

Day 3: Wednesday 19 September 2018

Time	Activities	Explanation	Location
Wednesday, 19th September 2018			
06.00 – 08.00	Breakfast		Royal & Aston Hotel
08.00 – 08.15	Pick up Participants at hotel		Royal & Aston Hotel
08.30 – 09.00	Registration of Participants		Conference Hall
09.00-10.00	Plenary Session III	Transnational Justice and Human Rights – <i>Galuh Wandita, Director of Asia Justice and Rights (AJAR)</i>	Plenary Hall 3 rd Floor Moderator: Dr. Rosnida Sari (CHRM2)
10.00 – 12.00	Panel Session III	Title & Presenter	Panel Theme
	Panel 1: Plenary Hall	National Security and Human Rights: National Strategic Project by <i>Mimin Dwi Hartono, Indonesian National Commission on Human Rights</i>	National Security and Human Rights in Southeast Asia Moderator: Tamara S. Biddle (CHRM2)
		Securitization and Desecuritization of Migration in Indonesia: Its Implication to Refugee Rights in the Southeast Asian Region by <i>Nurul Azizah Zayzda, Maiza Hazrina Ash-Shafikh, Ayusia Sabhita Kusuma, University of Jenderal Soedirman, Indonesia</i>	
		What perpetuates Modern Slavery in the Asian long-distance fishing industry? by <i>Mina Chiang, International Development Studies (IDS) Sussex University and CHRM2 Research Fellow</i>	
	Panel 2: Seminar Room 1 (2 nd Floor)	Unsafe River Bank House? A Legal Reflection on Issues of Freedom from Poverty, Development Programmes and Accountability Mechanisms in Indonesia, by <i>Erna Dyah Kusuma, University of Groningen the Netherlands.</i>	Advancing and Expanding Human Rights Cities in Southeast Asia Moderator: Dr. Rachmat Hidayat (CHRM2)
Indonesia’s National Strategic Project, Displacement, and the New Poverty by <i>Achmad Firas Khudi, Lasem Institute for Development Services (LIDS)/United Cities and Local Governments Asia Pacific (UCLG ASPAC) & Sekar Banjaran Aji, Institute for Policy Research and Advocacy (ELSAM)</i>			

		Expanding Human Rights Cities in Indonesia, by Beka Ulung Hapsara , <i>Commissioner for Education & Outreach of the National Commission on Human Rights of Indonesia</i>	
	Panel 3: Seminar Room 2 (3 rd Floor)	The Vulnerability of Minority: Migration of Indonesian Gays to Paris, France, by Dr. Wisnu Adihartono , <i>Independent Researcher - Ecole des Hautes Etudes en Sciences Sociales (EHESS), France</i>	Refugees, Minority, and Human Rights in Southeast Asia Moderator: Haidar Adam (SEPAHAM Indonesia)
		“Pancasila and Pragmatism: Protection or “Pencitraan” for Refugees in Indonesia?” by Carly Gordyn (<i>Australian National University, Australia</i>)	
		The Role of Indonesian Government in Rohingya Crisis by Yuli Ari Sulistyani & Marina Ika Sari <i>Indonesia Defense University Graduate</i>	
	Detention of Refugee Children in Malaysia and Thailand: Is Alternatives to Detention (ATD) Workable? By Samitra Parthiban, Khoo Ying Hooi , Department of Strategic and International Studies, Faculty of Arts and Social Science, University of Malaya, Malaysia		
10.30-12.00	Panel Session IV	Title & Presenters	Sub Theme
	Panel 1: Plenary Hall	Forced Migration and ASEANization of Human Security Concept: Mapping a Strategy for Narrowing the Gap, by Farida Tadjine , <i>University of Kasdi Merbah, Algeria</i>	Human Rights, Human Security, and Asian Values in Southeast Asia Moderator: Eleanor C. Jones (CHRM2)
		Historical Aspect of Asian Values in the Wave of Indonesian Democracy, by Nilna Hamida , <i>Faculty of law, University of Jember</i>	
		Narrating Human Rights in the Philippines: Collective Memories of the Filipino Youth on the Marcos Regime, by Ma. Rhea Gretchen A. Abuso , <i>Xavier University, Philippines</i>	
		The Filipino Orientalism: The Misrepresentation of Filipino Muslims in the Philippine Media by Rejinel Gamboa Valencia , graduate student of journalism from the University of the Philippines, Diliman	
	Panel 2: Seminar Room 1 (2 nd Floor)	Dr. Al Khanif (CHRM2) & Dr. Vanja Hamsic (SOAS, University of London)	Book Project: Political, Legal, Epistemic Violence and Human Rights in Southeast Asia

	Panel 3: Seminar Room 2 (3 rd Floor)	State Liability to Fulfillment of Water Rights in Improving Public Health Degrees, <i>by Dr. Theodorus HW Lumunon, Faculty of Law, Sam Ratulangi University</i>	The Right to Health in Southeast Asia Moderator: Mina Chiang (CHRM2)
		Management of People with Special Needs Especially Mental Disabilities and Autism), <i>by Fitroh Chumairoh, Volunteer for People with Mental Disabilities and Autism, Independent Organization Customer Service, Pruf Ritz Communications Hub</i>	
		Health Literacy of Child with Special Needed: How the Role of The Parents in Their Fulfillment of Health Services? <i>By Dr. Dewi Rokhmah & Khoiron, Faculty of Public Health, University of Jember, Indonesia</i>	
12.00 - 13.00	Lunch		3 rd Floor
13.00-15.00	Panel Session V	Tile & Presenter	Sub Theme
	Panel 1: Plenary Hall	Transitional Justice in a Divided Multicultural Nation, Indonesia: A Study of Its Impediments, <i>by Dr. Mirza Satria Buana, Lambung Mangkurat University Indonesia</i>	Conflict and Transitional Justice under International Perspectives Moderator: Haidar Adam (SEPAHAM Indonesia)
		Life in Prison, <i>by Palwasha Khan, Advocate High Court Islamabad Pakistan</i>	
		I Am Here: Voices of Papuan Women in the Face of Unrelenting Violence, <i>by Atikah Nuraini, Learning Coordinator of AJAR Indonesia</i>	
	Panel 2: Seminar Room 2 (3 rd Floor)	Legal and Moral Debates of Human Rights Protection for Non-Documented Migrant Workers in Indonesia, <i>by Dr. Ida Susanti, Faculty of Law, Parahyangan Catholic University, Bandung Indonesia</i>	Migration, Human Trafficking and Human Rights in Southeast Asia Moderator: Tamara S. Biddle (CHRM2)
		Protection of the Rights of the Victims of Human Trafficking: Has Malaysia done Enough? <i>By Assoc. Prof., Rohaida Nordin, Renuka a/p Jeyabalan - Faculty of Law, National University of Malaysia, Malaysia</i>	
		Reformulation Protection of Refugee in Indonesia As A Transit State in The Framework of Protecting Human Rights <i>by Yasniar Rachmawati Madjid, Faculty of Law, University of Brawijaya</i>	
15.00 - 16.30	Panel Session VI	Title and Presenters	Sub Theme

	Panel 1: Plenary Hall	Pushing the Boundaries: KOMNAS Perempuan and Its Effort to Challenge Discriminatory Bylaws Violating the Human Rights of Women and Vulnerable Group <i>Kharirah Ali, KOMNAS Perempuan</i>	Advancing the Role and Capacity of the Judiciary to Uphold Women Rights in Indonesia Moderator: Dwi Rahayu Kristianti (SEPAHAM Indonesia)
		Exploring the Theoretical Paradigms: Increasing the Transparency and Accountability of the Judiciary for the Advancement of Women's Rights <i>Dr. Al Khanif, CHRM2</i>	
		Perspective from Within: Negotiating an Increased Transparency of the Judicial Review Mechanism of the Supreme Court for the Progression of Human Rights in Indonesia <i>Prof. Dr. Maruarar Siahaan, Former Judge of the Constitutional Court of Indonesia</i>	
	Panel 2: Seminar Room 1 (3 rd Floor)	Discrimination against Woman in Accessing Higher Education in Cambodia, by <i>Shoporn Tuy, Centre for a Study of the Humanitarian Law (CSHL) Cambodia</i>	The Right to Education in Southeast Asia and Beyond Moderator: Dr. Siti Masrifatul Fitriyah (CHRM2)
		Does the Global Sophistication is the Right of All Students? If Yes, What Prospects and Consequences Need Consideration? By <i>Dr. Jamshed Khalid, Dr. Anees Jane Ali, School of Management, Universiti Sains Malaysia</i>	
16.30 - 17.30	Plenary Session IV	UN Human Rights Council's Periodic Review: Perspective from Southeast Asia, <i>Dr. James Gomez, Asia Centre Bangkok</i>	Plenary Hall Moderator: Dr. Rosnida Sari (CHRM2)
17.30-18.00	Closing	Farewell Dinner and Cultural Performance	Ground Floor, CDAST Building
18.00-20.00			
20.00-20.30			

PICK UP AND DROP SCHEDULE

	Date	Time (WIB)	Pick Up Location	Drop Location	Unit	Delegation
1	17/09/18	10.00	Notohadinegoro Airport, Jember	Aston Hotel & Royal Hotel	1 Bus and 1 Hiace	Presenters and participants
2	17/09/18	18.00	Aston Hotel & Royal Hotel	CDAST ground floor	2 Bus and 1 Hiace	Presenters and participants
3	17/09/18	21.00	CDAST ground floor	Aston Hotel & Royal Hotel	2 Bus and 1 Hiace	Presenters and participants
4	18/09/18	08.00	Aston Hotel & Royal Hotel	Teacher Training and Education Faculty (FKIP)	2 Bus and 1 Hiace	Presenters and participants
6	18/09/18	18.00	Teacher Training and Education Faculty (FKIP)	Aston Hotel & Royal Hotel	2 Bus and 1 Hiace	Presenters and participants
7	19/09/18	08.00	Aston Hotel & Royal Hotel	Teacher Training and Education Faculty (FKIP)	2 Bus and 1 Hiace	Presenters and participants
8	19/09/18	18.00	Teacher Training and Education Faculty (FKIP)	Aston Hotel & Royal Hotel	2 Bus and 1 Hiace	Presenters and participants
9	20/09/18	09.00	Aston Hotel & Royal Hotel	Notohadinegoro Airport, Jember	1 Bus	Presenters and participants
10	20/09/18	09.00	Aston Hotel & Royal Hotel	Notohadinegoro Airport, Jember	1 Hiace	Presenters and participants

ABSTRACT CONTENTS

Name	Page
Achmad Firas Khudi, Sekar Banjaran Aji	1
Airin Liemanto	3
Atikah Nuraini	4
Bayu Mitra A. Kusuma	5
Carly Gordyn	6
Connie Fern B. Miranda, Angelica M. Aguillar, Krishna May D. Atillo, Stephanie C. Veloria	7
Dewi Rokhmah, Khoiron, Desy Iswari Amalia, Fihris Maulidiah Suhma, Anindita Pramadyasiwi, Eli Dwi Lestari	8
Ditta Wisnu	9
Dzuriyatun Toyibah	10
Ellisiah U. Jocson	11
Erna Dyah Kusumawati	12
Indria Fernida	13
Faradilla Fadlia	14
Farida Tadjine	15
Faridatus Sholihah, Ryzki Asri Wahida	16
Fitroh Chumairoh	17
Hatib Kadir	18
Hing Vandamet	20
Ida Susanti	21
Ismar Ramadani	23
Isnenningtyas Yulianti, Nurrahman Aji Utomo	24

Jamshed Khalid, Anees Janece Ali	25
Maksimus Regus	26
Ma. Rhea Gretchen A. Abuso	28
Masitoh Indriani, Dwi Rahayu Kristianti	30
Mimin Dwi Hartono	31
Mirza Satria Buana	32
Mohor Chakraborty	34
Nilna Aliyan Hamida	36
Nurul Azizah Zayzda, Ayusia Sabhita Kusuma, Maiza Hazrina Ash-Shafikh	37
Palwasha Khan	38
Rejinel Gamboa Valencia	39
Rohaida Nordin, Renuka a/p Jeyabalan	40
Samitra Parthiban, Khoo Ying Hooi	41
Satria Rizaldi Alchatib	42
Satria Unggul Wicaksana Prakasa	43
Shrawani Shagun	44
Sophorn Tuy	46
Sri Lestari Wahyuningroem	47
Theodorus H W Lumunon	48
Fierro Garcia Curie Elizabeth	49
Wisnu Adihartono	50
Yuli Ari Sulistyani, Marina Ika Sari	51
Yuyun Wahyuningrum	53
Zaka Firma Aditya, Sholahuddin Al-Fatih	54

Nicole Janisiewicz	55
Mohammad Didar Hossain	56

3RD ANNUAL CONFERENCE (2018)

Parallel Sessions

Abstracts

SEPTEMBER 17TH-19TH 2018

Indonesia's National Strategic Projects, Displacement, and the New Poverty

Achmad Firas Khudi

Director of Operation, Lasem Institute for Development Services (LIDS)

Sekar Banjaran Aji

Junior Researcher, Institute for Policy Research and Advocacy (ELSAM)

The Government of Indonesia initiated the National Strategic Projects comprising a wide range of infrastructure programs across the nation in 2016, which align with the incumbent President's development platform called Nawa Cita. The projects are very ambitious as indicated by a set of supporting regulation and funding scheme. One of the supporting regulations for the projects is the Presidential Decree No. 56/2017 on the mitigation of social impact of land procurement. But in the mere two years after their implementation, the projects spur an increasing rate of workplace accidents, people displacement, and human rights violations. This study seeks to examine impacts of the national strategic projects in Indonesia, with a focus on socio-economic deprivations and human rights issues, and to suggest relevant policy frameworks for the displaced population in terms of their well-being and human rights.

This study utilizes desk review and case study. The desk review of displacement status and human rights will provide a descriptive analysis on socio-economic condition and fundamental rights of displaced people from selected districts in which displacement has been occurring since 2016. The case study of the selected district will elucidate the causes and consequences from this displacement case. We will utilize both qualitative and quantitative data taken from official government reports and affected residents.

We hypothesize there is a high possibility that the projects cause a greater rate of forced displacement of the local residents in areas where the projects expand. The impact of expansion triggers socio-economic deprivation and human rights issues. We define socio-economic deprivation in terms of landlessness, joblessness, and marginalization caused by forced displacement. Thus, the forced displacement may generate new poverty and causes poor people become even poorer. In terms of human rights, business enterprises have an obligation to provide a compensation program based on standards of national law. The corporate responsibility is to respect human rights as prescribed by the national laws. Even when states do not have the capacity to properly regulate, supervise and hold accountable businesses that violate national laws on human rights protection, businesses are still obligated to respect human rights. A company must either improve its current due diligence process or create a new process to identify people who might be affected and what rights are impacted by the company's activities. That way, it can determine what actions to take in order to prevent and mitigate potential human rights violations. To date, the supporting regulations are inadequate to overcome these problems. Given this context, we argue that the Government of Indonesia needs to better prepare a more

comprehensive policy framework to overcome the current and upcoming problem of displaced population.

Rights and Obligations of Citizens Based on Classical Constitutions of Nusantara Kingdoms and Modern Constitution of Indonesia

Airin Liemanto

Researcher at Civilization Studies Center, University of Brawijaya

The existence of guarantees and protection on rights and obligations of citizens have been regulated on Classical Constitution of Nusantara Kingdoms until the 1945 Constitution of the Republic of Indonesia (*hereafter* called the 1945 Constitution). This research aims to compare the rights and obligations of citizens based on two Indonesian Classical Constitutions, namely Constitution of Majapahit Kingdom called as *Kutara Manawa* and Constitution of Islamic Mataram Kingdom called as *SeratNitiPraja* with the 1945 Constitution. The result shows that both of the Classical Constitution have fulfilled the minimum requirements to be a modern constitution regarding the guarantees and protection on rights and obligations of citizens. The 1945 Constitution, however, has a very rigid provision that regulates 37 Articles on citizen rights and 8 Articles on citizen obligations. While *Kutara Manawa* and *SeratNitiPraja* only have 5 and 8 Articles on rights and obligations of citizens respectively. Generally, the rights and obligations of Classical Constitutions cover some areas, namely protection from harm, fulfillment of prosperity and happiness, a wise treatment from the authority, a fair and equal treatment in the court, and getting access to healthy environment and natural resources. Even though the provisions of Classical Constitutions are not as many as a modern constitution, but every provision of citizen right is contiguous with the provision of citizen obligation in one article or in the next article. In the certain degrees, more rights can be dangerous if without limitations. The classical constitutions taught that understand the limitation of every citizen right concretely reflects high values to be a great nation.

Keywords: rights and obligations of citizens, classical constitutions, modern constitution

I Am Here: Voices of Papuan Women in the Face of Unrelenting Violence

Atikah Nuraini

Learning Coordinator, Asia Justice and Rights (AJAR)

Papuan women play a central role in the survival of their families, and yet rapid changes brought about by 15 years of special autonomy have largely left them behind. “*This is me, I am here*” AJAR chose this as the tagline of the research because it reflects a key moment in this research. *A woman is empowered by the knowledge she discovered for herself. She is able to exert herself as a person who speaks her mind and feels no longer invisible.*

After many years of documenting and advocating on issues of violence against women in Papua, AJAR must acknowledge that impunity is entrenched. Justice, truth, healing and guarantees not to repeat remain far from reach. This reality has driven us to develop a “Participatory Action” approach. One that can provide a safe learning spaces for women in Papua, offer a step towards healing and invite women to build solidarity and joint action for transformation. Because justice remains elusive, AJAR believes that a feeling of justice can be achieved through the process of learning together and empowering women as agents of change in their own lives. Step by step, participants in the participatory action research reflect on their lives, exchange their experiences and build solidarity.

AJAR and Papuan Women’s Working Group (PWG), a group of Papuan women activists who are working to end violence against women in Papua conducted Participatory Action Research, over a period of four years (2013-2017), involving a cumulative total of 170 indigenous women from Papua, including in Biak, Jayapura, Keerom, Wamena, Merauke and Sorong. The research is a qualitative inquiry, using participatory tools to document the experiences and voices of Papuan women who are seldom heard. It creates a process for “listening-in” to women who are speaking candidly about their own lives. It focused on violence against women, but included a wider approach to capture key issues that women raised on civil political, as well as social economic and cultural rights of Papuan women.

This paper captures the key findings around violence against women, trauma and discrimination. However, a central issue raised included the loss of sources of livelihood and food resilience for Papuan women. Women play a key role in taking care of their forest and gardens, yet traditionally their rights to these natural resources are not recognized. For the indigenous people of Papua, land and forest provide a strong bond in their lives, not only as a source of food, but also giving meaning to their lives. When forests are converted to plantations or other “productive” functions, women must adapt food, as their access to traditional sources diminish. Lack of security of tenure for natural resources and traditional lands impede women’s empowerment, and make indigenous women vulnerable to continued violence and discrimination.

Transnational Islam, Regional Terrorism, and Military Power: The Rise of Muslim Special Unit in the Philippines Armed Force

Bayu Mitra A. Kusuma

Sunan Kalijaga State Islamic University (UIN) Yogyakarta, Indonesia

The Southern Philippines is known as one of the areas that never get out of conflict. Even in 2017 the public was shocked by the emergence of the Maute group in Marawi which affiliated with Daesh transnational terrorists. They undertake a lot of human rights violations such as kidnapping and murder. In addition, terrorist groups that have existed before like Abu Sayyaf often operate by crossing several Southeast Asian countries waters boundary, so the problem is transformed into a regional issue. To face this problem, the Philippines government formed a Muslim special unit in their military power. On the one hand, it's has a positive impact: (1) Religious and cultural approach will open up a larger dialogue space compared to a conventional military approach; (2) More adaptable and diffuse to gain local community support; and (3) Greatly facilitate coordination and cooperation with the military of Indonesia, Malaysia, and Brunei Darussalam as a country with Muslim majority population. But on the other hand, it's also has a negative impact: (1) Potential emergence of factions within the military or gap between the Muslim units with other soldier; and (2) Reinforcing the stigma that Muslims are terrorists and must be fought with hard-core Muslim behind military uniform.

Keywords: transnational islam, regional terrorism, military power, human rights

Pancasila, Practicality, and Protection: Refugees in Indonesia

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Since the 1970s, Indonesia has been a transit country for refugees searching for resettlement. While the country has not signed the 1951 Refugee Convention, Indonesia allows the UNHCR to operate within its borders, and recently, Indonesian President Joko Widodo pledged to continue providing humanitarian assistance to Rohingya refugees in Bangladesh. This paper asks what motivates Indonesia to assist refugees, despite not being a signatory to the 1951 Refugee Convention. What principles underlie Indonesia's approach to refugees? This line of investigation is particularly important; despite not being a signatory, Indonesia has taken action in dealing with refugees, in addition to taking action outside the ambit of the international refugee regime. Indonesia's actions have had an impact on the effectiveness, as well as the legitimacy, of the regime. It therefore has implications for the human rights of refugees and their ability to claim protection. Based on interviews conducted with government officials, practitioners, activists and academics in Indonesia, this paper finds that there are two motivations guiding Indonesia's approach to refugees. First, Indonesia is guided by the second principle of Indonesia's state ideology, Pancasila, and Article 28 of its Constitution on human rights. Second, Indonesia is motivated by what is considered to be 'practical'. Therefore, by balancing humanitarianism with practicality, Indonesia's approach gives rise to a number of problems for refugee protection in Indonesia. This paper will first discuss the way in which Pancasila and the Indonesian constitution drives Indonesia's approach to refugees. Second, it will explain the 'practical' factors influencing Indonesia's approach, including domestic politics, national reputation and maintaining bilateral relationships. Finally, it will outline the problems that Indonesia faces in balancing humanitarian considerations with practicality in dealing with refugees. This paper argues that while Indonesia - despite not being a signatory to the refugee convention - is partly driven by humanitarian ideals in assisting refugees, it must sign the 1951 Refugee Convention to endorse its commitment to Pancasila and Article 28 of its constitution. Otherwise, it risks using these foundations as simply *pencitraan*, or 'window dressing'. If Indonesia is simply window dressing, then what does this say about Indonesia's commitment to Pancasila and Article 28 of its constitution?

Oplang Tokhang: Lived Experiences of Its Surrenderees in Barangay Ampayon, Butuan City

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In fighting against illegal drugs and other forms of drug-related criminality in the country, Oplan Tokhang was institutionalized by the Duterte Administration, spear-headed by the Philippine National Police. In the Oplan Tokhang operations, cops visited the homes of drug abusers and urged them to strive for rehabilitation. Within months of its implementation, many drug personalities voluntarily surrendered themselves, as response to the call of the program. In this light, this study was conducted to determine the perception of the Oplan Tokhang surrenderees on the Oplan Tokhang program in Barangay Ampayon, Butuan City. There was a total of 12 surrenderees who were identified using the simple random sampling and snowball sampling techniques.

Primarily anchored on the Social Exchange Theory, almost all of the surrenderees in the study voluntarily surrendered to the authorities for security reasons. Other reasons included health concerns from family members. Despite the promised benefits for the Oplan Tokhang surrenderees, all of them admitted that they were not able to avail any of them. In relation to the problems encountered after responding to the program, many were worried about their safety. To cope with this problem, the surrenderees kept themselves away from people who are still using drugs. Generally, the surrenderees believed that Oplan Tokhang program is an effective and helpful agenda that offers them a chance to change their lives. They noticed a significant change in their physical aspect and behavior after surrendering. It is highly recommended for the appropriate government line agencies to further strengthen the campaign, and to monitor the status of current surrenderees. Correspondingly, rehabilitation facilities and livelihood programs must be provided to ensure total recovery of the drug surrenderees.

Keywords: Oplan Tokhang, drug-surrenderees, social-exchange theory

Health Literacy of Children with Special Needs: What is the Role of Parents in the Fulfillment of Health Services?

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A child with special needs is a child who experiences delays in growth and development. They need fair treatment, guidance, direction, and socialization learning- both from families, schools, and residential communities. Support from the family- primarily their parents- can be a source of important information support, specifically health. The purpose of this study is to determine the relationship of parents of children with special needs' access to health information with their health literacy in fulfilment of health services.

This study uses explanatory research with a cross sectional approach. The research instrument is a HLEU 47Q questionnaire. The independent variable is access health information (television, radio, internet/social media, newspaper, poster, a discussion/seminar, friends, family, and books) and the dependent variable is health literacy. Primary data is analysed using the Chi-square test. The sample of the study includes 35 parents of children with special needs (SDLB-B, C, D YPAC Jember).

The results show that the information access of parents of children with special needs through the media is 17.1%. These parents are still lacking in information access, while as many as 77.2 % have had substantial information access and 5.7% of parents have enough information access. The sources of health information (television, radio, internet/social media, newspaper, poster, a discussion/seminar, friends, family, and books) also show a significant correlation with health literacy (p value $<0,005$).

According to the importance of access to health information on the level of health literacy on children with special needs' parents, it is recommended that further research about the use of media access to health information is necessary in order to improve the health literacy of parents of children with special needs.

Keywords: health literacy, child with special needed, the role of the parents, health fulfillment

Establishment of the Supreme Court Reform Policy of the Republic of Indonesia in the Paradigm of the Constitution and Human Rights

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Indonesia, as a legal state that upholds human rights, clearly regulates and provides protection through the 1945 Constitution of the State of the Republic of Indonesia- both contained in the opening and the body of the constitution. However, in the regulation of legislation, the state has not fully protected human rights without distinction of ethnicity, religion, and race among groups (SARA). The protection of human rights has not been fully formed and implemented through regulations and policies, so the author examines why the constitution and human rights serve as the foundation in the formation of policies and regulations in Indonesia. Does the reform of the Supreme Court of the Republic of Indonesia constitute the paradigm of the constitution and human rights? The normative juridical research collects data through the descriptive method. Primary and secondary data is analyzed qualitatively.

In this paper, a review of related literature 3 (matter) becomes the focus of discussion, namely: Indonesian Constitution of the Republic of Indonesia 1945, which has been amended four times, and is currently the main foundation in the formulation of legislation. Human rights are incorporated as one of the perspectives in formulating regulations and policies, as stipulated in the constitution. A renewal of the Supreme Court of the Republic of Indonesia is conducted by updating the vision and mission of the organization. The new vision re-establishes the supremacy of law through independent, effective, efficient, and empowered public trust. In addition to providing professional, quality, ethical, affordable and low-cost legal services to the public and it also stipulates response to public service calls.

The results of this study origin from Article 7 of the Law of the Republic of Indonesia, Number 12, Year 2011. The Establishment of Laws and Regulations affirm that in the formulation of laws and regulations, the 1945 Constitution of the Republic of Indonesia- the highest law in the hierarchy of legislation- in Article 6 affirms the principle of humanity, that the content of legislation should reflect the protection and respect of human rights and the prestige and the dignity of every citizen of Indonesia proportionately. Additionally, in the formation of reform policy of the Supreme Court of the Republic of Indonesia using the paradigm of constitution and human rights, this is also seen in the vision and mission of the Supreme Court of the Republic of Indonesia.

Keywords: constitution, human rights, judicial reform in Indonesia

Gender and Race Intersectionality in Academic Career: The Experiences of Maori and Non-white Academia in New Zealand

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Some studies that are focused on western contexts (such as Australia, New Zealand, United States, Canada, and UK) have found that gendered institutions, within academic careers, remain preserved in various ways. These studies have documented that there are fewer women than men in tenure track positions, women have received lower salaries, women were rarely promoted, parenting and mobility issues were designated 'women obstacles' for entering professorship, gender bias in application, and a gender citation gap. However, studies on the impact of intersection of gender and race are still examining the experiences of people of colour, as well as minority groups in academia. Drawing from in-depth interviews with 15 professors in New Zealand, and using intersectionality as a theoretical framework, this study aims to explore the role of gender and race in the careers of the Maori (Native People of New Zealand) and Non-White academics in New Zealand. Confirming previous literature, this research finds that the concept of merit, based on objective indicators of academic excellence, is not consistently present in New Zealand. Due to gender and race identities, women of minority groups and non-white academics often experience multifaceted marginalization in pursuing their academic career.

Inclusion and Cultural Preservation for the Ifugao People

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This article seeks to offer insight into the paradox between two ideologies that are currently being promoted in society, as well as identify its relationship with the indigenous community of the Ifugao in the Philippines. Inclusion is the current educational trend for today's youth. However, there is ambiguity in terms of educating and promoting inclusion for indigenous groups, particularly in the Philippines. Mandates to promote cultural preservation also present limited access for indigenous people to participate in the cultures of mainstream society. Given the notions of inclusion to accommodate everyone regardless of "race, gender, disability, ethnicity, social class, and religion," it is highly imperative to also provide clarity to this issue and identify what actions to take when regarding such minorities. The article uses a qualitative-case study design, obtaining data through a review of documents, policies, interviews and observations in order to identify the current status of both ideologies in terms of implementation and integration for the Ifugao people in the Philippines.

Unsafe River Bank Houses: A Legal Reflection on Issues of Freedom, Poverty, Development Programmes and Accountability Mechanisms in Indonesia

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Millions of the most deprived people in the world live in slums, with lack of access to adequate water, hygiene and sanitation. Inadequate housing and living conditions increase vulnerability to other problems. For example, people living on the river banks in Jakarta regularly experience flooding due to adverse environmental conditions. Not only do the river bank settlements suffer from floods, but other settlements also encounter similar effects. The regular floodings cause billions of Indonesian Rupiah's (IDR) in damages annually. As part of flood prevention programmes, the Jakarta government has evacuated and emptied the river banks settlements and relocated the settlers to high-rise rented public housing provided by the municipality. This article will not address the legality issue of the relocation. Rather, it will examine whether relocation and resettlement due to development programmes can be addressed from a different perspective, focusing on human rights as a means to eliminate poverty. It will also investigate the available accountability mechanisms at both an international and national level. Furthermore, it will assess whether these mechanisms can be employed to address the effect of development programmes that disproportionately affect people living on river banks. This study will use the classic legal research method, the normative legal method, to answer the research questions. In addition, it will also employ the human rights-based approach in assessing the regulation and policies adopted by Indonesian authorities. The final part of this article will provide conclusions and recommendations for policymakers to address the societal problems by employing the human rights approach in tackling poverty and reducing the negative impacts of development.

Keywords: river banks settlements, freedom from poverty, accountability mechanisms, Indonesia.

Building the Truth, Reconciling the Future: The Prospect and Challenge of Aceh Truth and Reconciliation Commission

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This year is marked 13 years of the signed of Memorandum of Understanding Helsinki between Free Aceh Movement and Government of Indonesia, which recommended the establishment of Aceh Truth and Reconciliation Commission (TRC) in Aceh to address human rights violations that occurred during Aceh's conflict period. These mechanisms have been stipulated in the Aceh Government's Law No. 11/2006. Aceh Legislative Council passed a provincial by-law *Qanun* No. 17/2013 on Aceh TRC paving the way for the long-awaited TRC in Aceh and eventually inaugurated seven commissioners on 2016. Currently, the Aceh TRC started to conduct statement taking and preparing the first public hearing this year.

Meanwhile in Indonesia, promises for national truth commission remain unfulfilled. The Indonesia Constitutional Court annulled the Law of 27/2004 on (national) Truth and Reconciliation Commission. The Aceh Government Law states that the TRC of Aceh is an inherent part of the National TRC.

Even though the establishment of Aceh TRC is bringing new hopes for victims, but Aceh TRC is continue facing legal and political problem. The paper will discuss the prospect and challenge of Aceh TRC as a settlement of past violations of human rights in Aceh and how to contribute in maintaining peace process in Aceh. Since no single formal mechanism of truth seeking in Indonesia, the establishment of Aceh TRC is important for human rights promotion in Aceh, as well as in Indonesia.

Indria Fernida is a human rights lawyer who works as the Regional Program Coordinator of Asia Justice and Rights (AJAR). An advocate for human rights and state accountability more than 15 years, her professional human rights skills include issue of international human rights law, transitional justice and security sector reform. She was Deputy Coordinator of the Commission for the Disappeared and Victims of Violence (KontraS), an Indonesian NGO from 2006-2012, joining the organization since 1999. She obtained a B.A in Law from the University of Parahyangan, Indonesia and further graduated as Master of Philosophy in Theory and Practice of Human Rights at the University of Oslo, Norway. She received a Chevening Fellowship from the UK FCO on Reforming Security Sector in Countries Emerging from Conflict at the University of Bradford and Fellowship from Department of State, USA as International Visitor Leadership Program of ASEAN Human Rights Monitoring and Protection, East Asia and Pacific Regional Project.

Qanun Jinayah has Discriminated against Women (Victims of Rape) in Aceh

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This paper seeks to understand how the Qanun Jinayah discriminates against women who are victims of rape. In the Qanun Jinayah in article 52, paragraph 1, it explains that the victim of rape must include evidence at the time of report. The Qanun Jinayah clearly makes a double burden on the victims, where women--victims of rape--must present evidence and witnesses. Whereas in the criminal law (KUHP), evidence and witnesses are the responsibility of the investigator. This study seeks to explore the discriminatory impacts experienced by victims (women) after the Qanun Jinayah is implemented. Furthermore, this paper uses the qualitative method with in-depth interviews. The hypothesis of this paper is that Qanun Jinayah has discriminated against women, especially the victims of rape, and this allows the occurrence of injustice and violation of human rights.

Keywords: Qanun Jinayah, gender discrimination, human right's

Forced Migration and ASEANization of the Human Security Concept: Mapping a Strategy for Narrowing the Gaps

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The issue of forced migration has been long discussed as a vital topic in many different disciplines, including Human Rights and Security. The literature has been rapidly growing since the emergence of the Human Security Concept in 1994, as it indicates that many strategies, policies, and initiatives have been widely adopted across the world by governmental and nongovernmental bodies to implement and promote this comprehensive understanding of the Forced Migration-Human Security nexus. In the Southeast Asian region, although there is no governmental strategy or policy with the Human Security label (with the exception of Thailand which established a Ministry of Social Development and Human Security), the comprehensive meaning of security was strongly presented in the Association of Southeast Asian Nations (ASEAN) values. Since its establishment in 1967, this adoption positively influenced stability, but it did not reflect well on reducing the gaps between forced migration and human security achievement in the region. As a result, the analysis of Forced Migration-Human Security in ASEAN from a trans-disciplinary point of view is necessary to re-evaluate the relevant research Agenda. This research paper aims to develop a new strategic perception to bridge the multidimensional gap between the forced migration issue and the adoption of human security in ASEAN context. It will first discuss the current impact of forced migration on Southeast Asian security, and it will then critically analysis the understanding of human security in the ASEAN context to identify the main gaps between both issues. Finally, it will provide new strategies to fill the identified gaps based on the trans-disciplinary research approach. This paper has been designed based on the qualitative research approach, and its data has been collected using various open sources and published documents. The literature review and data analysis has been assisted by ATLAS.ti software.

Keywords: ASEAN, forced migration, human security, Southeast Asian Studies, strategy building

Women's Productive and Reproductive Rights within Child Marriage in the Santri, Abangan, and Priayi's society

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In 1964, Anthropologist Clifford Geertz classified Javanese society into three clusters: *Santri*, *Abangan* and *Priayi*. This concept is still applied as a basis for analysis of current social studies. As perspectives and values differ for each society, the research finds that child marriage cases have similar tendencies and supporting factors. The values that influence child marriage are religion, economics, and morality. Child marriage, and the values associated with it, impact women's social role. In this era, when women are not only taking on reproductive roles, but also productive roles, gender disparity is greater for those who are married at a young age. Thus, our objective in this study is to explore the productive and reproductive rights women receive when they are married as children. This research uses the qualitative method and in-depth interviews with nine participants: three women from each social cluster (*Santri*, *Abangan*, and *Priayi*). The results of this research show that productive and reproductive rights must be given to every woman, yet many do not optimally receive them because of child marriage and cultural views that position women's rights under men's. These rights include education, occupation, health access, contraception use, and public/domestic activities.

Keywords: women's productive rights, reproductive rights, child marriage, javanese society

Management of Citizens with Special Needs, specifically Mental Disability and Autism

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This paper focuses on how governments should treat citizens with special needs, specifically people with mental disability (slow learner, down syndrome, etc.). The writer's chose to research this topic because Indonesian citizens with special needs, specifically mental disability and autism, have not been treated properly. This maltreatment causes severe impacts, for example, everyday citizens underestimate those with mental disabilities. They are not considered to have potential in society, and they are often labeled as "crazy".

The 1945 Constitution of the Republic of Indonesia Article 31 declared: 1. Every citizen has the right to receive an education; 2. Every citizen has the obligation to undertake basic education and the government has the obligation to fund this. The Law of the Republic of Indonesia Number 8 Year 2016 Concerning People with Disabilities has guaranteed that the rights of people with disabilities will cover education, health, habilitation and rehabilitation, social welfare, employment opportunities, etc. In fact, there are many people with disabilities, specifically mental disability and autism, who do not receive the facilities of which are declared in the law and constitution. The Ministry of Education and Culture of Republic of Indonesia stated that only 18% of children with special needs (out of 1.6 million) have received inclusive education services. About 115,000 children in special schools and 299,000 children in general schools have been introduced to inclusive schools. The Minister of Education and Culture stated that there are many children with special needs who do not receive educational services because of inadequate facilities and infrastructure, or because their families are reluctant to send their children to school. According to the Minister of Labor, the number of people with disabilities in Indonesia is about 21 million people, with 11 million people in the workforce. The statements do not mention any details about the disabilities included, but according to the Ministry of Manpower and Transmigration (now the Ministry of Labor), in 2010 the number of manpower with disabilities in Indonesia was about 7,126,409 people, including: 2,137,923 blind people; 1,852,866 physically-handicapped people; 1,567,810 deaf people; 712,641 people with mental disability; and 855,169 people with chronic disabilities.

The circumstances in Indonesia are different to those of developed countries. For example, in Japan, people with disabilities—including mental disabilities and autism—receive monthly funds in accordance with the disability that they have. Also, in Australia, people with mental disabilities and autism receive monthly funds with explicit criteria. Therefore, this paper aims to contribute ideas about the importance of managing citizens with special needs, specifically mental disability and autism.

Keywords: special needs, mental disability, autism

Narrating Human Rights: Issues of Migration, Discrimination, and Protection of Human Rights in Southeast Asia

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In this post-conflict, post-reformed society, the Moluccas Province government combines

modern development practices and democracy, with communitarian aspirations; additionally, ethnic mobilization plays a significant role. The aim is to provide assurance that there will be no citizens left behind by the State's modern projects, and to prevent the return of conflict. Several scholars have argued that after the conflict, and during the reformation, people have strengthened their oppositional ethnic identity towards others (Davidson, 2007, Duncan 2013, Subair, 2006). As we know, following the post-reformation, we are now living in the age of anger. Ethnic and religious polarization is increasing. People see that being a part of a native/host society (*pribumi*) is a promising way to express their furious feelings of being marginalized in the political-economical realm. On a local and provincial level, host societies believe that outsiders (*pendatang*) are the people who are causing unemployment and lack of access in the marketplace. This research digs into the origins of anger and jealousy among the local Moluccans, towards the outsiders or migrants (*pendatang*). This paper questions the conditions that make local Moluccans so resentful to outsiders. Historically, how did migrants struggle to receive rights before and after the sectarian conflict (including land rights and political rights)? During the post-reformation, what has changed regarding the rights of migrants (*pendatang*)? Lastly, the research attempts to show how migrants deal with the state projects, in order to receive citizenship rights in the Moluccas.

The research focuses on the Butonese, who are considered “outsiders” not belonging to the local culture, despite having lived in the Moluccas islands for over a hundred years. As the largest group of migrants living in the Moluccas, the Butonese have been significantly absent from the histories of the Moluccas, as well as from the accounts of *adat* (customary law and traditions). The research does not put ethnicity into a fixed, classified group of a population; rather it regards ethnicity as a living category, in which individuals within ethnic groups have the opportunity for social mobility. Borrowing from Chatterjee's “political society” (Chatterjee, 2004: 38), the Butonese have a long history of being a “subaltern citizen”, or an excluded community, in post-colonial societies. They do not have the right to land ownership nor do they have the right to bureaucracy access. After the reformation era, the Butonese began to participate in popular politics, to express themselves and fight for their rights as “citizens”. When violence deprived the Butonese of their home and livelihood, they retaliated in the government sphere. Under the condition of democratic political participation, the Butonese have found ways to mobilize their collective identity to claim the benefits of various governmental programs. This paper will also describe how the rural Butonese receive a more advantageous social and political status in the aftermath of the conflict, and how they express their grievances in a constructive way- through the politics of their representatives and state government policies.

Keywords: citizenship, ethnicity, governmentality, political rights

The Contemporary Cambodian Constitutional Enforcement: Assessment of Constitutional Law-Making Process and the Right to Public Participation

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This paper aims to discuss the relationship between the people and the government in Cambodian Constitution both *de jure* and *de facto*. The core assessment is the study of the 1993 Cambodian Constitutional law-making process and whether it accommodates the public participation. Studies conducted on the Constitutional law-making process concluded that public participation is the key relationship between the government and its citizens in addition to the legitimacy of the process. This paper presents that the lack of public participation in the constitutional law-making process jeopardizes the implementation of constitutional rights, in particular, right to participate in the constitutional law review and reform. It is suggested that the concept of public consultation on constitutional law review and reform should be incorporated in Cambodian Constitution.

Keywords: constitutional law-making process, constitutionalism, right to public participation, public consultation

Human Rights Protection for Undocumented Migrant Workers in Indonesia

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Indonesia is a member of the World Trade Organization and the ASEAN Economic Community. As consequences of such the memberships, Indonesia must eliminate trade barrier and open its border and being a more liberal country. On the trade in services, competition between local workers and migrant workers are unavoidable. The existence of foreign workers in Indonesia is inexorable. Many irregular or undocumented migrant workers in some cases work in Indonesia as well. Indonesia recently still have a high unemployment rate, in one hand. Yet, Indonesia also has international obligation to, somehow, protect undocumented migrant workers, since Indonesia has ratified International Convention for the Protection of Migrant Workers and Their Family Members.

A local aspect of human right protection, on one hand, creates obligation for Indonesian government to secure proper and sufficient job opportunities and decent works for its citizens. On the other hand, an international aspect of human right protection requires Indonesia to protect human rights of undocumented migrant workers, despite negative sentiments about their existence in Indonesia have often expressed by many parties in the community. Therefore, providing any protection for undocumented migrant workers in Indonesia will create many criticisms from many parties in Indonesia. Questions have been arisen: should we acknowledge and protect any right of undocumented migrant workers, or should we deny their presents in Indonesia and ignore any possible right that is supposed to be secured for them as human beings?

Those conflicting questions need to be solved, especially for creating legal certainty for Indonesians' citizens, to secure job opportunity for unemployed citizens, to comply with international obligations arisen from ratification of some conventions and most of all, to provide the most fundamental rights of human beings, regardless of their legal status in Indonesia. Therefore, it is necessary to study about "**Human Rights Protection for Undocumented Migrant Workers in Indonesia**".

To examine this issue, the writer will do these following methods:

- Normative study of Indonesian regulations and court decisions related to right to work and procedure to work of foreigner in Indonesia; rights and obligations of migrant workers in Indonesia; general policy related to undocumented migrant workers in Indonesia;
- Normative study of Indonesian obligation to comply with free trade regime, especially free trade in services;
- Human rights approach to secure human rights of undocumented migrant workers;
- Data collecting related to unemployment rate in Indonesia, economic and welfare problems in Indonesia. Many data from National Data Base as well as the results of previous researches



will be explored, for establishing a comprehensive understanding about the impact of human rights protection of undocumented migrant workers to internal affairs in Indonesia;

- Legal and philosophical analyses regarding prospects and challenges of the protection of undocumented migrant workers in Indonesia;
- Policy recommendation concerning human rights treatment of undocumented migrant workers in Indonesia.

Keywords: undocumented migrant workers, human rights, Indonesia, legal protection

Aceh *Damee* or Aceh *Damee Damee*: Questioning Transitional Justice and Human Rights in Aceh

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Aceh *Damee* is one of the programs of Irwandi and Nova Iriansyah as a head of Aceh Province government. But Aceh *Damee's* of this new government looks like Aceh *Damee-damee* (Read: Peaceful Efforts without Good intention). *Damee* itself is means a peaceful, translation of the Acehnese language. While *Damee-damee* is a term used to solve cases by custom or kinship. *Damee-damee* also means settling cases without going through to legal/criminal law. Inaugurated at the end of the reign of Zaini Abdullah, the Aceh Truth and Reconciliation Commission (KKRA) does not have the support from the Aceh Government for the work of truth-telling as a part of 22nstitutiona justice 22nstitu. This paper will review how Aceh *Damee* becomes Aceh *Damee-damee*. What are the obstacles faced by the Aceh TRC in their work, primarily to provide the fulfillment of the Rights of the victims as a part of Human Rights? And how the future of transitional justice works by Aceh Truth and Reconciliation Commission in this new government.

Keywords: transitional justice, human right, Aceh *Damee* and *Damee-damee*

Unraveling Disability Participation in Indigenous Peoples

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The issue of disability in indigenous peoples is closely related to the issue of full enjoyment in development and inclusive citizenship. Indigenous peoples have the potential to face discrimination and exclusion from every development from every aspect of life. This condition becomes more vulnerable if it occurs in persons with disabilities. The issue of disability in indigenous peoples, still often neglected in its environment and its own group, and even in the system of society and state. Toraja, Bali, and Maros became the representation of the research area. Based on facts and analyzes, disabilities in indigenous peoples face various layers of discrimination and violations of gender and disability status. The characteristics of indigenous peoples determine the treatment of persons with disabilities in their communities. Most noticeable is the lack of friendly service for persons with disabilities in their own societies. Therefore, people with disabilities in indigenous peoples need open opportunities to participate in customary institutions and emancipation beyond the scope of protection and the fulfillment of rights by the government.

Keywords: disability, indigenous peoples, inclusive participation

Does the Global Sophistication is the Right of Immobile Students? If Yes, What Prospects and Consequences Need Consideration?

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Globalization have a profound impact on the higher education institutions to build graduates capable to work and compete in the fourth industrial revolution and Southeast Asia is no exception to this movement. The students graduated from overseas gain a global exposure through multicultural and diverse cross-cultural learning environment. However, the ratio of immobile student is very high who are in need to train with adeptness and capabilities in accordance with the global competitive challenges. The industrial requirements of human capital are changing now as they are demanding the employees capable to work effectively in multicultural environment and with diverse teams. Thus, the present study aimed to identify the current need of internationalization at home practices in higher education institutions in Southeast Asia region to produce global graduates. The contemporary trends and challenges has been explored through an in-depth literature survey to dig out the best practices. The study emphasized that Internationalization at home practices are appropriate solution for the provision of global acquaintance to immobile students which, unfortunately, neglected by national governments and higher education institutions (HEIs) due to the incredulity regarding potential benefits linked with this change. This is probably the pioneer study on the concept of 'Internationalization at Home' in Southeast Asia region which would assist HEIs and Ministries of Higher Education to formulate strategies and plans for the formation of global competences among graduates. The limitations and recommendations for future study has been provided.

Keywords: global graduates, internationalization at home, higher education institutions in Southeast Asia, immobile students

Slicing up the Frontiers:

Introducing Decolonization and Acculturation Approaches in Strengthening Human Rights in Contemporary Indonesia

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Human rights—both theoretical and practical, philosophical and political point of views—has been challenged by the many forms of frontiers. It is well agreed that although the idea of human rights has been emerged and developed globally during the 20th century, scholars, government actors, activists, and other actors argue that human rights are not universal—in its wider meaning. Challenges to the universality notion of human right focus on various principles that include main problems such as liberty, individual freedom, democratic rights, political beliefs, and the recognition of social and economic rights. A central point of this challenging debate is that a ‘cultural diversity’ affects significantly what human rights gain in the “Non-Western countries”.

Some scholars state that prioritizing individual human rights—based on the Western perspective—could destroy the ‘communitarian values’—from the ‘Non-Western’ side. Thus, the core question is whether the claim to the notion of the universality of human rights is justified or whether it is merely exercised in the Western moral imperialism. Challenges to the notion of the universality of human rights have emerged from different corners including Islam, the West itself, and the East Asia perspective. Those parts are linked to the ‘colonized space’. Yet, each of the challenges is independent, but they have raised similar questions concerning the universal character of human rights on the ‘cross-cultural cases’ and hence its legitimacy over the plurality of values and cultures.

This paper attempts to discuss the possibility of strengthening human rights by elucidating the concept of decolonization. ‘Decolonization’—in terms of a global history of human rights—has been known as one of the fundamental prospective issues in social studies. In discussing the decolonization of human rights, two important books can be taken as the main sources. First, Fabian Klose’s *Human Rights in the Shadow of Colonial Power*. This book—as referred to Eckel’s review (2010)—showcases the main focus on the ‘colonial violence’ and the ‘historical fact’ of the British attempts at legitimizing their brutal violence. The book also describes the anti-colonial movement. Second, Roland Burke’s *Decolonization and the Evolution of International Human Rights* (2010) specifically spells out the birth of what is called ‘the third world’.

In the effort of slicing up ‘the frontiers’ to enjoy human rights principles, it is important to note that different human beings’ problems require diverse human-rights perspectives and approaches. It is useful to construct a criticism to colonialism or the colonial legacy both in political and social scopes that ensuring the enjoyment of human rights without frontiers. In this context, the independence of many nations in Asia and Africa was one of the most dramatic



processes of political emancipation in the world history. It can also be useful to understand some of the limitations that international human rights efforts encounter with respect to guaranteeing the protection of some minority groups. Besides conceptual review and discussion, this paper will also be supported by wide range information from the field.

Keywords: Indonesia, human rights, frontier, decolonization, universalism, global, protection

Collective Memories of the Filipino Youth on the Human Rights Violations during Marcosian Martial Law

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The 2016 national elections in the Philippines has been regarded as the most revealing and consequential democratic practice to the human rights situation in the country for two reasons: First, the overwhelming election of Rodrigo Duterte to the presidency *because* of his campaign promise to rid the country of drugs and criminality within “3 to 6 months” through bloody and violent means. Since then, Duterte’s anti-drug campaign has claimed more than 12,000 lives, mostly urban poor, in what the Human Rights Watch concludes as amounting to “crimes against humanity”. Second, the son of the late dictator Ferdinand Marcos whose authoritarian regime in the 1970’s was responsible for countless human rights violations (torture, forced disappearances, unjust imprisonment, etc.), was almost elected to the vice presidency, losing by just 270, 000 votes. These two events begged the question: how could Filipinos, who experienced a bloody and violent regime at the hands of a dictator, choose to elect national leaders widely associated with human rights violations?

These turns of events have generally been attributed to a widely invoked rhetoric that Filipinos easily forget the sins of its past. Scholarly literature that attempt to substantiate this claim, however, have generally been limited to rhetorical analyses without the benefit of empirical research. This paper addresses this gap through use of in-depth interviews with Filipino college students in 5 key cities in the Philippines, including Manila, Davao and Marawi, to describe the martial law from the perspective of the generation that did not experience the period. This study aimed to describe the social and cultural mechanisms that enabled the generational transmission of collective memories on the human rights violations during the martial law to young Filipinos. The overall aim of this paper is to illustrate that the understanding of *how memories* of past human rights violations are *formed and shaped* is crucial to the improvement of the human rights situation in society and to ensure that mistakes of the past are not repeated.

The study found that since the ouster of Marcos in 1986, martial law and human rights education in the Philippines has generally been non-existent which accounts for widespread revisionist notions of the Marcos period: that the Marcos regime was the golden age in Philippine history. However, a promising turn is also revealed in the study. Students of a private Catholic university shared how their own conceptions of the Marcos regime was debunked and resolved by the methods in which their school integrated martial law and human rights education in the curriculum. More importantly, the study found that young Filipinos find the social institution of education as the most credible and trustworthy bearers of information with regards human rights and violent regimes, such as the Marcos period. The findings of the study highlight the crucial role of schools and educators in promoting human rights in society.

*This study was conducted through the research grant from Strengthening Human Rights and Peace Research and Education in ASEAN/Southeast Asia (SHAPE-SEA)

Legal Aspect of Tracking Technology and Its Implication to Citizens' Right to Privacy (A Study of Digitized Business in Indonesia)

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Tracking technology is used by the industry as a promising commercial product in the terms of consumer's mobile services satisfaction. The new generation of consumer are benefited with this new kind of technology. However, there is a potential problem concerning their right to privacy since the technology able to get consumer's real-time information including their personal data. On the other hand, Indonesia, as one of the biggest markets of mobile services platform, does not have sufficient law in this regard. In Indonesia, both right to benefit from science and technology and right to privacy are constitutional rights. Therefore, this article provides the importance of passing the law which ensure the enjoyment of both rights proportionally. It outlines the debate surrounding issues on legal aspect of tracking technology, what is privacy, right to privacy, and which privacy must be protected when tracking technology is used within Indonesian context.

Keywords: tracking technology, right to benefit from science and technology, right to privacy

National Security and Human Rights

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Draft national security bills have been deliberated by the House of Representatives for a long time. However, they have continued to be rejected by lawmakers, principally on fears that the bills might trigger human rights violations if enacted. The bill defines a threat to national security, in part, as things threatening sustainable national development. The definition and elaboration of sustainable national development provided in the bill is broad, subject to multiple interpretations and prone to exploitation by biased people.

One national development program that has been aggressively promoted by the government is the National Strategic Project (NSP), which aims to make the nation an advanced country and propel it into the ranks among the 10 largest economies in the world by 2025. Many projects under the NSP in fact collide with the interests of society and might adversely impact environmental sustainability, such as the Trans Papua highway. Furthermore, the law grants the regional governments with wide authority to mobilize local resources to increase their revenues to self-finance their development programs. Exploitation of natural resources has since proceeded without controls and without considering the sustainability of social, economic, cultural, and environmental and human rights. Thousands of investment permits in the mining, plantation and forestry sectors have been issued by regents and mayors all over the country, without any control and accountability from the central or provincial governments or from the community (downward accountability).

As a result, agrarian conflicts have arisen everywhere, causing violations of social, economic, cultural rights and even human lives. If the central and local authorities are free to determine what constitutes threats to national security, then any form of opposition and any action considered deleterious to the local investment climate, especially in the extractive industries, plantations, and infrastructure, could be criminalized due to disturbing the national development agenda. The bill will legitimize involvement of security forces in order to sustain national development by violating the civil and political liberties of the people.

The government should guarantee the right of participation and the public's access to information through public consultation at the central and local levels. In addition, the government must ensure accountability of the state security system based on human rights with reference to the Constitution, national laws and international laws that protect human rights.

Transitional Justice in a Divided Multicultural Nation, Indonesia: A Study of Its Impediments

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Indonesia is one of the most democratized countries in Asia. Since the authoritarian 'New Order' era was overthrown in 1998, the transitional phrase so called Reformation era (*reformasi*) has taken place up until recently. There have been some improvements both in political and legal aspects; the most powerful legal reform was the amendments of the 1945 Constitution. Indonesian people have exercised their constitutional rights to select political leaders and rotate elites. Indonesia embraces multicultural democracy. It is evidenced by several norms that support diversity and social inclusion. An unwritten principle, *Bhinneka Tunggal Ika* (Unity in Diversity) has become a living credo for this nation. *Pancasila* (Five Noble Principles) has stated the importance of unity in plural societies. However, in its transitional democracy path, Indonesia has experienced several political debacles. It is true that constitutional reform does not create miracles. The amendments could not automatically provide justice and human rights protection for Indonesian people.

The Constitution does not provide direct instruments to remedy gross-violation of human rights happened in the past, let alone the Acts and regulations. This happen mainly because the post-authoritarian government failed to establish a vetting-agenda policy; dichotomizing old regime politicians with the reformists, as a result the consecutive governments are not fully secure from old regime apparatus. There is a hypothesis stating that the Indonesian government cannot entirely neutralize military from the government. Massive political turmoil masked with cultural and religious sentiments mostly has happened in the civil-background President. On contrary, in a military-background President, the political tensions were not as high as today.

Today, due to the divided political power, populist rhetoric penetrates legal norms by capitalizing several existing colonial and authoritarian Acts, such as blasphemy and religious purification laws. Populist rhetoric affects the poorly drafted clauses of the Bill of Criminal Code. Morally-inspired law is dangerous for multiculturalism because it establishes a sole meaning of truth. It is reasonable to argue that the current Indonesia government has failed to defend multicultural democracy, let alone to deliver justice for marginalized and stereotyped people. Ethnic-religious populism has hijacked multicultural democracy in Indonesia.

This paper discusses several impediments of Indonesia's transitional justice with the aim to pursue a consolidated democracy in the future. This paper will be analyzing some research questions, such as: (1) what are the most significant impediments for transitional justice in Indonesia? And (2) in what extent human rights and multicultural democracy can excel transitional justice in a setting of ethnic-religious populism in Indonesia? Those questions will be examining through a holistic perspective involving legal, cultural and socio-political insights.

Narrating the ‘Moro’ Saga in Mindanao: Quest for Safeguarding Indigenous Rights

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The history of the southern Philippine island of Mindanao has been interspersed with the ebullient demand for autonomy, respect and safeguard for indigenous rights by the Moros, leaving an indelible mark on its socio-political and economic milieu. Conceived as a struggle aimed at the establishment of an autonomous homeland for the thirteen ethno-linguistic indigenous groups comprising the Philippine Muslims (‘Moros’), the historical roots of this movement run deep into the labyrinths of the colonial era. The Moro case-study showcases the protracted experience of administrative deprivation and indifference, instigated by discrimination vis-a-vis the principal demographic groups and skewed exploitative policies, which reinforced their sense of alienation. These policies have prompted separatist tendencies among the Moros, snowballing into the longest armed secessionist movement in Southeast Asia.

Although the governmental initiatives have brought the issue to the threshold of a resolution, with the signing of the Comprehensive Agreement on the Bangsamoro in 2014, the Moros have largely perceived it as the negation of the state’s promise, resulting in the entrenchment of the feeling of ‘otherness’ and exclusion from the social corpus. Under the present administration of President Rodrigo Duterte, the issue has gained a niche in the wake of Moro linkages with the ISIS’ perpetration of violence in the Philippines and its ramifications for internal and regional security are noteworthy.

As the Moros grapple with their elusive quest for autonomy and seek safeguard for their indigenous rights, the paper tries to situate this saga as a mirror of the deprived and belied ‘other’ through the stretches of pre and post-Independence period in the Philippines and weighs its impact and imperatives for the present. In this context, it also seeks to address and analyses the following research questions:

- What factors have been responsible for fueling the sense of deprivation and developing the consciousness about the violation of indigenous rights by the State among the Moros?
- How has the Philippine State (since President Marcos to the present, under Duterte) addressed the issue and responded to the Moro call for autonomy, which found expression in militarization and organized violence?
- Under the present circumstances, has the signing of the Comprehensive Agreement on the Bangsamoro, which promises an autonomous ‘Moroland’ and the initiatives undertaken by the Duterte administration for passing the Bangsamoro Basic Law proved successful enough for resolving this protracted struggle? Towards this end, perhaps it would be prudent for the administration to delve deeper in addressing the more intrinsic issues and be more responsive to their indigenous sensitivities.

Historical Aspect of Asian Values in Wave of Indonesian Democracy

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The debate of Asian values into understanding the identity of Asian countries in the constitutional system to realize the ideal system in addition to rejection due to an authoritarian regime. Asian values are the shaping element of democratic history as the dominant aspect of the formation of presidential policies in the old order and the new order that relate to contemporary democracy. Adopting a democracy does not make Indonesia remove Asian values in the governance system because it becomes the basis of structural interaction in running it. In the new order era and the old order, Asian values became a justification for the implementation of the constitutional system until the emergence of various rejection on the grounds of authoritarian regimes. This condition has an impact on the tide of democratic development even though there has been a transition even after prosecution through reform, but the dynamics of Asian values is still felt. The fluctuations of Indonesian democracy illustrate that Asian values become part of history, not just cultural policy. The bad history of the authoritarian regime becomes a wound in the society that divided into two sides, allowing it to become larger or pressing it, so as not to get worse. But however, the wound not be lost, and it will be the concept in the wave of Indonesian democracy. President Jokowi's policy by issuing a Perppu is a sign Asian values has risen. Reformation does not guarantee authoritarianism to be discontinued even when for 20 years Asian values disappear from the system does not close the possibility will reappear in the next 20 years. Means Asian values inherent with Indonesia further in the category of authoritarian regimes has become the history of the Indonesian formation which has always been an aspect of the constitutional system. Although various possibilities can occur, history always presents Asian values to the Indonesia government. The rejection of Asian values becomes complicated because there is no justification as to extent of the interpretation of the authoritarian attitudes categories. While the application of authoritarian of the old order and the new order or Lew Kwan Yew clear that there is a limitation of rights. While in perrpu Jokowi restrictions on rights are not completely categorized as authoritarian. Then the way to deal with this problem is through the interpretation of authoritarian action because the possibility of authoritarianism will always exist in Indonesian state administration.

Keywords: 33nsti values, Indonesian Democracy, 33nstitutionali system

Securitization and Desecuritization of Migration in Indonesia: Its Implication to Refugee Rights in the Southeast Asian Region

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This paper seeks to explain through an analysis using securitization theory, the dynamics of securitization and DE securitization of migration in Indonesia with a particular emphasize on the forced migration issues in the Southeast Asian region. The discussion of forced migration and the consequent refugee rights is made in the regional instead of national context considering that Indonesian policy on refugees have its regional impact, in terms of the regional policy on refugees. Numerous works have been made in analyzing the issues in refugee's protection in Indonesia and the region. It is found from the past researches that there have been limitations in the protection ranging from the problems of ratification of international law, the weak regional institutionalization of refugee's protection, and its cross-cut with migration policies and security issues. This research sets itself apart from the past researches by examining the speech act and the non-discursive practices in its analysis on the nexus between security and refugees' issue in Indonesia. Analyzing with securitization theory means to be "agnostic as to reality of threats" (Balzacq, Leonard & Ruzicka, 2016), therefore this paper departs from a criticizing stance against security and threats perception.

This paper provides an analysis on the speech act represented in the legal documents or policy papers and the non-discursive practices demonstrated by the authorities in the security-related migration regulation and refugee's protection. Both the occurrence of securitization and desecuritization will be further elaborated. The securitization is understood to take place when the security grammar of migration is found in the Migration Act, the policies and activities of national security agencies including the National Agency for Combating Terrorism, National Agency for Border Watch and the Directorate General of Immigration and their activities. The desecuritization, meanwhile, is found in Indonesian initiatives in renewing regional arrangement on regulating transnational migration like Bali Process to improve refugee's protection, as well as other domestic-level policy adjustments with the recent presence of Rohingya refugees. It is argued here that desecuritization takes place in the midst of securitization and shifts the 'security grammar' of forced migration in regional level. The extent to which the perception of security threats imposed by the migratory process has been shifted can be reviewed in the policy changes by other individual states in the region and the international institutions working within regarding to refugee's protection.

Keywords: securitization, desecuritization, migration, refugee's rights, border security, regional cooperation

Life in Prison

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As per the definition of Constitution of Cambodia, Article 31 “The Kingdom of Cambodia shall recognize and respect human rights as stipulated in the United Nations Charter, the Universal Declaration of Human rights 1948, the covenants and conventions related to human rights, women’s and children’s rights”. According to the UN (2017) report “The human rights situation in Cambodia” stated that the most serious violation of human rights can be seen in prison while “150 prison centers where more than 500,000 prisoners were tortured and executed”.

The study is conducted to ‘examine critically’ the overall situation of Cambodian prisons especially focusses on ‘women and children’ conditions inside the prisons. Cambodian prisons and its over crowded worse situation is increasing day by day, which appealed many human rights organizations international and national to take serious actions against these violations. The overcrowded prisons of Cambodia also violated the rights of children and women lived in these prisons. The prisons are lacking from all kind of resources, where children and women considered the most disadvantaged groups. Prisons are considered as torture cells and convicts are punished every day.

Children and women are under risks in prisons and abused by the prison and police authorities as well. There is no proper recovery mechanism for victims which provide support and protect children and women affected by such abuses and hold perpetrators properly accountable. Cambodian criminal justice legal system prisons did not apply international instruments which emphasizes that prisoners should be supported by social rehabilitation centers, education for children, vocational training for women and medical treatments for victims. Cambodian national laws did not follow the international laws, however government of Cambodia ratified numerous international treaties and conventions in the country but are failed in its proper implementation. It is responsibility of government to protect the rights of all citizens. Human rights are the basic rights provided to all citizens in the country which are missing in the Cambodian prisons. The Injustice situation in the prisons and violation of rights have shown failure of the state responsibility. Keeping prisons and prisoners in a good condition is the basic responsibility of the state. State requires proper implementation of rule of law, amendments in existing laws, ratification of the UN conventions CRC and judicial review, effective judgment and well-functioning courts are the basic requirements of the state. Prisons reforms are required to achieve the successful results to end the violation, torture and abuses in the prisons of Cambodia.

The Filipino Orientalism: The Misrepresentation of Filipino Muslims in the Philippine Media

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Filipino Muslims are marginalized in the Philippine society, even in their own homeland, Mindanao. Through the years, the American colonial and the Philippine governments have implemented policies that have benefited the Christian population but pushed the Muslim community, literally and figuratively, to the periphery of our society. Unfortunately, colonial legacies and ideologies are no longer limited in state policies but are also promoted through the Philippine media today.

My argument in this study is that the Philippine media adopted their way of representing the Filipino Muslims and Islam from our colonizers, especially the Americans, who became the first media practitioners and moguls in the country. I believe the current (mis)representation of Filipino Muslims in the media is a product of their resistance against American occupation in the country.

According to Edward Said, this is Orientalism, or the Western style of (mis)representing the East, where Muslims are located. The theory asserts that the West is using the media to promote their ideologies against the Muslims to establish their supremacy over the latter. However, a recent study done by Lisa Lau argued that Orientalist ideals are now being promoted by Orientals themselves, a phenomenon she termed as re-Orientalism. This means Orientalized Filipinos, who are the Christianized ones, are now the ones misrepresenting the minority Muslim population. Given the current Philippine administration's dedication to address the Muslim conflict in the country, I believe there is really a need to decolonize our media. I share Said's belief that the solution to this conflict will require overcoming the racist legacy of Orientalism that stresses the separation of people from each other.

Keeping in mind the power of the media to promote ideologies, I analyzed media texts, specifically the articles published by Inquirer. Net, one of the leading online news publications in the Philippines, and uncovered Western ideologies in them. This was done to answer the problem of this study, "How does Inquirer.net employ Orientalism when representing Filipino Muslims and Islam?" Through this study, I want to characterize Filipino Orientalism as a form of neo-imperialism driven by the racist legacy of the Philippines' colonial past.

Keywords: Post-colonialism, Orientalism, Islamic Studies, Philippine media

Protection of the Rights of the Victims of Human Trafficking: Has Malaysia done Enough?

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Human trafficking is a serious crime and a grave threat to human rights. Every year, thousands of men, women and children fall into the hands of traffickers, in their own countries or abroad. Thus, there is a need for Malaysia to take necessary step to combat human trafficking and at the same time to provide effective protection for victims of trafficking as enacted under the Malaysian Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 (ATIPSOM 2007). The first part of this research examines the international law standards on human rights protection of the victim of human trafficking while the second part analyses any legal and policy measures adopted within the Malaysian context. In these parts, attention will be on numerous protection mechanisms such as provision for a shelter, or a place of refuge, appointment of protection officers, medical treatment, right to work and safe repatriation. This research further examines and assesses the adequacy and effectiveness of the current measures and laws especially in terms of their enforcement by the relevant enforcement bodies. Analysis on the existing legal framework within other ASEAN States, including Indonesia, is also done so as to provide relevant best practices for consideration and adoption by the Malaysian government. In the conclusion, this research provides a number of solutions to address the problems and challenges within the existing legal framework in Malaysia with ultimate aim at providing better protection for the victims of human trafficking.

Keywords: Human rights, trafficking in person, victims, Malaysia, ATIPSOM

Detention of Refugee Children in Malaysia and Thailand: Is Alternatives to Detention (ATD) Workable?

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This paper analyse the human rights situation of refugee children in Malaysia with a focus in advocating for the approach of alternatives to detention (ATD). The refugee crisis in Malaysia and Thailand are not a recent human rights phenomenon. Despite numerous calls and advocacies in urging the governments of Thailand and Malaysia to provide protection to refugees, the human rights conditions of the refugees remain depressing. Realizing one of the key hindrances for the human rights situation of refugee children is that both governments do not view refugee issues as domestic problem as both states do not ratify 1951 Refugee Convention and also its 1967 Protocol. Hence, this paper attempts to shed a light on the human rights situation of refugee children in detention in both countries by looking into the strategies of how the local non-governmental organizations (NGOs) in advocating the governments to look into the approach of ATD. This paper examines the current immigration detention practices for refugee children in Malaysia and Thailand, and advocacy strategies by the local NGOs and its challenges in pushing for ATD to these refugee children.

Keywords: alternatives to detention (ATD), refugee protection, refugee children, Malaysia, Thailand

Breaching the Paradox of Humanitarian Intervention in South East Asia: A Study of UNHCR-IOM Agenda Setting in Transforming Rohingya Refugee into Economic Migrant

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The statelessness of Rohingya refugee has been disrupting bilateral relations among ASEAN member states principally Bangladesh, Indonesia, Malaysia, and Thailand at the brink of regional instability. The endless influx of Rohingya refugee to the aforementioned destination countries is mainly derived from the absence of certitude over permanent resettlement, deterrent legal instrument among sending and receiving states and social security for refugees in destination countries. The genesis of these complexities is singled out in the vulnerability of Rohingya refugee's status as intractable and protracted international stateless individuals. Therefore, a universally approved and sustainable international recognition is required to leverage Refugee's access to basic human rights including formal education, labor market as well as to legal residency in host countries. This paper seeks to unveils the discontent of socially and economically affected ASEAN member-states over the ineffective intervention jointly launched by the world's premier refugee agency, UNHCR and the UN global migration agency, IOM in mitigating the crisis of Rohingya refugees in South East Asian region. Furthermore, based on IOM and UNHCR distinctive function and limitation in the discourse of refugee migration, this paper also attempts to rigidly integrate UNHCR and IOM policies to level up the status of Rohingya refugee as economic migrant to ensure the fulfilment of human rights and social security in times of turbulent humanitarian crisis. The interplay of UNHCR-IOM joint policies of intervention will be examined through the framework of Joint Intervention Theory (Smith; Cohen, 1990) to shape persistency and collective security measure in responding non-traditional migration issue. Eventually, the outcome of this research is expected to draw a generic short-term policy intervention leading towards permanent durable solution for Rohingya refugee amidst the uncertainty of global shift.

Keywords: 39nstitut refugee, UNHCR-IOM policy, economic migrant, joint policy intervention

Involvement of Indonesian National Military (Tni) In Legislation About Anti-Terrorism: Review of International Humanitarian Law

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Changes in the international humanitarian legal system in a global context have shifted, if the first war was identified with an inter-state ceasefire. Today the war party is not only a state, but also non-state war actors are marked by the aftermath of 9/11 tragedy, that is terrorist. In Indonesia the issue of terrorism becomes serious concern after first Bali Bombing, second Bali Bombing, and other terrorism tragedy. Latest, there is the discourse of TNI involvement in the eradication of terrorism in Indonesia through the formation of Anti-Terrorism Act, it creates problems in society. Looking at the issue, the research problems were (1). TNI's authority elements use to combat terrorism in the Indonesian legal system; (2). International humanitarian law system regulates the involvement of the military on combating terrorism. The research methods used were statue approach and conceptual approach. The results of the study were (1). Post-reformation, dual function of ABRI (Indonesian Armed Forces during Suharto's era) had been dissolved, and this had implication on the limited authority of TNI to maintain the unitary state of the Republic of Indonesia (NKRI) sovereignty at the border. The authority of the TNI on combating terrorism, in accordance with Act No.34, 2004 section 7 articles (3) about TNI, mentions the fight against terrorism that deals with criminal methods except war aggression, related to terrorism that threatens the State sovereignty, not against terrorism that occurs in the community civilians on the Anti-Terrorism Act. If TNI wants to be involved in combating terrorism, it must be in accordance with the 1945 constitution of which terrorism is part of non-international armed conflict, in which the power of command is on the hands of the President. (2). The Additional Protocol II about non-international armed conflict which states that the army is allowed to engage on combating terrorism as one of the participants of war, but it implies the crime committed and the State sovereignty, of which terrorists can negotiate in the settlement of the conflict, and the region controlled by terrorists would become more potential to separate themselves from the state, then the involvement of the TNI in the combating terrorism was considered unconstitutional and prone to NKRI sovereignty.

Keywords: TNI, anti-terrorism, international humanitarian law

Conundrum with Reference to Rohingyas Need to Be Addressed: Responsibility Under International Humanitarian Law

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The Rohingyas in Myanmar are one of the many ethnic minorities in the country. Though, Rohingya Muslims represent the largest percentage of Muslims in Myanmar, with the majority living in Rakhine state. The current wave of violence that erupted in Rakhine State in 2017, reports continue to filter out, despite curbs on media access. These detail the Burmese army and Buddhist gangs directly targeting civilians, including perpetrating rapes and burning whole villages to the ground. The United Nations described the military offensive in Rakhine, which provoked the exodus, as a “textbook example of ethnic cleansing”. Under International Humanitarian Law (IHL), the relevant state must allow for relief action to be taken when civilian populations are without adequate supplies, if the assistance is humanitarian in nature, impartial, and non-discriminatory. In several recent contexts, parties to the conflict have denied access or imposed constraints on the delivery of humanitarian aid as part of a military strategy to deprive the adversary of supplies, and/or apply pressure by cutting off the civilian population. Such as was the case with sieges in Syria and Iraq.

Most Rohingya refugees reaching Bangladesh and India – men, women and children with barely any belongings – have sought shelter in these areas, setting up camp wherever possible in the difficult terrain and with little access to aid, safe drinking water, food, shelter or healthcare. The government of India has been battling it out in the Supreme Court with lawyers representing Rohingya petitioners as there is urgent need to balance national security and human rights. “Children and women do not know anything about it,” the court maintained. The geopolitical and geo-economic argument to India’s Myanmar-Rohingya response, and India’s related Bangladesh response, bears repetition which needs to be addressed keeping the well-being of Rohingyas in consideration.

This research paper will discuss the current scenario with reference to Rohingyas and their past to the currently their status in the country of their origin. To detect and curb such gross human rights violation happening repeatedly occurring and targeting them, changes in the law and strict mechanisms for prevention and investigation which are required will be dealt with in the paper. The significance of this paper is that it attempts to explore and discuss increasingly one of the most harmful crimes at such large scale of ethnic cleansing which affect not only the individual but families including children and the women and aged people with no discrimination are being affected. This research paper is analytical, descriptive and doctrinal in nature. The research methodology adopted in preparing the paper is primarily doctrinal in nature. The sources used in the dissertation are secondary in nature and the various components of the research conducted are online research conducted to understand the intricacies of the subject and the latest developments in the field. Research papers and articles which are available online will be referred. The regulatory framework for tackling such crimes and further suggestions are thereby limited to the Indian context.

Discrimination against Women to Access to Higher Education in Cambodia

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Young women in Cambodia face challenges in accessing higher education. Social norms, financial and other problems are the main root causes of limiting the opportunities of women to pursue higher education. Social norms of the older generation in Cambodia remain from in the past and they often think that it is not necessary for women to study in higher education institutions, since women's role is just to be a housewife after marriage. Another reason restricting women's access to higher education is that they often have financial problems in supporting their education. Some women have to work in order to support their families, so they have no chance to pursue their higher education. Also, since most universities are located in city, parents often feel insecure about their daughters studying far away from home. Currently, there is increased enrollment of young women in higher education due to Government action, as it has ratified international conventions and enacted domestic laws. As well, there is government cooperation with NGOs to establish some strategy and action plans to promote and protect gender equality in all sectors, including the education sector by improving some scholarships or building dormitories for female students to live while studying at university. However, these supports still cannot provide access to higher education to young women in all areas in the Kingdom of Cambodia. Additionally, Cambodia has not yet enacted specific laws to promote the participation of women in higher education.

This research aims to explore the opportunities that have been provided to young women to pursue higher education, particularly to the university level. After exploring the opportunities, the researcher will analyze data of the challenges for women in accessing higher education. Finally, the researcher will provide some possible recommendations to address these challenges.

This research utilized multiple methods, including desk review and structure interview. Interview was conducted by face to face and focus group discussion (FGD). Desk review focuses to all relevant international laws and national and strategic and action plans related to promotion of women to study in university and the de facto of equality of that issue.

Indonesia in Post Transitional Justice Era

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When democratization took place in 1998 after three decades of authoritarianism in Indonesia, transitional justice became one of the agendas for the country. With the nature of compromised political transition, transitional justice brought together the interest of the elements who wished to challenge the repressive regime, and those who wished to distant themselves from the old regime in order to return to politics. As the result, transitional justice measures were successfully adopted in the beginning of political transition but failed to achieve its goals to break with the old regime and bring justice to victims. Today, after twenty years since *reformasi*, elements of the politics are consolidated, including those coming from the old regime. Transitional justice is undergoing a period I refer as “post transitional justice” where the meaning of justice and the politics of human rights have been continuously challenged by the growing trend of populism and religious fundamentalism. How do we assess transitional justice and its relevance to today’s socio-political situation in Indonesia? What could be done to bring us closer to our objectives to settle cases of past human rights abuses and strengthen democracy in Indonesia? These are some of the issues that the paper wishes to reflect on.

The State Claim Liability to Guarantee the Right for Water in Improving the Health of the Society

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Purpose of this research is, to identify of principles of liability to the state of the right to water in the improvement of public health and assess the policies established by the state to fulfill the right to water, as well as analyzing the state form of liability based on the conditional obligation of the right to water.

Be used research methods are judicial normative. Research results show that the state strict liability to the fulfill of minimum water rights. The states obligation to ensure the fulfillment of the rights which cannot be reduced (non derogable right). Water right are ambiguities have relevance to the right to health and right to life. Indonesian state has accepted the UN declaration on the right to water, so that the responsibility for implementing the principles of the right to water through legislation.

State can be sued for the right to water because, legally materially right to water has been accepted as customary international law and the state accountable for obligation respect, protect, fulfill the right to water through a class action or citizen lawsuit.

Keywords: state claim liability, right for water, improving the health, society

Good Governance of China on The Exercise of Geopolitics and Regional Geo-Culture, as a Growth Promoter of Human Rights

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China has been characterized throughout history for having a leading position in Asia. Such leadership has been strengthened by a wide range of economic factors, stories as political and social factors that have helped to consolidate this leadership. The leadership that in the way that has been managing the Chinese government appears within the context of the so-called globalization. Given the acceleration of interdependencies - throughout the world - between human societies and between humanity or the “global governance biosphere” is used to define regulation. That is to say, the global governance of the United States uses this term to refer to all the norms of the organization for societies on a world scale, and it includes the migratory situation that this process brings a collation, it is like a global contract of rules between countries.

However, it would be worth asking in what context and the actors will be able to do so. This, because for the future of the architecture of the social world through the establishment of a global governance system. But now, the equation is complicated, the main one is the current state of government, the current challenge of global governance is to have a bigger group of weight in the destiny of the world establishing a regulatory system of these interactions that exceed the possibility of action of the States, either from other fields.

At this stage, the focus on the problem, the good governance of the new nations that lead the international system, such as China, in the exercise of geopolitics and regional geography in the promotion of growth, and presence and power is emerging internationally and could define new leaders in the field of human rights that more attention to the community.

The Vulnerability of Minority: Migration of Indonesian Gays to Paris, France

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Indonesia is the fastest society in Asia, however the representations of sexual and gender nonconformity have long been seen as “strange” in Indonesian society. Lesbian, Gay, Bisexual, Transgender (LGBT) people can be considered as members of minority groups. According to Fraser (1997: 18) gays and lesbians suffer from “heterosexism”: the authoritative construction of norms that privilege heterosexuality. Along with there goes homophobia: the cultural devaluation of homosexuality. Their sexuality is thus disparaged, homosexuals are subject to shaming, 46institution, discrimination, and violence. As a consequence, it is common, in Indonesian society, to call gay people as “the sick” (*orang sakit*). If someone is known to be a homosexual, taunts and gossip will follow, as well as harassment and loss of employment so, the idea that homosexuality is a disease is widely spread in Indonesia. This paper examines Indonesia gays migration abroad, particularly to Paris, France. The data of the following discussion were based on the study of Indonesian gays in Paris when I conducted a PhD program in Ecole des Hautes Etudes en Sciences Sociales (EHESS) from 2010 to 2015. Semi structured interviews with twenty Indonesian gays aged between twenty-four and forty-two in Paris was used to explore why they migrated to Paris, as well as the question why they have chosen Paris as a city of destination.

The Role of Indonesia Government in Solving the Rohingya Conflict

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Since 2012, the humanitarian crises involving Rohingya ethnic groups in Myanmar has become an international concern. The Rohingya conflict began when murder and rape cases were allegedly committed by three young Rohingya men to a woman from Rakhine ethnic group. After that, the Rakhine people retaliated by killing ten people from Rohingya ethnic group. Since that time, the conflict has escalated and involved both Myanmar government and military. As a result of the humanitarian crisis, the death toll has reached 6.700 in the period of August until September 2017, buildings and houses destroyed, children malnourished, and 671.000 Rohingya people are forced to flee to Bangladesh as refugees since August 2017.

Rohingya conflict in Myanmar is a human rights violation which develops into a humanitarian crisis. Since 2012-2018, this conflict has not been being solved by Myanmar Government. As the only country that gains the trust from Myanmar Government, Indonesia government is doing diplomacy to help solving the Rohingya conflict. Therefore, this study aims to analyse the role of Indonesia government in solving the Rohingya conflict. In this study, the researchers use qualitative method through some literatures such as books, journals, official websites and other related documents. Moreover, the obtained data are analysed by using role, diplomacy, and conflict theories.

The results of the study show that the role of Indonesia government in helping to solve the Rohingya conflict is in form of soft-power diplomacy. First, Indonesia government is willing to accommodate Rohingya refugees in Indonesia. Indonesia has been a refuge site by hundreds of Rohingya people since the conflict, a few years ago, in some areas such as Aceh and Makassar. Second, Indonesia government is doing a persuasive effort through diplomacy with related parties such as Myanmar and Bangladesh. Indonesia's foreign affair minister holds a diplomatic meeting with the state consulate, Daw Aung San Suu Kyi and the commander of the armed forces of Myanmar, Senior General U Min Aung Hlaing and proposes 4+1 formula as an effort to solve the Rohingya conflict. After that, Indonesia's foreign affair minister is doing diplomacy with Bangladesh Government in order to open dialogue and cooperation with Myanmar Government in solving Rohingya conflict and willing to both accept and protect the Rohingya refugees who fled to Bangladesh. Third, Indonesia government is also in synergy with non-governmental organizations, in the field of humanitarian and community, in providing humanitarian assistance to Myanmar. Indonesian Humanitarian Alliance for Myanmar was established in August 2017 and consists of eleven humanitarian agencies. The humanitarian assistances given such as the establishment of education facilities, health, food and also medicines for conflict victims.

Keywords: role, diplomacy, conflict, institution

Explaining the Implication of the Regional Framework on Human Rights in ASEAN

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The Association of the South East Asian Nations (ASEAN) has taken series of significant measures in 48nstitutionalizing human rights since 2004, to include the establishment of the regional human rights mechanisms, the adoption of human rights related instruments and the mainstreaming of human rights in community building project. Nevertheless, in achieving the 48nstitutionalization of human rights, ASEAN appears to be taking a human rights duality approach, whereby it is reconciling the regime of international human rights standards with the particularity claims of Southeast Asian countries. Its process has redefined human rights that are applicable as regional framework for cooperation n ASEAN, by preferring, deselecting and conditioning particular materials of the international human rights law that serve the interests of member states and better fit with the context of Southeast Asia. Among others, ASEAN included the right to development and right to peace in the ASEAN Human Rights Declaration (AHRD) and deselected freedom of association, the rights of indigenous peoples and the right of minority groups such as ethnic and sexual minority. By examining ASEAN's human rights preferences (including the de/selected and conditioned) and its implication to the interaction between global, regional and national development on human rights, this paper argues that the grouping solidified its ASEAN's pre-existing norms: ASEAN Way and Asian values, as well as the regimes responsible for their enforcement, rather than strengthening the protection of the human rights of the people in ASEAN.

Constitutional Rights of Indonesian Citizens in Expressing and Purposing Opinions on Internet In The Regime Of The Iet Act

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Law Number 11 Year 2008 on Information and Electronic Transactions (IET Act) is a law that is often the subject of debate of legal experts in Indonesia. How not, up to now, there have been more than 20 court decisions that have been *inkrachts* related to the IET Act, especially cases of humiliation and defamation involving internet users as regulated in Article 27 paragraph (3) of the IET Act. Moreover, the IET Act has so far been 7 (seven) times tested in the Constitutional Court. However, judicial review of the IET Act is largely declared rejected, not accepted, and withdrawn. The reason of the Constitutional Court refused because Article 27 Paragraph (3) and Article 45 Paragraph (1) of the IET Act are considered constitutional because it is in accordance with democratic values, human rights, and the principle of state law. Basically, the IET Act was aimed to protecting people's privacy in using technology and information.

In reality, however, the IET Act becomes the most threatening law of criminalization of the citizen, in which the rights of the community are informed and argued threatened by allegations of humiliation and defamation. The most commonly armed articles are articles 27 and 28 of the IET Act. The problems that arise basically relate to the culture of informing the community and the Government. In society, the obstacles that are experienced are about how to inform the law justified. Conversely, the Government's obstacles are the knowledge to determine whether people are informed against the law or not. Both chapters are often used to criminalize people and are interpreted so widely that it is often called rubber articles.

The revision of the IET Act in Law No. 19 of 2016 further throws the public space in expressing their opinions on the internet. One of them, the government imposed a cyberbullying in Article 29. Although the government itself is still looking for the concept of cyberbullying in the revision of the IET Act. In this paper will be discussed about 3 (three) points of discussion, namely (1) constitutionality and restrictions on the right to inform and contend in the IET Act; (2) Indonesian government law politics in the IET Act and (3) legal risk of internet users in the regime of the IET Act.

Keywords: constitutional rights, expression, internet, information, opinion

From Investigation to Prosecution: Applying Lessons from International Criminal Prosecution to the Protection of Human Rights in Southeast Asia

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In Southeast Asia, where impunity largely endures, the criminal prosecution of human rights violations is a formidable task. Yet, effective prosecution is generally considered a cornerstone of long-term peace and stability. Not only does it provide accountability for the past but also it affirms the rule of law in the present. While there are some examples of effective prosecution for mass atrocities at the local and regional level in Southeast Asia, the international courts are a valuable source of further practical guidance. While recognizing that there are cultural and contextual limitations to drawing from international practice, this article seeks to uncover key lessons from international criminal prosecution that may inform practice in Southeast Asia, with a particular emphasis on the development of a case from investigation to prosecution. The article begins in Section I with a brief overview of the courts and laws that historically and currently govern criminal prosecution at the international level. The article then draws in Section II from cases before the International Criminal Tribunal for the former Yugoslavia to show how evidence gathered during investigation is utilized in court during trial. From this process, several key lessons from international criminal practice emerge. Those lessons and the opportunities and challenges presented by their application in Southeast Asia are discussed in Section III. The article concludes with a discussion of some of the shifting dynamics at the international level related to international criminal prosecution and the impact of those shifts on the application of the previously-discussed lessons and, more generally, on the protection of human rights in Southeast Asia.

Legal and Policy Framework of Human Right fir Older Persons in Bangladesh: An Overview

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For the first time in the history of human society, the number of senior citizens (aged 60 or older) will be more than children in 2050 which is shown in several projection of global population. As global population is ageing so protection of human rights for this segment is now become a global issue. Around the world much emphasis has been given to develop instruments or plans of action under the jurisdiction of UNO and by its different organs for promoting the human rights situation of senior citizens. In today's world both developed - developing and even least developed countries are also working for formulating and activating laws, policies and planning for the protection of senior citizens from discrimination, abuses, negligence and violation of democratic and human rights. In the context of Bangladesh, the country has more than 170 million populations and this vast amount comprises 8% older adults. This amount will be 20% in the year of 2050 estimated by different projection. Being a very recent UNO recognized developing country; the situation of human rights is not quite smooth here for any age group of Bangladesh. Certainly, from the very beginning of its independence in 1971 there has been lot of efforts can be found to uphold human rights. As the member of UN and others international agencies it has been committed to bring international solidarity, protect human rights through practicing and dignifying different charters, conventions, plan of actions etc. Considering the global perspective and concurrent demand of growing number of older adults, this paper tries to explore the constitutional, legal and policy framework of Bangladesh to ensure the human rights for this particular group of people. Through a descriptive way of analysis as the part of qualitative study, this paper examined the constitution, laws, plan of actions, policies etc to this end.

Keywords: senior citizens, social policy, social legislation, human rights



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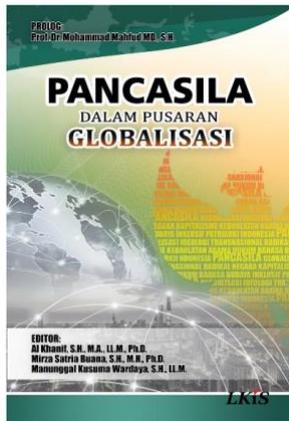
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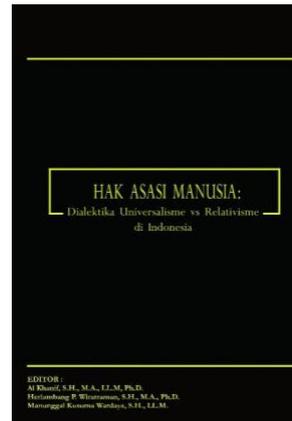
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OUR PUBLICATIONS



This book discusses Pancasila as Indonesian Ideology in globalization era. "Globalization" as the key word in this book is picked not only because of the global political, legal and cultural systems that have become increasingly necessary and affect all aspects of national and state life, but also because globalization in the present context is faced with the reality of the rise of ultranationalist power (right), religious radicalism, and populist sentiments in various countries.



CHRM2 in cooperation with Indonesian Consortium of Human Rights Lecturers (SEPAHAM Indonesia) and Human Rights Law Studies (HRLS) launches a book on human rights, "Hak Asasi Manusia: Dialektika Universalisme vs. Relativisme di Indonesia" (Human Rights: The Dialectics of Universalism and Relativism in Indonesia).



LENTERA HUKUM is a peer-reviewed open access academic journal and a triannual publication of the University of Jember, with issues in April, July and December. The Journal publishes works on all disciplines of law, including cross-disciplinary legal studies, which has been readily embraced by academics all over Indonesia.

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