"Human Rights in Southeast Asia: Are We Moving Backward?"

11-13 August 2017

THE CENTRE FOR HUMAN RIGHTS
MULTICULTURALISM & MIRGRATION
(CHRM2)

University of Jember, Indonesia

ORGANIZED BY:

University of Jember

The Centre for Human Rights, Multiculturalism, and Migration (CHRM2)

Indonesian Consortium for Human Rights Lecturer (SEPAHAM Indonesia)

SUPPORTED BY:

MIGRANT CARE

Welcome Remarks

Excellencies, Distinguished Presenters and Participants, Ladies and Gentlemen

Just before i get started, on behalf of the University of Jember (UJ), I would like to express my gratitude to all of you who participated in this conference. It gives me great pleasure to welcome you to the second international conference on human rights, organized jointly by the University of Jember (UJ) and the Centre for Human Rights, Multiculturalism and Migration (CHRM2).

This year, the UJ and CHRM2 chose the title of the conference **"Human Rights in Southeast Asia: Are We Moving Backward?".** We hope this will become an invaluable event to provide a platform for sharing from scholars and practitioners on the issue of human rights in Southeast Asia from various perspectives. This conference is also designed to facilitates familiarization with the research activities and outputs of one another.

This conference is also part of the UJ commitments to bolster research activities and encourage further enhancement of the UJ research centres. Thus, it is gratifying to note that in this year conference, Migrant Care and Indonesian Consortium for Human Rights Lecturer (SEPAHAM Indonesia) participated to support the conference. As the UJ is always committed to organise and support academic activities, we expect there will be more organisations, scholars and practitioners participate in the next round conference.

On behalf of the UJ, I am thanking you for all your support and kind participation. We could not have done it without you all!

Happy conference.

Rector,

Moh. Hasan

THE CENTRE FOR HUMAN RIGHTS MULTICULTURALISM & MIRGRATION (CHRM2)

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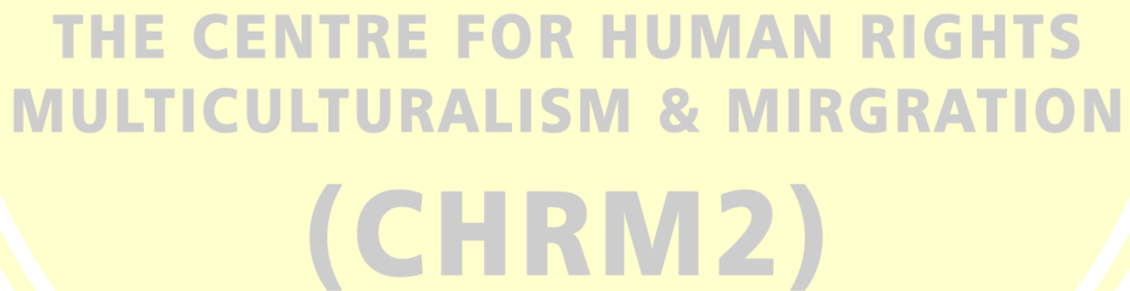

CONFERENCE AGENDA

Friday, 11 August 2017

15.00 – 15.15 Opening

15.15 – 17.15 ***PLENARY SESSION 1*** — 4th floor CDAS Building

Women Migrants in Southeast Asia through the Lens of CEDAW *(Prof. Dr. Carol Tan, SOAS University of London)*

The Absence of Legal Recognition and Its Impact on the Living Conditions of Pakistani Asylum Seekers and Refugees Living in Bangkok (*Dr. Jesper Kulvmann, Thammasat University)*

17.15 – 19.00 Welcome Dinner — 1st floor Rector Building

19.00 – 20.30 **Panel Session 1** — 4th floor CDAS Building

Chamber 1.1. – *Migration and Gender Justice in Southeast Asia*
Freedom or Refrain: Redefine the Concept of Human Security and Women's Security in Indonesian Muslim Community (Dr. Erwin Nur Rif'ah, University of Jember)

Portrayal of Multitude: Representation of Identities of Sexual Minorities on Indonesia-based Feminist Web Magazine Magdalene.co (Puji Maharani, M.A., SOAS University of London)

Indonesian Migrants Policies: How Strong Indonesian Committed to Stand on Women Migrant Worker (Ninik Rahayu, M.S., Ombudsman of the Republic of Indonesia)

Chamber 1.2. *– Child Marriage and Gender Justice in Southeast Asia*
Indonesian Marriage Law Reform: The Way to Strengthen Children's Rights against Child Marriage (Zendy Wulan A. W. Prameswari, LL.M., Emi Agustin, LL.M., Airlangga University)

Equality of Inequality (Chairun Nisya, University of Jember)

The Urgency of Child Budgeting Policy in APBDESA as an Effort in Child Marriage Prevention (Mayadina Rohma Musfiroh, UNISNU Jepara)

Chamber 1.3. *– Multiculturalism, Pluralism, and Gender Justice in Southeast Asia*
Constitutional Pluralism in Indonesia (Dr. Herlambang P. Wiratraman,

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Airlangga University)

When Human Rights is not Enough: A Failure of Multiculturalism in Indonesia (Joni Kurniawan, LL.M., University of Pisa, Italy)

Impact of Legal Culture on Judges Perception to Promote Gender Equity (Dr. Dewi Astuty Mochtar, Universitas Merdeka Malang)

Saturday, 12 August 2017

08.00 – 09.30 ***PLENARY SESSION 2*** — 4th floor CDAS Building

Breaking New Ground in Human Rights Protection: Proposing an Inverted Triangular Approach through Group-Based Enforcement on Southeast Asia *(Assc. Prof. Dr. Shahrul Mizan Ismail, Universiti Kebangsaan Malaysia)*

Land Rights and the Mega-project: Ownership Rights in the Shadow of Land Acquisition for the Jakarta Bandung High Speed Rail Link *(Dr. Alex Grainger, University of Kent)*

09.30 – 09.45 ***Coffee Break***

09.45 – 10.45 ***Panel Session 2*** — 4th floor CDAS Building

Chamber 2.1. *Agrarian and Environmental Issues in Southeast Asia*
Property Rights and Citizenship in Transition in Yangon, Myanmar (Elizabeth Rhoads, LL.M., King's College London)

The Devastation of Natural Economy and Eco-Justice in the Process of Modern Development: A Case Study in Kendeng, Rembang (Ali Jafar, M.A., CRCS Universitas Gadjah Mada)

Democracy in Public Policy: Case Study of Cement Construction Conflict Between Samin Society (Sedulur Sikep) with the Government in Kendeng Mountain, Central Java (Alvian Rachmad EP, MPA, Sebelas Maret University)

Chamber 2.2. *Environmental Issues in Southeast Asia*
Human Rights Protection Concerning Reclamation of Small Island and Coastal Area Prepared (Tahegga Primananda Alfath, M.H., Universitas Narotama Surabaya)

Environmental Right in Ecological Democracy Perspective (Siti Aliyuna Pratisti, Satriya Wibawa, Universitas Padjadjaran)

Human Rights Law in Zone of Indistinction: Bukit Duri Experience (Gerry Pindonta Ginting, Komunitas Payung)

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Chamber 2.3. – *Human Rights and Development in Southeast Asia*
Human Rights Protection Between Indonesia and the United Kingdom: A Comparative Analysis (Prischa Listiningrum, LL.M., Dhia Al Uyun, University of Brawijaya)

Poverty, Economic Development, and Human Rights (Sunarsih, M.P., STIE Mandala Jember)

Integral Approach to Overcome the Problems of Corruption and Violations of Human Rights (Fitri Lestari, University of Jember)

10.45 – 12.00 ***Panel Session 3*** 4th floor CDAS Building

Chamber 3.1. *Right to Education and Development in Southeast Asia*
Indonesian Ranham & Human Rights Education in North Sumatera 1998-2015 (Majda El Muhtaj, M.H. PUSHAM UNIMED)

Illiteracy: A Difficult Chore Resolved by Indonesian Nation (Fiska Maulidian Nugroho, M.H., Setia Adi Nugraha, University of Jember)

Illiteracy Alleviation in Tanggul through Literacy Learning Process for Human Rights in Education (Antika Hayati, Syarifah Addawiyah, University of Jember)

Chamber 3.2. *Health, Disabilities and Right to Education in Southeast Asia*
When Smoking Is Not the Basic Human Rights (M. Khoiron, M.Kes., Isa Ma'rufi, M.Kes. University of Jember)

The Invisible Disability: The challenge in Getting the Right to Education. A Reflection on Developing Integrated Intervention Model for Deaf Children with Hearing Aids (Veronica Diana Asmarawadani, M.A., FamilyTree Education Rumah Belajar Ibu)

The Fulfilment of the Right to Health in Men Sex with Men (MSM) (Dr. Dewi Rokhmah, University of Jember)

Chamber 3.3. *Culture and Indigenous Rights in Southeast Asia*
Managing Indigenous Cultural Rights in Indonesia through Governance Network and Legal Pluralism: An Examination of the 2014 Village Law (Dr. Mirza Satria Buana, Lambung Mangkurat University)

The Core Values on Semarang Batik Motifs as Local Cultural Identity (Lusi Setyo Wulandari, Agus Firmansyah, Diponegoro University)

Islam Nusantara: The Study of Nyuwang Ngaten Tradition among

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Islamic Society in Village Kecicang Bungaya Kangin, District Bebandem Karangasem, Bali in Viewing Islamic Law and Customary Law (M. Khoirul Hadi Al Asyari, IAIN Jember)

12.00 – 13.00	***Lunch***	
13.00 – 14.00	***PLENARY SESSION 3*** Rejecting Religious Intolerance in Southeast Asia: Using the United Nations Rabat Plan of Action as a Road-map for Combatting Rising Religious Hatred in Myanmar (Burma) and Indonesia (Benedict Rogers, Christian Solidarity Worldwide (CSW) London) Desecuritization of Terrorism Threats and Human Rights Protection in Indonesia (Dr. Abu Bakar Eby Hara, Universitas Jember)	4th floor CDAS Building
14.00 – 15.00	***Panel Session 4*** **Chamber 4.1.** – *Freedom of Religion in Southeast Asia* Santri Cities vs Human Rights Cities: Norm Hybridization in Indonesia (Yusli Effendy, M.A., University of Brawijaya) Reinterpretation of Intolerance in Indonesian Democracy (Between the Right to be Elected and Freedom of Religion (Abdurrahman Supardi Usman, M.H., Independent Researcher) Shutting Down the Place of Worship as a Form of Religious Intolerance (Calvin Lucky Krisnadi, Fransisca Fitriana Riani Candra, Benyamin Siburian, Universitas Gadjah Mada) **Chamber 4.2.** – *Religion, Radicalism, and Human Rights in Southeast Asia* The Dilemma of Minorities between Syari'at and Human Rights: Study on the Future of LGBTQ in Aceh, Indonesia (Dr. Anton Widyanto, UIN Ar-Raniry) Re-Considering the Gap between the Concept of Rahmatan Lil 'Alamin and the Doctrine of anti-Violence (De-radicalization) within Religious Discourse (Syamsu Madyan, M.A., UNISMA Malang) Terrorist Crime on Its Enforcement to Women and Children Protection as a Means to Achieve Legal Certainty related to Human Rights (Alvin Dwi Nanda, S.H., University of Jember) **Chamber 4.3.** – *Religion and Comparative Human Rights* Muslim Minority and Same-Sex Marriage Legalization- Case Study: the	4th floor CDAS Building

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US Muslim Minority in Comparative Perspective (Honest D. Molasy, M.A., University of Jember)

Constitutional Debate on Religion and Secularism in Indonesia and India (Muhammad Bahrul Ulum, LL.M., Ayuningtyas Saptarini, S.H., University of Jember)

Between Defamation of Religion (Blasphemy) and Hate Speech: The Meaning of Restriction to Freedom of Expression in International Law (AAA Nanda Saraswati, M.H., Setiawan Wicaksono, M.Kn., University of Brawijaya)

15.00 – 16.00 ***Panel Session 5*** — 4th floor CDAS Building

Chamber 5.1. – *Radicalism, Human Rights, and National Security in Southeast Asia*
Symbolic Violence in Indonesian Society: Islamic Radicalisation Leads to Religious Intolerance? (Irfan L. Sarhindi, M.A., University College London)

Critique of Discourse "Defending Islam" by the Islamic Defender Front (FPI, Front Pembela Islam) as Legitimation Violence in the Name of Islam (Farah Dina Herawati, S.Sos., University of Jember)

Protection of the Country against Deviant with Triple Helix (M. Iwan Satriawan, M.H., Evi Faridhaturohmah, M.H., Universitas Lampung)

Chamber 5.2 – *Human Rights and National Security in Southeast Asia*
The Prospect and Challenges in Border Territory as Sovereignty Implementation of Unitary Republic of Indonesia at Forefront (Muhammad Rizki, S.H., Universitas Gadjah Mada)

The Police Capacity Building Mode in Their Role to Serve and to Protect Society, (Kadek Wiwik Indrayanti, Universitas Merdeka Malang)

Jurisdiction of Indonesia as a Transit Country Toward Foreigner, which involved in People Smuggling Within Indonesia's Territory (Ikaningtyas, LL.M., University of Brawijaya)

Chamber 5.3. *Justice and ASEAN Human Rights*
ASEAN Regional Human Rights Mechanism: The Prospect on Establishment of Regional Human Rights Court in ASEAN (Adistra Kusuma Waligalit, Universitas Gadjah Mada)

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The Legal Protection System of Indigenous People in the Southeast Asia (ASEAN) (Sholahudin Al-Fatih, M.H., Zaka Firma Aditya, M.H., Airlangga University)

Establish Institution in the Southeast Asia Human Rights Issues: To Equalize Bargaining Position between Citizens and Government (Ilham Wahyudi, Universitas Jember)

16.00 – 17.00	***Panel Session 6*** **Chamber 6.1.** – *Election and Political Rights in Southeast Asia* Measuring the Feasibility of Online Petition in Indonesia (Rizqi Bachtiar, M.A., University of Birmingham, Rumi Suwardiyati, University of Brawijaya) Pre-Election Dispute over Process of Provincial Election in Indonesia: Aceh Case Study (Dr. Muhammad Siddiq Armia, UIN Ar-Raniry) Political Party Reformation in Indonesia: Obstacles and Challenges for Increasing Political Participation Disabilities (Haidar Fikri, M. Arifin, Oki Candra, Sebelas Maret University) **Chamber 6.2.** – *Disabilities and Civil Rights in Southeast Asia* The Role of Indonesian CSOs to Increase the Understanding Difabled Issues in the Indonesian Criminal Justice System (Dio Ashar Wicaksana, M.A., MaPPI University of Indonesia) Politics of Memories: Struggle of 1965 Victims Communities in Indonesia (Rian Adhivira Prabowo, M.A., Satjipto Rahardjo Institute) The Decree of the People's Consultative Assembly No XXV/1966 and the Prospect of Reconciliation of Crimes against Humanity in the 1965-1966 Events (Manunggal Kusuma Wardaya, LL.M., Universitas Jenderal Soedirman)	4th floor CDAS Building
17.00 – 18.00	***Dinner***	
18.00 – 19.30	***CLOSING AND OVERVIEW*** A Kite Does Not Move Backward! Methodological Observations on Critiques of Human Rights Activism in Indonesia and Southeast Asia *(Prof. Dr. Werner F. Menski, SOAS University of London)*	4th floor CDAS Building

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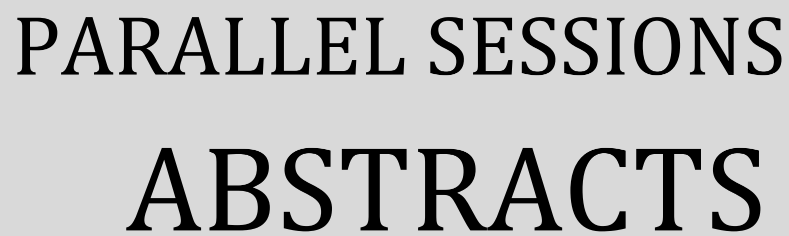
PARALLEL SESSIONS

ABSTRACTS



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Between Defamation of Religion (Blasphemy) and Hate Speech: The Meaning of Restriction to Freedom of Expression in International Law

A.A.A. Nanda Saraswati, M.H., Setiawan Wicaksono, M.Kn., M. Choirul Hidayat
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Abstract

Defamation of religion (blasphemy) and hate speech are two most frequently debated issues in many countries today. Both issues became controversial because there is yet a formal and universal definition agreed by states in the international level. Thus, the interpretation of both concept is handed over to each state. Although different, in the national level these two concepts are often interpreted the same and sometimes even overly applied. In fact, there are states that expand the meaning of defamation of religion and hate speech which can lead to abuse in certain situations. But there are also states that enforce the laws on those two very carefully, where a ban on blasphemy and hate speech is considered incompatible with international human rights law, in particular the legally binding provisions on freedom of opinion and expression.

Freedom of opinion and expression itself is one of the fundamental and democratic human rights which is guaranteed and upheld by states both in national law and international law. However, this freedom is not absolute or in other words, there are restrictions. This restriction is interpreted differently by each state, making it possible for a conflict between blasphemy and hate speech on the one hand with freedom of opinion and expression, including freedom of religion and belief, on the other. Of course the issue of blasphemy and hate speech is not criticized solely on its actions, but also their impact, where such action can lead to intolerance and violence, whether in physical, verbal, and psychological that may disturb public order. Giving the facts above, this paper aims to examine and analyze as follows: (1) What is the difference between defamation of religion (blasphemy) and hate speech in international law? (2) Do both blasphemy and hate speech constitute a legitimate restriction on freedom of expression? (3) What is the meaning/essence of restrictions on freedom of expression in international law? This framework of analysis is important to find a common concept that is not discriminatory in order to create a balance in the regulations of blasphemy and hate speech that will not jeopardize freedom of expression.

Keywords: blasphemy, hate speech, freedom of expression, human rights, international law

THE CENTRE FOR HUMAN RIGHTS MULTICULTURALISM & MIGRATION (CHRM2)

Reinterpretation of Intolerance in Indonesian Democracy (Between the Right to be Elected and Freedom of Religion)

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Abstract
The State of Indonesia was a state based on the rule of law and at the same time, it was the country with the largest Muslim community as its citizens. As a state based on the rule of law, Indonesia had chosen democracy as its identity. The interesting thing when democracy confronted with the Islamic principles as the way of life for its believers. Although it was a kind of khilafiyyah (dissent) in Islamic epistemology, the prohibition to elect a leader who did not come from the same faith still be a challenge to diversity in Indonesia, in general, is also being debated in the discourse of Islam and democracy. Did the prohibition of electing a leader who did not come from the same faith in Islamic dogma, contradicts with the right to be elected principle as stated in article 25 International Covenant on Civil and Political Rights? Then how if the actualization of that dogma in question in interpreted as a form of the right to freedom of religion which was recognized and protected in Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 as The Constitution of Republic Indonesia? Constitutional approach and comparative approach were used in this paper to elaborate the intersection between of the right to be elected dan freedom of religion principle in the context of the 'Moslem leader' dogma actualization in Indonesia. This Elaboration was expected to lead to the reinterpretation of the tolerance paradox in the freedom of religion context.

Keywords: Religious Intolerance, minority, human rights, Democracy

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Desecuritization of Terrorism Threats and Human Rights Protection in Indonesia

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Abstract

This paper looks at the relationship between attempts to de-securitize the threat of terrorism –defined as an attempt to make the urgent threat of terrorism to a common threat, and the protection of human rights in Indonesia. In contrast to the efforts of the government and security forces to securitize the threat of terrorism, some civil society groups have instead attempted to de-securitize the threats so that the threats do not need extraordinary military measures and unusual procedures to handle. This not only makes the threats of terrorism are dealt with the available legal and political platforms but also allows for the enforcement of human rights in the process of handling terrorism. The Indonesian approach contradicts with the global discourse against terrorism that legitimate the uses of military approaches, but to some extent this approach addresses aspects of human rights and democracy which many human rights fighters are griping about in addressing global terrorism. Indonesia's approach is possible because of the socio-political conditions of Indonesia Muslim majority societies that are sensitive to linking Islam with terrorism. At a time when military action against terrorism has made much progress in the international world, this Indonesian approach should have a place in academic talks on how to deal with terrorism.

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ASEAN Regional Human Rights Mechanism: The Prospect on Establishment of Regional Human Rights Court in ASEAN

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Abstract
Regional human rights mechanism is one of the pillars of human rights protection. Currently, there are five existing regional mechanism for human rights: the European, Inter-American, African, Arab, and ASEAN. The current mechanism in ASEAN is still in developing stage, meaning that it still have not established a properly supported system. An ideal condition for any regional human rights mechanism would be to establish a binding treaty and human rights court to adjudicate any violations. For now, only European, Inter-American, and African system that possess such mechanism. Although there are many criticisms and difficulties in the current ASEAN mechanism, it has shown glimpse of potential on how important this mechanism would be in the future. The effort of ASEAN in the last decade, however, has shown significant changes in the protection of human rights, particularly the adoption of ASEAN Human Rights Declaration in 2012.
Seeing that in the past decade there has been significant changes on ASEAN's effort to develop human rights protection, it would be important to further analyse the prospect of this mechanism development with the hope that it could aspire to reach the ultimate goal of establishing human rights court for ASEAN. As well as addressing the problematic notion of ASEAN's unique stance towards human rights concept which is different from the more generally accepted 'western' concept. The study mainly uses a normative legal research to gather a conclusive recommendation for possible schemes to achieve a proper regional human rights mechanism in ASEAN.

Keywords: Regional human rights mechanism, ASEAN

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Land Rights and The Mega-project: Ownership Rights in the Shadow of Land Acquistion for the Jakarta Bandung High Speed Rail Link

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Abstract
There are a lot of questions about the concept of Islam as Rahmatan lil 'Alamin and the discourse of anti-violence (de-radicalization), as there is a sort of hermeneutical gap when we read Islamic texts and we see some sociological and historical facts of violence in Islamic world. How should we read the Quranic verses or the Hadits of the Prophet while being aware of the facts of violence at the praxis level, which later become the reference and the basis for some Muslims to have attitudes of exclusivism and anti-"others"?
In the world of education, the problems of the gap between the text and the context; the normative and the reality; the ideal and the pragmatic should be a very serious task for the scholars to think, It is very important for any initiators of Multicultural-Islamic education to search for formulas and to create bridges of understanding, so as to create a distinct epistemology for multicultural-Islamic education that can be a unique model of education without ruling out the sacred that has been taught as Faith among Muslim society.
This paper does not promise answers to these problems, but at least this paper will be reaffirming the importance of us to rethink these philosophical and ideological problems about the concept of Rahmatan lil 'Alamin, to put that along with the doctrine of de-radicalization in the world of education, through more careful and holistic interdisciplinary considerations.

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Human Rights Protection Concerning Reclamation of Small Island and Coastal Area Prepared

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Abstract

This paper proposes to examine how far land rights have changed in relation to land acquisition for 'mega-projects' since the New Order period, which "allowed the grant of rights to uncultivated and/or non-residential untitled lands without obtaining the consent of the relevant local community and without triggering the legal obligation to pay adequate compensation to holders of expropriated titles" (Fitzpatrick, 2005:90). Previous work on land has focussed on the politics of forested land usage and acquisition (for example, Peluso 2001, 2007 and 2016; Gellert and Andiko 2015). Less work exists on land acquired for mega-projects, especially in Java, although there are some notable exceptions (Wells and Ahmed 2007; Davidson 2015). Building on these latter approaches especially, the paper suggests that three factors listed below can illuminate how far the land rights of those that live on sites proposed to be acquired for the Jakarta-Bandung high speed rail have been impacted, since 1998. First, the consortium of domestic business interests that holds 40% equity in PT KCIC (Kereta Cepat Indonesia-China) and its relations with the government; second, the local regulatory framework; and third, an examination of compensation schemes and the reasons for differentials in them.

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The Devastation of Natural Economy and Eco-Justice in The Process of Modern Development: A Case Study in Kendeng-Rembang

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Abstract
Enhancing economic surplus is required for proposing better social well-being. Plenty effort applied for eradicating poverty, enhancing social life and minimalizing other social problems. Conventional paradigm about people would get better when economically getting richer was much translated in the modern design of development. Otherwise, the result in the development process is not always concerning on what it is expected. Bunch of proposed developments are profitable only for capital owner, but it is caused loss of benefit and unjust for the local. This research was taking place in the southern part of Rembang in Tegal Dowo in which industrial mining from limestone is prepared. Beside created long-standing conflict between local community and Cement Company concerning on agrarianism, there is also serious issue among community that is nationalism. It happened since Cement Company had considered as state enterprise and expected to give significant contribution for state-local revenue. Based on this issue, it is significant to trace the root of conflict of development and examine what are the meanings of development from the local community and how it contributed for prosperity-responsibility. This research would examine Katrine Marshal (2008) view about 'blind-spot' of development seeing that the model of modern development of economy had frequently neglected local idea about development and habitually destroyed natural economy. The significant findings in this research are about less involvement of local community as well as ignored natural economy in the modern design of development.

Keywords : Development, Natural Economy, Prosperity, Poverty, Rembang

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Democracy in Public Policy: Case Study of Cement Construction Conflict Between *Samin* Society (*sedulur sekep*) with the Government in Kendeng Mountain, Central Java

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Abstract
Public Policy was born due to the struggle of ideas, interests, and power ideologies of political and elite parties. However, public involvement in the stages of public policy both supports and criticisms becomes an important factor in interaction quality of the State to the society, and a democratic accountability in making policy. The construction policy of cement factory in Kendeng mountains, Central Java has become polemic until now. There are some perception differences in the construction program between the minorities (*sedulur sekep*) in Kendeng mountains and the government. In Indonesia, many local minorities become the objects of marginalization and discrimination. This paper tries to examine by literature study towards the process of government policies, in this case is the construction of cement factory in Kendeng, with the purposes to answer: (1) Has the construction of cement factory in Kendeng been democratic? (2) How is the presence of the State, for the minorities in Kendeng? (3) How should the public policy approach with its nature of national security be?

Keywords**:** Public Policy, Democracy, Discrimination, Conflicts of interest

THE CENTRE FOR HUMAN RIGHTS
MULTICULTURALISM & MIRGRATION
(CHRM2)

Terrorist Crime on Its Enforcement to Women and Children Protection as a Means to Achieve Legal Certainty Related to Human Rights

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Abstract

Legal studies of terrorism have been explored by number of researchers entire the world in order to solve the problems related to prevent and reduce terrorist crime acts. The fact, terrorism becomes contradict with human right enforcement which is being main topic by leading countries. The effect of terrorism on the protection of women and children is an issue to be resolved.

Efforts to research conducted by examining the human rights related to the protection of women and children is expected to find an overview of legal certainty associated with these problems. After that, the study will investigate the terrorist crimes which can influence on the disruption or loss of human rights of women and children involved in the scope of the crime. This study will be able to provide a relationship between terrorist crime and its impact on the enforcement of the protection of women and children.

The conclusion which can be obtained from this study that terrorist crime is considered as crimes against humanity and crimes against the state turned out to have bigger influence, either directly or indirectly to the legal certainty enforcement efforts to protect women and children.

Keywords: Terrorist Crime, Protection of Women and Children, Human Right

THE CENTRE FOR HUMAN RIGHTS MULTICULTURALISM & MIRGRATION (CHRM2)

Illiteracy Allevation in Tanggul through Literacy Learning Process for Human Rights in Education

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Abstract
The existence of education world in Indonesia is more modern nowadays, but the lack of quality education led to the emergence of some of the problems that exist in this field. The increasing number of illiterates in Tanggul, one of a district in Jember is a real form of education which is said to be "modern" is. This is due to economic circumstances were is insufficient fees in schools, also social conditions that include geographic and demographic. The surveys shows that the illiteracy rate further increased. whereas, as we all know, every citizen has the right to get a nine years minimum of compulsory education. The purpose of this research is to reduce the illiteracy rate in Tanggul to improve human rights in education in order to achieve sustainable education. This research offer a learning method uses the native language effectively and efficiently which is necessary to local communities in Tanggul. Hopefully, it will shows that in a few months, people was able to calculate simple and to read and write. Because the mother tongue is the local language which is very easy to understand by local comunities, long before Indonesian exist. At least, the people were able to obtain their rights and their obligations to pursue educationas in general—and in an easy way—to advance sustainable education.

Keyword: illiteracy, human rights, education

THE CENTRE FOR HUMAN RIGHTS MULTICULTURALISM & MIRGRATION (CHRM2)

The Dilemma of Minorities between Syari'at and Human Rights: Study on the Future of LGBTQ in Aceh, Indonesia

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LGBTQ (Lesbian, Gay, Bisexual, Transgender, and Queer) is a hot issue discussed recently in Aceh (in particular) and Indonesia (in general). Although it is not a new issue, but in line with the disclosure of information in today's era of technological revolution, the issue of LGBTQ which is rarely discussed openly before, now begins to show its existence in Indonesian society.

In the Aceh context,some argue that the existence of people with LGBTQ appeared since 2007 and continues to grow their number more than 500 people. Nevertheless, there is no fixed data can describe the exact number of people with LGBTQ in Aceh. This significant development makes many people of Aceh shocked. It leads to harsh responses that demonstrated by various elements. In the Qanun No. 6 of 2014 namely *Qanun Jinayat* (Islamic criminal law), basically accommodates lesbianism and gay, while bisexualism, transgenderism and queerism were not raised in the chapters in particular. Sexual acts and gay adherents or homosexualism termed as *liwath*, while lesbianism termed as *musahaqah*. This *Qanun* categorizes homosexual and lesbian as criminal. Hence, Article 63 of this law states clearly that "any person who deliberately commits *jarimah Liwath* threatened with *'Uqubat Ta'zir* at most 100 (one hundred) lashes or a fine of 1,000 (one thousand) gram of pure gold or imprisonment for a maximum of 100 (one hundred) months." While in Article 64 states that "any person who deliberately commits jarimah *musahaqah* threatened with 'Uqubat Ta'zir at most 100 (one hundred) lashes or a fine of 1,000 (one thousand) gram of pure gold or imprisonment for a maximum of 100 (one hundred) months." This condition creates dilemma which relates not only to the content of this regulation but also the human right issues.

This research employed qualitative research approach, focusing on the dilemma of people of LGBTQ in Aceh and their relationship with the implementation of *Qanun Jinayat*. The locations chosen for this research are Banda Aceh and Lhokseumawe districts. The reason of choosing locations was based on the massively growing number of people with LGBTQ in these two districts compared with other districts in Aceh Province. The data compiled through interviews, observations, and documentations.

The result shows that people with LGBTQ in Aceh are trapped in serious dilemma. On one side, many of them still want to be part of and recognized as Acehnese people. However, on the other side, *Qanun Jinayat* creates negative stigmatization on them.

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Rejecting Religious Intolerance in Southeast Asia: Using the United Nations Rabat Plan of Action as a road-map for combatting rising religious hatred in Myanmar (Burma) and Indonesia

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Abstract
Southeast Asia is one of the most ethnically and religiously diverse regions of the world, a trait that Myanmar and Indonesia epitomize. Myanmar has more than 130 ethnic groups and, although the majority population is Buddhist, has considerable Christian and Muslim communities. In Indonesia, Sunni, Shi'a, Sufi and Ahmadi Muslims live alongside Christians, Jews and Sikhs.
The tolerance that has made that diversity possible is under threat. In Myanmar, a nationalistic strain of Buddhism has enormous power and is given patronage by the Myanmar military and the USDP, the major opposition party. This perversion of Buddhism's peaceful core has unleashed a campaign of cruel hatred and violence against the country's Muslim minorities and has affected Christians as well.
Meanwhile, Indonesia's tradition of religious pluralism, enshrined in the state ideology of pancasila, which gives equal status to the country's recognized religions, is being threatened by the rise of radical Islamism. There have been violent attacks on Ahmadi and Shia Muslims, the closure of Christian churches, and tensions between the radicals and the predominant indigenous Sufi Muslim society.
The Rabat Plan of Action provides a helpful road-map for policy makers who aim to combat rising religious intolerance.[1] It recognises that hate crimes are often rooted in cultural antipathy and the spreading of false information. Legislation is therefore only part of a larger toolbox needed to tackle hate speech. Important recommendations are made relating to the non-legislative policies of state and non-state actors. To challenge the hatred of extremists, we need to form a broad alliance which draws together lawmakers, the media, the international community, and civil society. A simple message resounds: cultural change requires collaboration.
This paper will endeavour to apply the Rabat Plan specifically to the situations in Indonesia and Myanmar. Recommendations will call state actors, media and civil society to work together to combat hate speech narratives through all available channels: education, the judiciary, campaigning platforms, the media, legislation and international diplomacy.
In 2015 Christian Solidarity Worldwide organised the Myanmar-Indonesia Interfaith Exchange which drew together Buddhists, Muslims and Christians from Myanmar and Indonesia and civil society activists from both countries. The Wahid Foundation noted recently that there has been a rise in similar initiatives which promote religious tolerance in Indonesia.[2] Although religious intolerance might appear to be an unstoppable force in both Indonesia and Myanmar, the majority population can be mobilised to promote peace and tolerance. This paper will use the Rabat Plan to explore pathways for that mobilisation.

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[1] United Nations Rabat Plan of Action, http://www.ohchr.org/Documents/Issues/Opinion/SeminarRabat/Rabat_draft_outcome.pdf

[2] Jakarta Post, 'Religious-based discrimination lives on, but more positive initiatives grow: Wahid Foundation,' 28 February 2017, http://www.thejakartapost.com/news/2017/02/28/religious-based-discrimination-lives-on-but-more-positive-initiatives-grow-wahid-foundation.html

Shutting Down the Place of Worship as a Form of Religious Intolerance

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Abstract
Rights and freedom to choose religion or belief within the people of Indonesia are guaranteed by Article 28 E, 28 I, and 29 Paragraph (2) Indonesian Constitution. Indonesian citizens are also obligated to choose a religion based on Pancasila ideology. It can be seen at Article 1 of Pancasila that containing "Ketuhanan yang Maha Esa" phrase. The obligation to choose a religion can also be seen implicitly at Article 156a of Indonesian Criminal Law Codification that forbidding an act of spreading an Atheism Doctrine.
The freedom of faith and religion in Indonesia also limited by the Act of Prevention of Misusing a Religion Number 1 /PNPS/1965 and Act no. 24 year 2013 about the amendment of Act no. 23 Year 2006 about the Citizen Administration. Based on both regulation can be concluded that only Islam, Christianity, Catholic, Hindu, Buddha and Confucianism are recognized and protected by the government. Another religion can be established and conducting their ritual, as long as they did not violated the 6 recognized religion and the government regulation. Religion information in identity card of the devotees of non-recognized religion will not be filled.
Ahmadiyya was Islamic Movement which established by Mirza Gulam Ahmad in a town of Qadian, India. The spread of Ahmadiyya Moslem Community in Indonesia begins in 1925. The devotees of Ahmadiyya split into two groups, Qadian Ahmadiyya and Lahore Ahmadiyya. Both Ahmadiyya groups have status as legal religious organization in Indonesia.
Nowadays, the Ahmadiyya has been judged as a misguided religion based on the Decision Letter by Three Minister number 3 Year 2008 about Warning and Order to Followers, Members and Committee of Indonesian Ahmadiyya and Society. Ahmadiyya become forbidden religion and excluded as a religion which has rights mentioned by Article 29 Indonesian constitution.
Theme of this paper is Religious Intolerance, Minority and Human Rights. This paper is a normative studies and want to answer the problems such as 1) What is the meaning of religion intolerance? 2) What are the parameters of seal and close place of worship act that can be included as religion intolerance? 3) Is the act of closing and sealing of Ahmadiyya Mosque included as a form of religious intolerance?

Keywords: Ahmadiyya, Place of Worship Sealing and Closing, Religious Intolerance

THE CENTRE FOR HUMAN RIGHTS MULTICULTURALISM & MIGRATION (CHRM2)

Women Migrants in Southeast Asia through the lens of CEDAW

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Abstract

The Southeast Asian region has experienced the feminisation of migration, particularly in migration for work. While many states lag behind in their treatment of migrants, states have been confronted by the issues faced by women migrant workers through CEDAW. This paper examines a selection of Southeast Asian states' engagement with issues relating to women migrant workers through a survey of state and shadow reports, informed by the context and background of migration from and to Southeast Asian countries.

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Equality of Inequality

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Abstract
Gender issue has always been there since the day one of humankind. This issue sticks together as the humankind develops faster than ever. In Indonesia, not many people are aware of this issue. Though as the history said that Indonesia was built on the land of women's and men's blood but gender equality is a thing with a name without meaning in Indonesia. Sometimes, someway, somehow the society seems to grow with the "normal" irony of this issue. The equality of inequality between boys and girls is all over Indonesia. What worse than that are many forms of the inequality seem to be supported by the culture of the society or certain beliefs in the society. Most of the time girls should be trapped in a beautiful nation daydreaming about their life outside the early marriage in the name of culture or their religious view or beliefs. That situation takes away literally every possibility of life for the girls. The idea of girls are judged by their past and boys are judged by their future makes everything seems to be worse for the future of gender equality in Indonesia. But what caused that "normal" tragedy in the society? Education, political participation, and the gap between women's and men's income are the three other major problems about gender equality in Indonesia. Those problems occur and remain unsolved in the society not because Indonesia does not have the particular law to stop them from happening, but it is the people who live and grow with the culture which they are living in. Indonesia is trapped in the mindset of blue and pink. Where pink should or must be for the girls and blue should or must be for the boys. Parents as the first role model for the kids of how a woman and a man react and take their position and role in the family are the most important thing that shapes the mindset of the next generation. School as the provider of formal education has the second strategic role in the shaping of the mindset of the generation. The need of combination between a strong family and school that promotes the idea of gender equality is needed by Indonesia right now. In this particular writing, the writer is trying to give a better picture of what is going on in Indonesia and what may be possible to be done to solve the problem of gender inequality.

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Impact of Legal Culture on Judges Perception to Promote Gender Equity

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Abstract
The research entitled analysis of Legal Culture Impact on the Perception of Judges to Manifest Gender Equality at East Java and Bali District Courts will be done within two years. The short term goals (first year) of this research will identify some issues, namely: (1) how is the development and implementation of gender mainstreaming in the court today?; (2) Is there any relationship between their personal values as well as experiences and decisions made by men and women judges?; (3) What are the challenges faced by women judges to carry out her duties?
Furthermore, in the second year, the research aims to make the draft guidelines on legal culture and gender equity materials for eliminating gender discrimination in the court system. The type of research uses empirical legal studies because this research is mainly focused to get information concerning the way of thinking and the pattern of behavior of judges. Moreover, in the first year, the data collection method using interview based on questionnaires with open and closed question techniques and focus group discussion (FGD). FGD is applied to get information more deeply for finding matters that are unclear in the interview process. Furthermore, those data will be analyzed using gender analysis concerning condition and situation of policies on gender mainstreaming in the district court. In the second year, it will be held a workshop for discussing a material handbook on gender equity in the district court.
Finally, the outcome of this research is to publish this paper in an accredited law journal, especially journal of gender. In addition, the research is expected to make a draft guidelines on policies in the field of gender equity in the district court, starting from making the draft, execution of regulations and programs, and till the evaluation process.

Keywords: legal culture, judges, gender equity

The Fulfillment Of The Right To Health In Man Sex With Man (MSM)

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Abstract

Increased HIV prevalence in MSM populations is a warning that needs to get government attention. AIDS prevention programs in MSM populations have been implementing various methods to change high-risk behavior. However, HIV prevalence in MSM populations continues to rise. Data from the Jember District Health Office indicated that the prevalence of MSM who perform VCT and diagnosed HIV / AIDS from 2011-2015 always experienced a significant increase. In 2011 there were 38 MSM who checked on VCT and 6 were HIV / AIDS positive. Then in the following year shows the following figures: 19 VCTs have 9 positive (2012), 53 VCTs have 15 positive HIV / AIDS (2013), 205 VCT there are 31 positive HIV / AIDS (2014) and 405 VCT there are 48 positive HIV / AIDS (2015). This condition was exacerbated by the complexity of sexual networks of homosexuals, where male sex workers for MSM (homosexuals) also engage in sexual transactions with Female Sex Workers (FSW). On the other hand, the high level of stigma and discrimination by our society in groups of MSM maked it difficult for them to access information on health and quality health services related to STIs including HIV and AIDS.

The Indonesian Constitution clearly and decisively has been regulated in chapter 28 of the Constitution of 1945 that regulates human rights including the right to life until the right not to get discrimination and other fundamental rights that must be protected by the state. In the case of access to quality health care was the right of every citizen, not least the MSM group. This research used quantitative and qualitative approach. The quantitative study was conducted by descriptive analytic research using secondary data and qualitative study was conducted through indepth interview. Quantitative data was obtained from NGO Laskar through a program of assistance to MSM originating from SUFA program of National AIDS Commission (NAC). Qualitative data come from related institutions (Regional AIDS Commision and Health Office of Jember District) and analyzed by thematic content analysis. The results of the reesearch showed that the fulfillment of the right to health in MSM has not been effectively. This was evidenced by the percentage of MSM that reaches out to health services was still limited. The reason they were reluctant to access health services is because of the lack of confidentiality and privacy of the services of health workers and the general public and the limited facilities. In addition stigma and discrimination are still often they received both from health workers and from families and communities. They worried the result of the test of VCT would be known by other MSM. There is a need for standardization of services at all puskesmas and hospitals providing VCT services for MSM in Jember District.

Keywords : The Fulfillment, The Right To Health, Man Sex With Man (MSM)

The Role of Indonesian CSOs to Increase the Understanding Difabled Issues in the Indonesian Criminal Justice System

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Abstract
Indonesia successfully amended Disabled People Law in early 2016. The fundamental amendment is creating equal rights and opportunity for disabled groups. Disability group in this context is the people who have physical and mental limitations to communicate and participate effectively with another people as equals. But, nowadays some people prefer using the term "difabled" than "disabled".

Difabled alongside with feminist, LGBT and minority groups commonly known as a part of discriminated groups in society. Difabled activist believe that difabled is a natural part of human diversity – something that should be valued and respected, rather than pitied, feared and discriminated. Difabled people are potentially to be victim 4-10 times more than other people. Pusham UII (2015) highlighted the existence of many violations in the Indonesian criminal justice system to difabled people, such as: improper questioning, failure to process reports from blind people and a general atmosphere of disrespect to the difabled community. One of the major problems is the Indonesian law officers' lack of knowledge and understanding of difabled groups.

The understanding of difabled people is significantly to find out justice in any cases. There is assumption that difabled people afraid and confused to give a testimony of criminal cases, because they fear and difficult to communicate with law officer. Thus, it is important to eliminate obstacle between legal officers with difabled people, therefore they can mutually communicate each other during the criminal process.

In Yogyakarta, Civil Society Organization (CSO) has significant role to increase understanding of difabled issues. In this instance, Sasana Integration and Advocacy of Difabled (Sigab) developed an inclusive village project in Yogyakarta. They provide education and socialization of difabled issues within village's community. Another example, Pusham UII have developed the curriculum and module to provide training in legal institution (Police, Prosecutor and Judge).

This paper discuss the understanding of law officer after Indonesian disability law already enacted in early 2016. Thereafter, I will discuss how Indonesian CSOs helps to increase the understanding of difabled issues, to eliminate gap of knowledge between legal formal with practice area. I also discuss how Indonesian difabled people to understand of new perspective based on Indonesian disability act. It is important to know what they think about the new perspective – whether they rather accept and understand of the new perspective, than they are decided to be pity by society. Consequently, my research question is formulated: "How does the role of Indonesian CSOs to increase the understanding of difabled issues in the Indonesian criminal justice system?"

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Property Rights and Citizenship in Transition in Yangon, Myanmar

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Abstract

Yangon's post-independence citizenship, registration and transfer of property restriction laws and related case law created a property regime difficult for even the most scrupulous lawyers and bureaucrats to understand. While there are various complications regarding property rights and personhood in the city, this paper addresses the problem of "foreign" ownership in a post-colonial state and the related issues of citizenship and belonging.

Unfortunately, Myanmar's military junta dealt with the issues of citizenship, registration and property from 1988-2011. Thus, decisions related to property tended to be swift, and confiscations final. The post-colonial property regime created to prevent dispossession, was instead used to further dispossession of those seen as less deserving of citizenship rights (whether or not they are legally citizens).

In property relations in Yangon, the personhood of the owner or occupier is the key variable in determining rights to property. All sorts of rights, from squatter's rights to rent-controlled tenancies, freehold and leasehold land ownership, can be claimed under this quasi-democratic state with a long authoritarian history. However, as this paper will discuss, what matters most in the past, as in the present, is who is doing the claiming. With the state and populace's shifting ideas of who does and does not belong in Myanmar – a question that is perhaps the most heated debate in the country even in the 70th year post-independence – property is one of the main arena's where this struggle over rights and belonging is playing out.

THE CENTRE FOR HUMAN RIGHTS
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Freedom or Refrain: Redefine The Concept of Human Security and Women's Security in Indonesian Muslim Community

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Abstract

This study aimed to explore the changing concept of human security in Indonesia. It concentrates on how Indonesian Muslim define human security based on their experiences and opinion by referring to the definition of Human security provided by the Commission of Human Security. The setting of this study is in two districts: Cianjur, West Java and Bulukumba, South Sulawesi where the Perda Sharia has been implemented. The research focuses on the interplay between human security and women's security discourse and the changing religious, social and political constellation in relation to the implementation of Perda Sharia (Sharia-influenced Regional Regulation). Human security, by reffering to the concept of Commission of Human Security's (CHS), means: protecting fundamental freedoms; 'freedom from want, freedom from fear, and freedom to take action on one's own behalf'. This study found that, although the implementation of Perda Sharia has been widespread and its impact on the security of women has been subject to many discussion, however, the discussion on the concept of human security and women's security has been subject to little discussion and is not popular in Indonesia. Surprisingly, that most informants argued that freedom is a western concept, which has negative connotations and is contrary to Islamic teachings and Indonesian culture. And, the informants argued that they did not seek 'freedom', but rather sought 'refrain'.

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Key words: *human security, women's security, Perda Sharia, freedom, Refrain*

Illeteracy: A Difficult Chore Who Resolved By Indonesian Nation

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Abstract
Indonesian nation plays an important role in the prosperity of its people, namely by providing wide to education. However, the illiterate become a constrait of access to such education. The condition were heavy when all aspects of life has been based on technology and digital information. Various efforts have been made by the central and local goverments to solve the problem of this illetaracy. One is to put the study of literacy as part of the National Long-Term Development Plan for 2005-2025. Similarly, in the area are also required to eradicate illiteracy through several regional regulations. This study uses research through legal sources and a comprehensive data to find an objective analysis of the issues in question. In the end, the study found a benchmark of the causes of illiteracy, namely the extent to which determination of the evel of economy, history, and the social environment.

THE CENTRE FOR HUMAN RIGHTS
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The Relationship Between Corruption And Human Rights: Integral Approach To Overcome The Problems Of Corruption And Violations Of Human Rights.

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Human rights is an essential thing for a human being globally that needs to be respected and protected from any violation. In the other side, corruption is a global phenomenon which almost every society faces, although its degree of severity varies from each country. Until now, we have not found the definition of corruption universally. Corruption by itself is a complex undertaking. But obviously, the globally agreed that corruption is an act contrary to public administration, disrupts democracy, harming the state, degrades the moral fabrics of the society, contravene the rules of duty, and violate the rights of others in the narrow sense as well as human rights in the broad sense. The impact caused by the corruption became universal issue undermines the universal values of human rights. Human rights must be respected and essential to be protected because everyone is entitled to basic human rights without discrimination. This papers describes the integral approach to overcome the problems of corruption and violations of human rights. It is agreed that in a struggle to uphold human rights and the struggle against corruption share a great deal of common ground. Both equally struggling for the decent life of people, orderly life of people, life peacefully, equality before the law, prosperous and dignified. Corruption can harm human rights because many cases concluded that corruption is the same as stealing the rights of others or even the general public. In this papers, the author uses juridical-normative methods with reference from many sources relating to the human rights and the prevention of corruption. This papers concludes that integral approach (preventive methods) is crucial and needs to be applied to overcome the problems of corruption and violations of human rights because corruption and human rights is a global problem that prevention efforts must be made first. It also needs to be understood that upholding human rights is the obligation of all human and there should be awareness within each human being to avoid things that can violate human rights. It is not impossible, corruption can be prevented by an integral approach by growing awareness of how important human rights. Human rights are indeed free but our rights are limited by the rights of others and the legal norms.

Key Words: *Human Rights, Corruption, Integral Approach*

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A Critique of Discourse “Defending Islam” by the Islamic Defender Front (FPI, Front Pembela Islam) as Legitimation Violence in the Name of Islam

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Abstract
“Defending Islam” always seems to be legitimacy for hard-line muslim such as Islamic Defender Front (FPI, Front Pembela Islam) to commit violances againts minority. From the police report there was at least 40 violances and incidents during 2002-2008. In the period of 2008-2010 at least 8 cases, and 2009 there were 40 cases, and 2010 there were 49 cases of violance committed by the FPI. In this research, *first* I use Critical Discourse Analysis (CDA) by Norman Fairclough with three-dimensional analysis 1) analysis the context of the discourse production 2) consumtion discourse, and 3) socio-cultural. CDA by Norman Fairclough is it provides an analytical instrument for us to unpack the meaning of discourse. *Second* concept that I use in this research is post-secularism by Hebermas. In connection with the use of language (linguistic turn) and discourse, Hebermas has the important work *Theories des Kommunikativen Handeins*, which was published in 1981 and *Faktiztat und Geltung* in 1996, a work on ethics discourse in politics. This works also possible to describe an ideal use of discourse. Hebermas illustrate the phenomenon of language as the terms of the ideal speech (ideal speech situation). According to Hebermas, the ideal conditions of a discourse is demanding something in common right of every person to engage in a discussion that is guaranteed and free from all forms of domination, both internal and external nature. In conclusion of this research, researcher found that defending Islam (in the true meaning) is not the main motive of this group. But power and no other ideologies were found in this discourse “defending Islam” by FPI except radicalism. Furthermore, there are concerns that the FPI is an organization that supports the oligarchs in power systems Indonesia. Jeffrey A. Winters in his book *Oligarchy* said that the religious leaders who could mobilize people included in hybrid special category actors.

Keywords: Defending Islam, FPI, Critical Dscourse Analysis, violance, legitimation, interest.

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Human Rights Law in Zone of Indictinction: Bukit Duri Experience

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Abstract
Indonesia as a legal state have to facilitate and fulfilling human rights, which requires a set of rules of law, where the meaning and the implementation of the fulfillment of human rights agenda was formulated. Departing from this understanding, the guarantee of universal rights should be left intact ultimately to a sovereignty, which in turn will handed over to a uncontrolled mechanism to determine whether a right to be fulfilled, and whether a right can be revoked as a condition for the fulfillment of another rights. Here then, the fulfillment of human rights find its internal contradictions: how the reading and different positioning of Act No. 39 of 1999 concerning Human Rights and the ratification of the International Covenant on Economic, Social and Cultural Rights by the State may lead to a violation of human rights. This study will attempt to grant specific analysis related to a conflict between the affirmation of sovereignty to the efforts exceedances for the fulfillment of civil rights of people in Bukit Duri, South Jakarta, through the reading of Giorgio Agamben, which are required to sit the human rights in the zone of indistinction in law, to lay down the law solely as an instrument, not a definitive par exellence reference on the meaning of human rights. With laying the law as an instrument, then every effort to fulfill the rights contained in Law No. 39 of 1999 concerning Human Rights and the Ratification of the International Covenant on Economic, Social and Cultural Rights are no longer singly handed over to the state, but allows the people to participate and fulfill their rights in accordance with the needs and culture of which they profess. This study tried to promote discursive-participatory and Hannah Arendt's authentical politics methods to work in bridging the interests of affirmation of state sovereignty with efforts for compliance exceedances of human rights by the people.

Keywords: Human Rights, Sovereignty, Participation

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Political Party Reformation in Indonesia: Obstacles and Challenges for Increasing Political Participation Disabilities

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Abstract

Politic contestation in Indonesiapacked in an implementation of democratic elections as a national principle. Today's elections are less presenting value of justice against disability. Various facts can be seen from the absence of disability representative in the legislative and in the executive. Certainly this is quite contrary to the disability population in Indonesia, which according to the National Economic Social Survey (Susenas) implemented by the Statistic Central Bureu (BPS) in 2012, that the number of people with disability in Indonesia as many as 6,008,661 people. Supposedly, to be representative of the disability can sign into government in order to aspire their need. Thus, in the public policy process will be more responsive to disability.

This issue of disability politics tangent to the laws of the Republic of Indonesia number 8 of 2016 on Persons with Disabilities, Article 13 describes the same political rights between general public and disability. These similarities are more focused on the right to choose and pick, but the fact in political contestation for the right to choose to implementation. Definitely political parties play an important role as an institution that facilitates political rights advocacy disabilities to the wishes and aspirations of the group. However, practically political parties have not maximize the function of the party to meet the political right have as legislative or executive to look at the inferior of disabilities that are part of a political party.

This research aimed to see the issues in the political system in Indonesia from the perspective of political parties function and disability. Referring to the law political parties function in Indonesia, there are four function, conflicts prevention, political socialization, political education, and political recruitment. The research located in Surakarta, which has 2352 disability people or 0.26% of the total population of approximately 563. Certainly, this case needs to be considered as a minority in the majority of normal. Therefore, those disabilities have equal political rights with other people. Qualitative method is used in the research where primary data obtained through interview and observations while the secondary data using documents and media data. Then the data analyzed using the perspective of political parties function: first responsive political disabilities recruitment, the accessibility of disability toward socialization and political education. Final result of this research serves to reform political parties to realize responsive disabilities.

Keywords: Disability, Political party function, Political right, Reformation

THE CENTRE FOR HUMAN RIGHTS MULTICULTURALISM & MIRGRATION (CHRM2)

Contitutional Pluralism In Indonesia

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Abstract

Discussing pluralism and law in the context of Indonesian legal system has been shaped by political-economy dynamics. Hence, the idea of legal pluralism, is not merely showing conflicts between the existence of the state and local laws, but also within the state, what was coined as intra and inter-state case studies for "legal pluralism." (Griffiths, 1986; Hooker, 1975). The constitutional arrangements have been characterised by plurality of ideas and its interpretation. Therefore, this might be better understood as conforming to "constitutional pluralism".

The idea of constitutional pluralism has been employed to examine constitutional practices within and among European nations (Walker, 2002; Stone-Sweet, 2013). This is necessarily analysed that constitutional pluralism in Indonesia not merely as an understanding dominant constitutional theory shaped the constitution, but also as a real constitutional phenomenon which presents a multiplicity of constitutional experiences, especially looking at regime to regime.

By looking at particular issues, especially human rights and freedom, this article is aimed to examine the range of plurality and their influence on constitutional design and practice. This paper is part of research project of scholars to examine constitutional pluralism in several countries in Southeast Asia.

Keywords: constitutional pluralism, constitutional design, freedom, and human rights

THE CENTRE FOR HUMAN RIGHTS MULTICULTURALISM & MIGRATION (CHRM2)

Muslim Minority and Same-Sex Marriage Legalization
Case Study: Muslim Minority in the US

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Abstract

Muslim population keeps growing up in the last few years, including in secular states such as the United States (US). In the US, Muslim face many obstacles including culture, democracy, gender, and human rights. Considering that the USis a liberal country that should not emphasize on a particular religion in case of their policies, it is astonishing to discuss how Muslim minority in the United States adapt with those policies that sometimes oppose with their beliefs, for example same-sex marriage issues. This paper will describe how Muslim minority in the United States deals with same-sex marriage legalization. This paper argues that in practicing religious beliefs, Islam does not always use text base but also context base. American Muslims keep standing with their religious beliefs that marriage is between man and woman. They reject the gay or lesbian issue in some points, but it does not make American Muslims be alienated or isolated by the majority.

THE CENTRE FOR HUMAN RIGHTS
MULTICULTURALISM & MIRGRATION
(CHRM2)

Jurisdiction of Indonesia as a Transit Country Toward Foreigner, which involved in People Smuggling Within Indonesia's Territory

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Abstract
The movement of people or known as migration is a consequences of the human instinctive that will always looking for proper life. There are several factors why people migrate, such as : economic reasons, to avoid war, to avoid natural disasters and etc. increased of foreigners entry number in a country could have both positive and negative impacts. It grows investment, trades activities led to increased revenue of the country. The negative impacts of that is the emergence of transnational Organized Crime (TOC). People smuggling (one form of TOC) is still remains as serious problem in Indonesia that located in strategic area (between two oceans and two continents) as shortcut of international navigation. Indonesia as a sovereign state has jurisdiction in dealing with people smuggling, especially if the crime threatens the security of Indonesia's territory. But, Indonesia's Jurisdiction over its crime is very limited. Indonesia only applies international customary law based on the principle of non-refoulement and protection of Human Rights, although Indonesia had been ratified Protocol Against the Smuggling of Migrants by Land, Sea, and Air through Law No.15 year 2009. As a state party of this Protocol, Indonesia shall cooperate to prevent and eradicate people smuggling, each state party to this protocol obliged to share information, build networking in strengthening surveillance in border areas, maintain security, comprehensive and integrated treatments for the victims.

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Establish Institution in the Southeast Asia Human Rights Issues: To Equalize Bargaining Position between Citizens and Goverment

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Abstract
ASEAN countries have a long history in supporting the development of human rights. It is still not perfect to get the full value of the region that respects human rights. Stiffness political system, cultural and social construction still leave a gap violations of human rights in the countries of Southeast Asia region. Climate discrimination still appears in turmoil some cases, such as Malay ethnic discrimination in southern Thailand and Mindanao in the Philippine nation. the right to health and welfare in the eastern Indonesian region. The right to life of the Rohingya in Myanmar to the problems of exploitation of guided democracy in Laos and Cambodia. Human rights issues have prolonged without any solution it shows that commitment of south asia countries to support the fulfillment of human rights of its citizens are still questionable. For each case by handled by the state itself makes discrimination victims more greater because of the level of treatment that leads to one party without a strong defense of the citizens. Countries in Southeast Asia tend to cover and handle their problem respectively for the sake of sovereignty. So here the essence of ASEAN as an institution that houses all the interests of regional countries should create an agency or institution that menanungi all the interests of human rights in the region of Southeast Asia. Then the AICA (Asean International Court Abitration) is required as a container-defense groups that are discriminated against to look for defense and settlement of the problem would be rights were violated by the country of origin.

Keywords: Discrimination racial / tribal / ethnic minorities. Establishment of a regional human rights institutions, AICA

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MULTICULTURALISM & MIRGRATION
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Symbolic Violence in Indonesian Society: Islamic Radicalisation Leads to Religious Intolerance?

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Abstract
Irrespective of the fact that Indonesia is not ruled by Sharia (Islamic Law), it can be argued that the Muslim society as the majority enjoys privilege. Its interests and aspirations are highly accommodated. In terms of education, for instance, Quranic verses are the only scriptural source cited in the latest National Curriculum (Parker, 2016). Moreover, there is only Islamic education which is specifically maintained by the Ministry of Religious Affairs (Asia Development Bank, 2015; Raihani, 2014). For Bourdieu (in Schubert, 2008), such privilege could only result in social domination or hegemony. For Gramsci (in Mayo, 1999), hegemony provokes social hierarchy which could trigger symbolic violence. Simply put, symbolic violence can be indicated by inequality and the normalization of social hierarchy, reproduced by the inability of the society to acknowledge the minority's voice (Schubert, 2008). This alone is threatening. Notwithstanding this, Islamic radicalisation produces the self-righteous and judgmental Muslims who seems incapable of considering others' perspectives, exacerbated by their close-mindedness and literal interpretation of Quran (Van Bruinessen, 2013). On the other hand, the strong effort on religiosity of Indonesian Muslims (Hassan, 2007) appears to be less equipped by sufficient basic understanding of Islam, yet they are commonly less critical (Madjid, 2003) and less literate (Miller & McKenna, 2016). Therefore, they will be easily manipulated and radicalized. Drawing on this assumption, two approaches can be taken. First is the strengthening of Islamic education in the interest of producing a moderate and critical Muslims. Second is the encouragement of inter-religious dialogue within, and outside, the schools.

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The Absence of Legal Recognition and Its Impact on the Living Conditions of Pakistani Asylum Seekers and Refugees Living in Bangkok

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Abstract
Thailand is not a signatory to the 1951 Refugee Convention. As such, it does not recognize the status of refugees. Therefore, asylum seekers are not distinguished from other immigrants, legal or illegal. Recently, an increasing number of refugees originating from non-neighbouring countries have arrived by air to Bangkok seeking asylum and UN refugee status at The Asian-Pacific UN headquarter in Bangkok. While the UN processes their application, this group of people, referred to as urban refugees, remain in Bangkok illegally. They are at high risk of being seized and detained at an immigration centre. This study examines how substantial restrictions of human rights, such as absent of fear of arrest, right to work and fair payment, and access to proper housing, education and health provisions, affect the physical as well as mental health of urban refugees in Bangkok. Data are gathered from 50 semi-structured interviews of Pakistani asylum seekers or Pakistanis who have been awarded refugee status but await resettlement in a third country. The paper highlights the detrimental effect the perpetual fear of arrest and the consequential constrained living conditions and high stress levels have on marital life and the social and educational lives of children and adolescents. Depression and declining physical health are common complains. However, the paper also argues that the prolonged poor social environment of the respondents lead to a deterioration of respondents agency, illustrated by lack of personal actions improving their physical health and poor uptake of educational opportunities offered children and adolescents of the respondents.

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When Human Rights is not Enough: A Failure of Multiculturalism in Indonesia?

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Abstract

Juridically, there have been quite a lot of legal instruments existing in Indonesia to protect human rights. These legal instruments include the Indonesian Constitution, which has special articles regulating about human rights, the Human Rights Act (the Law Number 39 of 1999), the National Commission for Human Rights, etc. Thus, normatively, all those legal instruments should be adequate to protect human rights in Indonesia, including the protection of the minority groups. However, the facts don't seem in line with such expectation. There have been a lot of cases happened in Indonesia that bring this country into a serious question in its ability to protect the minority groups. The persecutions over the Ahmadiyah and Shia sects, the rejections against non-Muslim worship place establishments, and as the most recent one, the case of Jakarta's governor Basuki Tjahaja Purnama, are some of the long sad stories showing how Indonesia is really poor in its performance to protect the minority groups. Identity politics and even a sentiment of racism are re-escalating in Indonesia today, which seems affirming the research findings got by the Wahid Foundation showing that 59.9% of 1520 of respondents from 34 provinces in Indonesia said that they have hatred towards some groups of their fellow citizen, such as those who are non-Muslims, Chinese-descents, communists, etc (Hakim 2016). Among this 59,9% respondents, 92,2% of them said that they highly oppose a person coming from those groups to become a governmental leader, and 82,4% of this people even said that they don't want to have a neighbor coming from those groups (Hakim 2016). Such re-emergence of identity politics and sentiment of racism, as well as a frightening fact of hatred among people, really give a serious question about why all the human rights instruments which already exist in Indonesia seem to fail in preventing all those things to happen. In this article, I will show my hypothesis that all those sad news that happened in Indonesia in regard to the minority group protection are due to the failure of multiculturalism approach implemented in Indonesia so far. Thus, I will also propose the interculturalism approach to be implemented in Indonesia as the critique and refinement of multiculturalism approach in dealing with the multicultural society, including in regard to the minority groups protection.

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The Police Capacity Building Mode in Their Role to Serve and to Protect Society

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Abstract

Law enforcement officials fulfill the duty imposed upon them by law, by serving community and by protecting all persons againts illegal act is clear stated on Code of Conduct for Law Enforcement. Research on mode of capacity building enhance among law enforcement to serve and to protect society is need becauese type of this reseacrh in Indonesia still smaal in number. Violence behavior is done by law enforcement on duty starting from misconduct until violation of human rights that contradict with the police role as servant and protector of society. According the Commission for People Lost, the profile cases of policy misconduct it is show that from year of 2011-2012, police misconduct by action such as shooting 39, torture 31 action, abuse 80, captures 24, and intimidation 30 action. Those misconduct contribute to negative perception toward police and majority of people have little trust to them.
The aim of this reseach is to identify and analyze regulations and policies relate the role of police in order to serve and to protect society, 2) to analyze obstacles that police facing on duty and (3) to formulate draft mode of capacity building for police.

The research will conducted in two year wherein first year the data will collect using interview tools : questionare with closed and open ended question. Furthermore, focus group discussion will also used to get more information in deepth to formulate the material draft mode of capacity building. On second year will do two activities such as focus group discussion to improve the material and workshop to discuss more intensif and tested the mode of material in location. Purposive sampling will used due to time consume and location as target. Police Departement in Malang and Denpasar city will used because this sample have a unique karacteristic, and it can be explored the legal cultere of the police, maybe have contribute to their violence act.

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Keywords: Capacity building, the role of police, to serve and to protect.

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When Smoking Is Not The Basic Of Human Right

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Abstract
Batik has been progressing ever since the Indonesian independence and it continues to develop. The most important development of the second half of the 20th century was its incorporation in the local fashion industry which had an impact on the region's textile industry. Batik Semarang is one of Indonesia's national heritage, which once had disappeared in Japan colonialism era. In 2006, the city government of Semarang started to redevelop Semarang Batik as a regional identity of Semarang, by conducting a preservation program of Semarang Batik. This research's objective is to identify and analyze qualitatively by having the method of field observations and depth interview about Semarang Batik which focused on the study on the core values meaning and relational of its motifs aspects as the local identity. The result of this research shows that Semarang Batik has its natural and realist character which is owned by northern coastal of Javanese. These coastal character shows about the open-minded, free and more expressive people than others. To the philosophy of life symbolized by Semarang Batik, it has ritualistic significance. Particular designs have traditionally been associated with traditional festivals and specific religious ceremonies. These motifs often represent religious or mystical symbols related to the early beliefs of the Javanese people and then later to Hinduism. At the beginning, its motifs was dominated by animal objects. The other objects like flowers, trees, twinning plants, leaves buds, butterflies, insects and geometric forms are rich in symbolic meaning. These motives of Semarang Batik represent simple, natural objects that are important to the lives of Javanese, such as the leaves of the 'asem' tree. Batik Semarang has been influenced by European, Arabian, Chinese and Indian cultures, which have colorful designs and motifs of animals and flowers. It has different characteristic such as the Semarang cities' icons; Tugu Muda Kiniteran Sulur, Asem Arang, Lawang Sewu, Kawung Semawis, Watu Gong, etc. Although the production of its is not so big, the interesting point is on the freedom in designing the motifs and the bright reddish orange colors. The future creative Batik Semarang development has two important dimensions complement each other. It is recognized as a cultural richness, local identity and as a local industrial wealth. Both dimensions are important as the basic to determine the direction of its future development, without cultural value batik of Semarang would lost its genuine soul.

Keywords: cultural identity, motifs, Semarang batik, core value

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Protection of the Country against Deviant with Triple Helix

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Abstract
The appearance of various radical movements terrorism in the country lately is not only caused by economic and social issues, but it also due to differences in understanding of interpreting of religous teaching (dogma) either different religious or the same religion. The phenomenon can not be avoid, besides Indonesia as a country that consist of various ethnic groups, religous, and language. Indonesia is very strategic location in the global arena to become fertile ground for the grouth and development of various deviants. The object of this research is taken in the Lampung Province that according to data BNPT is one of places or provinces in Indonesia which is pretty much gave birth to radical movement terrorism. This research aims to provide inputs to the local goverment regarding the model of protection against deviant with tripel helix so that it can be controled its development and spread.

Keywords: Deviant, Radical Terorism, Local Government

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When Smoking Is Not the Basic Human Rights

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Abstract

The country has the duty protecting and fullfiling the right of he health. Everyone can enjoy another rights if they are healthy. The country has the duty to ensure everyone to enjoy the highest health standart which can be reached and correctly for standard human life. The health is basic human right which fundamental and valuable for carried out of another basic right.

The effort of the country to acquitted the people from chigarette smoke is the part of the implementation the duty of the country in the right of the health. This efforts to protect the society from the dangerous of chigarrette produk which has been proved scientifically. In the smoke of the chigarette, there were complex mixture of the average of 4000 chemical compound, including 70 substances which have carcinogenic effect for human. In fact according to the Surgeon General Report (2010) said that smoke of chigarette contents 7000 of poisons materials.

The right of healthy and life surroundings which is health is the basic of human right that appropriate with the instruction of The Indonesia Constitution 1945 and The Law Number 39/1999 about the basic human right. Article 28 H UUD 1945 ensure everyone life correctly both material and imaterial, life and get correct and health surroundings and have the right to get health services. These was ensured by Undang-Undang number 39, 1999 about the basic human right. Article 9 (3) The Law Number 39/1999 ensure everyone get the right for better and health of life surroundings. Therefore, the goverment should mange and controle the products of tobacco expecially chigarette that the smoke will be inhaled not only the smoker but also another person in surroundings. This is implementated as the protection towards life right of the people. If the goverment does not have the policy which distinct and clear on the product of tobacco control. It means that the goverment has ignored the life right of the people and contravened the institution (The Alliance of Indonesian Tobacco Control, 2013).

The consumption of chigarette is not only danger for the protection towards human right for health and the right for the health surroundings, furthermore chigarette is danger and threaten the life right of everyone. This is not limited to life right of smoker but the priority is the life right of the people who is not smoker, expecially for woman and children. The health effect of tobacco adiction (cigarette) is consists of ; mouth, pancreas and lung cancer, and another cancer, hearth attact, hearth

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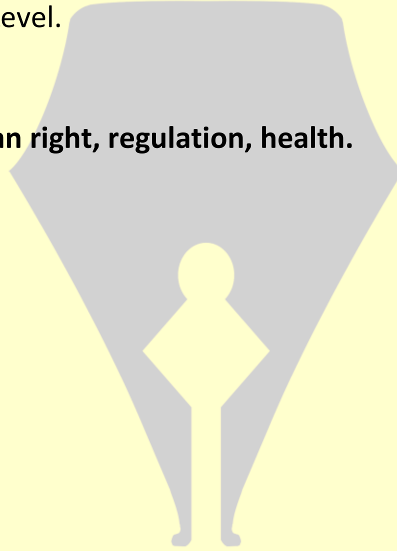
disease, stroke, and another vaskular problems, breath disease, cronic obstructive lung, difficult to breath, reproductive complication, abortion and unfertile.

In the Law of 36/2009 about Health Article 115 (1) said that the smoke free area consist of : Health facilities, Study palces, Playing area for the children, Public transportation, Work place, Public space and another certain places. Beside that, in Article 115 (2) said that the goverment must certain the smoke free area in their territority. And in the Regulatin of Govermen 109/2012 about The save of adictive material include tobacco for health that mange the package of tobacco product, the prohibition of tobacco sponsorship, the prohibition of selling tobacco product to children and pregnant woman. Because of the powerfull law, the goverment should create the regulation of smoke free area in provincies or Regency Level.

Keywords : smoking, basic of human right, regulation, health.



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Islam Nusantara:Nyuwang Ngaten Tradition Study among Islamic Society Village Dusun Kecincang Bungaya Kangin District Bebandem Karangasem Bali District in View Islamic Law and Customary Law

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Abstract
The research propose about the marriage tradition that develops in the small settlement in Bali. The research was done at the Kecicang hamlet, Bungaya Kangin Village, Bebandem Distric, Karangasem Regency of Bali. there are three questions that examine in this paper, first, how the concept of marriage in society Nyuwang Nganten kecicang village islam Bungaya kangin Bebandem Karangasem district of Bali in the view of Islamic law? second, how the concept of marriage in society Nyuwang Nganten kecicang village islam Bungaya kangin Bebandem karangasem bali district in view of customary law? Third, what is the relevance Nyuwang Nganten wedding tradition in Islamic kecicang village community Bungaya kangin Bebandem Karangasem district of Bali for Islam Nusantara? concept Wedding Nyuwang Nganten in community kecicang islam village Bungaya kangin Bebandem regency of Karangasem Bali in view of the law of Islam and the concept of marriage Nyuwang Nganten in the community kecicang islam village Bungaya kangin Bebandem regency of Karangasem Bali in view of adat law in the review using the approach content analysis , while the relevance of wedding traditions Nyuwang Nganten in community kecicang islam village Bungaya kangin Bebandem regency of Karangasem bali for Islam Nusantara was approached by femonologi, the results are first, to understand the concept of marriage Nyuwang Nganten in community kecicang islam village Bungaya kangin Bebandem regency of Karangasem bali in view of the law of Islam, the second, knowing the concept of marriage Nyuwang Nganten in community kecicang islam village Bungaya kangin Bebandem regency of Karangasem bali in view of adat law, and the third, determine the relevance of the wedding tradition Nyuwang Nganten in community kecicang islam village Bungaya kangin Bebandem Karangasem regency bali for Islam Nusantara.

Keywords: Nusantara, Nyuwang Nganten, Hukum, Adat, Hukum Islam, Karangasem

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Indonesian Ranham Human Rights Education In North Sumatra 1998-2015

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Abstract

The Vienna Declaration and Programme of Action of the World Conference on Human Rights 1993 recommended to all nations must have the national plan of action on human rights. Today, Indonesia steps the fourth phase of the Indonesian National Action Plan of Human Rights (*Ranham*). The last *Ranham* is enacted by the Presidential Regulation No. 75 Year 2015 on the National Action Plan of Human Rights 2015-2019 and the Presidential Instruction No. 10 Year 2015 on Human Rights Action 2015 in the reign of President Joko Widodo.

The *Ranham* has really believed as a living document to improve the promotion and protection of human rights. *Ranham* has a significant role to internalize human rights standards in all aspects of development including human rights education and training. However, there are still many fundamental weaknesses in the implementation. Totally, the function of *Ranham* falls short to manifest the cultural construction of human rights awareness through systemic and sustainable human rights education are especially in its relation in strengthening governance in Indonesia, particularly in North Sumatra.

This article focuses on the role of Indonesian *Ranham* in the making new approaches of human rights education within encouraging and embracing the stakeholders in order to possibly enable successful implementation of human rights education in North Sumatra both in the level of province and districts.

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The Decree Of The People's Consultative Assembly No Xxv/1966 And The Prospect Of Reconcilliation Of Crimes Against Humanity In The 1965-1966 Events

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Abstract

The year of 1965 was a very precious year in the history of modern Indonesian politics. In that year, six army generals were kidnapped and killed by a group of military who called themselves The September 30th Movement. The event was a very significant blow for the military who then quickly blamed the Indonesian Communist Party as the mastermind of the assassination. The party was disbanded by Suharto shortly after the military took control of political power from Sukarno in 1966. Suharto led the purge of the Indonesian communists within days after the killings. No less than three million people killed and many more were imprisoned without trial, enslaved, tortured, raped and persecuted. Suharto was appointed as President in 1968 and during his administration, no trial was held to make the perpetrators responsible for their crimes crime.

The National commission of Human Rights in its report in 2012 explicitly states that there were gross violations of human rights in what it called as The -1965-1966 Events. The settlement through non-judicial approach is one of the recommendations being proposed by the Commission to the government. Apart from the absence of Truth and Reconciliation Law as the perquisite for the establishment of a TRC, a reconciliation between the penetrators and victims/survivor is not likely going to happen. This is because there is an instrument called the Decree of People's Representative Council No XXV of 1966 which not only disband the PKI, but explicitly states the communists as the traitor of the nation. In order to achieve reconciliation, the Decree should firstly be revoked so that the victims will have an equal position with the perpetrators.

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The Urgency of Child Budgeting Policy in APBDESA as an Effort in Child Marriage Prevention

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ABSTRACT
The child protection is an important issue that is discussed in almost every aspect of public affairs. Ranging from education, health, social welfare, law, employment and governance. The children issue should be the primary concern of all parties. In response of this matter, Indonesian government has formulated a legal act No. 35 2002 on Child Protection including derivatives regulations. The Children Protection Act covering five clusters of children rights. First, civil rights and freedoms; second, education, use of leisure time and cultural activities; third, basic health and welfare; fourth, family environment and alternative care; fifth, special protection.
Although it has long been enacted, violence against children is still rife. The number of cases on child abuse, bad parenting, physical abuse, neglect education, economic exploitation including the practice of child marriages in Indonesia are still comparatively high. Bappenas data shows 34.6% of Indonesian children married early. This fact is corroborated by the PLAN data which shows that 33.5% of children aged 13-18 years had been married, on average they were married at the age of 15-16 years. Children age is a significant phase for the psychological and biological development, and also for forming identity before entering the adult stage. Early marriage affects the deprived childhood. Children are forced into the adult world instantly thus will have negative effect on married life and their future. According to BPS data, the average Indonesian people married under 17 years age. Lack of knowledge becomes the main source of child marriage. Indonesia was ranked 37 of 45 countries who become perpetrators of child marriage. This is very shocking and worrying because the next generation is a very precious asset for national development. If this condition continues then it would be very damaging especially in educational problems because most of child marriage subjects are less educated.
This article aims to explore the concept of child budgeting (responsive budget toward children right) in APBDesa. Further, this article is mapping out the challenges and obstacles on child budgeting in APBDesa, identifying actors/stakeholders are involved from the national level, regions and villages, and also how the child budgeting implemented in the Village Budget (APBDesa) to reduce the number of children marriages in the village.
The method used is descriptive approach by describing the importance of Child Budgeting in APBDesa as Efforts to Prevent Children Marriage. Descriptive research focus on actual problems as it was happened at the time of the study. Descriptive method is a fact-finding using the proper interpretation, in this research, study how the concept of child budgeting into perspective in the preparation APBDesa to overcome the problems of Marriage Age Children.
Keywords: Child Budgeting, APBDESA, Child Marriage.

THE CENTRE FOR HUMAN RIGHTS MULTICULTURALISM & MIGRATION (CHRM2)

Managing Indigenous Cultural Rights in Indonesia through Governance Network and Legal Pluralism: An Examination of the 2014 Village Law

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Abstract
This paper examines the development of indigenous cultural rights in a pluralistic nation-state, Indonesia. The examination is conducted in both theoretical and historical-doctrinal aspects. The history of Indonesia's legal pluralism discourse has fallen in and out of favour. Indonesia experienced harsh cultural segregation in the Dutch colonial era, and overly-formalistic attitude resulting into a top-down network of legal centralism in Suharto authoritarian regime. Today's State law mingles with diverse customary laws, namely *adat* laws and other indigenous traditions. The relationship is dynamic, in which they are likely to interact, overlap or even clash. Constitutionally speaking, the State law and administration embrace the idea of legal pluralism by acknowledging indigenous peoples' rights including their cultural right. The latest legislation which is considered as a culturally-driven legislation is the 2014 Village Law which recognises indigenous villages as 'semi-autonomous social fields'.

On paper, indigenous peoples can exercise and preserve their genealogically-based rights, including their indigenous traditions. However, the Law does not simply lessen the tension between State law vis-a-vis *adat* law and indigenous peoples' aspirations, because before indigenous peoples can enjoy their rights, they must undergo bureaucratic procedures delegated to local government for the recognition of indigenous village. As a result, until now there have been no indigenous villages that have been recognised. The local government argues that the State procedure is still needed for assessing 'cultures', whether the culture is constructive or not. In this decentralised setting, the locus of the problem is in local administration. In this respect, embracing legal pluralism alone is insufficient. Thus, this paper argues that the governance network theory can contribute to the development of legal pluralism and advocacy of indigenous peoples' rights by creating a culturally-responsive public policy.

This paper aims to illustrate what values of governance network theory that can contribute to the process of culturally-responsive public policy. By having a more inclusive public policy, the tension between State law and indigenous peoples' aspiration can be lessened. This paper examines the case with a purpose to provide alternative and transformative approaches for managing pluralism

THE CENTRE FOR HUMAN RIGHTS MULTICULTURALISM & MIGRATION (CHRM2)

Constitutional Debate on Religion and Secularism in Indonesia and India

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Abstract.

This article investigates the origin of the evolution of constitutional debate on religion and secularism in Indonesia and India and provides an account of prospects and challenges on cultural proximities in the constitutional development. It argues that religion has a pivotal role in the societies of Indonesia and India, but it frequently raises challenges of peace and harmony. On the other hands, it is specifically triggered by the emergence of religion-based hardline movements. Recently, both countries have shared respective challenges: the movements of Hizbut Tahrir Indonesia and Rashtriya Swayamsevak Sangh which propagate religion-based states and strive for a religion supremacy over the land. By examining their propaganda and towards the respective goals following the rising tension of the societies to address such circumstances, it necessarily reiterates the idea of secularism by putting state in the neutral position regardless of the religious dominance. The first draft of the article uses library resources by compiling previous research publications highlighting the issues of religion and secularism throughout constitutional debate in respective countries. It concludes that religion remains a demanding subject, though they have adopted the ideas of secularism declared in their constitution. To date, they have experimented secularism by compromising with religion resulting quasi-secularism in constitutional practices.

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Keywords: Constitutional Debate, Religion, Secularism, Indonesia, India

The Prospect and Challenges in Border Territory as Sovereignty Implementation of Unitary Republic of Indonesia at Forefront (Case Study Temajuk Village, Sambas Regency, West Borneo Province)

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Abstract
Border territory is paramount manifestation of state sovereignty. Consider, it is highly strategic in terms of the state framework for its promising opportunity in leading sector. Moreover, it is politically vital to the extent of state sovereignty aspects thoroughly. Thus, Indonesia as sovereign state, has responsibilities toward its border territory particularly on the fulfillment of border society rights as actualized in urban areas.
This research paper aims to study the prospect and challenges of border territory, specifically in Temajuk Village which share direct border with Kampong Telok Melano, Sarawak.
The research is a legal research. The data collecting method applied for this research is mainly focused on literature resources. Further, the Author performs field observation to obtain primary, secondary, and non-legal material. These materials will then be analyzed using qualitative method.
The result of field observation showed that due to ineffectivity of sovereignty implementation as well as disorganized management of Temajuk as border territory have triggered to across sector problems as well as challenges toward national security. As impacts, the problems arise such as: cross-border settlement and farming, smuggling of commercial products and services (beyond bilateral threshold), international marriage without following legal procedures, foreign influence infiltration, issue of the shifting of border points and undocumented residences or immigrant.
Ultimately, the Author highly recommends Indonesian government should necessarily draw high attention, set action plan and take prominent steps in border territory management, particularly on accelerating the leading sector of border territory, considering its significance as state's gateway in line with holistic approaches to the livelihood of local communities.

Keywords: Border Territory, Prospect, Challenges, Across-sector Problems, Temajuk, Indonesia's gateway.

Pre-Election Dispute over Process of Provincial Election in Indonesia: Aceh Case Study

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Abstract
After amendment the 1945 Constitution, Indonesia has adopted election mechanism to implement a value of democracy. Unfortunately, the regulations as a main tool have not completely covered all of election issues. It follows that the election legal systems have only been prepared for the post-election dispute instead of the pre-election dispute. This case happened in the province of Aceh. On one hand Aceh has its own law regarding the autonomy province, on the other hands, Aceh must coexist the national law as well. However both Aceh's law and national's law does not clearly provide the mechanism of handling the pre-election dispute among the regulations. This implies that the provincial election cannot be implemented as long as does not have legal certainty. In the provincial level have suggested making a new bylaw focusing on the local election only, nevertheless, central government have strongly rejected this idea.

Keywords: pre-election, dispute, provincial elections, constitutional court.

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Indonesian Migrants Policies, How Strong Indonesian Committed to Stand on Women Migrant Workers

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Abstract
Working abroad to improving a better life is a right that guaranteed by the Indonesian Constitution, namely UUD 1945. In last 5 years, BNP2TKI noted there were 4.5 million Indonesian peoples working abroad and the majority are women workers. Migration in Indonesia context more driven by poverty and lack of access to have decent work. Indonesia has Law No. 39 2004 concerning the placement and protection Indonesian migrant workers. But the implementation of this act not effective enough to protect all the migration process since from their village until arrive in the destination country.

Every year Indonesian government have facing many problem of migrant workers especially women migrant domestic workers. According to the Indonesian civil society organization report, number of cases has not decreased and some case can not handled properly. Various problem is a physical violence, sexual abused, slavery, and women trafficking. Some of them get a death penalty in destination country without obtaining legal aid. Indonesia Foreign Ministry documentation shows that the majority of the 278 migrant workers Migrant domestic workers under sentence of death in Malaysia, Saudi Arabia, China, Singapore and Qatar.

By 2012 the Government of Indonesia has ratified the 1990 UN Convention on the Protection of Migrant Workers and Members of Their Families in the Act Mo. 6 Year 2012. Ratification is a concrete step forward and decided upon by the Government of Indonesia as a hope to execute its mandate to protect Indonesian citizens who become migrant workers abroad. Through this convention is also expected to draft Protection of Migrant Workers Abroad as the amendment of Law No. 39 of 2014 refers to the standard terminology or convention protection of migrant workers and members of their families. But the process of formulating the draft also goes a very long and full apology political process. The bill is nearly 10 years experience out in the national legislation program. The processes of discussion in parliament more stagnant on the issue of migration business interests, which had been the Law 39/2004 give maximum space to the private sector (Perusahaan Pengerah Tenaga Kerja Indonesia Swasta, PPTKIS)

This paper will provide an overview of how the migrant worker protection policies should govern all forms of protection for migrant workers, especially women workers who often get violent and problems when they are working from their village, then working in the receiving country and the problems when they return to their villages. Including identifying several laws that also deals with the problem of migration such as the Law Eradication of Trafficking in Person, and other regulation. Paper is structured also to participate in the Summer Conference "Human Rights in South Asia: Are We Moving Backward?" Where migration is one of the important issues in Asia and what concrete efforts were needed to build the cooperation of civil society groups, governments ASEAN-states also have a framework that can ensure the protection and migration that is safe for everyone.

Keywords: Migrants, Women Migrant Workers, Bill of Indonesian Migrant Workers Protection, the UN Convention of 1990, harmonization of policies.

THE CENTRE FOR HUMAN RIGHTS MULTICULTURALISM & MIGRATION (CHRM2)

Human Rights Protection Between Indonesia and the United Kingdom: A Comparative Analysis

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Abstract
Those rights which are inherent in our nature and without which we cannot live as human being. The statement is often interpreted that the human rights are applied universally everywhere a person belongs to. Yet sometimes the statement overlooks the plurality nature of the human rights itself. Regarding to these universality versus particularity debate, this article would like to discuss the best practices of human rights protection in two different jurisdictions. The United Kingdom is a sovereign state that has a magnificent story of human rights protection that was begun by the adoption of Magna Charta 1215. Then, Indonesia is a country which pledges to protect human rights as a constitutional rights since its independence in 1945. Historically, both nations have a great pledges of human rights protection, nevertheless what kinds of protection that applicable in both countries should be enquired. Hence, comparing these two countries is interesting as both have a different kind of legal system and national character. In particular in the context of human rights enforcement, both nations have a different type of *Human Rights institution.* This writing uses comparative legal method in order to find the best practices of laws. As explained by Danneman on Oxford Handbook of Comparative Law (2015) that comparative legal method can be utilises to understand the development of laws or to find the best practices of certain legal issues. Comparative lawyers can choose whether focusing on similarities, differences or both. In this regards, this writing will try to find a balance between similarities and differences in order to find the best solution to the issues.
Therefore, this comparison hopefully can challenge whether the complexity of legal instruments really matter in spite of other factors, such as politics, law enforcement, conflict of interest, as social structure. Moreover, this writing also tries to contradict the concept of human rights as moral rights and as constitutional or legal rights. Which typical of rights will support the protection of the rights. Are they complimentary or suplementary? To end this debate, it is important to know the application of these concept in the reality. Therefore, the conclusion of this debate can be used as a self reflextion whether human rights protection is really moving forward or backward.

Keywords: human rights, moral rights, constitution, Indonesia, the United Kingdom.

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Portrayal of Multitude: Representation of Identities of Sexual Minorities on Indonesia-based Feminist Web Magazine Magdalene.co

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Abstract

This paper, titled *Portraying the Multitudes: Representation of identities of sexual minorities on Indonesia-based feminist web magazine Magdalene.co*, aims to interrogate the ways in which the representation of sexual minorities in the media opens a space of resistance against heteronormative public discourse on Magdalene.co, an Indonesia-based feminist web magazine. The magazine was established in September 2013 as “a slanted guide to women and issues,” to offer and engage with “fresh perspectives beyond traditional gender and cultural confines”. Its explicit commitment to queering gender and sexuality issues makes Magdalene.co unique in Indonesia.

The representation of sexual minorities is observed through a selection of six published articles written by editorial members and from contributors’ submissions, varying in age, gender, self-identification as sexual minorities, and degree of anonymity. The articles are analysed via discourse analysis, primarily based on discourse theory by Ernesto Laclau and Chantal Mouffe (1985) to dissect the notion of hegemony and social antagonism towards sexual minorities. Also incorporated into the analysis are Adrienne Rich’s theories of politics of location (1984) to look at bodies of sexual minorities, and Gilbert Herdt’s (2009) concept of sexual panic to look at the increasing religious-conservatism in Indonesia in contrast to the sexuality of sexual minorities.

This research produces three points of conclusion. First, not only being made vulnerable by various kinds of oppression due to their sexuality, sexual minorities are also perceived as a threat when religious-morality values in the society are deemed to be compromised as sexual panic ensues. Second, sexual minorities are oftentimes being publicly demonised by the media in sexual panics which are laden with heteronormativity in conservative-religious perspectives, leaving them with little opportunity to speak for themselves and resist, for making themselves visible could lead to the negation of their identity. Third, despite all challenges, sexual minorities still have the opportunity to construct their identity through their online persona, in order to resist heteronormative double standards in the media which largely exclude and stigmatise them.

Keywords: identity, representation, LGBTQ, gender, sexuality, heteronormativity, media

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Politics of Memories: Struggle of 1965 Victims Communities in Indonesia

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Abstract
1965 is an unresolved case in Indonesia. Going hand in hand with the culture of impunity and historical amnesia of the events, it leaves the “victims” without any legal recognition. This paper will elaborating the idea of France philosopher, Jacques Ranciere, on how political struggle is still possible against the hopelessnes circumtances. For Ranciere, “politics” is always resembling a struggle against the logic of distribution, with equality as its point of departure. It means that politics is at the same time an emancipation, and a recognition in its true form, since the victims as the part who have no part are degraded as secondary citizen without acknowledgement of their horrrible past.
In this case there are at least two different narratives that could be explored: first is the logic of the “police”, on how the sovereign uses its apparatuses to maintaining the hegemony of 1965 events. The second one is how the people (survivors/victims), whose marginalized by the police logics, form their “subjectivication”, a collective movement to maintaining their own memories and perspective of that events. From the experience of several location in Indonesia, this paper will show that political struggle is still possible, even under the age of hopelessness. Furthermore, this paper will try to explore how the victims/survivor perceiving the meaning of “rights”, constructing “rights” from below.

Keywords: 1965, Victims communities, Rancierrian Political Struggle

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Measuring the Feasiblity of Online Petition in Indonesia

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Abstract
As a state of law, the right of speech and the right to participate in government became an important part in the course of democracy in Indonesia. However, in some cases, the implementation is still far from perfect. The violation of freedom of
expression and the right to participate in government, often conducted with a wide variety of reasons. In order to secure the protection of the freedom of expression and the right to participate in government, online petitions is vitally needed. This can be used as an alternative funnel for people to argue and participate in the process of democracy. Nevertheless, in Indonesia the implementation of online petitions is challenged by the absence of valid legal umbrella. Referring to the e-petitions system in the United Kingdom, local authorities make e-petitions as a means of official opinion and community participation is legal and clearly under the auspices of the government. This is different from the e-petitions in Indonesia where the e-petitions are managed by the Non Governmental Organization without government interference. Opinion and community participation in the United Kingdom is very much appreciated in the form of a response and a solution, if they meet the established standards. However, given the political oligarchy that still exist in the system of government of Indonesia to the adoption of e-petitions system becomes difficult. Thus, the optimisation of online petitions in Indonesia is very dependent on the political will of the government in making the rules clear and legal.

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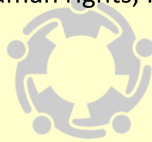
Keywords: online petitions, oligarchic political, human rights, Indonesia



Breaking New Ground In Human Rights Protection: Proposing An Inverted Triangular Approach Through Group-Based Enforcement In South East Asia.

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Abstract
The present problem of human rights enforcement reflects the old dilemma between centralism at the international level and local governance at the domestic level. Centralist solutions carry the expectation of a more homogeneous, effective and uniform method of operation. But this so-called 'universal' enforcement model is often seen as being too weak and incoherent for effective actions. Although the alleged universal character of the enforcement of human rights may portray an impressive international regime, local modes of problem solving are in reality more efficient since they are based on a better understanding of the specific circumstances and take into account of local peculiarities, cultural values and other similar factors. The latter is the missing elements in the overall international human rights enterprise. The rapid promotion and education of the global community on the concept of human rights has opened many wider possibilities for group based enforcement to be an efficient alternative. Reinforcing the same line of argumentation, this paper proposes an inverted model of enforcement whereby international human rights law could act as the general framework that establishes generally agreed principles and norms that transcend strict national concerns, whilst group based mechanisms will work on enforcing those norms in their specific manifestations within the respective groups.

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(CHRM2)

Environmental Rights in Ecological Democracy Perpective

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Abstract
Environmental problems are amongst the most complex issues faced by the government. The reason why such problem is difficult to tackle lie within its basic assumption which often contradictory to the country's development agenda. Take an example of Cement Plant controversy that happened recently – the plant that situated in Mount Kendeng, Pati, Central Java, considered harmful to the surrounding and threatening the environmental right of the people who lives in nearby areas. This cases can be referred as government misconduct on neglecting basic environmental right. Environmental rights itself are commonly understood as the reformulation and expansion of existing human rights and duties in the context of environmental protection (Shelton, 1991). However, although it has received much attention at grass root level conveyed by activist group and people based community, environmental rights still do not have strong recognition, whether in domestic level and also in international level. Therefore, this research attempt to modulate recognition on environmental right by emphasizing ecological democracy perspective, particularly in public participation in environmental policy making. Public participation is vital to ecological democracy as the key to sustainable development and in defending the environmental rights. The concept itself tries to bridge the government and public needs – to ensure that the public can participate in any ways by providing feedback and solutions. There are three main types of environmental rights – procedural, substantive, and solidarity. As for this research, we will focus on solidarity aspects, to explain the public engagement in environmental policy making.

Keywords: environmental right, ecological democracy, community based solidarity

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Proverty, Economic Development, and Human Rights

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Abstract

Poverty is seen as an economic inability to meet the basic needs of food and non-food which is measured from the expenditure side. The poor condition causes a person to issue its earnings just to feed or food only and will ignore other needs such as education and health, so it will not feel a decent life.

In 2013 4893 million (12.73%), while in 2014 the number of poor people amounted to 4 748.4 million (12.28%) means that there is a decrease in the number of poor people in East Java (BPS, 2014). If we look at the Millennium Development Goals (MDGs), namely poverty and hunger in the world community. Gradually the number of poor people in East Java show a success in its development. Economic growth is key to poverty reduction that the East Java provincial government can improve people's welfare, so as to realise the achievement of the MDGs in reducing poverty. Human Rights provides fulfilment responsibilities for Human Rights should be done by the state. Because the state is obliged to take maximum measures to fulfil human rights. The programs that have been taken by the government in poverty alleviation, among others: 1.Grant is cash to be given for the public as a result of rising fuel prices to prevent the decline in the purchasing power of the poor; 2. National Program for Community Empowerment through participatory development from planning, implementation, monitoring and evaluation; 3.The People's Business Credit, a credit/financing to the Cooperative Micro Small Medium Enterprise (MSME-K). in the form of working capital and investments backed guarantee facility for productive enterprises 4. Rice Distribution Program for poor families through the distribution of cheap rice with a maximum amount of 15 kg / poor household/month; 5. Villages Instruction Program to empower the poor and backwards villages in both rural and urban areas; 6. Public Health Insurance to improve poor people's access to health services free of charge.

Keyword: human rights, MDGs, poverty, East Java.

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Re-Considering the Gap between the Concept of *Rahmatan Lil 'Alamin'* and the Doctrine of anti-Violence (De-radicalization) within Religious Discourses

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Abstract
Reclamation of the Small Island and coastal area in numerous places nowadays are justified as a gateway to improve capital investment coupled with regional revenue. Approval concerning reclamation seems easy to be achieved since State or Regional Owned Enterprises (BUMN/BUMD) and private enterprises can be appointed by the government as partner to become project implementer. Legalization of the reclamation projects by the government are based on the sea conservation, investment of small islands coupled with coastal area, and development of seaside residential. Meanwhile, the reclamation projects are connected directly with people mainly fisherman who dwell nearby the small island coupled with coastal area. Privatization and capitalization of marine resources through reclamation of the Small Island and coastal area stimulate the loss of livelihood access for people who live in the Small Island and coastal area in which it can be regarded as infringement of human rights.
Government as the maintainer of marine resources also need to concern about public interest instead of achieving large investment. The government obliges to provide and protect the constitutional and human rights. The present study tries to elaborate two legal issues concerning reclamation. First is about the obligation of the government in providing and protecting the rights of people who stay nearby the Small Island coupled with coastal area. Last but not the least is concerning Regulation No 1, 2014 about amendment of the Constitution No 27, 2007 in providing coupled with protecting the rights livelihood access for people who live nearby the Small Island and coastal area.
The present study uses *statue approach and conceptual approach* to examine legal issues concerning livelihood access rights of people who live nearby the Small Island and coastal area in related to reclamation.

Keywords: Human Rights Protection, Livelihood Access, Reclamation.

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The Invisible Disability: The Challenge in Getting the Rights to Education. A Reflection on Developing Integrated Intervention Model for Deaf Children with Hearing Aids

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Abstract
Born deaf is never been anyone choice. Numbers of deaf children tend to increase annually. Early intervention for deaf children is important. Parent play major role in the early stage. The decision to kind of intervention influences the following program. Yet, the limitation access to information causes late intervention. The dispersion of intervention across the department contributes to unclear information on choosing the intervention.

The development of hearing aids technology giving more opportunity for deaf in achieving better future. In the last decade, hearing aids become part of deaf children's life in Yogyakarta. Parents start to maximize their children residual hearing by wearing hearing aids. The habilitation process would be the following process in assissting children with hearing aids. Education is part of habilitation.

Early childhood plays the important role for children to learn. For deaf children with hearing aids, the education gives them better opportunity to learn more and develop better. Language become main issue of deaf children, which others development aspects such as physic, motoric, cognitive, social and emotional, are important to stimulate before language. Thus, for children with hearing aids need inclusive environment to stimulate their potential.

As inclusive province, Yogyakarta struggles to be inclusive in any aspect of development. However, the effort is still in the level of policy, including education. Sustainable Development Goal number 4; ensure that all children have access to quality early childhood development, care and preprimary education so that they are ready for primary education, a private preschool and daycare dare to develop inclusive education model in early childhood for deaf children with hearing aids. Taking action research as the approach, the study conducted for three years in seeking appropriate model. The reformation of internal policy and organization structure go along with building capacity for internal team and parents' education to support the program. The paper would like to reflect the experience in conducting how policy is translated into implementation. Changing is not about making policy and task force but also how to develop implementative guideline, build team capacity, raise society awareness and develop monitoring system which is sustainability become the spirit of the program.

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‘A Kite Does Not Move Backwards! Methodological Observations on Critiques of Human Rights Activism in Indonesia and Southeast Asia

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Abstract
The key argument of this paper is that while the plurality of inputs into any legal management of human rights issues is bound to generate many frustrations, justice cannot be simply served on a silver plate by making perfect rules. The arduous everyday task to manage diversity and to harmonise competing expectations should thus not lead to disgruntled disenchantment, but needs to ground more critical activism. While there is a need to cultivate realism-inspired recognition that sustained effort in taking account of all reasonable stakeholders is possible, this will be hard work and we need to accept that this will involve compromises. The paper presents the pluralist kite model of law as a basic tool kit for developing more effective practice-focused human rights activism in Indonesia and Southeast Asia and asks some searching questions about the possibilities of sustainable compromises.

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Santri Cities Vs Human Rights Cities: Norms Hybridization In Indonesia

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Abstract

This research aims to compare contending narratives of “human rights cities” and “Islamic cities” that becoming trends in Indonesia’s cities development. A working concept of Santri/Islamic cities using three fundamental concepts of *walayah* (guardianship)*, insaniyyah* (humanism), and *ma’ruf* (acommodationof local values) proposed as foundational scaffolding—that deduced from primary, secondary, and tertier legal resources in Islam—will be compared to basic principles and values of global human rights that gradually elaborated with local values. Islamic legal values of *hurriyyah* (freedom), *musawah* (equality), *social welfare*, *‘adaalah* (justice), and accommodation of local virtues that guided Santri cities may shed the light the new strategy or better understanding of community-based human rights that tried to be promoted in several cities/municipalities in Indonesia. Implementation of those values in regulations would be observed in local authorities and community partnership commitment in mainstreaming human rights. Using Post-colonial approach, social audit, and critical cross-disciplinary studies with quantitative and qualitative data, this study is an effort of understanding how global values transforming into action and indigenization

Keywords: Santri cities, human rights cities, global/local norms, indigenization

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The Legal Protection System of Indigenous Peoples in the Southeast Asia (ASEAN)

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Abstract

Globalization has a bad impact for the indigenous peoples in Southeast Asia countries. The demands of globalization has led the governments in Southeast Asia countries to do exploitation and industrialization of the indigenous region in excessively. Consequently, many indigenous peoples are marginalized and threatened with extinction. Not intended for the benefit and welfare of indigenous peoples, the policy made by the government in several Southeast Asia countries did much to reduce the value of humanity and the rights of indigenous peoples. Although the industrialization has development rapidly in Southeast Asia countries, but there are still many indigenous peoples are poor, backward and illiterate due to isolated for years from the outside world. Thus, when the government and developers come to exploit indigenous peoples in the region, it is potentially very large for the conflict between the government, the developer (economic motive) and indigenous peoples. In conditions of such conflicts of interest are usually won by the interests of the government and/or developers. Indigenous peoples' right to sue for damages that occur sometimes run into difficulty because the government position is more powerful and dominant in court. Moreover, the majority of countries in the Southeast Asia region does not have the customary courts in their judicial institution. To resolve this problems, it needs to be structured system of legal protection and justice, that is how the protection of the laws made by the government will protect the rights of indigenous peoples in Southeast Asia countries.

Southeast Asia as a region with a diversity of race and culture are very high, the need to create a system of legal protection for indigenous peoples. The mechanism is through discussions that involve various elements, especially the interests of indigenous peoples. At this point, the consensus between the parties is expected to give birth to the Southeast Asia (ASEAN) Treaty on Indigenous People Protection. In this paper will be discussed at length on two issues, namely: (1) the problems experienced by indigenous peoples in the Southeast Asia; and (2) the formation mechanism of the system of legal protection for indigenous peoples in the Southeast Asia.

Keywords: indigenous, legal protection, legal system, indigenous peoples, Southeast Asia

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Indonesian Marriage Law Reform: The Way to Strengthen Children's Rights against Child Marriage

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Abstract
The Law Number 1 Year 1974 on Marriage was issued by Indonesian Government to replace the old marriage law stipulated in *Burgerlijk Wetboek* inherited from the Dutch colonial. The Law defines marriage as both physical and mental bond between a man and a woman as husband and wife with the purpose to form a harmonious family based on deity. Marriage shall be conducted when determined requirements are met based on the Law. Article 7 of the Law Number 1 Year 1974 stipulates the minimum age requirement to enter into marriage, which is 19 years for men and 16 years for women. This stipulation is made to make the marriage achieve the true goal to form a happy, eternal and prosperous family. It is expected at that age, each party has a mature soul and physic. However, it is possible for those who have not reached the age to enter into marriage if there is a dispensation granted by the courts or other official designated by the parents of each party in the marriage. As many other countries in the world, Indonesia has serious problems linked with the child or underage marriage. Indonesia is one of the countries with the highest absolute numbers of child marriage. In 2012, a judicial review was filed to the Constitutional Court against the provisions of the minimum age limit in the Law Number 1 Year 1974 on Marriage. The appeal was filed in order to raise the limit of minimum age for women from 16 years to be 18 years. However, the Constitutional Court considered that the provisions on the minimum age in the Law Number 1 Year 1974 on Marriage is constitutional. At the international level, Indonesia has participated in the formulation of variety of international human rights instrument which have an impact on children, and is a party to a number of them. Indonesia ratified the CRC through Precidential Decree of the Republic of Indonesia Number 36 Year 1990 on 5 September 1990. This paper attempts to analyze three main issues. Firstly, it will scrutinize the ratio legis of the stipulation on minimum age requirement to enter into marriage in the Law Number 1 Year 1974 on Marriage. Secondly, it will discuss the conformity of Indonesian marriage law to the principles and provisions on the CRC. Last, this paper will elaborate the legal measures shall be taken to strengthen the legal protection for children against child marriage. This paper is a doctrinal research using statute, conceptual and historical approaches. This study argues that The Law-making of Indonesian marriage law influenced by religious values that live in Indonesia. With regard to the conformity of Indonesian marriage law with the CRC, Indonesia is facing the issue of the compatibility of its respective national law with the CRC. Therefore, the legal measures that have to be taken are to review and amend the Indonesian Marriage Law to provide better protection for the children against underage marriage.

Keywords: child marriage, children's rights, Indonesian marriage law, underage marriage.

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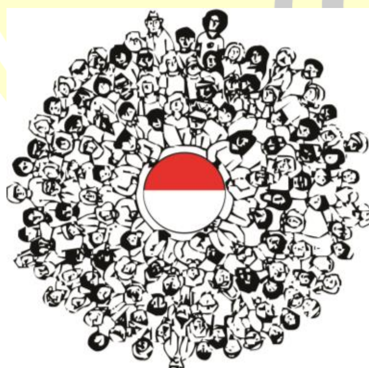

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