

4th Conference on Human Rights

Human Rights in Southeast Asia: Theory Meets Practice

13 – 15 October 2019



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Welcome from the Conference Convenors

Welcome to the 4th Conference on Human Rights, co-hosted for the first time by the University of Jember's Centre for Human Rights, Multiculturalism and Migration (CHRM2) and the Sydney Southeast Asia Centre (SSEAC), at the University of Sydney, Australia.

This conference plays a very important function, every year bringing together researchers from around Southeast Asia, and indeed the world, to grapple with the challenges and opportunities associated with human rights in the region.

Of course, it would not be possible for us to hold the conference without the generous financial and in-kind support of our sponsors, including CHRM2 and SSEAC, but also the Journal of Southeast Asian Human Rights, the Westminster Foundation for Democracy (WFD), the Department of Gender Studies at the University of Jember, and the Indonesian Consortium for Human Rights Lecturers (SEPAHAM Indonesia). Support from these and other sources has enabled us to make the conference accessible in terms of cost, but also to directly support several of our speakers.

We would also like to take this opportunity to acknowledge the work of our respective teams, which have both played a such an important role in organising the conference.

Finally, we trust that you will enjoy this opportunity for intellectual exchange in and beyond the conference sessions, but also to renew old academic friendships and make new ones!



Dr Al Khanif
Director, Centre of Human Rights,
Multiculturalism and Migration
The University of Jember



Professor Michele Ford
Director, Sydney Southeast Asia Centre
The University of Sydney

About the Conference

The 4th Conference on Human Rights provides a platform for academics, human rights activists and practitioners to explore current human rights issues in Southeast Asia.

Human rights implementation in Southeast Asia is dynamic and challenging. On a regional scale, the Association of Southeast Asian Nations (ASEAN) lacks the capacity to enforce human rights in the region because of ASEAN member countries' shared position on preserving state sovereignty. Individually, most Southeast Asian states have eschewed universalist concepts of human rights, preferring instead to emphasize the primacy of local concepts of individuals' rights and responsibilities as members of society. This position is especially evident in countries where an authoritarian regime privileges the preservation of national stability, economic development, or social harmony over respect for individual human rights. However, even countries that have amended their constitutions to align with international human rights instruments have struggled, since implementation is influenced not only by legislation but by developments in the economic, social, cultural, religious, and political spheres.

Conference Convenors

Dr Al Khanif

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Sponsors

- Centre for Human Rights, Multiculturalism and Migration
- Sydney Southeast Asia Centre, University of Sydney
- Journal of Southeast Asian Human Rights
- Westminster Foundation for Democracy (WFD)
- Department of Gender Studies, University of Jember
- Indonesian Consortium for Human Rights Lecturers (SEPAHAM Indonesia)

Program Overview

Day 1: Sunday 13 October 2019

The conference will take place in the Faculty of Economics and Business Building, University of Jember, East Java, Indonesia.

Time	Activity	Location
18:30	Cultural performance	Auditorium, Faculty of Economics and Business, University of Jember
19:00	Opening ceremony	Auditorium, Faculty of Economics and Business, University of Jember
	Dr Elisabeth Kramer, Sydney Southeast Asia Centre, Australia	
	Agus Wijayanto, Westminster Foundation for Democracy, Indonesia	
	Rector Moh Hasan, University of Jember, Indonesia	
19:30	Welcome dinner	1st Floor, CDAST Building, University of Jember
21:00	Close	

Day 2: Monday 14 October 2019

Time	Activity	Location
09:00	Plenary I: <i>Limitations to freedom of religion or belief in Indonesia: norms and practices</i> Zainal Abidin Bagir, Universitas Gadjah Mada, Indonesia	Auditorium, Faculty of Economics and Business
10:00	<i>Morning tea</i>	Faculty of Economics and Business
10:30	Parallel panels 1	
	1.1 – Regulation of Human Rights	Room 1
	1.2 – Resources and Rights	Room 2
	1.3 – Religious Intolerance (1)	Room 3
	1.4 – Mobility and Displacement	Room 4
12:00	<i>Lunch</i>	Faculty of Economics and Business
13:00	Parallel panels 2	
	2.1 – Economic and Social Rights	Room 1
	2.2 – Women's Rights (1)	Room 2
	2.3 – Religious Intolerance (2)	Room 3
	2.4 – Rohingya	Room 4
14:30	<i>Afternoon tea</i>	Faculty of Economics and Business
15:00	Plenary II: <i>The country that has it all: Myanmar's human rights trajectory and the architecture of non-protection</i> Dr Susan Banki, University of Sydney, Australia	Auditorium, Faculty of Economics and Business
18:00	<i>Dinner</i>	<i>Rumah Makan Lestari</i>

Day 3: Tuesday 15 October 2019

Time	Activity	Location
09:00	Parallel panels 3	
	3.1 – Disability Rights (1)	Room 1
	3.2 – Women's Rights (2)	Room 2
	3.3 – Minority Rights	Room 3
	3.4 – Politics of Constitutionalism	Room 4
10:30	<i>Morning tea</i>	Faculty of Economics and Business
11:00	Parallel panels 4	
	4.1 – Disability Rights (2)	Room 1
	4.2 – Children's Rights	Room 2
	4.3 – Crime and Terrorism	Room 3
	4.4 – Democracy and Rights	Room 4
12:30	<i>Lunch</i>	Faculty of Economics and Business
13:30	Plenary III: <i>The role of parliament in mainstreaming human rights: best practices and comparisons</i> • Agus Wijayanto, Westminster Foundation for Democracy • Franklin De Vrieze, Westminster Foundation for Democracy • Khariroh Ali, Indonesian National Commission on Violence Against Women (Komnas Perempuan)	Auditorium, Faculty of Economics and Business
15:30	Closing remarks Dr Elisabeth Kramer, Sydney Southeast Asia Centre, University of Sydney, Australia	Auditorium, Faculty of Economics and Business
16:00	Conference ends	

Plenary Speakers

Khariroh Ali

Indonesian National Commission on Violence Against Women (Komnas Perempuan)

Khariroh Ali obtained a master's degree in 2010 from the Center for International Studies, Ohio University and obtained a certificate from a Women and Gender Studies program. Khariroh Ali is a women's rights activist and researcher who during the last 10 years has focused on issues of justice and gender equality by working in various NGOs, such as Puan Amal Hayati, P3M, Rahima and Fatayat NU. During the last two years, she has worked in international NGOs including the International Republic Institute (IRI) in a program to increase women's representation in Indonesian parliament. Khariroh Ali's thesis was published by Lambert Academic Publishing, and titled "Challenging Religious Discourse: The Women's Movement in Indonesia's Pesantren, Negotiating Islam, Culture, and Modernity".



Dr Zainal Abidin Bagir

Universitas Gadjah Mada

Not provided.



Dr Susan Banki

University of Sydney

Susan Banki's research interests lie in the political, institutional, and legal contexts that explain the roots of and solutions to international human rights violations. In particular, she is interested in the ways that questions of sovereignty, citizenship/membership and humanitarian principles have shaped our understanding of and reactions to various transnational phenomena, such as the international human rights regime, international migration and the provision of international aid. Susan's focus is in the Asia-Pacific region, where she has conducted extensive field research in Thailand, Nepal, Bangladesh and Japan on refugee/migrant protection, statelessness and border control. She is currently investigating the local, regional and international mechanisms (and the interactions between them) that serve as potential levers for change.



Plenary Speakers

Franklin De Vrieze

Westminster Foundation for Democracy

Franklin De Vrieze is the Senior Governance Adviser at the Westminster Foundation for Democracy (WFD) in London. With over 20 years' experience working on governance issues, he offers programme quality assurance and parliamentary technical advice to WFD country teams. He conducts research and develops implementation tools on new and innovative themes for parliamentary programming. Prior to WFD, Franklin has worked for the United Nations Development Programme, Inter-Parliamentary Union, Organization for Security and Cooperation in Europe, European Union, Swiss Development Cooperation, National Democratic Institute, and many more organisations. He has led parliamentary identification, formulation and evaluation missions in the Western Balkans, East Europe, Southeast Asia, the Pacific, Middle East and North Africa (MENA) and the Caribbean. He is the author of several academic articles and other professional publications on good governance, parliamentary strengthening and Post-Legislative Scrutiny.



Agus Wijayanto

Westminster Foundation for Democracy

Agus Wijayanto is the Country Representative of the Westminster Foundation for Democracy in Indonesia. Under WFD, he has actively worked to support the Indonesian House of Representatives (Lower House), the House of Regional Representatives (Upper House) and Sub-national Parliaments on evidence-based, inclusive, and consultative legislative drafting, pre-legislative scrutiny, and post-legislative scrutiny. He has also actively shared his expertise and experience on legislation-making with several other parliaments, including the Parliaments of Myanmar, Laos, Uzbekistan, and Timor Leste. Prior to leading WFD office in Indonesia, Agus was a Parliamentary Specialist of various parliamentary strengthening projects in Indonesia and Timor Leste funded by USAID, The Asia Foundation, and DFAT-Australia. He has a Master's degree in Management of Integrated Development from Larenstein University in the Netherlands and is currently researching post-legislative scrutiny to promote inclusive bylaws for his PhD project.



Plenary Session

Abstracts

Plenary I: Limitations to freedom of religion or belief in Indonesia: norms and practices**Zainal Abidin Bagir, Universitas Gadjah Mada, Indonesia****Asfinawati, Universitas Gadjah Mada, Indonesia****Renata Arianingtyas, Universitas Gadjah Mada, Indonesia****Suhadi, Universitas Gadjah Mada, Indonesia**

The landscape of FORB in Indonesia has been shaped by two elements: first, the progressive adoption of human rights in the new laws and amended constitution, as a result of the democratization which started in 1998; second, the old governance of religion which acknowledges limited religious pluralism and emphasizes harmony over freedom. A striking feature resulting from this combination is the addition of “religious values” as a ground of FORB limitation in the new chapter on human rights in the amended Constitution, which otherwise draws its inspiration from ICCPR and other international human rights covenants. Indonesian “public order” and “public morals” are understood to consist of, among other things, respect and protection of religious values. While the emphasis on religious values and public order produces most restrictions, when it comes to impose limitations to FORB on grounds of public health, the government seems reluctant to impose necessary restrictions.

Plenary II: The country that has it all: Myanmar’s human rights trajectory and the architecture of non-protection**Dr Susan Banki, University of Sydney, Australia**

From its independence to the present day, one can look to Myanmar to observe multiple human rights trajectories, which today play out in myriad violations and responses in nearly all regions of the country. This paper reviews some of the recent thorny human rights issues plaguing the people of Myanmar. It then lays out a series of propositions about the architecture of non-protection, observed globally but particularly relevant in Southeast Asia. These concern: the cost of human rights, the conundrum of information, the power of proximity, the paradox of precarity, and the phenomenon of distance dissemination and leverage. These terms are explained in detail and linked to examples from Myanmar’s past and current situation, offering a complex explanation for, if not solutions to, the country’s entrenched human rights problems.

Plenary III: The role of parliament in mainstreaming human rights: best practices and comparisons**Agus Wijayanto, Westminster Foundation for Democracy****Franklin De Vrieze, Westminster Foundation for Democracy****Khariroh Ali, Indonesian National Commission on Violence Against Women (Komnas Perempuan)**

In this final plenary session, representatives from the Westminster Foundation for Democracy and Komnas Perempuan will examine localization and implementation of human rights law in Indonesia. The gap between transnational norms and local legal frameworks is bridged by legislative decision-making in national and provincial governing bodies. This discussion of post-legislative scrutiny (PLS), its implementation in Indonesian parliaments, and the relationship between PLS and the realization of women’s rights in Indonesia will examine the role of Indonesian governing bodies in the realization—or absence—of human rights locally.

Panel Sessions 1

Monday 14 October, 10.30–12.00

Regulation of Human Rights – Room 1

Demystification of the Protection of Human Rights in ASEAN

Aryni Ayu

Human Rights Institutionalisation Processes at the Local Level in a Decentralised Indonesia

Harison Citrawan

The Bureaucratisation of Human Rights in Indonesia's National Human Rights Action Plans since 1998

Miftah Fadhli

Resources and Rights – Room 2

Tourism and Human Rights: Experiences of Indigenous Communities on the Boracay and Sicogon Islands

Sashah Dioso

Threats of Oil Palm Plantation Development to the Rights of Indigenous Peoples in Indonesia

Auradian Marta and Leo Agustino

Handling Human Rights Conflict in Mining: The Case Study of Tumpang Pitu, Banyuwangi, Indonesia

Dian Noeswantari

Religious Intolerance (1) – Room 3

The New Monarchy of Thailand: Muslim Vulnerability between Martial Law and Social Welfare

Bayu Mitra A. Kusuma and Theresia Octastefani

Acehnese Tolerance: An Analysis of a Sense of Place that Inhibits the Establishment of Minority Rights

Ismar Ramadani and Faradilla Fadlia

The Efforts of Adherents of Local Religions in Indonesia in Accessing Human Rights

Jeffri Yosep Simanjorang

Local Beliefs in Bandung: A Struggle for the Local Government's Recognition of their Legal Rights

Fanny Syariful Alam

Mobility and Displacement – Room 4

From Structure to Substance: A Human Rights-Based Approach to Displacement Legislation

Ma. Reinna Bermudez

Silent NGOs: Host Families and Internally Displaced Persons in Butuan City, the Philippines

Connie Fern Miranda and Abigail Torres, et al.

Migrant Worker's 'Right to Escape': A Study of Indonesian Migrant Worker Runaways in Taiwan

Jonathan S. Parhusip

Regulation of Human Rights – Room 1

Demystification of the Protection of Human Rights in ASEAN

Ms Aryni Ayu, University of Jember

The purpose of this study is to analyse the effectiveness of the values and norms of the non-interference principle implemented by the ASEAN Intergovernmental Commission on Human Rights. The principle of non-interference is an instrument to prevent the emergence of conflict between ASEAN member countries. Respect for each other as members of ASEAN is meant to eliminate mutual suspicion, so long as member countries do not interfere in the internal affairs of other member countries. This principle has provided a positive contribution to the promotion of ASEAN to date. However, it is important that, over time, these values do not become 'localised' to the various member countries, but rather remain dynamic and transnational. Meanwhile, despite the alignment of ASEAN members in viewing the principle of non-intervention as a strong foundation, there have been many human rights violations, both heavy and light, in the Southeast Asia region. It is important for officials involved to be able to determine and analyse which norms should be adopted by ASEAN.

Human Rights Institutionalisation Processes at the Local Level in a Decentralised Indonesia

Mr Harison Citrawan, Ministry of Law and Human Rights, Republic of Indonesia

This paper attempts to delineate several challenges in the domestication process of human rights norms and principles at the local level. Conceptually, this process involves five tracks that enable institutional human rights responses conducted by local government. These five tracks are collaboration amongst human rights networks both locally and internationally; addressing local needs/grievances; applying a human rights lens to resolving claims; setting strategies for local actions; and ultimately creating effective local institutional responses. Through an institutional perspective, this study analyses the 'human rights city' advocacy in Bandung, Indonesia, in 2015. In this case, the author argues that the lack of human rights knowledge empowerment amongst local authorities played a crucial role in the rather impeded domestication process. Further, from a macro perspective the long standing national human rights action plan is still considered to be incompatible with decentralisation, as dynamic interactions between central and local government show a quandary of authority in dealing with human rights duties.

The Bureaucratisation of Human Rights in Indonesia's National Human Rights Action Plans since 1998

Mr Miftah Fadhli, Institute for Policy Research and Advocacy

This article reflects on Indonesia's experience in implementing National Human Rights Action Plans (NHRAP), first initiated in 1998. Since this time, Indonesia has established a fourth generation of NHRAP and gradual changes have been made from time to time. Despite its contribution to several ratified human rights conventions in Indonesia, NHRAP has been limited by bureaucratic constraints. As is often the case with other countries that have just entered post-authoritarian transition, NHRAP has been hampered by conceptual uncertainty regarding how to introduce human rights principles into the policy-making process. NHRAP, instead, has witnessed the de-methodologisation of human rights that uproots the principle out of its epistemological ground as a method of analysis to become merely a screw for tiresome bureaucracy in the developmental process. Its successes do not necessarily have an affirmative correlation to the performance of NHRAP and its contribution to the improvement of rights. In fact, NHRAP has indicated that the state has failed to entrench human rights into its policy-making regime.

Resources and Rights – Room 2

Tourism and Human Rights: Experiences of Indigenous Communities on the Boracay and Sicogon Islands

Mr Sashah Dioso, University of the Philippines Visayas

This study looks at how tourism development has affected indigenous communities on two popular tourist islands in Western Visayas, the Philippines: Sicogon and Boracay. Tourism development is seen by indigenous communities as the main factor in limiting or denying them access to vital resources such as land, food, and water. In Sicogon, the community has experienced harassment and intimidation, such as the filing of eviction cases by private companies and their partner agencies. The construction of a high-end resort in the area further threatens the community's traditional livelihoods and denies them access to resources and housing. In Boracay, the granting of ancestral land title to the Ati indigenous people is still contested by resort owners and land developers. The Atis experience both harassment and intimidation from those with vested interests in their ancestral land, along with constant racial discrimination from the Bisaya (non-Ati). Communities on both islands struggle to address the predicaments brought by tourism development. They also seek to preserve what is left of their culture, as laws and policies intended to protect their interests and welfare are not strictly enforced by the local government and are not observed by private companies.

Threats of Oil Palm Plantation Development to the Rights of Indigenous Peoples in Indonesia

Mr Auradian Marta, Universitas Riau

Mr Leo Agustino, Universitas Sultan Ageng Tirtayasa

The development of oil palm plantations provides income for the Indonesian Government. However, the development also has negative implications for violating the rights of indigenous peoples. Violations of the rights of indigenous peoples takes place in several forms, namely land grabbing, environmental damage and loss of livelihood so that the lives of indigenous peoples are marginalised. This paper aims to explain how the development of oil palm plantations has the potential to become a threat to the implementation of the rights of indigenous peoples. The findings of this study indicate that the development occurring in Indonesia, especially the development of the oil palm plantation sector, has caused violations of the rights of indigenous peoples. This is caused by: (1) the licensing process for the construction of oil palm plantations, which does not involve indigenous peoples; (2) the lack of corporate responsibility towards indigenous peoples and their environment; and (3) supervision of the development of oil palm plantations that are still weak. This paper concludes that violence against the rights of indigenous peoples will continue to occur if development is not oriented towards humanity.

Handling Human Rights Conflict in Mining: The Case Study of Tumpang Pitu, Banyuwangi, Indonesia

Ms Dian Noeswantari, University of Surabaya

Tumpang Pitu, in Banyuwangi, Indonesia, has been chosen as a case study to examine social conflict related to mining. To date, a military-centred approach has been used to suppress social conflict, rather than focusing on the prevention of such conflict. This paper argues that using a gender and human rights approach can lead to fulfilment, protection and respect for rights, as well as reduced criminalisation. This study employs qualitative methods to collect primary data through focus group discussions, interviews with government officers and impacted communities, and field observations. It identifies the need to develop indicators to measure potential escalation and reduction of conflict, reconciliation, rehabilitation, attitudes, respect and acknowledgement of authorities and communities. It also discusses the challenges of monitoring and evaluation, and the need to standardise these approaches.

Religious Intolerance (1) – Room 3

The New Monarchy of Thailand: Muslim Vulnerability between Martial Law and Social Welfare

Mr Bayu Mitra A. Kusuma, Sunan Kalijaga State Islamic University

Ms Theresia Octastefani, Sunan Kalijaga State Islamic University

Muslim societies in Southern Thailand have long experienced economic, social and political discrimination, including over the last seven decades under the reign of King Bhumibol Adulyadej. As head of state, King Bhumibol called for a social welfare approach to solve this problem, but almost every Thai Prime Minister, instead used a militaristic approach that triggered social resistance. Since King Bhumibol's death in 2016, Thailand has faced a potential political crisis. This situation has had an impact on Muslim societies in the South, leaving them increasingly vulnerable. Based on the results of the author's analysis, there are two possibilities that could potentially occur. If a social welfare approach is enacted, Muslim societies may find new hope for a better life under the new monarchy. Alternatively, the conditions experienced by Muslim communities may become even worse through the continuation of martial law.

Acehnese Tolerance: An Analysis of a Sense of Place that Inhibits the Establishment of Minority Rights

Ms Ismar Ramadani, Almuslim University

Ms Faradilla Fadlia, Almuslim University

This paper aims to analyse how a sense of place helps to create definitions of tolerance and intolerance in Aceh. Banda Aceh is deemed to be one of the most intolerant cities in Indonesia, according to the results of a survey issued by the Setara Institute (2018). This paper proposes that Aceh, as a province that implements Islamic law with a majority Muslim population, creates a sense of place that influences the definition of tolerance. This paper asks how this sense of place influences the tolerance of the Acehnese towards efforts to establish places of worship for non-Muslims? Many Acehnese believe that they show tolerance towards non-Muslims who live in the region. However, this acceptance of the presence of non-Muslims in the province does not extend to providing space and support for religious activities and efforts to establish non-Muslim places of worship.

The Efforts of Adherents of Local Religions in Indonesia in Accessing Human Rights

Mr Jeffri Yosep Simanjourang, Universitas Katolik Parahyangan

Long before imported religions became an inseparable part of Indonesia, local religions and beliefs were guides for traditional people's lives. Although their power has eroded over time, local religions and beliefs still survive in some areas, especially amongst indigenous peoples. But adherents of local religions and beliefs are forced to act as followers of one of the six religions officially recognised by the government. Meanwhile, during the New Order era, local beliefs were highly restricted. Cireundeu, a traditional village located in West Java Province, is an example of a community that continues to maintain its trust in traditional beliefs that uphold the balance of life with nature. Its members have faced various obstacles and their access to human rights is no better than for the followers of imported religions. This paper will examine how members of Cireundeu's traditional community attempt to fulfil their human rights, and the role of the state in helping to solve this problem.

Local Beliefs in Bandung: A Struggle for the Local Government's Recognition of their Legal Rights

Mr Fanny Syariful Alam, Bandung School of Peace Indonesia (BSOP Indonesia)

Minority religions are a fact of life in Indonesia. The state is supposed to secure their legal rights and obligations, just as they would for any other religious group, including through the recognition of local beliefs on state-issued identification (ID) cards. On 24 February 2019, six individuals in Bandung, who identified as believers in local belief systems, received ID cards from the West Java government. These cards included the usual comment that all citizens were deemed to accept belief in 'the one and only God'. This sparked opposition from the Majelis Ulama Indonesia (MUI), which criticised the Constitutional Court of Indonesia for recognising local belief systems in this manner. Arguments for and against the issue of local belief recognition are ongoing. Nevertheless, it is imperative for the Government, both at the national and local level, to remain steadfast in its attempt to recognise local belief systems while more intense socialisation attempts are enacted.

Mobility and Displacement – Room 4

From Structure to Substance: A Human Rights-Based Approach to Displacement Legislation

Ms Ma. Reinna Bermudez, Commission on Human Rights of the Philippines

The Philippines remains one of the most displacement-prone countries in the world. Internally displaced persons (IDPs) live in difficult and undignified humanitarian situations, facing challenges in accessing basic humanitarian services. At present, the Philippine Disaster Risk Reduction and Management (DRRM) Law provides the disaster response framework used by national government agencies in responding to humanitarian issues. However, this DRRM Law is structural in nature and lacks a human rights-based approach to humanitarian responses. This paper examines the structure of the DRRM Law and its mechanisms, and critiques the gaps in its structure that limit displaced communities' access to quality humanitarian services. This paper identifies points where human rights values must play a role in the DRRM Law and the general DRRM framework in the Philippines to ensure that IDPs live with dignity during displacement. The paper also provides recommendations to integrate a human rights-based approach into the national DRRM structure through the passage of a rights-based IDP law.

Silent NGOs: Host Families and Internally Displaced Persons in Butuan City, the Philippines

Ms Connie Fern Miranda, Caraga State University

Ms Abigail Torres, et al.

This study focuses on families who host internally displaced persons (IDPs) in Butuan City, the Philippines. It examines their socio-demographic profiles, reasons for hosting, problems encountered, perceived advantages of being a host family and their future plans for the IDPs. 21 Maranao participants were identified as residents of Butuan City who are hosting Maranao IDPs from the Marawi siege. Following a survey interview, 10 were selected for an in-depth interview. Through descriptive and thematic analysis, results of the study show that most of them hosted IDPs due to familial reasons, as supported by Kin-selection Theory. All of the participants experienced economic shocks, minor relational problems and spatial problems, and almost all participants recommended that IDPs should return to their place of origin. This paper concludes that there is lack of disaggregated data about IDPs and host families. It also identifies cases of inappropriate and unsustainable interventions, and recommends a joint profiling coordination exercise to effectively address these concerns.

Migrant Worker's 'Right to Escape': A Study of Indonesian Migrant Worker Runaways in Taiwan

Mr Jonathan S. Parhusip, National Chiao Tung University

Despite well-publicised, horrifying accounts of abuse, exploitation, rape, forced confinements, and executions without trial, Indonesian migrant workers appear to remain hopeful in their decision to migrate. To most young Indonesians, the above accounts of migration are often understood as the result of bad fate. Migrants' narratives of fate and *kodrat* (character) indicate a limited understanding of the meaning of rights and resistance, which then unconsciously force the migrants to accept existential conditions of vulnerability. This research draws upon my experiences as a part-time worker in Taipei Main Station in 2016 and two years (2017-2018) of ethnographic fieldwork in Taiwan and Java, Indonesia. This paper aims to investigate gaps between policy and practice in the management of migrant workers in Taiwan, and explores how Indonesian migrant workers produce resistance towards criminalisation, deportation, and 'governance at a distance'.

Panel Sessions 2

Monday 14 October, 13.00–14.30

Economic and Social Rights – Room 1

From “War on Drugs” to “War of the Sentiments”: Towards an Empathic Human Rights Approach

Efren Alverio II

Towards Affordable Socialised Housing for the Filipino Poor

Chester Antonino Arcilla

Discourses on the Right to Health in Evidence-Based Policymaking in Indonesia, 2009-2017

Farah Purwaningrum and Stephanie Short

A Postcolonial Perspective on the Development of Trust in the Philippines

Rejinel Valencia

Women’s Rights (1) – Room 2

Gender Roles in Rice Farming Systems in Northwest Cambodia

Rebecca Cross and Flavia Ciribello

Troubling Encounters: The Pursuit of Human Rights to Water and Sanitation in the Face of Climate Change

Tamara Megaw and Joanne Chong

Women’s Access and Control to Land Resources in Southeast Asia: Does Patriarchy Still Exist?

Lengga Pradipta

Religious Intolerance (2) – Room 3

Blasphemy: Limiting and Threatening Freedom of Expression

Rahadian Girindrawardhana Budi Santoso and Annisa Ayuningtyas

The Indonesian Blasphemy Law: Sacredly Sensitive

Mahaarum Kusuma Pertiwi

Redefining Indonesia’s Blasphemy Law under the International Human Rights Framework

Khansadhia Afifah Wardana

Shrinking Space for Religious Freedom in Post-Suharto Indonesia: Dynamics between Restrictions and Struggles to Claim Back Religious Freedom

Hurriyah

Rohingya – Room 4

The Failure to Provide Humanitarian Security for Rohingya Refugees in Bireuen, Aceh

Risky Novialdi and Khairul Bariah

Atrocity Crimes against Rohingya: Genocide as a Social Practice

M Mizanur Rahman

Human Rights and Democracy in Southeast Asia: The Case of Human Rights in the Rohingya Community in Myanmar

Md. Kamal Uddin

Economic and Social Rights – Room 1

From “War on Drugs” to “War of the Sentiments”: Towards an Empathic Human Rights Approach

Mr Efren Alverio II, La Trobe University

While theorists are caught in a debate over whether human rights are political or moral, practitioners are caught in a bind regarding how to reduce systemic human rights violations. Aside from criticisms that international law seems to legitimise foreign hegemony, it seems that economic and religious systems are also not able to combat apathy. An example of this seeming indifference is the situation in the Philippines. Despite 22,938 deaths classified as “homicides under investigation” since 2018, and the country’s withdrawal from the ICC, President Rodrigo Duterte still enjoyed 79% across the board approval rating in the first quarter of 2019. I propose that by setting aside the adherence to ontology and metaphysics in favour of a cultural-historical framework, and through the active creation of a human rights culture based on empathy, a more humane society is possible.

Towards Affordable Socialised Housing for the Filipino Poor

Dr Chester Antonino Arcilla, University of the Philippines-Manila

Affordability of housing is a critical component of the right to adequate housing. A house is deemed affordable when it is adequate in quality and its cost does not prohibit the meeting of basic needs or threaten the enjoyment of fundamental human rights. Combining analysis of longitudinal national data from 2000 to 2015 with economics in off-city resettlement life, this paper tackles the affordability of socialised housing for the poorest Filipinos. The dominant approach of privatised off-city resettlement production has worsened affordability. Its focus on lowering housing prices ignores livelihood displacement, cost of living, and transportation and social service inaccessibility. The ‘individualisation’ of housing privileges is reflective of the commodification of housing rights and results in systemic spatial segregation based on income and elite-accumulation of the housing needs of the urban poor. An income-based housing subsidy, combined with urban land reform to regulate land prices and transport-oriented and inclusive urban planning, is critical to guarantee the right to adequate housing and development.

Discourses on the Right to Health in Evidence-Based Policymaking in Indonesia, 2009-2017

Dr Farah Purwaningrum, University of Sydney

Prof Stephanie Short, University of Sydney

The right to health is included in the Sustainable Development Goals (SDG) 3, which is to ensure healthy lives and promote well-being for all at all ages. The SDGs build upon the Millennium Development Goals, and provide a significant expansion for the development agenda. Inclusive development is part and parcel of SDG. Evidence-based policy-making studies provide an explanation of normative and legitimate expectations to policy-makers to use scientific evidence, including indicators, in their policymaking process. Yet it remains contentious how the right to health is constructed in the discourse of evidence-based policymaking. The principle question of this paper is: what kind of meaning do policymakers attach to the right to health in their discourses about health and norms in health policy? This paper provides an analysis of discourses, regulatory analysis, and historical narratives (based on an analysis of health regulations and newspaper articles) pertaining to evidence-informed policy in the health sector in Indonesia between 2009 and 2017.

A Postcolonial Perspective on the Development of Trust in the Philippines

Mr Rejinel Valencia, University of the Philippines

The 1987 Constitution of the Republic of the Philippines defends, among other things, equitable access to land for citizens. Despite this constitutional protection, some local laws have been used to guarantee the elite’s accumulation of dynastic wealth, allowing certain families to monopolise the country’s resources, particularly land. This study examines the trust provisions of the Civil Code of the Philippines and assesses its role in securing property rights for the rich at the expense of the Filipino poor and marginalised, who remain largely landless. It traces the colonial roots of this legal instrument and finds that trust rules were introduced during American colonial rule, primarily to defend the property rights of the colonisers. While Americans can no longer own land under the present Constitution, their heirs are now the ones continuing the legacy of trust as an elitist tool. The study concludes that trust has long benefitted those in power.

Women's Rights (1) – Room 2

Gender Roles in Rice Farming Systems in Northwest Cambodia

Dr Rebecca Cross, University of Sydney

The increased involvement of women in agriculture has been positively correlated with an increase in household economic resilience. Understanding gender roles in agricultural production is important for identifying opportunities for, and barriers to, increased involvement of women in primary income-producing activities. This study found that the rice sector is highly gendered and women and men usually behave and perform duties and tasks according to their traditional roles: while men dominate most of the physical and heavy work, women dominate support activities, quality control activities and financial negotiation and management. The findings show that when women are more involved in an activity, they have more say in the decision-making process. The study also found that at the village level, women were underrepresented in Agricultural Cooperative leadership roles. Overall, this study found that prevailing gender norms, lack of women-friendly technologies, lack of capacity and mobility issues were barriers to inclusivity while women-oriented extension, action research partnerships and contract farming arrangements were opportunities for increasing women's involvement in rice production systems. Furthermore, the potential for women to lead the way in innovation, efficiency and sustainability at the household and village levels, via improved capacity, was also identified as a key opportunity.

Troubling Encounters: The Pursuit of Human Rights to Water and Sanitation in the Face of Climate Change

Ms Tamara Megaw, University of Technology Sydney

Assoc Prof Joanne Chong, University of Technology Sydney

Climate change is leading to water stress and insecurity, threatening the achievement of the human right to water and sanitation. Women stand to be most affected, as they are often disproportionately burdened with responsibilities for maintaining access to water, sanitation and hygiene (WASH) services, and are also more vulnerable to the impacts of climate change. However, women have valuable perspectives on ecological change and an important role to play in resource management and adaptation. This paper provides a Feminist Political Ecology analysis based on fieldwork in Eastern Indonesia, as part of a three-year research partnership between the Institute for Sustainable Futures (University of Technology Sydney) and Plan International on Climate Change Response in Inclusive WASH. Using action research methods, interviews and reflective practices with community members, NGO and research partners, this study analyses the intersection of gender, nature and power in determining access to and control over WASH services. This paper asks whose ecological knowledge is considered valid and how incorporating diverse knowledges into NGO practices might open pathways to address climate change concerns for WASH. These insights will provide learning about how human rights principles can be enacted in climate change assessments and inform WASH programming for socially inclusive outcomes.

Women's Access and Control to Land Resources in Southeast Asia: Does Patriarchy Still Exist?

Ms Lengga Pradipta, Indonesian Institute of Sciences (LIPI)

The global trend to transform land management responsibility from the state to 'communities' or local user groups has neglected the implications of intra-community power differences for the effectiveness and equity of land management. Despite the rhetoric about gender equality that has mushroomed in recent years, a review of evidence from several countries in Southeast Asia, such as Malaysia, Indonesia and Vietnam, has shown that female participation is very minimal in land management. One basic reason for this is the formal and informal institutional exclusion of women. Moreover, the bargaining power of women within households and communities is categorised as 'lip-service' because patriarchy is seen as bonded to culture or tradition. Further detailed and comparative research is required to identify and analyse the major factors that affect women's access and control over land resources, especially regarding how culture and local wisdom can accommodate this issue and ensure the participation of women in the management of resources.

Religious Intolerance (2) – Room 3

Blasphemy: Limiting and Threatening Freedom of Expression

Mr Rahadian Girindrawardhana Budi Santoso, Universitas Gadjah Mada

Ms Annisa Ayuningtyas, Universitas Gadjah Mada

Freedom of expression is enshrined in Article 28E of the Indonesian Constitution. However, this type of human right is restricted under statutory law, as can be seen in some specific articles in the Indonesian Criminal Code, including 156, 156a, and 157 (1). This paper focuses on cases of alleged religious blasphemy because of the tendency to use these articles as a tool to silence people who express their religious opinions in public. Indonesian society tends to take a harsh stance towards such expressions of opinion and the blasphemy Article is often used to push the state to adjudicate. In recent years, the trend towards using these articles to sue people has increased, as can be seen in the cases of Ahok and Meliana. Clearly, there is a blurring of the line between opinion and blasphemy, which is aggravated by social pressure to enforce the 'law'. Thus, it is important to see how legal enforcers understand the law and use it to find the boundary between opinion and blasphemy.

The Indonesian Blasphemy Law: Sacredly Sensitive

Mahaarum Kusuma Pertiwi, Universitas Gadjah Mada

This paper seeks to explain how the Indonesian Blasphemy Law, and Constitutional Court decisions regarding the Law, breach constitutional rights on religious liberty and freedom of speech. The explanation offered by this study is important to prove the existence of political and social pressure in framing religious liberty in Indonesia. I will start the discussion on the making of Blasphemy Law in Indonesia by explaining the content and the context behind the making of the Law. The second part of the paper will explain cases in regard to Blasphemy Law in the Indonesian Constitutional Court. It will highlight the arguments from the applicants and respondents, and will explain the political and social intervention by Constitutional judges in deciding Blasphemy Law cases.

Redefining Indonesia's Blasphemy Law under the International Human Rights Framework

Ms Khansadhia Afifah Wardana, Leiden University

Indonesia has often been cited as a model for inter-religious harmony and tolerance. However, the country has also implemented a controversial law on the misuse and defamation of religion, the so-called Blasphemy Law (Presidential Decree No. 1/PNPS/1965). Besides regulating acts of religious insults and defamation, the law constitutes the basis for state 'recognition' of particular religions. The existence of such laws contradicts Indonesia's commitment to human rights. The implementation of the current Blasphemy Law may jeopardise Indonesian democracy. Various international human rights frameworks such as the International Covenant on Civil and Political Rights and the Rabat Plan of Action, as well as the work of several UN Special Rapporteurs, can serve as the foundation for redefining the Blasphemy Law. My research proposes that the Blasphemy Law must be amended if it is to act as a protector of religious ideas and be used as a tool to guarantee freedom of religion and freedom of expression.

Shrinking Space for Religious Freedom in Post-Suharto Indonesia: Dynamics between Restrictions and Struggles to Claim Back Religious Freedom

Hurriyah, University of Indonesia

This study aims to explore the trend and impact of shrinking space for religious freedom in post-Suharto Indonesia, by looking at the dynamics between the politics of restrictions toward freedom of religions or beliefs (FROB) and the political struggle to claim back the space for FROB. Using cases of policy restrictions on the practice of religious freedom, the study seeks to answer two questions: what has caused restrictions to FROB in Indonesia and to what extent could the political struggle to claim back space for religious freedom be used to liberate minority groups to express and practice their religious beliefs. The study argues that the restrictions on religious freedom are linked to the unrelenting endeavours from the government and politicians to regulate religious practices and beliefs in order to seek power. The study suggests that given the nature of relations between state and religion in Indonesia, struggles for claiming back space for religious freedom require a multi-layered approach combining human rights and conflict resolution, and interfaith and interreligious dialogue.

Rohingya – Room 4

The Failure to Provide Humanitarian Security for Rohingya Refugees in Bireuen, Aceh

Mr Risky Novialdi, Universitas Almuslim

Ms Khairul Bariah, Universitas Almuslim

This paper analyses the failure to provide humanitarian security for Rohingya refugees at the Sanggar Kegiatan Bersama (SKB) in Bireuen, Aceh. Humanitarian protection should provide security and comfort for Rohingya refugees. But according to local newspaper 'Serambi', on 15 February 2019 there were only 11 Rohingya refugees living in the Bireuen SKB. This number increased to 79 people on 20 April 2019. This means that Aceh has failed to provide human security for Rohingya refugees. What exactly caused this failure? While Aceh has provided human security in a political context, it has been unable to provide human security in an economic sense. In addition, there have been allegations that Rohingya refugees in Aceh are not only seeking asylum but also trying to find work. From initial observation until 15 April 2019, only two people were still living in the SKB as refugees. The other refugees had escaped from the shelter. This paper draws on interviews and direct observation at the Bireuen SKB.

Atrocity Crimes against Rohingya: Genocide as a Social Practice

Mr M Mizanur Rahman, Australian National University

This paper aims to understand the plight of the Rohingya as a coordinated social practice of genocide, from a social science perspective. The study uses data collected through unstructured and semi-structured interviews conducted with the Rohingya living in the refugee camps in Cox's Bazar and secondary sources, including relevant scholarly literature and reports from human rights organisations. Looking deeply into the military crackdown against the Rohingya in August 2017 and similar incidents in the past decades, this study finds that the collaborative efforts of the Burmese military and local Rakhine Buddhists have set the ground for destroying the Rohingya as a group. The majority of the young male members of this group have been arbitrarily labelled as terrorists; and as a result, they have been arrested, tortured and killed in a targeted way. As a community, the Rohingya have been imposed upon with unwritten restrictions barring them from marriage, childbirth, education, health services and even income-generating activities. Rohingya women have also been victims of widespread incidents of rape and humiliation. This paper argues that with state sponsorship, a genocidal society has been created and nurtured in Rakhine state, which has destroyed the social fabric and victimised the Rohingya.

Human Rights and Democracy in Southeast Asia: The Case of Human Rights in the Rohingya Community in Myanmar

Professor Md. Kamal Uddin, University of Chittagong

Northern thinking about human rights has made a certain and critical link with human rights and democracy. However, most countries of the global South, including Myanmar, officially respect human rights at the same time as these rights are openly neglected in the process of democratisation. This paper focuses on state-sponsored gross human rights violations of Rohingya in Myanmar since the country has returned to official democracy. Research into gross human rights abuses experienced by the Rohingya community in democratic Myanmar remains undeveloped in several areas. Existing research does not pay adequate attention to southern perspectives of human rights, including those pertaining to Rohingya. Nor does it explore the issue using any major theoretical framework, such as global southern perspectives of human rights. Thus, this research argues that existing human rights norms and principles have largely failed to ensure human rights in Southeast Asian countries, particularly in the case of Rohingya in Myanmar, due to the ineffectiveness of the human rights institutions, a fragile democracy and the legacy of colonialism. Therefore, there is a need to decolonise the dominant global human rights discourse. Finally, the paper will propose some specific policies for ensuring human rights in Southeast Asian countries.

Panel Sessions 3

Tuesday 15 October, 9.00–10.30

Disability Rights (1) – Room 1

The Role of Parents Associations in Advocacy and Awareness Raising for Children with Cerebral Palsy

Reny Indrawati and Anis Sri Lestari

Representing Disability in the 2019 Indonesian Elections

Thushara Dibley and Elisabeth Kramer

Disability Inclusion in Indonesia: Disaster Risk Reduction Laws and Policies

Pradytia Pertiwi

Developing the Ideal of Inclusive Citizenship for Persons with Disabilities in Yogyakarta

Isneningtyas Yulianti

Women's Rights (2) – Room 2

Women's Agency in Disasters: Lessons for Fostering Women's Rights

Mary Barby Badayos-Jover

Prevalence Of Domestic Violence against Women And Children in The Philippines

Leo Justine Javier and Annie Clores

Thriving and Sustaining Amidst Male Dominance and Sexual Harassment: A Case Study

Bruce Dame Laoera

Fighting for Political Rights: Women with Disabilities in the Indonesian Legislative Election 2019

Theresia Octastefani and Mr Bayu Mitra A. Kusuma

Minority Rights – Room 3

The Theory of Compliance and its Relation with Intolerance Cases in Indonesia

Hanifah Febriani and Alifia Fhadila

Culture and Homosexuality: A Comparative Analysis of the Status of Homosexual Men in Indonesia and the Philippines

Ellisiah Jocson and Wisnu Adihartono

Same-Sex Relationships and the Thai Military Government

Douglas Sanders

Politics of Constitutionalism – Room 4

The Supreme Court's Rule-Making Power in the Context of Human Rights Protection: Obligation or Activism?

Louie Mae Palmares

Outlining Religious Minorities: The Politics of Constitutional Recognition in Indonesia

Max Regus

Indonesia's Human Rights Obligation: Bridging the Gap between *Adat* Law and Human Rights Law

Dyan Sitanggang

Disability Rights (1) – Room 1

The Role of Parents Associations in Advocacy and Awareness Raising for Children with Cerebral Palsy

Ms Reny Indrawati, Wahana Keluarga Cerebral Palsy (WKCP)

Ms Anis Sri Lestari, Wahana Keluarga Cerebral Palsy (WKCP)

Cerebral palsy (CP) is the most common childhood physical disability in the world. CP can also lead to developmental and social problems for the child. Unfortunately, there is currently insufficient information about CP to help parents and families cope with this medical condition. This paper presents the experiences of Wahana Keluarga CP (WKCP), a community of parents with children with CP. In 2013-2014, WKCP ran a survey among its members about exposure to common congenital infections in pregnancy, including toxoplasmosis, rubella, cytomegalovirus and herpes simplex virus (TORCH). The result was that 40 members tested positive for historical TORCH infections and eight tested negative. WKCP presented its findings to the Yogyakarta Government. Eventually, the provincial health department ran its own survey to find out about TORCH infections. In 2016, the Yogyakarta Government established regulations providing free TORCH screening for women up to 36 years with a child with disability who plan to have another child, and for women up to 36 years who have experienced a miscarriage.

Representing Disability in the 2019 Indonesian Elections

Dr Thushara Dibley, University of Sydney

Dr Elisabeth Kramer, University of Sydney

This paper discusses the motivations, aspirations and reflections of candidates with disabilities in Indonesia's 2019 election. At the centre of this presentation is a consideration of what it means to be a disability activist and a political candidate who is, ostensibly, representing party interests. How do candidates navigate this nexus and what are their reflections upon the process of running for office as a candidate with a disability? This study finds that many candidates with disabilities are disassociated from their parties and motivated by their commitment to the representing people with disabilities. They do not try to appeal broadly, but instead focus on gaining support through their existing communities of practice and experience. But, while the political party is merely a vehicle for participation, candidates still find themselves subject to party demands and must negotiate them while running their own time- and money-consuming campaigns.

Disability Inclusion in Indonesia: Disaster Risk Reduction Laws and Policies

Ms Pradytia Pertiwi, University of Sydney

Disability received a notable recognition within the global commitment to reduce disaster risks through the enactment of the Sendai Framework for Disaster Risk Reduction (Sendai Framework) in 2015. This recognition was seen by authors and organisations concerned with disability-inclusive Disaster Risk Reduction (DRR) as a key step towards ensuring that people with disabilities are not left behind in a disaster. However, unless the disability-inclusion references provided by the Sendai Framework are contextualised nationally, the global commitment to include people with disabilities in DRR cannot be extended at the local level, particularly in the context of a decentralised government system such as Indonesia. This paper argues revision of the current Indonesia Disaster Management Law 24 of 2007 is required to better reflect the spirit of inclusion and provide a higher legal order of disability-inclusive DRR implementation at the local level.

Developing the Ideal of Inclusive Citizenship for Persons with Disabilities in Yogyakarta

Ms Isneningtyas Yulianti, KomNas HAM

Inclusive citizenship is currently being fought for by groups that care about vulnerable groups. In Indonesia, the ideals of inclusive citizenship are also fought for by persons with disabilities. So far, persons with disabilities have become excluded social groups. The disability movement voices inclusive citizenship through the struggle to form regulations that can bring changes to the lives of persons with disabilities. Examples of existing regulations include the Convention on the Rights of Persons with Disabilities, the Disability Persons Act, and other local regulations. In Yogyakarta province, the disability movement has succeeded in fighting for regional regulations for persons with disabilities. This paper examines how the disability movement in Yogyakarta has fought for inclusive citizenship, becoming a model movement in the process.

Women's Rights (2) – Room 2

Women's Agency in Disasters: Lessons for Fostering Women's Rights

Dr Mary Barby Badayos-Jover, University of the Philippines Visayas

Disasters can be doubly burdensome for women and impinge on the exercise of their rights. More often than not, women's experiences of disasters are compounded by gender dynamics that disadvantage them compared to men and render them more vulnerable. However, some studies have also pointed out that gruelling situations can serve as an impetus for women's agency, either within or outside of established gender norms. Difficult circumstances provide opportunities for women to articulate their needs or goals and act on them, thus jumpstarting empowerment. This paper presents two case studies of disaster contexts where women have exercised agency and achieved gains in terms of specific post-disaster assistance and organising support. This research highlights the state of women's empowerment in disadvantaged locales, and the importance of harnessing social networks and institutional assistance to strengthen fledgling women's agency in the face of disasters.

Prevalence Of Domestic Violence against Women And Children in The Philippines

Mr Leo Justine Javier, Batangas State University

Ms Annie Clores, Batangas State University

In the Philippines, a country where gender and development is promoted, professionals, educators, students, households and families must be exposed to the issues of violence against women and children. This presentation sought to determine the prevalence of domestic violence against women and children in the municipality of Malvar. The objective of the study was to propose extension service activities that minimise the problem of domestic violence in the municipality. Specifically, it dealt with issues of violence against women and children in Malvar from 2014-2016, police officers' perspectives in addressing such cases, and the factors that drive complainants to report such cases. The results of the study reveal that the reluctance of victims to pursue the complaint and the victims' tolerance of abuse are problems related to culture, with victims often discouraged from filing formal complaints by the cost and length of litigation, and corruption in the judiciary and prosecution.

Thriving and Sustaining Amidst Male Dominance and Sexual Harassment: A Case Study

Ms Bruce Dame Laoera, Institut Teknologi Adhi Tama Surabaya

For decades, women have been underrepresented in Science, Technology, Engineering, and Mathematics (STEM) fields, especially when studying for higher degrees. Moreover, women have a very small role in leadership and decision-making in the area of STEM, either in formal or non-formal environments. Women are also very vulnerable to sexual harassment, particularly in fields such as engineering where the number of men is much higher. It is essential to investigate how women can thrive in STEM fields: how they define, sustain, and develop themselves within this traditionally male dominated area. This paper shows that female students receive many types of harassment. Despite this, they also thrived and showed their leadership ability, with potential benefits in many areas including STEM.

Fighting for Political Rights: Women with Disabilities in the Indonesian Legislative Election 2019

Ms Theresia Octastefani, Universitas Gadjah Mada

Mr Bayu Mitra A. Kusuma, Universitas Gadjah Mada

The Indonesian Legislative Election 2019 is often referred to as the forgotten election, with observers generally more enthusiastic and knowledgeable about the Indonesian Presidential Election. But such invisibility did not reduce the motivation of women with disabilities to compete as legislative candidates. Today, women with disabilities are no longer limited to the role of voter or to becoming campaign material. Instead, women with disabilities are also able to become representatives in the parliament. Their presence in parliament will further guarantee the achievement of equality and fulfilment of disability political rights for people who have often experienced marginalisation and discrimination. Drawing upon Hanna F. Pitkin's model of political representation in the context of the 2019 Indonesian Elections, this presentation will examine why issues relating to women and disabilities are important issues to be explored further.

Minority Rights – Room 3

The Theory of Compliance and its Relation with Intolerance Cases in Indonesia

Ms Hanifah Febriani, Universitas Gadjah Mada

Ms Alifia Fhadila, Universitas Gadjah Mada

Indonesia is a nation of various religions and beliefs. In facing these differences, many obstacles need to be overcome to maintain social order. The guarantee to embrace and practice freedom of religion and beliefs is enshrined in Indonesia's constitution and law. Indonesia's criminal code is also meant to punish those who engage in acts of intolerance. However, cases of intolerance continue to escalate and some cases remain unsolved. To create social order, there needs to be social compliance. Different theoreticians, including Hobbes, Habermas and Durkheim, have proposed methods for generating such compliance. This research aims to understand how the implementation of human rights principles can provide a legal basis for the protection of people from the effects of intolerance. This research will reflect on the problem of intolerance in Indonesia before drawing upon different theories of compliance to analyse how these theories can deal with the problem of intolerance.

Culture and Homosexuality: A Comparative Analysis of the Status of Homosexual Men in Indonesia and the Philippines

Mr Ellisiah Jocson, Independent

Dr Wisnu Adihartono, Independent

Issues related to gender have steadily increased over the past few years. Women have persistently demanded the right to stand equally with men, and likewise, the Lesbian, Gay, Bi-Sexual, Transgender, Queer, and Intersex Community (LGBTQI) seeks such equity. However, the global treatment of gender and sexuality issues varies greatly. The LGBTQI population is also difficult to determine given the intolerance of some countries towards this community. On the topic of homosexuality, attitudes and presumptions prevail and act as barriers to acceptance. These variances hail from a multitude of concerns, spanning the areas of culture, religion, and ethnicity, among others. This study seeks to analyse and determine the variations in the treatment of homosexual men in two multicultural countries: Indonesia and the Philippines. Repeated reports of gay suppression in Indonesia are a stark contrast to the seemingly high tolerance towards gay people in the Philippines. Using interviews and document analysis, this paper seeks to identify the causes of the different treatments experienced by gay communities in these two countries.

Same-Sex Relationships and the Thai Military Government

Professor Douglas Sanders, Mahidol University

This paper examines same-sex relationships in Thailand. A process to give some legal recognition to these relationships began in the two years prior to the 2014 military coup. Legislative committee hearings produced a preliminary draft registration bill, said to deliver equal marriage rights. Criticisms of the draft by activists led to two separate drafting processes. One involved the Ministry of Justice's Rights and Liberties Protection Department. The second involved the government's Law Reform Commission and a 'citizens' initiative' process. Two draft bills got to a stage of consultations with various government departments, but the processes were halted under the military government. Activist civil servants started a third process for a very limited registration law, like the French civil solidarity pacts. This 'first step' bill received approval by the military government cabinet in December 2018, and moved to vetting by the Council of State. It was still at that stage when the March 2019 national election took place. For the first time, openly LGBT candidates ran for office and recognising same-sex relationships was an issue in the campaign. Now the debate is very much between opening Civil Code marriage or a registration system.

Politics of Constitutionalism – Room 4

The Supreme Court's Rule-Making Power in the Context of Human Rights Protection: Obligation or Activism?

Ms Louie Mae Palmares, San Sebastian College-Recoletos

The 1987 Constitution of the Republic of the Philippines expanded the rule-making power of the Supreme Court by empowering it to promulgate rules concerning the protection and enforcement of constitutional rights. Pursuant to this constitutional power, the Supreme Court promulgated rules which provide remedies to violations of human rights, such as Writ of Amparo and Habeas Data. These rules are products of the two summits convened by the Supreme Court to consult the stakeholders on whether it should exercise its rule-making power to address the rampant cases of extra-judicial killings and enforced disappearance in the Philippines. This exercise by the Supreme Court of its rule-making and convening function had been tagged as extra-decisional judicial activism. It is a phenomenon where judicial power is enlarged beyond its conventional limits such that the court arrogates some functions which traditionally belong to the other branches of the government. By evaluating the constitutional framework of judicial power and human rights protection, and the historical context of the 1987 Constitution, this article argues that the performance by the Supreme Court of its rule-making and convening functions for the purpose of protecting and enforcing human rights is more than a form of activism: it is an obligation.

Outlining Religious Minorities: The Politics of Constitutional Recognition in Indonesia

Dr Max Regus, STKIP St. Paulus Ruteng, Flores

Although Indonesia is known as a home for social diversity, particularly religious diversity, one of the most challenging issues the country faces is dealing with the arrangement of religious life. This problem is compounded by the fact that Indonesia's government officially recognises only six religions: Islam, Protestantism, Catholicism, Hinduism, Buddhism, and Kong Hu Chu (Confucianism). The recognition of these six religions has never been effective in preventing interreligious tension and the crucial relationship between the state (politics) and religion in the country. For many years, especially after the fall of the Suharto regime, certain religious minorities have experienced difficulties in enjoying basic human rights. They have suffered from exclusion, discrimination and violence. This paper argues that the constitutional recognition and protection of religious minorities in Indonesia reflects the struggle, contestation, and tension between various actors such as civil society groups, intellectuals, human rights defenders, religious leaders, the police and the government. It presents a critical review of these issues based on a wide-ranging survey of scholarly works, reports, the mass media and anthropological notes.

Indonesia's Human Rights Obligation: Bridging the Gap between Adat Law and Human Rights Law

Ms Dyan Sitanggang, Universitas Katolik Parahyangan

Indonesia acknowledges living adat law within certain indigenous communities. The term 'living' adat law is used as the state only recognises the law as long as it remains in existence and is regulated by national law, as stipulated in Indonesia's 1945 Constitution. Adat law is not a unified system. It differs from one community to the other, and is used to regulate matters within each community, so long as this does not contradict with the national law. However, in certain communities, violations of human rights have occurred, especially to women, due to the existence of certain values about the position of women. This might occur because the government's role in intervening in such cases remains unclear. This paper aims to provide ways to bridge the gap between the international obligation to protect human rights and the violations that often occur because of existing rules of adat law.

Panel Sessions 4

Tuesday 15 October, 11.00–12.30

Disability Rights (2) – Room 1

Marginalised Groups in the Media in East Java

Aloysia Vira Herawati

The Role of the Private Sector in the Advancement of Persons with Disabilities: The Issue of Legal Capacity Rights

Abi Marutama

The Development of a Village Inclusion Policy to Fulfil the Rights of Persons with Disabilities

Johanes Widjantoro, Hengky Widhi Antoro and Dewi Krisna Hardjanti

Children's Rights – Room 2

Protecting Sexually Exploited Children in the Philippines: Systemic Issues from an NGO Lens

Imogen Fell

Left-Behind Children's Rights as a Norm in ASEAN: A Preliminary Study

Sri Wijayanti and Nurul Azizah Zayzda

The right to heard: examining the experiences and perspectives of child domestic workers in Bandung, Indonesia through participatory child-focused research

Sarah Winfred

Crime and Terrorism – Room 3

Human Rights in the Philippines (2016-present): Rule of Law & Enforcement

Patricia Mae Alino and Gemmo Fernandez

Indonesia Anti-Terrorism Policy: Balancing Eradication of Terrorism with Enforcement of Human Rights

Abubakar Eby Hara

The Application of Humanitarian Principles in the Formation of Indonesia's Law Number 5 of 2018

Agus Suntoro

Crimes Against Humanity and Indonesia's Struggle for Transitional Justice

Truston Jianheng Yu and Taufik Rachmat Nugraha

Democracy and Rights – Room 4

Freedom of Political Speech in Malaysia: Najib & Mahathir under Barisan Nasional & Pakatan Harapan

Mohd Azizuddin Mohd Sani

New Developmentalism in Indonesia: Rising False Narratives against Human Rights Advocacy

Ratu Durotun Nafisaah

Fake News or Freedom of Speech: A Lesson from the Fake News of the Seven Ballot Containers

Supardi

Disability Rights (2) – Room 1

Marginalised Groups in the Media in East Java

Ms Aloysia Vira Herawati, University of Surabaya

Between 2016 to 2018, a survey of the Indonesian Press Freedom Index was conducted to provide knowledge about press freedom in Indonesia. The national index highlighted the various challenges faced by the press. These challenges have been caused by a multitude of factors that are often intertwined with each other. There is no single factor, thus there cannot be a single solution. In the province of East Java, the picture is just the same. However, some patterns can be found within the three-year surveys, including access to news production by marginalised groups. Within this context, this paper will analyse and discuss two issues: first, the perspectives of marginalised groups on the creation of news content, and second, the use of marginalised groups as resources in the news. This article will conclude with some proposals for how marginalised groups can better fulfil their rights and about how the gap between theory and practice on this issue might be minimised.

The Role of the Private Sector in the Advancement of Persons with Disabilities: The Issue of Legal Capacity Rights

Mr Abi Marutama, Ministry of Law and Human Rights, Republic of Indonesia

The legal capacity rights of persons with disabilities (PWDs) has long been challenged and denied. However, the fight for disability rights continues around the world. Today, the international community and the United Nations recognise the importance of disability inclusion in national and international development frameworks. The adoption of the Convention on the Rights of Persons with Disabilities (CRPD) has contributed to guarantee PWDs are entitled to all rights set out in the CRPD. Article 12 of CRPD specifically requires that State Parties ensure the implementation of the right to legal capacity within their national legal frameworks. In order to support the advancement of their access to legal capacity rights, it is important to ensure that PWDs understand their rights, such as through the provision of inclusive higher education. In Indonesia, good practice has been showcased by D-Law, a non-profit organisation that focuses on higher education scholarship provision for the deaf to learn law so that they can advocate for disability rights themselves and help others when they need access to justice.

The Development of a Village Inclusion Policy to Fulfil the Rights of Persons with Disabilities

Mr Johanes Widiyantoro, Universitas Atma Jaya Yogyakarta

Mr Hengky Widhi Antoro, Universitas Atma Jaya Yogyakarta

Ms Dewi Krisna Hardjanti, Universitas Atma Jaya Yogyakarta

Stigmatisation towards persons with disabilities is so pervasive in society that it directly weakens their position. As a result, even though Indonesia has enacted Law No. 8 of 2016 concerning Persons with Disabilities, efforts to protect and fulfil the rights of persons with disabilities must always be encouraged. This study aims to examine one of the strategic steps to protect and fulfil the rights of persons with disabilities through the development of a Village Inclusion Policy. In addition to being able to accelerate the fulfilment of the rights of persons with disabilities, especially in rural areas, this policy is expected to accelerate the improvement of the welfare of persons with disabilities through increased accessibility and participation in rural development. The study begins by reviewing the implementation of regulations and policies related to the protection and fulfilment of rights for persons with disabilities generally. It then analyses the possibility of further developing the Village Inclusion Policy, drawing upon a policy review, focus group discussions, and in-depth interviews with relevant stakeholders. The results of this study illustrate the strategic value of this policy as well as the various factors that encourage and inhibit the fulfilment of the rights of persons with disabilities.

Children's Rights – Room 2

Protecting Sexually Exploited Children in the Philippines: Systemic Issues from an NGO Lens

Ms Imogen Fell, St Mary's University

Increasing awareness surrounding human rights atrocities driven by Government agendas in the Philippines has left many other grave violations of human rights in the shadows. Child sexual exploitation (CSE) is a widespread and significant social phenomenon. Despite being less of a domestic priority, it has attracted substantial attention within the international public policy sphere. A report from UNICEF (2017) states that the Philippines is 'the global epicentre of the live-stream sexual abuse trade'. Online child sexual exploitation is the leading form of cybercrime in the Philippines, making up half of reported cases across the world. This presentation is based on findings from an in-depth qualitative study exploring the state of CSE from the lens of three grassroots non-government organisations. Utilising an ethnographic methodology and traditional grounded theoretical approach, comprehensive case studies were constructed encompassing observations and semi-structured interviews with frontline staff and organisational leaders at the forefront of targeted efforts to tackle CSE. The presentation will disseminate key findings from the study, including systemic challenges faced by those responding to the evolving dynamics of CSE.

Left-Behind Children's Rights as a Norm in ASEAN: A Preliminary Study

Ms Sri Wijayanti, Universitas Jenderal Soedirman

Ms Nurul Azizah Zayzda, Universitas Jenderal Soedirman

Intra-regional worker migration has been an integral part of development in Southeast Asia. ASEAN has introduced a number of regional instruments, including Declarations and Consensus, to protect the rights of migrant workers. While norms of migrant workers' rights have been increasingly recognised, there is still a missing part in the picture, namely the rights of the children of migrant workers. This paper is interested in the issues surrounding the left-behind children who remain in the origin countries, given that few studies have analysed their rights in the region. This paper aims to explain the extent to which the norms of rights of left-behind children have been built within ASEAN agreements on migrant workers' rights. The paper comprises of three parts. First, a conceptual discussion of human rights norms and the role of regional organisations in norm-building. Second, a thorough examination of relevant ASEAN instruments juxtaposed against the ideals of children's rights provided by the Convention on the Rights of the Child. Third, a discussion of possible inferences about the current state of norm-building of left-behind children's rights.

The Right to Be Heard: Examining the Experiences and Perspectives of Child Domestic Workers in Bandung, Indonesia through Participatory Child-Focused Research

Sarah Winfred, University of the Sunshine Coast

The phenomenon of child domestic workers (CDWs) in Indonesia represents a human rights issue of serious concern, due to the exploitation and abuse faced by many children and the hidden nature of the work within employer's homes (MuhammedAlly 2005). In the past two decades, scholarship on child labour in Indonesia has identified the need to 'combat the exploitation of children, rather than to exclude them from the labour market' (White 1996). There have also been increased calls to include children's voices in the debate. This paper draws on preliminary findings from ongoing participatory child-focused research in Bandung, West Java that seeks to understand the lived experiences and perspectives of CDWs and their employers. The research focusses on domestic workers between the ages of 14-17, to contribute to the growing body of research that acknowledges Indonesian CDWs as active agents in the construction of their own lives (Beazley 2017). A variety of participatory research techniques are used in this study, designed to explore the lived experiences of CDWs. The research results demonstrate how children are competent social actors who are able to offer important information about the realities of their lives (Boyden & Ennew 1997; Holloway 2014).

Crime and Terrorism – Room 3

Human Rights in the Philippines (2016-present): Rule of Law & Enforcement

Ms Patricia Mae Alino, University of Sydney

Mr Gemmo Fernandez, University of Sydney

The state of the enforcement and appreciation of human rights obligations in the Philippines may be seen in the context of democratic decline and weakened rule of law. The Government has regularly dismissed concerns regarding its policies. Checks and balances have also been ineffective, thanks, in part, to a subservient legislature and a relatively deferential judiciary. Critics of the Government have been frequently attacked, harassed, or vilified. This presentation analyses the effect of this context, characterised as authoritarian legalism, on the country's compliance with its obligations, demonstrating how this context has weakened the rule of law, eroded enforcement mechanisms, and promoted distrust towards the appreciation of human rights. This talk also examines the effects of the unabated extrajudicial killings and continued marginalisation of indigenous peoples.

Indonesia Anti-Terrorism Policy: Balancing Eradication of Terrorism with Enforcement of Human Rights

Dr Abubakar Eby Hara, University of Jember

This paper discusses how Indonesia can balance the enforcement of human rights with the eradication of terrorism. National security priorities often defeat the enforcement of human rights because the issue of terrorism is seen to justify any response, no matter how extreme. By using constructivism theory in social science studies, this paper explores how actors from Islamic groups, human rights groups and the Indonesian Government try to define what is meant by security threats related to terrorism. In the process of constructing the threat of terrorism, there is often an attempt by the Indonesian Government to make terrorism an urgent threat that must be overcome by harsh measures including military means. However, protests from Islamic and human rights groups have made the Government more careful in handling terrorism, by encouraging respect for human rights principles. This process reveals how Indonesia's anti-terrorism policies have come to possess certain characteristics that are somewhat different from most countries.

The Application of Humanitarian Principles in the Formation of Indonesia's Law Number 5 of 2018

Mr Agus Suntoro, KomNas HAM

The upsurge of terror attacks in various regions of Indonesia in 2018, most notably in East Java, gave rise to public pressure on the Government and parliament to immediately revise Law No. 15 of 2003 concerning the 'Eradication of Terrorism Crimes' in accordance with Indonesia's needs. The Government responded to this public pressure by enacting Law Number 5 of 2018. However, this Law is not in harmony with human rights norms. Primary data was collected through focused discussions with members of the House of Representatives and human rights activists. The results of this study indicate that human rights have not been fully protected by this Law, especially regarding the role of the criminal justice system, tapping, detention and involvement of the Indonesian military. As a result, the potential for human rights violations during efforts to eradicate terrorism in Indonesia has become very real.

Crimes Against Humanity and Indonesia's Struggle for Transitional Justice

Mr Truston Jianheng Yu, University of Hong Kong

Mr Taufik Rachmat Nugraha, University of Hong Kong

Human rights abuses have a complex history in Indonesia, which the country's judicial system has been unable to adequately address. The previous decades have been witness to numerous atrocities including extrajudicial killings, scorched-earth policies and mass murder. It is widely suspected that these 'crimes against humanity' were organised by the military under the Suharto regime. Unfortunately, no military commanders have been convicted to date, and some of them continue to hold key positions as Government officials. This paper will examine three major cases of human rights violations in Indonesia: the 1965 anti-communist killings; the 1975-1999 Indonesian occupation of Timor-Leste; and the May 1998 riots. It will examine the development of human rights mechanisms and their effectiveness, and conclude by discussing the current challenges faced by those hoping to prosecute human rights violators in the country.

Democracy and Rights – Room 4

Freedom of Political Speech in Malaysia: Najib & Mahathir under Barisan Nasional & Pakatan Harapan

Professor Mohd Azizuddin Mohd Sani, Universiti Utara Malaysia

Many have questioned the intentions of the Malaysian government in restricting free speech. It could be argued that Najib Razak became more repressive after the 1MDB scandal and ensuing challenges for power by his former mentor, Mahathir Mohamad, and his former deputy premier, Muhyiddin Yassin. This occurred despite Article 10 of the Federal Constitution, which protects the right to freedom of expression. Meanwhile, laws such as the Sedition Act (SA) and Communication and Multimedia Act (CMA) limit the right to political speech. Parliament in Malaysia is not supreme. Instead, the Constitution supplies the ultimate yardstick against which every law can be measured. This presentation will examine freedom of political speech during Najib's premiership, and compare freedom of expression under Najib and his mentor cum predecessor, Mahathir, during his first term as Prime Minister. It will also analyse the current dynamic of political speech under the Pakatan Harapan government (during Mahathir's second term as Prime Minister). This presentation will explore theories of freedom of political speech, and ask whether political speech deserves protection by the constitution as compared with non-political speech.

New Developmentalism in Indonesia: Rising False Narratives against Human Rights Advocacy

Ms Ratu Durotun Nafisaah, Institute for Policy Research and Advocacy

New developmentalism has flourished as a growth-oriented policy in Indonesia during the era of President Joko Widodo. The government has prioritised economic sectors by building infrastructure and expanding export production. But many affected individuals, local communities and civil society organisations have protested the policy. This paper argues that instead of accommodating the aspirations of these groups and solving the issues, the Indonesian Government has instead tended to establish false narratives pertaining to those who oppose the policy. This can be seen in the excessive use of jargon related to the national interest and national identity to delegitimise human rights advocacy. For instance, Budi Pego, a human rights defender who was protesting gold mining activities in Tumpang Pitu, was convicted for spreading the idea of communism in his campaign and sentenced to four years in jail. Civil society efforts to criticise human rights violations in the palm oil industry have also been characterised as a 'black campaign' that undermines the economic interests of the state. I argue that this trend limits the ability for public discourse to correct government actions, as is essential in a democratic country. This approach is also detrimental to the implementation of human rights.

Fake News or Freedom of Speech: A Lesson from the Fake News of the Seven Ballot Containers

Supardi, University of Jember

From a human rights perspectives, everyone has a right to use language for either his/her speech or his/her expression. However, from a legal perspective the use of certain language is restricted by law in some cases. In January 2019, Indonesian man Bagus Bawana Putra was arrested and charged with spreading false information in the lead-up to the Indonesian Presidential Election about seven containers stuffed with ballots cast for incumbent President Joko Widodo. This paper focuses on the chronology of BBP's arrest, how this fake news story went viral on social media, BBP's use of language, whether he violated any legal provisions, and legal provisions regulating fake news in Indonesia.

The conference will take place in the Faculty of Economics Building, University of Jember, East Java, Indonesia. For an interactive campus map showing all buildings and amenities, please refer to [Google Maps](#).



