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The editorial board reserves the right not to accept or shorten the corrected manuscript in terms of technical writing as long as the content remains unchanged. The paper should be submitted through the Open Journal System (OJS) at <https://ejournal.balitbangham.go.id/>.

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Foreword

Praise be to Allah SWT, who has given His mercy and grace to all of us so that the Editor can publish Jurnal HAM Vol. 15 No. 1, April 2024. In this edition, we present 5 pieces regarding human rights that are quite diverse in terms of geography and perspective. All of the papers are published in their original language, English.

This edition begins with a paper discussing the Frontier Strategies of Dayak Agabag's Elite for Cultural Rights in Ulu Sembakung, North Borneo, which elaborates on how the Agabag's elites are using their minority status to advocate the development of modern-state infrastructure in their region. The exploration of Dayak Agabag's elite's strategies unveils the intricate dynamics of cultural rights preservation amidst evolving socio-political landscapes, offering invaluable insights into indigenous rights advocacy. The second article discusses human rights at the periphery by Righting the Deprivation of the Sama Dilaut as Indigenous Maritime Peoples in the Southern Philippines. This article navigates the waters of indigenous maritime communities, illuminating the challenges they face and advocating for their rightful place within the discourse of human rights. Third, the case of overseas Filipino workers in Taiwan and Poland will be discussed from the perspective of third-country hiring. This article not only provides a critical examination of the experiences and rights of Overseas Filipino Workers, but also underscoring the importance of safeguarding labor rights across borders. Then The Continuous Precarious Situation of the Refugees and Migrant Workers in Malaysia Post-COVID-19 offers a sobering reflection on the enduring vulnerabilities faced by refugees and migrant workers, urging concerted efforts towards inclusive recovery and protection of their rights. Finally, the last paper discussing Remission of sentences and the constitutionality of life imprisonment in Seychelles. It scrutinizes legal frameworks through the lens of constitutional rights, engaging in a discourse on the intricacies of remission policies and their implications for human rights within the context of life imprisonment.

Finally, we would like to thank the Head of the Law and Human Rights Policy Strategy Agency of the Ministry of Law and Human Rights of the Republic of Indonesia for his support in publishing this edition. We extend our deepest appreciation to the authors and reviewers whose scholarly contributions enrich the discourse on human rights, fostering dialogue, understanding, and ultimately, progress towards a more just and equitable world.

Happy Reading!
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Puji Hastuti (Research Center for Population, National Research and Innovation Agency, Indonesia)

Frontier Strategies of Dayak Agabag's Elite for Cultural Rights in Ulu Sembakung, North Borneo

Jurnal HAM, Volume 15, Number 1, April 2024, page 1-18

The local elites of Dayak Agabag are conscious of their community's position as minorities, which presents opportunities. As an Indonesian frontier people, the Dayak Agabag have formed solid social ties with the Murut Pensiangan, as a resident community in Malaysia, fostering cultural cohesion across national borders. These sociocultural ties are seen as a threat to sovereignty and nationalism, which, ironically, are often exploited by local elites for the benefit of frontier people. The Agabag's elites are using their minority status to advocate the development of modern-state infrastructure in their region. This article analyzes cultural rights challenges confronting the Dayak Agabag along the Indonesia-Malaysia border, aiming to comprehend the political role of Dayak Agabag elites in shaping affirmative policies for marginalized communities and their advocacy for human rights, shedding light on the movements of both the elite and the community in their quest for legitimacy. The ethnographic lens used in this article shows that the political agency of Dayak Agabag's local elite created their own rule to counter the domination of the state spatiality to struggle for human rights as frontier people. This article describes how the local elites maintained their minority frontier people status, as it gave them access to political gain or privileges across state borders. The local agency of Dayak Agabag's elite offers insight into how marginalized frontier people can leverage their political indigeneity power, obtain cultural rights, and maintain socially legitimate yet formally illegal cross-border mobility.

Keywords: *frontier; local agency; political indigeneity; cultural right*

Kriselle Marie Calica Aquino (Institute of Human Rights and Peace Studies, Mahidol University, Thailand)

Human Rights and the Periphery: Righting the Deprivation of the Sama Dilaut as Indigenous Maritime Peoples in the Southern Philippines

Jurnal HAM, Volume 15, Number 1, April 2024, page 19-34

The Sama Dilaut identify their source of homeland and identity as peoples of the sea. Despite their procedural rights guaranteed under international and domestic legal instruments, they remain in the periphery within the informal hierarchy of ethnicities, not because they are resource-poor but because they are capability- and freedom-deprived. As opposed to material deprivation, this study focuses on rights deprivation, that is, the alienation of their indigenous context and perspective in human rights interpretation and fulfillment. Using qualitative methods specifically phenomenology and key informant interviews, it first queries their lived experiences of deprivation on land, at sea, and horizontal (community) and vertical (State) levels. Second, it critically examines pathways and solutions to enjoy their rights and freedoms fully. The results focus on their concept of human rights (kapatut manusiya) and their communally-identified four significant lived deprivations vis-à-vis desired freedoms. These are related to knowledge and education (pangalaman or panghati), indigenous culture and spirituality and religious beliefs (pangaddatan and pag-omboh or pag-paybahau), traditional and diversified economic life (pag-usaha or pagkalluman), and socio-political leadership and participation (panglima or nakura). This study contributes to putting the international human rights landscape into perspective through the lens of the Sama Dilaut who are freedom-deprived yet rich in (maritime) culture and worldview.

Keywords: *deprivation; indigenous maritime peoples; Sama Dilaut; sea nomads; Southern Philippines*

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Sheila Devi Michael (Faculty of Arts and Social Sciences, Universiti Malaya, Malaysia)

The Continuous Precarious Situation of the Refugees and Migrant Workers in Malaysia Post-COVID-19

Jurnal HAM, Volume 15, Number 1, April 2024, page 35-50

The COVID-19 pandemic positioned the global population in a conundrum state and the most vulnerable were the refugees and migrant workers. It is a common narrative for governments and the people to treat them indifferently because of their illegal status thus creating a xenophobic environment against them. A similar situation occurred for these vulnerable groups in Malaysia during managing and mitigating the spread of COVID-19 resulting in the Malaysian government neglecting the fundamental human rights to protect the refugees and migrant workers from discrimination, abuse, and exploitation. By international standards, Malaysia is far from defending the rights of vulnerable groups, particularly the plight of refugees and migrant workers. Therefore, this paper aims to highlight and discuss the qualm conditions of these refugees and migrant workers during COVID-19 and the continuous precarious situation against them. Data was gathered from primary and secondary sources such as official statements, mainstream media and reports from local and international organisations. Findings show that the precarious situation remains the same for these vulnerable people, hence the Malaysian government should seriously work out comprehensive policies to alleviate the abysmal condition against them.

Keywords: *COVID-19; human rights; precarious situation; refugees; migrant workers; Malaysia*

Anna Joceline Dizon Ituriaga (International Doctoral Program in Asia-Pacific Studies, National Chengchi University, Taiwan)

Third-country hiring: The case of Overseas Filipino Workers in Taiwan to Poland

Jurnal HAM, Volume 15, Number 1, April 2024, page 51-62

This study explores the complexities of third-country serial labor migration among Filipino factory workers, specifically those moving from Taiwan to Poland—an activity deemed illegal by the Philippine government. Utilizing qualitative methods, the research conducts in-depth interviews with participants like Mae, Rick, and Justin, complemented by a key informant interview. The findings reveal a nuanced decision-making process, with participants expressing a desire for enhanced job conditions, contractual flexibility, and career advancement opportunities in Poland. Despite the Philippines' oversight and support for temporary migration, the practice of third-country hiring raises legal and ethical concerns. Without proper authorization from the Philippine government, recruiting workers through a third country is deemed illegal. To protect migrant workers, established procedures, including obtaining an Overseas Employment Certificate (OEC), are implemented to ensure lawful deployment. This study contributes to the ongoing discourse surrounding serial labor migration, providing valuable insights that can inform policy frameworks and practices aimed at enhancing the welfare and protection of migrant workers within the global labor market. Through analysis of the experiences and challenges faced by Filipino factory workers engaging in third-country migration, this research seeks to promote a deeper understanding of the complexities inherent in labor migration processes and advocate for measures to safeguard the rights and well-being of migrant workers worldwide.

Keywords: *third-country hiring; Filipino migrant workers; migration; Poland*

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Jamil Ddamulira Mujuzi (Faculty of Law, University of the Western Cape, South Africa)

Remission of sentences and the constitutionality of life imprisonment in Seychelles

Jurnal HAM, Volume 15, Number 1, April 2024, page 63-84

Section 30 of the Seychelles Prisons Act provides that the sentences of all prisoners, except those sentenced to life imprisonment or convicted of drug-related offences of aggravated nature, can be remitted. Section 31 of the Seychelles Prisons Act empowers the Superintendent of Prisons to grant a prisoner a licence to be at large. Before 2021, Seychelles law was silent on the issue of whether a person sentenced to life imprisonment had to spend the rest of his life in prison. As a result, offenders sentenced to life imprisonment were released after serving between 15 and 20 years. Dissatisfied with this approach, the Court of Appeal held that life imprisonment should mean imprisonment for the remainder of the offender's life. In 2021, the Criminal Procedure Code was amended to define life imprisonment as imprisonment for the remainder of the offender's natural life. Article 60 of the Constitution empowers the President to commute any sentence. This implies that the President can invoke Article 60 to commute the sentences of lifers. In this article, the author relies on, amongst other sources, statistics from Seychelles Prison Service in which the President has invoked Article 60 since 1999, jurisprudence from some African countries, the European Court of Human Rights and international human rights bodies to argue that the sentence of life imprisonment as defined in Seychelles law is unconstitutional for violating the prisoner's rights to human dignity and not to be subjected to inhuman and degrading treatment. The author also relies on the drafting history of Article 10(3) of the International Covenant on Civil and Political Rights to argue, inter alia, that life imprisonment without the realistic prospect of early release is contrary to Seychelles' international human rights obligations.

Keywords: remission of sentence; life imprisonment; constitutionality; prerogative of mercy; Seychelles

*Kata Kunci bersumber dari Artikel.
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Puji Hastuti (*Research Center for Population, National Research and Innovation Agency, Indonesia*)

Strategi Perbatasan Suku Dayak Agabag dalam pemenuhan Hak Budaya di Ulu Sembakung, Kalimantan Utara

Jurnal HAM, Volume 15, Nomor 1, April 2024, hal. 1-18

Kelompok Penguasa yang ada di suku Dayak Agabag sadar bahwa posisi mereka sebagai minoritas dapat mendatangkan peluang. Sebagai Masyarakat perbatasan, Dayak Agabag telah membentuk ikatan sosial yang solid dengan Murut Pensiangan, penduduk Malaysia, dengan cara membina ikatan budaya melintasi batas-batas negara. Ikatan sosial budaya ini dipandang sebagai ancaman terhadap kedaulatan dan nasionalisme, yang ironisnya sering dieksploitasi oleh elite lokal untuk kepentingan mereka. Suku Dayak Agabag menggunakan status minoritas mereka untuk mengadvokasi pembangunan infrastruktur negara modern di wilayah mereka. Artikel ini menganalisis tantangan budaya yang dihadapi oleh Suku Dayak Agabag di perbatasan Indonesia-Malaysia, dengan tujuan untuk memahami peran politik Suku Dayak Agabag dalam membentuk kebijakan afirmatif untuk masyarakat yang terpinggirkan dan advokasi mereka terhadap hak-hak asasi manusia, dengan menyoroti pergerakan para elite dan masyarakat dalam upaya untuk mendapat legitimasi. Lensa etnografi yang digunakan dalam artikel ini menunjukkan bahwa perwakilan politik suku Dayak Agabag menciptakan aturan mereka sendiri untuk melawan dominasi teritorial negara, dalam memperjuangkan hak asasi manusia sebagai masyarakat perbatasan, yang memberikan mereka akses untuk mendapatkan keuntungan politik dan hak-hak istimewa di perbatasan. Perwakilan Suku Dayak Agabag memberikan wawasan tentang bagaimana Masyarakat perbatasan yang terpinggirkan dapat meningkatkan kekuatan pribumi politik mereka, memperoleh hak-hak budaya, dan mempertahankan mobilitas lintas batas yang sah secara sosial namun ilegal secara hukum.

Kata Kunci: perbatasan; agensi lokal; indigeneitas politik; hak budaya

Kriselle Marie Calica Aquino (*Institute of Human Rights and Peace Studies, Mahidol University, Thailand*)

Hak Asasi Manusia dan Perbatasan: Mengembalikan Kerugian Hak-Hak Masyarakat Adat Sama Dilaut di Filipina Selatan

Jurnal HAM, Volume 15, Nomor 1, April 2024, hal. 19-34

Suku Sama Dilaut mengidentifikasi sumber tanah air dan identitas mereka sebagai suku maritim. Meskipun hak-hak prosedural mereka dijamin oleh instrumen hukum internasional dan domestik, mereka tetap berada di pinggiran dalam hirarki etnis informal, bukan karena miskin sumber daya, tetapi karena tidak memiliki kemampuan dan kebebasan. Berbeda dengan perampasan materi, penelitian ini berfokus pada perampasan hak, yaitu keterasingan konteks dan perspektif masyarakat adat dalam penafsiran dan pemenuhan hak asasi manusia. Dengan menggunakan metode kualitatif khususnya fenomenologi dan wawancara dengan informan kunci, penelitian ini pertama-tama mempertanyakan pengalaman hidup mereka yang mengalami perampasan di darat, di laut, dan di tingkat horizontal (komunitas atau antar etnis) dan vertikal (Negara). Kedua, penelitian ini secara kritis mengkaji jalur dan solusi untuk menikmati hak dan kebebasan mereka sepenuhnya. Hasilnya berfokus pada konsep tentang hak asasi manusia (kapatut manusia) dan identifikasi empat perampasan signifikan yang berlawanan dengan kebebasan yang diinginkan Keempat hal tersebut terkait dengan pengetahuan dan pendidikan (pangalaman atau panghati), budaya dan spiritualitas adat serta kepercayaan agama (pangaddatan dan pag-omboh atau pag-paybahau), kehidupan ekonomi yang tradisional dan beragam (pag-usaha atau pagkalluman), serta kepemimpinan dan partisipasi sosial-politik (panglima atau nakura). Studi ini berkontribusi dalam menempatkan lanskap hak asasi manusia internasional ke dalam perspektif Sama Dilaut, yang terampas kebebasannya namun kaya akan budaya dan pandangan dunia (maritim).

Kata Kunci: perampasan; masyarakat adat maritim; Sama Dilaut; pengembara laut; Filipina Selatan

*Kata Kunci bersumber dari Artikel.
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Sheila Devi Michael (*Faculty of Arts and Social Sciences, Universiti Malaya, Malaysia*)

Situasi Genting Pengungsi dan Pekerja Migran di Malaysia yang Berkelanjutan Pasca-Covid-19

Jurnal HAM, Volume 15, Nomor 1, April 2024, hal. 35-50

Pandemi COVID-19 menempatkan populasi global dalam keadaan yang tidak menentu dan yang paling rentan adalah para pengungsi dan pekerja migran. Sudah menjadi narasi umum bagi pemerintah dan masyarakat untuk memperlakukan mereka dengan acuh tak acuh karena status ilegal mereka sehingga menciptakan lingkungan xenofobia terhadap mereka. Situasi serupa terjadi pada kelompok rentan di Malaysia selama penanganan dan mitigasi penyebaran COVID-19 yang mengakibatkan pemerintah Malaysia mengabaikan hak asasi manusia yang mendasar untuk melindungi pengungsi dan pekerja migran dari diskriminasi, pelecehan, dan eksploitasi. Berdasarkan standar internasional, Malaysia masih jauh dari membela hak-hak kelompok rentan, khususnya para pengungsi dan pekerja migran. Oleh karena itu, tulisan ini bertujuan untuk menyoroti dan mendiskusikan kondisi para pengungsi dan pekerja migran selama COVID-19 dan situasi genting yang terus menerus menimpa mereka. Data dikumpulkan dari sumber primer dan sekunder seperti pernyataan resmi, media arus utama, dan laporan dari organisasi lokal dan internasional. Temuan menunjukkan bahwa situasi genting masih tetap sama bagi kelompok rentan ini, oleh karena itu pemerintah Malaysia harus secara serius mengambil kebijakan yang komprehensif untuk meringankan kondisi buruk yang menimpa mereka.

Kata Kunci: COVID-19; hak asasi manusia; situasi genting; pengungsi; pekerja migran; Malaysia

Anna Joceline Dizon Ituriaga (*International Doctoral Program in Asia-Pacific Studies, National Chengchi University, Taiwan*)

Perekrutan di negara ketiga: Kasus Pekerja Filipina Luar Negeri di Taiwan hingga Polandia

Jurnal HAM, Volume 15, Nomor 1, April 2024, hal. 51-62

Studi ini mengeksplorasi kompleksitas migrasi tenaga kerja berantai ke negara ketiga di kalangan pekerja pabrik di Filipina, khususnya mereka yang pindah dari Taiwan ke Polandia—sebuah aktivitas yang dianggap ilegal oleh pemerintah Filipina. Dengan menggunakan metode kualitatif, penelitian ini melakukan wawancara mendalam dengan partisipan seperti Mae, Rick, dan Justin, dilengkapi dengan wawancara informan kunci. Temuan penelitian ini mengungkapkan proses pengambilan keputusan yang berbeda-beda, dimana para peserta mengungkapkan keinginannya untuk meningkatkan kondisi kerja, fleksibilitas kontrak, dan peluang kemajuan karier di Polandia. Meskipun Filipina melakukan pengawasan dan dukungan terhadap migrasi sementara, praktik perekrutan di negara ketiga menimbulkan permasalahan hukum dan etika. Tanpa izin yang tepat dari pemerintah Filipina, perekrutan pekerja melalui negara ketiga dianggap ilegal. Untuk melindungi pekerja migran, prosedur yang ditetapkan, termasuk memperoleh Sertifikat Ketenagakerjaan Luar Negeri (OEC), diterapkan untuk memastikan penempatan yang sah. Studi ini berkontribusi pada pemahaman yang lebih mendalam mengenai dinamika rumit migrasi tenaga kerja berantai.

Kata Kunci: perekrutan negara ketiga; pekerja migran Filipina; migrasi; Polandia

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Jamil Ddamulira Mujuzi (Faculty of Law, University of the Western Cape, South Africa)

Remisi hukuman dan konstitusionalitas hukuman penjara seumur hidup di Seychelles

Jurnal HAM, Volume 15, Nomor 1, April 2024, hal. 63-84

Pasal 30 Seychelles Prisons Act menetapkan bahwa hukuman bagi semua narapidana, kecuali mereka yang dijatuhi hukuman penjara seumur hidup atau dihukum karena pelanggaran berat terkait narkoba, dapat diampuni. Pasal 31 Seychelles Prisons Act memberikan kewenangan kepada Pengawas untuk memberikan izin bebas bersyarat kepada narapidana. Sebelum tahun 2021, undang-undang Seychelles tidak membahas masalah apakah seseorang yang dijatuhi hukuman penjara seumur hidup harus menghabiskan sisa hidupnya di penjara. Akibatnya, narapidana yang dijatuhi hukuman penjara seumur hidup dapat dibebaskan setelah menjalani hukuman antara 15 dan 20 tahun. Tidak puas dengan pendekatan ini, Pengadilan Tinggi memutuskan bahwa hukuman penjara seumur hidup berarti hukuman penjara selama sisa hidup pelaku. Pada tahun 2021, KUHAP diubah untuk mendefinisikan hukuman penjara seumur hidup sebagai hukuman penjara selama sisa hidup pelaku. Pasal 60 Konstitusi memberi wewenang kepada Presiden untuk meringankan hukuman apa pun. Artinya, Presiden dapat menggunakan Pasal 60 untuk meringankan hukuman seumur hidup. Dalam artikel ini, penulis menggunakan data-data, antara lain, statistik dari Seychelles Prisons Service di mana Presiden telah menggunakan Pasal 60 sejak tahun 1999, yurisprudensi dari beberapa negara Afrika, European Court of Human Rights dan badan-badan hak asasi manusia internasional untuk menyatakan bahwa hukuman penjara seumur hidup sebagaimana didefinisikan dalam undang-undang Seychelles adalah inkonstitusional karena melanggar hak-hak narapidana atas martabat manusia dan tidak menjadi sasaran perlakuan yang tidak manusiawi dan merendahkan martabat. Penulis juga menggunakan sejarah penyusunan Pasal 10(3) Kovenan Internasional tentang Hak Sipil dan Politik untuk berpendapat, antara lain, bahwa hukuman penjara seumur hidup tanpa kemungkinan pembebasan bertentangan dengan kewajiban hak asasi manusia internasional Seychelles.

Kata Kunci: remisi; hukuman penjara seumur hidup; konstitusionalitas; hak prerogatif untuk mengampuni; Seychelles