

Jurnal HAM is a nationally accredited journal publishing manuscripts in the field of human rights. Over a decade, Jurnal HAM has been the leading scientific publication in Indonesia focusing on human rights studies. It encompasses rights-oriented analysis, law and policy debates, case studies and other empirical findings related to human rights and freedom, theoretical views of human rights, and diverse methods in human rights study. It welcomes studies from various disciplines and approaches that raise awareness toward marginalized and underrepresented minority groups in Indonesia and beyond. All editorial/review policies and processes are committed to inclusivity.

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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, whose grace and guidance have enabled us to publish Jurnal HAM Vol. 16 No. 1, April 2025. In this edition, we are proud to present a diverse range of scholarly contributions that examine critical human rights issues across Southeast Asia and beyond. This volume reflects our ongoing commitment to publishing peer-reviewed, interdisciplinary research that deepens our understanding of justice, equality, and the lived realities of marginalized communities.

The first article by Otto Gusti Ndegong Madung, Adrianus Yohanes Mai, and Winibaldus Stefanus Mere revisits the philosophical foundations of human rights by placing Otfried Höffe and Georg Lohmann into conversation. Their exploration provides a timely reminder that justifying the universality of human rights remains essential in our pluralistic and increasingly polarized world. In the second article, Zuraidah Mohd Amin sheds light on the challenges faced by Malaysian citizens of Indonesian descent, particularly regarding access to higher education. Her empirical findings emphasize how policies rooted in ethnic-based quotas continue to shape unequal socio-economic outcomes, calling attention to the intersection between education, citizenship, and social mobility. The third article by Gilang Mahadika and Riki Ari Pradana offers an ethnographic account of sand lifters at the margins of Sorong, West Papua. By highlighting the informal labor and environmental impacts associated with sand extraction, they broaden our understanding of human rights to include the right to livelihood and environmental justice—especially within the context of indigenous urban marginality. Mirea Artesani's contribution turns our focus to northern Thailand, where stateless hill tribe communities remain excluded from legal recognition and basic rights. Her legal and historical analysis reveals the systemic barriers to citizenship while advocating for reforms that promote both inclusion and cultural preservation. Lastly, Nella Sumika Putri critically analyzes the 2023 Indonesian Criminal Code through the lens of religious minority rights. Her work warns of the potential for moral provisions—such as those criminalizing adultery and cohabitation—to be weaponized against minority groups, raising urgent questions about pluralism, state neutrality, and human dignity.

Together, these five articles remind us that the defense and development of human rights require both critical reflection and context-sensitive approaches. From philosophical arguments to empirical inquiry and legal critique, this issue underscores the dynamic interplay between universal principles and local struggles.

This year also marks an important institutional transition. Following a reorganization at the national level, the Ministry of Law and Human Rights has been renamed as the Ministry of Law, and the Law and Human Rights Policy Strategy Agency has evolved into the Legal Policy Strategy Agency. These changes reflect the government's continued efforts to streamline legal governance and sharpen its focus on policy formulation within the legal field.

Finally, we would like to extend our sincere gratitude to the Head of the Legal Policy Strategy Agency, Ministry of Law of the Republic of Indonesia, for his continued support in the publication of Jurnal HAM. We also express our heartfelt thanks to the authors and reviewers whose dedication and expertise enrich this journal and broaden the scope of human rights scholarship. Their work proves, once again, that the pen is mightier than the sword in the ongoing pursuit of justice and dignity for all.

We hope that this volume inspires further research, dialogue, and advocacy toward a more just and inclusive society.

Happy Reading!
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Otto Gusti Ndegong Madung, Adrianus Yohanes Mai, Winibaldus Stefanus Mere (Ledalero Institute of Philosophy and Creative Technology, Indonesia; Gadjah Mada University, Indonesia; Institute for Social Ethics, Nanzan University, Nagoya, Japan)

Philosophical Foundation of Human Rights According to Höffe and Lohmann

Jurnal HAM, Volume 16, Number 1, April 2025, page 1-10

This article aims to philosophically justify the universality and the existence of human rights. Historically, the concept of human rights has evolved according to the context in which human rights are lived. One of the themes of debate is how human rights are justified or validated and how they can be universally accepted. Philosophers always have different opinions about what constitutes the basis of human rights. This article considers Höffe and Lohmann who specifically address this problem. Based on the philosophical approaches of Otfried Höffe and Georg Lohmann, this research emphasizes the universal validity of human rights. On the one hand, Otfried Höffe justifies the necessity of human rights in his anthropological approach of “transcendental exchange” which is the conditions for the possibility of being human. These conditions concern humans as physical and living beings, as linguistic and rational beings, and as social and cooperative beings who have transcendent interests in their lives. On the other hand, Georg Lohmann grounds human rights through a mutual moral obligation to recognize others as equal subjects. Moral obligation arises from a person’s ability to decide what is good or bad. Both Höffe and Lohmann ground human rights on reciprocity. In analyzing both views of human rights, qualitative method is used in this research which focuses on literature study. This research finds that the universal nature of human rights is grounded in human vulnerability, reciprocity of mutual respect, and integration of moral obligations into legal frameworks for the protection of self-determination and dignity.

Keywords: *human rights; philosophy; justification; universality; Höffe; Lohmann*

Zuraidah Mohd Amin (Department of Southeast Asian Studies, University of Malaya, Malaysia)

The Marginalized Communities of Malaysians of Indonesian Descent: Impact of Limited Access towards Tertiary Education

Jurnal HAM, Volume 16, Number 1, April 2025, page 11-24

Education is one of the crucial elements needed in order to create a better nation. However, in reality, access to education is not equally accessible to all children regardless of their background. Specifically, the case of children of Indonesian immigrants in Malaysia has been impacted, as the privilege of tertiary education has been limited since the implementation of the Malaysia’s New Economic Policy in 1971. The children of Indonesian immigrants are born in Malaysia and granted Malaysian citizenship under certain terms and conditions but are not classified as a group of aboriginal people. This condition leads to the question of how far the limitation of education access impacts the long-term socio-economic status towards these children. Thus, this paper analyzed the impact on the socio-economic status of children of Indonesian immigrants in Malaysia by conducting in-depth interviews with ten informants who are facing a similar situation and who were selected from states with a high concentration of Indonesian immigrants to observe their significant impacts. Additionally, an in-deep analysis of the series of development policies introduced by the Malaysian government will be conducted in the discussion. The findings show that these limitations have a significant impact on their long-term socio-economic mobility. Furthermore, an analysis of Malaysia’s development policies reveals that the ethnicity-based quota system remains a major obstacle to accessing tertiary education for this group. This paper contributes to a continuous debate on the rights of education, citizenship, and socio-economic changes among the children of Indonesian immigrants in Malaysia. More inclusive policies are needed to ensure fairer access to higher education.

Keywords: *rights of education; Indonesian immigrants; citizenship; socio-economic development*

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Gilang Mahadika, Riki Ari Pradana (Faculty of Cultural Studies, Brawijaya University, Indonesia)

Theology of Migration: A Theoretical and Theological Contribution to the Understanding of Religion in the Fight Against Human Trafficking in East Nusa Tenggara (NTT)

Jurnal HAM, Volume 16, Number 1, April 2025, page 25-46

The term “mining” carries a sensitive connotation for the sand lifters on the margins of Sorong City, West Papua, who prefer to identify themselves as “orang-orang angkat pasir” (sand lifters). Their labor involves extracting sand from rivers and clearing hillsides—often through deforestation—to facilitate sand collection. The ecological repercussions of these informal sand mining activities, including deforestation, have drawn concern from local governments, residents, and environmental advocates, who view these practices as detrimental to the environment. This negative perception has contributed to the stigmatization of “sand mining” as a term and a practice. This paper examines the lives and livelihoods of sand lifters, addressing the question: How do they sustain themselves through sand mining activities? For many, sand lifting represents a last resort to survive and participate in urban development, even as their work contributes to environmental degradation. While sand mining poses significant ecological challenges, it simultaneously serves as a lifeline for marginalized communities striving to improve their living conditions. By focusing on the case of sand lifters in West Papua, this paper applies the concept of “infrapolitics” to explore the intersections of informality, political agency, and the right to livelihood in urban contexts. In doing so, it broadens the discourse on human rights, informality, and environmental justice in the region, highlighting on the complex dynamics between survival, urban development, and ecological impact.

Keywords: *human rights; environment; urban development; infrapolitics; informality*

Mirea Artesani (Centre for East and South-East Asian Studies, Lund University, Sweden)

Breaking the Chains of Statelessness: Addressing the Human Rights Challenges Facing Hill Tribes in Thailand

Jurnal HAM, Volume 16, Number 1, April 2025, page 47-60

This paper examines the issue of statelessness and its impact on the hill tribes of northern Thailand, a mix of ethnic groups populating the Thai, Myanmar, and Laos borderlands who are facing significant challenges in accessing basic human rights due to their lack of Thai citizenship. The paper explores the historical context of how the hill tribes came to be stateless, as well as the various obstacles they encounter in obtaining legal recognition as citizens of Thailand. Drawing on academic literature and Thai legislation, this paper argues that the denial of citizenship represents a fundamental violation of human rights. It also emphasizes the secondary rights violations due to various levels of discrimination and marginalization that these groups experience, such as restricted access to education, healthcare, and job possibilities. Finally, the paper considers potential policy solutions that could address the issue of statelessness among the hill tribes. These solutions include reforming citizenship laws to provide greater access to citizenship, as well as implementing programs to promote the inclusion of hill tribe communities in Thai society while also preserving their cultural heritage. Ultimately, the paper argues that addressing the issue of statelessness among the hill tribes is not only a matter of human rights, but also essential for building a more inclusive and equitable society.

Keywords: *hill tribes; citizenship; statelessness; integration; advocacy*

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Nella Sumika Putri (Faculty of Law Padjadjaran University, Indonesia)

Moral Offenses Under Indonesian Criminal Code 2023 in Perspective of Religious Minority

Jurnal HAM, Volume 16, Number 1, April 2025, page 61-76

Indonesia, a nation celebrated for its rich diversity of ethnicities and religions, embodies a societal pluralism that deeply influences perceptions of morality and acceptable behavior. The enactment of the 2023 Criminal Code reflects these complexities, particularly in its use of “moral policing” to redefine adultery and criminalize cohabitation as moral offenses. These provisions were integrated into contentious articles during the Code’s drafting and discussion phases, sparking significant debate. Proponents claim that the existence of these moral transgressions is consistent with Indonesian society’s moral and religious values. Conversely, opponents argue that these provisions as an overreach by the state, infringing upon personal freedoms and disproportionately affecting religious minorities whose beliefs and practices may diverge from the majority. Adultery and cohabitation, the focal points of these provisions, are intrinsically linked to the institution of marriage. In Indonesia, marriage transcends its administrative role and is deeply embedded within religious and cultural traditions. This dual significance renders the issue particularly contentious, as interpretations of marriage vary widely across the country’s diverse communities. The ambiguity surrounding the definition of “marriage” within the legal framework raises concerns about potential discrimination. Minority religious groups, particularly those whose marital practices are not formally recognized or registered, may find themselves vulnerable to legal repercussions under the adultery and cohabitation clauses. This article seeks to delve into the nuanced effects of these regulations, focusing on their potential to disproportionately affect religious minorities and the broader question of balancing societal norms with individual liberties in a diverse nation.

Keywords: moral offenses; Indonesian criminal code 2023; minority; religious minority

***Kata Kunci bersumber dari Artikel.
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Otto Gusti Ndegong Madung, Adrianus Yohanes Mai, Winibaldus Stefanus Mere (*Ledallero Institute of Philosophy and Creative Technology, Indonesia; Gadjah Mada University, Indonesia; Institute for Social Ethics, Nanzan University, Nagoya, Japan*)

Pedasaran Filsafat Hak Asasi Manusia Menurut Höffe and Lohmann

Jurnal HAM, Volume 16, Nomor 1, April 2025, hal. 1-10

Artikel ini bertujuan untuk secara filosofis membenarkan universalitas dan keberadaan hak asasi manusia. Secara historis, konsep hak asasi manusia telah berkembang sesuai dengan konteks di mana hak asasi manusia dihidupi. Salah satu tema perdebatan adalah bagaimana hak asasi manusia dibenarkan atau divalidasi dan bagaimana hak asasi manusia dapat diterima secara universal. Para filsuf selalu memiliki pendapat yang berbeda tentang apa yang menjadi dasar hak asasi manusia. Artikel ini medalami pemikiran Höffe dan Lohmann yang secara khusus membahas masalah ini. Berdasarkan pendekatan filosofis Otfried Höffe dan Georg Lohmann, penelitian ini menekankan validitas universal hak asasi manusia. Di satu sisi, Otfried Höffe membenarkan perlunya hak asasi manusia dalam pendekatan antropologisnya tentang “pertukaran transendental”. Di sisi lain, Georg Lohmann mendasarkan hak asasi manusia melalui kewajiban moral bersama untuk mengakui semua orang lain sebagai subjek yang setara. Kewajiban moral muncul dari kemampuan seseorang untuk memutuskan apa yang baik atau buruk. Baik Höffe dan Lohmann mendasarkan hak asasi manusia pada timbal balik. Dalam menganalisis dua pandangan tentang hak asasi manusia, penelitian ini menggunakan metode kualitatif dengan pendekatan studi literatur. Penelitian ini menemukan bahwa sifat universal hak asasi manusia selalu berakar pada penderitaan manusia, prinsip resiprositas penghormatan timbal balik, serta integrasi kewajiban moral ke dalam kerangka hukum untuk melindungi penentuan nasib sendiri dan martabat individu.

Kata Kunci: hak asasi manusia; filsafat; pembenaran; universalitas; Höffe; Lohmann

Zuraidah Mohd Amin (*Department of Southeast Asian Studies, University of Malaya, Malaysia*)

Komunitas Marjinal Keturunan Indonesia di Malaysia: Dampak Keterbatasan Akses Pendidikan Tinggi

Jurnal HAM, Volume 16, Nomor 1, April 2025, hal. 11-24

Pendidikan merupakan salah satu faktor penting dalam membangun bangsa. Namun, pada kenyataannya, akses pendidikan tidak dapat dijangkau secara merata oleh semua anak tanpa memandang latar belakangnya. Secara khusus anak-anak imigran Indonesia di Malaysia terkena dampak karena hak istimewa pendidikan tinggi telah dibatasi sejak penerapan Kebijakan Ekonomi Baru Malaysia pada tahun 1971. Anak-anak imigran Indonesia lahir di Malaysia dan memperoleh kewarganegaraan Malaysia dengan syarat dan ketentuan tertentu, tetapi tidak dianggap sebagai penduduk asli. Kondisi ini menimbulkan pertanyaan mengenai sejauh mana keterbatasan akses pendidikan berdampak terhadap kondisi sosial-ekonomi jangka panjang anak-anak tersebut. Oleh karena itu, artikel ini menganalisis dampak terhadap kondisi sosial-ekonomi anak-anak imigran Indonesia di Malaysia melalui wawancara mendalam dengan sepuluh informan yang menghadapi status serupa dan dipilih dari negara bagian dengan konsentrasi imigran Indonesia yang tinggi untuk mengamati dampak yang signifikan. Selain itu, analisis mendalam terhadap serangkaian kebijakan pembangunan yang diperkenalkan oleh pemerintah Malaysia juga akan dilakukan. Temuan penelitian menunjukkan bahwa keterbatasan yang ada berdampak signifikan terhadap mobilitas sosial-ekonomi mereka dalam jangka panjang. Selain itu, analisis terhadap kebijakan pembangunan Malaysia mengungkap bahwa sistem kuota berbasis etnis masih menjadi kendala utama dalam akses pendidikan tinggi bagi kelompok ini. Artikel ini memberikan kontribusi pada perdebatan berkelanjutan tentang hak atas pendidikan, kewarganegaraan, dan perubahan sosial-ekonomi di kalangan anak-anak imigran Indonesia di Malaysia. Diperlukan kebijakan yang lebih inklusif untuk memastikan akses yang lebih adil terhadap pendidikan tinggi.

Kata Kunci: hak atas pendidikan; imigran Indonesia; warga negara; pembangunan sosial-ekonomi

***Kata Kunci bersumber dari Artikel.
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Gilang Mahadika, Riki Ari Pradana (*Faculty of Cultural Studies, Brawijaya University, Indonesia*)

Kisah ‘Orang-Orang Angkat Pasir’ di Semenanjung Kepala Burung: Informalitas di Pinggiran Kota Sorong

Jurnal HAM, Volume 16, Nomor 1, April 2025, hal. 25-46

Istilah “pertambangan” membawa konotasi sensitif bagi para pengangkat pasir di pinggiran Kota Sorong, Papua Barat, yang lebih memilih menyebut diri mereka sebagai “orang-orang angkat pasir.” Pekerjaan mereka melibatkan pengambilan pasir dari sungai dan pembersihan lereng bukit—seringkali melalui penebangan hutan—untuk memudahkan pengumpulan pasir. Dampak ekologis dari aktivitas pertambangan pasir informal ini, termasuk deforestasi, telah menimbulkan kekhawatiran dari pemerintah setempat, warga, dan para pegiat lingkungan, yang memandang praktik ini sebagai sesuatu yang merusak lingkungan. Persepsi negatif ini turut menyumbang pada stigmatisasi terhadap istilah dan praktik “pertambangan pasir.” Makalah ini mengkaji kehidupan dan penghidupan para pengangkat pasir, dengan mengajukan pertanyaan: Bagaimana mereka mempertahankan hidup melalui aktivitas pertambangan pasir? Bagi banyak dari mereka, mengangkat pasir merupakan pilihan terakhir untuk bertahan hidup dan berpartisipasi dalam pembangunan kota, meskipun pekerjaan mereka turut menyumbang pada kerusakan lingkungan. Meskipun pertambangan pasir menimbulkan tantangan ekologis yang signifikan, ia juga menjadi jalur kehidupan bagi komunitas yang terpinggirkan dalam upaya memperbaiki kondisi hidup mereka. Dengan berfokus pada kasus para pengangkat pasir di Papua Barat, makalah ini menggunakan konsep “infrapolitik” untuk mengeksplorasi pertemuan antara informalitas, agensi politik, dan hak atas penghidupan di konteks perkotaan. Dengan demikian, makalah ini memperluas diskursus mengenai hak asasi manusia, informalitas, dan keadilan lingkungan di kawasan ini, dengan menyoroti dinamika kompleks antara perjuangan hidup, pembangunan kota, dan dampak ekologis.

Kata Kunci: hak asasi manusia; lingkungan; pembangunan perkotaan; infrapolitik, informalitas

Mirea Artesani (*Centre for East and South-East Asian Studies, Lund University, Sweden*)

Memutus Rantai Statelessness: Mengatasi Tantangan Hak Asasi Manusia yang Dihadapi Suku Pegunungan di Thailand

Jurnal HAM, Volume 16, Nomor 1, April 2025, hal. 47-60

Tulisan ini mengkaji kondisi tanpa kewarganegaraan dan dampaknya terhadap suku pegunungan di Thailand Utara, campuran kelompok etnis yang mendiami wilayah perbatasan Thailand, Myanmar, dan Laos yang menghadapi tantangan signifikan dalam mengakses hak asasi manusia karena tidak adanya kewarganegaraan Thailand. Tulisan ini mengeksplorasi konteks historis tentang bagaimana suku pegunungan menjadi tidak memiliki kewarganegaraan, serta berbagai kendala yang mereka hadapi dalam memperoleh pengakuan sebagai warga negara Thailand. Mengacu pada literatur akademis dan Undang-Undang Thailand, tulisan ini berpendapat bahwa penolakan kewarganegaraan merupakan pelanggaran terhadap hak asasi manusia. Tulisan ini juga menekankan pelanggaran hak sekunder karena berbagai tingkat diskriminasi dan marginalisasi yang dialami kelompok-kelompok ini, seperti akses terbatas ke pendidikan, perawatan kesehatan, dan peluang kerja. Terakhir, tulisan ini mempertimbangkan solusi kebijakan potensial yang dapat mengatasi kondisi tanpa kewarganegaraan di antara suku pegunungan. Solusi ini meliputi reformasi undang-undang kewarganegaraan untuk menyediakan akses yang lebih besar terhadap kewarganegaraan, serta menerapkan program untuk mempromosikan inklusi komunitas suku pegunungan dalam masyarakat Thailand sambil melestarikan warisan budaya. Pada akhirnya, tulisan ini berpendapat bahwa menangani kondisi tanpa kewarganegaraan di antara suku-suku pegunungan bukan hanya masalah hak asasi manusia, tetapi juga penting untuk membangun masyarakat yang lebih inklusif dan adil.

Kata Kunci: suku pegunungan; kewarganegaraan; kondisi tanpa kewarganegaraan; integrasi; advokasi

*Kata Kunci bersumber dari Artikel.
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Tindak Pidana Kesusilaan dalam KUHP 2023: Perspektif Hak Asasi Manusia

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Indonesia merupakan negara yang terdiri dari berbagai etnis dan agama termasuk kepercayaan. Pluralisme berdampak terhadap cara pandang masyarakat atas berbagai perilaku, khususnya perilaku yang dipandang tidak bermoral. KUHP 2023 menggunakan argumentasi “kebijakan atas dasar moral” untuk memperluas definisi perzinahan dan mengkriminalisasi perbuatan hidup bersama tanpa pernikahan (kohabitasi) sebagai tindak pidana kesusilaan. Dalam proses perumusannya kedua tindak pidana tersebut termasuk tindak pidana yang dikategorikan sebagai “tindak pidana bermasalah”. Kelompok pro berpendapat bahwa pengaturan tindak pidana kesusilaan ini sejalan dengan nilai moral dan agama masyarakat Indonesia; sebaliknya kelompok kontra berpendapat bahwa pengaturan terhadap dua perbuatan ini menunjukkan tindakan berlebihan yang dilakukan oleh negara dalam mencampuri kebebasan warganegaranya, terutama kelompok agama minoritas. Perzinahan dan kohabitasi adalah dua tindak pidana yang memiliki hubungan erat dengan perkawinan. Perkawinan sampai saat ini masih merupakan persoalan yang kontroversial di Indonesia, yang mana tidak sebatas persoalan administrative melainkan juga menyangkut persoalan agama atau kepercayaan. Ketidajelasan penafsiran “perkawinan” berdampak pada kelompok agama minoritas yang belum terdaftar secara administrative, termasuk pola-pola perkawinan yang dianggap bertentangan dengan konsep moral, agama atau kepercayaan, sehingga berpotensi dituntut berdasarkan dua tindak pidana perzinahan dan kohabitasi. Oleh karena itu artikel ini akan membahas sejauh mana dampak implementasi kedua tindak pidana tersebut terhadap kelompok agama minoritas.

Kata Kunci: tindak pidana kesusilaan; KUHP 2023; minoritas; agama minoritas