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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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TABLE OF CONTENTS

Menciptakan Musuh Imajiner: Penolakan Pengungsi Rohingya di Aceh 77-94
(Creating Imaginary Enemies: The Rejection of Rohingya Refugee in Aceh)
Zahlul Pasha Karim, Rahmah Zakia

Social Welfare Policy for Marriage Migrants and Their Families in the Republic of Korea 95-110
(Kebijakan Kesejahteraan Sosial bagi Migran yang Menikah dan Keluarganya di Republik Korea)
Giwoong Son

The Legitimacy of Nationality Deprivation under International Human Rights Law: A Case Study on Nicaragua 111-134
(Legitimasi Pencabutan Kewarganegaraan dalam Hukum Hak Asasi Manusia Internasional: Studi Kasus di Nikaragua)
Calvin Paulus Marcelito Simanjuntak, Diajeng Wulan Christianti

Pemidanaan terhadap Perbedaan Pemahaman: Analisis Hak Asasi Manusia atas Perkara Penodaan Agama di Indonesia 135-150
(Criminalization for Different Understandings: A Human Rights Analysis of Blasphemy Cases in Indonesia)
Moch. Choirul Rizal, Michelle Salma Khotom Aji, Muhamad Atji Firmansyah, Unsa Elen Purwanti

Rethinking Consent: Examining the Adequacy of the Concept of Consent in Digital Platform Agreements under Indonesian Civil Code 151-164
(Meninjau Ulang "Sepakat": Menelaah Kelayakan Konsep Sepakat dalam Perjanjian Platform Digital berdasarkan Kitab Undang-Undang Hukum Perdata Indonesia)
Adis Nur Hayati

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Foreword

Praise be to Allah SWT, whose grace and guidance have enabled us to publish Jurnal HAM Vol. 16 No. 2, August 2025. In this edition, we are proud to present a diverse collection of scholarly contributions that interrogate urgent human rights questions across local, regional, and international contexts. This volume continues our commitment to publishing peer-reviewed, interdisciplinary research that expands our understanding of justice, dignity, and the evolving challenges of rights protection in an era of social fragmentation and institutional transition.

This volume presents five articles that illuminate the persistent tensions between universal human rights principles and their contested applications in specific contexts. The first examines the rejection of Rohingya refugees in Aceh, showing how narratives of threat and exclusion generate dehumanization and social hostility. Another explores South Korea's welfare policies for marriage migrants, revealing both the aspirations of multicultural inclusion and the systemic barriers that undermine it. A study of Nicaragua highlights the arbitrariness of nationality deprivation, exposing how such practices distort legal justifications while violating international norms. In Indonesia, the analysis of blasphemy cases demonstrates how differing religious interpretations are criminalized, threatening freedom of belief and shrinking democratic dialogue. Finally, research on digital platforms critiques the fragile notion of consent in online agreements, warning that formal mechanisms often fail to uphold genuine autonomy and dignity.

Beyond their specific contexts, these studies collectively remind us that the defense and development of human rights demand both critical vigilance and context-sensitive approaches. Whether in the refugee camps of Aceh, the multicultural households of Korea, the courtrooms of Indonesia, or the digital contracts shaping our daily lives, human rights are constantly tested by forces of exclusion, manipulation, and repression. The scholarship in this edition invites us to reflect on the fragility of rights, while also charting pathways toward stronger legal frameworks and more inclusive communities.

These broader reflections also resonate within Indonesia, which is currently navigating complex social and political currents that test the resilience of its democratic institutions. Heightened public tensions and shifting policy debates reveal both the fragility and the vitality of the nation's commitment to justice and equality. In such a climate, the protection of human rights must remain a guiding compass, ensuring that diverse voices are heard and that dignity is safeguarded for all. It is our hope that the Indonesian context will continue to evolve in ways that sustain a conducive environment for the growth of human rights and the deepening of inclusive citizenship.

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.

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Happy Reading!
-Editorial Board-

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Zahlul Pasha Karim, Rahmah Zakia ***(Fakultas Hukum, Universitas Gadjah Mada, Indonesia; Fakultas Ilmu Budaya, Universitas Gadjah Mada, Indonesia)***

Creating Imaginary Enemies: The Rejection of Rohingya Refugee in Aceh

Jurnal HAM, Volume 16, Number 2, August 2025, page 77-94

The rejection of Rohingya refugees in Aceh at the end of 2023 led to various negative narratives that shaped an unfavorable image of this group in the eyes of the local community. This research argues that such rejection occurred because of the portrayal of Rohingya Refugees as a threat to society. There are two questions addressed: (1) how did social media contribute to the construction of an imaginary enemy against Rohingya refugees in Aceh?; and (2) what factors drove the shift in the attitude of the Acehnese people from solidarity to rejection? This research is conducted descriptively from various sources of literature, social media content, and news in the mass media. It also borrows the netnography method developed by Kozinets to examine the culture and communities that emerge in computer-mediated communication (social media). The findings reveal that rejection of Rohingya refugees occurs in three forms: negative sentiment expressed on social media platforms, media reports of criminal acts committed by refugees, and the perception that the Rohingya refugees were morally problematic. This phenomenon is underpinned by the ineffectiveness of state mechanisms to protect the socio-economic interests of local residents and the absence of a clear national government policy on Rohingya refugees. Consequently, rejection of refugees has led to dehumanization and created an imaginary enemy for local residents to justify their rejection of refugees. Refugees are no longer perceived as human beings, but rather as threats, burdens, or even as savages who lack of human values. Applying the concept of imaginary enemy, this study shows that the community actions justified through the perception of refugees as an exaggerated threat which gradually escalated into fear.

Keywords: imaginary enemy; Rohingya refugee; refugees rejection; dehumanization; social media

Giwoong Son ***(Korea Center for United Nations Human Rights Policy (KOCUN), Korea)***

Social Welfare Policy for Marriage Migrants and Their Families in the Republic of Korea

Jurnal HAM, Volume 16, Number 2, August 2025, page 95-110

To ensure the safe settlement of marriage migrants and their families within the Republic of Korea's distinct multicultural context, it is essential to adopt both a rights-based and universal welfare approach to foster genuine inclusion. However, the current social welfare policy for marriage migrants and their families presents a social investment and labelling approach, revealing its difficulties and paradoxical impact toward their full inclusion. This study examines the social welfare policy for marriage migrants and their families, to identify and analyze the functional gaps and unintended consequences in existing welfare policies and advocate for a shift away from a labelling approach toward more inclusive and rights-based policies that support stable settlement. Through an extensive desk review of relevant research, legislation, government surveys, and policy audit reports concerning Korea's Multicultural Family Policy, this study presents recommendations for policy revision in response to the challenges embedded within the current framework. Rather than focusing solely on the expansion of services, the findings underscore the importance of enhancing service quality and implementation processes while addressing structural forms of discrimination. The study further advocates for a rights-based approach to welfare provision, moving away from selective, group-specific targeting and discretionary or charitable measures.

Keywords: marriage migration; social welfare policy; social inclusion; multicultural families

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Calvin Paulus Marcelito Simanjuntak, Diajeng Wulan Christianti ***(Faculty of Law, Universitas Padjadjaran, Indonesia)***

The Legitimacy of Nationality Deprivation under International Human Rights Law: A Case Study on Nicaragua

Jurnal HAM, Volume 16, Number 2, August 2025, page 111-134

The right to nationality is a fundamental prerequisite for accessing other human rights, yet its arbitrary deprivation remains a critical concern under international law. This study examines Nicaragua's Laws No. 1055 and 1145, which authorize the revocation of citizenship based on an expanded and ambiguous definition of "treason," encompassing peaceful political acts such as supporting international sanctions. This case demonstrates how nationality, often described as the "right to have rights," is weaponized for political purposes, revealing how the misuse of citizenship laws threatens the integrity of international human rights protections against statelessness. Specifically, the study investigates whether this definition justifies nationality deprivation under the standards of the 1961 Statelessness Convention and whether such measures violate the right to freedom of expression, as protected by Article 19 of the ICCPR. Utilizing a normative juridical approach, the research analyzes international legal instruments alongside Nicaraguan domestic law and incorporates secondary data from organizations such as UNHCR. The findings reveal that Nicaragua's practices fail to satisfy the criteria of legality, necessity, and proportionality under international human rights law and instead constitute a form of political repression. Such measures not only undermine the purpose of the 1961 Statelessness Convention but also exemplify how nationality laws can be distorted to silence dissent. Therefore, this study underscores the urgent need for stronger international safeguards against arbitrary deprivation of nationality.

Keywords: the right to nationality; freedom of expression; international human rights law; nationality deprivation; statelessness

Moch. Choirul Rizal, Michelle Salma Khotom Aji, Muhamad Atji Firmansyah, Unsa Elen Purwanti ***(Universitas Islam Negeri Syekh Wasil Kediri, Kota Kediri, Indonesia)***

Criminalization for Different Understandings: A Human Rights Analysis of Blasphemy Cases in Indonesia

Jurnal HAM, Volume 16, Number 2, August 2025, page 135-150

The right to have different interpretations of mainstream religious teachings in Indonesia can lead to criminal penalties. In practice, judges often rely on expert testimony to gain confidence that "those who are different" have committed the crime of blasphemy. The research method employed in this article is the Human Rights (HAM) research method, which emphasizes the study of court decisions related to criminal acts of blasphemy in Indonesia, particularly regarding the spread of beliefs that differ from the mainstream as blasphemy. The court decisions are analyzed using a human rights approach, especially the right to freedom of religion or belief (FoRB). As a result, 3 (three) of the 11 (eleven) court decisions reviewed still ignore the principle of impartiality in testing differences in interpretations of mainstream religious teachings. Judges do not open up space for dialogue to explore expert testimony from the defendant's perspective. This criminal justice practice, in turn, will undermine FoRB as a meaningful concept. In the future, differences in interpretation of mainstream religious teachings will not be a matter of criminalization, but rather of dialogue. Even if criminalization is necessary, what is prohibited is the crime of broadcasting religious hatred, the judicial process for which is carried out independently and impartially.

Keywords: blasphemy; freedom of religion or belief

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Rethinking Consent: Examining the Adequacy of the Concept of Consent in Digital Platform Agreements under Indonesian Civil Code

Jurnal HAM, Volume 16, Number 2, August 2025, page 151-164

Consent is often considered a concrete representation of an individual's will to freely choose independently. It is associated with the concept of individual autonomy, which is underpinned by the right to make one's own choices and freedom from coercion. However, in practice, consent within standard agreements on digital platforms often fails to reflect a truly voluntary and informed consumer agreement. Consumers' provision of consent on digital platforms frequently occurs without adequate understanding, genuine choice, or real bargaining power due to manipulation and undue influence exerted through dark patterns employed by platform operators. Therefore, this paper aims to analyze the adequacy of the concept of consent in the Indonesian Civil Code when applied to digital platform transactions. It employs a doctrinal legal research method to analyze the relevant provisions and their practical implications in the digital context. This paper argues that the current concept of consent in the Indonesian Civil Code is no longer adequate for application in digital platform environments. In particular, the act of providing consent through mechanisms such as an "I agree" checkbox and other similar formats may not genuinely reflect the consumer's informed and voluntary consent.

Keywords: consent; digital platforms; contract law

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Zahlul Pasha Karim, Rahmah Zakia (Fakultas Hukum, Universitas Gadjah Mada, Indonesia; Fakultas Ilmu Budaya, Universitas Gadjah Mada, Indonesia)

Menciptakan Musuh Imajiner: Penolakan Pengungsi Rohingya di Aceh

Jurnal HAM, Volume 16, Nomor 2, Agustus 2025, hal. 77-94

Penolakan terhadap pengungsi Rohingya di Aceh pada akhir tahun 2023 memunculkan berbagai narasi negatif yang membentuk citra buruk terhadap kelompok pengungsi tersebut di mata publik. Kajian ini berargumen bahwa penolakan terhadap pengungsi Rohingya terjadi karena adanya gambaran keberadaan mereka sebagai ancaman bagi masyarakat. Ada dua pertanyaan yang hendak dijawab: (1) bagaimana peran media sosial dalam memicu konstruksi musuh imajiner terhadap pengungsi Rohingya di Aceh?; dan (2) apa faktor yang mendorong perubahan sikap masyarakat Aceh dari bersolidaritas menjadi menolak keberadaan pengungsi Rohingya? Penelitian ini dilakukan secara deskriptif dari berbagai sumber literatur, konten media sosial dan berita pada media massa. Penelitian ini juga meminjam metode netnografi yang dikembangkan Kozinets untuk mempelajari budaya dan komunitas yang muncul dalam komunikasi komputer (media sosial). Hasil penelitian menunjukkan bahwa penolakan terhadap pengungsi Rohingya terjadi dalam tiga bentuk, yakni melalui sentimen negatif konten sosial media, pemberitaan aksi kriminal para pengungsi pada media, dan keberadaan pengungsi Rohingya yang dianggap bermasalah secara moral. Fenomena ini dilatari oleh tidak efektifnya mekanisme negara untuk melindungi kepentingan sosio-ekonomi warga lokal, dan tidak adanya kebijakan yang jelas dari pemerintah nasional terhadap pengungsi Rohingya. Dampaknya, penolakan terhadap pengungsi telah menimbulkan dehumanisasi, dan telah menciptakan musuh imajiner bagi warga lokal untuk membenarkan penolakan mereka terhadap pengungsi. Pengungsi tidak lagi dilihat sebagai manusia, melainkan ancaman, beban atau bahkan sebagai orang biadab yang tidak memiliki nilai-nilai kemanusiaan. Dengan menggunakan konsep musuh imajiner, studi ini menunjukkan bahwa tindakan masyarakat membenarkan penolakan mereka terhadap pengungsi karena keberadaan mereka dinilai sebagai suatu ancaman yang dibesar-besarkan dan berkembang menjadi ketakutan.

Kata Kunci: musuh imajiner; pengungsi Rohingya; penolakan pengungsi; dehumanisasi; media sosial

Giwoong Son *(Korea Center for United Nations Human Rights Policy (KOCUN), Korea)*

Kebijakan Kesejahteraan Sosial bagi Migran yang Menikah dan Keluarganya di Republik Korea

Jurnal HAM, Volume 16, Nomor 2, Agustus 2025, hal. 95-110

Dalam rangka memastikan perkawinan yang aman bagi migran yang menikah dan keluarganya dalam konteks multikulturalisme yang khas di Republik Korea, diperlukan pendekatan kesejahteraan berbasis hak dan bersifat universal guna mendorong inklusi yang sejati. Namun, kebijakan kesejahteraan sosial bagi migran yang menikah dan keluarga mereka saat ini justru menghadirkan pendekatan investasi sosial dengan metode pelabelan pelabelan, yang menimbulkan berbagai kesulitan serta dampak yang berlawanan terhadap inklusi penuh. Studi ini mengkaji kebijakan kesejahteraan sosial bagi migran yang menikah dan keluarganya, untuk mengidentifikasi dan menganalisis kesenjangan fungsional dan konsekuensi yang tidak diinginkan dalam kebijakan yang ada, serta mendorong pergeseran dari pendekatan pelabelan menuju kebijakan yang lebih inklusif dan berbasis hak yang mendukung pernikahan yang stabil. Melalui tinjauan pustaka yang ekstensif terhadap penelitian, peraturan perundang-undangan, survei pemerintah, dan laporan audit kebijakan yang relevan mengenai Kebijakan Keluarga Multikultural Korea, studi ini menyajikan rekomendasi revisi kebijakan sebagai respons terhadap tantangan yang terdapat dalam kerangka kerja saat ini. Alih-alih hanya berfokus pada perluasan layanan, temuan ini menggarisbawahi pentingnya peningkatan kualitas layanan dan proses implementasi sekaligus mengatasi bentuk-bentuk diskriminasi struktural. Studi ini lebih lanjut mengadvokasi pendekatan berbasis hak dalam penyediaan kesejahteraan, dengan meninggalkan praktik yang selektif, menargetkan kelompok tertentu, serta bersifat diskresif atau karitatif.

Kata Kunci: migrasi perkawinan; kebijakan kesejahteraan sosial; inklusi sosial; keluarga multikultural

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Calvin Paulus Marcelito Simanjuntak, Diajeng Wulan Christianti ***(Faculty of Law, Universitas Padjadjaran, Indonesia)***

Legitimasi Pencabutan Kewarganegaraan dalam Hukum Hak Asasi Manusia Internasional: Studi Kasus di Nikaragua

Jurnal HAM, Volume 16, Nomor 2, Agustus 2025, hal. 111-134

Hak atas kewarganegaraan merupakan prasyarat fundamental untuk dapat mengakses hak asasi manusia lainnya, namun pencabutannya secara sewenang-wenang tetap menjadi isu krusial dalam hukum internasional. Penelitian ini mengkaji Undang-Undang Nikaragua No. 1055 dan 1145, yang memberikan kewenangan untuk mencabut kewarganegaraan berdasarkan definisi "pengkhianatan" yang diperluas dan ambigu, mencakup tindakan politik damai seperti mendukung sanksi internasional. Kasus ini menunjukkan bagaimana kewarganegaraan, yang kerap digambarkan sebagai "hak untuk memiliki hak," dipolitisasi sebagai senjata, serta memperlihatkan bagaimana penyalahgunaan hukum kewarganegaraan mengancam integritas perlindungan hak asasi manusia internasional terhadap keadaan tanpa kewarganegaraan. Secara khusus, penelitian ini menelaah apakah definisi tersebut dapat membenarkan pencabutan kewarganegaraan berdasarkan standar Konvensi 1961 tentang Pengurangan Keadaan Tanpa Kewarganegaraan, serta apakah tindakan tersebut melanggar hak atas kebebasan berekspresi sebagaimana dilindungi oleh Pasal 19 Kovenan Internasional tentang Hak-Hak Sipil dan Politik (ICCPR). Dengan menggunakan pendekatan yuridis normatif, penelitian ini menganalisis instrumen hukum internasional bersama dengan hukum domestik Nikaragua serta memanfaatkan data sekunder dari organisasi seperti UNHCR. Temuan penelitian menunjukkan bahwa praktik Nikaragua tidak memenuhi kriteria legalitas, kebutuhan, dan proporsionalitas dalam hukum hak asasi manusia internasional, melainkan merupakan bentuk represi politik. Tindakan ini tidak hanya merusak tujuan Konvensi 1961, tetapi juga menjadi contoh bagaimana hukum kewarganegaraan dapat disalahgunakan untuk membungkam perbedaan pendapat. Oleh karena itu, penelitian ini menegaskan perlunya penguatan perlindungan internasional terhadap pencabutan kewarganegaraan secara sewenang-wenang.

Kata Kunci: hak atas kewarganegaraan; kebebasan berekspresi; hukum hak asasi manusia internasional; pencabutan kewarganegaraan; tanpa kewarganegaraan

Moch. Choirul Rizal, Michelle Salma Khotom Aji, Muhamad Atji Firmansyah, Unsa Elen Purwanti ***(Universitas Islam Negeri Syekh Wasil Kediri, Kota Kediri, Indonesia)***

Pemidanaan terhadap Perbedaan Pemahaman: Analisis Hak Asasi Manusia atas Perkara Penodaan Agama di Indonesia

Jurnal HAM, Volume 16, Nomor 2, Agustus 2025, hal. 135-150

Hak untuk berbeda penafsiran atas ajaran agama arus utama di Indonesia dapat berujung pada pemidanaan. Praktiknya, hakim kerap mengandalkan keterangan ahli untuk mendapatkan keyakinan bahwa "mereka yang berbeda" telah melakukan tindak pidana penodaan agama. Metode penelitian yang digunakan dalam artikel ini adalah metode penelitian hak asasi manusia (HAM) dengan menekankan pada studi terhadap putusan pengadilan terkait tindak pidana penodaan agama di Indonesia, khususnya mengenai penyebaran paham yang berbeda dari paham mainstream sebagai penodaan agama. Putusan pengadilan tersebut dianalisis dengan pendekatan HAM, khususnya hak atas kebebasan beragama atau berkeyakinan (KBB). Hasil yang dicapai adalah 3 (tiga) dari 11 (sebelas) putusan pengadilan yang ditelaah masih mengabaikan prinsip imparsialitas dalam menguji perbedaan penafsiran atas ajaran agama arus utama. Hakim tidak membuka ruang dialog untuk menggali keterangan ahli dari sudut pandang terdakwa. Praktik peradilan pidana tersebut pada gilirannya akan meruntuhkan KBB sebagai konsep yang bermakna. Ke depan, perbedaan penafsiran atas ajaran agama arus utama bukan menjadi ranah pemidanaan, tetapi dialog. Kalaupun kemudian perlu ada pemidanaan, maka yang menjadi terlarang adalah kejahatan siar kebencian agama, yang proses peradilannya dilakukan secara independen dan imparsial.

Kata Kunci: kebebasan beragama atau berkeyakinan; penodaan agama

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Meninjau Ulang "Sepakat": Menelaah Kelayakan Konsep Sepakat dalam Perjanjian Platform Digital berdasarkan Kitab Undang-Undang Hukum Perdata Indonesia

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Kesepakatan kerap dianggap sebagai representasi konkret dari kehendak individu untuk secara bebas memilih secara independen. Hal ini berhubungan erat dengan konsep otonomi individu, yang bertumpu pada hak untuk mengambil keputusan sendiri serta kebebasan dari segala bentuk paksaan. Namun, dalam praktiknya, kesepakatan dalam perjanjian baku di platform digital seringkali gagal mencerminkan persetujuan konsumen yang benar-benar sukarela dan berdasarkan informasi yang memadai. Pemberian kesepakatan oleh konsumen di platform digital seringkali terjadi tanpa pemahaman yang memadai, pilihan yang sungguh-sungguh bebas, maupun daya tawar yang seimbang akibat manipulasi dan pengaruh yang tidak semestinya dari dark patterns yang digunakan oleh platform. Sehubungan dengan hal tersebut, tulisan ini bermaksud untuk menganalisis kelayakan konsep sepakat dalam Kitab Undang-Undang Hukum Perdata (KUHPerdata) ketika diterapkan dalam transaksi pada digital platform. Tulisan ini menggunakan metode penelitian hukum doktrinal untuk menganalisis ketentuan-ketentuan yang relevan terkait kesepakatan dan implikasi praktisnya dalam konteks digital. Tulisan ini berargumen bahwa konsep sepakat yang ada dalam KUHPerdata tidak memadai untuk diterapkan dalam konteks platform digital. Secara khusus, tindakan pemberian kesepakatan melalui mekanisme, misalnya kotak centang 'I agree' maupun format sejenis lainnya, kerap kali tidak merepresentasikan persetujuan konsumen yang sungguh-sungguh didasarkan pada informasi yang memadai dan diberikan secara sukarela.

Kata Kunci: sepakat; digital platforms; hukum perjanjian