

The Role of Human Rights in Shaping Asia-Pacific Policies and Strategies: A Criminal Law Perspective

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Abstract

The Asia-Pacific region, with its complex cultural, social, and political diversity, faces significant challenges in integrating human rights into criminal law policies and strategies. This study aims to analyze the role of human rights in shaping criminal law policies and strategies in this region, focusing on the protection of the rights of the accused, the right to a fair

trial, and the protection of crime victims. The background of this research is the increasing global pressure on Asia-Pacific countries to implement international human rights standards within their criminal justice systems, amidst the diverse legal systems present in the region. This research utilizes normative legal methods by adopting statutory, conceptual, comparative, approaches. The nature of this research is descriptive-prescriptive. The data that has been collected is analyzed using the content analysis method. The findings indicate that, despite significant efforts to adopt human rights standards, challenges such as political instability, economic disparities, and differing legal traditions remain major obstacles. Additionally, the study finds that the implementation of restorative justice principles could be an effective solution to enhancing human rights protection within the context of criminal law in the Asia-Pacific region. Overall, this study concludes that, despite the complex challenges, strengthening international cooperation and commitment to the rule of law can better facilitate the integration of human rights into criminal law policies and strategies in the Asia-Pacific region. The findings provide crucial recommendations for policymakers and legal practitioners in their efforts to create a more just and humane criminal justice system.

Keywords

Human Rights; Criminal Law; Asia-Pacific; Fair Trial; Restorative Justice; Legal Systems; Victim Protection.

I. Introduction

The Asia-Pacific region is a highly diverse area, not only in terms of geography but also in culture, society, politics, and economy.¹ With a large and varied population, the countries in this region have different legal systems, including common law, civil law, and customary law, reflecting their unique colonial histories and local traditions.² While this diversity is a cultural strength, it also presents significant challenges in integrating international standards, including human rights, into criminal justice systems.

In recent decades, the Asia-Pacific has experienced significant political and social changes, often driven by rapid economic growth, urbanization, and globalization.³ However, the region also faces serious issues such as the rise of transnational crime, terrorism, human trafficking, and drug abuse. In response to these challenges, many countries in the region have strengthened their criminal laws, sometimes accompanied by policies that inadequately consider human rights principles. Political instability in some Asia-Pacific countries has negatively impacted human rights enforcement.⁴ For example, in Myanmar, the military's takeover in February 2021 led to a brutal crackdown on protesters and political opposition, including serious violations of basic rights such as freedom of assembly, freedom of

¹ Bhawani Venkataraman, "Education for Sustainable Development," *Environment: Science and Policy for Sustainable Development* 51, no. 2 (March 1, 2009): 8–10, <https://doi.org/10.3200/ENV.51.2.08-10>.

² Uwe Kischel, "Contexts in Asia," in *Comparative Law*, ed. Andrew Hammel and Uwe Kischel (Oxford University Press, 2019), 675–787, <https://doi.org/10.1093/oso/9780198791355.003.0009>.

³ Daniel T L Shek, "Editorial: A Snapshot of Social Work in the Asia-Pacific Region," *The British Journal of Social Work* 47, no. 1 (January 1, 2017): 1–8, <https://doi.org/10.1093/bjsw/bcx007>.

⁴ Disa Syakina Ahdanisa and Steven B. Rothman, "Revisiting International Human Rights Treaties: Comparing Asian and Western Efforts to Improve Human Rights," *Social Sciences* 1, no. 1 (January 2021): 1–10, <https://doi.org/10.1007/S43545-020-00018-0>.

expression, and the right to life.⁵ In the context of criminal law, arbitrary detentions, torture, and extrajudicial executions have become common practices, directly violating international standards.

In developing countries like Indonesia and the Philippines, the challenges in criminal justice are often linked to a lack of resources, corruption, and political influence. In Indonesia, high-profile cases such as those involving terrorism and corruption frequently spark debates about the extent to which the rights of the accused are respected. Reports of law enforcement using violence during terrorism investigations to extract confessions highlight violations of the right to be free from torture, as recognized by various international human rights instruments. Meanwhile, in the Philippines, the war on drugs led by President Rodrigo Duterte since 2016 has resulted in thousands of deaths, many occurring outside the legal process.⁶ This heavy-handed approach has drawn sharp criticism from the international community for violating the right to life and due process. This focus on punitive measures without regard for human rights demonstrates how criminal law policies can overreach and harm society if not balanced with the protection of fundamental rights.

Another significant issue in the Asia-Pacific is unequal access to justice. Many countries in the region have large populations with sharp economic disparities among different groups. Poorer communities often lack access to adequate legal services, including legal aid.⁷ In India, for example, while the country has adopted various laws to protect human rights, their implementation is often uneven, especially in remote rural areas. In these regions, the poor and marginalized frequently face

⁵ Richard C. Paddock, "Myanmar Coup: What to Know About the Protests and Unrest," *The New York Times*, 2022, <https://www.nytimes.com/article/myanmar-news-protests-coup.html>.

⁶ Dahlia Simangan, "Is the Philippine 'War on Drugs' an Act of Genocide?," *Journal of Genocide Research* 20, no. 1 (January 2, 2018): 68–89, <https://doi.org/10.1080/14623528.2017.1379939>.

⁷ Caitlin Mollica et al., "Women and the Justice Divide in Asia Pacific: How Can Informal and Formal Institutions Bridge the Gap?," *Human Rights Quarterly* 44, no. 3 (August 1, 2022): 612–39, <https://doi.org/10.1353/HRQ.2022.0029>.

difficulties in accessing justice due to high legal costs, limited legal knowledge, and systemic discrimination.⁸

In recent years, the concept of restorative justice has gained attention in the Asia-Pacific as an alternative to retributive criminal justice approaches. Restorative justice emphasizes healing and repairing relationships damaged by crime, involving offenders, victims, and the community.⁹ However, the implementation of restorative justice in the region is still in its early stages and faces various challenges, including resistance from conventional judicial systems and a lack of understanding of the benefits of this approach. For example, in Japan, there have been efforts to introduce restorative justice programs, particularly in cases involving minor offenses and juveniles. While there have been some early successes, much remains to be done to fully integrate restorative justice into the broader criminal justice system.¹⁰ The main challenge lies in changing the mindset of law enforcement officials and the public, who are accustomed to more repressive approaches.

International and regional legal instruments play a crucial role in encouraging Asia-Pacific countries to integrate human rights into their criminal justice policies. Treaties such as the International Covenant on Civil and Political Rights (ICCPR) and the ASEAN Human Rights Declaration serve as benchmarks for assessing the extent to which countries in the region comply with international standards.¹¹ However, despite the ratification of these instruments by many countries,

⁸ Jayanth Krishnan et al., "Grappling at the Grassroots: Access to Justice in India's Lower Tier," *Harvard Human Rights Journal* 27, no. 268 (2013): 1–40.

⁹ Gabrielle Maxwell and Hennessey Hayes, "Restorative Justice Developments in the Pacific Region: A Comprehensive Survey," *Contemporary Justice Review* 9, no. 2 (June 1, 2006): 127–54, <https://doi.org/10.1080/10282580600784929>.

¹⁰ Marika Dawkins and Camille Gibson, "The Juvenile Justice System of Japan: An Overview BT - Crime and Justice in Contemporary Japan," in *Crime and Justice in Contemporary Japan*, ed. Jianhong Liu and Setsuo Miyazawa (Cham: Springer International Publishing, 2018), 321–31, https://doi.org/10.1007/978-3-319-69359-0_18.

¹¹ Hurst Hannum, "Human Rights," ed. Simon Chesterman, Hisashi Owada, and Ben Saul, *The Oxford Handbook of International Law in Asia and the Pacific* (Oxford University Press, September 4, 2019), <https://doi.org/10.1093/law/9780198793854.003.0006>.

implementation at the national level often encounters obstacles, whether due to a lack of political will or structural challenges within national legal systems. Therefore, while there are frameworks in place to guide the integration of human rights into criminal justice, the reality of implementation remains a complex and ongoing challenge in the Asia-Pacific region.

II. Method

This research employs a normative legal method, incorporating legislative, conceptual, comparative approaches.¹² This method is selected to provide an in-depth and comprehensive analysis of the integration of human rights into criminal law policies and strategies in the Asia-Pacific region. The research is descriptive-prescriptive in nature, aiming not only to describe existing phenomena but also to offer recommendations and solutions based on the findings.¹³

The statutory approach involves examining relevant legal instruments at the international, regional, and national levels that govern human rights and criminal law.¹⁴ The instruments reviewed include the International Covenant on Civil and Political Rights (ICCPR), the ASEAN Human Rights Declaration, as well as national laws in Asia-Pacific countries related to human rights within the criminal law context. This analysis aims to understand the extent to which international norms have been adopted and implemented within the region's criminal justice systems.

The conceptual approach is utilized to explore the fundamental concepts underpinning human rights and criminal law. This research

¹² Aries Harianto, "Reformulation of Contractus Sui Generis Wage Arrangement of Work Agreements after the Covid-19 Pandemic," *Brawijaya Law Journal* 10, no. 1 (2023): 1–18, <https://doi.org/10.21776/ub.blj.2023.010.01.01>.

¹³ Yenny Aman Serah, Zico Junius Fernando, and Temmy Hastian, "Virtual Police: Guardians of Security and Consumer Protection in the Era of Electronic Information and Transactions," *Pakistan Journal of Criminology* 16, no. 2 (April 1, 2024): 1061–80, <https://doi.org/10.62271/PJC.16.2.1061.1080>.

¹⁴ Laode Rudita, "Citizen Compensation for Poor Public Service Delivery: A Civil Rights Perspective," *Brawijaya Law Journal* 10, no. 1 (2023): 19–33, <https://doi.org/10.21776/ub.blj.2023.010.01.02>.

examines concepts such as justice, the right to a fair trial, the rights of the accused, and victim protection within the criminal justice system. Through this approach, the study seeks to clarify and critically assess these concepts and how they are integrated into criminal law policies in the Asia-Pacific region.

The comparative approach is applied by comparing the implementation of human rights within criminal law across various Asia-Pacific countries. The research identifies best practices and gaps in the application of human rights in different jurisdictions. Countries are selected for comparison based on their relevance to the issues discussed, such as levels of political instability, legal diversity, and challenges in criminal law enforcement. This approach allows the research to provide a clearer picture of how human rights are integrated and how national contexts influence their implementation.

The research is descriptive-prescriptive, meaning it aims to describe and document how human rights are currently integrated into criminal justice systems in the Asia-Pacific. Simultaneously, the prescriptive nature of the study seeks to offer practical recommendations and solutions based on the analysis conducted. Therefore, the research is not only theoretical but also applicable, providing guidance for policymakers and legal practitioners.

Data for this research is collected through a literature review that includes the analysis of legal documents, scholarly journals, textbooks, reports from international organizations, and other relevant secondary data.¹⁵ The data is then analyzed using content analysis, allowing the researcher to identify key themes, patterns, and categories related to the research topic.¹⁶ This method aids in understanding how human rights concepts are applied within the criminal law context and how existing legislation supports or hinders the protection of human rights.

¹⁵ Zico Junius Fernando et al., "Robot Lawyer in Indonesian Criminal Justice System: Problems and Challenges for Future Law Enforcement," *Lex Scientia Law Review* 7, no. 2 (November 14, 2023): 489–528, <https://doi.org/10.15294/LESREV.V7I2.69423>.

¹⁶ Zico Junius Fernando et al, "The Freedom of Expression in Indonesia," *Cogent Social Sciences* 8, no. 1 (2022): 1–11, <https://doi.org/10.1080/23311886.2022.2103944>.

Once data is collected, it is analyzed using content analysis, which involves coding the data into specific themes related to the integration of human rights in criminal law across the Asia-Pacific region. Each theme is explored in-depth to identify the strengths and weaknesses in the application of human rights in different jurisdictions. This analysis also considers the political, social, and cultural contexts that influence the implementation of criminal law in the region. Through this systematic and structured methodology, the research aims to make a significant contribution to the understanding and development of criminal law policies that are more aligned with human rights in the Asia-Pacific region.

III. Application of Human Rights Principles in the Handling of Transnational Crimes: Challenges and Solutions in the Asia-Pacific

Transnational crimes such as human trafficking, terrorism, and cybercrime have become global threats that require a comprehensive approach to criminal law.¹⁷ In the Asia-Pacific region, addressing transnational crime has become increasingly complex due to the diversity of legal systems, cultures, and political contexts across the various countries in this area. When tackling transnational crime, the application of human rights principles often encounters significant challenges, particularly as nations strive to balance the need to protect national security and maintain public order with their obligations to safeguard individual rights.¹⁸

One example that illustrates the complexity of addressing transnational crime while adhering to human rights principles in the

¹⁷ Nazim Aliyev and Andrey Borbat, "Transnational Organized Crime in the Era of Globalization," *Russian Journal of Criminology* 14, no. 3 (2020): 431–40, [https://doi.org/10.17150/2500-4255.2020.14\(3\).431-440](https://doi.org/10.17150/2500-4255.2020.14(3).431-440).

¹⁸ John McFarlane, "Regional and International Cooperation in Tackling Transnational Crime, Terrorism and the Problems of Disrupted States," *Journal of Financial Crime* 12, no. 4 (January 1, 2005): 301–9, <https://doi.org/10.1108/13590790510624774>.

Asia-Pacific region is the case of Abu Bakar Ba'asyir in Indonesia. Ba'asyir, a radical cleric and spiritual leader of the Jemaah Islamiyah (JI) group, which is known for its militant activities in Southeast Asia, was linked to various terrorist acts, including the 2002 Bali bombings that killed over 200 people, most of them foreign tourists.¹⁹ The Indonesian authorities arrested Ba'asyir several times on terrorism charges and other illegal activities allegedly connected to terrorist operations. The handling of Ba'asyir's case presented serious challenges in balancing national security needs with protecting individual rights, such as the right to a fair trial and freedom from arbitrary detention. Despite efforts to prosecute him, Ba'asyir's repeated arrests and convictions faced criticism for lacking transparency and fairness, raising concerns about the infringement of human rights in the name of counterterrorism.

Another pertinent example is the case of human trafficking in Thailand, which highlights the severe challenges in implementing human rights principles while combating transnational crimes.²⁰ Thailand has long been a hub for human trafficking in Southeast Asia, with victims often coming from neighboring countries such as Myanmar, Laos, and Cambodia. In 2015, the discovery of a mass trafficking camp in Songkhla province, near the Malaysian border, brought international attention to the issue. The camp was used by trafficking networks to detain thousands of Rohingya refugees and economic migrants from Bangladesh before selling them into slavery.²¹ Despite Thailand's international commitments to combat human trafficking, systemic corruption, and weak law enforcement hampered efforts to protect victims' rights. The involvement of local security forces and government officials in trafficking networks further complicated

¹⁹ Kumar Ramakrishna, "The Four Mutations of Violent Muslim Extremism in Southeast Asia: Some Implications for a Cognitive Immunization Policy," *Asia Policy* 12, no. 1 (July 2011): 13–19, <https://doi.org/10.1353/ASP.2011.0020>.

²⁰ Journal Of Law & Legal Reform Volume; Cited As Sihotang and N Wiriya, "Human Trafficking in Thailand in Perspective of Human Rights Law," *Journal of Law and Legal Reform* 2, no. 4 (August 18, 2021): 505–14, <https://doi.org/10.15294/JLLR.V2I4.48760>.

²¹ Supang Chantavanich, "Thailand's Challenges in Implementing Anti-Trafficking Legislation: The Case of the Rohingya," *Journal of Human Trafficking* 6, no. 2 (March 14, 2020): 234–43, <https://doi.org/10.1080/23322705.2020.1691825>.

efforts to uphold human rights while addressing this transnational crime.

The war on drugs in the Philippines under President Rodrigo Duterte presents a third example of the challenges in maintaining human rights while addressing transnational crime.²² Since 2016, Duterte's aggressive anti-drug campaign has led to thousands of arrests and extrajudicial killings, particularly targeting small-time drug users and dealers. Despite the Philippines being a signatory to various international human rights treaties, the campaign has been widely condemned for violating the right to life, due process, and freedom from torture. The international community, including the United Nations, has criticized the campaign for its disregard of human rights, while domestic critics face threats and intimidation.²³ Cases like that of Kian Loyd delos Santos, a 17-year-old shot dead by police under dubious circumstances, have become symbols of the campaign's brutality and the systemic impunity that allows such abuses to go unpunished.²⁴

These three cases from Indonesia, Thailand, and the Philippines underscore the inherent difficulties in enforcing transnational criminal law within the diverse legal, cultural, and political contexts of the Asia-Pacific region. Each case highlights the tension between national security measures and the need to protect human rights, demonstrating the critical need for robust legal frameworks, regional cooperation, and consistent human rights protections to ensure that justice is not only served but also conducted in a manner that respects the fundamental rights of individuals.

From a legal perspective, the application of human rights principles in addressing transnational crime requires a clear and consistent legal framework at both the national and international levels. The International Covenant on Civil and Political Rights (ICCPR) and the

²² Mark Thompson, Kevin Agojo, and Joyce Li Liang, "Framing' the Opposition: The Limits of Mobilization against Duterte's 'War on Drugs' in the Philippines," *Critical Asian Studies* 56, no. 2 (April 2, 2024): 253–76, <https://doi.org/10.1080/14672715.2024.2319037>.

²³ Hendra Maujana Saragih & Anisa Prayuningsih, "Kebijakan War on Drug Presiden Duterte," *Populis: Jurnal Sosial Dan Humaniora* 6 (2021): 153–65.

²⁴ Gary Devilles, "Framing Kian," *Verge: Studies in Global Asias* 6, no. 1 (March 1, 2020): 23–27, <https://doi.org/10.5749/VERGSTUDGLOBASIA.6.1.0023>.

Convention Against Torture are two key instruments that establish human rights standards within the context of criminal law enforcement.²⁵ At the regional level, the ASEAN Human Rights Declaration serves as a guideline, although it is often criticized for its lack of binding legal authority.

However, the implementation of these standards in Asia-Pacific countries is frequently hindered by discrepancies between national laws and international commitments. For instance, in combating terrorism, some Asia-Pacific countries, such as the Philippines and Indonesia, have enacted anti-terrorism laws that grant broad powers to security forces, including detention without trial and the use of excessive force. While these laws are intended to protect national security, they often disregard fundamental rights, such as the right to a fair trial and the right to be free from torture, directly violating international human rights standards.

From the perspective of transnational crime management, there is a need to balance the principles of utilitarianism which focuses on the overall well-being of society and deontology which emphasizes the protection of individual rights. John Stuart Mill, a prominent figure in utilitarianism, argued that the right action is the one that produces the greatest happiness for the greatest number of people.²⁶ However, in the context of law enforcement, this approach often translates into policies that sacrifice individual rights for the sake of national security.

In contrast, Immanuel Kant, with his deontological theory, stressed that individuals must be treated as ends in themselves, not as means to an end. In this context, a Kantian approach would critique law enforcement actions that violate fundamental individual rights, even under the pretext of protecting the broader society.²⁷ This leads to the argument that the application of criminal law in addressing

²⁵ Varun VM, "Human Rights-Based Approach to Combat Transnational Crime," *Eucrim*, no. 2 (2020): 154 – 156, <https://doi.org/10.30709/eucrim-2020-012>.

²⁶ Suparna Dey, "Happiness and Individual," *International Journal of English Literature and Social Sciences* 8, no. 3 (2023): 461–65, <https://doi.org/10.22161/IJELS.83.69>.

²⁷ Mark D White, "A Kantian Critique of Neoclassical Law and Economics," *Review of Political Economy* 18, no. 2 (April 1, 2006): 235–52, <https://doi.org/10.1080/09538250600571494>.

transnational crime must consider human rights principles as an inviolable moral foundation, even in emergency situations.

International legal and human rights figures, such as Louise Arbour, former UN High Commissioner for Human Rights, have emphasized the importance of safeguarding human rights within criminal law enforcement, including in the context of addressing transnational crime.²⁸ Arbour argues that states should not use security threats as a justification for neglecting their obligations to protect human rights.²⁹ This viewpoint aligns with the perspectives of organizations like Human Rights Watch and Amnesty International, which have consistently criticized countries that enact laws restricting individual rights under the pretext of security.

At the international level, the UN Security Council, through Resolution 1373 (2001), underscores the importance of countering terrorism while respecting human rights.³⁰ This resolution recognizes that efforts to combat terrorism must be conducted in accordance with states' obligations under international law, particularly human rights, refugee law, and international humanitarian law.

Another clear example of the gap between international standards and on-the-ground practices can be seen in the case of "Extraordinary Rendition" conducted by the United States after the September 11, 2001 attacks. In these operations, terrorism suspects were abducted and transferred to other countries for interrogation, often in locations where they were not protected by laws prohibiting torture.³¹ This practice

²⁸ Yash Krishna Pandey, "Criminal Law and Human Rights," *International Journal For Multidisciplinary Research* 6, no. 2 (2024): 1–6, <https://doi.org/10.36948/ijfmr.2024.v06i02.16404>.

²⁹ Stephanie Carvin, "A Responsibility to Reality: A Reply to Louise Arbour," *Review of International Studies* 36, no. S1 (2010): 47–54, <https://doi.org/DOI:10.1017/S0260210511000088>.

³⁰ Carlotta M. Minnella, "Counter-Terrorism Resolutions and Listing of Terrorists and Their Organizations by the United Nations," in *International Human Rights and Counter-Terrorism* (Springer, Singapore, 2019), 1–23, https://doi.org/10.1007/978-981-10-3894-5_4-1.

³¹ Fiona Lau, "The Treatment of High Value Detainees Under the United States' Extraordinary Rendition Program: A Case of Crimes Against Humanity for the International Criminal Court," *UNSW Law Journal* 3, no. 2008 (2016): 1261–96.

faced international criticism for violating the Convention Against Torture, which explicitly prohibits transferring individuals to countries where they face a risk of torture.

In the Asia-Pacific region, similar policies have been implemented through regional cooperation that sometimes disregards fair legal procedures. For instance, in handling human trafficking, many identified victims do not receive adequate protection and are often criminalized or repatriated without proper legal processes. This contradicts the Palermo Protocol (2000), which obligates countries to protect the rights of trafficking victims.³²

The primary challenge in applying human rights principles to the handling of transnational crime in the Asia-Pacific region is the tendency to prioritize national security over individual rights. This issue is often exacerbated by the lack of effective oversight and accountability mechanisms in law enforcement. Such an imbalance can lead to practices that undermine human rights, such as arbitrary detention, torture, and the denial of fair legal processes, particularly in the context of counterterrorism and anti-trafficking measures.

To address these challenges, several solutions have been proposed:

1. Strengthening International Cooperation.

One key solution is to enhance international cooperation through extradition treaties that respect human rights principles. These treaties should include provisions that protect individuals from being transferred to countries where they may face torture, inhumane treatment, or unfair trials. For example, the European Convention on Extradition includes protections against extradition if the individual is likely to face the death penalty, torture, or other forms of cruel treatment a standard that could be adopted in the Asia-Pacific region.³³

2. Enhancing Law Enforcement Capacity.

³² Aura Ratrika & Jun Justinar, "Protection of Indonesian Illegal Migrant Workers Victims of Trafficking in Malaysia According to the Palermo Protocol Of," *Reformasi Hukum Trisakti* 6, no. 1 (2024): 399–408.

³³ Christine Van Den Wyngaert, "Applying the European Convention on Human Rights to Extradition: Opening Pandora's Box?," *International and Comparative Law Quarterly* 39, no. 4 (1990): 757–79, <https://doi.org/DOI:10.1093/iclqaj/39.4.757>.

Another important step is to increase the capacity of law enforcement agencies through training programs focused on human rights. This training should emphasize the importance of upholding international human rights standards, even in the face of national security threats. For instance, the Norwegian Center for Human Rights has developed training modules for law enforcement that integrate human rights into the daily practices of police and security forces, providing a model that could be adapted for use in Asia-Pacific countries.

3. Adopting a Holistic Approach.

A holistic approach to transnational crime involves not only punitive measures but also preventive and rehabilitative strategies. This includes efforts to address the root causes of crime, such as poverty and lack of education, and to provide support for the rehabilitation of offenders. For example, the United Nations Office on Drugs and Crime (UNODC) has promoted comprehensive programs that combine law enforcement with social and economic initiatives aimed at preventing crime and reintegrating offenders into society.³⁴

To ensure that human rights are consistently respected in the enforcement of transnational criminal law, it is crucial to develop legal frameworks that allow for greater involvement of independent institutions and civil society in overseeing law enforcement practices. This can be achieved through the establishment of regional human rights commissions with the authority to review law enforcement practices and provide binding recommendations to member states.

For example, the African Commission on Human and Peoples' Rights (ACHPR) has played a key role in monitoring human rights violations across Africa, including in the context of transnational crime.³⁵ A similar body in the Asia-Pacific could serve as a human rights

³⁴ Hanna Heikkilä, Wadih Maalouf, and Giovanna Campello, "The United Nations Office on Drugs and Crime's Efforts to Strengthen a Culture of Prevention in Low- and Middle-Income Countries," *Prevention Science* 22, no. 1 (2021): 18–28, <https://doi.org/10.1007/s11121-020-01088-5>.

³⁵ Manisuli Ssenyonjo, "Responding to Human Rights Violations in Africa: Assessing the Role of the African Commission and Court on Human and Peoples'

watchdog, ensuring that law enforcement practices align with international standards. In Europe, the European Court of Human Rights (ECHR) plays a crucial role in holding states accountable for human rights violations, including in cases related to transnational crime. The ECHR has the authority to hear cases brought by individuals who claim that their rights have been violated by a member state, and its decisions are binding on those states. This mechanism provides a model of how regional oversight can be effectively implemented.³⁶

For the Asia-Pacific region, establishing a similar judicial or quasi-judicial body could be a significant step forward. Such a body would need to be supported by strong legal frameworks that guarantee its independence and the enforceability of its decisions. Moreover, there should be an emphasis on building the capacity of this body to handle cases involving transnational crime, including the development of expertise in areas such as terrorism, human trafficking, and cybercrime.

IV. Restorative Justice as an Alternative in the Asia-Pacific Criminal Justice System: Potential and Implementation Challenges

Restorative justice is an approach within the criminal justice system that focuses on repairing the harm experienced by victims, offenders, and the community.³⁷ This approach differs from traditional criminal justice systems that emphasize retributive aspects, where punishment is imposed as a form of retribution for the crime committed. In the Asia-

Rights (1987-2018),” *International Human Rights Law Review* 7, no. 1 (2018): 1–42, <https://doi.org/10.1163/22131035-00701003>.

³⁶ Petra Guasti, David S Siroky, and Daniel Stockemer, “Judgement Without Justice: On the Efficacy of the European Human Rights Regime,” *Democratization* 24, no. 2 (February 23, 2017): 226–43, <https://doi.org/10.1080/13510347.2016.1154841>.

³⁷ Mark Briskey, “Restorative Justice: Drawing from the Old to Develop New Justice Alternatives,” in *The Cambridge Handbook of Forensic Psychology*, ed. Jennifer M Brown and Miranda A H Horvath, 2nd ed., Cambridge Handbooks in Psychology (Cambridge: Cambridge University Press, 2021), 514–29, <https://doi.org/DOI:10.1017/9781108848916.032>.

Pacific region, there is significant potential for adopting restorative justice, but there are also considerable challenges in its implementation.

The Asia-Pacific region is incredibly rich in cultural diversity and holds strong communal values such as social harmony, respect for authority, and conflict resolution through mediation. Restorative justice, which emphasizes healing and peaceful resolution, aligns closely with these values. For example, in Indonesian society, the concepts of "gotong royong" (mutual cooperation) and "musyawarah untuk mufakat" (deliberation to reach consensus) reflect a tendency to resolve conflicts collectively and through consensus, which is consistent with the principles of restorative justice.³⁸ From a legal theory perspective, this approach can be seen as an application of natural law theory, where the law should reflect the moral and social values of society. In this context, restorative justice offers a more humane and community-based approach compared to the retributive approach, which tends to be more legalistic and formal.

Restorative justice provides space for victims to actively participate in the conflict resolution process, allowing them to express their needs and expectations. This is highly consistent with human rights principles that emphasize the importance of participation and respect for human dignity. In legal theory, this can be linked to the views of scholars like John Rawls, who emphasized the importance of justice as fairness, where every individual has the right to be treated fairly and equally.³⁹ The implementation of restorative justice in some countries, such as New Zealand and Australia, has shown positive impacts in terms of victim recovery and the reintegration of offenders into society. This approach also reflects a legal philosophy oriented towards balance and harmony, as found in East Asian traditions such as Confucianism, which emphasizes the importance of restoring social relationships and harmony within the community.

The development of restorative justice models tailored to local contexts is a crucial aspect of successful implementation in the Asia-

³⁸ Benny Elfian Syah and Didik Endro Purwoleksono, "Ius Constituendum Restorative Justice in Indonesia," *Media Iuris* 6, no. 3 (2023): 365–78, <https://doi.org/10.20473/mi.v6i3.44405>.

³⁹ Pan Mohamad Faiz, "Teori Keadilan Jhon Rawls," *Jurnal Konstitusi* 6, no. 1 (2009): 135–36, <https://doi.org/http://dx.doi.org/10.2139/ssrn.2847573>.

Pacific. This region has diverse legal systems ranging from customary law in the Pacific Islands to mixed legal systems in Malaysia and the Philippines that require flexible and adaptive approaches. In legal theory, this can be seen as an application of legal pluralism, where various legal systems can complement and adapt to the local socio-cultural context. For example, in Japan, the approach of mediation has long been part of the conflict resolution culture and can be integrated into the criminal justice system through programs like restorative conferences. This reflects the understanding that law is not a static entity but must be responsive to the evolving needs of society. This approach is also in line with the philosophy of legal pragmatism, where the law is seen as a tool that must be adjusted to practical needs and local conditions to achieve substantive justice.

Restorative justice in the Asia-Pacific region demonstrates great potential to strengthen human rights protection, improve social relationships, and develop a more inclusive and adaptive legal model that aligns with the local cultural context.

The implementation of restorative justice in the Asia-Pacific region faces several significant challenges. One of the primary obstacles is the structural limitations within the existing criminal justice systems. Many countries in the region, such as Indonesia and Thailand, have legal systems heavily influenced by their colonial past, with a strong emphasis on retributive justice and formalistic procedures. For instance, the Dutch and British legal traditions that dominate these systems prioritize imprisonment as the main form of punishment, making it difficult to integrate restorative justice, which focuses on out-of-court settlements and rehabilitation.⁴⁰

In addition to structural barriers, cultural resistance also poses a challenge to the implementation of restorative justice. Although this approach aligns with communal values, it often encounters opposition from various stakeholders, including law enforcement officers, lawyers, and judges who are accustomed to traditional punitive approaches. In some cases, such as in South Korea, there is a strong social stigma against

⁴⁰ Nurul Putri Awaliah Nasution, Jubair Jubair, and Abdul Wahid, "The Restorative Justice: Ideality, Reality, and Problems in The Indonesia Criminal Justice System," *Rechtsidee* 10, no. 2 (December 12, 2022): 1–10, <https://doi.org/10.21070/jihr.v11i0.775>.

offenders, coupled with a public perception that demands harsh punishment, which hampers the acceptance of restorative justice practices.⁴¹

Furthermore, the lack of supportive policies and legislative frameworks is another significant impediment. In many countries, there is minimal policy support for restorative justice, and clear legal frameworks regulating its implementation are often absent. In Indonesia, for example, despite initiatives to incorporate restorative justice in handling juvenile cases through the Juvenile Justice System (SPPA), its application remains limited and not comprehensive. Without robust policy backing, restorative justice struggles to achieve widespread implementation.⁴²

However, there are notable examples in the Asia-Pacific region where restorative justice has been successfully implemented, demonstrating its potential. In New Zealand, the Youth Justice System has been a pioneer in applying restorative justice, particularly in cases involving juveniles.⁴³ Through Family Group Conferences, young offenders are given the opportunity to participate in a process that involves victims, offenders, and the community, focusing on restoration and healing. This model has gained international recognition and has been successful in reducing recidivism rates and improving relationships between offenders and their communities.

In Australia, restorative justice programs have been implemented within Indigenous communities, such as in the Northern Territory, where the Supreme Court allows restorative conferences as part of the judicial process for Indigenous offenders.⁴⁴ This approach not only aids

⁴¹ Won Kyung Chang, "Old Wine in New Wineskins? A Trial of Restorative Justice in a Korean Criminal Court," *Asian Journal of Law and Society* 5, no. 2 (2018): 391–411, <https://doi.org/DOI: 10.1017/als.2017.34>.

⁴² Abdul Halim, "The Application of Restorative Justice in Civil Dispute Resolution: Potentials and Challenges in Indonesia," *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam* 5, no. 1 (2023): 883–90, <https://doi.org/10.37680/almanhaj.v5i1.2729>.

⁴³ Gabrielle Maxwell and Allison Morris, "Youth Justice in New Zealand: Restorative Justice in Practice?," *Journal of Social Issues* 62, no. 2 (June 1, 2006): 239–58, <https://doi.org/10.1111/J.1540-4560.2006.00449.X>.

⁴⁴ Heather Strang, "Restorative Justice Programs in Australia: A Report to the Criminology Research Council," *The Australian Institute of Criminology*, no.

in the recovery of victims but also strengthens the social structures of Indigenous communities that have been impacted by colonialism and marginalization. Similarly, in the Philippines, penal mediation has been adopted as part of the criminal justice system, particularly for minor offenses. This program facilitates conflict resolution through mediation involving victims, offenders, and neutral third parties. It is an example of how restorative justice can be integrated into a formal criminal justice system and serve as a tool to alleviate the burden on courts and overcrowded prisons.

These examples highlight both the challenges and the potential for restorative justice in the Asia-Pacific region, illustrating how it can be adapted and implemented within different legal and cultural contexts to achieve more just and equitable outcomes. Despite challenges, the potential benefits of restorative justice in the Asia-Pacific region are considerable. By addressing the structural, cultural, and policy-related obstacles, restorative justice can play a crucial role in enhancing human rights protections and improving the overall quality of justice. This approach not only provides a more humane and culturally resonant response to crime but also offers practical solutions to some of the region's most pressing issues, such as overcrowded prisons, lengthy judicial processes, and the need for community-based conflict resolution mechanisms. The key to unlocking this potential lies in the commitment of policymakers, legal reformers, and community leaders to fostering an environment that supports restorative justice through comprehensive structural reforms, targeted policy interventions, and a cultural shift towards valuing restoration over retribution. With these elements in place, restorative justice could significantly contribute to building more just, equitable, and harmonious societies across the Asia-Pacific region.

March (2001):
<http://www.criminologyresearchcouncil.gov.au/reports/strang/report.pdf>.

V. The Impact of Digital Technology on Human Rights Protection in Criminal Justice Processes in the Asia-Pacific

Digital technology has revolutionized various aspects of human life, including the criminal justice process. In the Asia-Pacific region, the development of digital technologies such as Artificial Intelligence (AI) and digital surveillance systems are increasingly being utilized by law enforcement agencies. However, these advancements raise fundamental questions about how human rights, such as the right to privacy, the presumption of innocence, and the right to a fair trial, can be protected within a criminal justice framework that is increasingly influenced by the use of advanced technology.

The right to privacy is a fundamental human right, widely recognized in various international instruments, including the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR).⁴⁵ In the context of criminal law, individual privacy is often threatened by the use of digital surveillance technologies, such as CCTV, tracking devices, and facial recognition software. The increasing sophistication of surveillance technology poses a higher risk of privacy violations. For instance, the widespread use of facial recognition technology can lead to privacy breaches without the consent of the individuals being monitored. In many Asia-Pacific countries, the regulation governing the use of such technologies remains inadequate. For example, in China, the extensive surveillance system has raised concerns about mass surveillance being used to suppress dissent and individual freedoms. The presumption of innocence is a cornerstone of criminal justice systems, ensuring that a person is considered innocent until proven guilty in a court of law. However, the use of AI technology in criminal data analysis can threaten this principle. The algorithms employed in AI are often based on data that may be biased or inaccurate, potentially leading to erroneous

⁴⁵ Alexandra Rengel, "Privacy as an International Human Right and the Right to Obscurity in Cyberspace," *Groningen Journal of International Law* 2, no. 2 (December 5, 2014): 33–54, <https://doi.org/10.21827/5A86A81E79532>.

conclusions about a person's guilt. For instance, in countries like Singapore, the use of predictive technology to assess the risk posed by offenders has raised concerns that individuals might be treated as guilty based on data analysis that may not be fully accurate. This could result in serious violations of the presumption of innocence, as people could be unfairly targeted or penalized before any judicial process has established their guilt. Similarly, the right to a fair trial, or fair trial, faces challenges in the digital era. While digital technology can be used to expedite judicial processes, it also raises issues related to transparency, accountability, and access to justice. For example, the use of AI in legal decision-making can reduce the transparency of the process, as the algorithms used are often proprietary and inaccessible to the public, or even to the defendants and their legal representatives. In Japan, AI technology is beginning to be used in sentencing decisions. Although this can improve efficiency, the lack of transparency in AI-driven decision-making processes can undermine the defendant's right to understand and challenge the evidence used against them, which is a fundamental aspect of a fair trial.⁴⁶ These challenges highlight the need for careful consideration and regulation of how digital technologies are integrated into criminal justice systems to ensure that they do not infringe upon essential human rights principles.

From a philosophical perspective, the use of digital technology in criminal law challenges fundamental concepts of justice, freedom, and individual autonomy. Philosopher Michel Foucault has critiqued the use of technology as a tool of social control that can erode individual freedoms. In his works on "panopticism," Foucault emphasized how constant surveillance creates a society filled with fear, leading to the loss of freedom.⁴⁷ Foucault's views are particularly relevant in the context of digital surveillance in the Asia-Pacific region, where governments often use these technologies to maintain social control. For instance, in China and several other countries, digital surveillance has become a tool for

⁴⁶ Jasper Ulenaers, "The Impact of Artificial Intelligence on the Right to a Fair Trial: Towards a Robot Judge?," *Asian Journal of Law and Economics* 11, no. 2 (August 1, 2020): 1–10, <https://doi.org/10.1515/AJLE-2020-0008/MACHINEREADABLECITATION/RIS>.

⁴⁷ Michael C Behrent, "Foucault and Technology," *History and Technology* 29, no. 1 (March 1, 2013): 54–104, <https://doi.org/10.1080/07341512.2013.780351>.

monitoring and suppressing minorities, activists, and individuals deemed threats to state stability.

From the perspective of retributive justice, the use of AI and digital technology in criminal proceedings raises ethical questions about whether these technologies can be relied upon to achieve true justice. Philosopher John Rawls, in his theory of distributive justice, argues that every decision must be fair and consider the interests of all parties involved.⁴⁸ However, AI and surveillance algorithms often overlook the social and individual contexts crucial for achieving genuinely just outcomes.

Many international legal experts have voiced concerns about the negative impact of digital technology on human rights within criminal law. One prominent figure is Joseph Cannataci, former UN Special Rapporteur on the Right to Privacy. Cannataci has been a vocal critic of mass surveillance technologies, arguing that they are often used without adequate oversight, leading to systematic violations of privacy rights.⁴⁹

Another key figure, Mireille Hildebrandt, an expert in law and technology, has highlighted how algorithms can create injustice if not properly regulated. Hildebrandt argues that strict regulation is necessary to ensure that these technologies do not undermine fundamental principles of justice in criminal proceedings. Internationally, there is significant debate on how digital technology should be regulated in the context of criminal law to protect human rights. The UN Human Rights Council has issued various recommendations to prevent the misuse of digital technology by governments and law enforcement agencies. For example, in its latest report, the Council emphasized the importance of transparency, accountability, and oversight in the use of AI in law enforcement.

⁴⁸ Paul Smith, "John Rawls's Theory of Justice BT - Moral and Political Philosophy: Key Issues, Concepts and Theories," in *Moral and Political Philosophy*, ed. Paul Smith (London: Palgrave Macmillan UK, 2008), 185–210, https://doi.org/10.1007/978-0-230-59394-7_12.

⁴⁹ Graham Greenleaf, "The UN Special Rapporteur: Advancing a Global Privacy Treaty?," *UNSW Law Research*, August 1, 2015, 1–5, <https://papers.ssrn.com/abstract=2672549>.

In the European Union, the General Data Protection Regulation (GDPR) has become a model for protecting privacy rights in the digital age.⁵⁰ While the Asia-Pacific region exhibits diverse approaches to digital technology regulation, some countries, like Australia, have begun adopting stricter measures for personal data protection, although they still lag in regulating AI and surveillance technology. Real-world examples highlight the significant challenges posed by the development of digital technology in protecting human rights within the criminal justice processes in the Asia-Pacific region. In China, the use of surveillance technology has reached unprecedented levels, with over 200 million surveillance cameras installed across the country, raising serious privacy concerns, particularly for minority groups like the Uighurs, who have been subjected to intense surveillance.⁵¹ This case illustrates how surveillance technology can be used to systematically violate human rights. In Japan, the implementation of AI in sentencing decisions has sparked concerns about the fairness of the judicial process. Instances where AI-driven decisions failed to consider the individual circumstances of defendants have led to dissatisfaction and questioned the fairness of these judgments. Similarly, in Singapore, predictive technology is used to assess the risk posed by offenders, with the aim of crime prevention.⁵²

However, there are concerns that this system could reinforce existing biases and unfairly target individuals wrongly identified as high-risk. These examples demonstrate the need for a cautious and comprehensive approach to regulating the use of digital technologies in criminal justice, ensuring strict oversight, transparency, and the involvement of various stakeholders in policymaking. Such an approach

⁵⁰ Shannon Togawa Mercer, "The Limitations of European Data Protection As A Model for Global Privacy Regulation," *AJIL Unbound* 114 (2020): 20–25, <https://doi.org/DOI: 10.1017/aju.2019.83>.

⁵¹ James Leibold, "Surveillance in China's Xinjiang Region: Ethnic Sorting, Coercion, and Inducement," *Journal of Contemporary China* 29, no. 121 (January 2, 2020): 46–60, <https://doi.org/10.1080/10670564.2019.1621529>.

⁵² Ming Hwa Ting et al., "Predicting Recidivism among Youth Offenders: Augmenting Professional Judgement with Machine Learning Algorithms," *Journal of Social Work* 18, no. 6 (November 1, 2018): 631–49, https://doi.org/10.1177/1468017317743137/ASSET/IMAGES/LARGE/10.1177_1468017317743137-FIG4.JPEG.

is crucial to ensuring that technology supports, rather than undermines, fundamental principles of justice and human rights.

To address the challenges posed by the use of digital technology in criminal justice systems, particularly in the Asia-Pacific region, a multi-faceted approach is necessary. Firstly, the development of comprehensive and specific regulations governing the use of AI and digital surveillance technologies is crucial. For example, Japan has started implementing stricter guidelines on the use of facial recognition technology, requiring explicit consent from individuals before their biometric data is used, which aligns with principles of transparency and accountability similar to the European Union's General Data Protection Regulation (GDPR). Independent oversight bodies must be established to monitor and evaluate the use of these technologies by law enforcement agencies. A concrete example is the establishment of the Australian Human Rights Commission's initiative to develop AI guidelines, which include the creation of an independent body to audit AI systems used by the government, ensuring that AI algorithms and surveillance systems are properly audited and potential human rights violations are thoroughly investigated.

Furthermore, law enforcement officers should receive specialized training on the responsible use of technology, emphasizing the importance of protecting privacy rights, upholding the presumption of innocence, and ensuring fair trials. In South Korea, the government has initiated training programs for police officers focused on the ethical use of AI and digital tools, emphasizing the protection of individual rights and the principles of justice. The development of new technologies must also be guided by ethical considerations, with Human Rights Impact Assessments (HRIAs) conducted to prevent potential violations.⁵³ An example of this in practice is New Zealand's approach to digital surveillance, where all new surveillance technologies undergo HRIAs before they are implemented, ensuring that any potential impact on human rights is thoroughly assessed and mitigated.

⁵³ James Harrison, "Measuring Human Rights: Reflections on the Practice of Human Rights Impact Assessment and Lessons for the Future," *SSRN Electronic Journal*, November 10, 2010, 1–29, <https://doi.org/10.2139/SSRN.1706742>.

International collaboration is also essential, as countries in the Asia-Pacific region should work together to harmonize regulations and develop global standards for the use of digital technologies in criminal justice. This can be seen in the ASEAN region's efforts to create a unified framework for cybersecurity, which includes standards for the ethical use of AI in law enforcement, thereby promoting consistency across borders.

This collaborative effort should also include the establishment of forums for discussing best practices and challenges, such as the Asia-Pacific Privacy Authorities (APPA) forum, which provides a platform for regional cooperation and dialogue on privacy and data protection issues. Additionally, civil society must be empowered to participate in the policymaking process, advocating for public awareness and monitoring potential abuses of technology. A practical example is the active involvement of civil society organizations in India, such as the Internet Freedom Foundation, which has been.

VI. Conclusion

The Asia-Pacific region, characterized by its cultural, legal, and political diversity, faces significant challenges in integrating human rights into its criminal law policies and strategies. The region's efforts to incorporate international human rights standards are often hindered by political instability, economic disparities, and differing legal traditions. Despite these challenges, the study highlights that the adoption of restorative justice principles and the cautious implementation of digital technology can enhance human rights protection within the criminal justice framework. The integration of human rights into criminal law across the Asia-Pacific region requires a robust legal framework that balances national security concerns with the protection of individual rights. This is particularly evident in the management of transnational crimes, where the application of human rights principles often conflicts with national security measures. The study suggests that strengthening international cooperation, enhancing law enforcement capacity, and adopting a holistic approach are crucial for addressing these challenges.

Moreover, the study underscores the potential of restorative justice as an alternative to retributive justice in the region. Restorative justice aligns with the communal values prevalent in Asia-Pacific societies and offers a more humane approach to conflict resolution. However, its implementation faces structural, cultural, and policy-related obstacles that need to be addressed through comprehensive reforms. The impact of digital technology on human rights protection in criminal justice processes is another critical area of concern. While digital advancements can improve efficiency, they also pose risks to privacy, the presumption of innocence, and the right to a fair trial. The study recommends the development of specific regulations, independent oversight bodies, and international collaboration to mitigate these risks. In conclusion, while significant challenges remain, the study advocates for a balanced approach that respects human rights while addressing the unique legal and cultural contexts of the Asia-Pacific region. By fostering international cooperation, embracing restorative justice, and carefully regulating digital technology, the region can work towards a more just and humane criminal justice system.

VII. References

- Ahdanisa, Dissa Syakina, and Steven B. Rothman. "Revisiting International Human Rights Treaties: Comparing Asian and Western Efforts to Improve Human Rights." *Social Sciences* 1, no. 1 (January 2021): 1–10. <https://doi.org/10.1007/S43545-020-00018-0>.
- Aliyev, Nazim, and Andrey Borbat. "Transnational Organized Crime in the Era of Globalization." *Russian Journal of Criminology* 14, no. 3 (2020): 431–40. [https://doi.org/10.17150/2500-4255.2020.14\(3\).431-440](https://doi.org/10.17150/2500-4255.2020.14(3).431-440).
- Aura Ratrika & Jun Justinar. "Protection of Indonesian Illegal Migrant Workers Victims of Trafficking in Malaysia According to the Palermo Protocol Of." *Reformasi Hukum Trisakti* 6, no. 1 (2024): 399–408.
- Behrent, Michael C. "Foucault and Technology." *History and*

- Technology* 29, no. 1 (March 1, 2013): 54–104.
<https://doi.org/10.1080/07341512.2013.780351>.
- Briskey, Mark. “Restorative Justice: Drawing from the Old to Develop New Justice Alternatives.” In *The Cambridge Handbook of Forensic Psychology*, edited by Jennifer M Brown and Miranda A H Horvath, 2nd ed., 514–29. Cambridge Handbooks in Psychology. Cambridge: Cambridge University Press, 2021.
[https://doi.org/DOI: 10.1017/9781108848916.032](https://doi.org/DOI:10.1017/9781108848916.032).
- Chantavanich, Supang. “Thailand’s Challenges in Implementing Anti-Trafficking Legislation: The Case of the Rohingya.” *Journal of Human Trafficking* 6, no. 2 (March 14, 2020): 234–43.
<https://doi.org/10.1080/23322705.2020.1691825>.
- Dawkins, Marika, and Camille Gibson. “The Juvenile Justice System of Japan: An Overview BT - Crime and Justice in Contemporary Japan.” In *Crime and Justice in Contemporary Japan*, edited by Jianhong Liu and Setsuo Miyazawa, 321–31. Cham: Springer International Publishing, 2018. https://doi.org/10.1007/978-3-319-69359-0_18.
- Devilles, Gary. “Framing Kian.” *Verge: Studies in Global Asias* 6, no. 1 (March 1, 2020): 23–27.
<https://doi.org/10.5749/VERGSTUDGLOBASIA.6.1.0023>.
- Dey, Suparna. “Happiness and Individual.” *International Journal of English Literature and Social Sciences* 8, no. 3 (2023): 461–65.
<https://doi.org/10.22161/IJELS.83.69>.
- Fernando, Zico Junius, Kiki Kristanto, Ariesta Wibisono Anditya, Sawitri Yuli Hartati, Agri Baskara, and Monica Bay. “Robot Lawyer in Indonesian Criminal Justice System: Problems and Challenges for Future Law Enforcement.” *Lex Scientia Law Review* 7, no. 2 (November 14, 2023): 489–528.
<https://doi.org/10.15294/LESREV.V7I2.69423>.
- Greenleaf, Graham. “The UN Special Rapporteur: Advancing a Global Privacy Treaty?” *UNSW Law Research*, August 1, 2015, 1–5.
<https://papers.ssrn.com/abstract=2672549>.
- Guasti, Petra, David S Siroky, and Daniel Stockemer. “Judgement Without Justice: On the Efficacy of the European Human Rights Regime.” *Democratization* 24, no. 2 (February 23, 2017): 226–43.

- <https://doi.org/10.1080/13510347.2016.1154841>.
- Halim, Abdul. "The Application of Restorative Justice in Civil Dispute Resolution: Potentials and Challenges in Indonesia." *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam* 5, no. 1 (2023): 883–90. <https://doi.org/10.37680/almanhaj.v5i1.2729>.
- Hannum, Hurst. "Human Rights." Edited by Simon Chesterman, Hisashi Owada, and Ben Saul. *The Oxford Handbook of International Law in Asia and the Pacific*. Oxford University Press, September 4, 2019. <https://doi.org/10.1093/law/9780198793854.003.0006>.
- Hariato, Aries. "Reformulation of Contractus Sui Generis Wage Arrangement of Work Agreements after the Covid-19 Pandemic." *Brawijaya Law Journal* 10, no. 1 (2023): 1–18. <https://doi.org/10.21776/ub.blj.2023.010.01.01>.
- Harisman, Harisman. "Community Rights Facing Criminal Law in a Human Rights Perspective." *Randwick International of Social Science Journal* 1, no. 2 (2020): 113–19. <https://doi.org/10.47175/rissj.v1i2.51>.
- Harrison, James. "Measuring Human Rights: Reflections on the Practice of Human Rights Impact Assessment and Lessons for the Future." *SSRN Electronic Journal*, November 10, 2010, 1–29. <https://doi.org/10.2139/SSRN.1706742>.
- Heikkilä, Hanna, Wadih Maalouf, and Giovanna Campello. "The United Nations Office on Drugs and Crime's Efforts to Strengthen a Culture of Prevention in Low- and Middle-Income Countries." *Prevention Science* 22, no. 1 (2021): 18–28. <https://doi.org/10.1007/s11121-020-01088-5>.
- Hendra Maujana Saragih &, and Anisa Prayuningsih. "Kebijakan War on Drug Presiden Duterte." *Populis: Jurnal Sosial Dan Humaniora* 6 (2021): 153–65.
- Kischel, Uwe. "Contexts in Asia." In *Comparative Law*, edited by Andrew Hammel and Uwe Kischel, 675–787. Oxford University Press, 2019. <https://doi.org/10.1093/oso/9780198791355.003.0009>.
- Krishnan, Jayanth, Shirish Kavadi, Azima Girach, Dhanaji Khupkar, Kalindi Kokal, Satyaheet Mazumdar, Ms. Nupur, et al. "Grappling

- at the Grassroots: Access to Justice in India's Lower Tier." *Harvard Human Rights Journal* 27, no. 268 (2013): 1–40.
- Lau, Fiona. "The Treatment of High Value Detainees Under the United States' Extraordinary Rendition Program: A Case of Crimes Against Humanity for the International Criminal Court." *UNSW Law Journal* 3, no. 2008 (2016): 1261–96.
- Leibold, James. "Surveillance in China's Xinjiang Region: Ethnic Sorting, Coercion, and Inducement." *Journal of Contemporary China* 29, no. 121 (January 2, 2020): 46–60. <https://doi.org/10.1080/10670564.2019.1621529>.
- Maxwell, Gabrielle, and Hennessey Hayes. "Restorative Justice Developments in the Pacific Region: A Comprehensive Survey." *Contemporary Justice Review* 9, no. 2 (June 1, 2006): 127–54. <https://doi.org/10.1080/10282580600784929>.
- Maxwell, Gabrielle, and Allison Morris. "Youth Justice in New Zealand: Restorative Justice in Practice?" *Journal of Social Issues* 62, no. 2 (June 1, 2006): 239–58. <https://doi.org/10.1111/J.1540-4560.2006.00449.X>.
- McFarlane, John. "Regional and International Cooperation in Tackling Transnational Crime, Terrorism and the Problems of Disrupted States." *Journal of Financial Crime* 12, no. 4 (January 1, 2005): 301–9. <https://doi.org/10.1108/13590790510624774>.
- Mercer, Shannon Togawa. "The Limitations of European Data Protection As A Model for Global Privacy Regulation." *AJIL Unbound* 114 (2020): 20–25. <https://doi.org/DOI:10.1017/aju.2019.83>.
- Minnella, Carlotta M. "Counter-Terrorism Resolutions and Listing of Terrorists and Their Organizations by the United Nations." In *International Human Rights and Counter-Terrorism*, 1–23. Springer, Singapore, 2019. https://doi.org/10.1007/978-981-10-3894-5_4-1.
- Mollica, Caitlin, Sara E. Davies, Jacqui True, Sri Wiyanti Eddyono, Bhavani Fonseka, and Melissa Johnston. "Women and the Justice Divide in Asia Pacific: How Can Informal and Formal Institutions Bridge the Gap?" *Human Rights Quarterly* 44, no. 3 (August 1, 2022): 612–39. <https://doi.org/10.1353/HRQ.2022.0029>.

- Nasution, Nurul Putri Awaliah, Jubair Jubair, and Abdul Wahid. "The Restorative Justice: Ideality, Reality, and Problems in The Indonesia Criminal Justice System." *Rechtsidee* 10, no. 2 (December 12, 2022): 1–10. <https://doi.org/10.21070/jihr.v11i0.775>.
- Pan Mohamad Faiz. "Teori Keadilan Jhon Rawls." *Jurnal Konstitusi* 6, no. 1 (2009): 135–36. <https://doi.org/http://dx.doi.org/10.2139/ssrn.2847573>.
- Ramakrishna, Kumar. "The Four Mutations of Violent Muslim Extremism in Southeast Asia: Some Implications for a Cognitive Immunization Policy." *Asia Policy* 12, no. 1 (July 2011): 13–19. <https://doi.org/10.1353/ASP.2011.0020>.
- Rengel, Alexandra. "Privacy as an International Human Right and the Right to Obscurity in Cyberspace." *Groningen Journal of International Law* 2, no. 2 (December 5, 2014): 33–54. <https://doi.org/10.21827/5A86A81E79532>.
- Richard C. Paddock. "Myanmar Coup: What to Know About the Protests and Unrest." *The New York Times*, 2022. <https://www.nytimes.com/article/myanmar-news-protests-coup.html>.
- Rudita, Laode. "Citizen Compensation for Poor Public Service Delivery: A Civil Rights Perspective." *Brawijaya Law Journal* 10, no. 1 (2023): 19–33. <https://doi.org/10.21776/ub.blj.2023.010.01.02>.
- Saul, Ben, Jacqueline F Mowbray, and Irene Baghoomians. "Resistance to Regional Human Rights Cooperation in the Asia-Pacific: Demythologising Regional Exceptionalism by Learning from the Americas, Europe, and Africa." *Can ASEAN Take Human Rights Seriously?* 10, no. 107 (October 28, 2010): 361–71. <https://doi.org/10.1017/9781108566414.009>.
- Serah, Yenny Aman, Zico Junius Fernando, and Temmy Hastian. "Virtual Police: Guardians of Security and Consumer Protection in the Era of Electronic Information and Transactions." *Pakistan Journal of Criminology* 16, no. 2 (April 1, 2024): 1061–80. <https://doi.org/10.62271/PJC.16.2.1061.1080>.
- Shek, Daniel T L. "Editorial: A Snapshot of Social Work in the Asia-Pacific Region." *The British Journal of Social Work* 47, no. 1

- (January 1, 2017): 1–8. <https://doi.org/10.1093/bjsw/bcx007>.
- Sihotang, Journal Of Law & Legal Reform Volume ; Cited As, and N Wiriya. “Human Trafficking in Thailand in Perspective of Human Rights Law.” *Journal of Law and Legal Reform* 2, no. 4 (August 18, 2021): 505–14. <https://doi.org/10.15294/JLLR.V2I4.48760>.
- Simangan, Dahlia. “Is the Philippine ‘War on Drugs’ an Act of Genocide?” *Journal of Genocide Research* 20, no. 1 (January 2, 2018): 68–89. <https://doi.org/10.1080/14623528.2017.1379939>.
- Smith, Paul. “John Rawls’s Theory of Justice BT - Moral and Political Philosophy: Key Issues, Concepts and Theories.” In *Moral and Political Philosophy*, edited by Paul Smith, 185–210. London: Palgrave Macmillan UK, 2008. https://doi.org/10.1007/978-0-230-59394-7_12.
- Ssenyonjo, Manisuli. “Responding to Human Rights Violations in Africa: Assessing the Role of the African Commission and Court on Human and Peoples’ Rights (1987-2018).” *International Human Rights Law Review* 7, no. 1 (2018): 1–42. <https://doi.org/10.1163/22131035-00701003>.
- Stephanie Carvin. “A Responsibility to Reality: A Reply to Louise Arbour.” *Review of International Studies* 36, no. S1 (2010): 47–54. <https://doi.org/DOI: 10.1017/S0260210511000088>.
- Strang, Heather. “Restorative Justice Programs in Australia: A Report to the Criminology Research Council.” *The Australian Institute of Criminology*, no. March (2001): 1–49. <http://www.criminologyresearchcouncil.gov.au/reports/strang/report.pdf>.
- Syah, Benny Elfian, and Didik Endro Purwoleksono. “Ius Constituendum Restorative Justice in Indonesia.” *Media Iuris* 6, no. 3 (2023): 365–78. <https://doi.org/10.20473/mi.v6i3.44405>.
- Thompson, Mark, Kevin Agojo, and Joyce Li Liang. “‘Framing’ the Opposition: The Limits of Mobilization against Duterte’s ‘War on Drugs’ in the Philippines.” *Critical Asian Studies* 56, no. 2 (April 2, 2024): 253–76. <https://doi.org/10.1080/14672715.2024.2319037>.
- Ting, Ming Hwa, Chi Meng Chu, Gerald Zeng, Dongdong Li, and Grace S. Chng. “Predicting Recidivism among Youth Offenders:

- Augmenting Professional Judgement with Machine Learning Algorithms.” *Journal of Social Work* 18, no. 6 (November 1, 2018): 631–49.
https://doi.org/10.1177/1468017317743137/ASSET/IMAGES/LARGE/10.1177_1468017317743137-FIG4.JPEG.
- Ulenaers, Jasper. “The Impact of Artificial Intelligence on the Right to a Fair Trial: Towards a Robot Judge?” *Asian Journal of Law and Economics* 11, no. 2 (August 1, 2020): 1–10.
<https://doi.org/10.1515/AJLE-2020-0008/MACHINEREADABLECITATION/RIS>.
- Venkataraman, Bhawani. “Education for Sustainable Development.” *Environment: Science and Policy for Sustainable Development* 51, no. 2 (March 1, 2009): 8–10.
<https://doi.org/10.3200/ENVT.51.2.08-10>.
- VM, Varun. “Human Rights-Based Approach to Combat Transnational Crime.” *Eucrim*, no. 2 (2020): 154 – 156.
<https://doi.org/10.30709/eucrim-2020-012>.
- White, Mark D. “A Kantian Critique of Neoclassical Law and Economics.” *Review of Political Economy* 18, no. 2 (April 1, 2006): 235–52. <https://doi.org/10.1080/09538250600571494>.
- Won Kyung Chang. “Old Wine in New Wineskins? A Trial of Restorative Justice in a Korean Criminal Court.” *Asian Journal of Law and Society* 5, no. 2 (2018): 391–411. <https://doi.org/DOI:10.1017/als.2017.34>.
- Wynngaert, Christine Van Den. “Applying the European Convention on Human Rights to Extradition: Opening Pandora’s Box?” *International and Comparative Law Quarterly* 39, no. 4 (1990): 757–79. <https://doi.org/DOI:10.1093/iclqaj/39.4.757>.
- Yash Krishna Pandey. “Criminal Law and Human Rights.” *International Journal For Multidisciplinary Research* 6, no. 2 (2024): 1–6. <https://doi.org/10.36948/ijfmr.2024.v06i02.16404>.
- Zico Junius Fernando et al. “The Freedom of Expression in Indonesia.” *Cogent Social Sciences* 8, no. 1 (2022): 1–11. <https://doi.org/10.1080/23311886.2022.2103944>.

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Publishing Ethical and Originality Statement

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