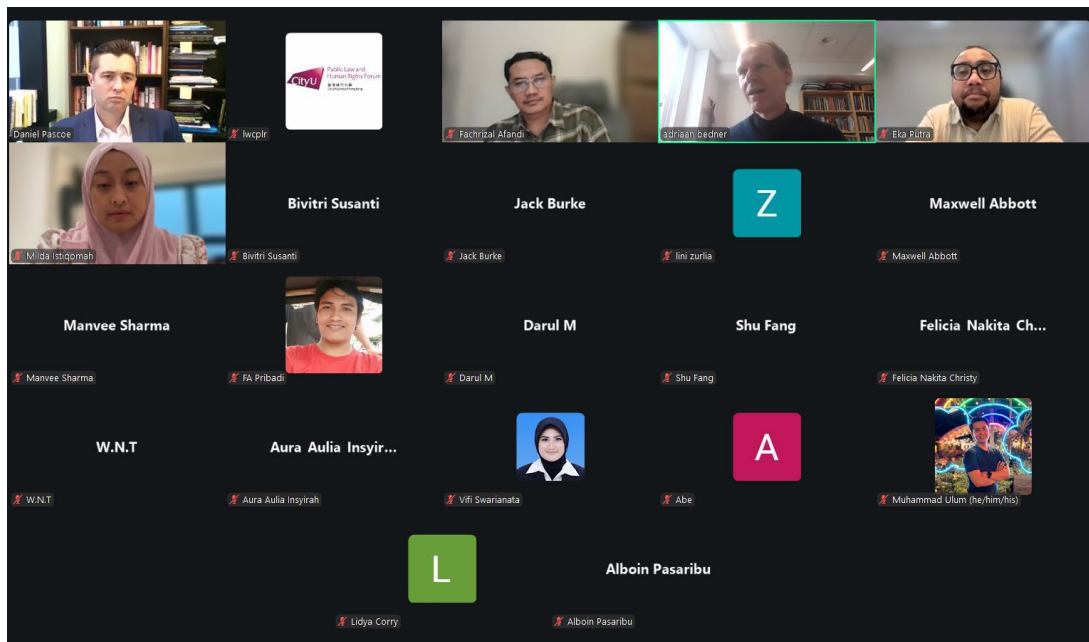


## CPLR Webinar Series on Asian Perspectives on Human Rights (5): The New Indonesian Criminal Code and Human Rights

26 March 2026

On 26 March 2026, the Public Law and Human Rights Forum (CPLR) hosted the fifth webinar in the Webinar Series on Asian Perspectives on Human Rights, entitled “**The New Indonesian Criminal Code and Human Rights**”. The seminar was moderated by **Prof. Daniel Pascoe** (Associate Professor and Associate Director of CPLR, City University of Hong Kong). The session featured presentations and discussions by **Dr. Eka Nugraha Putra** (Research Fellow, National University of Singapore), **Prof. Fachrizal Afandi** (Associate Professor, Brawijaya University), **Prof. Adriaan Bedner** (Professor, Leiden University), **Prof. Milda Istiqomah** (Associate Professor, Brawijaya University), and **Ms. Bivitri Susanti** (Lecturer, Indonesia Jentera School of Law).



The speakers offered diverse perspectives on the origins, content, and anticipated impact of the new Indonesian Criminal Code, which came into force in January 2026 after decades of legislative debate. The discussion focused on several controversial provisions within the new Code, particularly those relating to insults to the president and state institutions, blasphemy, defamation, and the criminalisation of certain ideological expressions. **Dr. Putra** highlighted concerns about the potential for these provisions to undermine freedom of expression, noting that

similar provisions were previously ruled unconstitutional by Indonesia's Constitutional Court but have now been reinstated in the new code. **Prof. Bedner** expressed worry about the lack of constitutional understanding in adopting these provisions and hoped the Constitutional Court would uphold petitions against them to maintain its credibility as a defender of the rule of law.

**Prof. Afandi** presented on Indonesia's recent criminal code reform, arguing that while the colonial code has been replaced, the power structures within the criminal justice system remain largely unchanged. He discussed how civil society organisations initially sought to remove problematic provisions but later focused on limiting their scope and inserting procedural safeguards due to political realities.

The discussion also focused on concerns about articles of the new code that criminalise the criticism of government officials. **Ms. Susanti** argued that while the new provisions include technical limitations on defamation against the president, the real issue lies in the "weaponization of law" by Indonesian authorities. Speakers expressed concern that the new provisions may have significant implications for fundamental rights, including freedom of expression, religious freedom, and equality before the law.

The discussion then moved to the introduction of "living law" into the criminal law framework, allowing for the recognition of customary norms. While this development is seen by some advocates as a step towards legal pluralism, seminar participants raised concerns regarding legal certainty, the principle of legality, and the practical challenges of implementation. The speakers also addressed recent regulatory efforts to limit the application of living law and ensure its consistency with constitutional and human rights standards.

The speakers then explored reforms to the death penalty regime under the new Code. **Prof. Istiqomah** and **Prof. Afandi** explained that the code introduces a conditional death penalty, subject to a 10-year probation period during which sentences may be commuted based on the prisoner's conduct. While this model may signal a gradual move towards restriction, questions remain regarding its practical operation and the role of executive and judicial discretion.

The webinar concluded with participation from the audience, during which attendees raised questions on related issues, including the regulation of morality and religion, as well as the broader implications of the reform for human rights protection in Indonesia and the region. The session provided a valuable platform for critical reflection on the evolving relationship between criminal law and human rights in Southeast Asia.

We look forward to seeing you at the next edition of the Webinar Series on Asian Perspectives on Human Rights.