

3RD ANNUAL CONFERENCE OF THE ALSA CRIMINAL LAW CHAPTER

‘CONTINUITY AND CHANGE: CRIMINAL LAW REFORM IN ASIA’

Brawijaya University, Jl. Dr. Saharjo No.313, Jakarta Selatan, Indonesia

Tuesday, 2 June 2026

Draft Agenda

- 8:30am arrival and registration
- 9:00am Official opening, Professor Gugus Irianto, Director of Universitas Brawijaya
- 9:15am Welcome remarks (co-chairs)
- 9:30am Introduction of participants (and their current work)
- 9:50pm Keynote address
Fachrizal Afandi (Universitas Brawijaya): ‘Rushed Codification? The Paradox of Indonesia’s Criminal Justice Reform’
- 10:30am coffee break
- 11:00am **Panel 1: Codification of Criminal Law vs Common Law Traditions** (chair: Andreas Schloenhardt)
Presenter 1: Haezreena Begum Abdul Hamid (Universiti Malaya): ‘Continuity and Change in Malaysian Criminal Law: Confronting Forced Criminality and the Limits of Existing Defences’
This presentation examines forced criminality in Malaysian criminal law, highlighting the tension between doctrinal continuity and the need for reform. It analyses how existing defences such as duress, necessity, and lack of voluntariness, struggle to address crimes committed under coercion and structural vulnerability, particularly in cases involving human trafficking, drug offences, and terrorism-related conduct. Drawing on Malaysian law and comparative insights, the presentation aims to demonstrate the limitations of current legal responses and to propose targeted reforms that better align criminal responsibility with coercion, victimhood, and justice.
Presenter 2: Bhanu Tanwar (National Law School of India University), ‘Beyond the Marital Rape Exception : Lesson from Asian Jurisdictions’
Under Indian law, the Bharatiya Nyaya Sanhita, 2023 retains the marital rape exception under Section 63, whereby non-consensual sexual intercourse by a husband with his wife, if she is 18 years or older, is not criminalised as rape. This provision has generated significant constitutional and human rights concerns. In contrast, several Asian jurisdictions have abolished similar exceptions and adopted consent based definitions of rape within marriage. This paper critically examines India's continuing exception and explores how comparative Asian reforms may offer thoughtful, rights aligned pathways towards a positive change.

Presenter 3: Darul Mahdi (The University of Queensland), 'Codifying Atrocity Crimes Without War Crimes: Explaining Indonesia's New Criminal Code'

This presentation analyses the accountability mechanisms for atrocity crimes in Indonesia. Although the 2023 Criminal Code substantially reforms domestic criminal law, it still omits a war crimes offence. Against the backdrop of longstanding allegations of gross human rights violations by the military in domestic security operations, this presentation examines a case of counterinsurgency campaigns during the Aceh conflict. It reveals that serious conflict-related crimes can go unpunished so long as they do not meet the thresholds for crimes against humanity or genocide. Reform is essential to close this legal lacuna, end the impunity, and secure civilian protection in armed conflict.

Discussion

12:30pm

lunch break

1:15pm

Panel 2: Criminal Procedure and Evidence (chair: Rebecca Wallis)

Presenter 4: Nagarathna Annapa (National Law School of India University): 'Investigation of Crimes - A critical analysis of powers and procedures under the new criminal laws of India'

Criminal Investigation, as an integral part of the crime regulation process, involves a comprehensive procedure through which evidence are collected by an Investigating Officer. Such Officers are vested with wide powers including the power to arrest suspects, conduct search and seizure, record witness statements and collect scientific evidence. These powers however are subject to the procedural rules. Bharatiya Nagarik Suraksha Sanhita which recently replaced the Criminal Procedure Code introduced significant shifts in the law relating to the procedure of investigation. This presentation aims to critically analyse these changes from a jurisprudential perspective.

Presenter 5: Kunal Ambasta (National Law School of India University), 'Comparing Confessions: A Study of the Law of Evidence of India and Singapore'

The evolution of evidence law in both Singapore and India has followed different trajectories despite being derived from the same source; with consistent legislative amendments in the former compared to very little meaningful legislative change in India. Using evidentiary regulations around 'confessions' as the site of my analysis, I show differences in law reform approaches which stretch from the definitional to the procedural. My paper will show how both jurisdictions defined the category of confessional statements and then designed safeguards around the admissibility of confessions. These different approaches highlight distinct attitudes around criminal justice reform and procedural 'due process' rights.

Presenter 6: Aarti Mundkur (National Law School of India University), 'Extending the limits of self-incrimination in Juvenile Justice Law'

In 2015, the Juvenile Justice Act in India was re-legislated, introducing dramatic changes. One such provision was one by which a child could be tried as an adult for "heinous" offences. This process required the juvenile in conflict with the law to participate in a preliminary assessment to determine, among other things, his ability to understand the consequences of the offence and the circumstances in which he allegedly committed it. I wish to examine this process through the lens of the right against self-incrimination and whether the provision needs to be re-examined.

Presenter 7: Mrinal Satish (National Law School of India University), 'The victim-centric myth of India's new criminal procedure laws'

The Bharatiya Nagarik Suraksha Sanhita (BNSS) replaced the Code of Criminal Procedure (CrPC), 1973 in 2023. The statement of objects and reasons of the BNSS claims that it is victim-centric and aims to foreground rights of victims. I argue in the paper that this is a myth. The BNSS in fact creates barriers for victims accessing justice using criminal law. To do this, the presentation will focus on the process of initiation of criminal proceedings, role of the victim in investigation and trial, rights of victims in

appellate processes, including in areas such as plea bargaining and withdrawal of criminal cases.

Discussion

3:00pm coffee break

3:30pm **Panel 3: Sentencing and Punishment** (chair: Mrinal Satish)

Presenter 8: Wing Cheong Chan (Singapore Management University): 'Will public opinion on the death penalty in Singapore ever change?'

This Presentation analyses the public opinion surveys conducted in Singapore between 2016 and 2021 on the level of support for the death penalty. It argues that public endorsement of the death penalty in Singapore is resilient and will remain high despite efforts to provide evidence-based information and informed debate. This stability is reinforced by institutional factors, state narratives on law and order, and the public's trust in state institutions. Consequently, human rights organisations and abolitionist movements must reconsider their engagement strategies.

Presenter 9: Zenny Rezanía Dewantry and Nefa Claudia Meliala (President University): 'Sentence Commutation, Gender Justice, and Penal Reform: Women on Death Row under Indonesia's New Criminal Code'

This presentation provides a normative review of sentence commutation for women sentenced to death under Indonesia's Criminal Code (Law No. 1 of 2023), examined through international women's rights principles. The new Code redefines the death penalty as a conditional punishment with a ten-year probation period allowing commutation based on remorse and rehabilitation, reflecting a more humanistic penal approach. Focusing on women on death row as a gender-vulnerable group, the study finds that although the reform advances human rights compliance, its gender-neutral formulation risks neglecting women's specific circumstances, highlighting the need for gender-sensitive implementation and further empirical research.

Presenter 10: Daniel Pascoe (City University of Hong Kong): 'Reforming the Bodily Harm Offences in Hong Kong'

This presentation contemplates evidence-based reforms to the bodily harm offences in Hong Kong. To leave sole assessment of the gravity of an injury to the finder of fact is surprising, given that the distinctions between no bodily harm at all, Actual Bodily Harm and Grievous Bodily Harm have the potential to result in significant differences in labelling and in punishment. This presentation relays the results of an empirical project assessing how particular injuries are labelled and punished in Hong Kong's criminal courts. The results point to several possible legal reforms to reduce labelling and sentencing disparity between like cases.

Discussion

5:00pm Future work and next meetings of the Chapter

5:30pm close for the day

Note: The dress code is smart casual; no need for business attire.