



# Legal Empowerment Approaches of the Stateless Community through Paralegals, Strategic Litigation & Policy Reforms: Findings from Action Research

Persidangan Kebangsaan Perkembangan, Jurang dan Cabaran dalam Menangani Isu Tanpa Kewarganegaraan yang disebabkan oleh Undang-Undang dan Amalan Ketaksamaan Gender di Malaysia

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Four Points by Sheraton Puchong

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Paralegals



Strategic  
Litigation



Policy  
Reforms



# Research Findings

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## Notion of Justice

Views on what constitute justice show convergence across the groups:  
access to basic rights for all, fairness and equality.



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*To me Justice is fairness to everyone*

*Participant of FGD with community leaders (SL)*

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*Justice means having equal access to all basic rights to live in a country.*

*Participant of KII: Bar Council Lawyer (SL)*

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*I think that that is something that we have to agree on because there's so many like thousands more out there who do not know what justice is, these are rights, what they can do when it comes to like this issue and whatnot*

*Participant of FGD with community leaders (SL)*

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# Research Findings

## Access to Justice for the Stateless

- There is clear consensus among participants that there is either **an absence or a severe lack** of access to justice for stateless people in Malaysia.
- Access to justice is defined as **access to legal rights and beyond**, which encompasses other practical aspects that enable a stateless person to **live a dignified life**, including **access to healthcare services, access to education, access to job opportunity**, and the **access to legal marriage registration, access to citizenship, access to life security, and access to contribute meaningfully to the society**

*it's a very important that they get the citizenship rights. Otherwise, life is quite a hell yeah. It's more of like disabling mechanism for them to function as a proper working beings in the society. Yeah. So the children have no opportunities for education and it's very stressful for the parents as well.*

*Participant of KII: Pro Bono Lawyer (SL)*

*In 2007 when I face difficulties in admitting my daughter in hospital, I just felt it shouldn't be. I mean, you know it. We shouldn't be in such precarious situations, considering that we have made this our home and we've just shouldn't be treated like you know, any tourists coming into the country. So I just wanted to start with five other women to have a support group and you know, so we can talk to each other....*

*Participant of KII: CSO Partner (SL)*

*So that four and five year was always like thinking about this citizenship litigation, but also trying to maintain the positive mindset....*

*Participant of KII: Parent of former stateless child (SL)*

# Research Findings

## Specific examples where Paralegals, Strategic Litigation and Policy Reforms has made a significant impact to access to justice

- There is clear indication among participants that **Paralegals, Strategic Litigation and Policy Reforms** has made a **significant impact** to improve access to justice for stateless people in Malaysia.

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*I had fought some other cases like children born out of wedlock, it's similar to case where the mother is from another country, while the father is a Malaysian. High Court eventually granted citizenship to the child after 8 years of waiting from the NRD. .*

*Participant of KII: Pro Bono Lawyer (SL)*

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*I head the working group on statelessness and citizenship rights, and this year I'm the chairperson for the Human Rights Committee under the Bar Council. So, this way we had the backups or NGOs like draw come in is where we have a case. We will invite them to hold. Watching brief for that case.*

*Participant of KII: Bar Council Lawyer (SL)*

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*Ohm, I know, I know. But one day I will. She will get a citizenship, but don't know when. Finally, the verdict in the third hearing that we managed to get the positive verdict*

*Participant of KII: Parent of former stateless child (SL)*

## Challenges faced when engaging in strategic litigation and how these challenges were addressed (Part 1 of 2)

- There are **significant challenges** shared among participants that to access to justice for stateless people in Malaysia, but some challenges were addressed **through financial support, communities, media campaign and maintaining good rapport with authorities.**

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*So again, financial challenges, because earlier before when we started, we were fortunate to have some support from various bodies.*

*Participant of FGD: Community Leaders (SL)*

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*Yeah, definitely. Because some lawyers and some of us, we do some pro bono cases, but others are for people who can actually afford, but a lot of them also cannot afford. So uh, depend on pro bono lawyers, challenges are time and cost and also the mental strain that they have to go through.*

*Participant of KII: Bar Council Lawyer (SL)*

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*Whereby before even joining DHRRA, I've been doing a lot of like community work, social work and et cetera. So of course social media has always been a very engaging platform, a platform where we used to.*

*Participant of FGD: Community Leaders (SL)*

## Challenges faced when engaging in strategic litigation and how these challenges were addressed (Part 2 of 2)

- There are **significant challenges** shared among participants that to access to justice for stateless people in Malaysia, but some challenges were addressed **through financial support, communities, media campaign and maintaining good rapport with authorities.**

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*Because even if you go like to the state JPN, they will refer you to Putrajaya or they'll give refer you to another state JPN which every JPN ironically has different SOP's. Need to maintain a good working relationship...*

*Participant of FGD: Community Leaders (SL)*

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*I think very strategic with the media as well because I think that.*

*There are over 2000 articles in the media on the on the issue right and that I think came about. . I think we were very strategic in the way we have what is called a multi pronged approach. So in the way we approach the media.*

*Participant of KII: CSO Partner (SL)*

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*To be honest, we haven't found a solution. Today is some of the clients are OK to go through the process sometimes as a lawyer we get more annoyed rather than the clients. They are OK to wait..*

*Participant of KII: Bar Council Lawyer (SL)*



## How strategic litigation has been used to promote systemic change and policy reform to improve access to justice

- There are **some positive systemic changes** shared among participants through the use of paralegals and strategic litigation, but **policy reform is making slow progress** at the higher political level.

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*No, they did not receive any feedback until we have filed the case and then while the case was going through some case management and you know exchange of Affidavits. Suddenly after almost 8 to 9 years or maybe more of them applying. Suddenly they got a reply saying that your application for citizenship is approved.*

*Participant of FGD: Community Leaders (SL)*

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*I think one of the cases that our team of lawyers have handled was the C case. We managed to get the very positive results from the Federal Court. The Federal Court granted three orders in favour of the adopted child, identified only as C to protect his identity.*

*Participant of KII: Pro Bono Lawyer (SL)*

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*So the issue is actually being interpreted in a very, uh, narrow sense to limit the granting of this, right. Yeah. So for lawyers for us, we take a very broad approach, you know, Yeah, but government takes very narrow approach. And we get annoyed because there is a court order there and they are not fulfilling the court order. They say you still need to go through the NRD process. But our point is there is an order here. They should abide by it. They shouldn't be. They shouldn't need to go through this process of NRD.*

*Participant of KII: Bar Council Lawyer (SL)*

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## What motivated stateless community to participate in SL and what they benefitted from engaging in SL?

The **main motivations** are **access to basic rights** as shared among participants through the use of strategic litigation, **benefits** are **opportunities to education, jobs, healthcare and dignity**

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*I think basically they just want to live as a normal human being and be treated equally and to enjoy all the benefits as a citizen of Malaysia.*

*Participant of FGD: Community Leaders (SL)*

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*they are ours, they're our resources. They're our talents, you know, So if we treat them well, they can prosper, they can flourish, and as a result, they can contribute to the upliftment of the country, you know,*

*Participant of KII: Pro Bono Lawyer (SL)*

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*So I realized that at the point when I was about to enroll her in school, so this is the reason why I initiated or started the process for legal proceeding,*

*Participant of KII: Parent of former stateless child (SL)*

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# Research Findings

## How did DHRRA identify and select cases that are suitable for strategic litigation and what criteria are used in this process?

The main criteria are limited financial means, uniqueness of the case and resources available to support litigation

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*of course they we also follow the means test like how they background. So it's following for the financial means*

*Participant of FGD: Community Leaders (SL)*

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*But also we would look into the issues, whether it's a unique issue which has not been dealt with before, you know something which the chances of winning is higher.*

*Participant of KII Pro Bono Lawyer (SL)*

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*The litigation is costly and so it also depends on availability of resources. So of course again, it all depends on the potential pool of resources tha can support this litigation.*

*Participant of FGD Community Leaders (SL)*

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# Research Findings

## How grassroots communities collaborate with lawyers and legal organizations in strategic litigation, and what are the benefits and risks of these partnerships?

The **main collaborations** are through **strategic partnership, pro bono services** and **support within the communities**. **Benefits** include **stronger voices to be heard to create better impact**, while **risks** are none

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*We have a team of pro bono lawyers as well. So that we can get help for them legally. We also is actually the NGO's who put the community in touch with when they need legal aid.*

*Participant of KII: CSO Partner(SL)*

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*At the usual things, I think what everyone else do does, but we were a little more strategic in terms of we have social media, we make sure that every week there are articles and posts that go out in social media. We also engage with Parliament. We engage with political parties, We engage with you and mechanisms. We used everything within our knowledge to have stronger voices*

*Participant of KII Pro Bono Lawyer (SL)*

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*I don't see any downside to it, because of course collaborating with NGO's is always necessary in terms of research or, you know, Even so, how come you work with?*

*Participant of KII: Bar Council (SL)*

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# Research Findings

## What are the ethical considerations involved in stateless people participation in strategic litigation and how are these addressed?

The **main considerations** are **privacy and confidentiality** and **negative perception of children born out of wedlock**. **Ways to address these considerations** include **due respect to privacy and confidentiality of the stateless community**, and **upholding rights of child born out of wedlock**

*So to keep the information that we receive very private and confidential, because it is like what I said, they both their security as well. So many of them will comes to us, well, us a lot of questions on whether, you know, will there be subject to arrest made because they have taken this case against the government, things like that. Not everybody can access to files, especially when involved child or adoption matters. Things like that. .*

*Participant of FGD: Community Leaders (SL)*

*The ethical dilemma is actually, uh, you see, for the children born out of wedlock, the CCH case very clearly said that, I mean we cannot be immoral, we shouldn't be moral policing, you know, in the sense that children have no, no say to who they are born. So when a child is born, the child has no choice and and the child is innocent. So we cannot punish him by refusing citizenship. So regardless of whether it's within wedlock you know, out of wedlock, children are innocent.*

*Participant of KII Pro Bono Lawyer (SL)*

*So we cannot punish the children, you know. And is the first part society imposed ethics correct? It's a relative concept ethics cause if we are talking about Malaysian perspective of ethics being born of wedlock is unethical but not in every country in the world we have this particular issue is yeah*

*Participant of KII: Pro Bono Lawyer (SL)*

# Research Findings

## What resources and support are needed to empower grassroots communities and civil society organizations to engage in strategic litigation?

The main resources and support are financial, legal expertise and public awareness.

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*This has happened many times. I mean of course we are glad that our client eventually got the citizenship, but I guess the sad part is, as lawyers who are wanting to make change in the law or, you know, bring up cases that would set precedent for other cases, then it's a bit hard to you pick your battles, but I'm not gonna lie. Many of the cases that we have found has ended up in settlements..*

*Participant of KII Bar Council (SL)*

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*Yeah, but you know. But then, despite all the the the like, for example, those who comes to DHRRA Malaysia, you can hear their stories like you know how much money they have lost with this person and you know who will promise them that they can get it done, things like that, but then they still say and they still hope that you know at least someone will be honest enough to have them..*

*Participant of FGD Community Leader (SL)*

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*As you know, smaller organizations to gather up the resources. Of course, our case, our lawyer is doing it pro bono, but the other related costs that go into it. And also the volunteers who are willing to come forward and to take up the cases on a pro bono basis. In providing legal education, legal empowerment to grassroots for them to know their rights for them to know where they can access justice, you know, and how we can, you know, one thing that really is.*

*Participant of KII: CSO Partner (SL)*

# Research Findings

## Impact of Paralegals, Strategic Litigation and Policy Reforms in bridging the gap on access to justice



1. Allowed Access to Health



2. Increased Legal Knowledge/Awareness



3. Enabled Access to Citizenship



4. Secured Individual Official ID



5. Increased Access to Better Job Market



6. Improved Access to State Benefits

# Conclusion



Dr Sia Chin Chin 24 Jan

- The study reveals that the adoption of the Legal Empowerment approach by DHRRA has significantly improved access to justice for stateless individuals in Malaysia. Specifically, it has led to increased legal awareness, empowerment, and protection among this population.
- The evidence base generated here shows strategic litigation plays a crucial role in strengthening policy advocacy for sustainable solutions to address barriers to access to justice for stateless individuals.
- It is also evident from the study that the effectiveness of Legal Empowerment is contingent upon the support of all stakeholders, particularly the community themselves. The support of all stakeholders can be enhanced by building trust, fostering collaboration, and facilitating communication among and with them.



# Conclusion

- However, while the Legal Empowerment provides partial solution, the efforts of the grassroots community and legal professions are partially eroded due to:
  - (a) the lack of setting of precedence by the Federal Court;
  - (b) the political will of the policymakers in making the necessary policy changes to ensure access to justice for all;
  - (b) lack of compliance of court order.

Thank you!



# Keep In Touch!



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