

MCCHR STRATEGIC LITIGATION TRAINING FOR LAWYERS

A Facilitator's Manual

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A Facilitator's Manual



MCCHR

**Malaysian Centre
for Constitutionalism
and Human Rights**

Kuala Lumpur
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*Strategic Litigation Training for Lawyers:
A Facilitator's Manual*

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OBJECTIVE OF THIS FACILITATOR'S MANUAL

For the past two years, the Malaysian Centre for Constitutionalism and Human Rights (the Centre) has been organising trainings on strategic litigation for lawyers. The strategic litigation training was the first of its kind in Malaysia and as such, much of the training modules and methodology were modified and fine-tuned to ensure that the training achieved its desired objectives. As a result, this Manual is a fusion of the work of all the trainers in the past two years, their experience, and lessons learnt. Additionally, the Centre sees this Manual as an opportunity for the trainers to share their experience, knowledge and information to other trainers interested in strategic litigation training.

This Manual is a starting point on strategic litigation training for lawyers and is by no means an exhaustive treatment of the subject matter, be it human rights, strategic litigation, or advocacy. Facilitators are encouraged to delve deeper into the issue so that they would be able to enrich the experience of the participants.

Training Methodology

The modules are designed to ensure that participants play an active role in the training. They depart from the traditional lecture-like training and require active contribution from the participants. However, there are some information-intensive sections like the session on international human rights law and the United Nations (UN) system, which could be delivered in a lecture like manner or through games/activities.

Structure

The Manual begins with the objectives of this strategic litigation training, followed by eight sessions:

- **Introduction**—The introductory session includes establishing ground rules for the entire training and the My Life Timeline activity.
- **Why Are We Here?**—This first session touches on the definition of strategic litigation, criteria for selecting strategic litigation cases and the strategy involved.
- **Law As An Institution**—This session challenges participants to break away from the narrow view of the law and introduces the social dimension of the law by analysing the ‘substance, structure and context’ of laws. This session ensures that participants understand at the outset that a broad understanding of the law is needed to formulate effective legal strategies.
- **Intersectionality**—Before delving into human rights law, the training introduces the concept of multiple identities, status and conditions that may advantage or disadvantage a person.
- **Human Rights: From Principles to Practical Uses and Applications**—This session is a brief introduction to international human rights law and the UN structure, in particular the treaty-based and charter-based bodies. This session is important as most strategic litigation lawyers incorporate international human rights law in their arguments.
- **How Would You Argue This?**—This forms a major portion of the training where participants will familiarise themselves with cause papers through real case studies. Participants will experience a real case and will begin drafting written submissions, which will be presented at a moot court.
- **Litigation is Not Enough**—This session introduces the Centre’s flagship #ActionPyramid module, aimed at informing participants that litigation alone is insufficient in defending human rights. Participants will learn to organise a campaign to complement their test cases.
- **Closing**—The training will culminate in a formal evaluation as a form of feedback for the trainers.

Each session in this Manual will begin with 'Learning Objectives', i.e. specific objectives of each session.

This is followed by 'Questions', which are aimed at encouraging participants to contemplate the main issues (framed as questions) of the particular session; the questions could be posed to participants before the session; the aim of the 'Questions' section is to give participants a few main issues to think about throughout the session. Each session also has suggested 'Activities' to be completed by the participants within a specific time period, materials required

and background information or notes for the facilitators. The latter provides basic information of the specific activity.

The recommended total number of participants for the whole training is between 20 and 30 participants.

This Manual is designed for a two and half-day training course on strategic litigation for lawyers. However, different combination of modules can be selected according to the availability of time. A recommended programme for a two and a half-day training is as follows:

PROGRAMME

DAY ONE:

9-9:30 a.m.	Registration Check-In
9:30-11:15 a.m.	Introductory Session A. Ground Rules Activity: 10 mins B. My Life Timeline: 1 hr 30 mins C. Presentation of Needs Assessment: 5 mins
11:15-11:45 a.m.	Why are We Here? A. An Introduction to Strategic Litigation: 30 mins
12-2 p.m.	Lunch
2-3:45 p.m.	Law as an Institution A. Did I Study Law?: 30 mins B. Breaking the Law: 1 hr 15 mins
4-4:30 p.m.	Tea Break
4:30-5 p.m.	Announcements, Bundles for Day Two

DAY TWO:

9-9:30 a.m.	Feedback and Recap
9.30-10:30 a.m.	Intersectionality A. Introduction to Intersectionality: 30 mins B. Stepping Game: 30 mins
10:30-11 a.m.	Tea Break
11-12:45 p.m.	Human Rights: From Principles to Practical Uses and Applications A. Introduction to Human Rights Principles and the UN Systems: 1 hr 45 mins
1-2 p.m.	Lunch
2-4:30 p.m.	How Would You Argue This? A. Drafting Written Submissions: 5 hrs 30 mins
4:30-5 p.m.	Tea Break
5-7:30 p.m.	A. Drafting Written Submissions (cont'd)
7:30-8:30 p.m.	Dinner
8:30-10:30 p.m.	B. Moot Court

DAY THREE:

9-9:30 a.m.	Feedback and Recap
9:30-10:30 a.m.	Litigation Is Not Enough A. #ActionPyramid: 2 hrs
10:30-11 a.m.	Tea Break
11-11:30 a.m.	Continuation of A. #ActionPyramid
11:30-12 p.m.	Closing A. Reflections: 5 mins B. Revisiting Key-performance Pledges: 15 mins C. Formal Evaluation: 5 mins D. Pat-on-the-back: 5 mins
12-2 p.m.	Lunch

OBJECTIVES OF THE TRAINING

Since January 2011, the Centre has undertaken strategic litigation in four areas of human rights—freedom of expression, right to liberty and fair trial, freedom of religion and equality and non-discrimination. The Centre sees that in the aforementioned areas, continued and focused efforts in pursuing Court cases that have precedent-setting value, will in the long-term bring about social change and advance human rights in Malaysia.

However, the Centre felt that filing test cases in Court is only half the struggle; another equally important part of the process is building the capacity of lawyers on strategic litigation. As such, together with the Kuala Lumpur Bar Young Lawyers Committee, the Centre organised its first training for lawyers in June 2012 and it has since then, continued to do so annually.

The overall objectives of the strategic litigation training for lawyers are to ensure that each participant:

- Learns legal and technical skills (including interviewing complainants and drafting cause papers, pleadings and written submissions) in the practice of constitutional and human rights law;
- Learns advocacy skills to conduct strategic litigation in Court;
- Learns to use various tools for a holistic factual, data and problem-solving analysis of the issues;
- Explores the power relations between various stakeholders; and
- Takes an interest in strategic litigation cases.

INTRODUCTORY SESSION

Learning Objectives

- Create an atmosphere where participants get to know each other.
- Introduce the training team to the participants.
- Establish the ground rules for the training.
- Make participants articulate events and issues that are important to them.
- Inform participants about findings of needs assessment.

Questions

- Why did you join the training?
- What events in your life are most important to you?
- What are the basic rules governing this training?

Activities

- A. Ground Rules using the Universal Declaration of Human Rights (UDHR)
- B. My Life Timeline
- C. Learning Needs Assessment

Duration: 1 hour 45 minutes

A. Gound Rules using the Universal Declaration of Human Rights (UDHR)

Time Allocation: 10 minutes

Materials Required: Flip chart paper, marker pens, and tape

Background Information/Notes for Facilitators:

Before beginning the training, it is useful and important to develop ground rules or guidelines for participants to ensure that the training runs smoothly, participants respect each other, there is optimum participation and there is a safe space for dialogue.

The most effective way of creating ground rules is to have participants generate and agree to the ground rules—this would ensure ownership of the rules and hopefully better adherence to the rules throughout the training.

In formulating the ground rules, ask participants to link each suggested rule to one human right listed in the UDHR. Using the UDHR to frame the ground rules is a creative way to start a conversation about how human rights govern behaviour.

If participants have difficulty creating the ground rules or if there are certain rules that are important, facilitators may need to prompt participants or add on to the ground rules. It is suggested that the ground rules are written on a flip chart paper and displayed where it is visible to participants throughout the training.

Article 24

Be punctual

Right to leisure, have more time to rest



Article 30

No ground rules

Freedom from state and personal interference in the above rights



Article 5

Toilet breaks

Freedom from torture

Article 5

Smoking

Freedom from torture

Article 19

Safe haven

Freedom of opinion, information and expression but respectful

Article 13

Allowed to leave

Freedom of movement



**Articles
19 & 26**

Must give answer

Right to education, freedom of
information

Article 13

No use of handphone

Right to education

*An example of ground rules
based on the UDHR*

B. My Life Timeline

Time Allocation: 90 minutes

Materials Required: Flip chart paper, marker pens, and tape

Background Information/Notes for Facilitators:

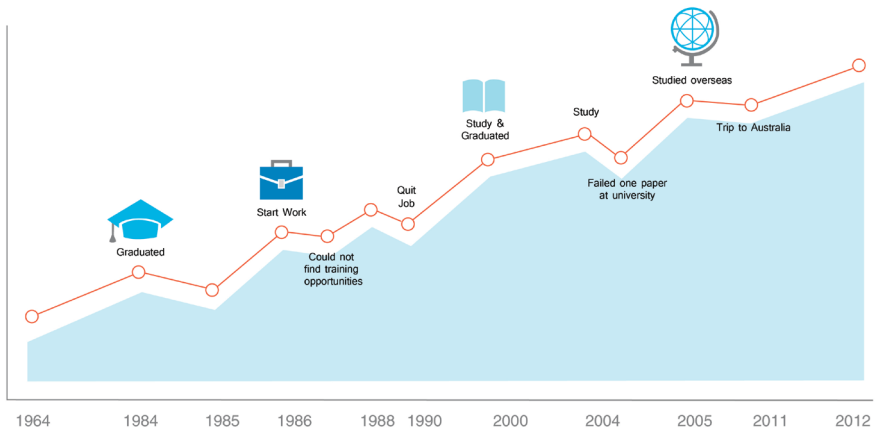
This is an ice-breaker activity and an instructive way for participants to begin the training by putting their learning in the context of their life events¹. It provides an opportunity for participants to reflect on significant events in their life and what they have learned from the said events.

Ask each participant to draw his or her timeline on a flip chart paper, charting approximately 10 key events in his or her life (the number of key events may vary). The 10 key events should include five 'up' and five 'down' events in the participant's life, together with an approximate date of the said events. Each participant should begin from the year he or she was born until the present date. Completed timelines should be displayed in the training room.

Invite three participants to present and explain their key events in their My Life timeline. Each participant should be given between three and five minutes to present his or her My Life timeline. Facilitators may want to choose three new participants to present their My Life timeline at the start of each new session or at the start of each new training day (if the training is for more than a day).

¹ TES Editorial, 'My Life of Achievements' (*TES iBoard*, 2011) <<http://www.iboard.co.uk/activity/My-Life-of-Achievements-2857>> accessed 27 December 2013.

My Life Timeline



*An example drawing
of My Life Timeline*

C. Learning Needs Assessment

Time Allocation: 5 minutes

Materials Required: Hand-out 1, laptop, and projector (for a PowerPoint presentation)

Background Information/Notes for Facilitators:

Ideally, get participants to complete a learning needs assessment prior to the training. A pre-assessment of the level of knowledge and experience of participants can assist facilitators in designing the training activities; secondly, the findings of the learning needs assessment can also be used by participants to measure their progress after the training.

Facilitators should analyse information obtained from the learning needs assessment form and present the findings to the participants.

HAND-OUT 1

LEARNING NEEDS ASSESSMENT

1. Called to the Bar
Please circle 1

A	Student
B	Pupil
C	1-6 years
D	More than 6 years

2. How would you rate your knowledge and skills in the following areas?
Please tick off your rating scores in a scale of 1 (low) to 5 (high).

AREA	SCORE				
	1 (low)	2	3	4	5 (high)
(a) General concept of human rights					
(b) International Human Rights treaties and procedures					
(c) Federal Constitution					
(d) Litigation—contentious applications					
(e) Litigation—trial					
(f) Litigation—Court of Appeal and Federal Court					

3. From your experience or observation, what are the 3 key challenges in the implementation of human rights in Malaysia? These challenges can be general or specific, and can relate to those relevant to rights holders and duty bearers.
Please circle 3 answers

	Key Challenges
A	Inadequate knowledge of the law and human rights.
B	Inconsistent implementation of human rights.
C	Lack of skills in applying human rights.
D	Lack of coordination among institutions concerned with the law and human rights.
E	Resistance or antagonism to human rights.
F	Religion-based and culture-based justifications for violations of human rights.
G	Non-recognition of diversities among different groups of peoples.
H	Others (Please specify)

4. Are you a member of at least 1 NGO?
Please circle your answer

YES

NO

5. Do you serve on at least 1 committee in the Malaysian Bar?
Please circle your answer

YES

NO

6. Do you volunteer in the Bar's Legal Aid Centre?
Please circle your answer

YES

NO

7. What are your expectations and learnings you hope to gain from the workshop?

a. _____

b. _____

c. _____

WHY ARE WE HERE?

Learning Objectives

- To ensure that participants acquire a basic working knowledge of strategic litigation.
- To provide a basic understanding of how strategic litigation can be used by lawyers, to defend and protect constitutional and human rights in Malaysia.

Questions

- What is strategic litigation?
- Why do we do it?
- When do we engage in strategic litigation?
- What are the criteria for a strategic litigation case?
- What is considered a success in strategic litigation?

Activity

A. Introduction to Strategic Litigation

Duration: 30 minutes

24-
25

² Some parts of this section are extracted from Equal Justice Initiative (2009) <<http://www.eji.org>> accessed 27 December 2013; Centre for Child Law, *Strategic Impact Litigation for Children's Rights: Centre for Child Law Report on Selected Cases 2004-2011* (2011); 'Children's Rights: A Guide To Strategic Litigation' (Child Rights International Network 2014) <<http://www.crin.org/en/library/publications/childrens-rights-guide-strategic-litigation>> accessed 27 December 2013; Public Interest Law Clearing House, *PILCH Strategic Plan 2010-2012*; Brian Kearney-Grieve, *Public Interest Litigation: Summary of a meeting of organisations from Northern Ireland, the Republic of Ireland, South Africa and the United States* (The Atlantic Philanthropies, 2011); and Peter Reading, *The Importance of Strategic Litigation: the Experience in Britain* (Equality and Human Rights Commission, 2010).

A. Introduction to Strategic Litigation²

Time Allocation: 30 minutes

Materials Required: None

**Background Information/
Notes for Facilitators:**

What is strategic litigation?

Whilst litigation is concerned with only the parties involved, that is, individual justice, strategic litigation goes a step further and seeks social and legal change, which will have an impact on the larger population and the government. It essentially uses the power of the Courts to change laws and policies to defend and promote constitutional protections and human rights.

Why do strategic litigation?

There are several reasons for undertaking a strategic litigation case:

- To bring about social change and advance human rights in Malaysia;
- To change laws or policies that violate constitutional protections or human rights;
- To ensure that laws are interpreted in accordance with human rights standards;
- To change public attitudes on human rights issues;
- To provoke discussion within society and to raise awareness on a human rights issue.

What is the strategy involved?

When commencing a strategic litigation case, a comprehensive strategy is needed to ensure widespread effect on human rights. In Malaysia, strategic litigation provides an opportunity for the lawyers of the Centre to give Courts guidance in human rights. As such, in almost all strategic litigation cases filed by the Centre, lawyers of the Centre integrate international human rights law in their arguments.

Strategic litigation is essentially an instrument of advocacy. As strategic litigation is concerned with the effects that these cases will have on society at large, the struggle is more often than not, beyond a Court decision. Attention generated by filing test cases is an effective way of attracting media interest and to get the media involved in the cause. The attention and awareness would not only foster discussion on the issues but could also translate to support the case and its cause. In addition, filing test cases creates a record of the injustices that underlie these cases; even if these cases do not succeed, violations of human rights are highlighted and could potentially lay a foundation for future efforts to succeed.

Advancing human rights through Court cases is a long and protracted process—in reality the process usually involves filing a number of cases and using different approaches. Challenges and appeals to the highest Court of the land are necessary but more important, they contribute towards sustaining effort made over a number of years. As such, legal support for such cases is important to sustain the momentum and constant pressure on the Courts.

Last but not least, lawyers taking up strategic litigation cases should always bear in mind the safety of complainants and others related to the case. Because of the nature of these cases (involving serious human rights violations), attention is inevitably drawn to the complainants. As such, the principle of ‘do no harm’ should be the overarching concern for lawyers.

What is considered a success?

- Repeal of laws challenged—for example, the repeal of the four Emergency Proclamations and the Internal Security Act 1960 (ISA);
- Laws challenged are clarified;
- Governments or other defendants change their policies and practices;
- More awareness and discussion on human rights –The *PSM6*³ case brought considerable attention to the use of the 1969 Emergency Ordinance, which was overshadowed by the more well-known ISA; most Malaysians were not aware of the widespread and arbitrary use of the 1969 Ordinance to deprive individuals of their right to a fair trial and right to liberty;
- Education for Courts—For the first time Courts directly applied CEDAW in Malaysia in the *NoorFadilla* case⁴.

³ *Dr. Jeyakumar Devaraj & 5 Ors. v Government of Malaysia & 81 Ors.* [2013].

⁴ *Noorfadilla bt. Ahmad Saikin v Chayed bin Basirun & Ors.* [2012] 1 MLJ 832.

When do we resort to strategic litigation?

Before a case is chosen for strategic litigation, lawyers need to ask themselves these questions:

- Is there a legal issue, which relates to a broader human rights problem in Malaysia?
- Would a Court decision be able to address that problem?
- Would a Court decision have a broad effect?
- How great is the potential for media coverage?
- What are the resources available to fund test cases?
- Is there a sympathetic complainant who has standing to commence strategic litigation?
- Are there good experts available?
- How strong are the legal claims? How will they be regarded by the Courts and legal system?
- How likely are you to receive a favourable decision from the Courts?
- Would there be any backlash or other political reactions or repercussions if the claim in Court is successful or unsuccessful?
- Is the environment conducive for that particular case?

LAW AS AN INSTITUTION⁵

Learning Objectives

- To urge participants to re-examine their basic understanding of law.
- To ensure that participants learn to analyse the law using ‘Substance—Structure—Context’ in order to formulate more effective legal strategies.
- To provide a basic understanding of the limitations of using law as a tool to effect social justice.

Questions

- What does law mean to you?
- Who makes laws?
- What are the different types of laws?
- How can you use the different aspects of laws in a strategic litigation case?

Activities

- A. Did I Study Law?
- B. Breaking the Law

Duration: 1 hour 45 minutes

⁵ Some parts of this section is extracted from Asia Pacific Forum on Women, Law, and Development (APWLD), *Feminist Legal Theory and Practice Training Manual*.

A. Did I Study Law?

Time Allocation: 30 minutes

Materials Required: Flip chart paper and marker pens

Background Information/Notes for Facilitators:

The objective of this activity is to urge participants to delve deeper into the divergence between theory and practice of law and to illustrate to participants how informal law-making structures could wield power.

Get participants to break into three (or more groups depending on the total number of participants but each group should have no more than 10 participants). Each group should contemplate the following two questions:

- What does law mean to you?
- Who makes laws?

Each group should formulate five answers to each question and present their answers at a plenary session.

B. Breaking the Law

Time Allocation: 1 hour 15 minutes

Materials Required: Hand-out 2 (case study), paper, and stationery

Background Information/Notes for Facilitators:

This activity is aimed at introducing participants to the different dimensions of laws. Being a lawyer, particularly one that takes up strategic litigation cases, participants should understand the bodies and organs that make, interpret and implement laws and also the cultural, social, economic, and political conditions that affect a Court case. Through a comprehensive understanding of the law as an institution, participants would be able to formulate more effective legal strategies, especially when advancing social justice.

Definition of law

Perhaps the first step in this analysis is to understand the definition of law and the types of laws that operate within a society. Law may be defined as a 'set of rules of a group of institution or set of people' whose authority is based on agreement or consensus derived from a perceived higher source. It is usually enforced by a designated or recognised body or mechanism and carries with it some form of sanction in case of violation or non-compliance.

Types of law

In most countries, there are two levels of law—domestic law and international law. Within domestic law, several layers exist. The most familiar to lawyers are formal laws enacted by Parliament. Alongside formal law, most communities or groups also recognise customary laws and religious laws, interpreted by the community or religious authorities, as the case may be. In some countries, like in Malaysia, these different types of laws operate in tandem.

At the international level, international law governs states and it functions on the basis of consent among states. International law is divided into hard law and soft law and this distinction is important in international human rights law. In the former, hard law comprises international conventions and treaties, where states sign, accede to, or ratify the said conventions and treaties, signifying that they promise to uphold the obligations within it. A failure to adhere to international conventions and treaties brings about consequences through enforcement mechanisms.

Soft law on the other hand consists of declarations, codes of conduct and recommendations that are quasi-legal instruments. Whilst they do not legally bind states, their utility lies in that they may be used to govern standards of behaviour and provide an interpretative guide to human rights issues or lend some persuasive authority.

Substance, structure and context

Moving on from the types and foundations of law, the next step is to appreciate that the law operates within a larger and often complex context. Cultural or societal context could influence the law, how it works, those who work within it and how it is interpreted. In a nutshell, there is a social aspect to law.

Laws can be analysed from the aspects of substance, structure and context. These aspects are interlinked and the divisions are not rigid:

- The **substantive aspect** of the law (content) refers to what is written in the legislation and provided in common law or customary law. It also includes implementing guidelines and a law's interpretations.
- The **structural aspect** of the law refers to organs and bodies involved in the making and interpreting of the law, its implementation and enforcement. This includes the Courts, law enforcement agencies and executive agencies. Legal aid is another aspect of the 'structure' of the law. Adversarial, inquisitorial or a hybrid of those two systems is also a key 'structural' aspect of the law.
- The **contextual aspect** refers to cultural, social, economic, political and other factors or conditions that affect situations of discriminated people and other aspects of the law. An example is the relevant cultural or social norms and governance structure in a country.

A more comprehensive understanding of the law will better inform lawyers taking up strategic litigation cases with regard to strategies that they wish to employ.

For example, strategic litigation lawyers may want to ask, what aspect of the law is being addressed—if no legislation exists, we can consider enacting a new law.

If legislation exists, but people who are discriminated are still not able to enjoy their rights, the challenge may be in the area of implementing the law.

In the ‘structure’ aspect of the law, we may have to look at how resources are being allocated.

For example, we have to check on the availability of legal aid or availability of court interpreters for people speaking different languages.

In the ‘context’ aspect of the law, we may have to consider human rights awareness training for the judiciary, prosecutors, police and lawyers.

After a discourse by facilitators on the substantive, structural and contextual aspects of the law, participants should return to their groups and discuss and apply what they have learnt to a case study (see Hand-out 2).

HAND-OUT 2

LAW AS AN INSTITUTION

CASE STUDY: FOREIGN DOMESTIC WORKER M

M is a single unwed mother. She lived in a small village in Country A. She was unable to find employment in her village, and many of her family members and villagers shunned her because she has an illegitimate child.

She made the decision to work abroad. M can barely read and write, so she decided to be a domestic worker. The person who approached her to work abroad told her that she could be a documented or undocumented worker. After listening to him, she decided to go abroad as a documented worker.

M went to work in Country B. M does not speak English and very little B1—the national language of Country B.

Soon after she started work in C and D's household, C started to abuse her. It began with verbal abuse and threats of violence. Within 2 weeks, it escalated to physical abuse then became increasingly worse. They gave her very little food to eat even though she had to work from 5 a.m. until very late at night.

C's husband, D, knew of the abuse, but D did not stop his wife from abusing her. Neither C nor D provided her with medical assistance as a result of her physical injuries.

One day M managed to escape to her embassy. Her Embassy has instructed you to take ALL the legal actions to punish the C and D, and to seek compensation for M. However, the Embassy does not have the funds to sustain any legal action(s) that M may decide to take after your advice.

In the meantime, C and D have reported that M has run away. They have cancelled her work permit, and want her to be deported.

Questions:

1. What types of laws can be used to assist M?
2. Name 5 non-legal problems faced by M.
3. Name 5 legal problems faced by M.

INTERSECTIONALITY

Learning Objective

- To familiarise participants with the concept that multiple identities, status or conditions of a person may advantage or disadvantage that person.

Questions

- What is your identity?
- What are multiple forms of discrimination?
- Does discrimination always affect each person in the same way?
- Do our different life experiences affect the discrimination we face?

Activities

- A. Introduction to Intersectionality
- B. Stepping Game

Duration: 1 hour

A. Introduction to Intersectionality⁶

Time Allocation: 30 minutes

Materials Required: Hand-out 3, laptop, and projector (for slide presentation)

Background Information/ Notes for Facilitators:

All of the strategic litigation cases of the Centre concern human rights violations and as we deal with human beings as complainants, it is inevitable that the human rights violation complaint is infused with the different life experiences of the complainant. As such, a single complainant may face multiple forms of discrimination.

⁶ This section is taken from Sunila Abeysekera, *Intersectionality*.

This concept of multiple discrimination is not new; it began decades ago when working class women and social feminists in Europe and USA argued that they bore the burden of sex, class and ethnicity. This argument became part of the feminist discourse and was reiterated in the 1995 Fourth World Conference on Women in Beijing, where it was recognised that women faced multiple intersecting barriers such as race, age, ethnicity, culture, disability or being an indigenous woman.

This idea of intersectionality infused human rights jurisprudence and human rights activists began to recognise that we all have shifting and multiple identities—race, colour, descent, national/ethnic origin, sex/gender, language, religion, political or other opinion, caste, social origin, property, birth or other status, disability, age, HIV/AIDS or other health status, sexual orientation, culture, social and economic status, nationality, occupation; the list is not a comprehensive one.

On a personal level, intersectionality challenges us to look at different factors that make up our identity and this in turn helps us to understand the various forms of human rights violations we face. It also helps us understand that injustice and discrimination are rooted within power and privilege. With this in mind, we are able to understand that at different times, our different identities may place us in a superior or inferior class in relation to others.

A good example is a case of a poor woman from an ethnic minority community who is a victim of domestic violence. Sex, class, and ethnicity shapes her life experience in different ways—when she is being beaten by her husband, it may not make much difference if she is poor or rich, or if she is from a majority or minority community. In that moment, what matters is that she is a woman and her husband believes that it is his right to beat her.

But when she is seeking medical attention for her wounds, it makes a difference if she is rich or poor because her economic status will determine her access to the services she needs. And if on the way to hospital she has to go through a checkpoint, then her community matters because if she is a member of the minority community she probably has to go through more intensive questioning.

Applying this to strategic litigation, intersectionality enables strategic litigation lawyers to identify various possibilities and opportunities for alliances and informs us of the most effective strategy to use to make a larger positive impact on human rights in general.

HAND-OUT 3

INTERSECTIONALITY

INTERSECTIONALITY

- Social science term
- Gained prominence during the World Conference Against Racism and Xenophobia in 2000

- The convergence of different identities in 1 person.
- These different identities play themselves out in any 1 situation.
- There could be an intersection of a privileged identity with a source of discrimination.

- It could be an intersection between 2 sources of disadvantage.
- Some identities are fluid, e.g. child, student, living in urban area, upper-class, gender identity.
- Complex dynamic.

Important for our work

- How is your client differently affected by a particular problem because of her/his identities? E.g. being a child, non-Malaysian.
- What special or additional measures have to be taken to address these differential effects? E.g. hearing impaired, wheel chair user

Important for our work

- What are potential negative impact of your arguments in court for your client and/or the bigger social justice movements?

* strategic litigation must benefit more than just your client—and must not negatively impact other social justice movements, e.g. whipping women

B. Stepping Game⁷

Duration: 30 minutes

Materials Required: Role cards, list of situation, and an open space

Background Information/Notes for Facilitators:

The aim of this activity is to encourage participants to empathise with others, draw their attention to the unequal opportunities in society and to foster an understanding of consequences of belonging to a social or ethnic minority group.

Hand out role cards to each participant and instruct them to read their role card and keep it to themselves. Ask each participant to play the role.

Then, get the participants to line up side by side in a straight row, as if they are at a starting line in a race. Read out the list of situations and every time they answer 'yes' to the situation, they should take a step forward. Otherwise, they should stay where they are. At the end of the activity, invite participants to take note of their final positions.

Discuss with participants about the gap between the different participants—those who stepped forward and those who did not. Explain to participants that a step forward is a metaphor to illustrate the position of the person in the hierarchy of society and the advantage they would enjoy in society as a result of their 'higher' position. Also, discuss with the participants how they perceive the character they played and whether it was from personal experience or other sources of information and explain how stereotypes and prejudice works.

⁷ Taken from Council of Europe, *COMPASS: A Manual on Human Rights Education with Young People* (Council of Europe Publishing 2002).

ROLE CARDS

STEPPING GAME



You are an unemployed single mother.



You are the daughter of the local bank manager. You study economics at university.



You are a soldier in the army, doing compulsory military service.



You are a 17-year-old Roma (Gypsy) girl who never finished primary school.



You are an unemployed school teacher in a country whose new official language you are not fluent in.



You are an illegal immigrant from Mali.



You are the son of a Chinese immigrant who runs a successful fast food business.



You are the owner of a successful import-export company.



You are the girlfriend of a young artist who is addicted to heroin.



You are a fashion model of African origin.



You are an Arab Muslim girl living with your parents who are devoutly religious people.



You are the 19-year-old son of a farmer in a remote village in the mountains.



You are an HIV positive, middle-aged prostitute.



You are a disabled young man who can only move in a wheelchair.



You are a 24-year-old refugee from Afghanistan.



You are the daughter of the American ambassador to the country where you are now living.



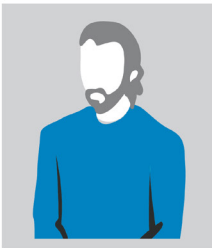
You are a retired worker from a factory that makes shoes.



You are the youth organisation president of a political party that is now in power.



You are a 22-year-old lesbian.



You are a homeless young man, 27 years old.

Situations and events

Read the following situations out loud. Allow time after reading out each situation for participants to step forward and also to look to see how far they have moved relative to each other.

- You have never encountered any serious financial difficulty.
- You have decent housing with a telephone line and television.
- You feel your language, religion and culture are respected in the society where you live.
- You feel that your opinion on social and political issues matters, and your views are listened to.
- Other people consult you about different issues.
- You are not afraid of being stopped by the police.
- You know where to turn for advice and help if you need it.
- You have never felt discriminated against because of your origin.
- You have adequate social and medical protection for your needs.
- You can go away on holiday once a year.
- You can invite friends for dinner at home.
- You have an interesting life and you are positive about your future.
- You feel you can study and follow the profession of your choice.
- You are not afraid of being harassed or attacked in the streets, or in the media.
- You can vote in national and local elections.
- You can celebrate the most important religious festivals with your relatives and close friends.
- You can participate in an international seminar abroad.
- You can go to the cinema or the theatre at least once a week.
- You are not afraid for the future of your children.
- You can buy new clothes at least once every three months.
- You can fall in love with the person of your choice.
- You feel that your competence is appreciated and respected in the society where you live.
- You can use and benefit from the Internet.

HUMAN RIGHTS: FROM PRINCIPLES TO PRACTICAL USES AND APPLICATIONS

Learning Objectives

- To ensure that participants are familiar with human rights principles and concepts.
- To explain and illustrate the practical application of human rights.
- To familiarise participants with the UN human rights structure.

Questions

- What is a human right?
- What are the core principles of human rights?
- What are the main UN bodies in-charge of protecting human rights?

Activity

- A. Introduction to Human Rights Principles and the UN System

Duration: 1 hour 45 minutes

A. Introduction to Human Rights Principles and the UN System

Time Allocation: 1 hour 45 minutes

Materials Required: Hand-outs 4 and 5

Background Information/

Notes for Facilitators:

The aim of this session is to give participants a snapshot of human rights, international human rights treaties and the UN treaty bodies.

Definition of human rights.

Human rights are defined as “universal legal guarantees protecting individuals and groups against actions by governments, which interfere with fundamental freedoms and human dignity. Human rights law obliges governments to do some things, and prevents them from doing others”⁸.

Characteristics of human rights include⁹:

- Human dignity;
- Legally protected;
- Internationally guaranteed;
- Protect the individual and groups;
- State obligations;
- Inalienable;
- Equality and interdependent;
- Universal; and
- Indivisible.

⁸ Office of the High Commissioner for Human Rights, *Training Manual on Human Rights Monitoring* (United Nations 2001).

⁹ *Ibid.*

HAND-OUT 4

INTRODUCTION TO HUMAN RIGHTS PRINCIPLES AND THE UN SYSTEM

PRINCIPLE	EXPLANATION
Universality and inalienability	Human rights are universal and inalienable. All people everywhere in the world are entitled to them. The human person in whom they are inherent cannot voluntarily give them up. Nor can others take them away from him or her. As stated in article 1 of the Universal Declaration of Human Rights, “All human beings are born free and equal in dignity and rights”.
Indivisibility	Human rights are indivisible. Whether of a civil, cultural, economic, political or social nature, they are all inherent to the dignity of every human person. Consequently, they all have equal status as rights, and cannot be ranked, <i>a priori</i> , in a hierarchical order.
Equality and non-discrimination	All individuals are equal as human beings and by virtue of the inherent dignity of each human person. All human beings are entitled to their human rights without discrimination of any kind, such as race, colour, sex, ethnicity, age, language, religion, political or other opinion, national or social origin, disability, property, birth or other status as explained by the human rights treaty bodies.
Participation and inclusion	Every person and all peoples are entitled to active, free and meaningful participation in, contribution to, and enjoyment of civil, economic, social, cultural and political development in which human rights and fundamental freedoms can be realised.
Accountability and rule of law	States and other duty-bearers are answerable for the observance of human rights. In this regard, they have to comply with the legal norms and standards enshrined in human rights standards. Where they fail to do so, aggrieved rights-holders are entitled to institute proceedings for appropriate redress before a competent court or other adjudicator in accordance with the rules and procedures provided by law.

International Bill of Human Rights

This comprises:

- UDHR;
- International Covenant on Civil and Political Rights (ICCPR) and its first Optional Protocol;
- International Covenant on Economic, Social and Cultural Rights (ICESCR);

The ICCPR ensures that state parties respect, protect and fulfil, amongst others, the right to self-determination, equality, life, liberty, freedom of movement, fair trial, freedom of expression, freedom of thought, conscience and religion, freedom of peaceful assembly, freedom of association, and the prohibition of torture. Some rights in the ICCPR are non-derogable.

The ICESCR focuses on the respect, protection and fulfilment of, rights such as, right to livelihood, right to a safe and healthy working environment, right to form and participate in trade unions, right to adequate housing, right to healthcare, and right to participate in cultural life. The distinction between the ICESCR and the ICCPR is that the former merely requires state parties to devote maximum of their available resources to ensure the progressive realisation of the rights.

Specialised treaties

Apart from the International Bill of Human Rights, the UN has promulgated treaties relating to specific human rights:

- Convention on the Prevention and Punishment of the Crime of Genocide (CPPCG);
- Convention relating to the Status of Refugees; Protocol relating to the Status of Refugees;
- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD);
- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW);
- Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT);
- Convention on the Rights of the Child (CRC);
- Convention on the Rights of Persons with Disabilities (CRPD);
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW).
- International Convention for the Protection of All Persons from Enforced Disappearance (ICCPED).

Treaty-based bodies

There are nine human rights treaty bodies that are established to oversee the implementation of the articles in the respective treaties. The nine treaty bodies—and their corresponding treaty—are:

- Human Rights Committee—ICCPR;
- Committee on Economic, Social and Cultural Rights—ICESCR;
- Committee on the Elimination of Racial Discrimination—ICERD;
- Committee on the Elimination of Discrimination Against Women—CEDAW;
- Committee Against Torture—CAT;
- Committee on the Rights of the Child—CRC;
- Committee on the Rights of Persons with Disabilities—CRPD;
- Committee on the Protection of the Rights of all Migrant Workers and members of their Families—ICRMW;
- Committee on Enforced Disappearances—ICCPED.

These treaty bodies build the corpus of international human rights law by issuing general comments and recommendations; general comments provide an authoritative interpretation of the treaty articles and guidance to state parties. In addition, treaty bodies review periodic reports submitted by state parties, or commonly referred to as state reports. After the review of state reports and shadow reports (reports submitted by NGOs of the state party), the treaty body would issue concluding observations, which contain recommendations to state parties on areas that require change in legislation, policy and practice so that state parties comply with their obligations. Some treaty bodies—the Human Rights Committee; the Committee on the Elimination of Racial Discrimination; and the Committee Against Torture—may receive individual communications from individuals.

Charter-based bodies

The Human Rights Council consists of 47 member states, which are elected by the UN General Assembly. It is an inter-governmental body tasked with promoting and protecting human rights¹⁰. The Human Rights Council established the Universal Periodic Review (UPR) as a review mechanism.

Based on “institution-building”¹¹, the UPR process is a mechanism that allows state parties to conduct a peer review of the human rights records of all UN member states. Member states declare actions that they have done to improve human rights situations in their countries and how they have fulfilled their human rights obligations. The objective of the UPR process is to improve the human rights situation around the world¹².

The Human Rights Council also works with UN Special Procedures, that is, Special Rapporteurs, Special Representatives, Independent Experts and Working Groups on various thematic issues¹³.

¹⁰ OHCHR, ‘United Nations Human Rights Council’ (United Nations Human Rights, 2012) <<http://www.ohchr.org/EN/HRBodies/HRC/Pages/AboutCouncil.aspx>> accessed 27 December 2013.

¹¹ Human Rights Council, *Institution-building of the United Nations Human Rights Council* (2007).

¹² OHCHR, ‘Universal Periodic Review’ (United Nations Human Rights, 2012) <<http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRmain.aspx>> accessed 27 December 2013.

¹³ *Ibid.*

HAND-OUT 5

MULTI-LEVEL AND INTERRELATED SYSTEMS

INTERNATIONAL

- *Human Rights Treaty Bodies*
To monitor the nine core human rights treaties the following treaty-based bodies were created:
 - the **Human Rights Committee**, which monitors the International Covenant on Civil and Political Rights (ICCPR)
 - the **Committee on Economic, Social and Cultural Rights**, which monitors the International Covenant on Social and Economic Rights (ICESCR)
 - the **Committee on the Elimination of All Forms of Discrimination Against Women**, which monitors the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)
 - the **Committee on the Elimination of All Forms of Racial Discrimination**, which monitors the International Convention on the Elimination of All Forms of Racial Discrimination (CERD)
 - the **Committee on the Rights of the Child** which monitors the Convention on the Rights of the Child.
 - **Committee against Torture** which monitors use the **Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)**.
 - **Committee on the Rights of Persons with Disabilities** which monitors the Convention on the Rights of Persons with Disabilities
 - **Committee on the Protection of the Rights of all Migrant Workers and members of their Families** which monitors the Convention on the Rights of all Migrant Workers and members of their Families
 - **Committee on Enforced Disappearances** which monitors the Convention for the Protection of all Persons from Enforced Disappearances

- The Committees are made up of independent experts and are responsible for monitoring the implementation of the relevant treaty by State Parties. State parties are required to report to the Committee on their implementation of the treaty on a regular basis (commonly every 4-5 years).
 - Concluding Comments—Committees issue concluding comments after each review of a State Party. The concluding comments provide an important assessment of what measures State Parties can take to better implement the relevant treaty.
 - Individual complaints procedures

- *Human Rights Council*
 - Universal Periodic Review—The Universal Periodic Review (UPR) is a new and unique human rights mechanism of the United Nations (UN) Human Rights Council aiming at **improving the human rights situation on the ground** of each of the **192 UN Member States**.
Under this mechanism, the human rights situation of all UN Member States is reviewed **every 4 years** (48 States are reviewed each year during 3 UPR sessions dedicated to 16 States each).
The result of each review is reflected in an “outcome report” listing the **recommendations** made to the State under Review (SuR) including those that it accepted.
 - Special Procedures—The Human Rights Council appoints a range of independent experts to report on the implementation and achievement of specific human rights, or specific country situations.
For example: Special Rapporteur on the elimination of violence against women; Special Rapporteur on adequate housing; Special Rapporteur on poverty; Special Rapporteur on trafficking in persons; Special representative on human rights defenders; Special Rapporteur on the situation of human rights in Myanmar; Special Rapporteur on Syria.

- *Other UN Bodies and agencies*
 - Commission on Status of Women

- International Labor Organization—The ILO is the global body responsible for drawing up and overseeing international labour standards. The ILO is devoted to advancing opportunities for women and men to obtain decent and productive work in conditions of freedom, equity, security and human dignity. Its main aims are to promote rights at work, encourage decent employment opportunities, enhance social protection and strengthen dialogue in handling work-related issues. The ILO is the only ‘tripartite’ United Nations agency in that it brings together representatives of governments, employers and workers to jointly shape policies and programmes.
- Agencies—UN Women, UNDP, UNFPA

UN Women is responsible for

- supporting inter-governmental bodies, such as the Commission on the Status of Women, in their formulation of policies, global standards and norms.
- helping Member States to implement these standards, standing ready to provide suitable technical and financial support to those countries that request it and to forge effective partnerships with civil society.
- holding the UN system accountable for its own commitments on gender equality, including regular monitoring of system-wide progress.

REGIONAL

- *ASEAN*
 - ASEAN Charter
 - ASEAN Intergovernmental Commission on Human Rights
 - ASEAN Declaration on Human Rights
 - Other Commissions and Declarations

NATIONAL

- Parliament—the legislature is responsible for enacting laws that recognise human rights and provide protection and remedies for violations of human rights
- Courts—interpret the laws consistently with human rights standards
- Executive—implement policies and programs consistently with human rights standards

HOW WOULD YOU ARGUE THIS?

Learning Objectives

- To ensure that participants acquire the basic skill of framing human rights violations in human rights terms, for a strategic litigation case.
- To ensure that participants acquire the basic legal advocacy skill of presenting submissions in Court when handling strategic litigation cases.
- To ensure that participants learn the various forms of civil and criminal procedure and substantive constitutional and human rights law, commonly used in strategic litigation.

Questions

- How do I apply what I have learnt (on human rights law) to a strategic litigation case?
- How do I draft written submissions in a strategic litigation case?
- How do I incorporate international human rights law in my written submissions?
- How do I present my submissions in Court in a strategic litigation case?

Activities

- A. Drafting Written Submissions
- B. Moot Court

Duration: 8 hours 30 minutes, including breaks

A. Drafting Written Submissions

Time Allocation: 5 hours 30 minutes, including a break

Materials Required: Case studies (with all the relevant Court papers), stationery, and a laptop per team

Background Information/Notes for Facilitators:

The aim of this session is to familiarise participants with the cause papers and the legal arguments of a strategic litigation case and how to draft arguments (for written submissions) to be presented in Court.

Provide participants with a case study to work on and ask participants to study the documents and then draft written submissions. Inform participants that after drafting their written submissions, they will be expected to present their submissions at a moot court.

To ensure that the participants experience various types of strategic litigation cases, it is recommended that case studies provided to participants involve different modes of commencement of legal action in Malaysia and different types of human rights violations. For example, case studies could touch on topical human rights issues in Malaysia such as a *habeas corpus* application under the Special Offences (Special Measures) Act 2012, a judicial review to defend the constitutional right to freedom of religion, and an *amicus brief* for a case concerning gender equality.

Also, to ensure that participants' experience corresponds to the practical scenario, if possible, case studies should be real cases litigated by facilitators.

Participants should be divided into groups of approximately 10 persons per group and each group is further sub-divided into two teams. All members of each team are expected to work together in the preparation of their written submissions.

All cause papers should be given to participants ideally one week in advance. Hard copies should also be made available to participants during the training, for ease of reference.

Instructions to participants¹⁴:

- Each group should be sub-divided into two teams so that there will be 'Plaintiffs' and 'Defendants', or 'Applicants' and 'Respondents', depending on the case study;
- Please draft submissions (for a 10-minute submission at the moot court). Team members should try to contribute equally to the drafting of the written submissions and no one should prepare the written submissions by him or herself;
- Try to develop a structure to your written submissions;
- Understand the legal and human rights principles of the case and apply them to the facts of the case;
- One coach will be assigned to each group and will provide advice to the group as and when necessary;
- During the moot court, present your arguments clearly and in a structured manner;
- Respond to questions from the Judges effectively.

¹⁴ Based on the National Native American Law Students Association, *Annual Moot Court Competition: Official Rules* (2010); and University of the South Pacific, 'LA303 - Equity Trusts & Succession 2: Moot Court Guidelines' (*University of the South Pacific School of Law* 2002) <http://www.vanuatu.usp.ac.fj/courses/la303_equity_trusts_and_succession_2/Moot_Guidelines.html> accessed 15 December 2013.

B. Moot Court

Time Allocation: 2 hours

Materials Required: Furniture (one long table for the Judges, with requisite number of chairs and one desk and two chairs for each team), required for a moot court and stationery

Background Information/Notes for Facilitators¹⁵:

The judges shall hear the written submissions of all case studies provided to participants. Approximately 30 minutes is allocated for the hearing of each case—each lawyer from each side of the case is allowed 10 minutes to present their part of the argument to the Judges. This will be followed by 10 minutes of feedback from Judges.

Participants should be prepared to answer questions from the Judges and not merely read out their written submissions. This trains participants to think on their feet, to listen to questions and to respond effectively.

Instructions to Judges:

Each submission shall be judged based on the following criteria:

- Substantive requirements:
 - Issue recognition;
 - Analysis and argument;
 - Knowledge and application of law and human rights principles.
- Advocacy:
 - Persuasiveness;
 - Structure of argument.

¹⁵ *Ibid.*

LITIGATION IS NOT ENOUGH

Learning Objectives

- To familiarise participants with the basics of mounting a campaign nationally and internationally.
- To ensure that participants explore the power relations between various stakeholders of the nation and the people.
- To ensure that participants learn the skills of communicating difficult legal concepts to the general public.

Questions

- What is the objective of my campaign?
- Who is the target audience of my campaign?
- How do I get my message across to my target audience?
- What actions do I take in my campaign?
- Who do I collaborate with to ensure a successful and sustainable campaign?

Activity

A. #ActionPyramid

Duration: 2 hours, including a break

ACTIVITY

A. #ActionPyramid¹⁶

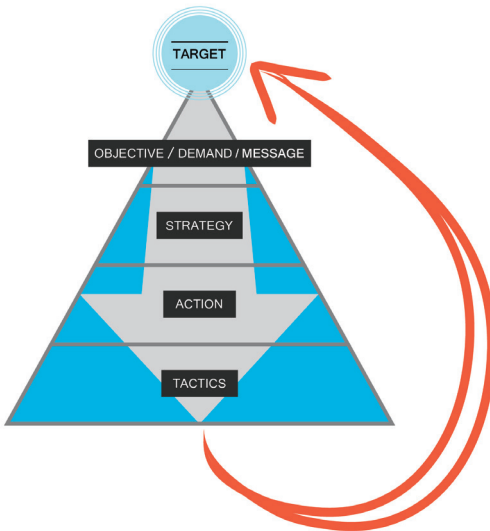
Time Allocation: 2 hours, including a break

Materials Required: Flip chart paper, marker pens, stationery, and tape

Background Information/Notes for Facilitators:

This session is intended to reiterate the point that strategic litigation is an advocacy tool and as such, filing test cases in Court should be complemented with non-legal advocacy.

Break the participants back into their moot court/case study groups. Draw an example of the #ActionPyramid on a whiteboard/blackboard visible to the participants at all times. The #ActionPyramid is made up of several layers:



¹⁶ This part is based on Malaysian Centre for Constitutionalism and Human Rights (MCCHR), 'Appendix E: UndiMisia's #IdolaDemokrasi GameShop' in *Activating Malaysian: The D-I-Y Toolkit* (LoyarBurok Publications 2012) 78.

The idea is to get participants to evaluate and respond by filling in each layer of the #ActionPyramid starting from the tip (Target) and ending at the base (Tactics). The base forms the foundation of the Action proposed to be taken.

Pose each layer of the #ActionPyramid in a form of a question then explain the thought process behind the forming of the answers to those questions:

- Who is the Target (i.e. power holder) you are calling on for behavioural change? The Target is the one who holds the power to change.
- What is the Objective/Demand/Message you seek to convey to the Target? The more specific, realistic and practical the Objective/Demand/Message the better. Limit to one Objective/Demand/Message that should be written in no more than 10 to 15 words.
- What is the Strategy to be employed to convey the Objective/ Demand/ Message? Strategy refers to the use of a series/ combination of methods (consecutive or concurrent) to achieve the Objective/Demand/Message.
- What are the Tactics to make the Action successful and effective? Tactics refer to the methods to achieve success in the chosen Action. The question may further be broken down by asking how we are to make the Action credible, sustainable, impactful and effective.

Give each group flip chart paper and marker pens. Each group must draw out the #ActionPyramid and fill in each layer, with a view to launching a campaign to complement the case that they worked on in the moot court/case study.

After the groups have completed their diagrams, their spokespersons are to stick their #ActionPyramid on the walls around the training room and present their groups' #ActionPyramid. After each presentation, the floor questions the spokesperson on the #ActionPyramid.

(Please refer to *Activating Malaysians: The D-I-Y Toolkit*, (2012), Malaysian Centre for Constitutionalism and Human Rights, for further details on the #ActionPyramid).

CLOSING

Learning Objectives

- To provide an opportunity for participants to reflect and evaluate the training.
- To allow participants to share ways they will carry out key performance pledges.

Questions

- What did I learn during the training?
- Did I enjoy the training?
- Are there things that I do not like about the training?
- How will I use what I learnt during the training? Will I be part of a strategic litigation case after this training?

Activities

- A. Reflections
- B. Revisiting Key-performance Pledges
- C. Formal Evaluation
- D. Pat Onthe Back

Duration: 30 minutes

ACTIVITIES

A. Reflections

Time Allocation: 5 minutes

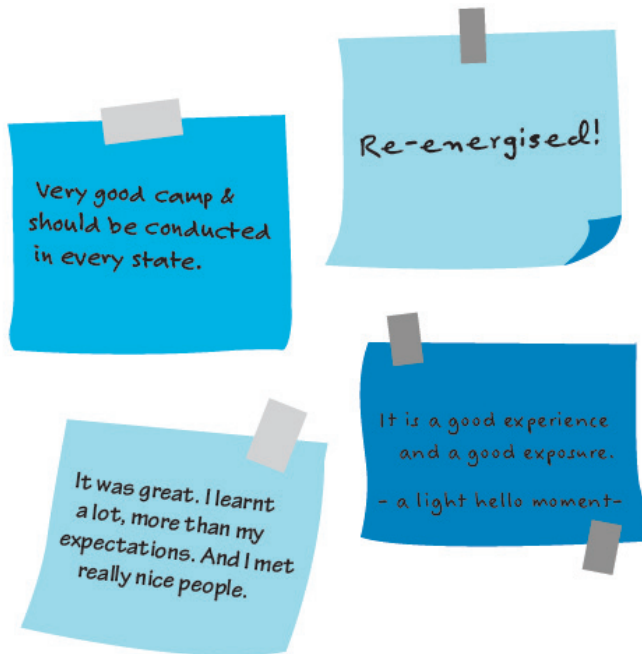
Materials Required: Post-it notes and marker pens

Background Information/Notes for Facilitators:

The aim of this Reflection activity is to encourage participants to share their ideas and feelings with other participants.

Get participants to reflect about the entire training, in particular their experience during the training, their participation during the training, and how they can and will use this experience in their lives.

Ask participants to write their reflections on post-it notes and paste the post-it notes on the wall, for other participants to read. The reflections should be anonymous.



B. Revisiting Key-performance Pledges

Duration: 15 minutes

Materials Required: None

Background Information/Notes for Facilitators:

The objective of this activity is to reiterate to participants that attending the strategic litigation training is just a first step and it is hoped that participants will be part of the legal team of at least one strategic litigation case.

Also, this session is an opportunity for facilitators to brief participants about the cases undertaken by them. Facilitators should brief participants about the facts of the cases, the human rights issues that are being argued in the said cases, the status of the case (whether commencing action at the first instance or at the appeal level) and the lawyer(s) in-charge of the cases. What would be useful is if a list of cases with the aforementioned information is distributed to participants for their reference.

To encourage participants to take active part in a strategic litigation case, lawyers of cases could also announce the next meeting or hearing of a particular case and invite participants to be part of the legal team.

C. Formal Evaluation

Time Allocation: 5 minutes

Materials Required: Hand-out 6

Background Information/Notes for Facilitators:

This session is intended to obtain feedback and comments from participants about the training, the modules and the methodology used by the trainers.

Evaluation can take the form of oral or written evaluation. The information collected can be used as lessons learnt for future training modules.

An example of a written evaluation questionnaire:

HAND-OUT 6

EVALUATION

Please rate the following by marking the appropriate boxes:

1. Did we meet the workshop objectives?				
Objectives	Strongly Disagree	Disagree	Agree	Strongly Agree
After attending the workshop, I have increased my capacity to carry out strategic litigation.				
Comments:				
After attending the workshop, I have an increased interest carrying strategic litigation as a form of redress for individual complainants and further, as a tool to promote and mainstream constitutional and human rights law in society.				
Comments:				
After attending the workshop, I am more sensitised and aware of the two main objects of the Bar found in Section 42 of the Legal Profession Act 1976, namely, to uphold the cause of justice without fear or favour and to assist the public in all matters related to the law and administration of justice.				
Comments:				

2. Workshop Activities			
	Yes	No	Partially
Were the activities effective in promoting the sharing of experience among the participants?			
Comments:			
Were the activities effective in integrating practice and theory?			
Comments:			
Was the amount of time allocated for activities throughout the program adequate?			
Comments:			
Was the combination of presentations and large and small group work appropriate?			
Comments:			

3. Workshop Materials				
	Very Poor	Poor	Good	Very Good
General quality of the workshop materials				
Potential usefulness in my strategic litigation work				
Clarity of instructions				
Comments:				

4. Facilitators				
	Very Poor	Poor	Good	Very Good
Ability to explain clearly and summarize discussions				
Ability to encourage participation of group members during activities				
Ability to show connections among different sessions				
Comments:				

5. Facilitators				
	Very Poor	Poor	Good	Very Good
Ability to explain clearly and summarize discussions				
Ability to encourage participation of group members during activities				
Ability to show connections among different sessions				
Comments:				

6. Facilitators				
	Very Poor	Poor	Good	Very Good
Ability to explain clearly and summarize discussions				
Ability to encourage participation of group members during activities				
Ability to show connections among different sessions				
Comments:				

7. Facilitators				
	Very Poor	Poor	Good	Very Good
Ability to explain clearly and summarize discussions				
Ability to encourage participation of group members during activities				
Ability to show connections among different sessions				
Comments:				

8. Facilitators				
	Very Poor	Poor	Good	Very Good
Ability to explain clearly and summarize discussions				
Ability to encourage participation of group members during activities				
Ability to show connections among different sessions				
Comments:				

9. Logistics				
	Very Poor	Poor	Good	Very Good
Accommodation				
Meeting rooms				
Food quality and service				
On-site community services				
Communication with the organisers before the workshop				
Comments:				

10. Overall Evaluation			
	Yes	No	Partially
Was this workshop what you expected			
Please explain:			
What aspects of the training did you find most useful?			
What aspects of the training did you find less useful?			
What content areas would you recommend for future workshops?			

Name (optional):

Firm/University:

Job Title:

Gender:

D. Pat on the Back

Duration: 5 minutes

Materials: A4 paper, post-it notes, pen, and tape

Background Information/Notes for Facilitators:

This activity is a fun and happy way of closing the training. Facilitators should request everyone, including facilitators themselves, to pin an A4-sized paper on each other's back. Then distribute post-it notes to everyone in the training and ask everyone to write something nice on the post-it note and to stick it on the person's back.

ACKNOWLEDGMENT

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The Malaysian Centre for Constitutionalism and Human Rights is the corporate social responsibility component of Liberal Banter Sdn. Bhd. The Centre or more fondly known as Pusat Rakyat LoyalBurok, implements two programmes—strategic litigation and UndiMsia!, a civic education initiative. Within its strategic litigation component, the Centre undertakes test cases and carries out training for lawyers and media personnels.

For the past two years, the Malaysian Centre for Constitutionalism and Human Rights has been organising trainings on strategic litigation for lawyers. The strategic litigation trainings were the first of its kind in Malaysia and as such, much of the training modules and methodology were modified and fine-tuned to ensure that the training achieved its desired objectives. To ensure posterity and to share the experience, knowledge and information to other trainers interested in strategic litigation training, the Centre developed the Strategic Litigation Training Manual for Lawyers.

The Manual is a fusion of the work of all the trainers in the past two years, their experience, and lessons learnt. This Manual is a starting point on strategic litigation training for lawyers and touches on human rights, strategic litigation, legal advocacy, and non-legal advocacy.

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