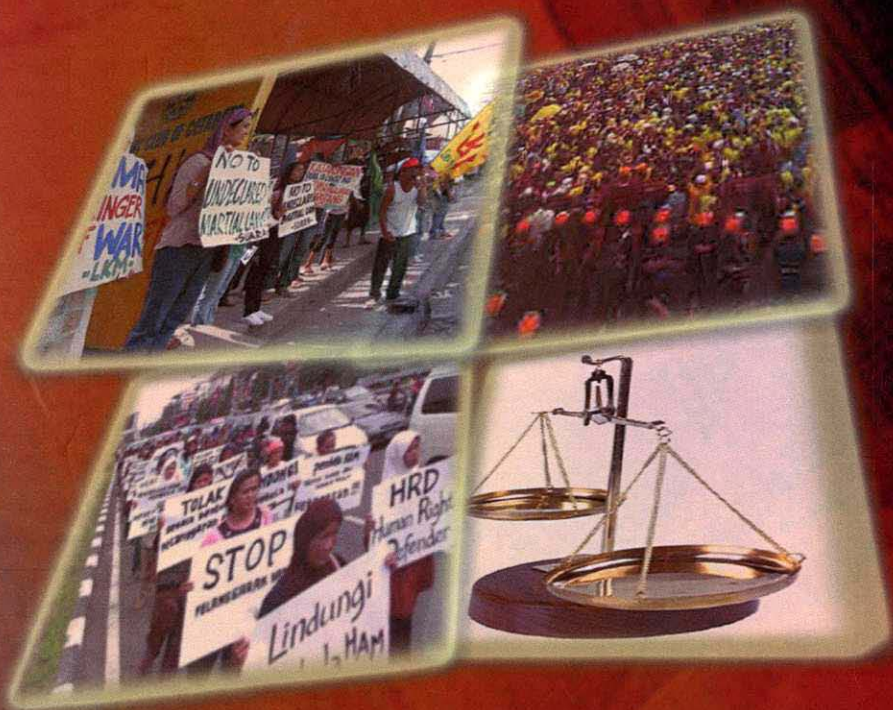


CONSTITUTIONAL LAW AND HUMAN RIGHTS IN MALAYSIA

Selected Issues



KHAIRIL AZMIN MOKHTAR

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Living in Limbo: Constitutional and Legal Issues of Unregistered Birth

Nor Hafizah Binti Mohd Badrol Afandi

Introduction

Birth registration is the official recording of a child's birth by some administrative level of the state and coordinated by a particular branch of government. It is a permanent and official proof of a child's existence. The right to birth registration is enshrined under Article 7 of the 1989 United Nations Convention on the Rights of the Child (CRC) which provides that "the child shall be registered immediately after birth and shall have the right from birth to name, the right to acquire nationality and as far as possible, the right to know and be cared by his or her parents". This means that the state must make birth registration accessible and available to all children, including asylum seekers, refugees and immigrants, documented or otherwise.

The registration of a child's birth enables the child to obtain a birth certificate whether automatically following birth registration or by making a separate application. The effect of unregistered birth is that a child will not have a birth certificate which contains all- important information such as the name, the relationship with the child's parents, place and date of birth and importantly the nationality of a the child. Most countries in the world confer nationality based on the principle of *jus soli* (law of the land) and *jus sanguinis* (law of the blood) or a combination of the two. Malaysia applies a combination of the two.

This article emphasises the crucial importance of birth registration, highlights on the obstacles to birth registration and examine some of the rights connected to it and the effects of such problems particularly in Malaysia.

The Importance of Birth Registration

In the olden days where most people lived in a homogenous society, where their entire lives was within a small radius, where the teacher is your neighbor, the health worker is your aunt, the idea that you need a piece of paper to