



REPORT COMMISSION
OF ENQUIRY
ON IMMIGRANTS
IN SABAH

**REPORT OF THE
COMMISSION OF ENQUIRY
ON IMMIGRANTS IN SABAH**

**PRESENTED TO SERI PADUKA BAGINDA
YANG DI-PERTUAN AGONG**

**BY
COMMISSIONERS**

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CHAPTER 1
INTRODUCTION

CHAPTER 1 : INTRODUCTION

1.1 Land Below the Wind

Sabah is often referred to as the “Land below the Wind”, a kind of paradise on earth. It is endowed with great beauty, both in terms of land and people. It is rich in natural resources. Tourists flock to see its natural wonders and heritage. They are in awe of its multi-racial, multi-cultural and multi-religious settings. Under those circumstances, Sabahans should have good reasons to feel contented. And yet, underlying all these, there is, at least from one perspective, a sense of gloom. For decades, Sabahans have been plagued and haunted by an insidious problem which has turned out to be an all-consuming nightmare. It is endemic. It has grown into a crisis of humongous proportions. Indeed, Datuk Seri Yong Teck Lee, a former Chief Minister of Sabah, has described it in medical terms as having reached “ICU stage”. It is of course the lingering problem of illegal immigrants in Sabah.

Over the years, concerned Sabahans representing a wide spectrum of society, from ministers to civil servants to society members to ordinary individuals, had expressed the urgent need for the authorities to resolve the problem of illegal immigrants. Genuine Sabahans including political parties on both sides of the

divide had been vociferous in voicing their concerns. With the passage of time, those voices, initially muted and restrained, began to rise in chorus and momentum until they reached a crescendo. The perception was palpable. They perceived, rightly or wrongly, that the Federal and State Governments had been engaged in too much political rhetoric and lacking the political will and commitment to tackle the root cause or causes of the problem on a comprehensive and sustained basis. This precipitated a series of collective calls by Sabahans for the formation of a Royal Commission of Inquiry. Such calls became more intense with each passing year.

So it must have been a welcome relief and satisfaction to the people of Sabah that the current Prime Minister Dato' Seri Mohd Najib Tun Razak had agreed to the establishment of the Royal Commission of Inquiry on immigrants in the State. It was perceived by many to be a bold decision.

Thus, on 6th September 2012, pursuant to the powers conferred upon him by paragraph 2 (1)(d) and subsection 3 (1) of the Commissions of Enquiry Act, 1950 (Act 119), the Yang di-Pertuan Agong, appointed us as Commissioners for the Royal Commission of Inquiry on immigrants in Sabah (RCI). Subsequently, on 21st September 2012, the Yang di-Pertuan

Agong also appointed Dato Saripuddin bin Kasim as the Secretary of the RCI followed soon after with the appointments on 23rd November 2012 of Encik Manoj Kurup, Dato Azmi bin Ariffin and Encik Jamil bin Aripin as Conducting Officers to the RCI.

1.2 Terms of Reference

The Terms of Reference of the RCI are as follows :

(a) to enquire into the number of immigrants in Sabah who have been issued blue identification cards or citizenship;

(b) to enquire whether the issuance of blue identification cards or citizenship to immigrants in Sabah is accordance with the law;

(c) to enquire whether the immigrants in Sabah who hold blue identification cards, temporary identification receipts (blue) or citizenship which is not in accordance with the law have been registered in the electoral roll;

(d) to enquire whether the respective authorities have taken any action or made any improvement to the

standard operating procedures, rules and regulations to prevent any irregularity in law;

(e) to enquire further into the standard operating procedures, rules and regulations in relation to the issuance of blue identification card or citizenship to immigrants in Sabah by taking into consideration the international standards and norms applicable to Malaysia, and to recommend any amendment or change to strengthen and improve the standard operating procedures, rules and regulations;

(f) to enquire into the reasons for the increase in the population in Sabah in accordance with the following categories;

(i) the people of Sabah who resides in Sabah, including those who were issued blue identification cards and citizenship through Birth Certificate (Late Registration);

(ii) *foreign workers (including family members);*

(iii) *illegal immigrants (including family members);*

and

(iv) *refugees,*

and to scrutinize its effect on the number of those registered in the electoral roll;

(g) *to enquire into the social implications to the community in Sabah resulting from the issuance of blue identification cards or citizenship to immigrants in Sabah;*
and

(h) *to enquire into the number of immigrants in Sabah who were issued blue identification cards or citizenship by taking into consideration their status as stateless persons.*

1.3 Procedural Protocols

Upon receipt of the Royal Command, the RCI convened immediately to resolve the procedural protocols involved. We decided to deal with the enquiry in two stages. The first stage would relate to the recording of statements from potential witnesses by a team of experienced investigators on the directives of the RCI and the Conducting Officers. This was found necessary in order to determine the scope and relevancy of the evidence vis-à-vis the Terms of Reference. The second stage would relate to the hearing of oral evidence by the RCI. This would be an open proceeding in which members of the public would be allowed to attend and observe. We recognize the need for transparency.

On completion of the recording of most of the statements aforesaid, the RCI commenced oral hearing on 14th January 2013. This was continued on a protracted basis until September 2013. There was however a long interlude of about two months due to security concerns arising from the intrusion incident at Kampung Tando, Lahad Datu. In any case, we were able to hear 211 witnesses by mid September 2013. The evidence covered more than 5000 pages. There were 177 exhibits including charts, pictures, statistics, letters, official directives, commentaries and articles, etc. In the course of the inquiry hearing, Sabah Law

Association (SLA) applied to the RCI for access to copies of witness statements recorded under section 112 of the Criminal Procedure Code (CPC). For the record and for completeness, we think it is appropriate to reproduce the RCI decision on the said application.

1.4 Ruling on Witness Statements

Before us, the Sabah Law Association (SLA) has requested that copies of witness statements recorded under s.112 of the Criminal Procedure Code (CPC) be made available to it for the purpose of assisting the Royal Commission of Inquiry (RCI). We have noted the submissions of counsels for SLA on the matter. The request was opposed by the Conducting Officers led by Encik Manoj Kurup on the ground that such statements are privileged, citing in support a number of case authorities including **Husdi v PP (1979) 2LMJ304**, **Martin Rhienus v Sher Singh (1949) LMJ201**, **Lee Yoke Yam v Chin Keat Send (2012) 9CLJ83** and **PP v Ramli Yusuff (unreported)**. We have also noted his submissions on the application.

In **Husdi v PP (supra)**, the accused who was charged with house-breaking, applied for his cautioned statement as well as

witness statements recorded under s.112 CPC to be supplied to him. The High Court held that although he was entitled as of right to his own cautioned statement, he was not entitled to the witness statements applied for. Therein, the learned judge (Syed Othman FJ) said *inter alia*:

“But I am of the view that once a police statement is held to be absolutely privileged for one judicial purpose, it is privileged for other purposes. There can be no right to inspect. Further, as a matter of public policy, I am of the view that it is undesirable to supply the defense with police statements as there is a real danger of tampering with the witnesses.”

It is, we think, significant to examine that part of the learned judge’s statement in which he said *“once a police statement is held to be absolutely privileged for one judicial purpose, it is privileged for other purposes.”* Here, Encik Manoj has taken the position that the words *“other purposes”* would conceivably include or encompass proceedings such as the RCI by virtue of s.19 of the Commissions of Inquiry Act, 1950 (the Act), the relevant part of which reads :

“... and every enquiry under this Act shall be deemed to be a judicial proceeding within the meaning of the Code.”

It is to be noted that the RCI is inquisitorial in character. It is inquisitorial because it involves an investigation exercise relating specifically to the Terms of Reference assigned or imposed upon it, in this case, by the Yang di-Pertuan Agong. This is quite unlike a court proceeding which is judgmental in character because the court has to decide upon issues in dispute between opposing parties and such decision has an element of finality to it.

Although we accept that the RCI can be considered a judicial proceeding by virtue of the deeming provision under s.19 of the Act, it is nevertheless non-adversarial in nature. Therein lies the core difference between the RCI and the proceedings as reflected in the cases cited by Encik Manoj. Those cases can be described as adversarial judicial proceedings which encapsulate two opposing parties, namely the prosecutor and defendant (accused) or plaintiff and defendant, engaging in what can rightly be described as an “intellectual battle” in order to gain favorable decisions in the courts. The parties are not generally bound to disclose to each other statements recorded from their respective witnesses for public policy and / or tactical reasons. This is an

accepted practice in an adversarial system of justice as practiced in most common law countries including Malaysia.

In contrast, the judicial proceedings in the RCI are non-adversarial in nature because there are no opposing parties in the scenarios described above. SLA is a non-adversarial party in the proceedings. It is to be noted that SLA is appearing before the RCI in its capacity as an **amicus curiae** or an interested party whose main purpose is to assist and advise the RCI on matters of law relevant to the Terms of Reference. In that context, it is independent and impartial and plays a supplementary role in the proceedings.

In the circumstances, we hold, with respect, that the cited cases would have no application to the proceedings before us. They are not authorities for the proposition that an **amicus curiae** or an interested party, such as the SLA, is not entitled to statements recorded under s.112 CPC.

Even if SLA is held to be entitled to statements recorded under s.112 CPC, there is still the question of whether it is appropriate or necessary to grant the request sought for under the circumstances. This comes within the discretion of the RCI.

In this case, SLA has requested for copies of witness statements recorded under s.112 CPC on the ground that it could

more effectively assist and advise the RCI vis a vis the Terms of Reference. With respect, we think this argument is quite tenuous given the fact that 3 senior Conducting Officers appointed by the Yang di-Pertuan Agong are tasked with leading and presenting evidence before the RCI on the basis of the statements recorded under s.112 CPC. They are more than competent in carrying out their responsibilities.

Be that as it may, the SLA has thus far rendered valuable assistance to the RCI. Various counsels from SLA have posed pertinent questions to witnesses appearing before the RCI. We are confident that they will continue to do so on the basis of the evidence given orally during the course of the inquiry. In our view, the non-availability to the witness statements does not and has not, in any way, diminished the quality and effectiveness of their assistance to the RCI. For that, we are most grateful.

For the reasons stated, we take the view that it is unnecessary for SLA to have access to the statements in question. Accordingly, the request for copies of such statements is hereby denied.

CHAPTER 2

SUMMARIES OF EVIDENCE

CHAPTER 2 : SUMMARIES OF EVIDENCE

2.1 Summarisation of Evidence

Given the huge amount of oral evidence adduced, we think it is sufficient to summarize them in order to highlight the substance therein but without of course limiting our consideration of the issues under the TOR on the basis of all the evidence adduced before the RCI. For convenience and because of the overlapping nature of evidence in relation to the issues under the TOR, we will group the witnesses according to their professions. There may be a need to omit summarising the testimonies of certain witnesses so as to avoid regurgitation of similar evidence.

2.1.1 Politicians

W6 : Tan Sri Harris Mohd. Salleh

He was the Chief Minister of Sabah from 1976 to 1985. He states that refugees from Southern Philippines started entering Sabah in the 1970s; that initially, the management of these refugees was done by UNHCR with the assistance of the State

Government of Sabah as well as the Federal Government of Malaysia. He says that during his tenure as the Chief Minister, a Settlement Division was established essentially to identify the number of refugees by registering them so that proper records could be kept for the purpose of assisting them. Only qualified refugees were issued with the settlement identification cards. He explains that IMM13 passes would be issued by the Federal Immigration Department and that IMM13 holders would be entitled to apply for Malaysian citizenship after many years of residence here. According to him, in 1972, the number of refugees would have been around 150,000 by his own unofficial estimation. When asked about refugees being able to obtain blue ICs at an alarming rate, his reply is that they must have been considered eligible by the Federal Government i.e. the National Registration Department (NRD). When further questioned about allegations made by Mutalib in his book "IC Palsu..", his response is that he had never read the book and denied the allegations against him made therein. He maintains that he had never heard of the so-called "Project IC". According to him, there was no such project; that as far as he was concerned, the Federal Government of Malaysia was the sole authority on the issuance of identification documents,

etc., and that the State Government of Sabah had only a minor assisting role.

W117 : Datuk Madius bin Tangau

He is the Secretary General of UPKO, also a former MP for Tuaran. Before entering politics, he had served as a researcher with IDS for 9 years. He says that at one stage, he was involved in a study relating to information derived from a book entitled "Harris Salleh of Sabah" by Mr. Paul Rafaelle (P96). Here, he refers to Chapter 23 therein which contains certain statements alleged to have been made by Datuk Harris Salleh (now Tan Sri) which had prompted him to conduct a study in IDS in order to determine the truth or otherwise of those statements. He states that he subsequently raised the issue in Parliament in 2006 and sought the formation of a RCI to determine the issue. In his speech in Parliament, he had also touched on what he described as "the extraordinary increase in the population of Sabah" disclosed by the census i.e. that in 1951, the population of Sabah was only 334,141; in 1960, it was 454,561; in 1970, it was 636,431; in 1980, it was 829,299; in 2000, it was 2,449,689; and in 2010, it was 3,330,000. He states that his request for a RCI was not entertained

by the Federal Government and the reply given to him by the relevant Minister in Parliament was unsatisfactory. When asked what suggestions he has to resolve the illegal immigrant problems in Sabah, he says that all Sabah ICs be recalled and proper ones issued. On this matter, he states that the President of UPKO, Tan Sri Bernard Dompok would be able to give detail evidence before the RCI at a later date. According to him, the Director of NRD should be called before the RCI since he did not attend the proceedings held by the Parliamentary Select Committee on National Integrity chaired by Tan Sri Bernard Dompok years ago. He questions the integrity of the NRD and the Immigration Department on matters relating to issuance of Malaysian ICs, etc.

W125 : Datuk Wilfred Mojilip bin Bumburing @ Wilfred

He is the MP for Tuaran. According to him, he brought up the issue of illegal immigrants in Parliament in 2010 and had emphasized the need to take serious action to resolve the matter but apparently, he was informed by the Home Minister to produce sufficient evidence so that the Government could take the necessary action. Subsequently, he submitted a Memorandum containing a list of illegal immigrants willing to testify that they had

obtained their ICs illegally. Apparently, there was no positive response to his Memo by the Government. In order to resolve the illegal immigrant problems in Sabah, he has suggested to recall all ICs issued to them and then to reissue only to those who can prove their entitlement to citizenship. He admits that this process can lead to many legal issues and can be very costly. He bemoans the fact that illegal immigrants have been used to change the political demography of Sabah as reflected in the composition of the electoral constituencies in Sabah as at present.

W129 : Datuk Seri Yong Teck Lee

He is the President of the Sabah Progressive Party (SAPP). He was a former Chief Minister of Sabah. He says that when he was CM, his Government had implemented the so-called Regularization Program with the assistance of the National Security Council and the Federal Special Task Force. According to him, the Program was to enable the Government to have an effective control over illegal immigrants and to prevent them from acquiring ICs illegally; that legitimate foreign workers were to be regularized by being given proper documents so that they could continue to work in Sabah; that those unqualified would have to be

deported accordingly. He states that at the time there were about 600,000 illegal immigrants. From the records, the number of foreign workers was 226,565 and the number of their dependents was 187,267. The number of illegal immigrants deported was 140,028. He considers the Program to be a success in terms of resolving the problems of illegal immigrants in Sabah. He states that the Program was essentially for the purpose of registration only by employers and foreign workers. That was why it lasted for 6 months. There was an intention that follow-up actions should be taken by the authorities. According to him, no follow-up actions were taken after his term as CM expired. He was then asked about the election petition case in 1999 in which he was also involved. The learned judge in that case had declared the election to be null and void. One of the grounds was that the electoral roll was saturated with phantom voters and / or non-citizen voters. After the state election in 1999, he states that his Party submitted a position paper (Memorandum P110) to the then Deputy PM, Datuk Seri Abdullah Ahmad Badawi, who was also the Home Affairs Minister on the illegal immigrants in Sabah. The objective of the said Memorandum was to draw the attention of the Federal and State Governments that the huge numbers of foreigners in Sabah could pose threats to national security, etc., of the country as a whole

and Sabah in particular; that concrete steps would need to be taken to counter such threats. He has through a document P111 made certain recommendations on preventive actions to be taken by relevant authorities to resolve the illegal immigrant problems in Sabah. He has also produced another document P112 signed by his Party Youth Chief seeking the formation of a Royal Commission of Inquiry.

W130 : Enchin bin Majimbun @ Eric

He was the former MP for Sepangar. In 2007, he was made aware that a Filipino national was in possession of a Malaysian IC bearing number 560903-12-5739 (previously H0504992) with the name of Jerome Majimbun (which is his father's name). He says he knew of this Filipino national who used to be a construction worker. He then reported the matter to the Special Branch and also wrote to the Secretary General, Ministry of Home Affairs, informing them about the falsification. The conducting officers then checked with the NRD and found that the 2 ICs have not been recorded in its database. According to the witness, he had also brought the matter up in Parliament in 2007 but was told it was not urgent.

W139 : Tan Sri Bernard Dompok

He is the MP for Penampang and also the President of UPKO. He was a former CM Sabah and subsequently a Minister in the PM's Department and thereafter the Minister for Plantation Industries and Commodities. He has produced 2 sets of documents, 1 set relates to proceedings conducted by a Parliamentary Select Committee on National Integrity which he chaired and the other set relates to a report concerning interviews conducted from 1002 respondents concerning illegal immigrants in Sabah. He goes on to describe the composition and objectives of the Parliamentary Select Committee. He says that in the course of the proceeding conducted by the said Committee, he decided to resign as Chairman apparently because he was unhappy with the reluctance of some senior officers from the Immigration Department and the NRD to disclose relevant information. The said Select Committee had touched on issues which included problems related to illegal immigrants in Sabah. As regards the Report (P123) which he states contains 26 volumes of interviews from 400 respondents covering 13 locations throughout Sabah, it reflects a comprehensive study of the problems concerning illegal immigrants in Sabah. On the basis of the Report, he has made a number of suggestions on how to resolve the illegal immigrant

problems. One of the suggestions is to establish a competent authority to recall and verify all ICs alleged to have been issued illegally or by dubious means to immigrants; that after verification, appropriate actions to be taken accordingly. Other suggestions can be found in his Report (P123).

W172 : Tan Sri Chong Kah Kiat

He was a former CM of Sabah from 2001 to 2003. During his tenure as CM Sabah, he set up 3 priorities i.e. (1) to solve the problems of illegal immigrants in Sabah, (2) to address the problems of illegal logging in Sabah and (3) to deal with the problem of illegal fish bombing. According to him, as fish bombing had the tendency to destroy corals and marine environment and that this had involved illegal immigrants, he directed that enforcement agencies be aggressive in monitoring and investigating the matter and to arrest the culprits connected with such illegal activities. As a result, such activities were significantly reduced. He states that he was able to clear the hardcore squatter areas after giving them sufficient notice and explaining to them why action was necessary to remove them. Those without proper documents were detained and later deported to their home

countries i.e. Philippines and Indonesia. On this, he says that there was full cooperation given by the Governments of the Philippines and Indonesia. He says those evicted with documents would have to find their own alternative accommodation but they were often able to be accommodated by their relatives in Sabah. Some were relocated to bigger settlements. In a few cases involving the locals, the State Government had accommodated them on State Land. According to him, the enforcement officers were able to clear the squatter areas such as Kampung BDC Sandakan and Kampung Ice Box in Tawau as well as Kampung Pondo in Pulau Gaya. He says that such clearing activities had some effect in reducing the crime rate in the State. In his view, the deportation exercises were focused on new illegal immigrants and not so much the political refugees who came in the 1970s. He opines that there is a need for good leadership, good governance and cooperation from all sectors of the community to resolve the problems relating to illegal immigrants in Sabah; that there has to be a political will to act. He does not agree with the proposal to adopt the so-called Sabah IC exercise.

W181 : Datuk Dr. Jeffrey Kitingan

He is the Chairman of the STAR Party, Sabah and currently a State Assemblyman in Sabah. He initiated the formation of the Institute of Development Studies (IDS). He says that in 1987, IDS conducted a study on illegal immigrants in Sabah and the problems related thereto. The findings were conveyed to the Prime Minister Malaysia and the National Security Council with its recommendations indicating that by 2006, the illegal immigrants could surpass the Bumiputra population in Sabah and that by 2014, the immigrant population could be higher than that of the local population. He states that thereafter, the studies were taken over by the Federal Special Task Force (FSTF) and before long, the numbers of illegal immigrants and refugees seemed to increase with many of them being given ICs. He says that in 1990, he was given a bundle of documents containing a list of about 60,000 foreigners being given ICs; that he gave the list to the PBS President. He did not exactly know what had happened to the list after that. From 1991 to 1994, he was detained under the ISA. He admits the existence of syndicates selling ICs for money and that these syndicates are still operating to date. According to him, the real causes of illegal immigrants obtaining ICs are corruption, self-interest, political interference and political agenda. He opines that

the problems resulted because the relevant authorities had ignored the Malaysia Agreement and the 20 Point Agreement in terms of State Immigration and national registration matters. He suggests that the State Government should take full charge of such matters.

W187 : Dr. Chong Eng Leong

He is a surgeon by profession. He has written a book entitled "Lest we Forget (Security and Sovereignty of Sabah)". This is reflected in the document P147. According to him, he has conducted his own research and detailed analysis of the figures and statistics from the Department of Statistics and the Electoral Rolls. In his book P147, he provides statistics relating to the population of Sabah in the period from 1970 to 2000 in terms of percentage increase as follows: KadazanDusunMurut (KDM): 162%; Bajau / Iranun: 344% and Malays: 1552%. He also gives figures from the Statistics Department on the numbers of foreigners in relation to the population of Sabah as follows: in 2000, the number of foreigners was at 600,000 or 24% and in 2010, the number of foreigners was 889,779 or 29%. He takes the view that the issuance of false ICs to illegal immigrants / non-citizens was not for financial gain only but to advance a political

agenda under Project IC or Project Mahathir. According to him, the term Project Mahathir was brought up in the 1999 Election Petition Case which pointed to the existence of a clandestine exercise of issuing Malaysian ICs to illegal immigrants / non-citizens by dubious means, thereby enabling them to vote at Parliamentary and State Elections in Sabah; that this Project had involved the late Tan Sri Megat Junid, the then Deputy Home Affairs Minister, apparently with the approval of the then PM Malaysia, Datuk Seri Dr. Mahathir Mohammad (now Tun). According to him, all this was an attempt to cover up their real intention of wanting to change the demography of Sabah for political purposes.

W196 : Datuk Radin Malleh

He is the Minister of Rural Development, Sabah. He states that when he was the PBS Secretary-General, he brought up the issue of illegal immigrants in Parliament in 1995 and also raised the same matter with the PM, Datuk Seri Ahmad Badawi (now Tun) after PBS was readmitted as a component party of BN. He says that although he had made various reports to the police and has also written to the NRD and the Election Commission, he had not received any reply. He mentions about receiving a bundle of

documents containing a list of dubious ICs from a person whose name now eludes him. On examining the said list, he found that it contained 80,620 dubious ICs. As a result, he lodged reports to the police, to the Election Commission as well as the Anti-Corruption Agency but he did not receive any reply from any of these agencies. He alleges that the issuance of ICs to foreigners had been going on since the 1960s and this became more organized after PBS came to power.

W199 : Tan Sri Joseph Pairin Kitingan

He is the Deputy Chief Minister of Sabah cum Minister of Infrastructure Development, Sabah. According to him, although Malaysia is not a signatory to the Convention on the Status of Refugees, Malaysia accepted refugees in the 1970s on humanitarian grounds. He says that at that time, more than 70,000 were registered. He states that in 1988, when he was CM Sabah, he directed IDS to do a study on the presence of illegal immigrants in Sabah. Thereafter, he used the findings from the said study to brief the Prime Minister Malaysia and the National Security Council. As a result, the Federal Special Task Force (FSTF) for Sabah and Labuan was formed to specifically deal with problems

relating to refugees and illegal immigrants in Sabah. He states that as CM of Sabah, he was also chairman of the State Security Committee, but when PBS left the BN, he was told to relinquish that position. In 2007, he submitted a Memorandum to the PM, Datuk Seri Ahmad Badawi concerning the huge numbers of illegal immigrants in Sabah and how they could adversely affect the sovereignty and security of the country if the problems were not resolved urgently. He says that as a member of the "Emminent People's Group Malaysia" headed by Tun Musa Hitam, he had several consultations with the Group's counterpart in Indonesia on matters relating to illegal immigrants. He had also met with President Suharto, the then President of Indonesia. He bemoans the fact that although PBS had raised the problems relating to illegal immigrants with the authorities, very little appeared to have been done and that what is needed is a political will to deal with the issue.

W200 : Mat Swadi Awi

He has referred himself as a retiree. He has testified that he was involved in a clandestine project from 1987 to 1990 apparently on instructions from Tun Mustapha Harun, the former President of

USNO to help plan strategies in toppling the PBS Government by increasing the Muslim votes in areas where USNO was weak. In this respect, he says that he had worked with the Director and staff of the NRD and the Election Commission. He claims that the project was done with the full knowledge of the then Deputy Minister of Home Affairs, the late Tan Sri Megat Junid as well as Tan Sri Abdul Aziz Samsuddin and Datuk Seri Dr. Mahathir (now Tun) at the material time.

W201 : Hassnar bin Hj. M.P. Ebrahim

He is a businessman. During the time of the Berjaya Government in Sabah, he was appointed to various political positions. He says that when he was the District Chief of Sandakan District, he was involved in a project called "Project IC". He was told to sign 500 blank copies of HNR10 forms which were statutory declarations (surat akuan), used for applying ICs. After signing these forms, they would then be tendered to the NRD, Sabah. He alleges that at the time when PBS was the State Government, he had attended meetings chaired by the late Tan Sri Megat Junid who had asked him to prepare a working paper on strengthening and increasing the Muslim voters in certain State

Constituencies with a view to recapture these areas from the PBS. This strategy came to be known as "Project IC" which, according to him involved approving Malaysian ICs to foreigners mainly those from Southern Philippines, Indonesia, India and Pakistan. He further states that they would be registered in the electoral rolls and be directed to vote against PBS candidates at elections. He explains that he agreed to be involved in the said Project as he had personally seen and experienced gross injustice being done to Muslims by the PBS Government. He goes on to describe some instances of such injustice. He states that in July 1988, he was arrested by the Special Branch and detained for 60 days. This was followed by a restricted resident order against him. He was released from the said order in 1990. He reveals that he had testified as a witness in the election petition case filed by Dr. Chong Eng Leong in 1999 concerning his part in "Project IC". He claims that about 90,000 illegal voters were included in the electoral roll.

W202 : Tan Sri Abdul Aziz bin Shamsuddin

He is a retiree. He was a former political secretary to the then PM Malaysia, Datuk Seri Dr. Mahathir Mohammad (now Tun). He has denied any knowledge or involvement in the so-called "Project IC". He says that he never owned a house at Jalan Kampung Pandan, Kuala Lumpur. He believes that the said house is owned by the Royal Selangor Golf Club and rented to ITM students. His house, according to him, is actually at No.10 Jalan Peria 6, Cheras but he did frequently drop in at the house at Jalan Kampung Pandan to see his friends. He has denied the allegations made by Akop bin Damsah (W14) as well as those made in the book entitled "007: Lelaki Malaysia Terakhir" by Mutalib M.D.

W203 : Datuk Mohammad Yahya @ Yahya bin Lampong

He says he is a retiree. He attributes the presence of migrants in Sabah to have come from Southern Philippines and Indonesia due to historical linkages. He says that he does not know anything about "Project IC" and has only heard of it from the RCI. He also denies any involvement in any activity relating to issuance of fake ICs to foreigners. He further denies the allegation that he and Hassnar Ebrahim had met with the late Tan Sri Megat Junid. He

does not think that the Federal Government was involved in any clandestine project relating to issuance of ICs to illegal immigrants.

W209 : Tun Dr. Mahathir Mohammad

He is the former Prime Minister of Malaysia. He denies any knowledge of the so-called "Project IC" or any involvement in such a Project. He denies the allegations of earlier witnesses that he was somehow involved in the said Project. He denies giving any specific directive to the then Deputy Home Affairs Minister, Tan Sri Megat Junid to form a task force involved in issuing ICs and / or citizenships to foreigners / immigrants for political purposes. He says that there were standard rules and regulations on immigration and citizenship matters. He takes the view that it was Government policy to consider applications for Malaysian citizenship if the applicant had resided in Malaysia for a long time.

W210 : Dato' Seri Anwar bin Ibrahim

He is the opposition leader in Parliament. He states that although he was a member of the Federal Cabinet from 1983 to 1996, he was never invited to attend any meeting of the National Security Council chaired by the Prime Minister, Dr. Mahathir. He further states that NSC matters were never discussed in the Cabinet. He says that he had heard of the Special Task Force but not the so-called "Project IC". According to him, even as acting PM, he was not given any briefing by the Director General of NSC; that policies relating to issuance of ICs to immigrants were determined by the Home Affairs Ministry and the NSC and they were never tabled in the Federal Cabinet.

2.1.2 Researchers & Scholars

W1 : Prof. Dr. Hjh Ramlah binti Adam.

She is a senior lecturer and researcher attached to University Malaysia Perlis. She specializes in Malaysian history, in particular in Malaysian political and constitutional history. She describes briefly the history of Sabah in the period when it was dominated by various kingdoms before the advent of western colonization. It was the period which saw the emergence of various kingdoms. It was

said that the most dominant kingdom in terms of political and administrative patronage, power and influence was the Sultanate of Brunei and the Sultanate of Sulu. However, all these were progressively reduced, if not obliterated, with the advent of the Spanish, Dutch and British presence in the region. Out of this historical conundrum, Sabah eventually emerged as an independent political entity within the Federation of Malaysia.

In discussing the demographic patterns of Sabah in terms of their origin, Prof. Dr. Ramlah refers to 2 main theories as contributing factors. The first is the so-called "Wave Theory" which describes a situation where the inhabitants from Southern China migrated in 3 separate waves to (a) the islands which constituted the Philippines and North Borneo (now Sabah); (b) the islands of Sumatera and Java and (c) the Malay Peninsular. The second theory relates to the archeological findings referred to by Prof. Emeritus, Dr. Nik Hassan Suhaimi of the National University Malaysia who takes the view that the original inhabitants of Sabah were in fact localized people as reflected in the discoveries at the Niah Caves in Miri, Sarawak, and other locations in Sabah.

Prof. Dr. Ramlah research shows that the Sulu Sultanate had a well established and sophisticated system of government before the arrival of the westerners and which had extended to certain

parts of Sabah (then known as North Borneo). As such, many of the traditions and practices of the original inhabitants have continued to this day. They are the unwritten traditions and practices that have withstood the test of time. It is in that context that many of the immigrants living in Sabah do not appear to consider themselves immigrants. Given the sort of linkages, both historical and cultural as described above, she takes the view that immigrants should be given a chance to settle in Sabah subject to conditions; that problems relating to illegal immigrants should not be treated as political issues but that the authorities should adopt a more professional approach to resolve them.

W2 : Prof. Emeritus Dr. Ranjit Singh s/o Darshan Singh

He is a professor attached to Universiti Utara Malaysia Sintok, Kedah. He specializes in the history of Brunei and the history of Sabah. He was at one time the history consultant in the Pulau Sipadan & Ligitan case before the International Court of Justice (ICJ) between Indonesia and Malaysia. Malaysia won the case before the ICJ. According to Prof. Dr. Ranjit, in 1521, Brunei Sultanate was already a powerful empire encompassing parts of Sabah (then known as North Borneo) and parts of Sarawak. In

Sabah in the 16th Century, there were a number of ethnic communities such as the Dusuns along the coasts and the Muruts in the interior. There were essentially four main groups of communities at the time i.e. Dusuns, Kadazans, Brunei Malays & Bisayas. This was at the height of the Brunei Sultanate. Later, the Sulu Sultanate also emerged as a power-base in the region. Thereafter European traders made their presence felt by conducting trade in the region. They would buy the local products and then sell them to merchants in China and India. He states that the first census in the State was made in 1881 by the British North Borneo Company but it was not thorough due to lack of logistics and finance. Subsequently, the 1891 census disclosed a population of 67,000 people. By 1970, it had increased to 651,000 and by 1991, it was 1,700,000. Out of this 1.7 million, 423,000 were non-citizens. On this issue, he says this:

“The demographic population changed not because of the natural increase in the population or the natural increase of the Chinese population, but because of the new factor. This factor is out of 1.7 million, you have 423,000 non-citizens. Who they were, the census does not give.”

According to him, these figures were obtained from the "Population Report Sabah, Population & Housing Census 1991".

W105 : Associate Professor Dr. Kutayya @ Mariappan

He is a lecturer attached to University Malaysia Sabah (UMS). He specializes in the field of sociology, specifically in the areas of ethnicity in the context of Malaysia. He has done research on ethnic interactions and ethnic relations, etc., and also on ethnic tolerance in Sabah. In this connection, he has focused on ethnic groups such as the Bajau, Kadazan, Dusun, Murut, Melayu and Suluk. He takes the view that ethnic groups in Sabah have a high level of tolerance in their interactions with illegal immigrants but this tolerance is progressively reducing.

W108 : Datuk Mohd. Hasnol bin Ayub

He is the CEO of the Institute of Development Studies (IDS) since March 2009. He states that IDS is the think-tank of the Sabah State Government focusing on research and policy studies on development issues. IDS was established in 1985. IDS has conducted studies on illegal immigrant issues in Sabah.

W109 : Macarius Sabinus

He is the Information Technology Tactical Research Officer attached to the Institute of Development Studies (IDS). He joined IDS in 1985. In 1987, he was seconded to the Settlement Division of the CM's Department, Sabah. His duties in the Settlement Division included conducting survey and registration exercises on transient population in Sandakan, Tawau, Lahad Datu and Sapulut areas. Those exercises would be publicized in the news media. Reports from the registration exercises would have to be reported to the Settlement Division and copied to the Special Branch. Once the publication of registration exercise was made, it would be up to the illegal immigrants to come to the Settlement Division to register themselves. The purpose of registration exercise was to estimate their numbers in the State. After registration, they were issued the temporary receipts known as kad burung-burung.

W110 : Francis @ Thony Luan

He is the Senior Executive attached to IDS. He joined IDS in 1989. Before that, he was in the Settlement Division of the CM's Office. While he was there, his duties included conducting surveys of undocumented immigrants and refugees in Sabah. He describes the methodology as one which required going to all the houses individually to register details of the occupants therein.

W111 : Dr. Dayang Suria binti Mulia

She is a Senior Lecturer attached to the Faculty of Social Science, University Malaysia Sabah (UMS) since 1999. She holds a Doctorate from University of South Carolina, USA. She has done researches on immigrants from the Philippines and Indonesia to Sabah. More specifically, she has conducted research in 6 areas within Sabah i.e. Pulau Mabul, Pulau Bum Bum, Pulau Omadal, Pulau Maiga and Pulau Sibangkat. The Conducting Officer takes her through various articles in the document P92. The first article relates essentially to social networks and their impacts, etc., in relation to migration perspectives and strategies of undocumented immigrants in Sabah. The second article concerns strategies relating to undocumented domestic workers in Sabah. The third

article relates to migration and moral panic with specific reference to the oil palm industry in Sabah. And the fourth article concerns foreign workers in Sabah.

W118 : Wan Shawaluddin bin Wan Hassan

He is a senior lecturer attached to the Faculty of Social Science, University Malaysia Sabah (UMS). He specializes in International Relations. He teaches Malaysian History, Malaysian Politics and Foreign Policies. He has done researches on issues relating to immigrants in Sabah from the security perspectives. Together with Professor Azizah Kassim, previously a researcher from UMS, but now with UKM, he has conducted surveys and researches on settlements of immigrants in Sabah from 2002 to 2006. These settlements were mostly water villages. In his surveys, etc., he was able to witness at first hand, criminal activities relating to drug peddling and counterfeiting of currencies in the settlements as well as other unhealthy activities; that all these had given rise to a negative public perception as well as having the effect of threatening the security of the State. He says there has been a lack of effective controls of immigrants by relevant authorities. He states that in 2008, while he was in a

restaurant in Lahad Datu, he was told by its owner, who he suspected to be an immigrant, that he would be voting in Kota Kinabalu and was hoping to get some money out of it. This was an incident which could spread and if unchecked, could alter the political landscape of the State. He stresses the importance of joint responsibilities between the Federal and State Governments and that they have to work in tandem with one another. He says this has yet to materialize. He further states that in cases where Filipino immigrants had entered Sabah in the 1970s, their children would either be the second or third generation of inhabitants in Sabah; that they would have lost any kind of connection with their countries of origin. He takes the view that these people should be issued with the proper documentations; that all the residents in the settlements should be properly registered. He does not agree to the demolition of the settlements but that these settlements should be closely monitored and organized.

W190 : Dr. Ong Kian Ming

He is the MP for Serdang. He is also a member of the Malaysian Electoral Roll Analysis Project (MERAP). He has 10 years experience studying the electoral rolls and related matters in Malaysia. He states that he has checked the electoral rolls in Sabah and made his findings some of which are as follows:

- 1) that ICs categorized as P1 comprise 51,300 in number and ICs grouped under P2 comprise 62,550 in number;
- 2) that there were duplicate ICs, meaning ICs with the same number registered to 2 or more persons;
- 3) that ICs originally owned by 1 person have been changed to another person;
- 4) that the same person given a new IC with a different number and different date of birth;
- 5) that out of 113,850 ICs under groups P1 and P2 being issued, 49,000 are still featured on the electoral roll;
- 6) that 20% of those groups under P1 and P2 were registered before 1990; the bulk of these voters comprising 53.9% were registered between 1990 and 2000.

It has to be noted that the ICs grouped under P1 and P2 are considered problematic ICs by the NRD. This is reflected in the evidence of Dato' Jariah (W208).

2.1.3 National Registration Department Officers

W8 : Nik Nurashikin binti Nik Mansur

She is the Deputy Director of the Citizenship Division, National Registration Department, Malaysia, since mid-2010. She says that her duties include processing citizenship applications by ensuring that such applications complied with existing regulations. She states that those who were not citizens by operation of law in Sabah and who possessed blue MyKads should also be in possession of citizenship certificates. She goes on to explain the applications relating to Articles 14, 15(1) & (2), 16(a) and 30 of the Federal Constitution concerning the various categories of Malaysian citizenship status, etc. She says that Article 30 relates to certificates issued by the Federal Government in doubtful cases. According to her, a foreigner intending to be a Malaysian citizen had to apply for a citizenship certificate which could then be used to support his application for a blue IC. The records of those

immigrants being issued with citizenship certificates from 2003 to the present, would have been kept in the computer data by the NRD while those issued before 2003, would have been manually recorded and filed accordingly. She states that the number of legal immigrants in Malaysia being issued with Malaysian citizenship in the period from 1963 to October 2012 was 66,682. No specific statistics for Sabah was kept.

W9 : Ruslan bin Alias

He is the Chief Assistant attached to the Identity Card Section, National Registration Department, Sabah & Sarawak. He is the Unit head of the Section. He says that his Unit would be responsible for coordinating mobile registration programs in resolving cases in which people had no documents. His duties would include the preparation of reports and comments to the Special Committee for consideration. According to him, this Special Committee was concerned in processing problematic applications for ICs. It had the authority to approve or reject such applications after due evaluation and consideration. This Committee was established for Sabah only. It was chaired by the Director General of the National Registration Department. The

other members consisted of the Director General of Operations; Director of IC Section and the Unit Chief, Sabah & Sarawak (which was himself). This Committee was established since 1999 but began operations only from 2002 until now. He goes on to explain the evolution of the documentation system in Malaysia as follows:

- 1) ICs in Sabah started since 1963 under the National Registration Ordinance 1962. At the time, ICs would consist of 6 digits only and were orange in color;
- 2) In 1972 under the National Registration Rules, 1972, there were 3 versions or categories of ICs, namely, blue IC for citizens of Sabah, red ICs for those with permanent resident status and green ICs for those with temporary resident status;
- 3) In 1990, a high quality IC known as KPT was issued. It was initially in black and white but in 1999, it was changed to multi-color with the base color in blue for all the 3 categories. They could be distinguished only by the stripes imprinted on them which contained the colors blue, red and green respectively;
- 4) In 2002, there was another change, this time to an IC known as KPTC which contained a security chip and this was further enhanced in 2004;
- 5) In 2012, it was finally changed to the MyKad which is currently in use by Malaysians. This MyKad has 3 colors representing

the 3 categories of holders i.e. blue for Malaysian citizens; red for those with permanent resident status and green for those with temporary resident status.

According to him, an application for IC had to be supported by a birth certificate or adoption certificate or Form W if the applicant was born overseas. He explains that in 1972, an application for IC could be supported by a statutory declaration if there was no birth certificate. Status certificate could also be used for the purpose. If statutory declaration were used, it had to be certified by the Penghulu or the District Officer of the District where the applicant was. The certification would relate to his place of birth. He says that as from 1987, the statutory declaration or status certificate could no longer be used for such application; that only birth certificate could be used to support an application for IC and in the absence of such birth certificate, then a late registration of birth would suffice so long as it was verified by a Magistrate Court.

W10 : Mohd. Nasir bin Sungip

He is the Managing Director of Syarikat Warisan Nusa Sdn. Bhd. He was a former Deputy Director of IC Section, NRD, Sabah, from 1980 to 1994. He was arrested and detained under the ISA in 1995 for allegedly issuing ICs to illegal immigrants. He says that he was directed by Hj. Ramli Kamaruddin, the then Director of NRD, Sabah, to replace the names in the temporary IC receipts JPN1/9 and the lost IC receipts JPN1/11 with those from the Election Commission in order to increase the Muslim voters in Sabah; that he was also to change the IC numbers and birthdates including their photographs. According to him, there was a total number of 16,000 such holders. They were mainly Muslim immigrants from the Philippines and Indonesia. The receipts would enable the holders to register themselves as voters and to vote at elections at both State and Federal levels.

W11 : Haji Ramli Kamaruddin

He was the former Director, NRD, Sabah, from 1993 to 1995. He was arrested and detained under the ISA for 2 years from 1995 to 1997. As Director, he was in charge of NRD Sabah and his duties included issuing documents to those eligible such as birth certificates, death certificates, civil marriages, identification documents, citizenships, etc. He was detained under ISA because of his alleged involvement in issuing high security ICs to immigrants. He denied his involvement. He said that he had been transferred to Sabah as Director of NRD in order to assist the Government that would be more Islam based. At the time, Parti Bersatu Sabah (PBS) which was essentially a Christian dominated party was the State Government. According to him, he was to identify the Muslim voters and to persuade them to vote for certain Islamic parties. He said that 2 weeks before the 1993 DUN election in Sabah, he met with the late Tan Sri Megat Junid, the then Deputy Minister of Home Affairs. He was accompanied by one Encik Asli, a colleague of his. They were instructed to issue JPN receipts such as JPN1/9 and JPN1/11 to illegal immigrants so that they could be entered into the electoral rolls in certain black or grey areas in Sabah. They would be coached on how to vote, etc. The receipts were apparently issued just for the purpose of voting

and they had to be surrendered back after they had voted. The alleged meeting was at the Hyatt Hotel, Kota Kinabalu. According to him, approximately 200 such receipts were issued and 5 to 10 DUN constituencies were involved. At the time, he also received instructions from the Deputy Director General, NRD, to issue ICs with duplicate numbers to illegal immigrants so that they could vote at elections. The witness admitted that what he was doing was against the law but he did so on instructions from the late Deputy Minister of Home Affairs and the Deputy Director General, NRD.

W12 : Kee Dzulkifli bin Kee Abdul Jalil

He was formerly a Registration Clerk with NRD, Kota Kinabalu. He joined NRD in 1994. In 1995, he was arrested and detained under the ISA for 26 months at Kamunting, Perak and was released in 1999. He was alleged to have issued ICs to non-citizens apparently under instructions from superior officers. He was a member of a so-called G17 - a task force assigned to perform certain duties relating to the processing of ICs and birth certificates. This task force was formed in 1990 within the NRD, Sabah, which was at that time headed by Datuk Abdul Rauf Sani. He would be concerned in entering the details appearing in the

application forms into the ICs before the ICs were sent out to Kuala Lumpur Headquarters for lamination. Those ICs were to be issued to illegal immigrants from the Philippines, Indonesia and Pakistan. He was also concerned to have the names of those ICs registered in the electoral rolls. According to him, more than 100,000 of such ICs were issued at the time. He was also concerned in issuing birth certificates to illegal immigrants. He did all the above under instructions from his superiors. In his written statement, he said there were 200,000 birth certificates being issued essentially to Muslim immigrants from the Philippines and Indonesia.

W13 : Asli bin Sidup

He was the former Assistant Registration Officer attached to NRD, Sabah, from 1986 to 1996 when he was detained under the ISA but was released in 1997. He was then Head of Records Unit. His duties included processing of IC application forms. Specifically, he was assigned to inspect details entered in the ICs and then to sign the ICs. Thereafter, the ICs would be sent to Kuala Lumpur Headquarters to be laminated. After lamination, these ICs would be brought back to Sabah for collection by the applicants. At the

time, the Director of NRD, Sabah, was Datuk Abdul Rauf Sani. He said that the purpose of the above exercise was to increase the Muslim voters in Sabah which was at that time under the PBS Government headed by Datuk Joseph Pairin Katingan (now Tan Sri). The witness described in some detail his role in the exercise i.e. that he went to Kuala Lumpur as instructed; that he was brought to a government residence at Kampung Pandan; that while there he and some others were instructed to sign ICs; that thereafter, those signed ICs would be sent over to the Petaling Jaya Headquarters to be laminated and then brought back to Sabah for collection by the applicants. He also admitted that the receipts such as JPN1/9 and JPN1/11 were issued to non-citizens for the purpose of enabling them to vote at elections. He confirmed that the whole exercise above, was under instructions from Tan Sri Megat Junid, the then Deputy Home Affairs Minister, who he met at the Hyatt Hotel, Kota Kinabalu, together with Encik Ramli Kamaruddin and Datuk Osu Sukam (a former Chief Minister Sabah). He also confirmed that the JPN1/9 and JPN1/11 receipts were used in registering applicants in the electoral rolls.

W14 : Akop bin Damsah @ Yakop bin Damsah

He was the former Head of NRD, Tamparuli District, Sabah. He was attached to NRD from 1972 to 1996. He was arrested and detained under the ISA in 1996 for allegedly issuing ICs to illegal immigrants, apparently under instructions from his superiors. At the time, the Director of NRD, Sabah, was Datuk Abdul Rauf Sani. His duties included signing the 3 categories of ICs (blue, red & green). He was involved in this illegal exercise since 1990 and the number of such documents amounted to at least 100,000. He confirmed the existence of a special task force in Kuala Lumpur, located at the house at Kampung Pandan, where he and others were briefed by the Director, Datuk Rauf Sani and one Colonel Mat Nor on the mechanisms involved. His task was merely to sign the ICs after which these signed ICs would be sent to NRD Headquarters to be laminated. After that, they would be brought back to Sabah to be distributed to selected applicants. According to him, this house at Kampung Pandan belonged to "Pak Aziz Shamsuddin" who was alleged to be the political secretary to the then Prime Minister, Dr. Mahathir. He said in one month, they were able to sign up to 40,000 ICs at the place in question. The purpose of the whole exercise was to enable the applicants to vote for

UMNO in Sabah. Most of the applicants were from the Philippines and Indonesia.

W15 : Datuk Abdul Rauf bin Sani

Presently, he is the CEO of Totalisator Board of Malaysia which is under the Ministry of Finance. Formerly he was Director of NRD, Sabah, from 1990 to 1992. In 1996, he was arrested and detained under the ISA but was released after 60 days of detention and then placed under restricted residence for a short spell. As Director of NRD, his duties included the authority to sign for the issuance of ICs in Sabah. There were other officers assigned this duty including Asli bin Sidup (W13) and Akop bin Damsah (W14). He described the processes relating to applications for ICs i.e. that after being processed in Sabah, they would be sent to Kuala Lumpur Headquarters to be laminated and thereafter brought back to Sabah for distribution to the applicants. He said he was arrested under the ISA for allegedly issuing fake ICs for profit purposes. These ICs were issued to illegal immigrants. However, he contends that the documents were not fake although they were issued illegally. He confirmed that those involved included Ramli Kamaruddin, Akop Damsah, Kee Dzukifli and many others. The

documents were issued mainly to illegal immigrants from the Philippines, Indonesia and Pakistan. The ICs were issued without supporting documents. He admitted to giving instructions to his officers such as W13 and W14 to carry out special tasks in Kuala Lumpur relating to the issuance of ICs to illegal immigrants at a government house at No.18, Jalan Kampung Pandan, which was believed to be resided by one Aziz Shamsuddin, the political secretary to the Prime Minister, Dr. Mahathir. He agreed to have briefed his officers on the mechanisms involved. He admitted that the whole exercise was to increase the number of Muslim voters in Sabah and to defeat the PBS State Government at the time. He denied the existence of a Unit called G17 but admitted that there was a unit responsible for processing ICs to illegal immigrants from the Philippines, Indonesia and Pakistan. He was also aware that these immigrants were taught to vote at elections.

W51 : Md. Solehan bin Omar

He is the Director of IC Division, NRD. He has been the Director since 2008 but he has been in public service since 1980. Before the present post, he was Director of NRD, Terengganu, then Director of NRD, Kelantan. His duties include assisting the Director General of NRD in enforcing the so-called I-JPN System relating to processing of ICs in all the States in Malaysia. The main functions of the IC Division is to register and process IC applications; maintain records of ICs issued and also to review as well as to verify details of ICs. All issuances of ICs are now centralized at NRD Headquarters, Putrajaya. Prior to that, issuances were processed at State level but issued by Headquarters. Centralization began in 1990. Previously, ICs were kept in the strong room at NRD Headquarters, Putrajaya. Movements of ICs are specifically assigned to senior officers. Approvals are now made automatically through the I-JPN System which is available in all State NRDs. Presently, there are 3 main types of ICs i.e. blue MyKad, red MyPR and green MyKas. He says that to apply for a blue IC, the applicant must be a citizen. He must produce his birth certificate to verify that he is born in Malaysia. Statutory declaration cannot now be used nor can the status certificate be used since the implementation of the National

Registration Regulations 1990, when the system became centralized throughout the country. For those who have yet to register their births in Sabah, they have to do so by way of late registration which has now to be verified by a Magistrate. This is not done in other States. The fact that one is born in Sabah does not necessarily mean he has citizenship status in Sabah. Only Malaysian citizens above 12 years can apply for MyKad. Those who have their entry permits approved would qualify to apply for MyPR from the Immigration Department. Those qualifying for MyKad have to be resident in the country for a period of more than 12 years as well as those born here although their citizenship status has yet to be determined. The validity for MyKas is 5 years. This is endorsed on the card. He says that NRD has established a Sabah IC Special Panel to sort out problematic ICs in Sabah. This Special Panel is chaired by the Director General of NRD with members such as the Director of IC Division, Deputy Director General of Operations and the Heads of Units for Sabah & Sarawak respectively. This panel would conduct interviews and scrutiny of reports by NRD, Sabah. The panel was established in 2006. It is still in existence. He states that there are mobile operations implemented by NRD to register people living in the interiors of Sabah & Sarawak. They register those who do not

have birth certificates and those who have not applied for ICs. Mobile courts have also been established to verify and endorse late registrations of births. According to him, there have been cases of one number with 2 different persons using the same IC i.e. one IC number with the names of 2 different persons. There were 600 of such cases. He reiterates that there are 2 kinds of temporary IC receipts i.e. JPN1/9 and JPN1/11. JPN1/9 is a temporary IC receipt issued to a person pending collection of the IC itself from the NRD whereas JPN1/11 is a receipt for the loss of an IC. They are now referred to as KP09 and KP11 respectively. The NRD has also adopted the ALIS which means Agency Link-Up System where relevant Government agencies can have common access to data relating to ICs, etc. via the online system. The agencies are the Election Commission, Public Services Commission, Health Ministry, Immigration Department, etc.

W57 : Laila binti Abdul Majid

She is the Assistant Chief Director, Information Technology Division, National Registration Department, since November 2007 but had served in that Division since 1985. According to her, NRD began its computerization program in 1990. Before that, NRD was processing applications for ICs manually. However, in 1990, all IC applications were processed by way of computerization with the issuance of ICs consisting of 12 digits. In 1998, a new system called biometric system was introduced which allowed the examination of all IC applications through the so-called fingerprint method. In 2001, a new IC was issued with chips installed. The present MyKad with chip contains a code 12 meaning that the holder is born in Sabah. She says that the processing of ICs in the NRD is done by qualified and authorized officers who must possess the relevant ID and password. Information in the chips contains the IC number, name at birth, address, citizenship status and date of birth as well as the holders thumbprint and photographs. In its database, NRD uses the DB2 System and information relating to birth, death, IC, citizenship, etc., are captured therein. Information in the database would be updated on a need basis and can be amended by any authorized officer. NRD database has never been hacked and has been conferred

international recognition when it was issued the ISMS Certificate since 2009. She also refers to a Link-Up System Agency called ALIS which was developed for the purpose of sharing information among several related and authorized agencies. There are apparently 32 such agencies which could use services under ALIS. According to her, NRD and the Election Commission (EC) have been sharing information under ALIS since 2002; that NRD had assisted EC in verifying lists of voters registered in the electoral rolls. The witness has produced statistics in P44 which contains 6 sets of documents. Under Annexure A, the number of illegal immigrants given citizenship in Sabah is stated as 66,682 but is reduced to 59,276 due to the deaths of 7,406. Annexure B contains the number of citizens born in Sabah holding blue ICs which is stated as 1,640,341. These are not foreigners or immigrants. The total figure of blue ICs given through late registration is recorded as 146,820. The total number of people born in Sabah is 2.5 million, many of whom are residing outside of Sabah such as Selangor, etc.

W63 : Datu Abu Bakar bin Mat

He is the Director of NRD, Sarawak. He describes briefly the 3 types of ICs used in Sarawak i.e. MyKad, MyPR and MyKas. He also describes briefly the history of ICs in Sarawak and the procedures when applying for ICs and birth certificates, etc. He states that ICs for Sarawak have been given the code 13 and 52. According to him, Sarawak NRD has adopted the mobile unit system in registering births, etc., of people in the remote areas. The verification inquiry by a Magistrate as practiced in Sabah does not exist in Sarawak. He says there are still some stateless persons in Sarawak i.e. those without any documentation whatsoever.

W126 : Sity Amirah binti Abdullah

She is the Assistant Registration Officer attached to NRD, Sabah. Her duties include working as an officer with the Special Mobile Unit of NRD which was established in 2002. This Special Mobile Unit is tasked with issuing birth certificates as well as issuing or replacing ICs to people residing in the rural or remote areas of Sabah. In the process, it would check with the local representatives, community leaders, village heads, district chiefs,

etc., on the number of applicants who do not have ICs or other documents. According to her, in the period from 2000 to 2013, there was a total of 44,426 replacement ICs issued by the Unit. For the period from 2000 to 2002, 35,871 birth certificates were approved and 10,171 were rejected. She states that the Special Mobile Unit continues to function to date as there are many people in the remote areas who have no ICs or birth certificates. She confirms that all birth registrations have to be referred to the Magistrate Court for verification purposes.

W143 : Lee Jin Haw

He is the Director of the Marriage Division, NRD. His duties include registering marriages of non-Muslims and recording of divorces issued by the courts. Marriage registration is done online from a centralized registry for the whole of Malaysia. According to his records, Malaysian male citizens of Sabah origin marrying spouses from Indonesia, Philippines, China, Singapore and others accounted to 1,121; that Malaysian female citizens of Sabah origin marrying spouses from Indonesia, UK, China, Philippines, Australia and others accounted to 429. The total number of marriages recorded at the NRD from 1982 to 2013 was 2,370,996.

W163 : Ismail bin Ahmad

He is the Director of the NRD, Sabah, since 2010. He describes the evolution of the IC system as well as the birth certificates in Sabah. He illustrates his explanation by way of documents P132 and P135. Reference is therefore made to the details reflected in these documents. According to him, the IC system had gone through a number of changes since 1963 when Malaysia was formed. In 1963, persons who became citizens by way of birth, descent, registration or entry, were entitled to be issued with a 6 digit orange card. In 1972 to 1990, the 6 digit card was replaced by a 7 digit blue IC. This exchange was not automatic. There was a sort of filtering system and those eligible must possess birth certificates or certificates of status or certificates of declaration. Chinese not born in Sabah were issued the red IC. Foreigners who did qualify as citizens and whose entry permits had been approved by the Immigration Department were issued red PR cards. Foreigners with valid passports residing in Sabah and who also had valid pass would be issued with temporary resident green cards. From 1972 to 1990, there was an operational exchange from ICs to blue ICs. It was also a period where fresh applications for ICs could be made by way of statutory declarations or surat sumpah in the rural areas which had to be

endorsed by the village head and certified by the district officer as a magistrate. Because of abuses of this system relating to statutory declarations, such applications were stopped in 1987. Under the National Registration Act, 1990, it is compulsory to support such applications with birth certificates. It is now the law that late registration of birth must be endorsed by a Magistrate Court. According to him, there were further changes in the issuance of ICs in the period from 1990 to 1999. The blue ICs were replaced by bunga raya ICs with 12 digits. Another improvement made from 1990 to 2002 was the replacement to the colour photographs in the bunga raya ICs and the registration of the holders in the computer system. There was a further improvement from 2002 to 2004 when the bunga raya ICs were replaced by high quality blue ICs with chips which contained personal details of the holders. This would enable easy detection of fake ICs. From 2004 to 2012, the chip capacity in the ICs was upgraded to 64k allowing for easier and faster reading. In addition, the colour for PR cards was changed back to red MyPR. The colour for temporary resident cards was changed to green. From 2012, additional security features were added to the latest MyKad allowing for micro-tech readings. The witness then describes briefly the evolution of the birth certificate in Sabah. He states that

at the time when Sabah was known as North Borneo, there were 2 types of birth certificates; one existed before the 1950s and the other in the period between 1950 and 1963. According to him, the birth certificates for citizens and foreigners were the same before the year 2000, thereby causing some confusion to the public. In the period from 2000 to 2011, the NRD made changes to the color of the birth certificates. Green was for citizens and red was for foreigners. At the same time, computerization of birth certificates was introduced. The witness also refers to the formation of a Special Management Laboratory (Workshop) for foreigners held in Sabah from 4th to 27th May 2010. This is reflected in a document he has produced (P136). This Laboratory or Workshop was headed by the Deputy Director of Immigration, Sabah. The Workshop included agencies such as local government, district officers, security agencies, police, the task force, the federal departments and individuals. In all, there were 27 agencies involved. The objectives were to survey and analyze and propose to the Government effective mechanisms in managing foreigners in Sabah with specific emphasis on entry, detection and monitoring. Their findings were presented to the State Government, Sabah as well as the Minister of Home Affairs and

members of the Sabah State Legislative Assembly. The Workshop made a number of recommendations as follows:

- 1) To maintain the status quo in the implementation of the levy mechanism and 50% of the levies collected to be earmarked for the State Government for in-situ training center for unskilled workers. By 2015, all plantation estates would need to employ a minimum of 30% local workers, failing which a higher levy would be imposed.
- 2) Introduction of a Resident Pass as a security document to circumvent the various types of documents now in use.
- 3) Establishment of a Permanent Secretariat with specific functions all related to immigrants / foreigners.

In addition to the above, 28 initiatives were proposed which are reflected in the document P136.

W208 : Dato' Jariah binti Mohamad Said

She is the Director General of NRD, Putrajaya. She describes briefly NRD's policies, functions and procedures relating to ICs and other related documents. She states that problematic ICs were grouped as P1, P2 and P3. According to her, for the period from 1979 to 1984, there were 51,300 ICs grouped under P1 and for the period from 1984 to 1988, there were 62,550 ICs grouped under P2 and for the period from 1990 to 1996, there were 16,699 ICs grouped under P3. The total would be 113,850 in number. According to her, these are problematic ICs; that the NRD has complete records of P1 but only partial records of P2 whereas there are no records for P3. She says that the Home Affairs Minister has approved the formation of a Special Committee to review all problematic ICs in Sabah. She describes the evolution of the card system from 1963 up to 2012. She also describes the implementation of various systems introduced by NRD such as the automated fingerprint identification and the agency link-up system (ALIS). On the issue of "Project IC", she states she does not know anything about such a project. She takes the view that immigrants who have resided in Malaysia for a long time should be considered for citizenship status subject to conditions.

2.1.4 Immigration Officers

W50 : Abdul Khalid bin Abdul Karim

He is the Asst. Supt. of Immigration since 1983. He is also Head of Special Unit in the Department since February 2012. One of his functions is to issue documents such as passports and various types of travel documents. He also issues visas, permits, and passes to immigrants. Another function of his is to guard the country's gazetted entry points into the State. According to him, there are 3 land entry points i.e. Long Pasia, Sindumin and Pegalungan; there are also 3 air entry points i.e. Tawau Airport, Sandakan Airport and Kota Kinabalu International Airport; and there are 6 sea entry points i.e. Sipitang, Kota Kinabalu, Kudat, Tawau, Sandakan and Semporna. As Head of Special Unit, his duties included issuance of IMM13 passes and to ensure they are issued according to immigration regulations. They also include approving extension of social visit pass for Filipino refugees. This social visit pass is issued pursuant to the IMM13 pass. He is also concerned in issuing HIF-22 pass which is a kind of social visit pass. In short, a social visit pass is a prerequisite to obtaining an IMM13 pass. An entry permit is a permit which enables a person to enter and remain in Malaysia and which is issued pursuant to

Section 10 of the Immigration Act 1959/1963. It is for a period of 6 months. Prior to obtaining a PR, a person needs to have an entry permit. At the present moment, only children of IMM13 holders are issued with IMM13 passes. They must have the required birth certificates and they must be above 16 years of age. IMM13 passes are valid for 1 year and are renewable. They can be cancelled if for example, the holders are convicted of offences. Proper guidelines for the issuance of IMM13 passes are contained in an office circular Bil. 2/2012 (P23) & (P24). These directives were not in existence in the period from 1972 to 1984. Apparently this witness does not know of any specific guidelines issued from 1972 to 1984. As at December 2012, the total number of IMM13 passes issued was 98,427 (P25). Out of this number, 60,248 are active IMM13 holders (meaning they are renewed every year). The balance are non-active, this could be due to them being issued with entry permits and some could have gone back to the Philippines. Some might have died, etc. This figure of 60,248 covers the period from 2005 to 2012. The above office circular Bil.2/2012 is only applicable to Sabah. It came about after a Workshop held by the Immigration Department on 15 & 16/10/2012. The proposal was accepted by the Special Unit and verified by the Director in December 2012. Before this, there were

no comprehensive guidelines in relation to issuance of IMM13 passes (P27). The guidelines came into effect only in December 2012. Under the new guidelines, a dependent of an IMM13 holder, has to produce his birth certificate. And if the birth is registered late, it has to be endorsed by a First Class Magistrate. These were not done before. For applicants under 18 years old, the power to approve issuance of IMM13 passes lies with the head or district head of the Immigration Department. For those above 18 years, the approval lies with the Director of Immigration Department, Sabah.

W96 : Datuk Robert Lian

He is the Director of Immigration, Sarawak. According to him, Sarawak only issued 4 types of documents by the Immigration Department, namely visa, pass, entry permit and certificate of emergency. He states that Sarawak has 31 gazetted entry points and that Sarawak has complete control of its own immigration matters under the Immigration Act. He discloses that Sarawak had about 171,000 foreign workers as at end of 2012, most of them Indonesians but some from the Philippines, Thailand and other Asean countries. He states that Sarawak is implementing the so-

called 6P Program launched by the Government recently. A total of 22,222 foreign workers have so far taken advantage of this 6P Program. According to him, since 1968, there were only 2,694 IMM13 holders in Sarawak. However, there were only 275 active ones. He has no knowledge of any illegal immigrant being granted citizenship in Sarawak.

W98 : Haji Haniff bin Omar

He is the Director attached to the Foreign Workers Division, Immigration Department Putrajaya, since 2012. His duties include the vetting and issuance of PRKS and other documents relating to foreign workers. There are 2 main sectors involved, namely, the maid sector and the general sector such as plantations, manufacturing, agriculture and general service, etc. He goes on to describe in some detail the procedures relating to employer's application for approval to bring in foreign workers to the country. Such procedures have been adopted since the implementation of the Immigration Act, 1959. He says that immigration statistics show that up to December 2012, the total number of foreign workers in Malaysia was 1.57 million. This 1.57 million would include Sabah. All data are now centralized with the adoption of a

computerized assistant. The majority of foreign workers are from Indonesia, Nepal and Bangladesh. The policy now is that foreign workers are not allowed to bring in their dependents or get married in Malaysia. He states that Sabah and Sarawak each has its own Labor Laws which are peculiar to the two States. It is more difficult to get foreign workers in Sabah than, for example, other states in Malaysia. The Government has adopted the 6P Program which is relevant to West Malaysia whereas Sabah adopts the 5P Program instead.

W104 : Raja Kamariah binti Raja Abdul Rahman

She is the Principal Assistant Secretary attached to Immigration Affairs Division, Ministry of Home Affairs, Putrajaya. Her duties include processing appeals by applicants whose applications for entry permits have been rejected at State levels for consideration by the Home Minister. The Home Ministry has established certain guidelines or criteria in considering appeals relating to rejections of applications for entry permits at State levels. Initial applications for entry permit in Sabah and Sarawak are dealt with by the respective State Immigration Departments. Thereafter, they go up to the Director General at Headquarters,

Kuala Lumpur. According to the Sabah statistics, in 2009, there were 890 appeals but only 59 were approved and 831 rejected. In 2011, there were 19 appeals but only 4 were approved. In 2012, there were 8 appeals but only 2 were approved.

W138 : Datuk Muhammad bin Mentek

He is the Director General of ESSCOM, Sabah. He was Director of Immigration Sabah from 2010 to 2013. He describes briefly the history of the Immigration Department in Sabah. According to him, it was established in 1948. In 1954, it was placed under the police department. In 1963, after the formation of Malaysia, it reverted back to the Immigration Department where it remains until now. He then goes on to describe briefly the duties of the Director of Immigration Sabah which include managing and controlling the issuance of Malaysian international passports and travel documents as well as dealing with applications for lost or damaged passports, temporary identity card receipts and entry permits etc. He states that as Director, he would be involved in the Sosek Malindo Meeting between Malaysia and Indonesia which is held once a year to resolve bilateral immigration issues such as entries by persons from Nunukan and Tarakan to Tawau. He was

also involved in joint working group relating to boundary surveys; also the joint border control coordination group between Malaysia and Philippines including BIMP-EAGA. On foreigners in Sabah, he states that they can be divided into 6 categories namely, (1) foreign workers holding temporary employment visit pass (PLKS); (2) legal immigrants holding various types of passes; (3) IMM13 and HIF-22 holders; (4) illegal immigrants; (5) stateless persons and (6) holders of census certificates and temporary identification receipts. Under (2) above, there would be the following types of passes i.e. border pass (Tawau only), student pass, visitors pass (professional), PLKS (offshore, cook, masseur), Malaysia My Second Home pass, social visit pass, etc. On stateless persons, he states that these are people whose nationality has yet to be determined. He cites an example of children born to immigrant parents without any document or birth certificate and were abandoned. According to him, Sabah Immigration Department does not issue any document to stateless people because they do not have birth certificates. However, there has been suggestion that a pass to be called the Resident Pass could be issued to them and this Pass be made renewable. Children born of parents holding Resident Passes could also be issued the Resident Passes and be allowed to work in Sabah. The witness goes on to

relate that there are 13 entry points into Sabah by air, sea and land; that the entry points by air are Kota Kinabalu, Tawau and Sandakan; that the entry points by land are Pegalungan, Long Pasia and Sindumin; that there are 7 entry points by sea i.e. Sipitang, Kota Kinabalu, Kudat, Sandakan, Lahad Datu, Tawau and Semporna. He states that the total number of PLKS issued to immigrants from Indonesia and Philippines between 2007 and September 2012 was 1,130,399; that the total number of IMM13 passes including HIF-22 issued out between the period from 1997 to September 2012 was 98,066; that this number is increasing due to marriages. He says that IMM13 passes were only issued to Filipino refugees who entered Sabah from 1972 to 1984. In 1997, census exercises were conducted by FSTF.

W148 : Dato Alias bin Ahmad

He is the Director General of Immigration Department, Malaysia. He explains that the IMM13 document was issued in Malaysia through an exclusion order issued by the Minister of Home Affairs as a form of visitor pass to those who had no travel documents. However, only in Sabah was the IMM13 passes issued to refugees. Temporary identification receipts (kad burung-

burung) issued by the CM's Department, were recognized and accepted by the Immigration Department. Entry permits were granted based on certain criteria laid down by the Government in accordance with the Immigration Act. He says that due to the geographical position of Sabah, it became the focus of migration for foreigners; that in order to manage them, a comprehensive profile system had to be developed. He describes the relationships between neighboring countries relating to joint management of foreign workers and other immigrant issues. On the issue of integrity, he states that his Department has established a Special Integrity Division to increase integrity, discipline and performance in the Department. As a result, the public's perception towards the Department has improved.

2.1.5 District Officers

W89 : Harun bin Bidin

He is the District Chief attached to the Kudat Native Court. As such, he is also the Chief of the Native Court, Kudat. According to him, the Native Court System in Sabah was established in 1881. He states that the Native Court does not issue any native certificate now. This has been stopped since 1982 due to abuses.

W173 : Iman bin Ali

He is the District Officer of Papar District. According to him, Papar District has 20 villages. The 2010 census revealed that there were 21,500 non-citizens in Papar District which was 16.7% of the total population there. He illustrates this by producing a document P138. As DO, he is also the chairman of the squatters committee. This committee is involved in discussions on matters relating to squatters. There is also the district working and action committee. He has highlighted the problems and constraints faced in sorting out the squatters' problems in the district. He refers to political influences in getting electricity and water connections to squatter areas. He draws attention to political parties establishing

branches in those squatter areas, thus aggravating the difficulties for enforcement officers in demolition operations, etc. The safety of enforcement officers is sometimes at stake. According to him, the district offers opportunities to foreign workers because of the presence of big government projects. He finds locals are the major culprits in employing immigrants and by sub-letting their business licenses to foreigners, etc. He recommends strong action by the Government against illegal immigrants.

W174 : Haji Faimin bin Kamin

He is the DO of Ranau District. As such, he is the Chief Administrator responsible for planning and coordinating the development of the District. He states that there are no squatter colonies in the District of Ranau. There are however settlements of illegal immigrants located in private plantations in Kundasang. These immigrants are mainly vegetable growers hired by companies and they are normally provided accommodation by the companies. The workers are mainly Timorese. The 2010 census taken disclosed 5,739 foreigners in the District. Immigrants in Ranau and Kundasang have been found to carry on businesses using licenses belonging to the locals. They are mainly Pakistanis

who are married to the locals. They would use licenses granted to their local wives. Foreign workers can also be found working in the plantation and farming sectors.

W177 : Zulkifli bin Nasir @ Gimsen Stanley

He is a DO of Lahad Datu District since 2008. Before that, he was DO of Keningau District. He states that the original inhabitants of Lahad Datu are the Indahans from the District of Kinabatangan. He says that the District Squatters Committee had not been able to execute the demolition of squatter houses due to political interventions, personnel and financial constraints. He explains that the population of Lahad Datu has increased due to the presence of immigrants; that immigrants settled there because of ample job opportunities, especially in the oil palm plantations in the District. He agrees that the 2010 census taken shows that there were 77,003 or 37.2% non-citizens in the district. According to him, Lahad Datu faces the problems of illegal peddling, selling cigarettes, cassettes and fish by non-citizens; that the Council is facing enforcement difficulties in terms of shortage of personnel, etc. He states that 2 weeks before the Tanduo intrusion recently, he was informed by the OCPD of the possibility of an attack on

Lahad Datu town by militants from Southern Philippines. However, that attack was apparently avoided because of certain actions taken by the DO and the OCPD.

W178 : Abdul Mohamad Ibnu bin Abdul Kadir Baba

He is the DO attached to Semporna District. The District covers 49 islands and 174 villages but only 17 of the 49 islands are inhabited. He states that security is a major concern as Semporna is very close to Southern Philippines and the residents there have family ties on both sides of the border resulting in the presence of many illegal settlements along the coast of Semporna and the islands. There are 18 squatter settlements within the Semporna District Council Assessment Areas and 156 of such settlements are outside the said Assessment Areas. Social problems such as drug trafficking and addiction are common in the settlements. According to him, ESSCOM is planning to relocate 18 squatter settlements as they are considered security threat. ESSCOM and the District Office intend to conduct census on the 18 settlements in question. He says that the District Council is facing problems of finance and personnel. There is also political interference in its enforcement operations.

W179 : Arisin bin Aripin

He is the DO of Kinabatangan District which has a population of 150,327 based on the 2010 census. Of this figure, 117,689 are said to be non-citizens representing 78.30% of the total population of the district. There are 91 squatter houses comprising 597 squatters of which 191 are immigrants. Most of the immigrants lived in the plantations where they worked. It is difficult to ascertain the exact number of foreigners without documents since the plantation companies do not inform the DO or the District Council about the matter. He states that overall security in the District is under control but that there are cases related to drug, fights and even murder. He says that after the Tanduo intrusion incident, there are closer interactions between the Council, the Police and other security agencies. He suggests that security measures should be upgraded in terms of increasing personnel in all the entry points, etc. He states that enforcement officers are facing problems relating to foreigners trespassing on Government Land.

W180 : Wong Foo Tin

He is the DO of Beaufort District. There are 3 squatter settlements comprising of about 500 people, all of whom are illegal immigrants. Beaufort District has 62,000 acres of oil palm plantations and 16,000 acres of rubber plantations. Both sectors employ foreigners. He states that it is difficult to determine the actual number of foreigners in these sectors. He says that the major problem relates to children without any birth certificates because their parents' marriages are not registered. These marriages are between the locals and foreigners. The squatter settlements are an eyesore and they breed criminal activities. He suggests that the authorities should adopt the Singapore approach of making employers responsible for their workers and that foreign workers be confined to a certain restricted area for effective control and monitoring.

W182 : Susilo bin Sumarto

He is the DO of Kunak District. He says that 46.9% of the population of Kunak comprises of illegal immigrants from Indonesia and the Philippines. Most of the Indonesians work in the plantations while those from the Philippines are engaged in sea resources like seaweed and fishing. He states that there is a strong presence of Sea Gypsies called Palauh who are engaged mostly in fishing but they have caused problems like trespassing on Government land and building their houses along the coast and stealing electricity and water as well as involving in other criminal activities. He admits that the Council does not have enough enforcement staff. The presence of illegal immigrants is reported to the Council through the Police and the Federal Special Task Force. He says that there are no major problems with the presence of illegal immigrants there.

W183 : Sebastian Lim

He is the DO of Kudat District. Kudat District has 14 islands. He says that in 1989, the Ministry of Local Government and Housing has directed Municipal and District Councils in Sabah to adopt the so-called "Containment Policy". There are 7 squatter settlements in Kudat, 11 in Banggi and 11 in Matunggong. Problems related to squatter settlements are pollution of the environment and criminal activities. According to him, there is no proper mechanism for collecting and updating information. The Statistic Department has reported that Kudat has 8,494 non-citizens or 9.9% of its population.

W184 : Sapdin bin Ibrahim

He is the DO of Pitas District. He states that there are 7 traditional villages in the District which are fully supplied with electricity and water, community halls and a mosque. There are no squatter settlement in Pitas District.

2.1.6 Police Officers

W33 : Datuk Haji Ibrahim bin Haji Zakaria

He is currently the Head of Special Branch, Sarawak since February 2012. He has been with Special Branch since 1984. In 1996, he was attached to Special Branch, Bukit Aman , Kuala Lumpur. At that time, he was assigned to interview or interrogate the ISA detainees relating to the illegal issuance of ICs in Sabah. There were a total of 94 suspects arrested at the time with 24 of them from the NRD, Sabah. He was directed to interrogate Datuk Rauf bin Sani, the then Director of NRD, Sabah, and to prepare a report accordingly. He also interrogated 2 other ISA detainees. From the interrogations, he was able to disclose that 6,305 ICs had been issued illegally resulting in a collection of RM167,300. These ICs were issued to Filipino, Indonesian immigrants as well as locals. They were mainly for financial gains. There were no other motives involved as far as the witness was concerned. They had acted on their own. The purpose of the interrogations was to determine whether their activities threatened National Security. He did not agree that Datuk Rauf Sani was protecting his superior officers involved.

W34 : DSP Badaruddin bin Ismail

He is the Pegawai Turus, attached to Special Branch Headquarters, Kelantan since 2009. He has been in Special Branch for 17 years. In April 1996, he was attached to Special Branch, Bukit Aman, Kuala Lumpur. At the time, he was directed to interview an ISA detainee called Ramli bin Kamaruddin, the then Director of NRD, Sabah, for allegedly issuing ICs to the illegal immigrants. These ICs were the JPN receipts meant to replace damaged ICs and JPN1/11 which were receipts meant to replace lost ICs. There were 16,000 of such receipts being issued illegally as disclosed by Ramli Kamaruddin, mainly to Filipino, Indian and Pakistani immigrants. The motive was for financial gain and the amount involved was in excess of RM1 million. There were no other motive involved. There was no political involvement. He admits that he did not interview other witnesses in order to corroborate or otherwise the evidence disclosed by Ramli Kamaruddin. He was an Inspector at the time.

W56 : Ahmad Fauzan bin Mohd.

He is a Special Branch Officer attached to Operations and Safety Protection Coordination on Human Trafficking Syndicates and Falsifications of Identity and Travel Documents Division. His duties include the survey and assessment of intelligence information and / or interview reports relating to syndicate activities or human trafficking activities as well as the wrongful issuance of ICs. Specifically, he was concerned in the assessment of interviews conducted by other officers with a view to determine whether there was any threat to National Security of the country. He says that in 1995, he was involved in the operation relating to syndicate activities in Sabah concerning the illegal issuance of Malaysian ICs to immigrants, etc. The operation lasted from 1995 to 2001 in which 94 persons were arrested under the Internal Security Act (ISA). Among those arrested were 24 officers from the NRD, Sabah, including 2 directors, namely, Datuk Abdul Rauf Sani and Ramli bin Kamaruddin. Datuk Abdul Rauf Sani was placed in detention for 60 days while Ramli bin Kamaruddin was detained for 2 years. The detention orders were signed by the Deputy Home Affairs Minister. According to the witness, from his assessment of the detainees, he was able to conclude that the syndicates were organized involving officers from the NRD, Sabah and that the

motive was solely financial. It was for monetary gain. One IC was alleged to cost from RM50 to RM1400. The amount involved was about RM11 million. He says that other than the 94 arrested persons under the ISA, 3,035 others were arrested by other enforcement agencies and were charged for offences relating to possession and falsification of ICs, etc. In his assessment of the information derived from the interviews collectively, he did not detect any kind of political involvement in the activities of the syndicates and / or individuals involved. He explains that he was only concerned about the monetary perspective of their activities and whether they affected National Security of the country.

W81 : Dato' Pahlawan Hamza bin Taib

He is the Commissioner of Police, Sabah, since November 2010. He describes briefly the structure of the police force in Sabah. He is overall in charge of the Sabah police force numbering about 6,000 personnel which do not include the General Operation Force. The Police work closely with other departments such as the Immigration Department to deal with problems concerning illegal immigrants. Those targeted for deportation are referred to the Immigration Department. Pending

deportation, they are placed in temporary detention centers. Those found to have committed drug offences would be arrested and charged in court. Two major operations were mounted by the Police, namely Ops Bersepadu and Ops Ngah. Ops Bersepadu is an integrated operation carried out by the General Operation Force jointly with various departments in the police contingent as well as the Immigration Department. Ops Ngah is the code name used in operation against illegal immigrants in Sabah. The witness has produced a document P53 detailing figures of illegal immigrants being detained and arrested. From 2005 to 2012, the number is 59,046. The total number of those arrested is 91,386 out of which 23,870 were released. The number of those handed over to the Immigration Department for deportation is 75,727. The Immigration Department is now implementing a program called "5P Program" which is somewhat similar to the amnesty program of previous years. According to him, the records show that locals commit 70% of the index crimes in the State. The trend is not going upwards relating to crimes by foreigners. It has remained stable at 30%. He takes the view that most crimes are committed by the locals.

W88 : Insp. Abdul Satal bin Mad. Buraisal

He is an investigating officer attached to Commercial Crime Division, Lahad Datu. He is head of that Division. He was responsible for investigating 3 reports received by him in May 2012 concerning the so-called Project IC. The reports are the following:

- a) A Bisaya woman complainant lodged a report with the police alleging that she was promised a Malaysian IC by a syndicate after paying the said syndicate a sum of RM2500. The payment was alleged to have been made to two men in a hotel room i.e. a Malay called Kamaruddin bin Idris, a staff of NRD, Putrajaya, and another person called Missnun bin Derman, a farmer from Johor.
- b) A teacher alleged to have met the same two persons above in the same hotel in Lahad Datu and was also promised that he could obtain a Malaysian IC upon payment of RM4000. He paid the said amount but never received the promised document.
- c) A Bugis who had lost his IC in 1985, had attempted to apply for a replacement but was unsuccessful. On the same day mentioned by the complainants in (a) and (b) above, he met the same two persons i.e. Kamaruddin Idris and Missnun Derman at the said hotel and was promised that he would be

able to get his replacement IC upon payment of RM2800. He paid the said amount but that promise was never fulfilled.

According to the Inspector, the two persons above named were arrested and charged in court. The case is still pending.

W90 : Insp. Mohd. Sani bin Husin

He is an investigating officer attached to the Commercial Crime Division, Police Department, Tawau. He states that a report was lodged by Inspector Siva Prakash on 26/5/2012 concerning a raid on a hotel in Tawau on 25/5/2012; that the said raid resulted in the arrests of 15 people for involvement in the illegal issuance of Malaysian ICs. The names of the 15 persons are listed therein consisting of 5 Malaysians, 9 Pakistanis and 1 Indonesian. A number of documents were seized in the raid.

W186 : Superintendent Shamsudin bin Mat

He is the OCPD in Lahad Datu. He has applied to be called as a witness in order to rebut or explain the statement made by Zulkifli bin Nasir (W177) that he (W186) knew about the Kampung

Tanduo intrusion 2 weeks before the actual incident. According to him, this is not true and he has lodged a police report on the matter. He explains that he only knew of the intrusion on the actual date of the said incident itself.

W195 : ASP Jimrey Anak Hilary Chukan

He is an officer attached to the Intelligence Operations, Anti-Human Trafficking Unit, Bukit Aman, Kuala Lumpur. This Unit was established on 15/10/2008 for the protection of all those categorized as victims under the Anti-Human Trafficking and Anti-Smuggling of Migrants Acts. He describes briefly the American experience in eradicating this human trafficking scourge and that Malaysia has yet to upgrade its operational procedures, etc., on the matter. He discloses the fact that the Home Affairs Ministry has set up the Anti-Human Trafficking Council which could synchronize the Government's efforts in dealing with such criminal activities.

W207 : ACP Rehwell Marung @ Rowell

He is the OCPD of Sandakan. He states that he has never come across a card called Kad Polis or Kad Operasi Bersih mentioned by W205. He has heard of another card called Kad Expo. He takes the view that this Kad Polis was not properly issued.

W211 : Superintendent Mohd. Azman bin Ahmad Sapri

He is the Chief RCI Investigator. Under him is a team of 13 experienced investigators from the police department and the MACC. They are appointed by the Attorney-General Malaysia to assist the RCI. The investigators' duties are wide ranging including recording of statements from potential witnesses appearing before the RCI. In describing his investigations, he has produced various bundles of documents and these have been marked as P172, P173, P174, P175 and P176 containing all details relating to the investigations.

2.1.7 Local Authority Officers

W64 : Mohammad Amir Izzat Romeo bin Abdullah

He is the Assistant Senior Director of Enforcement Division, Kota Kinabalu City Hall. As such, he is the head of the Squatters Division. His duties include conducting operations relating to the demolition of squatter houses, conducting census, attending to public complaints as well as assisting squatters affected by natural disasters, etc. According to him, a squatter house is described as a house or a structure built in an area not recognized as a village under the Sabah Land Ordinance. It is a structure that has not been approved by DBKK pursuant to the building bylaws. He says that his department conducts regular census and monitoring of the squatters as well as investigating public complaints concerning the building of squatter houses within its geographical jurisdiction. The Land and Survey Department is also involved in the supervision of squatter settlements in Kota Kinabalu together with the Federal Special Task Force (FSTF). However, the Chief Minister's Office takes over control of areas designated for refugees. He states that most of the squatters in the Kota Kinabalu area are Malaysian citizens. There are not many non-citizen squatters. The enforcement officers sometimes encounter non-cooperation from

owners of squatter houses. They have found squatters possessing all sorts of documents such as IMM13 passes, passports, birth certificates, MyPR, etc. He says that as at the end of 2012, 31 squatter locations have been recorded. They are not gazetted as refugee settlements as they are not supervised by FSTF. The statistics of the squatter areas for the whole of Kota Kinabalu are reflected in the document marked P47. He admits that the statistics as shown in P47 are not entirely accurate because many more homes have been erected since 2012. Nevertheless, the statistics show that the number of squatter houses in Kota Kinabalu is 3,781 with the total population of 23,562. He goes on to state that over the years from 2008 to 2012, DBKK has conducted demolition exercises. From the figures given, it would appear that during that period from 2008 up to September 2013, the number of squatter houses demolished is just over 4,500. There were not alternative settlements provided for those whose houses had been demolished. This was because those houses were built on state land without any approval from the relevant authorities and as such, had avoided paying assessment taxes, etc. He states that the main obstacle to enforcement measures came from politicians who would gain from the votes of the squatters. Furthermore, the squatters would sometimes resist

violently to enforcement measures. In areas within the jurisdiction of DBKK, squatter areas are provided with basic amenities such as water and electricity as well as roads and bridges. There have been cases where such amenities were lifted because the squatter houses in those areas concerned have been targeted for demolition. According to him, the social implications are negative and wide. The children would involve themselves in gambling, stealing, drugs, etc. There are problems relating to management of their environment. They live in unhygienic conditions. There is garbage everywhere. They are like slums. As regards illegal immigrants conducting business in Kota Kinabalu, the witness states that licenses are required from the authorities; that employers are not allowed to employ illegal immigrants; that DBKK has conducted regular checks on businesses suspected of employing illegal immigrants and have taken action accordingly. He says however that most, if not all, employees in the restaurant business are citizens.

W65 : Abdul Rahim bin Katiman

He is the Enforcement Assistant attached to Tenom District Council. His duties include controlling and recording the growth of squatters in the Pekan Darat area. There is only one squatter area in Tenom District with 34 houses accommodating 174 people. The area is known as Tenom Lama village. He produces the statistics in a document P48 showing the number of squatters in the area. The squatters comprised of mixed races such as Pakistani, Suluk, Bajau, Jawa, Murut, Kadazan, etc. Their occupations are varied ranging from teachers to pensioners to farmers, traders, laborers etc. All of them are said to be Malaysian citizens except for two of them holding IMM13 passes. In Tenom District, there are immigrants with passports and work permits. They work in a plantation company i.e. Sime Darby Group. There are also the Pakistani traders who possess proper Malaysian ICs. According to him, there is no visible increase in the population of Tenom District. Many of the foreign traders are self-employed with an estimated income of RM500 a month. The squatters received some assistance from the Social Welfare Department amounting to RM70 a month. The locals have complained that these foreigners are depriving them of job opportunities in the plantation

company. The witness says however that locals do not seem interested working in the plantation.

W66 : Kassim bin Selamat

He is the Head of Squatter Unit, Sandakan Municipal Council. His duties include conducting and monitoring census on squatters in the area under the Council as well as eradicating and controlling the growth of squatter houses on government and private land. Squatters are those who build their houses without approval from the relevant authorities and on land belonging to the government or private owners. The statistics show the number of squatters from 2008 to 2012 to be 43 (see P49). Of the 43 squatter settlements, 24 are built on government land and 19 on private land. He says that the Council is only concerned with demolition of squatter houses located on government land whereas demolition of houses on private land would be the responsibility of the owners concerned. However, the owners could request the Council to do the demolition upon payment. In general, facilities are not provided to the squatter settlements but there are certain squatter settlements where water and electricity are provided because these settlements are occupied by Malaysian citizens. Some

political parties have provided funds for the construction of bridges to certain settlements. As a result, there have been thefts of water and electricity through illegal connections. There is also the problem in the disposal of rubbish as there are no proper sewerage systems in place in the squatter settlements and this has resulted in rivers and drains being polluted, etc. There are social problems such as drug trafficking, cigarette smuggling, theft of turtle eggs, etc. According to the witness, the enforcement unit had encountered problems in its demolition exercises. It was dangerous at times. As such, the Council had requested assistance from other agencies such as the Police, Sabah Electricity Board, Immigration Department, NRD and Water Board. This so-called integrated approach had occurred twice in its demolition exercise. He gives the following statistics : from 2000 to 2008, the number of squatter houses demolished was 4,620 and from 2009 to 2011, the number was 1,080. In cases where Malaysian citizens were affected, they were provided with new settlements under the Projek Perumahan Rumah Rakyat or PPR located in areas such as Kampung Tenusa 2 dan Tenusa 1. But for non-citizens, the Council would not be concerned. They would be the concern of other agencies such as the Immigration Department, Police, etc. The witness states that the numbers of

illegal immigrants especially in Sandakan and Pantai Timur have increased considerably. One of the reasons was due to many employers of business premises engaging illegal immigrants. The Council had taken actions against such employers in collaboration with the Labor Department and NRD and they had been successful in mitigating the problem. On being asked about the establishment of ESSCOM which covers Sandakan District, the witness says he would welcome it.

W67 : Abdul Sait @ Abdul Said bin Ombok

He is an Executive Officer attached to the Papar District Council. His duties include the administration and supervision of affairs relating to squatters in his district as well as in relation to the squatters committee established under the Council. He is also concerned in conducting and monitoring census on squatters in the district. He produces a document P50 reflecting statistics on squatters in the district. The squatter settlements are located in 4 areas within the district but one is no longer in use. The remaining 3 areas are Pituru, Sri Pritchard and Pekan Kimanis. There are 162 houses with 566 occupants in those areas. All the 566 occupants are said to be Malaysian citizens. Among them are

Indonesians, Filipinos and Ubian living in these squatter areas. They are said to have Malaysian ICs. All these squatter settlements are located on state land. The District Council had conducted demolition exercise on these settlements from 1997 to 2013, 4 demolition exercises were conducted on the 3 settlements, with some 24 houses being demolished. There is an immigrant center in Kinarut that is managed by the FSTF but the Council has no jurisdiction over it.

W68 : Majid @ Majied bin Patola

He is the Municipal Inspector attached to the Tawau Municipal Council. His duties include the supervision of all squatter settlements within the Tawau Municipality. He has produced a document P51 which reflects the statistics on census taken in 2009 as follows : (1) total number of squatter houses in 24 squatter colonies is 4,167; (2) that out of these 4,167 houses, 3,265 are owned by locals and 491 owned by immigrants; and (3) the total population of the Tawau district is 19,445. He says that there were no attempts to conduct census on the settlements since 2009 due to lack of cooperation from the occupants in those settlements. The Council had conducted demolition exercises on structures

built illegally on Government land. There were no alternatives houses or settlements offered to those whose houses had been demolished. According to the witness, the downside of the demolition exercise is that it has the effect of scattering the squatters, thereby causing more squatter settlements or colonies to be built elsewhere. This had exacerbated the problems of monitoring by the Council as well as controlling the social, health and environmental problems, etc., that are prevalent in those settlements. He states that most of the occupants in those squatter settlements possess Malaysian ICs or permanent resident ICs. Some have no documents at all and are therefore regarded as illegal immigrants.

W69 : Tiam @ Duhimin bin Gilong

He is the Assistant Enforcement Officer attached to the Ranau District Council. His duties include the monitoring and controlling the squatter settlements under the jurisdiction of the Council. He says that there are many immigrant workers in his district. They are employed in the farms and construction sectors. They lived in houses provided by their employers. They are mostly Bugis and some Timorese. Some are married to locals. According to him,

their numbers are under control. They do not pose any social problems in the district. They have contributed positively in the plantation and construction sectors.

W70 : Nelson bin Johnivies

He is an Assistant Enforcement Officer attached to the Penampang District Council. His duties include those as Head of Enforcement Division dealing with public complaints and squatter affairs. He considers a squatter as anyone building a house on Government land without approval of the local authority and on private land in contravention of the building bylaws. His officers had conducted demolition exercises of squatter houses in his district in accordance with due process. Such actions are taken usually based on complaints from the public. The land office would be informed of any demolition of squatter houses on Government land so that the proper notice would be issued to the squatters concerned. He states that 25 squatter houses had been demolished. They belonged to both citizens and non-citizens. The Council does not provide alternative settlement for those whose houses have been demolished. He produces a document P52 which reflects the statistics on census on the number of squatters

in his district. There are 5 squatter settlements, 4 which are located on private land and the other on Government land. There are 352 houses built on private land and 274 on Government land. The total number of occupants in those houses is 2,282 and of this number, 2,024 are citizens and 258 are non-citizens. The non-citizens possess IMM13 passes and / or passports, etc. The squatter settlements do not have basic facilities such as water and electricity but they have generators. Their environment is unhygienic. Most of the children do not go to school. The security problem is under control. There are cases where employers have been found to employ immigrants but the relevant authorities have taken appropriate action on the matter. The witness states that immigrants have contributed positively in the construction sector in his district. He has not mentioned anything about the negative effects.

W71 : Palik @ Stanley bin Budas

He is an Enforcement Assistant attached to the Keningau District Council. His duties include the inspection and collection of data on squatters within the district as well as conducting census on squatter houses built on Government land and private land. He has tended a document P53 which reflects the 13 squatter settlements in the Keningau district i.e. 5 on Government land and 8 on private land. There are 598 houses in those settlements but the number of occupants could not be ascertained. However, the statistics seem to indicate that the number of squatters in the Keningau district is 4,370 of which 2,947 are non-citizens. He states that there are no facilities such as water and electricity in the squatter settlements. They obtain their water from the wells and gravity springs. He does not know where the settlement get their electricity. According to him, unhealthy sanitation is the main problem in these squatter settlements. This has been referred to the Health Department in Keningau. There are also cases of drug addiction and theft. He states that demolition exercises were conducted between the period from 2002 to 2012 resulting in 346 houses being demolished. The Council Enforcement Unit had encountered resistance and threats and even attacks from the immigrants concerned. There were no alternative sites offered to

those whose houses had been demolished. There was a proposal to relocate them to an area at Batu 27, Jalan Tenom but as of to date, nothing has materialized. The squatter settlements have caused an increase in the population of immigrants in the Keningau district. Employers as well as owners of business premises have also engaged foreign workers because there is ample supply of them and they are also cheap to employ. However, joint actions by the relevant authorities have reduced the problems somewhat.

W72 : Hillary bin Severinus

He is an Assistant Enforcement Officer attached to the Tambunan District Council. His duties include the enforcement of the Council's building bylaws. He says there are no squatter settlements in his district but there are foreigners or immigrants renting houses from the locals. He tenders a document P54 to reflect the census taken of 3 areas in which immigrants are said to have rented houses from the locals. The total number is recorded as 201 people. These immigrants possess different types of ICs ranging from MyKad, MyPR, MyKid and IMM13 passes, etc. According to him, the problems they encountered from the

immigrants relate to disputes among the peddlers. There are no serious problems involved.

W73 : Manisah binti Mahmud

She is the Director attached to the Department of Investment and Socio-Economy, Labuan Corporation Bhd. She is also Director of Syarikat Labuan Halal Hub, Labuan Corporation Bhd. Her duties include assisting the Land Department to supervise squatter settlements in the Territory of Labuan. She is a member of the Squatters Monitoring Committee. She states that Labuan was handed over to the Federal Government in 1984 by the then Berjaya Government of Sabah. The geographical size of Labuan is 87.52 sq.km. This include the 6 nearby islands. According to her, there are 2 squatter settlements in Labuan, namely, Kampung Seguking Laut and Kampung Muslim. Both these settlements are managed by the National Security Council. She produces a document P56 which reflects the population census of Labuan as at 2010 as follows : Malaysian citizens account for 65,881 and non-citizens account for 10,565. It is estimated that in Kampung Muslim settlement, the number of immigrants is about 50% of the total number of 981 people there. They possess either IMM13

passes, passports or employment passes and are mostly involved in the construction and sanitation sectors. According to her, immigrants who carry on businesses in Labuan are mostly expatriates who obtained their licenses from SSM. She states that the Corporation has no plans to demolish the squatter settlements in Labuan notwithstanding the problems arising therefrom such as the unhygienic conditions, environmental hazards, etc. She says that water and electricity are provided to the settlement located at Kiamsam which is controlled by the NSC but the 2 squatter settlements at Kampung Muslim and Kampung Seguking Laut are not provided. They have to use their own generators for electricity and to purchase their own water. She gives no reasons as to why there is such discrimination.

W74 : Mohd. Fawzi bin Abdul Kadir

He is the Executive Officer attached to the Lahad Datu District Council. His duties include the supervision of his officers in the Squatters Unit. He states that there are 13 squatter areas in Lahad Datu District comprising of 2,186 squatter houses with the total population of 15,053. The residents hold blue ICs or MyPRs. The squatter houses are located on Government land except for 2 of

them which are located on private land. According to him, only a few of the 13 squatter settlements are provided with water and electricity. He says that the responsibilities for providing water and electricity lie with the Water Department and the Electricity Board respectively. Some of the settlements are water settlements. Various ethnic groups such as the Bajau, Suluk, Bugis, Kadazandusun, etc. reside in the settlements. He states that the settlements are faced with sanitation and health problems. He does not say whether the Council should resolve those problems. He explains that many demolition exercises were conducted in the period from 1997 to 2012; that in 1997, 4 settlements comprising 800 houses were demolished and then relocated to a temporary reserved village. The estimated number of people living in this village is now 1,650 and they are all Malaysian citizens. He goes on to give the statistics on the number of houses being demolished in 2009 (10); 2010 (20) and 2012 (40). He takes the view that the presence of illegal immigrants in Lahad Datu has increased its population and that appropriate action has to be taken by authorities to resolve this.

W91 : Zuldahri bin Haji Tujah

He is the Assistant Enforcement Officer attached to the Kinabatangan District Council. His duties include enforcement of the Council's Bylaws and the preparation of data concerning squatters within the jurisdiction of the Council. He produces a document P71 showing statistics on the number of squatters in the district. The total number of squatter houses in the district is recorded as 91 comprising 197 family members. There are 3 squatter settlements located on government land. The number of illegal immigrants is 191. According to him, the presence of illegal immigrants has increased the population in Kinabatangan considerably. They have also contributed in the increase in criminal activities such as drug trafficking, operating without licenses, trespassing of government land, etc. He takes the view that the Council should tackle the root causes of the problem relating to illegal immigrants; that enforcement must be taken seriously. He suggests that a special body be established to address the squatter issues.

W92 : Salim bin Silin

He is the head of the Squatter Unit attached to the Kunak District Council. His duties include the collection and monitoring of information data on squatters within the jurisdiction of his district. He produces a document P72 relating to statistics on squatters in the district. There are 7 squatter areas in Kunak district. The estimated number of squatter houses is 8,000 out of which 6,000 are immigrants. Most of them are IMM13 holders. Some have birth certificates. He says that the population in the squatter areas is still increasing. The 7 squatter areas are located on government land. They are mainly Suluk, Bugis and Bajau Laut and they work mostly as fisherman, laborers and unlicensed traders. Many also work in the oil palm plantations. The Council has plans to demolish the squatter houses and construct about 400 units of low cost flats for the locals staying in the squatter areas. 4 of these squatter areas are located on private property. According to the witness, there are social problems in these squatter areas such as cigarette smuggling, drug peddling, water and electricity thefts, etc. Sanitation is poor. There are also health hazards because of the unhygienic environment. The Council is involved in joint operations against the illegal immigrants. There have been threats and intimidations against enforcement officers. Currently, there is a

shortage of enforcement personnel in the Council. Furthermore, there is no immigration or custom department in Kunak to have any kind of sustained operations against illegal immigrants.

W112 : Mustapha Elias bin Sulai

He is the Assistant Executive Officer attached to the Semporna District Council. His duties include monitoring and supervision of squatter affairs within the jurisdiction of Semporna. According to him, there are 18 squatter areas regulated by the Semporna District Council. They comprise of 4,359 houses with the total population of 33,983 as at 2010. These included locals and immigrants from the Philippines and Indonesia. All the 18 squatter areas enjoy water and electricity supplies. The main problems in these areas are the unhealthy environmental practices, criminal activities and health hazards. Kampung Sri Jaga in which it was reported that 6 security forces had been killed in the recent Sulu intrusion has been proposed to be relocated to Kampung Tagasan consisting of 100 acres of land.

W119 : Ahmad Helmy bin Mohd. Taib

He is an Assistant Enforcement Officer attached to the Putatan District Council which has jurisdiction over matters relating to squatters in the District. He states that there are 220 squatter houses comprising of 1,100 residents (locals and immigrants). The Council has jurisdiction over squatters on Government land and not those on private land. He says that only those squatter houses belonging to legal residents have water and electricity supplies. The squatter areas are generally unhygienic and there are drug problems and other criminal activities to be found therein. He states that some locals had rented their business licenses to the immigrants and as a result, the Council has taken appropriate actions. Immigrants are also seen to carry out peddling activities on the streets. Since Putatan was declared a District, the new developments had attracted incoming migration of people and economic activities including foreigners.

W121 : Yuzeirul bin Ahmad Yusop

He is the Senior Assistant Enforcement Officer attached to the Beaufort District Council. His duties include monitoring of squatters within the District. According to him, the last census conducted on the 7 squatter settlements disclosed 267 houses occupied by 2,038 inhabitants. These squatter settlements were located on Government land. The squatters were believed to be mostly Malaysians. There were some illegals in these settlements. The settlements are supplied with water and electricity.

W127 : Sanif bin Alfia

He is the Enforcement Assistant attached to Pitas District Council. The Council was established only recently in May 2010. Before that, Pitas was under the Kota Marudu District Council. There are 7 squatter settlements in the area comprising 80% locals and 20% foreigners. The foreigners have documents such as ICs, MyPRs and IMM13 passes. They are mainly Suluks. Most of them are fishermen. The settlements are located near the sea. The statistics show that in 2012, the population of Pitas was 38,764 with 1,285 or 3.3% consisting of immigrants.

W128 : Hadzlan bin Jablee

He is the Coordination Assistant Secretary attached to the Ministry of Local Government and Housing, Sabah. His duties include the coordination and monitoring of demolitions of squatter houses. In Sabah, there are 23 local authorities. According to him, the statistics show there are 140,499 squatter houses and 8,284 squatter houses have been demolished. Census exercises are also conducted on squatter houses. The Government does not provide budget for dealing with squatter problems. The local authorities have no jurisdiction over refugee settlements which are the responsibility of FSTF. Squatters have given rise to social problems. They tend to occupy state land and do not pay any taxes, etc.

W134 : Mohd. Rizam bin Razali

He is an Enforcement Assistant attached to the Beluran District Council. He states that in the town of Beluran, there are 298 houses comprising 2,329 residents. All the residents are citizens holding MyKads. There are 3 squatter settlements in the area consisting of 2,323 people. In Telupid, there are 5 squatter settlements occupied by local citizens. He says there are no

immigrants living in Baluran. According to him, the statistics show that the 2010 census disclosed the population of Baluran to be 106,632 people out of which 60,000 are citizens and 49,891 or 43.3% are non-citizens. There are 2 big oil palm plantations in Baluran, i.e. Malsa Corporation and Palmol.

W192 : Datuk Ismail Mayakob

He is the President of the Tawau Municipal Council. The 2010 census has recorded the population of Tawau District as comprising 240,966 citizens and 171,409 non-citizens or 41% of the total population. The Council's main responsibility is to control and monitor squatters and squatter houses built on Government land. According to him, migration from the Philippines and Indonesia to Sabah still goes on, with Indonesian immigrants coming through Tawau and those from the Philippines coming by boats. There is a small number of Ibans from Sarawak. Tawau has 25 squatter settlements, most of them occupied by the locals. Tawau Council is practicing the so-called "containment policy". Difficulties in enforcement measures by the Council were at times caused by political interference. The total number of squatters recorded for Tawau District as at 2012 was 19,319. Most of the

squatter settlements were located on Government land. They had not been well organized resulting in health and environmental problems as well as economic and security problems.

W197 : Datuk James Wong

He is the President of the Sandakan Municipal Council. He says that the main economic activity in Sandakan District is tourism and palm oil. Immigrants worked in these 2 sectors. The current population of Sandakan is 453,500 comprising 188,800 or 42% (Malays); 65,400 or 14% (Chinese); 27,100 or 17% (Others) and 172,200 or 38% (non-citizens). He states that Sandakan Municipal Council is also involved in the demolition of squatter houses but there is insufficient number of enforcement officers. According to him, it is quite easy to enter Sandakan from the Philippines due to its proximity to that country. In fact, the authorities are aware of the existence of 32 illegal entry points to Sandakan. Sandakan has 41 squatter colonies comprising of 3,936 houses accommodating 20,050 inhabitants. In 2000, Sandakan Municipal Council had demolished 4,620 squatter houses. In the period from 2009 to 2012, SMC had also demolished 1,080 squatter houses.

2.1.8 Customs & CM's Department Officers

W3 : Abdul Jaapar Alip

He is now a retired civil servant. From 1983-2008, he was attached to the Settlement Unit of the Chief Minister's Department, Sabah, as a welfare officer. He was the head of that Unit. The Unit was set up in 1976 to look after the refugees' affairs in the settlement schemes. At the time, there were five settlements schemes in place i.e. Telipok (Kota Kinabalu), Kinarut (Kota Kinabalu), Kampung Bahagia (Sandakan), Kampung Selamat (Semporna) and Kampung Hidayat (Tawau). The settlement schemes were located on government land. The refugees in these settlement schemes were from the Philippines. They entered Sabah in the period from 1972 to 1976. Refugees had to go through the interview process before they could be accepted into these settlement schemes. There were five conditions to be fulfilled namely (a) they must come from the so-called Region 9 – Southern Philippines; (b) they must have been directly involved in the armed conflict with the Philippines government; (c) they must have entered Sabah in the period between 1970 and 1984; (d) they must be Muslims and (e) they must disclose a desire or intention not to stay permanently in Sabah. 1984 was chosen as

the cut off date because by then, it was deemed that the armed conflict in the Philippines had ceased. He then goes on to describe the various types of documents available to refugees. According to him, upon being registered as a refugee by the immigration department, he would be issued with a registration acknowledgement receipt and subsequently a visit work pass which would entitle him to be issued an IMM13 pass by the Settlement Unit of the CM's Department. The registration acknowledgement receipt would in fact be exchanged for the IMM13 pass. If the refugee in question was qualified to live in a settlement scheme, he would also be issued with a settlement identity card. It has to be noted that this settlement identity card was not recognized by the National Registration Department (NRD) for official purposes. He reiterates that the total number of refugees registered from 1976 to 1985 was 73,000. He says that there was a difference between refugees and displaced persons. In the case of a displaced person, one of the five conditions mentioned earlier i.e. being a Muslim, was omitted. He states that the registration system was terminated after 1985 when Parti Bersatu Sabah (PBS) came to power in Sabah. From 1987 to 1992, the Settlement Unit apparently conducted registration exercises on the transient population with the assistance of the

newly formed Institute of Development Studies (IDS). During these exercises, temporary identification receipts were issued to the persons involved. These receipts were also described as “kad burung-burung” apparently because they had bird images imprinted on them. The temporary identification receipts would then be taken back in exchange for the temporary registration cards by the Settlement Unit. For this exercise, the total number of people registered was 325,000. This was for the period from 1987 to 1992. No such exercise was carried out from 1992 to 2007. In 2007, some sort of rectification exercise was adopted by the Settlement Unit due to the fact that there were still refugees qualified to be registered as refugees under the old guidelines. He extrapolates his evidence by referring to a number of documents produced as “Lampiran”. It is not necessary at this stage to refer specifically to the contents of those documents.

W4 : Mokhtar Yassin Ajam

He is the secretary attached to the Home Affairs & Research Division, Chief Minister's Department, Sabah, since October 2005. As such, he is in charge in the coordination of immigration, security and public order matters as well as managing the Settlement Unit in the department. More specifically, his scope of work relates to administration, file unit, eradication of illegal logging and managing the settlement schemes and thereafter to report to the State Secretary and the Chief Minister. He states that the Settlement Division was first set up in 1976. It was subsequently called the Settlement Unit. Before 1976, the refugee affairs were handled by the International Red Cross and the United Nations High Commissioner for Refugees (UNHCR). The refugees were those fleeing the conflict in Southern Philippines. This was in the period from 1972 to 1976. However, the Settlement Unit took over responsibilities from 1976 to 1989. Then from 1989 onwards, these were taken over by the Federal Special Task Force (FSTF) which fell under the National Security Council of the Ministry of Home Affairs. FSTF was solely responsible for managing the settlement schemes but was assisted by the Settlement Unit of the Chief Minister's Department. They were concerned in managing the 5 settlement schemes as well as the 32 villages located throughout

Sabah. The 2010 record shows that 33,019 people had been registered as Filipino refugees. He explains that Filipino refugees were issued with IMM13 passes while those Chinese Indonesian immigrants were issued documents known as HIF-22. He admits that children of refugees were sometimes not issued with birth certificates because their parents were unable to produce their marriage certificates. There were a fair number of children in the settlement schemes who had no documents at all, simply because their parents did not register their marriages. These children could be regarded as stateless.

W194 : Mohd. Fadzly bin Abdullah

He is the Senior Assistant Director, Royal Customs and Excise Department, Sabah. He says that illegal immigrants are very much involved in smuggling cigarettes from Indonesia and Philippines. The cigarettes are about 50% cheaper than market price. They are also involved in smuggling alcoholic drinks, fireworks, tires, textiles, drugs, etc. All these activities have resulted in huge losses to the Government in terms of revenue amounting to billions of ringgit. According to him, the Customs Department has conducted regular joint operations with other

enforcement agencies such as the local authorities, immigration department, marine police, etc. to combat these smugglers. Still, the smugglers are continuing their nefarious activities. He states that 80% of cigarette peddlers along the streets are immigrants from the Philippines. The increase in smuggling activities could be due to warehouses located near the Indonesian side of the border providing easy access by boat to Sabah.

2.1.9 Election Commission Officers

W58 : Shafee bin Sajat

He is the Principal Assistant Secretary attached to the Information Technology Section, Election Commission. His duties include the management of the database relating to registered voters as well as monitoring data. He is also responsible to ensure that all application systems used to process the registration of voters are in good working order and condition during the registration process. Also included are his responsibilities to revise existing data that are required to be sent to other relevant agencies such as the NRD, Pensioners Record, the Army and Police as well as updating other records. There is a cross-

reference to records between the NRD and EC on voters registration specifically relating to citizenship status, legal age, postal address, etc., as well as to synchronize details on gender, race and others. The cross-reference with the NRD is done on a quarterly review basis. The EC would submit lists of names to the NRD periodically. For example, it would send a list of persons who are 80 years and above to the NRD for verification as to whether they are still alive. At times, the EC would submit the whole database to NRD for verification so as to determine whether the voters mentioned therein are still eligible to be in the electoral rolls. The last such exercise was done in 2011. He then touches on the qualification of voters. Here he says that all Malaysian citizens of 21 years and above and having a Malaysian residential address are qualified to register as voters. And applicant can apply at any time of the year at any post office or other appointed representatives. The application is processed and uploaded into the computer system. It is checked on citizenship status, etc. and will be directly cross-referred to the ALIS with the NRD. The process application would be displayed for 14 days and thereafter would be approved by the EC. He goes on to mention the Standard Operation Procedures (SOP) in relation to the voters' registration process. All the applications or registrations are

automatically cross-checked with the applicants ICs kept in the records of NRD through the ALIS. He then describes in some detail who can have access to its database and how. He produces various documents showing the statistics of registered voters from 1967 onwards covering both Federal and State elections; that from 1969 to 2008, there was an increase of registered voters from 20,000 to 200,000. This is reflected in the document marked P35. Another document marked P36 shows the number of registered voters for both Federal and State elections from 1996 to 2012. Here, the database is not complete. The witness says that he did not have all the required information in preparing the statistics. A further document marked P37 does not reflect anything significant. When asked about the figure of 959,699 reflected in P36, he says that was the total number of registered voters in Sabah up to the second quarter of 2012. The figure of 959,699 does not indicate their nationality or citizenship status but he assumes that they are all Malaysian citizens. He explains that only Malaysian citizens can register as voters. He then goes on to explain about the ALIS, what it is and how it works between the various agencies. This ALIS has been used by the EC since July 2002. He describes in detail the removal and / or deletion of voters from the electoral rolls. According to him, 1,133,279 names had been removed from

the electoral rolls up to the third quarter of 2012 (see P41). This covered the whole of Malaysia. For Sabah, it is recorded that 78,340 names have been removed or deleted from the electoral rolls.

W97 : Yusniati binti Ishak

She is the secretary attached to the Registration of Voters Division, Election Commission, Putrajaya. She describes the procedures relating to application to register as a voter in the electoral roll. She alludes to 3 main conditions, namely (a) applicant must be a Malaysian citizen, (b) applicant must fill in a Form A with all relevant details and (c) Election Commission to check applicant's particulars with NRD. There are approximately 700 Assistant Registrars of Elections appointed by the Election Commission throughout the country.

2.1.10 Other Departments

W7 : Hj. Norezan bin Wahid

He is the Director of State Department of Statistics since 2008. The role of the Department is to gather information and input for planning purposes by the State Government. One of its functions is to conduct census on population and housing. In this connection, it would adopt standard operating procedures (SOP) consistent with international standards adopted by the United Nations as well as the Census Act, 1960. He says that over the years, the department had conducted 5 censuses i.e. 1979, 1980, 1991, 2000 and 2010. Census was conducted every 10 years. They relate to the whole of Malaysia and not confined to Sabah. The latest census on Sabah's population was taken in 2010 and the number was 3.2 million. Of this, about 889,000 were non-citizens which would include legal and non-legal immigrants. There was no obligation for census officers to verify the respondents' verbal answers by way of documents, etc., although there would be some form of independent post verification mechanism to check on the accuracy or otherwise of their data. The margin of error for the 2010 census would be about 2.8%.

W62 : Kalbin bin Hj. Mohd. Said

He is the Deputy Superintendent of Prison, Sabah. His duties include assisting the Director of Prison, Sabah, in managing, controlling and supervising the Prison Department in matters concerning services, finance and other administrative matters. There are 5 prisons in Sabah i.e. 2 in Kota Kinabalu, 1 in Sandakan, 1 in Tawau and 1 in Labuan. He produces a document P45 which shows the statistics on the number of prisoners in the various prisons in the State. In the Kota Kinabalu prison for male, the number as at 2012 is 4,257 whereas for women, it is 678 prisoners. They comprise both citizens and non-citizens. In Sandakan prison, the total number of prisoners is 2,058 as at 2012 and for Tawau prison, it is recorded as 2,297 prisoners as at 2012. The numbers for Sandakan and Tawau prisoners cover both male and female prisoners. According to him, there were 2,410 Filipino citizens detained in Kota Kinabalu prison as at 2012 with only 448 Indonesians and 37 Indians. He has also produced statistics relating to the costs incurred in maintaining prisoners from other countries. He states that for Kota Kinabalu male prison, the total cost incurred by the Government for non-citizens for the period from 2006 to October 2012 is RM281,455,515.00. And for female prisoners in Kota Kinabalu, the cost for the same period is

RM45,867,360.00. For Sandakan prison, it is RM112,873,695.00 and for Tawau prison, it is RM163,884,270.00. These costs only relate to non-citizens.

W75 : Dr. Maria Sulaiman

She is the Principal Assistant Director of Health attached to the Sabah Health Department. She describes briefly the history of the Health Department in Sabah and its administrative structure and composition. According to her, the vision of the Department is to encourage individuals and families to get involved in health care in order to become a healthy community. To that end, it conducts programs relating to health, medical and dental services. Non-citizens are those who are not holders of Malaysian ICs or MyKads. They also include persons defined as orang asing or immigrants in possession of legal documents. She says that immigrants seeking treatment in our hospitals have increased in numbers. The record from 2001 to 2011 shows that there have been 1,010,333 non-citizen outpatients and 295,053 non-citizen inpatients receiving treatments in our hospitals. She produces a bundle P58 reflecting the actual figures and that the figure of 1,009,716 is the total number of non-citizen outpatients and

inpatients who had sought treatment in our hospitals from the year 2000 to the year 2011. This figure represents 53.1% of the overall total which is more than locals. As a result, the burden in terms of costs is a heavy one borne by the Health Ministry. Furthermore, it has resulted in increased workload for the medical staff. She adds that the number of births of foreigners for the same period is 122,882. This is the figure of those born in hospitals only. She discloses that the arrears of costs for treatment provided to immigrants is RM21,672,031.58. This is the amount not paid by non-citizens numbering 42,092. According to her, it is very difficult to collect these payments. This figure of RM21 million can be compared to the figure of RM723,839.32 unpaid by Malaysian citizens. There is a huge difference.

W76 : Datuk Aishah binti Mohd. Azry

She is the Director of Labor Department, Sabah. Her duties include administration of the Department and enforcing labor legislations in the State of Sabah. She explains the functions of the Job Malaysia Center which is a center for job seekers to register themselves for various jobs. There is no definition of the term "foreign workers" although there is a definition for the term "non-

resident employee” under the Sabah Labor Ordinance. It is defined as a person who does not belong to Sabah as provided under section 71 of the Immigration Act 1959/1963. Any employer wishing to engage a non-resident worker needs to get a license from the Labor Department.

W77 : Muhd. Azan bin Hussin

He is the Senior Social Welfare Officer attached to the General Welfare Services Department, Sabah. His duties include running the Children Unit. This also involves affairs relating to the Sekolah Tunas Bakti. According to him, stateless child is a person who is under 18 years old, does not have any citizenship status and without documents. There are 2 categories of children i.e. children on the street and children off the street. Children on the street are those with parents and who are found loitering or living in public places whereas children off the street are those without parents found loitering in the streets. His role is to have these children sent to the Pelindungan Ehsan Home. The Home provides accommodation, food, training, etc. to these children. If parents are traceable, they would be handed back to their parents but if untraceable, they would be placed in the Children’s Home. These

relate to citizens. For non-citizens, they would be sent to the Pelindungan Ehsan Home which is under the purview of the Federal Special Task Force. According to him, if their parents do not claim them on reaching 19 years of age, they would be placed in detention centers for adults.

W78 : Baharuddin bin Alwi

He is the Principal Assistant Director attached to the Sabah Islamic Religious Department. He is also the Chief Registrar of Marriages, Divorces and Reconciliation, Sabah. He has been with the Department since 1990. His duties include registration of Muslim marriages as well as divorces. He also deals with marriages between locals and foreigners. He produces a document P61 which shows statistics of male immigrants marrying locals in the period from 2000 to 2012 to be 8,859 and female immigrants marrying male locals to be 1,433.

W79 : Christina Linus Majail

She is the Chief Engineer attached to SESB since 2005. Her duties include monitoring illegal electricity connections in Sabah. Most of the illegal connections are in Kota Kinabalu, Sandakan, Lahad Datu, Tawau and Semporna. In these districts, most of the illegal connections occurred in squatter areas. She produces a document P62 which shows statistics on the total number of operations conducted by SESB from 2009 to February 2013 to be 695 in which losses per year were estimated to be RM3,717,720 excluding the so-called unnecessary costs for overtime payments, transportation etc., estimated in total to be about RM276,400 from 2009 to February 2013.

W87 : Norhayati binti Abdul Majid

She is the Administration Officer attached to the Office of Sabah Native Affairs which is under the Ministry of Local Government, Sabah. Her duties relate to the appointments of District Chiefs, Native Chiefs and Village Heads of the various communities. The District Chief is also the Chief Judge of the Native Court. The hierarchy is structured as follows: the Village Head level, then the Native Court, then the District Native Court

and thereafter the Native Court of Appeal. The District Native Court is presided by the District Officer. Decisions of the District Native Court can be appealed to the Native Court of Appeal. There are 28 District Native Courts and 34 Native Courts in Sabah. Native Chiefs are appointed on the recommendation of the MPs of their respective Districts supported by the DOs concerned. The recommendations are submitted to the Permanent Secretary of the Ministry of Local Government and Housing, Sabah, for consideration.

W103 : Querin Jokinol

He is the Chief Engineer attached to the Sabah Water Department. He says that in the squatter settlements, thefts of water supply through illegal connections are common. This has resulted in huge losses of revenue suffered by the Department. He states that they were not able to catch the culprits. The Department had launched the so-called "Operasi Kecurian Air, Warga Asing di Setinggalan Negeri Sabah". As a result, they discovered the following losses: RM64,254.64 (2008); RM73,321.20 (2009); RM227,059.20 (2010); RM181,850.15

(2011) and RM233,760.00 (2012). They also suffered unnecessary costs amounting to RM500,000 in 2012.

W131 : Daimin bin Binti

He is the Deputy Director attached to the Department of Survey and Mapping, Negeri Sembilan. Before that, he was attached to the Department of Survey and Mapping, Kota Kinabalu (JUPEM). While in Sabah, he was involved in border surveys, management of survey data, etc. According to him, JUPEM has 4 main objectives, i.e. (1) to ensure Cadastral which relates to duties on survey and issuance of title and also to ensure that mapping products are up to standard; (2) to maintain and update the quality of Cadastral and mapping survey database to meet the country's geospatial infrastructural data needs; (3) to make JUPEM the center of excellence in the field of Cadastral survey and mapping and (4) to determine that markings and survey of State and international boundaries meet the requirement of the State Administration and safeguard the sovereignty of the country. He then describes the functions of his Department. All these are reflected in the document P114. According to him, the geographical size of Sabah including the islands is 73,621.1

sq.km; that the land border with East Kalimantan is 2330.01km and that the sea border with the Philippines is 774.3km as determined by the Paris Agreement of 1898 between USA and Spain as well as the Convention of 1930 between USA and Great Britain. Both Agreement and Convention are recognized internationally on maritime maps. There are 229 islands in Sabah.

W142 : Mohd. Yusoff Anthony bin Abdullah

He is the Head of the Legal and Enforcement Branch of the Fisheries Department, Sabah. His duties include supervision of the Department's enforcement activities together or jointly with other enforcement agencies under a committee called Ops Group. The Legal and Enforcement Branch has 75 personnel. It is equipped with patrol boats and 4 SUV vehicles. According to him, from the Department's statistics, 38,000 people were involved in the deep sea fishing industry. The Exclusive Economic Zone (EEZ) for Sabah covers 200 nautical miles up to international waters. Sabah has a coastline of 1,700km and 50,000 nautical miles of sea area. It is very rich in marine resources. The witness goes on to describe in some detail the fish bombing activities conducted by immigrants in Sabah. Those activities have damaged the corals and other

marine resources etc. thus affecting the tourism industry. Many cases involving such activities were brought to the courts. Most of the accused persons were found to be immigrants from the Philippines numbering 209 and 18 from Indonesia. However, locals numbered 148. Another type of illegal fishing involves the use of sodium cyanide by foreigners / immigrants to catch fish such as garoupa, lobster and ornamental fish which could fetch high prices in the markets and restaurants. He explains the difficulties faced in preventing such activities due to the long coastline, limited personnel and equipment as well as the current law which has placed a heavy burden of proof on the Department in order to sustain charges of possession cases. He suggests that the law be amended accordingly; that the Department be supplied with better logistics in terms of men and equipment.

W191 : Chua Choon Hwa

He is the Deputy Divisional Secretary on Policy, Ministry of Women, Family and Community Development, Putrajaya. According to him, the definition of "street children" is those children who have no parents or children abandoned by their parents. However, so far as the Ministry is concerned, the definition covers

all children wondering in the streets. The Ministry was supposed to conduct a study in 3 phases but eventually only phase 1 covering Kota Kinabalu and the neighboring islands, was carried out. The other 2 phases were not carried out due to data and funding problems. In any case, he states that the study found 1,630 street children, mainly Bajau from Southern Philippines.

2.1.11 Former ISA and Other Detainees

W10 : Mohd. Nasir bin Sungip

He is the Managing Director of Syarikat Warisan Nusa Sdn. Bhd. He was a former Deputy Director of IC Section, NRD, Sabah, from 1980 to 1994. He was arrested and detained under the ISA in 1995 for allegedly issuing ICs to illegal immigrants. He says that he was directed by Hj. Ramli Kamaruddin, the then Director of NRD, Sabah, to replace the names in the temporary IC receipts JPN1/9 and the lost IC receipts JPN1/11 with those from the Election Commission in order to increase the Muslim voters in Sabah; that he was also to change the IC numbers and birthdates including their photographs. According to him, there was a total number of 16,000 such holders. They were mainly Muslim

immigrants from the Philippines and Indonesia. The receipts would enable the holders to register themselves as voters and to vote at elections at both State and Federal levels.

W11 : Haji Ramli Kamaruddin

He was the former Director, NRD, Sabah, from 1993 to 1995. He was arrested and detained under the ISA for 2 years from 1995 to 1997. As Director, he was in charge of NRD Sabah and his duties included issuing documents to those eligible such as birth certificates, death certificates, civil marriages, identification documents, citizenships, etc. He was detained under ISA because of his alleged involvement in issuing high security ICs to immigrants. He denied his involvement. He said that he had been transferred to Sabah as Director of NRD in order to assist the Government that would be more Islam based. At the time, Parti Bersatu Sabah (PBS) which was essentially a Christian dominated party was the State Government. According to him, he was to identify the Muslim voters and to persuade them to vote for certain Islamic parties. He said that 2 weeks before the 1993 DUN election in Sabah, he met with the late Datuk Megat Junid, the then Deputy Minister of Home Affairs. He was accompanied by

one Encik Asli, a colleague of his. They were instructed to issue JPN receipts such as JPN1/9 and JPN1/11 to illegal immigrants so that they could be entered into the electoral rolls in certain black or grey areas in Sabah. They would be coached on how to vote, etc. The receipts were apparently issued just for the purpose of voting and they had to be surrendered back after they had voted. The alleged meeting was at the Hyatt Hotel, Kota Kinabalu. According to him, approximately 200 such receipts were issued and 5 to 10 DUN constituencies were involved. At the time, he also received instructions from the Deputy Director General, NRD, to issue ICs with duplicate numbers to illegal immigrants so that they could vote at elections. The witness admitted that what he was doing was against the law but he did so on instructions from the late Deputy Minister of Home Affairs and the Deputy Director General, NRD.

W12 : Kee Dzulkifli bin Kee Abdul Jalil

He was formerly a Registration Clerk with NRD, Kota Kinabalu. He joined NRD in 1994. In 1995, he was arrested and detained under the ISA for 26 months at Kamunting, Perak and was released in 1999. He was alleged to have issued ICs to non-citizens apparently under instructions from superior officers. He

was a member of a so-called G17 - a task force assigned to perform certain duties relating to the processing of ICs and birth certificates. This task force was formed in 1990 within the NRD, Sabah, which was at that time headed by Datuk Abdul Rauf Sani. He would be concerned in entering the details appearing in the application forms into the ICs before the ICs were sent out to Kuala Lumpur Headquarters for lamination. Those ICs were to be issued to illegal immigrants from the Philippines, Indonesia and Pakistan. He was also concerned to have the names of those ICs registered in the electoral rolls. According to him, more than 100,000 of such ICs were issued at the time. He was also concerned in issuing birth certificates to illegal immigrants. He did all the above under instructions from his superiors. In his written statement, he said there were 200,000 birth certificates being issued essentially to Muslim immigrants from the Philippines and Indonesia.

W13 : Asli bin Sidup

He was the former Assistant Registration Officer attached to NRD, Sabah, from 1986 to 1996 when he was detained under the ISA but was released in 1997. He was then Head of Records Unit. His duties included processing of IC application forms. Specifically, he was assigned to inspect details entered in the ICs and then to sign the ICs. Thereafter, the ICs would be sent to Kuala Lumpur Headquarters to be laminated. After lamination, these ICs would be brought back to Sabah for collection by the applicants. At the time, the Director of NRD, Sabah, was Datuk Abdul Rauf Sani. He said that the purpose of the above exercise was to increase the Muslim voters in Sabah which was at that time under the PBS Government headed by Datuk Joseph Pairin Katingan (now Tan Sri). The witness described in some detail his role in the exercise i.e. that he went to Kuala Lumpur as instructed; that he was brought to a government residence at Kampung Pandan; that while there he and some others were instructed to sign ICs; that thereafter, those signed ICs would be sent over to the Petaling Jaya Headquarters to be laminated and then brought back to Sabah for collection by the applicants. He also admitted that the receipts such as JPN1/9 and JPN1/11 were issued to non-citizens for the purpose of enabling them to vote at elections. He confirmed

that the whole exercise above, was under instructions from Datuk Megat Junid, the then Deputy Home Affairs Minister, who he met at the Hyatt Hotel, Kota Kinabalu, together with Encik Ramli Kamaruddin and Datuk Osu Sukam (a former Chief Minister Sabah). He also confirmed that the JPN1/9 and JPN1/11 receipts were used in registering applicants in the electoral rolls.

W14 : Akop bin Damsah @ Yakop bin Damsah

He was the former Head of NRD, Tamparuli District, Sabah. He was attached to NRD from 1972 to 1996. He was arrested and detained under the ISA in 1996 for allegedly issuing ICs to illegal immigrants, apparently under instructions from his superiors. At the time, the Director of NRD, Sabah, was Datuk Abdul Rauf Sani. His duties included signing the 3 categories of ICs (blue, red & green). He was involved in this illegal exercise since 1990 and the number of such documents amounted to at least 100,000. He confirmed the existence of a special task force in Kuala Lumpur, located at the house at Kampung Pandan, where he and others were briefed by the Director, Datuk Rauf Sani and one Colonel Mat Nor on the mechanisms involved. His task was merely to sign the ICs after which these signed ICs would be sent to NRD

Headquarters to be laminated. After that, they would be brought back to Sabah to be distributed to selected applicants. According to him, this house at Kampung Pandan belonged to "Pak Aziz Shamsuddin" who was alleged to be the political secretary to the then Prime Minister, Dr. Mahathir. He said in one month, they were able to sign up to 40,000 ICs at the place in question. The purpose of the whole exercise was to enable the applicants to vote for UMNO in Sabah. Most of the applicants were from the Philippines and Indonesia.

W15 : Datuk Abdul Rauf bin Sani

Presently, he is the CEO of Totalisator Board of Malaysia which is under the Ministry of Finance. Formerly he was Director of NRD, Sabah, from 1990 to 1992. In 1996, he was arrested and detained under the ISA but was released after 60 days of detention and then placed under restricted residence for a short spell. As Director of NRD, his duties included the authority to sign for the issuance of ICs in Sabah. There were other officers assigned this duty including Asli bin Sidup (W13) and Akop bin Damsah (W14). He described the processes relating to applications for ICs i.e. that after being processed in Sabah, they would be sent to Kuala

Lumpur Headquarters to be laminated and thereafter brought back to Sabah for distribution to the applicants. He said he was arrested under the ISA for allegedly issuing fake ICs for profit purposes. These ICs were issued to illegal immigrants. However, he contends that the documents were not fake although they were issued illegally. He confirmed that those involved included Ramli Kamaruddin, Akop Damsah, Kee Dzukifli and many others. The documents were issued mainly to illegal immigrants from the Philippines, Indonesia and Pakistan. The ICs were issued without supporting documents. He admitted to giving instructions to his officers such as W13 and W14 to carry out special tasks in Kuala Lumpur relating to the issuance of ICs to illegal immigrants at a government house at No.18, Jalan Kampung Pandan, which was believed to be resided by one Aziz Shamsuddin, the political secretary to the Prime Minister, Dr. Mahathir. He agreed to have briefed his officers on the mechanisms involved. He admitted that the whole exercise was to increase the number of Muslim voters in Sabah and to defeat the PBS State Government at the time. He denied the existence of a Unit called G17 but admitted that there was a unit responsible for processing ICs to illegal immigrants from the Philippines, Indonesia and Pakistan. He was also aware that these immigrants were taught to vote at elections.

W42 : Nisa binti Rahman

She is a Bugis from Indonesia. She was born in Sulawesi in 1983. In October 2011, she entered Sabah on a cargo ship through Nunukan and Tawau with a group of her countrymen. She was later employed in an oil palm estate. She had no identification documents with her at the time. She had no difficulty entering Sabah. She came for economic reasons. In December 2012, she was arrested in Tawau. She was arrested by immigration officers. She is now being detained at the temporary detention center, Sandakan pending deportation back to Indonesia. She describes the conditions at the detention center to be alright with 3 meals a day and there are basic amenities provided.

W45 : Riyanti binti Sandamarten

She is a detainee from the temporary detention centre, Tawau. She is an illegal immigrant from Sulawesi, Indonesia. She was arrested at an entertainment center and was then brought to the temporary detention center in Tawau. She entered Sabah via Tarakan and Nunukan to Tawau in 1992. She was 13 years old at the time. She came with her sister who was 24 years old. They had a joint passport at the time. They came by boat. Initially, she

worked at a plywood factory, Sandakan. Then she left for Lahad Datu. In 1996, she married a Chinese called Chong Luen Lin from Tawau. The marriage was registered with the Tawau NRD. In 1997, she lived in Tawau with her husband. In 2005, she broke up with her husband and returned to Indonesia with her 2 children. Her children had Sabah birth certificates. She apparently returned to Tawau in 2007. Her children had returned to Tawau earlier because they were schooling there. She returned to Tawau without going through the proper channels. There was no difficulty in doing so. In 2012, she was arrested at a public bar in Fajar, Tawau and was detained at the temporary detention centre, Tawau. She has been there for 5 months now pending deportation back to Indonesia. According to her, if deported she intends to come back but with proper documents because her children are here. She describes the temporary detention centre as quite decent in terms of facilities and treatment.

W47 : Love Melsie Bejec

She was born in Davao, Philippines in 1988. She is a Bisaya, Tagalog. She is married with a son who lives in the Philippines. She was arrested in 2012 by the Immigration Department, Keningau, while she was in a public bar. She was without any identification documents when arrested. She is now being detained at the temporary detention center, Kimanis, Papar pending deportation back to her home country. According to her, she came to Sabah by ship from Zamboanga to Sandakan looking for jobs. She is now already in detention for 6 months. She says she is being treated well at the detention center.

W48 : Konita Hingisabon

She is a detainee staying at the temporary detention center, Kimanis, Papar. She is an illegal immigrant from Indonesia and was born there in 1992. She belongs to the East Balawiling tribe and is a Christian. She was arrested in August 2012 while she was working at a carwash company in Kota Kinabalu. She was arrested by the police. She was without any valid travel or identification documents at the time. She has been at the detention center for 6 months now. She is there pending deportation back to her country.

She came to Sabah in 2007 with her uncle when she was 16 years old. She came by boat and was in possession of a passport which had expired at the time of her arrest. She came for economic reasons. She worked at various jobs in Sabah. If deported, according to her, she intends to come back but with the proper documents. She is quite satisfied with the conditions at the temporary detention center.

2.1.12 Employers

W80 : Zakaria bin Hj. Nasiran

He is an Executive Administrator, Sime Darby, Tawau. Sime Darby owns oil palm plantations in Tawau, Kunak, Sandakan and Tenom with a total area of 45,482 hectares. It has 5,523 employees and 85% of them are migrant workers from the Philippines and Indonesia. The balance of 15% are the locals. According to the witness, local workers are not easy to get despite the advertisements made through the Labor Department. Amenities such as housing, water, electricity and in-house clinics are provided by the company. He states that there are social problems among the foreign workers such as thefts and other

criminal activities. The offenders are reported to the police and then dismissed.

W82 : Nokiah a/I Sannasi

He is the General Manager of AUMKAR Group of Plantations, Tawau. His Company owns 7,000 hectares of oil palm plantations in the Kunak District. The Company has 850 workers of whom 800 are foreigners or migrant workers. They are from Indonesia and the Philippines i.e. 500 Indonesians and 300 Filipinos. The rest are locals. All migrant workers are passport holders as well as possessing entry permits or work permits. Workers in the plantations are given 5 years permit to stay in the State. After that, they would have to go back to their countries of origin. According to the witness, it is difficult to engage locals despite advertisements made through the Labor Department. The Company provides amenities such as housing, water, electricity and in-house clinics etc. for its workers.

W83 : Naila binti Rudin

She is the Assistant Manager, Administration and Human Resources, IOI Corporation Bhd., Sandakan. The Company owns oil palm plantations covering an area of 49,983 hectares in Sandakan. He produces a document P64 which reflects workers from the Philippines and Indonesia. The current number of Indonesian workers in the Company as at 2013 is 6,436 and it has 193 Filipino workers. It has 967 locals in the company. Most of the migrant workers are passport holders or have entry permits or work permits.

W84 : Luz Davila

He is the Assistant Manager, Administration and Human Resources, IOI Corporation Bhd., Lahad Datu. The size of the plantation in Lahad Datu is 56,000 hectares. He produces a document P65 containing statistics of workers from the Philippines and Indonesia. The Company's Lahad Datu plantation has 7,490 Filipino and Indonesian workers. The majority of them are Indonesians i.e. 5,647 or 75% and 1,954 or 25% are Filipinos. Locals number only 596. The foreign workers are employed through agents. They hold passports or work permits or work

passes. According to him, locals are not interested in working in the plantations.

W86 : Ruslan bin Sunman @ Samang

He is the General Manager of Felda Global Ventures Plantation (M) Sdn. Bhd., Sabah and Sarawak. In Sabah, the Company is based in Sahabat, Selatan Region, Lahad Datu. The size is 25,000 hectares and it has 2,080 workers. However, the total number of workers is 9,335. 90% of the workers are immigrants. Most of them are from Indonesia and the Philippines. They are employed through contract agents and with the approval of the Labor Department. The Immigration Department has to approve the required quota of workers. They are all holders of valid documents such as passports, entry permits, or work permits. The witness produces a document P68 which shows the statistics on the number of workers in the Company in Sabah. The total number is recorded as 9,935 of which 91.05% are migrant workers with locals consisting of only 8.95%.

W140 : Chong Fook Soon

He is the Manager of Kumpulan Liziz Sdn. Bhd., a construction company from Ipoh, Perak. The company is involved in civil infrastructure works. Company has 60 to 80 general workers with 30% comprising foreign workers from the Philippines and Indonesia. He states that they all have work permits. Some of the foreign workers are highly skilled and have been with the company for about 10 years. Foreign workers are provided with accommodation and transport. Their work permits are arranged by agencies. According to him, the company does not employ illegals preferring to engage locals instead because it is more expensive and troublesome to get work permits, etc., for foreign workers. However, he admits that locals are more difficult to manage. They sometimes do not turn up for work. The workers are now paid the minimum wage of RM800 a month but could earn more with overtime. Sick foreign workers are sent to the Government hospitals for treatment. He says that the construction industry still needs foreign workers.

W141 : Shak Choon Han

He was a Site Supervisor engaged in the construction of shop lots in Tenom Jaya, Tenom. He has 16 years experience in the construction industry. He is now retired due to medical problems. According to him, foreign workers in the construction industry in Sabah come mainly from the Philippines. They are skilled, hardworking and disciplined. The locals and foreign workers have worked well together. They are paid according to their skill and experience. Locals are mainly engaged as supervisors, assistant supervisors or foremen. The construction companies normally provide accommodation to their foreign workers and bear their medical expenses if they go for treatment in Government hospitals.

W156 :David Wan Young Yin

He is the General Manager of Hap Seng Properties, Sabah. His duties include management, manpower, implementation, sales and marketing of projects in East Malaysia. Previously, he was with a consultant firm. According to him, his company is in the construction business and has projects in Kota Kinabalu, Tawau, Lahad Datu and Sandakan. He states that his company would award construction projects to contractors and the contractors

would be responsible for the manpower needed for the projects. As a developer, his company does not concern itself with employing workers, etc. The contractors have to provide basic accommodation to their foreign workers. He says that the contractors doing his company's projects have employed about 1,000 to 2,000 workers in Sabah with more than 95% of them foreign workers mainly from the Philippines and Indonesia. He explains that work in the construction industry is hard. More foreign workers are engaged because of their skills and their willingness to work hard whereas locals prefer office jobs. Generally, the workers are paid well in the industry. He says that a developer is more concerned about the skill of the workers rather than whether they are locals or foreigners; that they must be able to get the work done. According to him, it is cheaper to engage foreign workers because local workers tend to expect more pay; that foreign workers are able to give better value for money than local workers. Furthermore, he says it is not easy to find local workers and he suggests that more locals be trained in the construction industry; that there should be professional bodies and vocational schools be set up for the purpose.

2.1.13 Workers (Local & Foreign)

W16 : Abdul Salam bin Ali

He is self-employed but does the occasional sea fishing. He is a Bajau Filipino and has resided in Sabah for about 40 years. He lives in Kinarut settlement scheme since 1975. He holds a MyKad with a code 12, meaning born in Sabah. He states that he was born in Tawi-Tawi, Philippines in 1959 and had entered Sabah illegally in 1971 when he was 18 years old. He came because of the war in the Philippines. He entered Sabah without any documents. Soon after entering Sabah, he managed to obtain a travel pass from NRD, Sabah which had to be renewed every month. Thereafter, he applied and was issued an IMM13 pass by the Immigration Department. After using the IMM13 pass for 10 years, he applied for and was issued a green IC. Thereafter, he applied for and was issued a blue IC with 6 digits by the NRD, Sabah. It took him about 3 years to get his blue IC. His wife had a red IC and 5 of his children also had red ICs but all had birth certificates to indicate that they were born in Sabah. He managed to change his blue IC with the high quality IC with 12 digits. Thereafter, he was issued a MyKad with the code 12 by the NRD, Sabah. He had registered as a voter and had voted 3 times. At the

Kinarut settlement scheme where he stays, there were about 3,000 inhabitants there and they possess various types of documents. The settlement scheme had all the basic facilities such as water, electricity, school, a clinic, etc. They obtained assistance from the FSTF. He admits the existence of social problems in the settlement such as drug abuse.

W17 : Sakandal bin Anching

He is a contractor in Sabah. He was born in 1954 in Tawi-Tawi, Philippines. He entered Sabah illegally in 1973. Soon after entry, he was issued with a travel pass and subsequently with an IMM13 pass by the Immigration Department. He lives at the Kinarut settlement scheme and in 2010 he was appointed head of that settlement by the FSTF. In 2004, he applied for and was issued a red permanent resident IC in 2010 which he now holds. His wife who was born in Sabah holds a blue IC. His 3 children are IMM13 holders although they were all born in Sabah and had birth certificates.

W18 : Ismail bin Balaka

He was born in 1954 in the island of Ubian, Philippines. He lives at the Kinarut settlement scheme. He is a Bajau-Ubian. He holds a MyKad with a code 12 (meaning born in Sabah). He has no birth certificate. He entered Sabah illegally in 1975 due to the civil war in the Philippines. The Chief Minister's Department conducted a number of census exercises in his settlement scheme together with the FSTF. According to his statement read to him by the conducting officer, he stated that at a gathering which he attended, he was asked to fill up some forms and had his thumbprint and photographs taken. He was then told that he would be issued with a blue IC in due course. Subsequently, he was issued with a blue IC which he then exchanged for a KPT IC issued by the NRD, Sabah. He now holds a MyKad with 12 digits. He admitted having registered as a voter and had voted at elections. His wife also holds a MyKad as do all his 5 children. They also have birth certificates showing they were born in Sabah.

W19 : Hatta bin Ghani

He is a construction worker and a Bajau born in Tawi-Tawi, Philippines. He holds a MyKad with a code 12. He entered Sabah illegally in 1976 because of the civil war in the Philippines. He is married with 5 children. After 1 year in Sabah, he managed to obtain an IMM13 pass which he held until 1990 when he was able to obtain a blue IC and thereafter, registered himself as a voter and voted at elections at Keningau. In fact, before obtaining the blue IC, he was issued a green IC which he was able to later change for a blue IC from the NRD, Sabah. He denied he obtained this through the assistance of others.

W21 : Abdul bin Ainul

He is a construction worker. He was an immigrant from Basilan, Philippines. He came to Sabah due to the armed conflict in Southern Philippines. He entered Sabah in 1980 with his mother. He was very young then. In 1981, his mother and his siblings returned to Basilan but he decided to stay in Sabah. From 1980 to 1990, he worked at various jobs in Sabah without any documents but was never caught by the authorities. Currently, he is holding an IMM13 pass. Before this, he was holding a census

certificate. He had applied for an entry permit from the Immigration Department and is still awaiting the outcome. He hopes to apply for a red IC if his entry permit is approved. He is now living at the Kinarut settlement scheme and is the chairman there. The FSTF has control of the said settlement scheme which consists mainly of Filipino refugees. There are about 7,000 inhabitants in that settlement scheme. There is water and electricity provided for the settlement. He admits there are social problems in the settlement such as drug abuse, etc. He has no desire of returning to the Philippines.

W22 : Madyusay bin Pingay

He is an illegal immigrant from Tawi-Tawi, Philippines. He is a Bajau and was born in 1954. He entered Sabah in 1972 due to the war in the Southern Philippines. He first settled in Sandakan, then in Pulau Gaya, Kota Kinabalu. At first, he was issued a travel pass or the so-called "kad burung-burung" by the Chief Minister's Office. After that, he applied to the Immigration Department for a work pass which he later changed to an IMM13 pass. He was holding this IMM13 pass until 2003 when he applied for and was issued the entry permit. He then applied for and was issued a red MyPR

by the Immigration Department. He is currently holding this MyPR card. He was told he could qualify to apply for Malaysian citizenship in 2017. He has 6 children. His wife is deceased. All the children have birth certificates and they also have MyPRs. He lives in Kampung Lok Urai, Pulau Gaya where the majority of the inhabitants are refugees from the Philippines. There are however some locals there. There are no basic amenities such as water and electricity in his village.

W24 : Jamil bin Mala

He is a Bajau illegal immigrant from the Philippines. He was born in 1949. He entered Sabah in 1978 due to the war in Southern Philippines. He worked at various construction sites as a laborer in Sabah. He is now self-employed as a grocery trader. He did not possess any document for the 10 years in Sabah without any incident. He then obtained a work pass from the Immigration Department which he then switched to an IMM13 pass sometime in 1999. Later, he applied for and was issued a permanent resident IC (red MyPR) in 2010. He has 2 children. They all possess birth certificates; the eldest has a red MyPR while the youngest holds an IMM13 pass. His wife is holding a red MyPR. They stay at the

Telipok settlement scheme which has water and electricity. He has never gone back to the Philippines since his first arrival in Sabah. He does not intend to go back at all.

W27 : Aziz bin Kasim

He is an illegal immigrant from India. He was born in Tamil Nadu, India, in 1979. He is a cook at a restaurant in Inanam. He entered Malaysia in 1980 with an Indian passport. Thereafter, he left for Kota Kinabalu by way of Labuan without going through immigration check point although he was still in possession of his Indian passport. While in Kota Kinabalu, he worked at several Indian restaurants. In 1987, he was approached by several people who told him they could help him get a Malaysian IC. He was told to sign a form. A month later, he was able to get a blue IC with 6 digits. He admits that he got this IC without any supporting birth certificate and / or a Malaysian citizenship certificate. In 1994, he applied for and was issued a Malaysian passport. He had in fact made use of that passport to travel overseas. With his blue IC, he managed to obtain a business license to open a restaurant in Inanam. This was issued by City Hall, Kota Kinabalu. At one stage, he owned 5 such restaurants. Now, he merely works as a cook in

a restaurant in Inanam. He now holds a MyKad which he obtained in 2000. He admits that at the various stages in which he applied for new ICs, he did not encounter any difficulty from the authorities. He has 3 children who are all MyKad holders. His wife, also from India, has applied for PR and is awaiting the outcome from NRD, Kota Kinabalu. With his blue IC and / or MyKad, he was able to vote and did vote 4 times. He says he wants to remain in Malaysia permanently.

W28 : Suaib bin Baraham

He is Suluk Filipino immigrant. He was born on the island of Parnag, Philippines, in 1954. He came to Sabah in 1972 with his uncle when he was 12 years old. There was no difficulty in entering Sabah. He came because of the armed conflict in his native country. While in Sabah, he stayed with his uncle initially. He was living on the island of Banggi for some 16 years without documents. In 1988, he moved to Telipok where he was issued a temporary identification receipt by the Chief Minister's Office which entitled him to stay at the Telipok refugee settlement. Later, he moved to the refugee settlement at Kampung Suan Kecil, Keningau. He never made an attempt to apply for IMM13 pass. In

his 40 years in Sabah, he had never gone back to his native country, the Philippines. He now considers himself a Malaysian citizen.

W37 : Isabelito Teves Pia

He is an illegal immigrant from the Philippines. He was born in Basilan, Philippines, in 1964. He is a Roman Catholic. He holds a green Malaysian IC with a code 71. He is a farmer. He came to Sabah in 1986 mainly for a better livelihood. During his stay in Sabah, he worked at various jobs. In 1990, he got married in Kota Kinabalu and they have 2 children, now 19 and 17 respectively. While he was working, he did not possess any identification documents. He was issued a census card by FSTF. This was after the census conducted by FSTF. He was apparently given a visit pass by a Malay man for a fee. And he managed to renew this visit pass 2 or 3 times through the same Malay man. In 1993, he succeeded in getting a green IC. He attempted to renew his visit pass but was rejected. With the green IC, he managed to get a driving license and open an account. In 2000, he applied for PR but was rejected. His appeal against the rejection was also dismissed. He still uses his Philippine International Passport if he

wants to travel overseas. All his children are Malaysian citizens. He was never arrested during his entire stay in Sabah. It is alleged that the green IC in his possession does not appear in the record of NRD, Kota Kinabalu.

W39 : Rasad bin Salleh

He is a construction worker. He was born in Mindanao, Philippines, in 1962. He entered Sabah illegally in 1979. He now lives at the refugee settlement at Kampung Tongkang, Kudat. He has been appointed the Deputy Chairman of that settlement by FSTF. He is married with 7 children, 2 of whom have died. His wife and 3 of the children are IMM13 holders. The other 2 children are still young. He holds a green MyKad with a code 71. As Deputy Chairman, his duties include overseeing the safety and welfare of the people in the settlement as well as reporting to FSTF. The settlement consists of 70% Bajau and 30% Suluk. It has water and electricity as well as a religious school. Based on the census taken by FSTF, there are about 660 people in the settlement. People there are holding various types of documents ranging from MyKad to MyPR to IMM13 passes to "kad burung-burung", etc. However, the majority are IMM13 holders. He explains how he entered

Sabah by boat through Sandakan in 1979 because of the war in the Philippines at the time. In 1980, he was issued the IMM13 pass by the Immigration Department. In 1993, he applied for and was issued a green IC by NRD, Sabah which he later changed to the green MyKad. This card had expired and his application for renewal was rejected. There was no reason given. He now holds an IMM13 pass. He desires to stay in Sabah permanently.

W40 : Sioh bin Jabidi

He is a carpenter living at Kampung Sungai Buaya settlement scheme, Tawau. He is appointed chairman of that settlement. He belongs to the Suluk community. He is an IMM13 holder. A settlement has existed in 1982. According to the census taken in 2012, the number of people staying there is 1,520. There are no water and electricity facilities in that settlement. However, there are illegal water and electricity connections to the settlement. The people there are mainly fisherman and construction workers. Most of them belong to the Bajau and Suluk communities. Some are Layakan. According to him, 70% of the people are IMM13 holders; 10% holding Malaysian ICs and 20% have no documents at all. They have various social problems in the settlement such as drug

abuse, cigarette peddling, etc. The witness says that he was born in Jolo, Philippines. He entered Sabah through Semporna in 1977 by boat with a group of people. He worked at various places in Sabah. Subsequently, he was able to obtain a document called HIF-22 which could only be issued to Chinese immigrants from Indonesia. From 1982 to 1989, he was living at Kampung Titingan, Tawau. Thereafter, he moved to Kampung Sungai Brap where he now stays. In 1991, a census was conducted on his settlement by FSTF and he was issued a census card. In 1997, he obtained his IMM13 pass which he still holds. He says that the inhabitants in his settlement had not applied to the authorities for the supply of water and electricity because they thought that they would not qualify as they do not have the proper documents, etc.

W42 : Nisa binti Rahman

She is a Bugis from Indonesia. She was born in Sulawesi in 1983. In October 2011, she entered Sabah on a cargo ship through Nunukan and Tawau with a group of her countrymen. She was later employed in an oil palm estate. She had no identification documents with her at the time. She had no difficulty entering Sabah. She came for economic reasons. In December 2012, she

was arrested in Tawau. She was arrested by immigration officers. She is now being detained at the temporary detention center, Sandakan pending deportation back to Indonesia. She describes the conditions at the detention center to be alright with 3 meals a day and there are basic amenities provided.

W43 : Waja bin Alik

He was born in Tambawan, Mindanao, South Philippines in 1967. He is an IMM13 holder. He came to Sabah when he was 14 years old together with 5 other family members and 20 others in a boat. They landed at Pulau Berhala, Sandakan, Sabah. They had no difficulty in doing so. They had no travel or identification documents with them at the time. They have been staying at Pulau Berhala ever since i.e. from 1980 until now. Pulau Berhala is about 30 minutes from Sandakan by boat. From 1980 to 1997, he had no identification documents. In 1997, he was issued the IMM13 pass by the Immigration Department. His wife was issued a so-called "kad polis operasi". His wife has now passed on. He has 5 children, 2 of them have birth certificates while the rest do not have any. According to him, 21% of the people in his village have IMM13 passes. The rest have various types of documents such as

MyKad, MyPR, census certificates, birth certificates, police passes, passports, etc. His village has water supply but is not provided with electricity by the authorities. They have to use a generator instead. There is also a school for children from 7 to 12 years. Children attending secondary school have to go to Sandakan. He is a chairman of his village appointed by FSTF and has to report to FSTF every 3 months.

W52 : Mubin bin Paraja

He was born in Zamboanga, Mindanao, Philippines, in 1966. He is a Muslim Bajau / Suluk. He came to Sabah because of the war in the Philippines. He came with his parents and siblings in 1976. They entered by boat through Semporna. He is an IMM13 holder, so are his parents. Some of his siblings have IMM13 passes while the others have census certificates. He is married to a Filipino who is also a refugee. They have 12 children ranging from 20 years to 1 year. They stay at Kampung Pulau Mabul settlement scheme, Semporna. He is the chairman of that settlement, appointed by FSTF. He is a fisherman. As chairman, he is responsible for the general welfare of the people in his settlement which has about 3,000 inhabitants. He reports to the

FSTF on what transpires in the settlement. According to him, he was initially issued with a census certificate by FSTF. After that, he was issued an IMM13 pass by the Immigration Department, Tawau. Prior to getting his IMM13 pass, he was issued a temporary registration receipt. In 2005, he applied for a MyPR and is still awaiting the outcome. He states that his settlement has no basic amenities such as water and electricity. They obtain their water from the wells and they use generators for electricity. He says that most of the inhabitants are IMM13 holders and about 100 of them do not have any documents at all. They are mostly refugees from the Philippines who fled to Sabah in the period from 1972 to 1984. They are mainly Bajau and Suluk Muslims. According to him, he and his family have no desire to return to the Philippines.

W53 : Yuhanis bin Bira

He was born in Toraja, South Sulawesi, Indonesia, in 1955. He is working as a security guard. He holds a MyKad with a code 12 (meaning born in Sabah). He belongs to the Toraja community. He is a Christian. He has 2 wives. He apparently married according to native customs. The wives have Indonesian

passports. They have 4 children, all born in Sabah. They have birth certificates. 3 of them have ICs. One is still underage. He entered Sabah in 1973 through Tawau. While in Sabah, he worked for a while before going back to Tarakan to have his Indonesian passport made and thereafter re-entered Tawau with the use of his passport. According to him, he would have better opportunity in getting jobs if he possessed a passport. He worked at various jobs in Sabah. According to him, he met an agent who alleged to be working for a native chief called Dola Surin and was given an IC application form to fill. He filled and thumbprint the form. He also tended copies of his photographs. There were no supporting documents such as a birth certificate, etc. About a year later, he was handed a blue IC with 6 digits by the same agent. On the said IC, his birthplace was stated as Tawau. With that, he was later able to change it for a MyKad at the NRD, Tawau. This MyKad bears the code 12. In 1981, he registered himself as a voter and had voted at every election since then. Although he considers himself a Malaysian citizen, he still harbors the desire to return to his country of birth.

W54 : Berahim bin Abdullah

He was born in Timor-Timor, Indonesia in 1958. He entered Sabah illegally in 1990 through Tawau. While in Sabah, he worked at various jobs and presently he is a cook with the Seng Lee Restaurant. He holds a blue IC with a code 12 (meaning born in Sabah). According to him, in 1989, he lost his Indonesian passport and in 1990, he met a man called Latif Kabang who helped him to apply for an IC at the NRD, Kunak where he was required to provide his fingerprints and photographs. There were no other documents submitted to support his application. According to him, he paid RM10 for the service. After 6 months, he was informed by Latif Kabang that his IC was ready for collection at the NRD. The IC which was handed to him stated his name to be Berahim bin Abdullah. According to him, he did not know how or why his name was changed to Berahim bin Abdullah. He states that the blue IC issued to him had stated that his birthplace was in Sabah and he admitted that this was not true as he was not born in Sabah. He attempted to explain that the NRD had recorded that he was born in Sabah based on the information given in the application form which was filled up by Latif Kabang. After obtaining his blue IC, he was able to change it to a hibiscus KPT IC. Thereafter, he changed this to the MyKad and in November 2012, he changed it

again to the latest version of the MyKad. He says he had no problem in changing his IC. According to him, he registered himself as a voter in 1990 and had since voted 4 times in the elections.

W55 : Petrus bin Molang

He was born in Flores, Timor Indonesia in 1943. He entered Sabah in 1962 looking for jobs. He entered Sabah through Tawau. He applied for and was given a British passport in 1962. He had worked at several jobs. In 1963, while working for the NBT, a registration officer from NRD told him to apply for a green IC. He applied for and was issued an IC with the prefix H. In 1972, while working at Mostyn, a registration officer from the Immigration Department visited the estate and told him to apply for an entry permit and a red IC. He duly applied and obtained these documents. The red IC is for permanent resident status. Later, he changed his IC to an IC bearing 12 digits with a code 12.

W93 : Charles Magadap Rungus

He is a security guard born in Kampung Sampir, Kota Marudu, Sabah. He has no birth certificate because his birth was not registered due to the remoteness of his Kampung in the 1960s. In 1976, he applied for an IC by way of statutory declaration through the village head and magistrate. He waited until 1985 only to be told that his statutory declaration could not be used for the application. He was then advised to apply for late registration of his birth. In 2002, he was called up by NRD Kota Marudu for an interview. He received his birth certificate in September 2003. Thereafter, he applied for an IC and was issued one in March 2004. He says that he had to move out of Kota Marudu because the land he was occupying belonged to Syarikat Bogaraya Sdn. Bhd., a private company. He then moved to a squatter area at Kampung Punai, Kota Kinabalu and got a job as a security guard, a position he now holds. He states that he has received a notice from Kota Kinabalu City Hall (DBKK) to vacate the place because the site is likely to be used for building a courthouse. He has sought help from his wakil rakyat but so far there has been no positive news. He admits that even as a Bumiputra, he has no land and no house but is like a bird moving from one place to another.

W99 : Ergelynn Esperilla

She was born in Tawau, Sabah, in 1987. Her parents were from the Philippines. She was an IMM13 holder. Then she applied for an entry permit. She also applied for a MyPR and thereafter, a MyKad. Her father holds an HIF-22 card. Her mother holds a temporary resident card (green card). She has 5 siblings, 1 holding MyPR, 2 holding entry permits and 1 holding a green card.

W101 : Chia Oi Lan

She was born in Papar, Sabah, in 1953. She is a Chinese Hakka, married with 4 children. Her husband is also a Hakka. She is Chinese educated. She obtained her first IC in Papar when she was 12 years old. At 18 years old, she obtained her blue IC with 6 digits from Kota Kinabalu. She later changed to a MyKad. On 20/7/2007, she tried to open a bank account at Maybank but was informed that she could not do so because her old IC had been used by someone else in Cheras, Kuala Lumpur. She then lodged a report on the matter. She is still awaiting the outcome of her report. She did register as a voter in Papar and had voted at every election.

W102 : Lim Yit Tin

He is a retiree. He was born in Nunukan, Indonesia, in 1951. He entered Sabah illegally through Tawau when he was 9 years old due to the political instability in Indonesia. His parents came from China and initially settled down in Indonesia. In 1965, he was issued with a HIF-22 by the Immigration Department. In 1990, he changed it to an IMM13 pass. In 2003, he managed to obtain an entry permit from the Immigration Department in Kota Kinabalu and in 2004, he was issued a MyPR. Since then, he had applied for a MyKad but was advised to wait for 12 years in order to qualify for it. He says he went to Putrajaya to meet the Chief Secretary to the Government and was able to obtain an entry permit. He is married to a local Malaysian. When asked about Project IC, he said he had no knowledge of it.

W106 : Chin Fon Ki

He is a businessman. He was born in Tawau in 1956. He is a Chinese Hakka. His parents came from China and became farmers in Tawau. His father became a Malaysian citizen in 1975 and had his birth registered with the Colonial North Borneo Authority. In 1973, he obtained his Malaysian IC with the prefix H.

He had no difficulty in changing to the MyKad. He registered as a voter in Likas and had voted 5 times at elections.

W113 : Said bin Haji Daud

He was born in Basilan, Mindanao, Philippines, in 1965. He entered Sabah illegally in 1980 by sea through Sandakan. He is a construction worker and a fisherman. He is the village head in the Kiamsan Refugee Settlement, Labuan. Upon first entering Sabah, he moved from Sandakan to Keningau and then to Labuan. He now stays at Kampung Kiamsan which has 199 houses comprising 1,866 inhabitants who are mostly Suluk, Bajau and Yakan. Most of them have valid documents such as MyKad, MyPR, IMM13 passes, census passes and kad burung-burung. The number of inhabitants having no documents is 148. Kampung Kiamsan has water and electricity supplies. It was formerly a TUDM camp. The witness has been in Malaysia for 33 years. He has applied for entry permit which is still being processed. He is married. His wife holds a MyPR. His children are still young but all have local birth certificates.

W114 : Bensar bin Sabtula

He was born in Basilan, Mindanao, Philippines in 1962. He entered Sabah illegally through Sandakan with 30 others by sea due to the civil war in the Philippines. While in Sabah, he stayed at various places and eventually settling down in Kampung Kiamsan Refugee Settlement in Labuan. He was appointed the village head in 2006 by FSTF. The settlement has 272 houses comprising 1,538 inhabitants, most of them Bajau, Suluk and Yakan. They possess various documents such as MyKad, MyPR, IMM13 passes, census certificates, kad burung-burung, etc. Some have no documents at all. Water and electricity are provided for in the settlement. Most of the inhabitants there are construction workers and fishermen. This witness has applied for an entry permit which is still being processed by the authorities. For the moment, he holds an IMM13 pass.

W115 : Mohd. Ansar bin Maidin

He was born in Likas, Sabah, in 1962. His father is a Muslim from India and his mother is from Tawau. He is a restaurant owner. Both parents are now deceased. He initially possessed a red IC (permanent residence). He obtained a late registration birth certificate. With that, he was able to obtain his MyKad with the code 12. He has 5 siblings. His children all have Malaysian ICs. He is the Secretary General of the Indian Muslim Traders Association Sabah. All its members have proper documents. He has denied allegations made in Sabahkini that his Association has been involved in recruiting Indian Muslims from India.

W116 : Peer Mohamad bin Kadir

He was born in Chennai, India but he holds a MyKad with a code 12 which indicates he was born in Sabah. He is a member of RELA. He is a member of the Indian Muslim Traders Association, Sabah. He entered Sabah in 1980. In 1986, with the assistance of someone he called Pak Cik, he applied by way of statutory declaration for a Malaysian IC. Sometime in 1990, he was issued with a Malaysian blue IC in which it was stated that he was born in Kampung Banbangan. In 1992, he changed it to a KPT IC but

soon lost it and when he reported the matter to the NRD, he was issued with a temporary receipt which he kept until 1996 when he was issued with a bunga raya Malaysian IC. In 2007, he changed that to a MyKad which he now holds. With his Malaysian MyKad, he was able to receive his BRIM RM500 recently. Since the 1990s, he has voted 5 times in the Likas area. He is married with two wives and four children. All the children have proper birth certificates. His wives are holding passports, one possessing an Indonesian passport and the other having an Indian passport.

W132 : Shukur bin Abdullah

He is a tailor by profession. He was born in Mindanao, Suluk, Philippines in 1960. He is married and his wife is also from the Philippines. They have 2 children, both born in Sabah. He entered Sabah illegally in 1976 when he was 16 years old. He followed his aunt to Sabah. They came by way of Kudat in a speedboat. He says that they came to Sabah because of the civil disturbance in his village in the Philippines. They wanted to establish a new life in Sabah. At one time, he was holding an IMM13 pass and his wife was holding a census pass. He was able to get a work permit from the Immigration Department. He states that he then applied to the

NRD, Kudat, for a Malaysian blue IC, apparently on his own initiative. That application was supported by a declaration affirmed by a village chief. He says that in the said declaration, his birth was stated as Pulau Banggi, Kudat. A year later, he was issued a blue IC which he still holds. It has the code 12 therein meaning that he was born in Sabah. His wife has a red MyPR and all his 2 children have blue ICs. He has a Malaysian driving license as well as a Malaysian passport. He has also registered himself as a voter and has voted at every election in Sabah. In fact, he is a Secretary of UMNO and has been one for 10 years.

W133 : Taji bin Salleh

He is a Suluk born in Pulau Jolo, Philippines, in 1969. He is a fisherman. He entered Sabah illegally in 1984 by way of Tawau in a boat (kumpit). He was then about 12 to 14 years old. He lives at the Kampung Tinagat squatter settlement, Tawau, which is managed by FSTF. He is married with 7 children, all born in Sabah. In 1996, he was issued with a settlement identification pass (also referred to as kad burung-burung). He is still holding this document. According to him, he has encountered no difficulty by using this document for the last 30 years or so. According to the

conducting officers, this document is not recognized currently by the authorities.

W136 : Said Ghani bin Abdul Nabi

He is a Pashtun born in Beaufort, Sabah in 1956 and now lives in Kampung Masjid, Keningau. He married a woman from Pakistan. For years, he had been shuttling back and forth between Sabah and Pakistan. He has 5 children, ages between 9 to 19, all were born in Pakistan. In 2012, he brought his wife and 5 children to Sabah using Pakistani passports. His son, Ihsan Ullah was able to obtain his MyKad 2 years after his entry into Sabah. All his children have citizenship certificates issued to them by the NRD, Kota Kinabalu. The Home Affairs Ministry had approved their applications for citizenship. However, his wife still uses her Pakistani passport.

W137 : Ihsan Ullah

He is a Pashtun born in Bunir, Pakistan, in 1993. He is the son of Said Ghani bin Abdul Nabi (W136). He says that he and his mother and siblings entered Sabah with their Pakistani passports. They settled down in Keningau. He states that on 11/10/2010, he went with his father to NRD, Kota Kinabalu to apply for a Malaysian citizenship; that his application was approved on 3/5/2011. On receipt of his certificate, he took his oath of citizenship at Wisma Wanita, Kota Kinabalu. All his siblings received their citizenship certificates as well. He then applied for and obtained his MyKad. He is now hoping to apply for a Malaysian passport.

W144 : Abdullah bin Mahmood

He is a Pakistani. He states that at the age of about 11 years old, he followed his uncle Tajar from Pakistan to Kuala Lumpur and then to Kota Kinabalu and thereafter to Keningau. They entered Sabah without any travel documents. While in Sabah, he married a local Dusun. They have 3 sons, all born in Keningau. They all have MyKads. According to him, he had earlier applied for and obtained a 7 digit blue IC from the NRD but lost it on a trip to

Pulau Gaya. He made a police report on the loss and with the said report, he requested the NRD to issue him a new IC; that 5 years later, he was issued a so-called "Computer IC" from NRD. He did not submit any supporting document for this. He says that he voted several times on the basis of his IC. On the allegation by one Steven @ Lahamin bin Wasibin (W145) that his third son was not born in his village in Sabah, he replied that they were in fact living in a house close to the said village and have used the said village as his place of birth on the advice of his wife who was from the said village and had relatives there.

W146 : Abdullah bin Salim

He was born in Kampung Bangau-Bangau, Semporna in 1963. His parents were from Tawi-Tawi, Philippines. They came first to Telipok, then to Kampung Pondo, Pulau Gaya. According to him, there are 4,000 people, mostly Bajau-Ubian and Suluk living there. He says that during the time when BERJAYA was in power in Sabah, he was assisted by a party member to fill in his IC application form. There were no supporting documents for this application. He managed to get his IC within a month after that. He then changed the IC to the Bunga Raya IC, then to the MyKad. He

now holds the latest MyKad. He is married to a Filipino. They have 5 children, all of them have birth certificates. He is now separated from his wife. According to him, there are still a lot of criminal activities such as thefts, drugs, etc. in Kampung Pondo, Pulau Gaya. The place is unhygienic without proper sanitation. It lacks water and electricity supplies.

W147 : Zainal Abidin bin Mohamad

He was born in Tamil Nadu, India, in 1961. He first came to Kuala Lumpur by air in 1979 using an Indian passport and an entry visa for 3 months. He used the name Bashir bin Mohamad. After 2 years in Kuala Lumpur, he then went to Sabah by ship and worked in a restaurant in Kota Belud. From 1980 to 1992, he was involved in the textile business. He applied for Malaysian IC several times between 1983 to 1987 but failed. Then, with the help of a man called Ghani, he applied again in Kota Belud using the name Zainal Abidin and a letter of declaration and paying RM10 for stamps, he was able within 3 months, to be issued a blue IC. With that, he registered himself as a voter and had voted about 5 times in the Likas area. On being questioned by the conducting officer, he admits that the details contained in his IC are inaccurate. He

has no birth certificate and has never been issued a citizenship certificate. He states that he came to Sabah to join his uncle. His uncle is now back in India. He is married with 4 children. His wife and children all have Indian passports.

W150 : Maming bin Saleng

He was born in Sulawesi, Indonesia, in 1950. He entered Sabah in 1981 through Nunukan by boat using an Indonesian passport. While in Sabah, he worked at various logging camps. In 1983 or thereabout, he applied for a Malaysian IC with the assistance of 2 men in which he had to fill up some forms and to thumbprint thereon. He did not have a birth certificate or a citizenship certificate at the time. Soon after, he was handed a blue IC with the prefix H upon payment of RM150 to the 2 men. Later, he registered himself as a voter. With his blue IC, he was then able to change it to a MyKad at the NRD without much difficulty. He was able to get a Malaysian passport and to use it to visit relatives in Indonesia. He is married to a Bugis woman who is also holding a Malaysian IC which was obtained illegally. They do not have any children. On being questioned by the conducting officer, he admits that he had obtained his blue IC illegally as he

did not have the relevant documents to support this application at the material time.

W152 : Abdul Hussin bin Amar

He is a contractor. He was born in Kampung Pulau Gaya in 1954. His parents are locals from Kudat. He is the village head in Pulau Gaya Settlement Scheme, appointed by the Ministry of Local Government and Housing, Sabah, in 1991. He states that there are 273 houses comprising 2,000 people in the said Settlement Scheme. Most of them are locals. There are also IMM13 holders who have married locals. The Settlement has a health clinic and a Government secondary school. Currently, ESSCOM has jurisdiction over the area. According to him, in 1963, he was holding an orange IC which he later changed to a blue IC followed by a bunga raya IC and finally a MyKad. All these were done at the NRD without much difficulty. He possesses a birth certificate. He is married and his wife has a Malaysian IC. All his children have birth certificates and ICs.

W153 : Ahmad bin Soso

He was born in Bone, South Sulawesi, Indonesia, in 1960. According to him, in 1978, he entered Sabah when he was 14 years old together with his uncle. They entered through Nunukan and Tawau by ship together with some 700 people. He apparently entered Sabah with the use of an Indonesian passport. While in Sabah, he worked at various plantations. According to him, in 1990, he met a Bugis man in Sembulan. With the help of this man, he was able to obtain a blue IC with the prefix H (meaning born in Sabah). With this blue IC, he was able to change it to the bunga raya IC and then to a MyKad. These changes were done at the NRD, Kota Kinabalu. He states that he was aware that he had obtained his ICs not in accordance with the law as he had no birth certificate nor had he a citizenship certificate at the material time. He registered himself as a voter in 1995 and had voted several times. He is married to a Javanese woman who has now left him.

W154 : Paulus Niron

He was born in Solo, Timor, Indonesia, in 1977. In 1994, he entered Sabah through Nunukan by boat using an Indonesian passport. He came in order to join some of his relatives working in Sabah. He now works at a company called Syarikat Temperate Garden Produce Sdn. Bhd., Kundasan. He is paid more than RM800 a month. There are about 20 Timorese working in the said company.

W155 : Wilfredo Real Aniel

He was born in Zamboanga, Philippines, in 1965. In 1988, he together with 20 other people entered Sabah by boat from Bungan to Lahad Datu. He came to Sabah with his 2 brothers looking for jobs and also because of the war in the Philippines. While in Sabah, he worked at various places and jobs. Eventually in 2001, he moved to Labuan to work as a subcontractor before moving back to Tambunan in 2003. In 2004, he went to Ranau as a contractor building houses there. According to him, since 1990, he had no other documents except the census certificate which was issued to him by the Federal Special Task Force. He apparently had no difficulty in getting jobs in Sabah. However in

2008, he took advantage of the so-called amnesty program and was issued with a Philippine passport in 2009. With that, he then obtained a work pass from the Immigration Department, Keningau. He is now doing business as a contractor. He plans to apply for a MyPR in due course.

W157 : Ishak Us'luan

He was born in Timor, Indonesia, in 1967. In 1983, he entered Sabah illegally through Nunukan and Tawau by boat looking for jobs. After 3 years in Sabah, he returned to Timor to make a passport. With the passport, he then re-entered Sabah through Tawau under a different name, Ishak Lada. In Sabah, he moved to Kunak and worked there. He states that he had applied for a Malaysian IC with the help of a Bajau man from Semporna called Usman bin Razak in 1983. He completed a form with the help of Usman bin Razak and paid him RM40. Within 3 months, he was handed a blue IC with 7 digits. With the said IC, he was able to register himself as a voter in Semporna but was unable to vote because his name was not in the list of voters. He says that he lost his blue IC and his subsequent application for a KPT IC was not entertained by NRD, Tawau. He tried again at the NRD, Lahad

Datu but was unsuccessful. Thereafter, he met a Bajau man who promised to help him get a blue IC. He paid this man RM500. Eventually, he was handed a Malaysian IC and later he was able to get a MyKad. On checking the NRD's records, this MyKad was found to be fake. However, he was able to use this fake MyKad for 5 years apparently without any difficulty. He is married with 3 children. His wife and children have Malaysian passports. He has been advised by the conducting officer to seek assistance from his embassy on his documents.

W159 : Angkaas Bious

He was born in Nabawan near the border with Indonesia in 1981. He is a farmer. Due to the remoteness of his village, his birth was registered late. His parents were poor. However, his birth was later registered through the mobile court and in 2007, he was able to get his late birth certificate. He was then 26 years old. After getting his birth certificate, he then obtained his IC from the NRD Nabawan in 2007. He is married with 7 children. His wife has a birth certificate and IC. All his children have birth certificates. After getting his IC in 2007, he registered himself as a voter and had voted once since then.

W160 : Laismin bin Limbuas

He is a farmer. He was born in Tongod in 1956. He is married with 7 children. He applied for his IC at the NRD Tongod in 1979. He then changed his IC to a KPT IC, then to a bunga raya IC and finally to a MyKad. His application for the blue IC was supported only by a statutory declaration but not a birth certificate. He had no birth certificate because his birth was not registered due to the remoteness of his place of birth. He has registered as a voter and has voted 4 times at elections.

W161 : Abdul Latif bin Jumaani

He is a construction worker. He was born on Ubian Island, Philippines, in 1958. When he was 14 years old, he came to Sabah with his mother and 2 younger siblings in a boat called Kumpit. They came through Semporna. They lived at several places and eventually ended up settling in Kinarut refugee settlement. He is married to a Filipino Bajau from Pulau Gaya in 1985 but the marriage was not registered. They divorced after 10 years of marriage. In 2004, he married a woman from Brunei and they have 2 children. According to him, he obtained his IC through a 3rd party after filling in some forms and having his photographs

and fingerprints taken; that a fake declaration letter stating his birth to be in Kampung Simunul, Semporna; 6 months later, he was handed a blue IC with the prefix H. He states that when he applied to change his IC to a KPT IC, he was given a temporary receipt. Unfortunately, he lost the said receipt. A new receipt was issued to him by the NRD but he again lost this receipt. Again, he was issued with a temporary receipt and he had been using this receipt for about 9 years. Eventually, he was issued a MyKad with a code 12 (meaning born in Sabah). In 2013, he changed it to the latest MyKad. He has registered himself as a voter. There is no indication as to whether he has voted or not.

W165 : Rosalinda binti Ghani

She was born in Zamboanga, Philippines, in 1962. She is married to one Jin bin Misuari who was born in Semporna. They have 4 children, all holding MyKads. They are all married. According to her, in 1975 when she was 14 years old, she followed her uncle and aunt to Semporna, Sabah. They entered Sabah illegally. While in Sabah, she was able to obtain a burung-burung IC. With this IC, she later applied for an entry permit in 1997 from the Immigration Department. The application was approved in

1999. She then applied for an IC from NRD, Semporna. She paid RM40 for it. By then, she was 40 years old. In 2001, she obtained a KPT IC. She then applied for and was able to obtain a MyKad. She was given a Malaysian citizenship certificate. Soon after this, she was issued a MyKad by NRD, Semporna, with the number 620101-65-5012.

W167 : Wong Sik Fai @ Wong Set Fai

He is a storekeeper. He was born in Tarakan, Indonesia, in 1956. His parents originated from China. He is married with a son and daughter. His wife is local and has a MyKad. He entered Sabah illegally. He first landed in Tawau and was accompanied by his mother and sister. They came to Sabah because of the disturbances in Indonesia at the time and also because they wanted to study Chinese. He attended school in Tawau and managed to finish Form 5. According to him, his first document was an IMM13 pass issued jointly to him and his sister. Later, he was issued his own IMM13 pass. He was able to obtain an entry permit in Kota Kinabalu in 2010. With the said permit, he applied for a MyPR which was approved in 2010. He was then 50 years

old. He was told that he would have to wait another 10 years before he could get his MyKad.

2.1.14 Others

W20 : Paul Allen Vernon

He is the Country Director attached to UNHCR Malaysia. He arrived in Malaysia on 1/11/2008. He describes the role of UNHCR as an agency which supports the Government in managing refugees in the country. He says that UNHCR became involved with the refugees in Sabah from 1977. This involvement related to humanitarian support in terms of educational, medical and financial assistance to the 6 refugee settlements in Sabah which were gazetted as such. There were of course many other settlements but they were under the control and supervision of the State Government. The UNHCR presence came to an end in June 1987. This was due to the fact that the State Government was willing and able to take over management of all the refugee settlements. However, the UNHCR still continues with its monitoring role. It also plays an advisory role but only at the invitation of the Government. He takes the view that refugees should be issued with some sort of

documentation so that their children could have proper schooling, etc., so that any social problems arising therefrom could be prevented. He also hopes that the Government would not have to deport the refugees until such time when UNHCR could resolve the problems by sending them either back to their own country or to a third country. When asked about the conditions of the refugee settlements in Sabah, he says he was quite concerned about the poor state of affairs in some of the settlements and the lack of basic amenities such as water and electricity. Nevertheless, he admits that certain efforts are being made by the authorities such as the FSTF in trying to improve the conditions in the settlements but it is a complex situation given the huge numbers of refugees in the State. According to him, one solution to the immigrant problems is to adopt a proper documentation system. Another solution would be the need for all children of refugees to attend schools, etc., and in this respect, they should be issued with proper documentations. He suggests that those refugees who have been here for more than 25 years, would have severed whatever links they have with their countries of origin and would have sufficiently integrated themselves with the local communities. In such cases, it would be appropriate to have them properly documented.

W23 : Saimah binti Salam

She is a village head of Kampung Gaya, Pulau Gaya and has been holding that post since 2005. She is a retired teacher. She was born in Kampung Sembulan Lama, Sabah in 1953. She holds a Malaysian IC and has resided in Pulau Gaya since the 1970s. The inhabitants there are mostly Bajau Laut but there are some Suluk. She estimates the number to be 4,000 plus. The village has the basic amenities such as water and electricity as well as schools. Some of the inhabitants have married locals. She admits the existence of drug abuse in her village. Her village is not considered a refugee settlement. There are about 1,000 registered voters there. They all have proper ICs.

W25 : Muhammed bin Hussein

He is an illegal immigrant from Pakistan and was born there in 1964. However, he holds a MyKad with a code 12 (meaning born in Sabah). He came to Sabah in 1987 when he was about 18 years old. In 1988, he was offered by one Pakistani person and some others to change his Pakistani passport for a Malaysian IC. He was later taken to the NRD, Tawau, where he was asked to thumbprint on a filled-in form. He was then given a temporary

receipt. He had to surrender his Pakistani passport at the NRD's counter. According to his statement, he obtained the blue IC with 6 digits in 1989 which he later changed to the high quality IC with 12 digits. This was at the NRD, Kota Kinabalu. Thereafter, he changed this for a MyKad. He had voted 4 or 5 times at elections in Sabah. Since coming to Sabah, he has visited Pakistan 4 or 5 times using a Malaysian passport. He has married an Indonesian who holds an Indonesian passport. They have 2 children who have birth certificates.

W26 : Abd. Halil bin Aranil

He is a village head. He is referred to as Commander Janggut but he is an illegal immigrant born in 1954 in Basilan, Mindanao, Philippines. He is of the Moro community with a mixture of Bajau. He was a former member of MNLF (Moro National Liberation Front) under one Haji Nur Misuari. He entered Sabah in 1975 with 4 other Moro commanders. He came to Sabah because, according to him, they had run out of bullets and food in their fight against the Philippine Government. While in Sabah, he worked at various odd jobs. In 1993, he moved to the Muslim refugee settlement in Taman Kota Keningau. From there, he subsequently moved to the

refugee settlement Minsupala, Kampung Suai Kecil, Keningau. He is now the village head there. He was initially issued an IMM13 pass, then obtained an entry permit from the Immigration Department. In 2009, he managed to obtain a red MyPR which he now holds. He has 3 wives and 13 children. All his wives are MyPR holders, so are his children who also have their birth certificates. He says there is water and electricity in his village. There is even Astro in the village and also a religious school. All the inhabitants are from the Moro community. The settlement is supervised by the FSTF and also the CM's office. He says he does not intend to go back to the Philippines anymore but would perhaps make some visits to his relatives there.

W31 : Nur Mohd. bin Ibrahim

He was born in Tamil Nadu, India, in 1962. He was educated in India up to Form 3. He is working in a grocery store. He came to Kuala Lumpur in 1981 when he was 18 years old and thereafter entered Sabah with an Indian passport. He came to Sabah in order to look for a job. On arrival at Kota Kinabalu, he got a job at a restaurant. He worked there from 1981 to 1987 with a work permit obtained for him by his employer from the Immigration

Department. In 1987, he moved from Kota Kinabalu to Kota Belud and worked there. While in Kota Belud, he managed to obtain a blue IC. According to him, he was able to get this blue IC within 6 years of his arrival in Sabah. This was at the NRD, Kota Kinabalu. In 1995, he went back to India to get married. In the same year, he brought his wife to Sabah. They now have 2 children ages 11 and 12, both born in Sabah and have birth certificates. In applying for the blue IC in 1981, he had to fill an application form supported by a statutory declaration in which his place of birth was stated as Kinarut, Papar. He was merely following what some other Filipino workers did at the time. He was given a receipt after tendering the application with the statutory declaration to the NRD. In his second attempt in 1987, he was able to obtain a blue IC with a code 12 (meaning born in Sabah) relying on a statutory declaration containing the information that he was born in Kinarut, Papar. He now agrees that that is not true. The statutory declaration has never been verified by a Magistrate. He also agrees that the details in the blue IC are untrue. In 1995, he had applied for and was issued a Malaysian passport by the Immigration Department, Sabah. In 2000, he applied for and was issued a MyKad by the NRD, Petaling Jaya, with a code 12. In 2002, he changed that to the latest MyKad which he now holds. He says that in 1991, he

registered himself as a voter and had since then voted 4 times in Sabah in the Likas Constituency. He has no desire to return to India. He regards Malaysia as his country.

W36 : Sandokong bin Rajamantak

He is an illegal immigrant from the Philippines. He was born in 1944 in Tawi-Tawi, Philippines. He is an IMM13 holder. He lives at the Telipok settlement scheme and was appointed a chairman of that settlement by FSTF in 2002. He has 7 children, 2 of them are MyPR holders and 5 are IMM13 holders. As chairman, his duties include reporting to FSTF about the welfare and other activities in the settlement. As at 2010, there were 8,029 people in that settlement. He entered Sabah in 1974 with his wife and 2 children from Tawi-Tawi, Philippines, due to the civil war there. They had entered Kota Kinabalu without much difficulty. Initially, he worked as a contract laborer. Later, he was issued with an IMM13 pass. He tried to apply for a PR IC but the matter is still under consideration by the authorities. He has been in Sabah for almost 40 years now. He was issued with an entry permit. The Telipok settlement has basic facilities such as water and electricity and also a KAFA school.

W38 : Lung Sim Yee

She was born in Hainan, China, in 1959. She holds a MyKad with code 74. She came to Sabah to join her grandparents here. In Sabah, she settled down in Tawau. Not long after, she managed to obtain a green IC in 1978 (temporary resident IC). This was replaced by another green IC in 1998. She then married a Mr. Chong who is Sabahan. She then applied for and was issued with a red IC (PR IC) by the NRD. In 2009, she was requested to take an oath of allegiance before she could qualify to apply for a blue IC. In 2010, she was issued a blue IC. In 2012, she registered as a voter. She has 2 daughters and they all have birth certificates.

W40 : Sioh bin Jabidi

He is a carpenter living at Kampung Sungai Buaya settlement scheme, Tawau. He is appointed chairman of that settlement. He belongs to the Suluk community. He is an IMM13 holder. A settlement has existed in 1982. According to the census taken in 2012, the number of people staying there is 1,520. There are no water and electricity facilities in that settlement. However, there are illegal water and electricity connections to the settlement. The people there are mainly fishermen and construction workers. Most

of them belong to the Bajau and Suluk communities. Some are Layakan. According to him, 70% of the people are IMM13 holders; 10% holding Malaysian ICs and 20% have no documents at all. They have various social problems in the settlement such as drug abuse, cigarette peddling, etc. The witness says that he was born in Jolo, Philippines. He entered Sabah through Semporna in 1977 by boat with a group of people. He worked at various places in Sabah. Subsequently, he was able to obtain a document called HIF-22 which could only be issued to Chinese immigrants from Indonesia. From 1982 to 1989, he was living at Kampung Titingan, Tawau. Thereafter, he moved to Kampung Sungai Brap where he now stays. In 1991, a census was conducted on his settlement by FSTF and he was issued a census card. In 1997, he obtained his IMM13 pass which he still holds. He says that the inhabitants in his settlement had not applied to the authorities for the supply of water and electricity because they thought that they would not qualify as they do not have the proper documents, etc.

W41 : Degon bin Amy

He was born in Tawi-Tawi, South Philippines. He is a Bajau Muslim. He entered Sabah illegally sometime in 2002 on a boat with 60 or more people. He came through Sandakan without any difficulty. He had no documents with him at the time. While in Sabah, he worked at several odd jobs without documents. In 2012, he was arrested by the police for possessing some drugs and was detained at the temporary detention center, Sandakan, apparently waiting to be deported back to the Philippines. He says he is treated quite well at the said detention center which is run by FSTF.

W45 : Riyanti binti Sandamarten

She is a detainee from the temporary detention center, Tawau. She is an illegal immigrant from Sulawesi, Indonesia. She was arrested at an entertainment center and was then brought to the temporary detention center in Tawau. She entered Sabah via Tarakan and Nunukan to Tawau in 1992. She was 13 years old at the time. She came with her sister who was 24 years old. They had a joint passport at the time. They came by boat. Initially, she worked at a plywood factory, Sandakan. Then she left for Lahad

Datu. In 1996, she married a Chinese called Chong Luen Lin from Tawau. The marriage was registered with the Tawau NRD. In 1997, she lived in Tawau with her husband. In 2005, she broke up with her husband and returned to Indonesia with her 2 children. Her children had Sabah birth certificates. She apparently returned to Tawau in 2007. Her children had returned to Tawau earlier because they were schooling there. She returned to Tawau without going through the proper channels. There was no difficulty in doing so. In 2012, she was arrested at a public bar in Fajar, Tawau and was detained at the temporary detention center, Tawau. She has been there for 5 months now pending deportation back to Indonesia. According to her, if deported she intends to come back but with proper documents because her children are here. She describes the temporary detention center as quite decent in terms of facilities and treatment.

W49 : Bernard Ego Koten

He was born in Keningau, Sabah, in 1991. He is 20 years old. He is Timorese and a Christian. His father was born in Indonesia and came to Sabah through Tawau in 1976. His parents are still alive and staying at Kampung Kundasan, Ranau. They have Indonesian passports. He has 4 siblings, all have Malaysian birth certificates. He is holding an Indonesian passport which is still valid. He does not know that having birth certificate entitles him to apply for a Malaysian IC. He is married to a Timorese. His wife entered Sabah through Tawau by using a passport. They have 1 child whose birth has yet to be registered.

W59 : Datuk Hj. Osman Jamal

He is the President of the Sabah Bugis Community Association. He is also the Director of Lands and Surveys Department, Sabah. The objective of the Association is essentially to look after the welfare of its members who are of the Bugis ethnic group in Sabah. It has about 10,000 members. He admits that two of its members had previously been detained under the ISA for allegedly involved in the issuance of Malaysian ICs to Bugis immigrants. He is familiar with the history of the Bugis community

in Sabah having read various books on the issue. He takes the view that the Bugis in Sabah could be considered natives from the historical and legal perspectives. He cites in support section 2(1)(d) of the Interpretation (Definition of Native) Ordinance, Cap64. As Director of Lands and Surveys, he states that native title is only issued to people who are qualified under the law.

W60 : Datuk Baisul Khan bin Salman Faris

He is the President of the Indian Muslim Trade and Industry Chamber, Sabah. He is a Director of Kosan, a Government Corporative Society. He was born in India but migrated to Malaysia (then Malaya) in 1947 when he was 2 years old. He came to Sabah as a teacher in 1970. The Chamber is involved in looking after the business welfare of the Indian Muslim community in Sabah. To be a member, an applicant has to satisfy 4 conditions: (1) he should be a Malaysian; (2) he must be 21 years and above; (3) he must have a trading license and (4) he must be a Malaysian of Indian origin. He has denied allegations that the Chamber is involved in helping its members in getting Malaysian ICs as well as recruiting immigrants from India. He admits to recruiting workers

for certain restaurants but this is done through the proper channels.

W61 : Omar bin Mohd. Subair

He was born in Kampung Bangsal, Sipitang, Sabah, in 1954. His father was from India. His mother was from Brunei. She passed away in 1974. He and his father went back to India when he was 6 or 7 years old. His father passed away apparently in India in 1970 and he was then brought over to Malaysia by his father's friend sometime in 1976. He was looked after by his father's friend. He never attended school. Through the checks by the conducting officers, it was found that he had applied for late birth registration in 1991 when he was 37 years old and not when he was 16 years old as he alleged in his witness statement. On further checking, it was also found that he was issued with a red IC in 1985 by the NRD. He had apparently applied for a blue IC many times but was rejected by NRD. He was however issued with a temporary receipt by the NRD which contained 12 digits. On the basis of that receipt, he was able to register himself as a voter with the Election Commission. In fact, he was only a red IC holder with 12 digits. He says he had voted at elections.

W94 : Abdul Latif Jumaani

He was born in Pakistan. He entered Kuala Lumpur with a Pakistani passport in 1983 and thereafter entered Sabah. 3 years later, he went back to Kuala Lumpur. In 1989, he attempted to use the passport of another Pakistani and was arrested by the police on his way to the airport but was released soon after. In 1992, while he was in Sabah, he managed to obtain a blue IC with the help of another Pakistani. In 1993, he went to the NRD in Kuala Lumpur to apply for a bunga raya blue IC which he managed to get in 1995. In 2002, he apparently lost his IC at Nilai, Negeri Sembilan. On making a report at the police station, he was issued a temporary identification receipt by NRD which he used for about 11 years. In 2009, he went to the Pakistan embassy, KL to register as a national of Pakistan but it was not accepted. The witness has not said why he was not accepted. Sometime in February 2013, he was informed by NRD that his IC had been cancelled. He states that his blue plastic IC was obtained by way of a statutory declaration. He also states that his bunga raya blue IC had the code 12 meaning that he was born in Sabah. He alleges that he had registered as a voter and had voted twice in Negeri Sembilan. It is to be noted that the conducting officer, on checking with the Election Commission, found that he is not a registered voter.

W107 : Tai Khun Dai (Shirley)

She is a housewife and was born in Sandakan. She is a Chinese Hakka. Her father had served with Public Works Department. The witness previously possessed a blue IC with 6 digits. She has no difficulty in finally obtaining the MyKad. She possessed a late registration birth certificate. She registered as a voter and had voted in the 2013 General Election.

W115 : Mohd. Ansar bin Maidin

He was born in Likas, Sabah, in 1962. His father is a Muslim from India and his mother is from Tawau. He is a restaurant owner. Both parents are now deceased. He initially possessed a red IC (permanent residence). He obtained a late registration birth certificate. With that, he was able to obtain his MyKad with the code 12. He has 5 siblings. His children all have Malaysian ICs. He is the Secretary General of the Indian Muslim Traders Association Sabah. All its members have proper documents. He has denied allegations made in Sabahkini that his Association has been involved in recruiting Indian Muslims from India.

W122 : Andi Kadir bin Jailani

He is a Malaysian of Bugis origin. He was formerly the Secretary General of the Sabah Bugis Community Association. He has worked as a research officer in the Department of Industrial Development and Research, Sabah. His Association has 12,000 members. He denies allegations that the Bugis Association has been used to assist members in obtaining ICs illegally. According to him, he has lodged a report on the allegations with the police. The matter is still under investigation.

W123 : Mohd. Zaki Harry Susanto

He is a Director of Sykt. Kinabalu-Buminiaga Sdn. Bhd. He was an ex-police officer. He is the Secretary General of the Sabah Suluk Solidarity Council. He appears to be at loggerheads with the President of the said Council. He is also the Education Biro Secretary of UMNO Tawau Division. The Suluk Association has 1,000 members. He denies any knowledge of the Association being used or involved in assisting members in obtaining ICs illegally.

W124 : Wong @ Rodhzan Wong bin Sammie

He is the District Chief attached to the Beaufort Native Court since 2006. His duties include solemnizing marriages involving non-Muslims as well as assisting in the late registration of births. According to him, records of native certificates issued by the Beaufort District Native Court had been destroyed by floods; that native certificates had not been issued since 1982. In the 2010 census, there were 4,023 foreigners in Beaufort District. Beaufort has 80% Bisaya who are mostly Muslims and 20% Kadazan and Murut. Foreigners have been involved in theft, drug smuggling and other crimes. Immigrant workers have contributed significantly in the construction, agriculture and fishery sectors.

W128 : Hadzlan bin Jablee

He is the Coordination Assistant Secretary attached to the Ministry of Local Government and Housing, Sabah. His duties include the coordination and monitoring of demolitions of squatter houses. In Sabah, there are 23 local authorities. According to him, the statistics show there are 140,499 squatter houses and 8,284 squatter houses have been demolished. Census exercises are also conducted on squatter houses. The Government does not

provide budget for dealing with squatter problems. The local authorities have no jurisdiction over refugee settlements which are the responsibility of FSTF. Squatters have given rise to social problems. They tend to occupy state land and do not pay any taxes, etc.

W145 : Steven @ Lahamin bin Wasibin

He is the JKKK Chairman in Kampung Penagatan Laut and also the UMNO Branch Chief there. He has made a police report dated 12/11/2012 at the police station, Keningau, apparently questioning the veracity of the birth place of one Amir Said bin Abdullah reported in his facebook. According to him, he does not know this man as having been born in his village although he admits to knowing the man's father as Aminshad who is married to his cousin Laisah binti Limpatu.

W151 : Abdul Mutalib bin Tala

He was born in Kunak in 1981. His parents were from the Philippines. In 1993, he applied for a temporary resident IC at NRD, Semporna. In 2002, he received the green IC which he later changed to a green MyKad. He then applied for an IMM13 pass and an entry permit. He managed to get the IMM13 pass in 2007 and the entry permit in 2009. In 2010, he applied for and obtained a MyPR from NRD in Kota Kinabalu. His parents also received their MyPR the same year. He is married to a Suluk who is holding an IMM13 pass. They have a child. According to him, he attended secondary school in Kunak (Form 5); that he became a Kafa teacher at the Pengkalan Resettlement Scheme, Kunak. He states that there are 105 students who are children of refugees from the Philippines attending the Kafa school. He says that records show that there are 4,305 refugees in the settlement scheme, most of them Suluk and Bajau from the Philippines. They are all Muslims.

W158 : Nancy Padin binti Salutan

She was born in Long Pasia, Sipitang, in 1972. She is married to Joseph Balang. They have 6 boys, all born in Sipitang hospital. She says that her birth was not registered due to the remoteness of the place. However, she eventually managed to get a birth certificate when an NRD officer came to her village at Long Pasia with a mobile court. According to her, she went through the normal process of getting her birth certificate and thereafter her Malaysian IC.

W162 : Wellet binti Dawa

She is a housewife. He was born in Long Pasia in 1965. She married a local from Long Pasia. They have 5 children. All of them have birth certificates and ICs. She states that she had obtained her birth certificate in 2001 by way of late registration through the mobile court. After getting her birth certificate, she applied for and was issued an IC by the NRD, Sipitang.

W168 : Wilfredo Barroguild

He was born in Roxas City, Philippines in 1945. In 1964, he entered Sabah illegally when he was 21 years old. He entered through Tawau with 40 other people from the Philippines. While in Sabah, he worked as a laborer for the Bumbin Burma British Co. Ltd. until he retired in 2008. He obtained his work permit through the said company. He was then issued a 6 digit orange IC which he had for 12 years. In 1980, he obtained an IMM13 pass from the Immigration Department, Tawau. In 2005, he applied to the Immigration Department for an entry permit but was rejected. However, in 2011, he was issued an entry permit. He then applied for and obtained a MyPR. His wife and children also possess MyPRs.

W171 : Juak bin Borneo

He was born in a small boat at sea off Kampung Bangan-Bangan, Semporna in 1952. He is now the ketua kampung of his village. According to him, Bajau Laut people lived in boats and normally do not stay at one particular place for long. They are found throughout the islands on the eastern coast of Sabah. Their births are seldom registered. They do not have birth certificates or ICs. The witness is married and divorced 7 times. He has 8 children. In the 1960s, registration exercise was conducted at his village. As a result, the inhabitants there were issued with 6 digit orange ICs. These orange ICs were later converted to 7 digit blue ICs and thereafter to the 12 digit bunya raya KPT ICs and eventually to the MyKads. He states that Kampung Bangan-Bangan was founded in the 1950s comprising Bajau Laut who are regarded as nomads of the sea. There were also other ethnic groups in his village. In 2011, it was recorded that the village had a population of 5,792 with 518 houses. There were about 3,000 IC holders; the rest had no identification documents. A lot of the children do not attend schools because they do not have any birth certificates or ICs. The inhabitants in the village considered themselves Malaysians.

W185 : Mohd. Safie bin Mohd. Yusof

He was born in Basilan, South Philippines, in 1981. He entered Sabah illegally by boat with his parents and siblings. They entered by way of Semporna. He says that while in Sabah, a friend called Mohd. Yusof bin Famesan assisted him and his siblings in getting birth certificates through late registration so that they could attend schools in Sabah. Eventually, they were able to obtain their MyKads. He states that he was later able to get a Malaysian passport without much difficulty. He has married another Filipino and they have 3 children, all born in Semporna and are issued with birth certificates. 2 of them have MyKads.

W198 : Datu Akjan bin Datu Ali Muhammad

He is a building contractor. He has denied any knowledge of being involved in the issuance of false ICs to foreigners. He says that he was arrested and detained under the ISA for helping locals to fill up certain forms in applying for legal ICs. He says that at the time, he was the Secretary General of the Bajau Suluk Association Sabah. He claims to be related to the Sultan of Sulu.

W206 : Sarif Tatah Indah binti Aplasin

She is a housewife. She came from Southern Philippines. She entered Sabah illegally in 1979 due to the civil war there. Her father who was a Moro was killed in the war. She now settles down at the refugee settlement scheme at Kampung Bahagia, Sandakan, with her husband who holds an IMM13 pass. She herself holds a Banci Pass issued by the Federal Special Task Force. She has applied for an IMM13 pass but was unsuccessful. She has 10 children ranging from 10 to 19 years. None of them has any schooling. She hopes to become a Malaysian citizen one day.

CHAPTER 3

ASSESSMENTS AND FINDINGS

CHAPTER 3 : ASSESSMENTS AND FINDINGS

3.1 Term (f) of the Reference

3.1.1 Central Issue : Migrations

Upon careful analysis of the 8 Terms of Reference, it seems clear to us that the central core issue lies in paragraph (f) of the Terms of Reference which requires the RCI to inquire into the reasons or causes for the increases in the populations of the various categories of residents specified therein in the state of Sabah and their social, economic and political impact arising therefrom. In effect, this is the pivotal issue which underpins all other issues under the Terms of Reference. As such, we think it is appropriate to begin our consideration on paragraph (f) aforesaid. But first, in order to avoid confusion, we need to distinguish between illegal immigrants and refugees.

3.1.2 Illegal Immigrants

The terms illegal immigrants and undocumented immigrants are used interchangeably in our assessment. According to an article on social networks relating to undocumented immigrants in Sabah (P92) by Dr. Dayang Suria Mulia (W111), she refers to 5 categories of foreigners, namely those who have entered Malaysia without proper documents; those who have overstayed their permits; those who have defaulted in their contracts; those who have abused their permits or passes and those children of people born in Malaysia whose births are not registered. She goes on to state *inter alia*:

“However, the line of demarcation between the legal and undocumented status is fluid. A legally recruited worker, for example, can be undocumented if he runs away from his employer. On the other hand, a person who entered the country without documents can be legalized should there be a regularization exercise carried out by the government. Therefore, the actual number of undocumented immigrants cannot be ascertained.”

Such a view as expressed above puts in some doubt the effectiveness of the type of regularization program implemented during the tenure of Datuk Seri Yong Teck Lee as Chief Minister of Sabah in the 1990s which apparently lasted only 6 months. Could this be the reason for its short lifespan? In any case, Datuk Seri Yong, in his Position Paper (P110), has regarded the said regularization exercise as the “most comprehensive and fully integrated regularization exercise” on Indonesian and Philippine immigrants in Sabah at the time. We shall deal with this more fully in Chapter 4 of this Report.

3.1.3 Refugees

The term refugees is normally associated with those immigrants who fled the Philippines to Sabah due to the civil war in their own country. Mr. Paul Allen Vernon (W20) the UNHCR Representative, Malaysia, has defined a refugee as a person who is compelled to leave his / her country on well-founded fear of persecution on grounds of religion, nationality, race or political belief, etc. The Convention relating to the Status of Refugees 1951 as amended by the Protocol on the Status of Refugees 1967, defines a refugee as a person owing to well-founded fear of being

persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it. Malaysia is not a signatory to this Convention.

3.1.4 Stateless Persons

Another term that has cropped up during the RCI proceedings is stateless persons. According to Mr. Paul Vernon (W20), the notion of statelessness is based on the person who does not have a state and who does not have a citizenship. Datuk Muhammad bin Mentek (W138), the former Director of Immigration Department Sabah, but now the Director General of ESSCOM, says that stateless persons would include those people whose nationality has yet to be determined. He gives an example of children being born to immigrants and who are then abandoned when their parents leave the country. In any case, the Convention on the Status of Stateless Persons 1951 and the Convention on the

Reduction of Statelessness 1961, have defined stateless person as a person who is not considered a national of any state under the operation of its laws. Again, Malaysia is not a signatory of these Conventions.

3.1.5 Historical Perspective

We begin, as we must in laying the proper foundations, by examining briefly the historical perspective in relation to the early migrations of people from the Philippines to Sabah including the migrations that followed thereafter. These migrations were distinctive, dictated essentially and effectively by time, circumstance and event. There are 3 phases involved.

3.1.5.1 Spanish Presence and Cultural Linkages

The first phase can be said to be the period when early migrants came to Sabah from the Sulu archipelago in the late 15th Century. The Spanish began pushing southwards towards Sulu and Tawi-Tawi in the Southern Philippines with the result that certain ethnic groups such as the Suluk and the Bajau began to

straddle the boundaries of Sabah. Even before the Spanish presence in the Philippines, there was already in existence some form of coherent political and cultural linkages between the various ethnic groups or communities who had settled in Sabah, the Philippines and Indonesia. Professor Dr. Ramlah Adam (W1), a researcher and senior lecturer who specializes in Malaysian Political and Constitutional History, has described the period when Sabah (then North Borneo) came under the political and administrative power and influence of two powerful kingdoms, namely, the Sultanate of Brunei and the Sultanate of Sulu.

Although those power and influence have now virtually disappeared with the formation of Sabah as an independent political entity within the Federation of Malaysia, many of the traditions and practices from the era of the Sulu Sultanate still subsist among the local ethnic communities in Sabah. These are the so-called unwritten traditions and practices that have been handed down through the ages. They have withstood the test of time. They have the effect of providing a sort of cultural link or bridge between the same ethnic communities on both sides of the geopolitical border between Sabah and Southern Philippines. Such traditions and practices can be said to be part of the social network

system alluded to by Dr. Dayang Suria Mulia (W111) from University Malaysia Sabah (UMS).

According to her, these social networks play important roles in facilitating and sustaining migration flows. She describes social networks as sets of interpersonal ties that link migrants, former migrants and non-migrants in their origin and destination areas by ties of kinship, friendship and shared community origins and that undocumented immigrants who migrated to Sabah would rely heavily on these social networks. She says that undocumented immigrants are aided materially by their network of closely knitted ethnic and familial groups in Sabah. They share very strong bonds with each other especially if they belong to the same ethnic background. She takes the view that the influx of undocumented immigrants in Sabah can be explained by a combination of inter-related factors such as the geopolitical locations, cultural and ex-colonial links, the demand for low paid workers and the continuing economic disparities between countries in the region as well as the lack of immigration controls. We shall deal with these more fully in due course.

It is perhaps interesting to note her concern about the expanding social networks that could allow more undocumented immigrants to become legal immigrants in Sabah by procuring

Malaysian identification documents (ICs) and thereby facilitating access to services and utilities such as public schools, hospitals, etc. As reflected in a recent study by UPKO where a large number of immigrants were interviewed, it was found that social or family networks still play a vital role in migration flows. The study further states:

“A key point in the study is that migrants planning to get ICs have said that the moment they get their own ICs, they will bring other closely related family members to Sabah. Marriage is also used as a means to promote migration, where family members in the home country are married off to migrants who have already obtained ICs here in turn providing a stepping stone for other family members to come to Sabah. This pattern is found all over Sabah and only confirms the danger of increasing members of illegal migrants landing on our shores.”

On the issue of the demographic patterns concerning the original inhabitants of Sabah, Professor Dr. Ramlah (W1) refers us to two main theories as contributing factors. The first is the so-called “wave theory” which alludes to a series of migration flows of

people from the southern part of China to areas which comprise Sabah (then known as North Borneo) and the Philippines, followed by another wave to the islands of Sumatera and Java and yet another wave to the Malay Peninsula. The second theory is based on archeological findings. Here, Professor Emeritus, Dr. Nik Hassan Suhaimi of the National University Malaysia takes the view that the original inhabitants of Sabah could be traced to the Stone Age as reflected in the discoveries of the Niah caves in Sarawak and other locations in Sabah.

There is no evidence as to how many inhabitants were living in Sabah (then North Borneo) at the time of the Sultanate of Sulu. According to Professor Emeritus, Dr. Ranjit Singh (W2) of Universiti Utara Malaysia, Kedah, there were a number of ethnic communities in North Borneo in the 16th Century such as the Dusuns who had settled along the coasts and the Muruts who lived in the interior. He says that at the time, there were essentially four main ethnic groups in Sabah, namely, the Dusuns, Kadazans, Malays and Bisaya. This was the time when the Sultanate of Brunei was at his height. Later, the Sultanate of Sulu also emerged as a power base in the region.

Professor Dr. Ranjit says that the first census in the then North Borneo was conducted in 1881 by the British North Borneo

Company. There were no figures given but their numbers were said to be quite insignificant. However, the census conducted in 1891 disclosed a population of 67,000 people in North Borneo. From 1902, Sabah became a unitary State with the coming of the British North Borneo Company in 1881. The company brought in many Chinese from mainland China to plant rice and other crops in various parts of Sabah. The demographic scenario changed drastically in 1991 when the population increased to 1.7 million, out of which 423,000 were said to be non-citizens. According to him, this unnatural increase was not due to the increase in the Chinese population, but to something else. He was not able to say why there was such a huge increase.

3.1.5.2 Mindanao Insurgency

The next phase of migration to Sabah is rooted in the Mindanao Insurgency. Here, there is ample evidence that people belonging to the Suluk and Bajau communities in Southern Philippines had fled the civil war for the relative safety of Sabah. There were mostly Muslims caught up in the war between the Moros fighting under the umbrella of the Moro National Liberation

Front (MNLF) and the Philippine Government. They were regarded as political refugees seeking sanctuaries in Sabah.

A number of such refugees have testified before the RCI but for the purpose of our consideration, we think it is sufficient to refer to the testimony of one of them, namely, Abdul Salam bin Ali (W10) who was born in Tawi-Tawi in the Philippines in 1959. He entered Sabah illegally in 1971 because of the civil war in the Philippines. Although he had no travel documents with him at the time, he did not encounter any difficulties on entry. There were no checks by the authorities. As a refugee, he was allowed to settle in a settlement scheme established by the State Government. Initially, there were about five such settlement schemes gazetted by the Government. These settlement schemes were managed by the United Nations High Commissioner for Refugees and the International Red Cross but with the assistance of the Sabah State Government. In fact, a Settlement Unit in the Chief Minister's department was established in 1976 to look after the welfare of refugees in the settlement schemes.

The evidence of Abdul Jaapar Alip (W3), a Settlement Unit's Welfare Officer is revealing. He says that there were five settlement schemes established in Sabah namely, Telipok (Kota Kinabalu), Kinarut (Kota Kinabalu), Kampung Bahagia (Sandakan),

Kampung Selamat (Semporna) and Kampung Hidayat (Tawau). These settlement schemes were located on Government land and the refugees therein were from the Philippines. They came to Sabah in the period from 1972 to 1976. According to him, refugees had to be qualified in order to stay in the gazetted settlement schemes. They had to undergo an interview process conducted by officers from the Settlement Unit. There were five conditions which refugees had to fulfill as follows:

- a) *They must have come from the so-called Region 9- ie. in that part of southern Philippines where the civil war took place;*
- b) *They must have been directly or indirectly involved in the civil war in southern Philippines;*
- c) *They must have entered Sabah in the period between 1970 and 1984;*
- d) *They must be Muslims;*
- e) *They must express the desire not to stay permanently in Sabah.*

He says that any refugee staying in a settlement scheme would be issued with a settlement pass by the Settlement Unit.

Later, he would be issued with a registration acknowledgement receipt and thereafter, a work pass which would entitle him to be issued with an IMM13 pass. He states that the registration exercise conducted in the period from 1976 to 1985 disclosed the number of refugees to be 73,000 and that from 1987 to 1992, the Settlement Unit had apparently conducted a number of registration exercises on transient population in Sabah with the assistance of the newly established Institute of Development Studies (IDS). During these exercises, temporary identification receipts were issued to the refugees. These receipts were also described as "kad burung-burung" apparently because they had some bird images imprinted on them. The temporary identification receipts would then be taken back in exchange for the temporary identification cards. The total number of refugees registered under this exercise was 325,000 covering the period from 1987 to 1992. There was no such exercise from 1992 to 2007 but from 2007, there was some form of verification exercise being carried out by the Settlement Unit in order to include those remaining refugees found to be qualified for registration under the old guidelines.

The evidence of Abdul Jaapar Alip (W3) is corroborated in material particulars by Mokhtar Yassin Ajam (W4) who was at the material time the Secretary attached to the Home Affairs and

Research Division of the Chief Minister's Office, Sabah, and whose duties included assisting in managing the Settlement Unit. He says that from 1976 to 1989, the general responsibility for managing the affairs of the refugees and the settlement schemes fell under the Chief Minister's Department but from 1989 onwards, those duties were essentially taken over by the Federal Special Task Force (FSTF) of the Ministry of Home Affairs with some assistance from the Chief Minister's Department. There are now apparently 33 such settlements. According to Mokhtar Yassin Ajam (W4), as at 2010, the records showed 33,019 Filipino refugees had been registered. This figure appeared to contradict the figure given by Abdul Jaapar Alip (W3) who gave a figure of 73,000 instead.

Dr. Chong Eng Leong (W187) in his book entitled "**Lest we Forget**" states that the number of refugees in 1972 and 1973 was 57,197 and the latest figure disclosed by the Chief Minister's Office in 2008 was 80,000. He has questioned the accuracy of this figure and has taken the view that it should be about 250,000 given the fact that, according to him, the growth in population between 1970 to 2000 was 300%. In his oral evidence he states that the total number of immigrants including refugees in Sabah was about 600,000. Dr. Chong further states that according to the census

taken by the Statistic's Department, the population in Sabah as at 2010 was 3,206,742, out of which 889,779 were non-citizens, meaning foreigners. That would be 27.7% of the total population.

We would at this stage refer to the research work done by the RCI Investigating Officers on issues relating to the settlement schemes in Sabah. We think that their views and comments on those issues as reflected in the Bundle P172 deserve consideration. Therein, they comment as follows:

- 1) *That entry by Filipino Islamic refugees into Sabah from 1972 to 1984 caused by the armed conflict in Southern Philippines had placed the burden of responsibility onto the hands of the Sabah State Government, in particular the Settlement Unit of the Office of Native Affairs and Research under the Chief Minister's Department which was established in October 1976.*
- 2) *That the settlement schemes began operations on 31/12/1979 when UNHCR contributed in terms of housing, welfare, etc., for these settlement schemes. UNHCR role actually began in 1980 when they took charge of four settlement schemes i.e. Kampung*

Selamat, Semporna (1979); Kampung Hidayat, Tawau (1982); Kampung Bahagia, Sandakan (1983) and Kinarut, Papar (1987). There are now 32 settlements throughout Sabah.

3) That the establishment of Filipino settlements in Sabah had to be looked at from several perspectives, namely first, Filipino Islamic refugees entered Sabah due to the civil war in Southern Philippines. This was in the period from 1972 to 1984. Second, they were initially managed by the Sabah State Government through the CM's Department but with the agreement and assistance of UNHCR. However in 1989, the management role and duties were taken over by the Federal Special Task Force (FSTF) under the Ministry of Home Affairs in accordance with "Arahan MKN Bil.16". Third, special treatment was to be accorded to Filipino Islamic refugees in the following manner:

"2.3.1) Pengecualian di bawah Akta Pasport 1966

– Perintah Pasport (Pengecualian) (No.2)

Pindaan 1972

2.3.2) Dokumen-dokumen yang dikeluarkan kepada Pelarian Islam Filipina (PIF) adalah seperti:

2.3.2.1 Kad Jabatan Ketua Menteri (JKM)

2.3.2.2 Sijil Banci PPKP (S/L)

2.3.2.3 IMM13 (P) (JKM)

2.3.3) Boleh tinggal dan bekerja di Sabah dan W.P. Labuan.

2.3.4) Tidak boleh diusir tanpa kerelaan kecuali terlibat dengan jenayah.”

4) UNHCR had established Islamic Filipino refugee settlements to be based on several conditions, some of which are stated herein below:

"2.5.1) Tidak boleh dipaksa pulang ke negara asal tanpa kerelaan.

2.4.2) Tidak boleh dihalang untuk pulang ke negara asal sekiranya ingin berbuat demikian. Namun sekiranya pulang, status perlariannya adalah terbatal.

2.4.3) *Tidak boleh dihalang sekiranya ada negara ketiga yang ingin menerima Pelarian Islam Filipina (PIF)."*

5) *Malaysian Government adopted a number of policies to manage Islamic Filipino refugees, some of which are stated herein below:*

"2.5.1) *Bagi Pelarian Islam Filipina (PIF) yang tinggal lebih daripada 15 tahun, boleh memohon permit masuk.*

2.5.2) *Selepas permit Masuk diluluskan, pemberian Taraf Penduduk Tetap akan diberikan."*

6) *A number of documents have been utilized in managing PIF in Sabah such as census certificates and IMM13 passes.*

The investigating officers have also commented briefly on the history relating to the influx of refugees from the Philippines to Sabah including the procedures for the applications of birth

certificates and IMM13 passes. There was apparently a directive from the Ministry of Home Affairs regarding the issuance of permanent residence to refugees. This is reflected in paragraph 2.6.3 of Bundle P172 which states:

"Pada tahun 2002, MKN dalam keputusan Sidang MKN Bil. 1/2002 telah memutuskan pemberian Taraf Penduduk Tetap (PR) kepada Pelarian Islam Filipina (PIF) di Sabah dan Labuan.

Kategori Pelarian Islam Filipina (PIF) yang layak didaftarkan iaitu:

2.6.3.1) Memiliki dokumen IMM13.

2.6.3.2) Menetap di Malaysia antara 15-19 tahun.

2.6.3.3) Melepasi tapisan keselamatan dan fasih berbahasa Melayu.

Permohonan permit masuk ini diuruskan oleh Unit Permit Masuk Jabatan Imigresen Malaysia dan dihantar terus ke Kementerian Dalam Negeri (KDN)."

Clearly, on the evidence before the RCI, the Mindanao Insurgency in the Philippines in the 1970s was the principal instrumental factor in causing the huge influx of Filipino refugees to

Sabah. The civil war between the Philippine Government and the Muslim Moros in southern Philippines seeking independence or political autonomy had been going on for decades. At one stage, with the signing of a peace accord between them, many people perceived that the armed conflict had ceased or would cease. However, as recent events of fighting in Zamboanga, Philippines, had shown, that perception may well be inaccurate. Given the existing volatile situation in that region, the reluctance on the part of Filipino refugees wanting to return to their country of origin, is understandable. Most, if not all, have chosen to remain in the safety and peaceful environment of Sabah.

3.1.5.3 Economic Migrants

The final phase of migration can be said to have started from 1978. According to Dr. Kamal Sadiq in his article entitled “... **Conflict Over Illegal Immigration into Malaysia**”, this period saw a massive influx of illegal immigrants into Sabah. They could not technically be considered refugees because by then the Moro National Liberation Front (MNLF) had signed a peace agreement with the Philippine Government. This latest phase of migration to Sabah was perceived by local Sabahans as comprising mainly of

economic migrants seeking a better livelihood in Sabah. Dr. Kamal stated that a range of figures was quoted as to the number of illegal immigrants in Sabah but there was no specific figure cited. The authorities appeared to underestimate the data, prompting Dr. Kamal to comment thus:

“Recognizing the problems of underestimation in the state data, Azizah Kassim (a Malaysian scholar and researcher) cites a former Chief Minister as estimating illegal immigrant numbers to be in the range of 400,000-500,000 (Kassim, 1998:285). Most leaders of the main opposition party, the Parti Bersatu Sabah (PBS), give the figure of 1 million foreigners out of a current Sabah population of about 2.8 million. Leaders of the Filipino community in the Philippines give similar estimates; their numbers in Sabah have passed the 1 million mark, making them the biggest concentration of Filipino illegals in any part of the world (Philippine Daily Inquirer 1999). This means that almost one in every 3 residents of Sabah may be a foreigner. Here “foreigner” would include both illegal immigrants and legal workers.”

Dr. Kamal Sadiq also stated that illegal immigration was changing the ethnic composition of Sabah in significant ways. According to him, at the beginning of the 20th Century, Kadazandusuns was the dominant ethnic group comprising about 42% of the state population. They fell to 32% by 1960 and by 1970, they went down to 29.9% and then, to their alarm and dismay, they went further down to 19.6% by 1990. They were categorized under the non-Muslim groups.

Admittedly, there is uncertainty as to the exact figures on illegal immigrants in Sabah. Even the Position Paper on illegal immigrants (P110) submitted by Sabah Progressive Party (SAPP) to the Federal Government in 1999 reiterated that there were no consistent figures given on the total number of Indonesian and Filipino immigrants in Sabah although the figures range from 150,000 to 600,000. It noted however the figure of 553,860 illegal immigrants given by FSTF as at August 1997. And out of that figure, 226,565 of them accompanied by 187,267 dependents were confirmed by 30,033 employers as their workers. According to the said Position Paper, the statistics showed one out of every four people in Sabah was a foreigner; that they and their dependents, whose birthrates were higher than locals, occupied and enjoyed the same public facilities and utilities as locals such

as roads, transport, education and health. There is no clear evidence of where the numbers cited above were derived from. It would appear that these figures could merely refer to foreign workers in general and not necessarily to illegal immigrants in particular.

In 2007, Parti Bersatu Sabah (PBS) submitted a Memorandum to the Prime Minister, Malaysia, Datuk Seri Abdullah Ahmad Badawi (now Tun) expressing grave concern about the huge numbers of illegal immigrants in Sabah. It drew attention to the period from 1970 to 2000 where the increase in the population of Sabah was 301% (1,954,707) as compared to 106% (1,036,347) for Sarawak. Specifically, the statistics showed the following increases: (a) in 1980, the increase for Sabah was 56% as compared to 27% for Sarawak; (b) in 1991, the increase for Sabah was 78% as compared to 33% for Sarawak and (c) in 2000, the increase for Sabah was 44% as compared to 23% for Sarawak. It was quite evident that the biggest increase was in 1991 when it registered an increase of 78%. The Memorandum reiterated that on calculation, the number of illegal immigrants in Sabah would have been 1.7 million and this figure comprised the following: (a) 600,000 new citizens who were claiming to be Bumiputras and who were actually holders of genuine Malaysian

ICs and their dependants; (b) 750,000 with false ICs or expired documents or none at all and (c) 400,000 legal workers and IMM13 holders (refugees).

We have noted the unofficial figures above. However there is no clear evidence as to the accuracy or otherwise of the figures given as these figures were not obtained from the Statistics Department nor were they confirmed by the said department. The Memorandum also cited the following figures allegedly from the Statistics Department i.e. that for the period from 1970 to 2000, the population increase for KadazanDusunMurut (KDM) was 162%; the population increase for Bajau and Iranun was 344% and the population increase for Malays was 1552%. In the absence of any evidence to the contrary, these figures could be perceived as credible even though no officials from the Statistics Department had been called to verify or confirm their accuracy or otherwise.

The Position Paper or the so-called UPKO Initiative (P123) presented by the President of UPKO Sabah also touches on the unnatural population growth in Sabah over the years. Therein, it states that the population of Sabah in 1960 was 454,421 persons of which the KadazanDusunMurut (KDM) accounted for 37% thereof but in 1991, this had gone down to 21.9% and by 2000 it went further down to 21.6% of the total population. A table chart

has been produced to illustrate this point. We think it is significant to reproduce the table for the purpose of emphasis and clarity.

“Population of Sabah 1960 – 2000 (Sabah Natives)

Year	Sabah	Bumi Population	KDM	Muslim Bumiputra
1960	454,421	309,833	167,993	141,840
1970	648,693	437,075	215,811	221,264
1980	1,013,003	Pribumi (831,141)		
1991	1,808,848	1,003,540	397,287	606,253
2000	2,603,485	1,601,300	564,600	1,036,700

Growth rate of KDM (1960-2000) – 236%

Growth rate of Muslim Bumiputra (1960-2000) – 631%”

It is also interesting to note the population figures for Sabah as compared to Sarawak reflected on the paper presented by Dr. Chong Eng Leong at the Suhakam Round Table Discussion on 31/7/2006. These figures have been produced in PBS Position

Paper referred to earlier but are reproduced herein below in the table format by Dr. Chong:

Year	Sabah (% increase)	Sarawak (% increase)
1970	648,692	976,269
1980	1,013,003 (56%)	1,235,553 (27%)
1991	1,808,848 (78%)	1,642,771 (33%)
2000	2,603,485 (44%)	2,012,616 (23%)
1970-2000	301% increase	106% increase

The unusual growth in Sabah's population was also commented by Dr. Kamal Sadiq in his article "... **Conflict Over Illegal Immigration into Malaysia**" (annexed to PBS Position Paper P110) wherein he states *inter alia*:

"Sabah's population is growing dramatically. It is experiencing an alarming annual growth rate of 6.2% compared with the low Malaysian rate of 2.7% and Sabah is projected to have a rate of 5.4% against the national average of 2.3%. Sabah's growth rate is almost 3 times

that of other states. According to the Seventh Malaysia Plan (1995-2000), Sabah would have an estimated 3.3 million people while the neighboring state of Sarawak will trail with a low 2.06 million. In fact, as recently as 1980, Sabah population was smaller than Sarawak's. Sabah and Sarawak had, until recently, similar fertility rates and death rates. While Sarawak has higher in-migration from Peninsular Malaysia than Sabah, Sabah's annual population growth rates are 3 times that of Sarawak. The question is where the extra 1.3 million people came from when the population growth rates of both Sabah and Sarawak should have paralleled one another has become pre-eminently important to the natives of Sabah... The obvious reference was to the rampant pervasiveness of illegal immigrants in the state."

As we mentioned earlier, Suhakam conducted roundtable discussions on illegal immigrants in Sabah as reported in the New Straits Times, Sabah, dated 24/8/2006. In the course of the discussions, there was general concern that the population explosion in Sabah over the last 3 decades had raised the

question of who were the so called new Bumiputras. The statistics as reported in the said New Straits Times stated thus:

“... the largest native group the KadazanDusun is said to have increased by only 236% from 167,993 in 1960 to 564,600 in 2000 whereas the other Bumiputras rose to 361% from 141,840 in 1960 to 1.036 million over the last 3 decades. The State’s population meanwhile recorded an increase of 362% from 643,693 in 1970 to 2.6 million in 2000 compared to Sarawak’s 135% from 976,269 in 1970 to 2.01 million in 2000.”

Suhakam indicated that there were approximately 600,000 immigrants in Sabah who possessed genuine ICs which have been obtained with the approval of the authorities; that at least another 750,000 foreigners were said to have genuine ICs without such approval or possessed false or expired documents or did not possess any documents at all. At one stage, Professor Datuk Hamdan Adnan, a member of Suhakam warned that if the illegal immigrant issue was not resolved, it could raise the specter of an eventual “reverse takeover” by which he meant the possibility of

illegals possessing Malaysian ICs becoming political leaders in the State.

In a research paper presented by Azizah Kassim at a seminar organized and published by the Institute of Development Studies, Sabah (IDS) in 2003 under the title "**Reinventing Sabah: Global Challenges and Policy Responses**", the author had stated that according to the Malaysian Population and Household Census in 2000, the population of Malaysia was recorded as 23.2 million; that out of this figure, about 6% or over 1.3 million consisted of foreign nationals; that while 49.9% was found in West Malaysia, 44% were found to be in Sabah alone; that in the case of Sabah, the percentage of non-citizens against its population was over 23.7% compared to about 3% in West Malaysia as reflected below:

Distribution of Foreign Population in Malaysia (2000)

	Total Population	Non-Citizens : Number & % of State Pop.	Non-Citizens : % of Total Foreign Pop.
Peninsular Malaysia			
Johor	2,740,625	150,530 (5.5)	10.9
Kedah	1,649,756	25,605 (1.6)	1.8
Kelantan	1,313,014	20,795 (1.6)	1.5
Melaka	635,791	22,944 (3.6)	1.7
Negeri Sembilan	859,924	31,859 (3.7)	2.3
Pahang	1,288,376	54,800 (4.3)	3.9
Perak	2,051,236	38,345 (1.9)	2.8
Perlis	204,450	3,155 (1.5)	0.2
Pulau Pinang	1,313,449	48,382 (3.7)	3.5
Selangor	4,188,876	186,382 (4.5)	13.5
Terengganu	898,825	15,838 (1.8)	1.1
Federal Territory (Kuala Lumpur)	1,379,310	92,373 (6.7)	6.7
Sub-Total	18,523,632	691,032	49.9
Sabah	2,603,485	614,824 (23.6)	44.4
Sarawak	2,071,506	62,738	4.5
Federal Territory (Labuan)	76,067	16,150 (21.2)	1.2
Malaysia	23,274,690	1,384,744 (5.9)	100

The paper referred to statistics on the population of immigrants found in all the main districts of Sabah. It found that in the 6 districts on the eastern coast and the northern part of the State, immigrants formed more than 25% of the local population; that in

the district of Kinabatangan, they were in the majority, forming more than 73% of the population.

3.1.6 Push & Pull Factors

We will now examine the so-called “push & pull factors” in the context of illegal immigrants from the Philippines and Indonesia. We begin from its general context. Here, there is ample evidence to establish that there was a huge influx of illegal immigrants to Sabah from 1978 onwards essentially for economic reasons. They were the so-called economic migrants. There were stark economic disparities between Southern Philippines, Indonesia and Sabah. On the evidence before us, it is reasonable to assume that there were massive unemployment in those parts of the Philippines and Indonesia where they originated at the material time. Thus, the difficulties in getting decent jobs there. In contrast, Sabah was rich in natural resources. The State was expanding economically. There were ample job opportunities in most sectors of its economy. It was politically stable and progressive. All these assets and attributes are still there. In short, it can be said that the dire economic scenario in the affected parts of the Philippines and Indonesia provided the “push factor” for people to migrate to

Sabah. In effect, they were looking for economic salvation in the land below the wind.

Another "push factor" may well be related to the alleged territorial claim to Sabah by the Philippine Government. There is some evidence that many Filipinos still perceive Sabah to be part and parcel of the Philippines. Given the frequent changes of government in the Philippines over the years, there has been no clear official policy on abandoning such claim on Sabah. To all intents and purposes, it is still subsisting. Furthermore, as reflected in the recent intrusion into Tanduoc, certain ethnic groups associated with the defunct Sulu Sultanate in the Philippines had the misconception that they could enter Sabah as a matter of historical privilege or right.

What then are the "pull factors" involved? According to the UPKO Initiative (P123), the studies and interviews conducted by their research team have established that the most important factor contributing to the huge increase in illegal immigrants in Sabah is economic. Therein, it has commented *inter alia*:

"Every illegal immigrant that has set foot in Sabah has had a job waiting for him or her before arriving. They have heard about the availability of jobs when they were

in their home country and their family members in Sabah are the ones finding them jobs and encouraging migration. A key source to the problem of illegal immigrants lies in Malaysians who willingly provide employment to illegals with the intention to exploit them for profit at the expense of the law. It is these companies, big and small, restaurants and shops, residences, all of which want cheap labor that are the real culprits..."

Given the expanding plantation and construction sectors in the State and given the fact that locals do not seem to be interested in working in such sectors, it is reasonable to assume that local employers in these sectors would have no option but to take in foreign workers, a fair number of whom would have no proper documentation and would therefore be considered illegal immigrants. Sabah employers have tended to exploit them by paying them meager wages while requiring them to work under exploitative working conditions. There have been cases established in evidence that local employers had employed illegals because they would not have to pay levies, taxes, etc. to the authorities.

In an article entitled "**Migration and Moral Panic**" (P92) by Fadzilah Majid and Dayang Suria Mulia, they have stated that much of the labor required in oil palm plantations in Malaysia is supplied by immigrant labor and that plantation labor in Sabah is largely from Indonesia and some from the Philippines. They further state that work in the plantation sectors has not been successful in attracting local labor, partly because in the balance of options that is open to them, the locals find working conditions in the estates to be less attractive than other industries. This is borne out by the evidence of some employers who appeared before the RCI that most of the locals seem to shun toiling in the sun. They seem to prefer working in more comfortable environment.

One of those witnesses is Roserun @ Raslan bin Sunman (W86), the General Manager of Felda Global Ventures Plantation (M) Sdn. Bhd., Sabah & Sarawak. The company has employed about 9,000 workers and over 90% are foreign workers. All the workers are properly documented. They are employed through duly appointed contract agents. Most of their foreign workers are from Indonesia. Another General Manager from AUMKAR Group of Companies has also testified before the RCI. He says that his company is involved in the oil palm plantations on a large scale in Sabah. Most of his workers are foreigners. He explains that locals

would find difficulties in adjusting to the hard life in the plantations, etc. According to him, the locals do not like working under the hot sun preferring to work under shelter.

Many of the witnesses who appear before the RCI have testified that they came to Sabah to look for jobs. We refer to the evidence of some of these witnesses to illustrate the point. There is Isabelito Teves Pia (W37) who is an illegal immigrant born in 1964 in Basilan, Philippines. She came to Sabah in 1986 to seek a better livelihood. She managed to work at several jobs during her stay in Sabah and eventually ended up as a self-employed farmer. Another Filipino illegal immigrant called Degon bin Amy (W41) who entered Sabah in 2002 was able to work at various jobs in Sabah. He was caught by the authorities in 2012 and is now being detained at the Temporary Detention Centre, Sandakan, pending deportation back to the Philippines. Then, there is an Indonesian illegal immigrant called Nisa binti Rahman (W42) who was born in 1983 in Sulawesi, Indonesia and who entered Sabah in 2011 without any travel documents with a group of her countrymen. Her reason for entering Sabah was economic. While in Sabah, she found no difficulty in getting a job in a palm oil estate. However, she was arrested in December 2012 in Tawau and is now being detained at the Temporary Detention Centre, Sandakan, pending

deportation back to her home country. An Indian immigrant called Mohidin Batcha bin Sariff (W27) entered Sabah in 1978 in order to look for jobs. He was able to work at several restaurants in Sabah without too much difficulty. Another Indian immigrant called Nur Mohd bin Ibrahim (W31) had entered Sabah to work in 1981. He was able to obtain a work permit to work at various places in Sabah. Then, there was a Pakistani illegal immigrant who managed to enter Sabah in 1992 and found work in the grocery business. He married a local Sabahan and was able to obtain a blue Malaysian IC by dubious means.

Given the facts, assumptions and circumstances as stated above, there can be no doubt that the main factor contributing to the huge influx of illegal immigrants to Sabah has been the economic motivation.

3.1.7 Syndicates & Individuals

There is ample evidence before the RCI of the involvement of syndicates and certain corrupt individuals in the issuance of Malaysian ICs and other documents illegally and the extent of their operations. The syndicates would sometimes operate with the collaboration of corrupt officials of relevant departments such as the National Registration Department, Sabah. This is reflected in the evidence of even high profile politicians such as Tan Sri Joseph Pairin Kitingan (W199), the current Deputy Chief Minister of Sabah; Datuk Seri Yong Teck Lee (W129), the former Chief Minister of Sabah and Tan Sri Bernard Dompok (W139), a former Federal Minister.

According to Tan Sri Joseph Pairin Kitingan (W199), there were in existence syndicates which had been actively involved in issuing false ICs, birth certificates, passports, etc. and that these syndicates appeared to be assisted by certain officials in the National Registration Department, Sabah. He gave the impression that it was a serious problem because these syndicates are still operating their business. Datuk Seri Yong Teck Lee (W129), in his Position Paper (P110), alluded briefly to the existence of syndicates and individuals being active in forging ICs, passports and work permits for sale to illegal immigrants in Sabah. He drew

attention to a statement made by a Deputy Minister of Home Affairs in Parliament that in the 10 years up to 1999, no less than 2,533 people in Sabah were produced in court for being in possession of forged ICs; that as far back as 1995, it was reported in the news media that the Federal Government was fully aware of the involvement of syndicates and individuals.

In fact, the then Deputy Minister of Home Affairs, Datuk Ong Ka Ting had stated that this was a serious problem which had prompted the government to invoke the Internal Security Act (ISA) because it could threaten National Security. Then we have the evidence of Tan Sri Bernard Dompok (W139), who in the course of his testimony before the RCI, tendered a Position Paper described as UPKO Initiative (P123). Therein, he alluded to the interviews conducted on 1,002 respondents in 13 locations throughout Sabah. One of the results related to the proliferation in the sales of local birth certificates for RM3,500 each; that these documents would then be used to get the children of illegal immigrants into schools as well as obtaining Malaysian blue ICs. Furthermore, the interviews also disclosed that "akuan sumpah" or statutory declarations were used to obtain ICs through the so-called "Project IC". The ICs could be purchased for between RM2,000 to RM5,000 each depending on locality and quality of the ICs. In all

the 13 locations covered by the interviews, it was observed that nearly all respondents said they were approached by people who claimed to be able to provide ICs at a price. These document traders would use the same pitch by stating that they were from the government or that they were providing the ICs under "Project IC" or that they had contacts within the National Registration Department, Sabah.

The evidence of the above witnesses finds corroboration from the illegal immigrants themselves. Here, we wish to refer to the evidence of some of these witnesses. Abdul Latif bin Jumaain (W161) was born in Ubian Island, Philippines in 1958. He entered Sabah illegally in 1972. While in Sabah, he found no difficulty in finding odd jobs. Before long, he was able to get a Malaysian IC through a third party. He described how he was brought to a private house by someone where he was given a form to fill and thumbprint. He had also filled up a declaration form stating that he was born in Semporna, Sabah. He then paid RM5 for everything. He said that six months later, he was issued a plastic blue IC with the number H0500928. With that, he was able, after going through a long and cumbersome process, to exchange it for a blue IC containing 12 digits with the code 12 (meaning born in Sabah). And recently in 2013, he was able to change it to a MyKad. In

addition, he managed to get a local driving license. With his Malaysian IC, he got himself registered as a voter and had voted three times in Pulau Gaya.

Another witness called Ishak Asluan (W157) testified that he was born in Timor, Indonesia. He was 46 years old and a Muslim. He was in possession of a MyKad with a code 12. He entered Sabah illegally in 1983 looking for jobs and while in Sabah, he had been able to work at various places apparently without any supporting documents and without any problem from the authorities. According to him, he obtained his Malaysian IC through a man called Usman bin Rajak who was allegedly associated to the Berjaya Party. He said that he and 17 others were informed that they could obtain Malaysian ICs on payment of RM40 each. He then described how this Usman brought along with him the completed forms to be filled and thumb-printed; that within a matter of three months, he and the others were able to receive their blue ICs; that upon receipt of his blue IC, he was told that it was for the purpose of voting. He did not register as a voter immediately but did so subsequently in Semporna. He attempted to vote but could not as his name did not appear in the electoral roll. He said that at one stage, he lost his blue IC but with the help of someone in Semporna, he was able to get his MyKad on

payment of RM500. It should be noted here that during the RCI proceedings, the conducting officers had checked with the National Registration Department's records and found that this MyKad did not appear in NRD's records. Strangely enough, he had been using this MyKad for many years, apparently, without any problem from the authorities.

Corroboration can be found in yet another witness called Ahmad bin Soso (W153) who was born in the Bone district, Sulawesi, Indonesia. He entered Sabah in 1978 when he was 14 years old onboard a ship with about 700 people. He entered by way of Nunukan and Tawau using an Indonesian passport. Upon entry into Sabah, he was able to work at several plantations. His passport then expired. He did not renew it. He said that about 1990, he and some friends went up to Kota Kinabalu and there he met a Bugis man who told him he could help in obtaining a blue IC. He was then brought to a house where he was requested to fill some forms and to thumbprint thereon. According to him, he was able to receive a blue IC with code H within three months. He denied paying anything for it. With this IC, he was able to change to a hibiscus IC and then to a MyKad which he is currently using. He had registered as a voter and had voted at elections since 1990.

The final witness we wish to draw attention to is Zainal Abidin bin Mohammad (W147), who was an immigrant from India. He was born in Tamil Nadu in 1961. During his stay in Sabah, he was able to get a Malaysian IC, apparently through someone in the National Registration Department, Sabah, without going through the normal process. Eventually, he ended up obtaining a MyKad with a code 12 (meaning born in Sabah). He was also able to register himself as a voter and had voted 4 or 5 times at elections in the state. In this connection, we also have the evidence of two officers from the Special Branch who were tasked with questioning the two ex-Directors of the National Registration Department, Sabah, who were arrested and detained under the ISA for allegedly involved in the issuance of Malaysian ICs to illegal immigrants by dubious means.

Datuk Hj. Ibrahim bin Hj. Zakaria (W33), the head of Special Branch, Sarawak, has testified that 94 suspects were in fact detained under the ISA and 24 of them were attached to the National Registration Department, Sabah, at the material time. He was assigned to question Datuk Rauf Sani, the Director of NRD, Sabah. From the questioning, he was able to ascertain that 6,305 ICs had been issued illegally resulting in a collection of RM167,300. According to him, the sole motive was for financial

gain. His evidence was substantially corroborated by another Special Branch officer, DSP Badaruddin bin Ismail (W34) who was assigned to question another Director of NRD, Sabah, Encik Ramli bin Kamaruddin (W11).

Indeed, as far back as 1999, it was already reported in the local newspapers in Sabah, that it was a lucrative business being involved in fake ICs or genuine ICs illegally issued. There was much money to be made by syndicates or individuals or corrupt officials because a false IC could fetch between RM400 to RM500 and a Malaysian passport could cost up to RM50,000. This was compounded by the fact that huge numbers of people in the State did not possess birth certificates. For example, in 1999, an official of the NRD in Sabah, had complained that over 2 million people residing there did not possess birth certificates. This was reported in The Sun newspaper. This was alarming when one considered that the total population of Sabah at that time was estimated to be about 2.8 million. The reason could be due to the fact that many Sabah residents were born at home in remote villages or on remote islands and not in the hospitals or clinics where births had to be registered and birth certificates issued. There was also ignorance of the law requiring the need to register their births.

The fact that syndicates were operating extensively in the business of issuing fake ICs, etc., is also reflected in the comments by scholars and researchers such as Dr. Dayang Mulia of University Malaysia Sabah (UMS) and Dr. Kamal Sadiq of the University of California - Irvine. In his article entitled “...**Conflict Over Illegal Immigration into Malaysia**”, Dr. Kamal commented that it was common knowledge for immigrants to become seemingly legal through false documents. According to him, labor operators would help facilitate this semblance of legality. Most of them were responsible for transporting Filipino immigrants to Sabah upon payment. Given the huge numbers of immigrants involved, these operators both outside and within Sabah were operating a thriving industry by issuing fake birth certificates and Malaysian ICs. A birth certificate is an essential document for obtaining a Malaysian IC which is the main citizenship document. The IC is the basic document needed for entering the school system, exercising the franchise and becoming illegible for licenses. Therefore, illegal immigrants would have a strong incentive to acquire these documents and by any means necessary. Furthermore, Dr. Dayang in her article entitled “...**Social Networks...Evidence From Undocumented Immigrants in Sabah**” commented that through established social networks in

Sabah, illegal immigrants were able to obtain information on how and where they could obtain Malaysian birth certificates and ICs; that their existence had the effect of facilitating their goals of getting those documents.

In summary therefore, it can be said that illegal immigrants did not find any difficulty in procuring Malaysian ICs, birth certificates and other documents in the process of incorporating themselves into Sabah society and thereby facilitating access to most, if not all, social, economic and political rights of Malaysian citizenship. Clearly, all this provided a significant pull factor in the migration to Sabah.

3.1.8 Squatter Colonies

Squatter colonies have been one of the root causes for the increase in the population of illegal immigrants in Sabah. For decades, Sabahans have tolerated the increasing number of squatter colonies in the State. It has now reached crisis proportions. There are too many reports of the problems relating to these squatter colonies. Even as far back as 1999, it was reported in the Borneo Post that the relevant authorities had taken no concrete action to resolve the squatter colonies that had continued

to spread all over the State. One newspaper reported that illegal immigrants were responsible in creating slums out of the many squatter colonies they resided. This apparently prompted the Director of FSTF Datuk Hj. Abu Talib Harun to comment that the number of illegal immigrants seeking refuge in the squatter settlements or colonies to avoid detection had reached an alarming level and he admitted that these squatter settlements or colonies were a major cause for the increase in the illegal transient population in Sabah (see New Straits Times dd. 11/9/1999).

Furthermore, a writer under the name "Amde Sidik" took the view that the squatters' problems were the worst in Malaysia. He said that they were mostly illegal immigrants and that the squatter colonies had spread from the coastal areas like Tawau, Sandakan, Lahad Datu, Semporna, Kunak and Kudat to the interior such as Keningau, Ranau and Sipitang (see appendix L2 of SAPP paper). Then in 2006, the acting Commissioner of Police, Sabah, was reported to have said that the mushrooming of squatter colonies in Sabah was the root causes of social ills and crimes in the State and he warned: "Don't wait another 10 or 20 years until more squatter houses are built as by then, it would be too late to act".

Indeed this alarming call was echoed by SAPP in its position paper (P110) where it is stated that law enforcement agencies had

described squatter colonies as hotbeds for illegal activities; that health authorities had described them as incubators with the potential to cause outbreak of contagious diseases and that the local Sabahans perceived them as eyesores damaging the environment and their quality of life. It goes on to state that poverty and deprivation are the hallmarks of squatter colonies giving rise to plunder and rape of the environment. It bemoans the fact that although the State Government had made numerous statements on the need to demolish those squatter colonies, it had not demonstrated the necessary political will to deal with it. It has suggested that there should be strict enforcement of relevant legislations to compel employers to provide housing for their foreign workers and dependents as a way of alleviating or mitigating the squatter problems.

Pulau Gaya was said to be the favorite squatter colony because it provided easy access to Kota Kinabalu where most illegals worked in the service and construction sectors. In a write up under "Opinion" published in the Daily Express on 27/6/1999 in reference to Pulau Gaya, the writer stated:

"In no time, it became a self-contained settlement with its own social order and infrastructure complete with a

mosque and school for their young and chosen leaders to oversee their family and community affairs. When locals realized the advantage of having residence on the island, they too moved in. The social interaction among the locals and foreigners resulted in mixed marriages and today it is not unusual to find a large number of families comprising local men and women with foreign spouses and their children. Add to this, the involvement of local politicians who offer them protection in return for their votes during the general elections.”

He added that Kota Kinabalu City Hall (DBKK) had often been reproached for demolishing homes belonging to illegal immigrants and its officials being unfairly branded as behaving inhumanely or uncaringly in carrying out their tasks. He cited an example of a confrontation between DBKK and a BN component party on the site of a proposed new State Library where a squatter village had sprung up, apparently, with a tacit understanding and protection from certain politicians. According to the writer, DBKK's ongoing exercises to clean up the known problem areas in these squatter colonies had been met with stiff resistance from the illegals

themselves as well as the racketeers affected by the demolition exercises.

Another panelist wrote in the Daily Express that Sabah had the largest number of squatters in Malaysia, most of whom were illegal immigrants; that they tended to build houses wherever there was space available irrespective of whose land they belonged to. These houses were easy to erect because of the cheap materials used. According to him, in Kota Kinabalu, about 80% of houses bulldozed by the authorities were erected by illegal immigrants from the Philippines and 20% from Indonesia while those from Pakistan and India preferred to rent houses. This trend had apparently spread from the east coast of Sabah to the interior.

We also wish to draw attention to a number of newspaper cuttings attached to SAPP's Position Paper which has touched on problems relating to squatter colonies in Sabah. Appendix L1 of P110 contains an article in the Daily Express under "Opinion" which commented that illegal immigrants had been increasingly blamed for crimes and insecurity felt and experienced by Sabah communities; filthy and unhygienic conditions through indiscriminate littering of towns and work-sites; mushrooming of squatter colonies throughout Sabah; burgeoning drug trade resulting in increase in social ills; and depriving locals of legitimate

jobs. In that article, the writer took the view that whilst there was a need to have foreign workers in Sabah for economic reasons, there is a concurrent need to establish order and organization to resolve the problem. He raised the possibility of establishing the so-called "new village concept" along the lines of those established under the Emergency Rule in the 1950s. According to him, although such a proposal might be criticized by some quarters as having the effect of depriving locals of certain facilities, it was really a matter of choice i.e. "whether we wish to see the problem continue to snowball into an uncontrollable nightmare or establish some order and bring the situation under our own control".

In another article (see appendix L3 of P110) under the column "Forum Letters" dated July 1999, the writer had complained about the lack of political will regarding the need to relocate and demolish squatter colonies; that there was political interference against local council's enforcement actions on squatters. He opined that the job of demolition should not be borne only by local councils but also by other agencies including the Federal Special Task Force (FSTF). On this he said:

"It is the lethargy and often ambivalent attitude of the State and Federal Governments towards the illegals that

has led to the intolerable present situation. They should clear the mess and not merely leave it to the local councils."

In fact, the FSTF had in 1999 requested the Sabah State Government to prevent the expansion of squatter colonies in Sabah in order to curb the influx of additional immigrants. The Director of FSTF was reported to have said that he would be submitting a proposal to the State Government on the matter. He admitted that squatter colonies were a major cause for the increase in the illegal transient population in Sabah (see appendix L10, P110). There was however no indication about the content of this proposal or whether it was done.

In the course of the investigations, the RCI Investigators had visited most of the squatter colonies. They had compiled their visits in a bundle. According to them, there were 182 squatter colonies or settlements in Sabah, occupied by foreigners. They visited 117 of them. The details of the reports on 12 of those colonies are reflected in Bundle P173. Generally, the investigation revealed that only a few of the colonies had been provided with the basic facilities. Under "Ulasan", it is stated thus:

“Secara keseluruhannya Pasukan Siasatan SSPA telah berjaya menjalankan siasatan di penempatan setinggan di seluruh negeri Sabah. Terdapat beberapa penempatan setinggan yang lebih teratur dengan adanya kemudahan seperti jalan bertar, bekalan air dan elektrik, sekolah KAFA, tadika KEMAS, kawasan permainan, surau, gelanggang futsal, perhentian bas dan jambatan bersimen yang menyambung dari satu rumah ke satu rumah yang lain. Walaubagaimanapun, terdapat juga penempatan setinggan yang tidak mempunyai kemudahan-kemudahan seperti dinyatakan di atas.”

On the basis of their investigations, the RCI Investigators had made certain proposals for consideration. Under “Cadangan”, they stated as follows:

“Pasukan Siasatan SSPA mengesyorkan agar masalah sosial dan jenayah di penempatan setinggan di Sabah haruslah ditangani dengan sewajarnya. Pihak berkuasa tempatan perlu mengambil langkah proaktif seperti mengadakan pemeriksaan, bancian, penempatan semula dan merobohkan rumah-rumah di penempatan setinggan.

Pendatang asing tanpa izin perlu diambil tindakan tegas di mana mereka perlu ditangkap dan diusir ke negara asal. Selain dari itu, pihak kerajaan juga boleh mewujudkan perkampungan baru denganewartakan penempatan setinggian yang teratur yang telah sedia ada, JKKK dan RELA di perkampungan yang diwartakan perlu diwujudkan di mana ia dapat membantu mengurangkan kadar jenayah dan isu-isu lain yang timbul.”

In the final analysis, when all the evidence, facts and circumstances are taken into consideration, it is quite evident that the squatter colonies or communities in Sabah are expanding in numbers and size with the passage of time. Obviously, the social networks arising from ties of kinship, friendship and ethnicity had contributed to their numbers and size. Most of them have become safe havens for new and incoming illegal immigrants. Then there is the transient population referred to earlier which would include foreign workers in Sabah. Their numbers have been increasing over the years. In a research paper entitled “**Pekerja Asing di Sabah: Isu dan Perspektif**” by Dr. Dayang Suria Mulia (P92), she states that the increasing number of foreign workers has resulted in the concurrent increase in the number of squatter settlements in

Sabah. She describes both the negative and positive aspects of these settlements and how the authorities have attempted to resolve the problems arising therefrom. Nevertheless, these settlements can still be regarded as an important pull factor in migration.

3.1.9 Geographical Features

It is common knowledge that one of the main reasons for the unregulated flow of illegal immigrants from the Philippines and Indonesia into Sabah is the geographical proximity. Sabah has a coastline of more than 1,700km. Its proximity to several islands in the Philippine waters allows for easy access across state boundaries. There are about 200 small islands off Sabah's east coast of which 52 are inhabited. In some places, it takes less than 20 minutes by boat to reach Sabah's waters from the Philippines. (see Daily Express 2000). Sabah also shares a land border with Indonesia. The following excerpt from an article by Dr. Kamal Sadiq is insightful:

"... it is commonly known among Sabahans that the coastal town of Sandakan... is overwhelmingly Filipinos,

while Indonesians comprise the majority of residents in Tawau, a Sabah town that borders Indonesia. According to illegal immigrants in Sabah, it takes approximately 2 days to reach Kota Kinabalu, the capital of Sabah, from the Philippines by boat. In fact, one of the landing points is just below the Yayasan Sabah, a skyscraper housing the Chief Minister's office and other key Sabahan Ministries dealing with immigration or security..."

Indeed, the ease in which illegal immigrants were able to enter Sabah from the Philippines and Indonesia is amply demonstrated by the evidence of numerous witnesses before the RCI. We think it is sufficient to refer to a few of these witnesses. Degon bin Amy (W4) was born in Tawi-Tawi, South Philippines. He entered Sabah illegally in 2002 by boat with about 60 people. He came through Sandakan without any documents. He encountered no difficulty on entry as there were no checks whatsoever by the authorities. While in Sabah, he was able to work at various jobs until he was arrested in 2012 and then detained at the Temporary Detention Centre pending deportation. Another illegal immigrant by the name of Nisa binti Rahman (W42) who was born in Sulawesi, Indonesia, had entered Sabah in a cargo ship through Nunukan

and Tawau, with a group of people without any documents and without any difficulty. They were not stopped and checked by the authorities. Yet another illegal immigrant called Waja bin Alik (W43) from Tambawan, Mindanao, Philippines, had found no difficulties in entering Sabah by boat with some members of his family. None of them had any travel documents at the time. In fact, all the witnesses who testified before the RCI had either entered Sabah as refugees or economic migrants and had found no difficulties in doing so. This is certainly a reflection of the poor quality border controls adopted by the relevant authorities.

In this respect, the comments by the RCI Investigators are particularly revealing. In the course of their investigations, the RCI Investigators were able to disclose that 48 locations or entry points were used by immigrants from the Philippines and 17 locations were used by those from Indonesia. These locations or entry points were not gazetted by the authorities. All these were compiled in their Bundle P173. We do not intend to go into the details. Suffice for us to draw attention to the column under "Hasil Siasatan" which states:

"Hasil siasatan, kemasukan pendatang asing tanpa izin (PTI) ke Sabah selain dari faktor penarik dan penolak dari

sudut ekonomi, politik, sosial, kebudayaan dan sebagainya, ia turut dibantu oleh beberapa factor lain, antaranya ialah:

- 5.1) Kawasan sempadan dan perairan negeri Sabah yang begitu luas di mana struktur dan bentuk geografinya menyukarkan kawalan lebih ketat dibuat;
- 5.2) Kawalan pintu masuk dan keluar yang tidak diwartakan agak longgar (khususnya di sempadan dan perairan negeri Sabah) dan ada yang langsung tiada kawalan dibuat;
- 5.3) Lokasi pos kawalan pihak keselamatan dan Jabatan Imigresen yang perlu dikaji semula dari segi kesesuaiannya;
- 5.4) Kelengkapan peralatan logistik pihak berkuasa keselamatan yang tidak bersesuaian dan tidak mencukupi termasuk dari segi jumlah keanggotaan;
- 5.5) Fokus kekuatan lebih tertumpu di daratan tetapi kurang di luar. Kemahan ketara dikenalpasti ialah mudahnya sempadan laut Sabah dibolosi;

- 5.6) *Kurangnya kerjasama secara efektif antara Jabatan-Jabatan yang terlibat dalam menangani kemasukan PTI;*
- 5.7) *Tahap integriti pihak yang dipertanggungjawabkan perlulah dipertingkatkan; dan*
- 5.8) *Penempatan-penempatan haram, setingan, pelarian dan sebagainya yang wujud di dalam Daerah Sabah perlu dikaji dan disusun semula dengan penuh iltizam tanpa mengira kepentingan politik dan peribadi.”*

As a result of their investigations, the RCI Investigators have made certain recommendations as follows:

- "6.4.1) *Kawalan pintu masuk dan keluar yang tidak diwartakan perlu dibuat kajian secara teliti dan penempatan semula atau mewujudkan pos kawalan baru di kawasan-kawasan yang dikenalpasti;*
- 6.4.2) *Kelengkapan peralatan logistik yang bersesuaian serta sumber manusia perlu dipertingkatkan;*

- 6.4.3) *Fokus dan tumpuan kekuatan pasukan keselamatan di Sabah ini perlu dipertingkatkan di laut;*
- 6.4.4) *Perlu dipertingkatkan kerjasama secara efektif antara Jabatan-Jabatan yang terlibat dalam menangani kemasukan PTI;*
- 6.4.5) *Memperbaiki tahap integriti pihak yang dipertanggungjawabkan untuk mengawal keselamatan sempadan;*
- 6.4.6) *Mengenepikan kepentingan politik dan peribadi dengan merobohkan penempatan-penempatan haram, setingan, pelarian dan sebagainya yang dibina secara haram. Bancian secara penuh dan penyusunan semula perlu dibuat.*

In the circumstances, on the evidence before us and for the reasons stated, there can be no doubt that weaknesses in our border controls and the lackadaisical attitude of our law enforcement officers on the ground have precipitated the influx of illegal immigrants to Sabah. The authorities such as the Immigration Department, the Police and other related Agencies

must be proactive in devising appropriate strategies to control and monitor the flow of immigrants into Sabah by air, sea and land.

3.1.10 Institutionalized Citizenship System

In our view, it is important to examine the procurement system relating to the issuance of Malaysian ICs and other documents by the relevant authorities and to determine how much, if any, it had contributed to the influx of illegal immigrants into the state of Sabah. It has been said that a weakly institutionalized system of citizenship as in Sabah where significant sections of the population do not possess any form of identification documents and with the presence of huge numbers of illegal immigrants, it provides ample opportunities for certain unscrupulous groups and individuals to take advantage of the document procurement processes. These could be the political parties, corporations, syndicates as well as individuals and illegal immigrants themselves. Here, we find the article entitled **“When States Prefer Non-Citizens Over Citizens: Conflict Over Illegal Immigration Into Malaysia”** by Dr. Kamal Sadiq of the University of California – Irvine to be informative and relevant.

In this article published in the *International Studies Quarterly* (2005), Dr. Kamal attempted to show how relevant authorities utilized census practices and documentation to incorporate an illegal immigrant population from the Philippines into the State of Sabah and how illegal immigrants played an electoral role in Sabah because of the loosely institutionalized nature of citizenship. According to him, weak documentation systems leave States open not only to illegal entry of economic migrants, terrorists and other criminals via document fraud, but to massive electoral fraud as well which has serious implications for the conduct of democratic politics. By acquiring and possessing seemingly legal documents that prove juridical membership in a state, a non-citizen can easily acquire citizenship status. He ascribes this process as documentary citizenship. He goes on to explain the emergence of documentary citizenship in which illegal immigrants acquire citizenship documents that many of the native rural poor lack. He explains that documentary citizenship is an informal device, a back channel, to many of the benefits associated with the narrower and more difficult path to citizenship; that it expands and accelerates the incorporation of illegal immigrants into the citizenry of a State. More importantly, it allows many illegal immigrants access to political suffrage.

According to him, citizenship is not properly institutionalized and defined in Malaysia. Weakly institutionalized citizenship in Sabah is the condition whereby some legally illegible natives have no documentary proof of citizenship while others have multiple proofs of citizenship and since many natives do not have any standardized document such as a passport, a birth certificate or a national identity card, the State would not insist on a standardized document for the exercise of an individual's civil, political, economic and social rights. He further states that in a weakly institutionalized citizenship system as in Malaysia, the distinctions between citizens and non-citizens are largely meaningless when it is possible for illegal immigrants to gain access to social, political and economic rights through falsely obtained documentation. More specifically, he opines that in a weakly institutionalized State, non-citizens enter through porous borders and reside in unmarked populations; that if illegal immigrants have access to political suffrage, they are able to determine who holds political office and thus indirectly to control national policies. In such circumstances, the notion of the national interest and the State's pursuit of it are thrown into crisis.

In summary therefore, it can be said that a weakly institutionalized structure or system in Sabah with its manifold

defects and inconsistencies as described above and in the preceding paragraphs have contributed largely to the influx of illegal immigrants into Sabah. It is a significant pull factor in migration.

3.2 “Project IC”

In the course of the RCI proceedings, the term “Project IC” has been consistently raised by witnesses ranging from politicians to writers to journalists to ordinary members of the public. What then is this so-called “Project IC”? In the Position Paper presented by UPKO (P123), it is described as a sort of government sanctioned effort to make illegal immigrants Malaysian citizens so as to ensure political power. It is said to be linked to statutory declarations being used to issue Malaysian ICs and other documents to illegal immigrants for political purposes. Some have perceived the term to be synonymous with “Project Mahathir” after the former Prime Minister of Malaysia, Tun Dr. Mahathir. But of course, it is a term that is common knowledge in Sabah because it has been bandied about in the public domain for decades. It was mentioned in several court cases. Books and articles have been written about it. Indeed, it was even the subject matter of an inquiry

by a Parliamentary Select Committee on National Integrity in 2006. Perhaps Dr. Kamal Sadiq has described it more succinctly and cogently as a process of incorporation of illegal immigrants through dubious documentations, thereby facilitating their access to become registered voters and thus the possibility of determining political outcomes in Sabah.

Did it really exist? Was it fiction or fact? Here, Datuk Seri Yong Teck Lee, the former Chief Minister of Sabah has taken the view that this "Project IC" or "Project Mahathir" is a misnomer. He says that although the relevant Minister (presumably the Home Affairs Minister) could make out a credible or plausible case in Parliament, he would certainly find it difficult, if not impossible, to defend the public perception that Malaysian ICs and other documents had been obtained by or issued to illegal immigrants under the said Project for political purposes. It is almost indefensible once it enters the public psychic domain.

In the Memorandum presented by PBS (P157A) signed by its President, Datuk Seri Joseph Pairin Kitingan (now Tan Sri), attention was drawn to the unchallenged evidence of one Hassnar Ebrahim (W201) who had testified both in the Likas Election Petition case as well as before the Parliamentary Select Committee on National Integrity that there was in existence a

clandestine scheme known as "Project IC" and his personal involvement in it. This same Hassnar Ebrahim has also given evidence before the RCI. He has testified on the *modus operandi* involved.

According to him, when he was appointed District Chief, Sandakan, he was asked to sign HNR10 forms issued by NRD. These HNR10 forms had to be filled by the applicants, then signed by the Ketua Kampung and then endorsed by the District Chief and thereafter certified by the District Officer. Thereafter, these HNR10 forms would be used by the applicants to apply for Malaysian ICs. He states that as District Chief, he had signed or endorsed many such HNR10 forms. There were other District Chiefs appointed for the same purpose. He says that he had attended clandestine meetings held by the late Tan Sri Megat Junid, the then Deputy Home Affairs Minister relating to the issuance of blue ICs to illegal immigrants for political purposes; that he attended these meetings under orders from Datuk Harris Salleh (now Tan Sri) at the time.

In fact, his involvement was publicized in the local news media as far back as 2007 when the *Daily Express (Sabah)* disclosed how he (Hassnar Ebrahim) had openly declared to have issued thousands of Malaysian ICs to non-citizens. It was

also reported that he had refused the requests from the police to have his statement recorded about the matter as he was prepared to be arrested and charged so that he could, according to him, disclose everything publicly. In reply to the Press when asked whether he should cooperate with the police in getting to the bottom of the matter, he was reported to have said as follows:

“The police do not have to interview me because everything has already been published and they can investigate these including what I had already disclosed in the court of law under oath. The evidence is all there.”

This reference to the court of law concerned the Likas Election Petition case dealt with by Mr. Justice Datuk Muhamad Kamil bin Awang, in which Hassnar Ebrahim was one of the witnesses. Therein, he described his active and personal involvement in issuing Malaysian ICs and other documents to non-citizens under “Project IC”.

In an attempt to clarify the situation, the then Sabah Police Commissioner, Datuk Mohd. Mokhtar Hassan, was reported to have responded by accusing Hassnar Ebrahim of non-cooperation and that the police could not merely rely on books and news

reports in their investigations. This was somewhat strange given the subsequent statement by the Inspector General of Police (IGP) that the police could compel the attendance of any witness to assist them in their investigations under section 111 of the Criminal Procedure Code (CPC) (see Press Report dated 19/1/2009).

It would appear that Hassnar Ebrahim has been quite consistent in his evidence. This is reflected in his testimony in the Likas Election Petition case in 1999; then in the Parliamentary Select Committee on National Integrity in 2006 and now before the RCI. He had also divulged his involvement to *Daily Express (Sabah)* in 2007. His evidence finds corroboration from a number of witnesses especially those officers from the NRD, Sabah. They are Haji Ramli Kamaruddin (W11), Asli bin Sidup (W13), Yakop bin Damsah (W14) and Datuk Rauf Sani (W15).

First, Haji Ramli Kamaruddin (W11) was the Director of the National Registration Department (NRD), Sabah, from 1992 to 1995. He was arrested and detained under the ISA for 2 years from 1995-1997. He was detained for alleged involvement in illegally issuing high quality Malaysian ICs to immigrants for political purposes. According to him, he was assigned to identify the Muslim voters so that they would vote for certain Islamic Parties. He states that 2 weeks before the 1993 State Elections in

Sabah, he met with Tan Sri Megat Junid, the then Deputy Home Affairs Minister. He was accompanied by one Asli bin Sidup (W13), a colleague of his in the NRD. They were instructed to issue JPN receipts such as JPN1/9 and JPN1/11 to illegal immigrants so that they could be entered into the electoral rolls in certain so-called black or grey areas in Sabah. They would be coached on how to vote, etc. The receipts were apparently issued just for the purpose of voting and they had to be surrendered back after the holders had voted. The alleged meeting was said to be at the Hyatt Hotel in Kota Kinabalu. He further adds that at the time, he also received instructions from his superiors to issue Malaysian ICs with duplicate numbers to illegal immigrants so that they could vote at elections.

Second, Kee Dzulkifli bin Kee Abdul Jalil (W12) was a registration clerk attached to the NRD, Kota Kinabalu in 1994. He was detained under the ISA sometime in 1995 for being involved in illegally issuing Malaysian ICs to non-citizens under instructions from his superior officers. According to him, there existed a clandestine unit headed by the then Director of NRD, Datuk Abdul Rauf Sani and that he was a member of this unit. He states that he was assigned to enter details appearing in the application forms into the ICs before the ICs were sent to Kuala Lumpur

Headquarters for lamination; that he was also concerned in seeing the names in the ICs registered in the electoral rolls. He says that there were more than 600,000 of such ICs being issued at the time; that he did so on the instructions of his superiors. In his written statement, he states that there were 200,000 birth certificates being issued illegally to Muslim immigrants from the Philippines and Indonesia.

Third, Asli bin Sidup (W13) was an Assistant Registration Officer attached to the NRD, Sabah, from 1986 to 1996. Sometimes in 1996, he was arrested and detained under the ISA for involvement in a clandestine exercise relating to the illegal issuance of Malaysian ICs to immigrants for political purposes. He describes in some detail his personal role in the said exercise i.e. that he was instructed to go to Kuala Lumpur from Sabah; that while he was in Kuala Lumpur, he was brought to a government residence at Kampung Pandan; that he was then instructed or assigned to sign ICs; that thereafter these signed ICs were sent to the NRD Headquarters at Petaling Jaya to be laminated, after which they were brought back to Sabah for collection by the intended holders. He also admits to having issued receipts such as JPN1/9 and JPN1/11 to non-citizens for the purpose of enabling them to vote at elections. He confirms that the whole exercise

described above was done under instructions from the late Tan Sri Megat Junid who he met at the Hyatt Hotel, Kota Kinabalu, together with his Director, Ramli Kamaruddin (W11).

Fourth, Yakop bin Damsah (W14) was the head of NRD, Tamparuli District, Sabah, at the material time. He was attached to NRD from 1972 to 1996. He was arrested and detained under the ISA in 1996 for allegedly involved in illegally issuing Malaysian ICs, etc, to immigrants under instructions from his superiors who, at the material time included Datuk Rauf Sani, the director of NRD, Sabah. His evidence is substantially the same as those of Asli bin Sidup (W13) and Yakop bin Damsah (W14).

Fifth, Datuk Abdul Rauf Sani (W15) was the Director of NRD, Sabah, from 1990 to 1992. In 1996, he was arrested and detained under the ISA for alleged involvement in illegally issuing Malaysian ICs, etc, to immigrants from the Philippines, Indonesia and Pakistan. He admits to having given instructions to his officers such as Asli bin Sidup (W13) and Yakop bin Damsah (W14) to carry out special tasks in Kuala Lumpur relating to processing Malaysian ICs, etc, to be issued to illegal immigrants or non-citizens so that they could be registered as voters in the electoral rolls. According to him, the whole exercise was to increase the number of Muslim voters in Sabah and to defeat the PBS State

Government at the time. He confirms the evidence of Kee Dzulkifli bin Kee Abdul Jalil (W12), Asli bin Sidup (W13) and Yakop bin Damsah (W14) in material particulars.

From the evidence of witnesses W11, W12, W13, W14 and W15, it is clear that there was a clandestine exercise involving senior officers in the NRD, Sabah, who apparently acted under orders from their political superiors. This clandestine exercise involved illegal activities relating to the processing and issuance of Malaysian identification documents to illegal immigrants in pursuit of a political agenda. The names mentioned by some of the above witnesses have included Tan Sri Harris Salleh, the former Chief Minister of Sabah; Tan Sri Aziz Shamsuddin, the former Political Secretary of the then Prime Minister of Malaysia, Tun Dr. Mahathir and the late Tan Sri Megat Junid, the then Deputy Home Affairs Minister. All of them except for Tan Sri Megat Junid who has since passed away, have denied vigorously any involvement in such clandestine exercise or in the so-called "Project IC".

Tan Sri Harris Salleh says that he has never heard of "Project IC" except what he has read in the blogs. He says that such a Project never really existed; that if immigrants had been issued Malaysian ICs, it must mean that they were eligible or that the Federal Government had considered them eligible to be issued the

ICs. As for Tan Sri Aziz Shamsuddin who was at all material times the Political Secretary to the Prime Minister of Malaysia, he has testified that his duties were only confined to those assigned to him as Political Secretary; that he has never heard of "Project IC" until his son mentioned it after having sight of the RCI proceedings published in the news media. However, he admits to knowing Datuk Rauf Sani (W15) and that on one occasion, he had brought Datuk Rauf Sani to see the Prime Minister, Datuk Seri Dr. Mahathir. He says he would not know what the meeting was all about as he had then gone back to his own office. He states that he did not ask Datuk Rauf Sani what had transpired at the meeting. He denies being the owner of a house at No.18, Jalan Kampung Pandan, but admits to having gone there occasionally as some other officers had done. He also denies having seen or involved in any of the clandestine activities alleged by Asli bin Sidup (W13) and Yakop bin Damsah (W14). He further denies the allegations contained in the book entitled "**IC Palsu...**" by M.D. Mutalib concerning his involvement in "Project IC" which he considers baseless and inaccurate. And Tun Dr. Mahathir has testified that he only knew of the existence of "Project IC" recently. He denies any of the allegations made by the witnesses mentioned

above. He says he was not involved at all in the so-called "Project IC" or "Project Mahathir".

From the evidence, it seems clear that there are two sides to the issue of whether the so-called "Project IC" really existed. On the one hand, we have witnesses who have described in some detail their active involvement in the said Project as well as the participation of certain high profile politicians. On the other hand, these high profile politicians have testified before the RCI denying in no uncertain terms all the allegations against them as well as their alleged involvement in the said Project. In this connection, the evidence of the following witnesses may be relevant, namely, Datuk Hj. Ibrahim bin Hj. Zakaria (W33), DSP Badaruddin bin Ismail (W34) and Supt. Ahmad Fauzan bin Mohd. (W56).

Datuk Hj. Ibrahim bin Hj. Zakaria (W33) is the Head of Special Branch, Sarawak. He has testified that in 1996, he was assigned to interrogate Datuk Rauf Sani, the then Director of NRD, Sabah, and to prepare a report accordingly. He was then an Inspector. According to him, the interrogation of Datuk Rauf Sani disclosed that he was involved in activities relating to the illegal issuance of Malaysian ICs, etc, to immigrants. He was involved with accomplices from his own department. He states that his interrogation revealed that the activities committed by Datuk Rauf

Sani and his accomplices were purely for financial gain and nothing else. His evidence is similar to that of another officer DSP Badaruddin bin Ismail (W34) who was assigned to interrogate another Director of NRD, Sabah, Ramli Kamaruddin, on matters relating to the issuance of Malaysian ICs to illegal immigrants. He was also then an Inspector. He is now attached to Special Branch Headquarters, Kelantan. From his interrogation, he was able to ascertain that the illegal activities were solely for monetary benefit and nothing else. Then there is the evidence of Superintendent Ahmad Fauzan bin Mohd. (W56) who was, at the material time, assigned to assess intelligence reports submitted to him by the interrogation officers relating to the alleged activities committed by suspects concerning issuance of Malaysian ICs, etc. His objective was to determine, on the basis of the intelligence reports submitted to him whether the activities constituted threats to national security. According to him, his assessment of the reports disclosed that the sole motive of those activities was for financial gain and that as such, the said activities constituted threats to national security.

In our view, when the testimonies of W33, W34 and W56 are analyzed carefully, it seems obvious that their interrogations and / or assessments of the suspects did not go beyond determining the

financial motive involved. They were apparently satisfied solely on the basis that the said activities were conducted for financial or monetary gain. They took the view that that would be sufficient to constitute threats to national security and therefore be subjected to arrest and detention under the ISA. They did not seem to find it necessary to go beyond the financial motive and to determine whether there were other motives involved. And even if they did, it is doubtful whether the suspects mentioned above would have revealed their clandestine involvement given its secretive nature and intentions as well as the personalities involved.

Be that as it may, certain evidential features are discernable. First, the five witnesses alleged to be personally and actively involved in the clandestine project, have corroborated each others' evidence in material particulars. In effect, they have collectively admitted their joint involvement in some detail. Furthermore, they have made serious allegations against powerful political figures. This must necessarily raise the question as to why they would have the audacity to do so. What was their motive? Second, there is evidence that in the 1990s, the population growth in Sabah rose by 78% which would have been the highest increase since Sabah become part of Malaysia. This may be regarded as confirmation of the stand taken by some witnesses as to why there was such a

large influx of illegal immigrants to Sabah at that time. That was the period when the evidence disclosed that there were significant numbers of illegal immigrants being issued with Malaysian ICs by way of statutory declarations for political purposes.

In the circumstances, we take the view that there is some credibility in the evidence of the five witnesses in question. However, none of the witnesses were subjected to cross-examination, as would have been the case in a trial. That being the case and given the denials against the allegations, we can only conclude that it was more likely than not, that "Project IC" did exist as reflected in the evidence of the five witnesses aforesaid. In short, there is a probability that such a Project did exist at all material times.

3.3 Term (a) of the Reference

Suhakam's estimates on the number of immigrants being issued with Malaysian ICs both legally and illegally derived from Dr. Chong Eng Leong's calculation and others, have far exceeded those given by Dato' Jariah binti Mohd. Said (W208), the Director General of National Registration Department, Malaysia, who has testified that according to NRD's records at present, the number of

new ICs issued to immigrants is 67,675 and that the number of immigrants in Sabah who have been granted citizenship since 1963 as at 31/8/2013, is 68,703 (see P171). These figures would be considered official figures but as Dato' Jariah has said, these figures are what is reflected in NRD's records at present. Therefore, these official figures provide the answer to paragraph (a) of TOR.

3.4 Term (b) of the Reference

This issue requires us to trace briefly the history of the Malaysian IC system. But first, we need to dispel the misconception by many people that a blue IC is proof of Malaysian citizenship. It is not. It is merely evidence of Malaysian citizenship. One has to be a Malaysian citizen first before being entitled to a Malaysian IC. Malaysian citizenship is obtained mainly by operation of law or by naturalization or by registration.

In the context of Sabah, under the National Registration Ordinance No.4/62, which came into force on 1/8/1963, the identification cards issued for the period from 1963 to 1972 were orange in color containing 6 digits. According to Ruslan bin Alias (W9), the Chief Assistant of the Identification Card Section, Sabah

& Sarawak, persons who were British Subjects or citizens of the United Kingdom and Colonies through birth, descent, registration or naturalization prior to 1963, were entitled to be issued these orange cards. He says that from 1972 to 1990, the National Registration (Sabah) Rules, 1972, came into effect. Under the said Rules, the identification cards issued were blue in color containing 7 digits in addition to the prefix "H" to indicate that holders thereof were born in Sabah. These blue ICs were automatically issued to those holding the orange cards issued earlier.

Fresh applications would require the production of birth certificates or sijil taraf or sijil akuan. The last 2 documents were introduced under the 1972 Rules in a form known as HNR10. It would appear that any HNR10 form issued by a village head or native chief or district chief certifying that the applicant was of a particular ethnicity and born in Sabah, was sufficient proof of citizenship and therefore entitled to a blue IC. He states that the practice of accepting sijil akuan or surat akuan as opposed to birth certificate was stopped administratively by the NRD on 1/4/1987 due to abuses. Nevertheless, the evidence of other witnesses seem to indicate or suggest that the NRD still continued with the practice of accepting surat akuan in issuing out blue ICs at least up to 1990.

According to W9, when the National Registration Regulations 1990 came into force, the issuance of ICs was centralized. The format of the card was changed to what was known colloquially as "Kad Bunga Raya". The prefix "H" indicating birth in Sabah, was replaced with the number "12". Applicants would have to produce birth certificates and the ICs of their parents. In 2002, this card system was replaced with the Kad Pengenalan Keselamatan Bermutu Tinggi Bercip or better known as MyKad. The witness then draws attention to the procedures involved in issuing ICs under the National Registration Regulations 1990, in particular Regulations 4 & 5 respectively. Regulation 4 prescribes the documents required to be produced and the information to be given in order to obtain an IC. There is now no requirement to produce a birth certificate. Regulation 5 allows the Registration Officer the discretion in issuing an IC. There is no procedure for verification of information given or document produced by the applicant. Apparently, the information is accepted at face value. According to Dato Jariah (W208), the NRD need not verify such information received as it has been certified by the native chief, district officer or the assistant district officer.

The evidence of Ruslan bin Alias (W9) and Dato' Jariah (W208) indicates that there was a total of 113,850 ICs being

considered as problematic. They had divided them into 2 groups. One group was known as P1 containing full records indicating that their ICs were issued on the basis of surat sumpah or statutory declarations certifying that the applicants were born in Sabah. There were 51,300 such ICs. The second group known as P2 were ICs which did not contain full records except photocopies. There was no information as to whether Surat Akuan or birth certificates were used to support the applications. Their numbers also overlapped. There was duplication in the records, etc. There were 62,550 recorded under this P2 group.

Apparently, there was a third group of documents P3 as indicated in the evidence of Ramli bin Kamaruddin (W11), the ex-Director of NRD, Sabah. This group comprised of temporary receipts of ICs containing 7 digits. It is to be noted that he fell foul of the law in issuing such receipts when NRD commenced centralization on the issuance of ICs and also the replacement of blue ICs with Kad Pengenalan Bermutu Tinggi (KPT) or better known as "Kad Bunga Raya" containing 12 digits. NRD found no difficulty in cancelling those falling under group P3 which amounted to 16,699. Clearly, this group P3 was issued not in accordance with the law.

As against the official figures given on groups P1, P2 and P3 above, we have the unofficial figures given by Tan Sri Bernard Dompok (W139), a former Federal Minister, that the figures for P1 was 177,785; for P2 it was about 62,546 and for P3 it was 16,695. He however could not verify these figures. Datuk Radin Maleh (W198), a State Minister of Rural Development, Sabah, has given another set of figures. According to him, the figures for P1 group was 51,300 and for P2 it was 62,575.

On the evidence adduced, there is no clear indication that the procedures relating to the production of information and documents required in the issuance of the ICs had been contravened under the National Registration Rules 1972. The procedures adopted by the authorities appeared to be in order. What was wrong, as disclosed by the evidence, was that the procedures had been abused by applicants giving inaccurate information and thereafter the certification of such information by certain village heads, native chiefs, district chiefs, etc. The use of statutory declarations or surat akuan had in fact facilitated and accentuated such abuses.

3.5 Term (c) of the Reference

In order to qualify to be registered in the electoral roll, a person must be a Malaysian citizen of 21 years and above. This is provided under Article 119 of the Federal Constitution. No evidence has been adduced before the RCI that any citizenship has been granted to immigrants not in accordance with the provisions of the Federal Constitution. However, there is ample evidence to show that immigrants who were not Malaysian citizens, were issued blue ICs illegally by certain syndicates and / or individuals and who thereafter registered themselves as voters in the electoral rolls on the basis of their ICs. For this purpose, we need to refer to the testimonies of a few witnesses.

Omar bin Mohd. Subair (W61), an Indian immigrant holding a red Malaysian IC, was still able to register himself as a voter. However in the 2008 and 2013 elections, he was unable to do so as his name was no longer on the electoral roll. Aziz bin Kassim (W27) and Parvez Khan Hussein Khan (W30), both Pakistani immigrants, as well as Mohidin Batcha bin Sariff (W29), an Indian immigrant, were all able to register themselves as voters by producing their blue ICs which had been obtained by dubious means. The same applied to another Indian immigrant called Nur Mohd. bin Ibrahim (W31). He was able to obtain a blue IC by

dubious means, registered himself as a voter in the electoral roll and then voted 4 times on that basis.

Two more Indian immigrants i.e. Aziz bin Kasim (W27) and Mohidin Batcha bin Sarif (W29) were able to register themselves as voters and had voted at elections. W27 was born in Tamil Nadu, India in 1959. He entered Sabah in 1980 using an Indian passport. He managed to obtain a Malaysian IC in 1987 without a birth certificate or a certificate of citizenship. W29 was born in Madras, India and he came to Sabah in 1978. In 1982, he acquired a Malaysian IC without submitting his birth certificate or a certificate of citizenship. He was merely required to fill a form, presumably a statutory declaration. He was assisted by someone and a year later, he was able to obtain his Malaysian IC.

Based on their testimonies, it is quite obvious that these immigrants had not qualified as Malaysian citizens to be registered as voters. They had obtained their ICs based on false information. We understand that their names are still in the electoral rolls. If not rectified, this can have serious repercussions. Already, there is evidence as reflected in the testimony of Datuk Radin Maleh (W196), the Sabah Rural Development Minister, that there are apparently 80,620 dubious IC holders listed in the electoral rolls. And Dr. Chong Eng Leong (W187) has maintained that, on his

calculation, there are at least 200,000 names in the electoral rolls which are not supposed to be there.

In summary therefore, on the evidence as a whole, the answer to TOR paragraph (c) is that there are non-citizens registered in the electoral rolls but their exact numbers are uncertain.

3.6 Terms (d) & (e) of the Reference

These two terms of reference deal essentially with administrative procedures relating to issuance of Malaysian blue ICs. As such, they are dealt with together. Given the abuses committed by syndicates and / or individuals on the procurement processes concerning Malaysian ICs and other documents, the NRD has attempted over the years to enhance its systems progressively.

With the coming into force of the National Registration Regulations, 1990, the issuance of ICs was centralized for more effective monitoring control and supervision. The format of ICs was changed together with the numbering system. In 1996, the NRD set up a high-powered panel to investigate some 113,850 so-called problematic ICs purportedly issued by syndicates and / or

individuals. According to Dato Jariah (W208), the Director General of NRD, the panel had received 8,887 applications since 2006 and out of this number, 3,895 applications were approved and another 5,192 rejected (see P169). NRD has also taken concrete steps in improving its standard operating procedures with respect to issuance of ICs by updating their format and type with better and more effective security features.

A special unit for Sabah & Sarawak has been established by NRD to act as Secretariat to a Special Committee responsible for dealing with problematic IC applications in the two States. The Special Unit's duties include preparation of reports, comments, etc., for the consideration of the Special Committee. This is evident from the testimony of Dato Jariah (W208). More importantly, NRD has now set up Mobile Units tasked with conducting registration exercises relating to births, marriages and deaths in the interiors of Sabah and Sarawak. Equally significant, is the introduction of the Agency Link-Up Information System or ALIS in which several agencies including the NRD, the Election Commission, the Police, etc. can have joint access to relevant information and data for verification purposes.

According to Dr. Ong Kian Ming (W190), a former lecturer specializing in economics and political science but now the MP for

Serdang, all those steps mentioned above, have to some extent, reduced the number of problematic ICs as well as the presence of non-qualified voters on the electoral rolls. He had conducted a thorough study on the Malaysian electoral process with particular emphasis on the presence of non-qualified voters on the rolls and he was able to detect some 49,000 problematic ICs on the Sabah electoral rolls which he said, was a substantial drop from the 113,850 problematic ICs identified. However, he states that there was still the presence of 4.9% problematic voters registered therein who could influence election results in slim majority constituencies.

Shafee bin Sajat (W58), the Principal Assistant Secretary, Information Technology Section, Election Commission, has testified that the Election Commission has improved on its electoral roll cleansing process by having more regular contacts with the NRD. They have taken advantage of the Agency Link-Up Information System (ALIS) to verify any information they consider doubtful or suspect. As a result, more than 78,340 names have been removed from the Sabah electoral roll on account of being deceased.

At this stage, it is perhaps necessary to point out that according to the testimony of Ismail bin Ahmad (W163), the

Director of NRD, Sabah, there was a Special Workshop on Foreigners held in Sabah between 4th to 27th May 2010 for the purpose of reviewing, analyzing as well as presenting proposals to the Government for a more efficient and effective mechanism in managing foreigners in Sabah, including matters relating to various types of documents issued to foreigners in Sabah. Participants of the Workshop comprised of agencies from the State Government, local Authorities, Federal Departments and Security Agencies. They came up with a host of proposals such as establishing control mechanisms on the movement of people from neighboring islands belonging to the Philippines to places like Sandakan, Lahad Datu and Kudat; reactivate JKKK whose functions would include the control of entries of foreigners to villages in the interior and to inform enforcement authorities accordingly; reactivate checkpoints or entry points at hotspots along the borders; enhance integrity of enforcement personnel, etc. (P136). Most important was the proposal for the establishment of a high-powered Permanent Secretariat to be headed by the Deputy Prime Minister assisted by the Minister of Home Affairs and the Chief Minister Sabah. Another significant proposal was the introduction of a Resident Pass to rationalize the various documents currently in use by foreigners / immigrants.

3.7 Term (g) of the Reference

3.7.1 Social Implications

Under paragraph (g) of the Terms of Reference (TOR), the RCI is to inquire into the social implications resulting from the issuance of blue ICs or citizenship to immigrants in Sabah. This must necessarily relate to social implications caused by the presence of illegal immigrants in the State. In this connection, any reference to figures in statistics or data would include immigrants who have acquired ICs or citizenship since no method has been devised to distinguish them from genuine Malaysians.

3.7.2 Health Expenditure & Diseases

According to Dr. Maria Sulaiman (W75) who is the Principal Assistant Director of Health (Infectious Disease Control), Health Department Sabah, the total number of births from immigrants is increasing. She gives an example that for the period 2007 to 2012, the Government had to incur costs of treatment for immigrants amounting to RM21,672,031.51 and this amount remains unpaid. The State Health Department has attempted to recover this

amount but failed due to their inability to trace the patients concerned. Dr. Maria also says that infectious disease cases involving immigrants are on the rise resulting in more expenditure by the Health Department as well as the provision for more funds to accommodate the increase in logistics including medical officers and staff.

3.7.3 Loss of Tax Revenue

There is evidence that the Government has suffered losses in revenue caused by the rampant smuggling activities committed by illegal immigrants. According to Mohd. Fadzly bin Abdullah (W194), the Senior Assistant Director, Customs Department, Sabah, the most prevalent smuggling activities involved sales of smuggled cigarettes, alcoholic drinks, fireworks, tyres, drugs and syabu, etc.

3.7.4 Security Concerns & Crimes

The evidence of Dato Pahlawan Hamza bin Taib (W81), the Commissioner of Police, Sabah, is revealing. He says that illegal immigrants in Sabah are responsible for 25% to 30% of criminal activities in the State while 70% to 75% of such activities are committed by Malaysian citizens. There is no indication as to whether the 70% to 75% has included those immigrants who had obtained Malaysian ICs without going through due process. We would assume that they were included. Although immigrants are said to be responsible for 25% to 30% of criminal activities, we think that this figure is still a matter of some concern. Of greater concern is the evidence of Tan Sri Chong Kah Kiat, the former Chief Minister, Sabah, who says that in certain deportation operations or exercises conducted on squatter settlements, the authorities had found weapons or firearms. This should be a matter of grave security concern when we are reminded of the recent intrusion in Lahad Datu.

3.7.5 Prison Space & Cost

Evidence has been adduced that the Prison Department had incurred the following expenditures in the period from 2006 to 2012: RM281,455,515.00 (Kota Kinabalu Male Prison); RM45,867,360.00 (Kota Kinabalu Female Prison); RM112,873,693.00 (Sandakan Prison); RM163,884,270.00 (Tawau Prison). Thus, the total amount of expenditure incurred for non-citizens is RM604,080,840.00 for a period of about 6 years. This is the evidence of Kalbin bin Hj. Mohd. Said (W62), the Deputy Superintendent of Prison, Sabah Headquarters. According to him, prisons in Sabah are quite congested and as such they are facing difficulties in carrying out rehabilitation programs for non-citizens.

3.7.6 Construction & Plantation Sectors

There is ample evidence before the RCI that employers in both the construction and plantation sectors have employed foreign workers instead of the locals. Zakaria bin Hj. Nassiran (W80), the Executive Administrator of Sime Darby Plantation, Sabah, has testified that 85% of his employees are foreigners from

Indonesia and Philippines. The Assistant Manager, Administration & Human Resources of IOI Corp. Bhd., Nalia binti Rudin (W83) says that her company has employed 85% to 90% foreign workers from Indonesia and the Philippines. She is corroborated by another senior officer from the same company, Luz Davila (W84). The evidence also shows the extent to which these companies have relied on foreign labor. For example, Ruslan bin Sunman (W86), the General Manager of Felda Global Ventures Plantation (M) Sdn. Bhd., Sabah, which owns 106,000 hectares of plantation land in Sabah, says that 91.05% of their workers are foreigners. Other plantation companies such as AUMKAR Group and Hap Seng Group have also employed about the same percentage of foreign workers as those reflected in the companies aforesaid.

Although the evidence has disclosed that there is still a need for these companies to rely on foreign workers given the nature of the work that they do, there is a possibility, perhaps even the probability that these workers will one day return to their home countries when the economic situation there improves. There is already evidence that Indonesia has greatly improved economically. If the Indonesian workers were to leave *en masse*, the plantation sectors would suffer in terms of manpower, etc. There is therefore a need for the companies affected to prepare for

such a contingency. In this connection, the views and suggestions expressed by Dr. Dayang Suria Mulia in her article entitled **“Pekerja Asing di Sabah: Isu dan Perspektif”** are worthy of consideration. Therein she states *inter alia*:

“Dominasi pekerja asing sangat ketara dalam sektor-sektor ekonomi penting di Sabah dan mengikut sumber terkini Biro Pembangunan Sumber Manusia (BPSM), lebih kurang 80% pekerja asing bekerja di sektor perladangan, pembuatan dan pembinaan, manakala 20% selebihnya terlibat dalam sektor perkhidmatan dan pembantu rumah. Ini menguatkan lagi hujah bahawa sememangnya pembangunan ekonomi negeri Sabah sangat bergantung kepada sumbangan tenaga pekerja asing. Untuk mengatasi masalah pergantungan terhadap buruh asing daripada berterusan, kerajaan persekutuan dan negeri perlu merangka strategi untuk meningkatkan penglibatan masyarakat tempatan sebagai tenaga kerja dalam sektor-sektor ekonomi yang didominasi oleh buruh asing. Kerajaan dan pihak swasta juga perlu mengenalpasti faktor-faktor yang menghalang penyertaan pekerja tempatan dalam sektor-sektor

ekonomi penting di Sabah. Jikalau benar dakwaan bahawa sektor-sektor yang disebutkan tidak menawarkan ganjaran yang menarik, satu kajian menyeluruh perlu dibuat untuk membolehkan pekerja tempatan tertarik untuk menceburi sektor ekonomi utama di negeri ini. Latihan-latihan yang sesuai untuk tujuan meningkatkan kemahiran buruh tempatan juga perlu dikenalpasti oleh agensi-agensi kerajaan seperti Biro Pembangunan Sumber Manusia (BPSM). Pembangunan Sumber Manusia di negeri ini juga perlu menekankan aspek kemahiran yang boleh dipraktikkan di sektor-sektor ekonomi utama seperti perladangan, pembinaan dan pembuatan demi untuk mengurangkan dominasi buruh asing. Latihan kemahiran yang berkaitan dengan teknologi juga penting untuk memenuhi permintaan tenaga kerja yang dijangka akan meningkat selepas pembangunan Taman Industri Kota Kinabalu beroperasi sepenuhnya.”

3.7.7 Cultural Differences & Education

The District Officer of Papar District, Iman bin Ali (W173) has testified that the culture of those immigrants living in some squatter settlements in his district has, on occasions, offended local residents' sentiments such as the practice of the so-called "flying toilet", the habit of defecating into polystyrene clam shells as well as the peddling of smuggled cigarettes. Then there is the expanding problem relating to children of illegal immigrants and refugees who do not have access to even basic education and who are seen at times, to be roaming the streets causing public nuisance etc.

One man called Yahya bin Yacob (W198) has decided to be proactive in helping these so-called "street kids" by establishing a school he calls "Madarasah" providing classes for these listless children. He says that his "Madarasah" is expanding satisfactorily. There is still shortage of funds. We think that his project is a noble one and as such this type of project can be extended to the squatter settlements. We hope the relevant authorities should assist in terms of providing logistics and funding because education is basic in every decent society. To ignore it is an invitation to disaster for future generations.

CHAPTER 4

OTHER MATTERS

CHAPTER 4 : OTHER MATTERS

4.1 The Regularisation Program

According to the Position Paper (P110) prepared by Sabah Progressive Party (SAPP), this program was implemented from March to August 1997. It was described as the most comprehensive and fully integrated registration exercise on Indonesian and Filipino immigrants in Sabah at the material time. The Program was said to be under the charge of the Federal Special Task Force acting as a one stop agency dealing with issues concerning illegal immigrants in Sabah. It was done apparently with tacit support and cooperation of the Federal and State authorities as well as the consular offices of the Philippines and Indonesia. The Position Paper states that under the Program, the Federal Special Task Force was able to register 463,832 Indonesian and Filipino workers in Sabah and Labuan; that of this number, 50,000 were found to be unemployed and were marked for deportation to their home countries. Under the Program, immigrants who were in employment would have their stay "regularized" so that they no longer need to resort to illegal activities in obtaining the proper documents.

It would appear that this Regularization Program was focused more on foreign workers than on illegal immigrants generally. This is reflected in the press statements appearing in the Daily Express, Sabah, dated 10/11/1996 made by the then Deputy Home Affairs Minister Datuk Ong Kah Ting and the FSTF Director Zainuddin Abdul Bahari (see N26-SAPP paper P110). Datuk Ong was reported to have said that the National Security Council through the FSTF would be finalizing the proposed regularization program on illegals soon. And Director Zainuddin Abdul Bahari was reported to have said, among other things, that those qualified under the Program would have to be in employment; possessed valid travel documents and had complied with labor and immigration requirements.

The regularization exercise has resulted in the increase on applications for renewal of work permits from 60,000 to 180,000 as reflected in the Daily Express dated 11/11/1997 (see N27-SAPP paper). There were some comments about the regularization program concerning foreign workers by certain politicians and businessmen who alleged that it had adversely affected their business operations, etc., but Datuk Seri Yong Teck Lee was reported to have said that he was firm in pursuing this policy.

From the evidence as a whole, it seems clear that this Regularisation Program lasted only 6 months from March to August 1997. According to Datuk Seri Yong, it was purely meant to register qualified immigrants particularly foreign workers with the expectation that follow-up actions be taken by the relevant authorities. Apart from a number of ad-hoc operations, there is no clear indication that such operations were done on a sustained basis. The Program seems to have died a natural death. Nevertheless, Datuk Seri Yong has proposed that the authorities should reactivate the said Program. In fact, as we write this Report, the Federal Government has implemented the I-Kad system since 15/11/2013. Foreign workers would now be issued with these I-Kad so as to better monitor their presence and movements in the country. These I-Kad are said to contain high tech security capabilities such as biometric fingerprint features, nexcode data and contactless chips, etc. We understand that they are not cheap as the employers or workers concerned would have to pay RM110 for each of the said I-Kad. According to the "Star" newspaper dated 10/1/2014, the Government has planned to launch a nationwide operation called "Ops Bersepadu" to flush out illegal workers once the grace period for employers to register their workers expires on 21/1/2014. We believe these are very positive

steps taken by the authorities in alleviating the problems relating to illegal immigrants in Malaysia.

We hope that the relevant Authorities should extend such operation to Sabah as aggressively as they have done in West Malaysia given the huge number of foreign workers in the State.

4.2 IMM13 Holders

Section 6 of the Immigration Act, 1959/63, states *inter alia* that no person other than a citizen shall enter Malaysia unless:

- a) he is in possession of a valid entry permit lawfully issued to him under section 10;
- b) his name is endorsed upon a valid entry permit in accordance with section 12, and that he is in the company of the holder of the permit;
- c) he is in possession of a valid pass lawfully issued to him to enter Malaysia; or
- d) he is exempted from this section by an order made under section 55.

And section 2 of the Passport Act stipulates that every person entering Malaysia has to produce his passport or visa. Under section 8 of the Immigration Act, any person who enters Sabah without a valid entry permit or valid pass or a passport, is regarded a prohibited immigrant. In this connection, Sabah Law Association (SLA) has submitted that illegal immigrants fall under the category of prohibited immigrants and therefore the issuance of IMM13 passes to them would contravene Regulation 11 of the Immigration Regulations 1963 which stipulates:

- "1) A visit pass may be issued by the Controller to any person other than a prohibited immigrant who satisfies the Controller that he wishes to enter the Federation-*
- i. on a social business or professional visit; or*
 - ii. for temporary employment; or*
 - iii. as a tourist;*
 - iv. as a dependent child accompanying or joining the holder of a work pass in Sabah."*

SLA seems to take the position that an IMM13 pass is a form of social visit pass and therefore the issuance of such a document would fall within the ambit of Regulation 11 aforesaid. This

contention would have merit if the term "refugee" comes within the definition of "prohibited immigrant" because on the evidence, only refugees are issued IMM13 passes. But the term "refugee" is, in the context of this Inquiry, normally associated with those immigrants who fled the Philippines to Sabah due to the civil war in their country. They were regarded as political refugees. That being the case, the exemption provision under section 55 of Immigration Act may well apply. That section under caption "Power to Exempt" reads:

- "1) Notwithstanding anything contained in this Act, the Minister may by order exempt any person or class or persons, either absolutely or conditionally, from all or any of the provisions of this Act and may in such order provide for any presumptions necessary in order to give effect thereto.*
- 2) Every order made under this section which relates to a class of persons shall be published in the Gazette."*

As disclosed in the evidence of the RCI Investigators, the Minister had at the material time apparently issued orders to accommodate the refugees who fled the civil war in the Philippines subject to various conditions. We have referred to these conditions

earlier. SLA further submits that any order issued under section 55 aforesaid has to comply with Part VII of the Immigration Act, in particular section 64 and section 65 thereof. As this legal issue was not raised and argued before the RCI, we are unable to go beyond merely registering the stand taken by SLA in its written submission which states:

“Due to the special powers conferred upon the State Government in the above provisions, the Director of Immigration in Sabah shall be answerable to the State Government in the discharge of his duties and performance of his obligations under the Immigration Act as if the Act applies to Sabah as a separate unit. [see section 64(1) and section 64(3) above]. Unfortunately, from the evidence disclosed throughout the Inquiry, there is no evidence that Director and the officers of the Immigration Department has sought the views of the State Government on the issuance of IMM13 to illegal immigrants never the grant of entry permits. All instructions / policies on illegal immigrants seems to come from the Ministry of Home Affairs without reference to the State Government even the State Government has special powers on immigration as far as entry into and residence in Sabah is concerned. This is in contravention of both the letter

of and spirit behind the special powers conferred upon the State Government under Part VII particularly section 64 and 65 of the Immigration Act.”

4.3 Social Networks

We mentioned earlier how social networks could play significant roles in facilitating and sustaining migration flows. We have drawn attention to the well-researched article entitled “**Social Networks...Evidence from Undocumented Immigrants in Sabah, East Malaysia**” by Dr. Dayang Suria Mulia of Universiti Malaysia Sabah (UMS). As such, we think it is appropriate to highlight some of the comments and observations therein. Social networks are described as interpersonal ties linking kin, friends and community members between places of origin such as the Philippines and Indonesia with the destination State of Sabah. Social networks have the tendency to minimize risks of potential immigrants in considering where to relocate themselves. In general, social networks provide the sort of social capital linking potential immigrants in Southern Philippines and Indonesia with immigrants who are settled in Sabah. More specifically, they assist potential immigrants to secure jobs and documents so as to adjust themselves in Sabah as well as assisting them in avoiding

detection from the authorities, etc. Dr. Dayang takes the view that policy makers in Malaysia appear to rely solely on economic and legal explanations on issues relating to migration flows in Sabah in the belief that immigration is simply a factor of supply and demand and that adequate control and legal categorization can successfully regulate migration flows from the Philippines and Indonesia into Sabah. According to her, studies on Sabah have shown that migration flows do not often correspond well to economic fluctuations and legal categories tend to mask the social network processes that drive migration thus making it difficult for any law, no matter how strict, to prevent immigrants from entering the State. She takes the view that future policy makers should focus more on the effects social networks can have on migration flows and the incorporation of immigrants into our economic sectors as well as the communities in Sabah; that our security forces should focus on points of entry such as Tawau, Sandakan, Semporna, etc., occupied by many immigrants because of the existence of entrenched social networks in these areas. She further opines that any concentration of ethnic groups into specific areas could have the effect of preventing the process of assimilation and this would in turn strengthen migrants' social

networks in Sabah. This is something which policy makers should avoid.

4.4 Late Birth Registration in Sabah

In Sabah, the Sabah Births and Deaths Ordinance 1953 applies to registration of births and deaths in the State. This Ordinance was declared a federal law by LN37/65 providing some modifications to allow federal responsibility in administering the Registration Department. This Ordinance is peculiar to Sabah. Under section 9 thereof, a birth has to be reported to the Registrar or Deputy Registrar of the District within 14 days of birth in the prescribed form. Under section 16, a birth can be registered after 14 days but within 42 days of birth upon payment of a fee. Such a registration is called a delayed registration. Then, section 22(2) states that every registration after 42 days of birth is considered a late registration for which a late registration certificate is issued. However, according to the Judicial Department, Sabah, this late registration certificate is not legally valid until it is validated by a First Class Magistrate. The Magistrate has to hold an inquiry to verify the late registration. The procedures adopted by the Magistrate are as follows:

- Upon production of the payment of RM4 fee and the late registration certificate, the court will fix a date for enquiry
- The Registration Department (NRD) will also be notified of the hearing date although in practice they leave it to the court and will not attend the hearing.
- On the date of the hearing, the applicant will have to produce witnesses to prove the particulars of his birth. This means the applicant will call those who have knowledge of the circumstances of his birth like his parents, relatives or those present during the time of his birth.
- The Magistrate as the person holding the enquiry can then cross-examine these witnesses to prevent illegal immigrants or those seeking to verify false particulars from obtaining properly validated birth certificates. This is important because sometimes the applicants are late by 20 to 30 years and the witnesses who were present during the birth are very old or have died.
- If the Magistrate is satisfied that the particulars in late birth registration are true, the certificate will be given a section 31 endorsement. This means it is a legally valid birth certificate.

The Judicial Department, Sabah, has also taken the view that the National Registration Regulations 1990, only require the applicant to submit a certificate of birth; that it does not mention late registration certificate because the verification procedures adopted in Sabah are non-existent in West Malaysia; that a late registration birth certificate is not a proper certificate under Sabah law but is merely an extract of the fact of late registration; that therefore, before any IC is issued, the applicant must have a normal / proper birth certificate or a late registration birth certificate that is validated by a Magistrate.

Given the difficulties of people in the interiors of Sabah having access to registration facilities in the urban areas, the Judicial Department Sabah has established the so-called mobile courts to ease their burden. These mobile courts are able to penetrate the remote areas of Sabah in order to carry out their verification inquiries on late birth registrations. Thus far, they have done a commendable job.

4.5 Acquisition of Malaysian Citizenship

On this issue, SLA has submitted at some length. For the purpose of this Report, we will adopt the submission in material particulars. According to its written submission, there are 4 ways

by which a person can acquire Malaysian citizenship, namely, (a) by operation of law, (b) by registration, (c) by naturalization & (d) by incorporation of new territory into the Federation.

4.5.1 Operation of Law

Under operation of law, a person born in Malaysia before Malaysia Day on October 1962 acquires citizenship. But a person born after October 1962 does not acquire citizenship unless that person is born in Malaysia to at least 1 Malaysian parent or permanent resident. It is quite obvious that the Federal Constitution does not entitle a person citizenship merely because that person was born in Malaysia. SLA takes the view that although children of illegal immigrants born in Malaysia have been issued with birth certificates by NRD, they would still remain stateless unless one of the parents is a Malaysian citizen and that parent applies citizenship for the children. The Convention on the Rights of the Child requires countries that have ratified the Convention to give nationality on every child. It is said that although Malaysia has satisfied the Convention, it has continued to disentitle citizenship to children of foreigners born in Malaysia.

4.5.2 Registration

There are 4 ways of acquiring citizenship by registration. This can be condensed as follows: first, a woman married to a Malaysian citizen becomes entitled to be registered as a citizen provided she is of good character, has resided in Malaysia for 2 years before applying to be a citizen and she intends to reside in Malaysia permanently. Second, a person under the age of 21 becomes entitled to be registered a citizen if one of his parents is a Malaysian citizen. Third, the Federal Government may cause any person under the age of 21 to be registered a citizen in exceptional circumstances. And fourth, any person over the age of 18 and born in Malaysia before Merdeka Day becomes entitled to citizenship if he has resided in Malaysia for a total of 5 years in the 7 years before applying for citizenship; that he is of good character; that he has basic knowledge of the Malay language and he intends to reside permanently in Malaysia.

4.5.3 Naturalization

In the case of naturalization, a person has to reside in Malaysia for 10 out of the 12 years immediately before applying for naturalization. He must be of good character and has sufficient knowledge of the Malay language. He must also be 21 years old and above. The proper legal process for an immigrant in Sabah to obtain citizenship can be briefly described as follows: (a) that he must have entered Sabah legally i.e. through one of the legal entry points with a valid pass or valid passport, (b) that he must apply for and obtain an entry permit so as to become a permanent resident, (c) that he must reside in the State of Sabah as a permanent resident for 10 out of the 12 years and be of good character as well as having an adequate knowledge of the Malay language, (d) that upon being granted citizenship, he must take his oath of allegiance, (e) that on becoming a citizen, he must apply for identification card normally issued to citizens and (f) that upon being granted the IC he can then register himself as a voter in the constituency he is residing. SLA takes the view that it is legally wrong to confer instant citizenship on an immigrant without going through the proper legal process described above; that IC could only be issued to citizens; that therefore citizenship must come first before the issuance of the IC.

4.5.4 Territorial Incorporation

SLA has not submitted on this because it is not relevant to the Inquiry before the RCI.

4.6 Definition of “Native”

In the course of the inquiry proceedings, there was some dispute as to the definition scope of the term “Native” in the context of Sabah under the law. This is reflected in the testimony of Datuk Hj. Osman Jamal (W59) who is the President of the Sabah Bugis Community Association and also the current Director of Lands and Surveys Sabah. He takes the view that both from the historical and legal perspectives, a Bugis in Sabah should fall within the definition of “Native” as well as the term “person indigenous to Sabah”.

Given the significance of the issues and on our request, the Sabah Law Association (SLA) has prepared a write-up on those issues as reflected in Annexure A of its written submission. We think it is appropriate to highlight the significant parts therein. There are 3 definitions of the term “Native” under the laws applicable to Sabah, one general and two specific. The general

definition can be found in section 2(1) of the Interpretation (Definition of Native) Ordinance Sabah (Cap 64) while the two specific definitions are found in Article 41 of the Sabah State Constitution and Article 161A(6) of the Federal Constitution respectively. The wordings in Article 41 and Article 161A(6) aforesaid are worded substantially the same.

It is pertinent to note the relevant parts of section 2(1) of the said Ordinance (Cap 64) which state:

“Whenever the word “Native” in a substantive occurs in any written law in force at the commencement of the Ordinance... or in any law coming into force after the commencement of the Ordinance unless otherwise enacted therein, it shall mean...”

This clearly implies that the definition is a general definition applicable to all laws where the word “Native” appears and not specifically defined thereon. Where the word “Native” is specifically defined in any particular law, this general definition does not apply. The definition of “Native” in Article 41 of the Sabah State Constitution is specific to that Article which deals with the responsibility of the Yang diPertua Negeri, Sabah, to safeguard the special position of natives and the legitimate interests of other

communities in such matters as participation in the public service, the receipt of scholarships, etc... Similarly, the definition of "Native" in Article 161A(6) of the Federal Constitution is specific to the purposes encapsulated in Article 153 thereof which deals with the reservation of quotas in respect of services, permits, licenses, scholarships, etc., for Malays and natives in Sabah.

Finally, we need merely draw attention to the following general comments made by SLA which we find relevant and informative for our purposes:

"It can be seen from the above that even though the definition of "Native" is found in three different laws, there are actually only two definitions as the definitions in the State Constitution and the Federal Constitution are substantially the same. It can also be seen that the definition in Interpretation (Definition of Native) Ordinance and the definition in the two Constitutions are not exactly the same. A person may be qualified as a Native under the said Ordinance but may not be qualified as a Native under the Constitutions and vice versa. A glaring difference is that under the Constitutions, a person must be a Malaysian citizen in order to be qualified as a Native, but not under the said Ordinance. Another glaring difference is that under the said Ordinance apart from persons both of whose

parents are or were members of a people indigenous to Sabah who are automatically natives, the other persons referred to in paragraphs (b),(c) and (d) of section 2(1) must obtain an appropriate declaration (commonly known as "Sijil Anak Negeri") made by a Native Court in order for their claim to be Natives to be recognized. In other words, the persons referred to in paragraph (b),(c) and (d) of section 2(1) are not automatically Natives. They must first satisfy the requirements as referred to in the said paragraphs and obtain declaration from the Native Court to that effect before their claim to be Natives can be recognized. On the other hand, in the definition in the Constitutions, there is no requirement to obtain any declaration or Sijil Anak Negri or any other document. So long as any person comes within the definition therein, he is to be treated as a Native. The third difference is that in the said Ordinance, a person can claim to be a native if one at least of whose parents or ancestors is or was a native within the meaning of paragraph (a) i.e. a person indigenous to Sabah. The use of the words "ancestors" is very wide which may allow a person to trace his native root to many generations before him. On the other hand, under both Constitutions the use of the word "grandchild" may only allow

a person to trace his native root up to his grandparents only. The fourth difference is that apart from the descendants of people indigenous to Sabah, the said Ordinance also allows people from outside Sabah e.g. people indigenous to Republic of Indonesia or the Sulu Group of islands in the Philippine Archipelago or the States of Malaya or the Republic of Singapore or Sarawak or State of Brunei who satisfy certain requirements to become "natives". On the other hand, the Constitutions only allow people who are members of or are descended from a people indigenous to the countries, states or places outside Sabah as mentioned above.

It is to be noted that both under the said Ordinance and the Constitutions the expression "people/person indigenous to Sabah" is not specifically defined. However, it is commonly recognized and accepted that the indigenous groups such as the Kadazans/Dusuns (including their sub-groups), the Muruts (including their sub-groups), the local Bajaus, the local Brunei Malays, the Bisayas, the Orang Sungai and the Kadayans, are people indigenous to Sabah. Other ethnic groups referred to in section 2(1)(c) of the said Ordinance and those who do not originate from Sabah but are indigenous to countries, states or places outside Sabah such as those places referred

to in paragraphs (c) and (d) of the section 2(1) of the said Ordinance are not people indigenous to Sabah. The fact that the people referred to in paragraphs (c) and (d) of section 2(1) have to satisfy the requirements specified therein including having lived as and been members of a native community i.e. a group of persons the majority of whom are natives within the meaning of paragraph 2(1)(a) for certain specified periods and to obtain a declaration from the Native Court to that effect in order to qualify to be natives clearly shows that they are not indigenous to Sabah.”

CHAPTER 5

SOLUTIONS

CHAPTER 5 : SOLUTIONS

5.1 Foreign workers

It has been generally perceived that due to the huge number of illegal immigrants in the State and their continuing increase, either naturally or unnaturally, it would be impossible to eradicate them altogether and that the only hope would be to stamp the tide by reducing their number to a more manageable level. According to the Paper presented by Azizah Kasim entitled "**International Migration: Prospects and Challenges in Malaysia (2003)**", since the early 1990s, the authorities had taken some positive steps to control the number of illegal immigrants, such as the regularization exercises, amnesties, voluntary repatriation, ops nyah 1 & 2, stricter border controls and amending the immigration laws. The Paper further states that although these measures were commendable, they produced limited successes because various stakeholders were deliberately taking advantage of illegal immigrants for their own purposes including monetary benefits. The Paper then focuses on the labor sector stating that employers had benefited from illegal employment by avoiding paying medical expenses, paid leave, accommodation and insurance for their workers; that the foreign workers too had preferred to work illegally

because of the flexibility it provided in changing jobs, etc. The Paper also points out the lack of cooperation by the general public, especially employers and house owners which had adversely affected Government's efforts to reduce the number of illegals in the State; that therefore harsher penalties for violation of immigration laws might be in order coupled with the need to strengthen and enhance its enforcement logistics. In the final analysis, the Paper suggests that the Government had to find ways and means to reduce the State's dependency on foreign workers given that, in the long run, the negative impact of foreign labor employment, might well exceed its benefits.

We wish also to draw attention to another Paper entitled **"Migrant Workers in Sabah: Characteristics, Processes, Prospect & Challenges"** by Mohd. Yaakub Hj. Johari & Ramlan Goddos which states that migrant workers play an important part in the State's economic growth and employment in the plantation, construction and agriculture sectors; that entry of foreign workers was not well regulated; that over dependence on foreign labor may impair the State's economy in the long run, specially when the State is poised in making the transition from a production oriented economy (p-economy) to a knowledge based economy (k-economy), brought about by globalization and liberation including

the Asean Free Trade Area (AFTA). The article further states that the 1997 regularization exercise through FSTF recorded the total number of non-citizens to be at least 585,769; that the total number of registered workers from the Philippines and Indonesia, excluding their dependents was 226,565; that the large proportion of foreign workers had caused public concerns especially in 1992 when migrant workers made up more than 60% of the total labor force in the State. The article also states that another disturbing fact is the growing number of illegal immigrants who apparently overstayed themselves in the State. This is reflected in the statistics on their arrivals to and departures from the State. It is noted that in the period from 1996 to 2000, Indonesian arrivals were 457,850 but their departures were 228,366. During the same period, it was recorded that Filipino arrivals were 210,910 and their departures were 199,169. Quite obviously, there was a wide gap between arrivals and departures. This could be explained by foreigners seeking longer stay in Sabah due to employment or other social and economic reasons. Still, the huge differential would suggest that nationals from both Indonesia and the Philippines had come on tourist visas or temporary passes but ended up as illegal over-stayers and illegal workers in the State.

We find the following concluding observations in the article to be pertinent. It states:

“What should be clear is the fact that foreign labor has tremendously contributed to the state’s economy, particularly during the boom years of primary natural resource exploitation of timber as well as rapid expansion in the plantation sector and in the construction industry. The heavy influx of migrant workers has had both positive as well as some negative impacts on the state and the country. While the state and the country would continue to depend on migrant workers in the intermediate term, the government has taken various measures to gradually wean the country from its heavy dependence on migrant workers. Nonetheless, given the country’s development trajectory as well as the realities of international migration today, it is likely that similar to other countries, Malaysia will continue to take in migrant workers to meet the labor requirements in specific sectors of the economy. In the final analysis, therefore, the key challenge is to strike a fine balance between meeting the manpower needs of the country while safeguarding the legitimate economic, social, security and political interests of the nation.”

5.2 Identification Documents

During the course of the inquiry, witnesses have advanced a number of proposals on how the problems relating to illegal immigrants in Sabah can be resolved. We will concentrate on the three main proposals. First, there is the proposal to withdraw all ICs illegally issued to immigrants in Sabah. This is propagated by Tan Sri Bernard Dompok (W139), a former Federal Cabinet Minister and current President of UPKO. According to his Position Paper (P123), there is both a legal and moral obligation for the authorities to take such a bold step given the seriousness of the problems involved. However, he states that for practical purposes, a more "humanistic approach" should be adopted. Essentially, there are two options to this so-called "withdrawal IC exercise" in dealing with those found to have obtained their Malaysian ICs illegally or by dubious means. The first option is to repatriate them to their countries of origin and at the expense of the Malaysian Government subject to being photographed and fingerprinted so as to ensure detection if they do return to Malaysia. The second option is to allow those who wish to stay in Malaysia to do so but only on a permanent resident basis and on conditions that they be resettled in new villages in Sabah as well as in the other States in Malaysia.

We think that as a concept, the so-called "withdrawal IC exercise" on the conditions proposed, has some merit. The difficulties lie in the mechanics of identifying and locating the alleged holders of such ICs. On this score, the UPKO proposal has come out short on details. Nor has it examined the possible legal and constitutional repercussions which could arise from such an exercise especially those immigrants who were issued Malaysian ICs decades ago. There is the danger that unless the legal ramifications are sorted out, the Government and other related agencies concerned could well be inundated with legal suits of unparalleled proportions. Do we want this?

Second, another proposal has been advanced by the Sabah Progressive Party (SAPP). Here, Datuk Seri Yong Teck Lee (W129), the President of SAPP has testified briefly on this proposal which propagates the introduction of the so-called "Sabah ICs" to genuine Sabahans. According to him, such a proposal would be in line with the Malaysia Agreement 1963 and the Inter-Governmental Committee Report 1962. He states that there would be a need to enact a Sabah National Registration Ordinance to provide the legal basis for the exercise. He explains that Malaysians residing in Sabah from 31/8/1963 and their dependents would automatically be entitled to the Sabah ICs and

thereafter, such ICs would, in appropriate cases, be progressively issued to other qualified Malaysians residing in Sabah. He believes that the "Sabah IC exercise" would at least mitigate the existing problems relating to illegal Malaysian IC holders in Sabah. When Tan Sri Herman Luping, one of the RCI Commissioners raised the question as to whether such a proposal would go against the policy of national integration and if so, what would be the appropriate solution, Datuk Seri Yong made no rational response.

In the absence of details as to the mechanics involved in the so-called "Sabah IC exercise", it has nothing much to stand on. But even if it is feasible as a concept, does it really resolve the root causes of the problems of illegal immigrants and the illegal activities relating to the issuance of Malaysian ICs, etc.? In our view, the root causes have been discussed at length in the preceding paragraphs of this Report. So long as the Authorities tolerate the existence of unscrupulous syndicates and individuals; so long as those syndicates and individuals are able to take advantage of the weakly document procurement systems and so long as our administering and / or enforcement officers can be corrupted, any replacement of Malaysian ICs with whatever documents or supplementary documents, would be an exercise in futility. We believe that those obstacles including the ever

increasing number of squatter colonies; the loose border controls and the overall weaknesses in our institutionalized citizenship structure, etc., have to be overcome by the Federal and State Governments collectively and on a sustained basis. They must formulate appropriate strategies to tackle the root causes. Ultimately, there must be a firm political will necessary to translate strategies and plans into actions.

Third, there is yet another proposal. This came out of the Workshop discussions held in Sabah in May 2010 participated by major agencies such as the Federal Departments, the State Departments, the Local Authorities and the Security Agencies. They had advanced a fair number of proposals but we think the most important one related to the establishment of a Permanent Secretariat on Foreigners in Sabah, to be headed by the Deputy Prime Minister with two principal assistants i.e. the Home Affairs Minister and the Chief Minister Sabah. They would in turn be supported by a Management Committee on Foreigners to be headed by the State Secretary, Sabah, with senior officers from relevant departments and ministries in the State. This Management Committee would have wide ranging responsibilities on all matters relating to illegal immigrants in Sabah including serving as a forum to address state migration concerns; facilitating

and coordinating the implementation of State and Federal related powers on foreigners management; monitoring of data and reporting and overseeing on matters relating to relocation, resettlement and other implementation matters. In addition, as mentioned earlier, the NRD Workshop also proposed the introduction of a Resident Pass as a means of rationalizing the many disparate passes that are currently in use by foreigners / immigrants for a more efficient and effective tracking and management system.

5.3 Squatter Settlements

Evidence has shown that there are 182 squatter colonies or settlements in Sabah. They are likely to grow in number and size thus further aggravating the difficulties currently faced by the authorities in attempting to resolve those social, environmental and criminal problems relating to these settlements. Many of those settlements are occupied by local Sabahans such as those who are landless or those who have, for one reason or another, migrated from the remote areas in order to look for jobs in urban areas. In time, these settlements began to grow in size with the influx of illegal immigrants taking advantage of the flexibility they

provide in terms of avoiding detection from the relevant authorities, etc. Given this scenario, it is reasonable to assume that there would be intermarriages between the locals and immigrants. There would be other forms of interactions between them. Such process of assimilation would become intensified making it extremely difficult for the authorities to identify the number of illegal immigrants in these settlements. There are however some settlements where the occupants are mostly immigrants, legal and illegal, in which authorities would find little difficulty in identifying their number and status.

We have earlier mentioned a number of suggestions made by several witnesses on how to resolve the squatter settlement issue. There is a suggestion that the Government should enact legislation to compel employers to provide housing for their foreign workers and dependents so as to mitigate the pressure on the authorities in managing the settlements. As a supplementary measure, the Government can also assist by building low-cost houses for them including those local Sabahan squatters in appropriate cases to be located on Government land. We had in fact visited a squatter settlement in Labuan called Kampung Kiamsam where the Federal Government, more specifically, the Federal Special Task Force (FSTF) had constructed a number of concrete blocks to

accommodate relocated squatters upon conditions as to their supervision and control, etc., by the authorities. To all intents and purposes, the project appears to be quite successful. We believe that such a project is worthy of serious consideration by the authorities. There is also a suggestion to deport the illegal immigrants found in those settlements. This would require devising a mechanism that is able to effectively and fairly identify those fit for deportation. In the context of an assimilated settlement described above, this is no easy task. Besides, there is evidence that many of those deported had been able to re-enter Sabah apparently without much difficulty. Unless this is resolved, it may be another costly administrative casualty.

Yet another suggestion is to demolish and relocate the squatter settlements in appropriate cases. In this connection, it is perhaps appropriate to draw attention to the relocation / resettlement plan to be effected by the Eastern Sabah Security Command or ESSCOM relating to some water villages located along the east coast of Sabah. Currently, ESSCOM together with other Federal and State agencies are said to be conducting preliminary studies relating to relocation or resettlement of certain water villages in the 10 districts located along the east coast of Sabah, more specifically, in Tawau, Semporna, Kunak, Lahad

Datu, Kinabatangan, Beluran, Sandakan, Pitas, Kota Marudu and Kudat. The studies are for the purpose of identifying the demographic groups in these areas. We understand that information has been obtained that there are 131 villages with 20,457 houses comprising 116,497 occupants in the 10 districts. On 27/5/2013, ESSCOM held a Resettlement Villages Committee Meeting chaired by the State Secretary Sabah, in which it was decided to initially implement a pilot project involving water villages in 3 districts i.e. Mukim, Simunul consisting of 9 villages in the Semporna district; Kampung BDC / Mangkalinau in the district of Sandakan and Kampung Puyut in the district of Lahad Datu. We understand that census exercises have thus far been successfully conducted in the 3 areas concerned.

Relocation or resettlement is a complex exercise involving the involuntary movement of people. Many factors have to be taken into consideration. It has to take time. Studies have to be made on all aspects of resettlement. However, once a decision is taken by the authority, it has to be effected timeously. ESSCOM must be allowed to carry through its plans without any intervention. It should be provided with the necessary logistics and funds to carry through its plan of action. The success of ESSCOM may well form the basis for the successful resolution of other squatter settlements

throughout the State of Sabah. In the final analysis, we think it would be necessary to establish a special body, perhaps in the form of a committee of experts to tackle problems relating to squatter settlements holistically.

CHAPTER 6
RECOMMENDATIONS

CHAPTER 6 : RECOMMENDATIONS

We would subscribe to the proposals advanced by the NRD Workshop. We believe that a Permanent Secretariat along the lines propagated by the Workshop as reflected in the document P136 should be established. The Workshop has proposed a Management Committee on Foreigners with extensive powers as a support-base for the Permanent Secretariat.

However, if the concept of this Management Committee is not acceptable to the Government, then perhaps a Consultative Council on Immigrants / Foreigners headed by an independent professional of the highest integrity who is not involved in politics and consisting of senior government servants, corporate figures, academics, law association representatives, state attorney general, etc., could be established. The Council should be conferred with extensive powers in researches and studies on all aspects relating to immigrants / foreigners in Sabah and to discuss and deliberate thereon and thereafter, to make reports including recommendations to the Permanent Secretariat. The Council should also be conferred powers of establishing committees or sub-committees to deal with specific aspects on immigrants / foreigners in Sabah.

With such a body, we are confident that the illegal immigrant problems and related matters plaguing Sabah can be resolved and that sense of gloom we referred to earlier, be erased forever.

POSTSCRIPT

Many people in Sabah seem to perceive the Royal Commission of Inquiry (RCI) as the be-all and end-all to the illegal immigrant problems confronting the State. With respect, we think this is a misconception. The RCI is bound by the Terms of Reference. We can only inquire, make findings and thereafter present recommendations to the relevant authorities. Very much depends on the authorities concerned. The power to translate the recommendations into action lies with them.

We are aware that some of the evidence disclosed to the RCI may be considered sensitive by some quarters. However, we think that such evidence has to be viewed against the backdrop of events and circumstances of the period when abuses and / or illegal activities relating to the widespread issuance of Malaysian identification documents (ICs) to immigrants / foreigners, were alleged to have occurred in the state of Sabah.

It was a period in which syndicates and individuals aided by or in complicity with corrupt officials, had taken advantage of a weakly institutionalized citizenship system compounded by the huge numbers of immigrants / foreigners for monetary gain. It was

also a period which saw the emergence of an alleged project called "Project IC" with a corrosive political agenda. In short, it was a period of heightened nefarious activities that had precipitated and accelerated the influx of illegal immigrants into the State. Sabah now suffers the cumulative spill-over effects of that period.

We believe that lessons can be learnt from history. All it takes is the political will. There is a need to take bold and decisive steps for an integrated, comprehensive and sustained policy of action. That of course, is the prerogative of the Government and the Authorities. It is not a matter within the remit of this Royal Commission of Inquiry (RCI).

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