

PERSPECTIVE

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Singapore | 15 March 2016

Sabah ICs for Sabahans: Will it Help?

By **Andrew M. Carruthers***

EXECUTIVE SUMMARY

- A January 2016 counter-terrorism operation in peninsular Malaysia has re-energized a seemingly unrelated yet perennial question in the East Malaysian state of Sabah: Should Sabah's government issue new Identity Cards (ICs) to its citizens?
- Concerned Sabahans have grown wary of longstanding issues with so-called "illegal immigrants" who obtain Malaysian national identity cards (MyKads) through clandestine means and easily assimilate into the fabric of everyday life in Sabah.
- Due to MyKad forgeries and the illicit dissemination of national identity cards to non-citizens, concerned Sabahans are losing faith in the MyKad as a legitimate sign of citizenship. Sabahans have proposed issuing state-specific "Sabah ICs" to "genuine" citizens to combat this problem.
- Burgeoning calls for a Sabah IC reflect broad distrust among Sabahans of the federal government's approach to the state's 'illegal immigrant' problem, and are shaped by citizens' ongoing concern with issues of the state's autonomy.
- But for the calls for the Sabah IC to be taken seriously, Sabahans must demonstrate an understanding of the practical challenges and ethical considerations that lie in store for them should they decide to implement it.

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INTRODUCTION

Over the course of three days in late January 2016, the Royal Malaysian Police (PDRM) Special Counter Terrorism Division carried out integrated operations in the peninsular Malaysian states of Kedah, Johor, Pahang, Selangor, and the federal territory of Kuala Lumpur. The target for these operations was a suspected cell of Islamic State (IS) operatives. The PDRM operation was a great success: seven members of Daesh Nusantara — an affiliate of the Islamic State — were arrested, detained, will be convicted under Act 574 of the country's Penal Code, and will be further investigated under Act 747, also known as the Special Measures Security Offenses Act. Inspector General of Police Tan Sri Khalid Abu Bakar noted that the special forces team confiscated bullets of various kinds, books on Jihad, and an IS flag and propaganda video. Suspects' ages ranged from twenty-six to fifty, and all were members of the same cell aspiring to carry out acts of terror in locales throughout Malaysia.

The Inspector General revealed that he and his team suspected that one of the seven arrested individuals was the group's leader. Malaysian citizens living in the East Malaysian state of Sabah — commonly referred to as “the Land Below the Wind” — were distressed to learn that he was a 31-year-old from Sabah.

In the days following the arrests, it grew readily apparent to an attentive public that something about this so-called “Sabahan” was amiss. Sabahans were waiting to hear additional details about the cell leader who worked as an assistant housekeeping manager at a hotel in Johor and allegedly called their state home. And yet, little to no new information was forthcoming from the PDRM about the suspect's origin. This noticeable lack of information has led many Sabahans to wonder if the suspect truly hails from Sabah. The state's chief minister, Datuk Seri Musa Aman, told reporters that they must ascertain “who he is and which part of Sabah he is from or if he really is a Sabahan.”¹ The state's Sabah Progressive Party (SAPP) president, Datuk Yong Teck Lee, echoed these sentiments in a roundabout way, stating “I would have thought that, before the police arrested the terror suspect, the police would have uncovered his activities, and therefore his identity, before nabbing him.” The party president characterized the lack of forthcoming information on the suspect as reflective of problems the state has had with MyKad or Identity Cards (ICs), which are often the objects of forgeries. This issue of the suspect's unknown identity is emblematic, he argued, of the need for a wholesale implementation of new Sabah ICs: “[T]he dismal failure of the federal government in protecting the sanctity of citizenship documents such as MyKad has exposed the vulnerabilities of our national security. The Sabah government should immediately set up a department to issue Sabah ICs to genuine Malaysians in Sabah.”²

At the time of this writing, nothing in the way of substance has been released regarding the alleged Sabahan's biodata. Suffice it to say, this is not the first time that Sabahans have grappled with the issue of non-citizens illegally obtaining MyKads that mark them as

¹ 25 January 2016, “Is the ‘Sabahan’ IS militant really a Sabahan?” The Rakyat Post (<http://www.therakyatpost.com/news/2016/01/25/is-the-sabahan-is-militant-really-a-sabahan/>)

² 26 January 2016, “Sabah IC would have solved the identity problem of suspected terrorist,” The Rakyat Post. http://www.sapp.org.my/rci/160126_sabah_ic_should_solve_identity_terrorist.asp

Sabahans, only to commit crimes in peninsular Malaysia. In 2013, Ardi bin Hamza, a security guard working at an AmBank office in Subang Jaya, brutally murdered a bank operations manager before absconding with RM 450,000. Ardi bin Hamza's MyKad identified him as a Sabahan, but investigators soon revealed that the shooter's MyKad was fake — his real name was Laode Ardina Laode Rasila, and he hailed from Southeast Sulawesi, Indonesia.³ Police eventually apprehended the shooter in Johor, and he has been sentenced to death, but this sentence offers little in the way of comfort to concerned citizens who wish to see an end to the production and circulation of fake MyKads to non-citizens.

This piece offers an overview of Sabah's IC problem in three expository steps. First, it gives the background of MyKad identity cards. Second, it provides an account of a burgeoning consensus among many Sabahans that the state should issue Sabah-specific ICs to all Sabahans, addressing how this call reflects Sabahans' ongoing concern with issues of state autonomy. It concludes by addressing practical and ethical challenges that Sabahans will face if they go through with the issue of Sabah ICs.

MYKAD: WHAT IS IT, WHAT CAME BEFORE IT, AND WHAT ISSUES DO SABAHANS HAVE WITH IT?

MyKad is Malaysia's national identity card or IC. It was introduced in 2001 by the country's National Registration Department (NRD) as a replacement for a previous identity card that was implemented in 1949 under British colonial rule. Introduced following the 9/11 attacks, the MyKad became the first "smart card" in the world to augment the unique identifier commonly used in national identity cards — a string of signs (digits and occasionally letters) — with a chip operating system (COS) containing a unique biometric identifier in addition to other personal information and various applications. It was introduced by then Prime Minister Mahathir Mohamad to bring about "an incredible transformation in [Malaysians'] lives." He proffered the MyKad as a starting point for a new digital revolution in everyday Malaysian society, noting that the country's "journey into the digital era has not just ended" with the event of its launch, but instead marks "the beginning of a new era of civilization."⁴

Each MyKad features a citizen's photo, name, address, gender, and, if the bearer is Muslim, their religion. It also features a National Registration Identity Card Number (NRIC), which is the bearer's unique identifier, something that links him or her to a digital entry in a national database.⁵ Each MyKad possesses a chip operating system (COS) containing

³ Some Malaysians commenting on the case in social media characterized the shooter as Bugis, given that he came from Sulawesi. However, his origin in Southeast Sulawesi and his name suggest that he is Butonese.

⁴ See Thomas (2004) "Is Malaysia's MyKad the 'one card to rule them all'?" *Melbourne University Law Review* 474.

⁵ From 1948 to 1977 this identifier was a seven-digit number. From 1978 to 1990 it was expanded to include an alphabetic character. From 1991 through the time of this writing, the NRIC was expanded to twelve digits in the following format: "YYMMDD-PB-###G." The first six digits are the bearer's date of birth. The second two digits are a code corresponding to the bearer's place of birth; for Sabah, this code is 12, 47, 48, or 49. The next four digits (represented in the format above by ###G) are randomly generated by the national registration department, with the final digit "G" denoting the bearer's gender, with odd numbers for males and even numbers for females.

personal information content and several applications. The information content of most MyKad chips include the bearer's race and religion (for Muslims and non-Muslims), their thumbprints, their personal polling station code for elections, their criminal records, and their health information. Cards belonging to citizens who are permanent residents of Sabah are also marked by an "H" that appears in the card's bottom right corner.

Followers of Malaysian domestic politics are likely to be familiar with the so-called "IC Project," a name given to the widespread illicit production and circulation of Malaysian identity cards to Malay-speaking Muslim immigrants, beginning in the 1980s. Such immigrants — particularly those from Indonesia and the Southern Philippines who settled in Sabah — were allegedly given the cards in exchange for pro-UMNO and ruling coalition votes. Private individuals purportedly working of their own accord have been arrested, but a Royal Commission of Inquiry (RCI) on Illegal Immigrants in 2014 has absolved any political party of direct involvement. Nevertheless, whispers of UMNO's involvement endure, and many non-Muslim indigenous Sabahans will contend that the syndicates responsible for the dissemination of fake ICs are alive and well. Many citizens will argue that the laminated paper cards that were widely used as national identification tokens up to the introduction of MyKad were relatively more susceptible to widespread forgery vis-à-vis the technologically "smart" MyKads that replaced them. Ironically, the nation's current "smart card" is also susceptible to forgery, a fact that has led to emerging calls for new cards.

The MyKad's susceptibility to forgery and the relative ease with which such forgeries circulate in everyday life is due to two practical issues. The first is one of variability — the card has changed five times in various ways since its introduction, making it harder, as one writer has noted, "to differentiate between authentic and fake cards, as citizens are holding different versions of MyKad."⁶ The second is one of human negligence and error. Some informants familiar with counterfeit MyKads suggest that, depending on the setting in which they are solicited or displayed, the person checking them may simply make sure that the card's sequence of digits, graphics, and "feel" in the hand more or less align with 'the norm.' Employers who rely on certain kinds of labourers (e.g. plantation laborers, construction workers, security guards or household maids) may record an applicant or employee's unique identifier for quasi-official personal records.⁷ Many, however, fail to ensure that the card's NRIC number corresponds to a digital persona or corroborating entry in the national

For additional information see Yap et al. (2012), "Security Issues on Identity Card in Malaysia," IACSIT International Journal of Engineering and Technology, Vol. 4, No. 5.

⁶ 22 November 2013, "High Demand for MyKad," Sin Chew Daily (www.mysinchew.com/node/94006).

⁷ Although not central to my expository concerns, it is worth noting that Indonesians have long been more or less "tolerated" in certain locations in Sabah. This is particularly true of ethnic Bugis Indonesians from Sulawesi, who have migrated to Tawau in southeastern Sabah since the 19th century. This tenuous "tolerance" or tendency to "overlook" their presence is for two reasons. First, Sabah's burgeoning plantation sector has long recruited such migrants to fulfill labour demands. In this sense, migrants are widely yet tacitly understood to occupy a specific "niche" in contemporary Sabah. Second, as Malay-speaking Muslim members of the greater "Malay race" (Malay: Bangsa Melayu), Bugis migrants from Indonesia and their co-ethnic Malaysian counterparts bear no salient markers of linguistic, phenotypic, or cultural difference, which enables the former group's easy assimilation into everyday life in Sabah.

database. Furthermore, the biometric data stored in the card are rarely checked upon a bearer's application for employment. Those who do try to authenticate the cards might find a corresponding database entry, as is the case for individuals whose cards are not "fake" per se but stolen, or individuals whose cards were issued by syndicates working in cahoots with corrupt national registry officials. Other agents who go so far as to authenticate the card bearer's MyKad might be shocked to find that the NRIC number corresponds to an individual listed in the national database as deceased. This happens when MyKads circulate from citizens to non-citizens following the death of their previous bearers. Or, as was the case with Laode Ardina Laode Rasila (alias "Ardi bin Hamza"), individuals may find that the MyKad registration numbers do not correspond to anyone at all.

CALLS FOR A SABAH IC

In October 2015, a flash mob event entitled "Black Sunday 3.0" was organized by Solidariti Rakyat (SORAK), a non-governmental organization. Dressed in black t-shirts, seventy-odd members of the group congregated along Gaya Street in Kota Kinabalu to make several demands on the state regarding so-called "illegal immigrants" in Sabah. These were, *in translation*:

1. The demand for the RCI Technical Committee to take drastic action as soon as possible regarding the RCI report released in December of 2014;
2. The demand for a solution to cleanse Sabah of "illegal immigrants" and to reinstate Sabah's former status;
3. The demand for the registration and issuance of Sabah Identity Cards to all genuine Sabahans in accordance with the established laws of the country.⁸

The demands made by SORAK in October have snowballed into a broader social campaign for widespread political change. In November, the group began a campaign to capture 100,000 portraits of Sabahans posing behind a cardboard "sample" of the proposed Sabah IC (Figure 1). The group has posted these portraits on social media under the heading "We want SABAH IC," accompanied by the hashtag "Sabah4Sabahan."⁹ The 'address' given on the sample card used for the portraiture is "Gaya Street, Kota Kinabalu," and the 'name' displayed is "Sabahan Tulen," meaning "Pure Sabahan." The adjective "Pure" in "Pure Sabahan" presupposes certain qualities (e.g. indigenous *bumiputera* status, family roots in Sabah stretching further back than 1963, etc.) that distinguish "real" Sabahans from "illegal" interlopers or "would-be" Sabahans.

⁸ The demands in Malay are as follows: 1. Menuntut Jawatan Kuasa Teknikal RCI Sabah mengambil tindakan drastik dan tegas secepat mungkin ke atas laporan RCI yang dikeluarkan pada bulan Disember tahun lepas; 2. Menuntut jalan penyelesaian untuk membersihkan Sabah daripada Pendatang Asing Tanpa Izin (PATI) dan mengembalikan semula status Sabah; 3. Menuntut pendaftaran semula dan pengeluaran kad pengenalan kepada Penduduk Asal Sabah mengikut undang-undang yang sedia ada di negara ini.

⁹ One cannot help but wonder if participants in the photograph campaign are asked to present their MyKads to the campaign organizers before having their photographs taken.



Figure 1: SORAK’s “Sabah4Sabahan” Sabah IC Movement.
Source: “SORAK SABAH” Facebook Page
(facebook.com/SORAK-SABAH-619273488215151/)

The campaign for “Sabah ICs” for “Pure Sabahans” reveals enduring ethno-religious and political divisions in the Land Below the Wind. Those making the call for state-specific ICs come predominantly from Sabah’s non-Muslim *bumiputera* groups (e.g. the Kadazandusun), and are supported by the state’s ethnic Chinese communities. Many of the activists and politicians making these calls are affiliated with opposition parties like the Sabah Progressive Party (SAPP) and the State Reform Party (STAR). Like many in Sabah, they continue to take seriously allegations of UMNO-Barisan Nasional (BN) involvement in the illicit dissemination of identity cards to Muslim non-citizens in exchange for votes at the polling booths. In contrast, and in spite of Muslim participation in SORAK’s portrait campaign, Malay/Muslim groups and members of UMNO have remained generally mum on the Sabah IC issue in the state’s public sphere.

Calls for a Sabah IC also reflect many Sabahans’ concerns regarding the state of Sabah’s autonomy. In 2013, SAPP politician Edward Dagul said that he and his party “want the rights and privileges of Sabahans to be guaranteed and protected as when Sabah helped form Malaysia” in 1963. He argued that “Sabah ICs may be issued to Malaysians who were in Sabah before August 31 in 1963 and their descendants as a matter of right and be issued to other genuine Malaysians who are [permanent residents] in Sabah.” Possibly alluding to the political entailments of the so-called “IC Project,” Dagul stated that “it is against the

constitution for the federal government to issue Sabahan status to foreigners.”¹⁰ Chairman of Sabah’s STAR party, Datuk Dr Jeffrey Kitingan, has echoed these sentiments and asserted the need for a Sabah-specific IC. He has repudiated claims by the NRD that re-issuance of identity cards may be done so long as they are Malaysian Identity Cards, arguing that “[p]ast records clearly showed that the NRD cannot be trusted to deal with the illegal ICs in Sabah. The NRD has no legal or moral authority to say ‘no’ to the Sabah IC, or to re-issue ICs which enables them to legitimize illegals and cover up past wrong doings.” Kitingan, like many other members of Sabah’s concerned citizenry, has framed the issue of Sabah-specific ICs with explicit reference to the issue of sovereignty: “The Sabah IC and non-Sabahan Resident ID [are] the only way to ensure that the security and sovereignty of Sabah and the future of genuine Sabahans are genuinely protected.”¹¹ Indeed, a Sabah-controlled machinery for producing such cards and a state-based infrastructure for issuing and circulating them have been framed as an exercise in state autonomy. Advocates note that a state-run machinery for the production of state-scale ICs would not violate the federal government’s sovereignty over issues of federal citizenship, as stipulated in Item Five of the Ninth Schedule’s Federal List. So too, the production of such cards is framed by Sabah IC advocates as falling clearly within the Ninth Schedule’s State List, which authorizes Sabah’s control over the “Machinery of the State Government,” including “Exclusive State services.”¹² Kitingan claims that 1,000 teams of five people each could easily carry out the dissemination of cards within six months, estimating these teams’ wages and operations expenses to be RM 130 million annually, with an initial capital expenditure of RM 210 million.¹³ His brother, Deputy Chief Minister of Sabah Tan Sri Joseph Kitingan, has alluded to a possible decision being made regarding the Sabah IC recommendations sometime in 2016.

CONCLUSION: PRACTICAL CHALLENGES AND ETHICAL CONSIDERATIONS

Sabahans will, however, face three challenges if they decide to move forward with the production and circulation of state-scale ICs. The first two issues, ones gestured to earlier, involve the very real and likely threat that these ICs, like their federal-level MyKad predecessors, would be subject to forgery. If illegal IC syndicates continue to operate in Sabah, they can re-calibrate their efforts to account for and reproduce the proposed stylistic features of the new Sabah ICs. After all, the new cards, much like the MyKad, are simple pieces of PVC plastic whose graphics, given the right software technology, are reproducible on a surface-level. The second challenge is one of human negligence and error regarding everyday processes of authenticating ICs. As mentioned earlier, the biometric data contained in each MyKad, “smart” as it may be, often plays little to no role in everyday processes of authentication. Various employers or other agents, for example, may only

¹⁰ 5 November 2013, “Sabah IC can guarantee Sabah's sovereignty,” SAPP (http://www.sapp.org.my/pti/131105_sabah_ic_guarantee_sovereignty.asp).

¹¹ 24 March 2015, “Re-Issuing Sabah ICs will only legitimise illegal immigrants who had MyKad illegally,” Sabahkini (<http://sabahkini.com/re-issuing-sabah-ics-will-only-legitimise-illegal-immigrants-who-had-mykad-illegally-star/>).

¹² Federal Constitution of Malaysia, Ninth Schedule.

¹³ 23 October 2015, “Sabah Govt. Should Implement Sabah IC Immediately – Dr. Jeffrey,” SabahKini (<http://sabahkini.com/sabah-govt-should-implement-sabah-ic-immediately-dr-jeffrey/>).

visually gauge the authenticity of cards, without scanning the cards in a MyKad reader or confirming that the bearer’s unique identifier corresponds with a digital entity in the NRD database. If Sabahans want the new cards to do what they want them to do, they must first ensure that processes of authentication are rigorously carried out across various spheres of everyday life. This would be no small feat and might, to some national and international audiences, bespeak a shift to a surveillance state of Orwellian proportions.

The third challenge is an ethically salient one. To be sure, many citizens are justly upset about a shift in Sabah’s political life – a shift popularly linked to the illicit dissemination of national identity cards to non-citizens. For decades, Sabahans have witnessed unusual growth in the Malay/Muslim population occurring alongside UMNO and BN’s consolidation of political power in the Land Below the Wind. This has led to a sense of victimization and resentment within the state’s non-Muslim bumiputera community. Notwithstanding these important and ongoing concerns, if Sabahans’ cries for Sabah ICs are to be taken seriously, they must be prepared to deal with the Pandora’s Box that the registration and issue of new identity cards will undoubtedly open. Sabah ICs would only be issued to individuals who can produce certain official and corroborating documents like a birth certificate. What is to become of certain IC holders — those beneficiaries of the so-called “IC Project” — who cannot produce these corroborating forms, yet have been living for decades as citizens? Will they be incarcerated or expelled from Sabah, a place they have come to call home? What will become of their children or their children’s children, individuals who have been born, raised, educated, and currently work in Sabah? Will they too be expelled, or be granted clemency, only to live their lives as second-class citizens? Much has been said about the importance of issuing new cards in Sabah, yet little has been said of the side effects of their implementation. Those who are calling for such cards must demonstrate the will to develop a robust social and state infrastructure that would tackle this possibility in an ethical and politically enlightened way.

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