

# PERSPECTIVE

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## **Movement Control and Migration in Sabah in the Time of COVID-19**

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### **EXECUTIVE SUMMARY**

- After a tumultuous state election, Sabah is now the epicenter of an ongoing “Third Wave” of COVID-19 infections that has swept across Malaysia.
- Election campaigning and clandestine cross-border movement have been causally linked by different government actors to this Third Wave, prompting the government to tighten movement control orders and migrant surveillance in Sabah.
- As a recent report by the Sovereign Migrant Workers Coalition makes clear, migrant detention practices must be reformulated in response to evolving administrative, epidemiological, and ethical challenges.
- Policymakers must grasp that (i) movement control, (ii) migrant care, and (iii) public health are interconnected.

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## INTRODUCTION

On 25 October 2020, Malaysian King Sultan Abdullah Sultan Ahmad Shah declined to declare a National Emergency, despite Prime Minister Muhyiddin Yassin's urging that such an emergency was necessary in the face of an intensifying "Third Wave" of COVID-19 transmission. In a media statement relaying the decision, His Majesty reminded Malaysia's politicians to "stop all politicking that might disrupt the stability of the national government." Analysts and followers of Malaysian politics are watching these emerging national-level developments closely, in so far as they signal potentially rough political waters for Budget 2021, or may be taken as signs of "politicking" or attempts at democratic subversion by the ruling coalition.<sup>1</sup>

This article offers a complementary perspective to these national-scale dynamics by turning to more regional developments in Sabah – the state currently most affected by the "Third Wave" sweeping across Malaysia. Much attention was paid to Sabah in September 2020 during the run-up to its state election, when the uneasy, Muhyiddin-led *Gabungan Rakyat Sabah* (GRS) alliance ousted the incumbent *Warisan Plus* coalition. Comparatively little attention, however, has been paid to Sabah's post-election landscape. Basic questions remain about how COVID-19 and Movement Control Orders have impacted everyday life in Sabah, or how these issues relate to longer-term issues, namely undocumented immigrants.

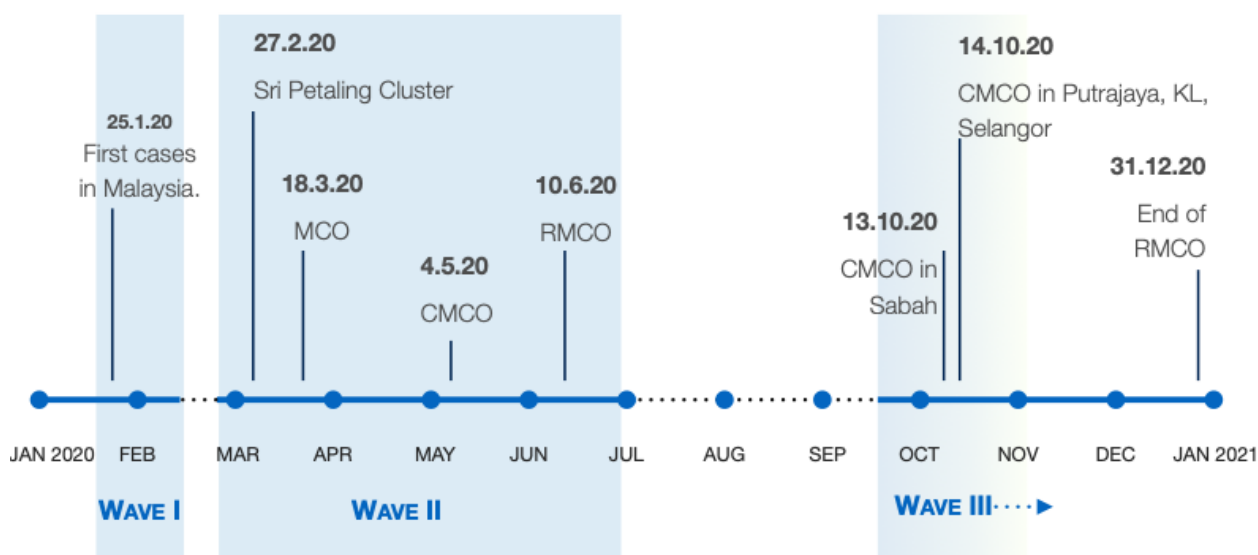
With an eye to recent national-level developments, this ISEAS Perspective sketches how the "three waves" have shaped contours of Movement Control in Malaysia, with special focus on Sabah as the pandemic's latest epicenter. It examines how these dynamics dovetail with recent developments regarding undocumented immigrants in Sabah. It concludes by suggesting how (i) movement control and (ii) migrant care are intertwined issues that pose political, economic, and ethical challenges to Sabah's public health.

## MOVEMENT CONTROL AND COVID-19

On March 16, 2020, amidst an accelerating planetary pandemic (and after the first spell of what would prove to be a year full of political drama), newly-appointed Prime Minister Muhyiddin announced the implementation of a nation-wide "Movement Control Order" or *Perintah Kawalan Pergerakan*. Falling under the Control and Prevention of Infectious Diseases Act of 1988 and the Police Act of 1967, the Movement Control Order enforced the following:

1. Complete restriction of movement and assembly nationwide.
2. Complete travel restriction for all Malaysians going overseas.
3. Complete restriction of foreign visitors and tourists into Malaysia.
4. Closure of all kindergartens, public and private schools.
5. Closure of all public and private institutions of higher learning nationwide.
6. Closure of all government and private premises except those involved in essential services.

Intended by the Prime Minister to last only from 18 March through 31 March, this two-week period of Movement Control turned out to be but an initial interval in a sequence of *sambungan* or “extensions” – chapters, as it were, in an ongoing war with an “invisible enemy” (*musuh yang tidak kelihatan*).<sup>2</sup> The first extension was announced on 25 March, followed by a second on 10 April (to last through 14 April), a third on 23 April (to last through 12 May), a fourth on 4 May (to last through 9 June). This fourth reset marked something of a phase transition from a Movement Control Order to a relatively open Conditional Movement Control Order or CMCO. On 7 June, the government announced the Recovery Movement Control Order, and began shepherding its wary people into a period marked by renewed interstate travel and the regeneration of the Malaysian economy, just in time for Eid al-Adha. On 28 August, this latest *sambungan* was extended through the end of the calendar year to 31 December 2020. This sequence of movement control orders was implemented in the wake of Malaysia’s second wave (27 February – 30 June), which followed an initial, shorter wave (25 January – 16 February) (see **Figure 1**).



**Figure 1: Timeline of Three Waves.**

Alongside the multiphasic national-scale Movement Control Order ran two parallel orders — the so-called Enhanced Movement Control Order (EMCO) and Targeted Enhanced Movement Control Order (TEMCO) — which, unlike the foregoing control orders, operated according to a different logic of selectivity and enclosure. The EMCO further constrains patterns of movement in locales deemed worthy of additional enforcement. The TEMCO is even tighter than the EMCO, targeting smaller specific areas, with stricter standard operating procedures and more rigorous testing by the Ministry of Health. These enhanced orders are consistent in the manner of their enclosure: more rigorous control over smaller areas.

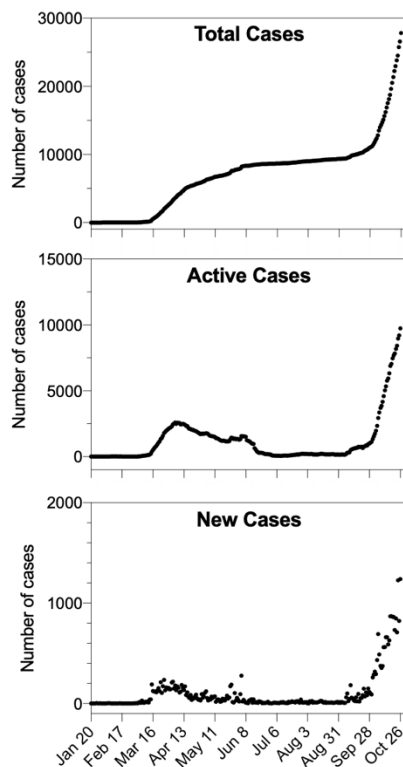
The Movement Control Orders issued from March through August may be read as a series of chapters in a story of relative, if somewhat delayed, success. The initial slowness of reaction — itself a byproduct of the country’s change in government — was followed up by border closures, military-enforced lockdowns, and a flurry of economic stimulus

packages. Facing about two hundred cases per one million people in May, Malaysia faced 332 positive cases per one million people in September, dropping below South Korea's 460 cases, and well below the United States' 21,385. The relative success of Malaysia's systems of containment during Waves One and Two reflects the country's tested track record against zoonotic diseases.

All systems leak, however, whether they are systems of epidemiological containment, or national boundaries. In Sabah, both kinds of leakage were in play at the start of what would come to be identified by Director-General of Health Dr. Noor Hisham Abdullah as Malaysia's "Third Wave." On the eve of the Sabah state elections, after some two weeks of intensive public campaigning, Chief Minister of Sabah and Parti Warisan Sabah president Datuk Seri Shafie Apdal justified his government's implementation of in-person election, while acknowledging the risks. "It is certain that with the COVID-19 situation, there is a high probability that we might be infected," he said. Earlier in the day, Malaysia's health ministry had made known that 63 out of the 71 new 24-hour COVID-19 cases had been recorded in Sabah.<sup>3</sup> Nevertheless, with one eye cast to tempestuous national-level political dynamics, and the other to former Chief Minister Musa Aman's effort to form a new Sabah state government only two months earlier in July, Shafie doubled down in a special address, noting that the poorly-timed snap poll was a "consequence of the political turmoil and power grabs in the country – even though this did not directly involve Sabah – that eventually spread here and they tried to seize control of Sabah."<sup>4</sup> The election did not turn out well for Shafie and his coalition, and the state- and nation-wide travel it spurred among politicians and voters did nothing to help Malaysia's ongoing efforts to contain COVID-19.

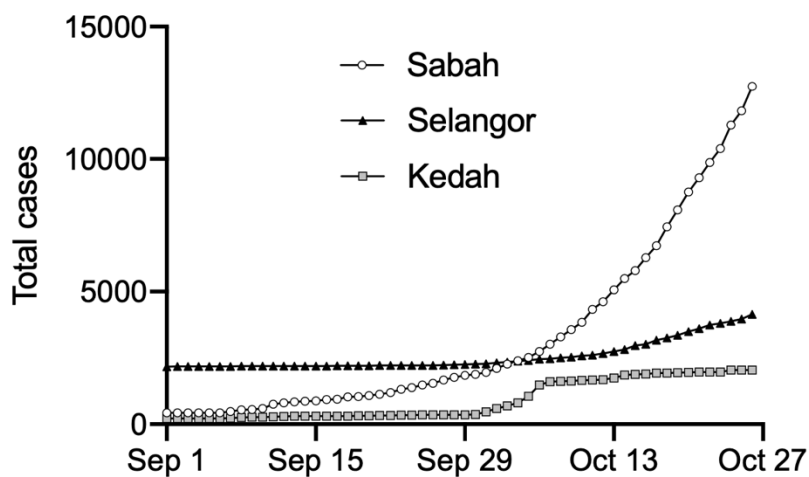
Three weeks after Shafie's statement, Sabah's total number of cases had almost quadrupled, increasing from 1,386 on 24 September to 5,493 on 14 October, and going from 13% to 31% of the cumulative total of cases in Malaysia (See **Figures 2 and 3**). Its districts of Lahad Datu, Tawau, Semporna, Sandakan, and Kota Kinabalu were particularly hard hit (see **Figure 4**). By 26 October, Sabah's cumulative total had reached 12,745 cases, constituting 46% of the country's 27,805, with Sabah's 927 new active cases on 26 October constituting 75% of Malaysia's daily total active cases. We gain an even better sense of the scale and speed of COVID-19 transmission by attending to what the WHO terms "sporadic cases," meaning those tip-of-the-iceberg-cases unlinked to known "clusters."<sup>5</sup> Cases with unknown sources of infection rose from 5 or 7.2% of the 69 total local transmissions on 24 September, to 445 or 80.5% of the total 553 local transmissions on 11 October. A recent report has indicated that as many as 9 out of 10 sporadic cases nationwide are from Sabah.<sup>6</sup>

What precipitated this state of affairs? Movement associated with the Sabah state elections, to be sure. Former Chief Minister Shafie suggested as much, while shifting blame for the snap poll to "political turmoil" and "power grabs." Prime Minister Muhyiddin, too, would "admit that the Sabah state election campaign was one of the reasons for the increase in COVID-19 cases," while explaining that the election was "unavoidable" after the dissolution of the 15<sup>th</sup> Sabah state Assembly. In a statement, Muhyiddin identified noncompliance with standard operating procedures as a factor, noting that SOP's on "social distancing" or *penjarakkan social* were not followed properly. The Prime Minister also identified another contributing factor: undocumented immigrants in Sabah.<sup>7</sup>

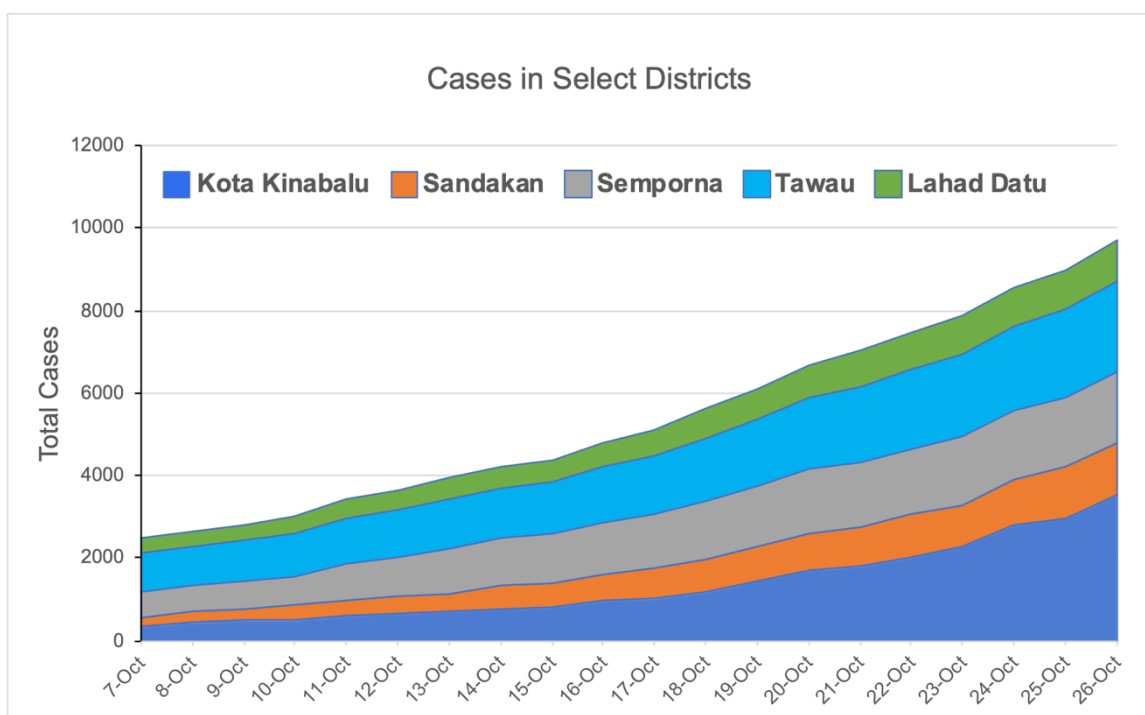


**Figure 2:** COVID-19 Cases, January - October 2020 (data source: Malaysian Ministry of Health)

### Third Wave Cases



**Figure 3:** Rising Cumulative Cases in Sabah, Selangor, Kedah, September — October 2020 (data source: Malaysian Ministry of Health)



**Figure 4:** Cumulative Cases in Major Sabah Districts, October 2020 (*data source:* Malaysian Ministry of Health)

**MOVEMENT CONTROL AND UNDOCUMENTED MIGRATION**

Long an object of attention among commentators and analysts of Southeast Asia, the perennial issue of undocumented immigrants in Sabah figures once more on the national and international stage. In its latest iteration – occurring during the time of the pandemic – the topic of so-called *Pendatang Asing Tanpa Izin* (PATI) or “illegal immigrants” figures in relation to Malaysia’s COVID-19 spike, compounding more longstanding anxieties about border security in the East Malaysian state.

On 14 October 2020, Malaysian Defense Minister Datuk Seri Ismail Sabri Yaakob raised a number of points related to: (i) Malaysia’s compliance task force, (ii) national border control, (iii) COVID-19 public sanitation operations, (iv) mandatory quarantine, and (v) fake news. Speaking on national border control, the minister outlined the aims of *Operasi Benteng* as the following: Strictly control the country’s borders in an integrated manner from undocumented foreigners illegally slipping in to curb cross-border crime in addition to curbing the spread of the COVID-19 epidemic.<sup>8</sup>

Evocative of the border wall talk associated with securitarian border regimes across the globe, the word *Benteng*, according to Kamus Dewan Bahasa, refers to a “stone wall for defending a city from enemy attack,” or “a place strengthened by a stone wall,” though the item might be thought more broadly here as referring to “defense.”<sup>9</sup> *OPS Benteng* is an integrated operation, where “integrated” refers to the operation’s cross-agency constituency, drawing together agents from (i) the Malaysian Armed Forces (ATM); (ii) the Royal

Malaysian Police; (iii) Malaysian Enforcement Agency; (iv) Immigration Department of Malaysia; (v) Royal Malaysian Customs Department; and (vi) the Malaysian Border Control Agency. The Defense Minister noted the following points:

1. Since January 2020, 12,877 undocumented immigrants had been detained, with 5,204 still in detention centers. 4,456 of these were from the Philippines, 618 from Indonesia, and 130 from elsewhere.
2. The operation in Sabah drew together some 3,493 agents, 10 ships, and 54 smaller speedboats.
3. 7,673 undocumented immigrants have been deported during the 2020 calendar year (eclipsing the Sabah State Immigration Department's stated target of 7,000 deportations).<sup>10</sup>

Concerns about the border as it relates to the fight against COVID-19 have, however, more recently given rise to countervailing humanitarian concerns made most visible in a bombshell report on conditions in Sabah's overcrowded *Pusat Tahanan Sementara* (PTS) or Temporary Detention Centers. Released by a fact-finding team attached to the Sovereign Migrant Workers Coalition (*Koalisi Buruh Migran Berdaulat* or KBMB), the report investigated the deportation of more than 1,082 Indonesian migrants from Sabah between June and September 2020. Drawing on field research conducted from June through September, and marshalling data from in-depth interviews conducted with 43 Indonesian migrant workers, the team found the following:

1. The violation of all principles of fair justice.
2. Prisoners at PTS are subjected to inhuman and degrading treatment and punishment occurring on a regular, systematic and massive basis.
3. Deportees are detained at PTS experienced extortion, seizure of personal property
4. Inadequate PTS conditions and facilities have resulted in the majority of detained migrant workers suffering from various mental illnesses and stresses, even death. PTS facilities do not attend to the special needs of vulnerable groups, including women, pregnant women, children, and the elderly.
5. The prolonged detention of migrant workers is the result of complex and inefficient deportation administrative procedures.<sup>11</sup>

The report concluded with a series of recommendations for the Malaysian and Indonesian governments alike, including (but not limited to) (i) rehauling the administrative procedures for deportation, (ii) improving the conditions of PTS by introducing minimum health standards as stipulated by the WHO, and (iii) "reforming the legal system to prevent the criminalization of undocumented migrant workers, and punishing perpetrators of torture in PTS."<sup>12</sup>

The report was launched on 7 October 10:00 Jakarta time, and its results discussed in a public webinar whose title – "We were treated like animals" ("Kami diperlakukan seperti binatang") – was taken from an interview with one of the fact-finding mission's many respondents. Among the invited speakers was Mr. Jerald Joseph, Commissioner of the Human Rights Commission of Malaysia (SUHAKAM). Describing the report as "shocking," the Commissioner asserted that unless the Indonesian and Malaysian governments work together to address the root cause of the problem, the problem will recur.



This root cause, the Commissioner explained, involves the issue of the economic pull of Sabah for Indonesian workers and the issue of *jalan tikus* (“rat paths”) or clandestine cross-border channels. “Workers should come in through the proper channels, to have legal documents and so they can have rights as legal workers,” the Commissioner said, adding that this clandestine crossing complicates the spread of COVID-19, and that “if the government of Malaysia is afraid of people without documents walking across, then ... we need a long-term solution for resolving this forty-year-old problem of people walking across.”

Addressing healthcare at migrant detention centers, he said that “[N]o one should be deprived of their right to health even if they are detained.” Acknowledging the report’s description of the “horrible” conditions of PTS, which he estimated to be 25-30% overcrowded, the Commissioner noted SUHAKAM’s efforts to train Malaysian immigration, police, and prisons to comply with the United Nations’ minimum standards for detention (the Mandela Rules). Overcrowding, however, makes it impossible to comply with such minimum standards, the Commissioner explained. “[The] Malaysian government and the authorities have to take responsibility to decide if you want to arrest, make sure you have proper, decent conditions for detention,” he said, adding “if you don’t have [proper conditions] you cannot do the arrest.” He ended his comments by noting that SUHAKAM and the Indonesian National Commission on Human Rights (KOMNAS HAM) will work together to “look at the root causes” and “work out a long-term solution.”<sup>13</sup>

On 26 October, and almost three weeks following the release of the fact-finding mission, Malaysia’s Defense Ministry released a statement on social media related to that day’s press assembly held by the Defense Minister: “At this time, OPS Benteng is more focused on the deportation of PATI instead of arrest.”<sup>14</sup> Coincidence, or something more? Nevertheless, this development was framed by the Defense Minister as a security and public health issue in his comments, noting “As we know, one of the causes of the rise in positive COVID cases in our country, particularly on the east coast of Sabah is when PATI are detained and they mix with other detainees ... Now we made the decision ... we will drive them away before they reach our border area.”<sup>15</sup>

Still, recent developments suggest a positive re-thinking of the approach to undocumented immigrants in greater Malaysia, if not in Sabah. In response to the worker shortage in the palm oil industry, Prime Minister Muhyiddin recently said the government is considering offering temporary work permits to undocumented immigrants.<sup>16</sup> In response to media reporting on the possibility of such a permit for migrants in Sabah, however, Sabah Deputy Chief Minister Jeffrey Kitingan denied that this was the case, noting that “The prime minister was only referring to the situation in the peninsula,” and adding that Sabah has its own immigration policies.<sup>17</sup>

## **CONCLUSION: MOVEMENT CONTROL AND MIGRANT CARE**

Sabah, as one commentator has recently put it, is at a crossroads: “[it] is at a critical juncture as COVID-19 cases continue to surge and the healthcare system is being stretched beyond capacity.”<sup>18</sup> Analysts at Malaysia’s Institute of Strategic and International Studies have



framed the situation in more dire terms, making the (well-argued) case that the East Malaysian state is facing an imminent “humanitarian crisis.”<sup>19</sup>

What’s next for Sabah? As public attention swings to Budget 2021, it is important that analysts remain attentive to ongoing developments in the East Malaysian state. News of defense operations turning to expulsion (as opposed to detention) and the possibility of a temporary work permit for undocumented migrants are steps in the right direction. Sabah policymakers should evaluate the latter pragmatically, rather than dismissing it outright. So, too, they should take seriously the findings of the Sovereign Migrant Workers Coalition. Policymakers should heed concerns about denials of liberty raised by the mission in conversation with SUHAKAM, and rethink issues of migrant detention during the pandemic. Indeed, on 2 November, the Ministry of Health identified 104 positive cases in a new cluster associated with a PTS in Tawau, Sabah. What is now manifestly clear is that migrant care – that is to say, caring about and caring for migrants – is an issue of public health.

In a 2009 *Lancet* article, Harvard physician and Professor of medical anthropology Arthur Kleinman reminded us that care is a “defining moral practice,” one of “empathic imagination, responsibility, witnessing and solidarity with those in great need.”<sup>20</sup> Moving forward in this hour of need, it is crucial that policymakers grasp that (i) movement control, (ii) migrant care, and (iii) public health are interconnected dimensions of Sabah’s landscape.

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<sup>1</sup> See in particular Lee (2020). “Desperation debases democracy in Malaysia.” *ISEAS Commentary* 2020/168.

<sup>2</sup> Sinar Harian (2020). “Kerajaan mungkin bukan pilihan anda tetapi ambil berat tentang anda.” 27 March 2020.

<sup>3</sup> FMT (2020). “Shafie is sorry but justified amid Covid-19 pandemic.” 24 September.

<sup>4</sup> The Malay Mail (2020). “Acknowledging Covid-19 risks, Shafi urges Sabahans to vote still and choose government of integrity.” 24 September 2020.

<sup>5</sup> WHO (2020). “Coronavirus disease 2019 (Covid-19) Situation Report – 80.” 9 April 2020.

<sup>6</sup> CodeBlue (2020). “Malaysia’s Sporadic Covid-19 Cases spiking.”  
<https://codeblue.galencentre.org/2020/10/16/malaysias-sporadic-covid-19-cases-spiking-driven-by-sabah-surge/>

<sup>7</sup> mStar (2020). “Muhyiddin akui kempen PRN Sabah antara punca kes Covid-19 naik mendadak, pilihan raya ‘sesuatu yang tak dapat dielakkan’ selepas DUN bubar.” 6 October.

<https://www.mstar.com.my/lokal/semasa/2020/10/06/muhyiddin-akui-kempen-prn-sabah-antara-punca-kes-covid-19-naik-mendadak-pilihan-roya-sesuatu-yang-tidak-dapat-dielakkan-selepas-dun-bubar>

<sup>8</sup> Mengawal ketat sempadan negara secara bersepadu dari dibolosi Pendatang Asing Tanpa Izin (PATI) bagi mengekang jenayah rentas sempadan selain mengekang penularan wabak COVID-19.

<sup>9</sup> Kamus Bahasa Melayu, Dewan Bahasa dan Pustaka (2020)

<https://prpm.dbp.gov.my/Cari1?keyword=benteng>.

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- <sup>10</sup> YB Datuk Seri Ismail Sabir Yaakob (2020). Media Assembly Talking Points Memo. 14 October.
- <sup>11</sup> Tim Pencari Fakta [Fact Finding Team] (2020). “Kondisi migran Indonesia yang dideportasi selama masa Covid-19 dari Sabah, Malaysia ke Indonesia” [The Condition of Indonesian migrants who were deported during the time of Covid-19 from Sabah, Malaysia to Indonesia]. Koalisi Buruh Migrant Berdaulat. pp. 20-28.
- <sup>12</sup> Ibid, p. 37.
- <sup>13</sup> Jerald Josph (2020). Comments at “Deportan: Kami diperlakukan seperti binatang.” 7 October.
- <sup>14</sup> “Pada waktu ini, OPS Benteng lebih memfokuskan kepada pendekatan pengusiran terhadap PATI berbanding tangkapan.” Kementerian Pertahanan Malaysia. Facebook, 26 October, <https://www.facebook.com/177194982291358/posts/sidang-media-perkembangan-perintah-kawalan-pergerakan-pemulihan-pkpp-26-okt-2020/3709575125719975/>.
- <sup>15</sup> “Seperti kita tahu, salah satu punca menginkatnya COVID positive di negara kita khususnya di pantai timur Sabah apabila PATI ditahan dan mereka bercampur dengan tahanan-tahanan lain ... Sekarang ini kita membuat keputusan ... kita usir mereka sebelum merkea memasuki kawasan sempadan kita.” Sidang Media Perkembangan Perintah Kawalan Pergerakan Pemulihan (PKPP) 26 October 2020.
- <sup>16</sup> SinarHarian (2020). “Kerajaan pertimbang beri permit kerja sementara kepada PATI.” 30 October.
- <sup>17</sup> FMT (2020). “Temporary work pass proposal only for peninsula, not Sabah, says Jeffrey.” 31 October.
- <sup>18</sup> Tharanya Arumugam (2020). “Sabah at crossroads in Covid fight.” New Straits Times. 30 October.
- <sup>19</sup> Bridget Welsh and Calvin Cheng (2020). “The Sabah Crisis.” Institute of Strategic and International Studies (ISIS) Malaysia.
- <sup>20</sup> Arthur Kleinman (2009). “Caregiving: the odyssey of becoming more human.” *The Lancet* Vol 373(9660), pp.24-30.

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