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A Question of Access: Education Needs of Undocumented Children in Malaysia

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ABSTRACT

In 2002, the Government of Malaysia amended the Education Act of 1996 (Act 550) to, in effect, limit access to free education to Malaysian citizens. This means that children of foreigners who do not have proper documentation but reside in Malaysia cannot attend government schools. Those affected are the children of foreign workers, asylum seekers and refugees. This paper attempts to outline the background to the education needs of Filipino children and map out existing initiatives by non-government organisations to mitigate the problems of illiteracy and poverty. It also attempts to describe the aspirations of these children in terms of education. The first section discusses the circumstances behind being undocumented in East Malaysia, while the second section describes existing local non-government organisation initiatives and the challenges such organisations face in providing free education to undocumented children. The findings are drawn from two fieldwork sessions, conducted in 2006–07 and 2013–14. Both research sessions used observation, semi-structured interviews and focus-group discussions (FGD) with children aged 7–17 years in Sabah, Malaysia. This study finds that children are in a desperate situation as a result of being denied an education. While there are non-formal learning centres available in their communities, these local initiatives are insufficient to provide a clear path to education in towns and rural villages.

KEYWORDS

Undocumented children; Malaysia; access to education; education needs; immigrants

Introduction and Context

> From our view, children are children. Their place is in school. It is not the children's fault that they are in our country and not able to attend schooling. It is their right.
>
> UN official, 2009

Studies on immigrant children are a scarce resource (Aronowitz, 1984; Stevens & Vollebergh, 2008; Tienda & Haskins, 2011), even more so when it comes to immigrant children located in the South. The scarcity of research that examines the South–South movement of people is evident vis-à-vis the huge volume of studies describing the situation of migrants/immigrants

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from the South to the North. What is intriguing is the lack of studies that examine the situation of undocumented immigrant children who live in a completely different world from non-immigrant children. Many nation-states in the Southern hemisphere have been migration actors either as receiving or sending countries (Chou & Houben, 2006; Kaur, 2014). This gap provided the impetus for two studies that I carried out in 2006–07 in Sabah, Malaysia that examined the status and condition of undocumented children, and another study in 2013–14 of immigrants and ecological responsibilities in two fishing communities. Despite the fact that Malaysia has been a home to several immigrant communities since its colonial days, a lot still neEds. to be done to understand the situation of immigrants in border communities. Because of porous borders in East Malaysia, cross-border activities are as old as the history of Sabah itself. Both the Philippines and Malaysia are located in what is generally viewed as the South.

In this paper, the term "undocumented children" refers to children who neither hold any form of documentation to prove that they are legal citizens of Malaysia nor have any documentation as a foreign national. It is noted that these children have never travelled outside their present geographical location, including to their parents' home country.

This paper has three sections. The first provides a brief background on migration flows from the southern Philippines to Malaysia and how these flows have stimulated undocumented entry into Malaysia. It must be observed that route patterns and practices of undocumented entry into Malaysia using the East Malaysian coastline are vastly different from those of undocumented migrants/immigrants who usually come via legal channels – i.e. airports and sea borders. It examines the various circumstances under which children become undocumented based on their parents' position in the host country. The children narrate their experiences at home and in public spaces and outline how these economic and social experiences enable them to survive given their state of "illegality". The second section describes various community-based initiatives of private individuals catering to the educational neEds. of the undocumented. It also documents the programs that the Philippine government, through its diplomatic representative in Malaysia, has introduced to improve the conditions of children. The last section describes two ways in which children are able to subvert their conditions in spite of marginalisation and deprivation. Nonetheless, even with feasible strategies for survival, children experience varying degrees of marginalisation in their Malaysian "homeland". I use the word "homeland" as this is the children's only place of domicile even though their parents may have gone back and forth between Malaysia and the Philippines for years.

This study is informed by the view that children and childhood are a social construction. Childhood is a "shifting social and historical construction … a continually experienced and created social phenomenon which has significance for its present, as well as the past and future" (James & Prout, 1990, p. 231, cited in Mills & Mills, 2000). Moreover, there is not one childhood, but many, formed at the intersection of different cultural, social and economic systems, and natural and man-made physical environments (Stevens & Vollebergh, 2008; Tienda & Haskins, 2011). Different positions in society produce different experiences (Frones, 1993, cited in James & Prout, 1990, p. xiii; Tienda & Haskins, 2011). In this sense childhood is not a static, objective and universal fact of human nature, but a social construction that is both culturally and historically determined (Scraton, 1997, p. 2). Notions of children as agents in, as well as products of, social processes assume the irreducibility of childhood based on a given biological reality, and that social, cultural and historical

variability must take an overriding position in understanding the position of children (Kang, 2010; Ryan & Sales, 2011). In the legal parlance adopted by the United Nations Convention on the Rights of the Child (UNCRC), to which Malaysia and the Philippines are signatories, most Asian countries have children and childhood circumstances tailored to the migration status of their parents or guardians. Most often children adopt the status of their immigrant parents or guardians. The UNCRC provides for the rights of children to nationhood so that no child will be left stateless because of the illegal migrant status of their parents or guardians.

In the realm of migration, a child's position is often invisible (McCarthy, 2012; Devine, 2013). It is assumed that migration engages the adult participants and children do not seem to be a part of or taken into account in decision-making. Such a stark picture of the invisibility of children in the migration/immigration process is anchored in the traditional notion that children remain an adjunct to the immigrant parent's social locality (Levitt, 1996). French historian Philippe Aries argues that in "medieval society the idea of childhood did not exist, as once the 'child' moved from the biological dependence of 'infancy' it belonged to adult society" (Aries, 1962, p. 125, cited in Scraton, 1997; Montgomery, 2008). In other words, there is no period in which children are viewed as transitioning between childhood and adulthood. More often than not, also, the condition of children's invisibility in the decision-making process of migration contributes to the overall lower position of children in the wider spectrum of society.

This paper also aligns itself with the transnationalist perspective in arguing that the integration paradigm and the assimilationist model of the position of migrants/immigrants in the host country can no longer fully explicate complex migration nuances (Portes, 2010; Vertovec, 2001; Levitt, 1996). The past decade has witnessed the ascendance of an approach to migration that emphasises the attachments that migrants maintain with their families, communities and traditions outside the boundaries of their nation-state. In essence, social ties that bind migrants/immigrants and those in the home country create transnational networks and consequently pave the way for cultural diffusion and circulation of ideas, behaviour and practices (Levitt, 1996). Social networks and ties are sustained beyond the boundaries of a nation-state; in fact, to some degree, these social ties facilitate social interconnections even beyond the countries of origin and destination. While social connections continue between migrating adults, the children of undocumented immigrants are "neither here nor there" and their social position cannot be located within the terrain of mainstream integration. Multiple but marginalised identities of child immigrants are fluid and vacillating in response to state machinations and economic expediency. The breadth of multiple identities is embedded within the parents' capacity/incapacity to establish acculturated practices that children, as part of the household, are able to embrace.

The objectives of this paper are, first, to describe the various categories of children who are considered undocumented by the state apparatus and explain the circumstances that rendered them undocumented, and, second, to attempt to articulate undocumented children's aspirations for access to school and their connection to their quest for survival. Since 2002, the Malaysian government has banned children who have no proper documentation from registering in state-run public schools, for reasons unknown to the general public (Section 130, Act 550, Education Act 1996). In societies where education plays an important role in uplifting one's economic condition, parents and children realise that the right to education should not be denied them simply because they are undocumented. Conceptually, this

Figure 1. Map of Malaysia showing the location of fieldwork.

paper argues that undocumented children are in a precarious position that restricts their quest for a safe and nurturing environment where they can grow up as normal children. In effect, the undocumented status of their parents makes their lives fundamentally different from those of other children. Their illegal status arguably stifles their sense of belonging to a community when they do not have the right of education (Devine, 2013). That said, marginalised though they may be in the community, undocumented children never stop challenging the existing social environment by attempting to re-create a normal life by participating in everyday routines in the face of this restriction.

Methodology

This paper is a product of two research projects. The first in-field study was conducted in 2006–07 under the "Voices at the Margins: Transnational Childhood, Identity and Culture of Immigrant Children in Malaysia" research initiative, funded by the Southeast Asia Studies Regional Exchange Program (SEASREP). The second in-field study was conducted in 2013–14, and focused on immigrants and their ecological responsibilities in fishing communities in Sabah. I made several visits to Kota Kinabalu, Sandakan, Lahad Datu and Kudat between 2006 and 2014 (see Figure 1). This research used qualitative methodology such as semi-structured interviews, observation and focus-group discussions (FGD) to gather data from the community. I conducted semi-structured interviews with children working at the fish markets in Kota Kinabalu, Lahad Datu and Kudat. Each interview lasted between 45 minutes and two hours. FGDs were used to gather data from children at Humana Learning Centres (HLC) in Lahad Datu. I conducted five FGDs with 25 children aged 7 to 17, with five members in each FGD. In addition, semi-structured interviews were conducted with parent immigrants, Humana teachers and Filipino community and youth leaders who have

been working and living in Sabah for many years. The children in the study are all conscious of their undocumented status. Interviews were later transcribed, categorised and themed.

One of the challenges faced in conducting this research in the field was the issue of the physical security of the children during and after the interviews. It is a challenge when parents are overly anxious about their children's security and want to be physically present and know beforehand the questions that will be asked during the interview. The need for the parents' presence during the interview and FGD was a critical question. For younger children, the request to narrate their experiences was a challenge perhaps because they had been told not to talk to anyone about issues related to their immigration status. In order to establish a genuine relationship with the children, I visited them at least twice during the two-year period. In one immigrant area, I attempted to enter the "stilt" village to meet my contact person. I was shocked when a group of women questioned the purpose of my visit. These women later explained that every time an outsider visits the village, trouble ensues, putting the community at risk of deportation.

Findings and Discussion

En route to "illegality"

Centuries of migration to Malaysia have made this society multi-cultural and plural (Kaur, 2014). Malaysia's borders are surrounded by thousands of islands and islets that form part of the nation-states of the Philippines, Indonesia, Brunei and Thailand (Khoo, 2009). A long history of border crossings has created an active migration path. The traditional routes in and out of Malaysia are conveniently facilitated by the existence of long historical ties and social networks (Wong, 2009; Morea, 2008) in both Malaysia and the Philippines. Cross-border migration has definitely established economic and social significance (Sadiq, 2005). It is home to generations of irregular migrants of Filipino and Indonesian descent (Lynch, 2007; Sadiq, 2005).

Even before the protracted war against Muslim insurgents in Mindanao began in the 1970s, Filipinos had been plying this route, perhaps even before the nation/country of Malaysia gained its independence (Warren, 1985) from British colonisers.[1] Some were hired by big timber companies to work in logging concessions and were allowed to bring their family members with them. Filipinos from Mindanao had already trickled into Sabah because of its maritime accessibility (Wong, 2009). When the Marcos regime imposed Martial Law in 1972 and placed the archipelago under emergency rule, another wave of migration of both Muslim and non-Muslim settlers from the southern Philippines made its way to Sabah (Wong, 2009; Morea, 2008). The movement was facilitated by potential settlers' friends, family members or relatives who had earlier made Sabah their home (see also Sadiq, 2005). Informants from fieldwork research assert that the need to have a passport to travel is a relatively new phenomenon, alluding to the fact that, previously, all they needed to do was to *langyaw*, a Bisaya term meaning "to migrate to an unknown land", without any documents. The seamless, borderless world was once the only frontier they knew.

On the other hand, Malaysia is an economic powerhouse and is seen as a country where there is abundant demand for all types of labour. This demand for foreign labour is propelled by the creation of new development strategies to establish Malaysia as a competitive, productive and industrialised nation by 2020 (Chin, 1998; Heyzer & Lycklama, 1989). Malaysia

may not be the ultimate destination for resettlement but the dominant opinion is that it is a fertile ground for both skilled and unskilled workers biding their time to transmigrate to the West (Sadiq, 2005). Fieldwork narratives show that Malaysia is a transit point en route to the West (Australia, the United Kingdom or Canada, for example), but before they can migrate they need to save a large sum of money.

On another level, poverty, lack of economic opportunities and the armed rebellion in certain parts of Mindanao are important factors explaining why Filipinos had to leave the country in search of alternative settlements in Malaysia. In 2009, the poverty rate in Sabah was 19.7 per cent, one of the highest of all the Malaysian states (Tenth Malaysia Plan, 2010), but it has a very high foreign population. It was not only Filipino Muslims who migrated, as the primary push factor was the lack of economic opportunities; there were also a number of unskilled migrants from Zamboanga and Palawan, both Muslim and non-Muslim, who helped sustain the Sabah state plantation economy in the 1980s. In general, immigrants' low level of education, lack of awareness to counter abuse, and lack of access to consular assistance from the Philippine national government[2] adversely affected their rights. Coming from a society that did not require anyone to carry any form of identification/documentation to a country where this is required and where regular checks on travel documents are common, life was difficult for the new immigrants to Malaysia.

Filipino immigrants comprise the majority in Sabah although there are many other immigrant communities such as Indonesians and Pakistanis. In the aftermath of the Mindanao conflict in the mid-1970s, 50,000 Filipino refugees entered Sabah and were given refugee status (Wong, 2009). Lahad Datu, the "eye of the storm" in the alleged Filipino "rebel incursion" that shook the country in 2013, is a small fishing town that is popular among Filipinos and looks like a transplanted town from the Philippines, where almost everyone communicates in their own distinct language when not within hearing distance of "outsiders".

The migrants/immigrants' undocumented residence in Sabah determines many aspects of their lives, especially in the areas of work, education, marriage and religion. The "illegality" factor creates a web of abuse and harassment by the authorities for the migrants. Where there is perpetual paranoia over who is legal and who is not, carrying proper documents is important. For instance, a new entrant to Sabah who holds a valid passport but whose permission to stay in the country has lapsed may travel from Kota Kinabalu to Sandakan by public transport but will encounter at least five roadblocks before reaching his destination. When there is a roadblock, male passengers are required to get off the bus and present their travel documents to the authorities while at least two police officers board the bus to check the documents of the women and children. Those who are unable to provide genuine documents are subjected to intense interrogation, resulting at times in bus operators leaving some passengers behind. One solution is to offer bribes at these roadblocks, and interviews revealed that at times "illegal" immigrants encountered five roadblocks on a journey of four or five hours! Concrete evidence of bribery and corruption is not available, although accusations of more general corruption exist, particularly at the local[3] police and immigration levels (Sadiq, 2005; Esplanada, 2011).

Cross-border migrants from the southern Philippines strongly resist the derogatory term *pendatang haram* or illegal immigrant, arguing that although some of them do not have the required travel documents they do have some documentation. They argue that it is the authorities that have rendered them "illegal" by confiscating their travel documents, or that their employers or agents keep their passports to deter them from absconding or

reporting to the proper authorities in regard to non-payment of wages etc. To some extent, the use of the term may be valid, as some immigrants do pass through some entry points without possessing any documents, depending on which point of entry they use. Some dock at unguarded spots along the coastline in the dead of night, then travel to the interior of an island where police authorities do not set foot. There, they work in an oil palm plantation for months or even years and then slowly move to smaller towns when they become more familiar with the local language and the geography of the area.

Categories of undocumented children

In March 2009, a written parliamentary reply from the Home Ministry reported that there were 32,440 stateless children in Malaysia, although the National Registration Department (NRD), an agency under the ministry, has since said it does not keep records of stateless persons. In the same year, the Asia Foundation suggested that there could have been 52,000 stateless children in Sabah as of 2009 (Subramaniam, 2014). According to the Ministry of Education's report in 2009, of the undocumented children between the ages of 7 and 17, nearly 44,000 were not enrolled in school (www.voanews.com). On the other hand, the United Nations High Commissioner for Refugees (UNHCR) estimates that there are around 12 million stateless persons around the globe, with as many as 125,375 in Malaysia, of whom 40 per cent are children (Vanar, 2012). Zeroing in on the number of undocumented children, the Federal Special Task Force in Sabah and Labuan estimates that 30,000 are born of undocumented parents, which automatically renders the children undocumented. What this implies is the difficulty in knowing exactly how many undocumented children there are in the country, although the UNCRC's mandate specifically states in Article 7 that all births should be registered regardless of nationality (Skelton, 2012).

In Sabah, there are several categories of undocumented children. First, there are children whose parents, both of Filipino origin, do not have any proper documentation, which means they hold neither a Malaysian identity card nor a Filipino passport. This seems to be a common situation among undocumented immigrants; however, it could be that those in this category refuse to disclose the fact that they previously held a Filipino passport or that they simply entered Malaysian waters without any travel documents from the Philippines.

Second, there are children of second-generation immigrants whose parents originally held an IMM 13[4] visa and who claim that they have refugee status but the card was never renewed. This is a very common problem among parents who never thought of renewing their status as refugees as "no one told them" about the need for visa renewal, according to the mother of a 17 year-old girl who lived in a village in Sandakan. To immigrants, once they are given IMM 13 status, it is theirs forever and they need not worry about renewing it. A copy of IMM 13 that was shown to me was nicely wrapped in a cellophane bag to protect it from the harsh weather conditions. Holders of IMM 13, just like other foreigners living in the state, need to carry this paper wherever they go. This explains why some original copies of the document have become damaged over time. Some "smarter" refugees carry a photocopy and leave the original document at home.

Third, there are children who have one parent who is a Malaysian citizen but whose birth was not registered. It is interesting to note that Filipino women who "marry" local citizens within the state of Sabah "fear … being deported or detained" (Filipino informant, June 2006) should the government, through the National Registration Department, find

out that the child's mother is undocumented. Their belief is that the mother (and most probably the child) would be detained or repatriated to the Philippines. During data collection, I encountered at least two cases of this nature. Perhaps the Malaysian parent did not understand the full implications of failing to register the child and only realised later that this was a problem that needed to be rectified; by this stage, and at great future cost to the child, it may have been too late.

Fourth, there are children who were left behind in Sabah when their parents were repatriated to the southern Philippines. When frequent raids take place, there is a high risk that parents will leave their children without a guardian. Another possibility is that children follow the parent/s to prison, as one non-government worker observed in Sandakan:

> Children along with their parents also work in the fish cages in Sandakan and when arrested by the Sandakan police, the children go along with their parents inside the jail for 7–8 months or more before being deported. After deportation, most children come again with their parents to work in Sandakan even with the threat of another deportation. (personal communication, local NGO worker, May 2008)

And, finally, there are the children who are left to fend for themselves because their parents are in detention (APFFMM, 2009) for various offences and/or are awaiting trial or repatriation to the southern Philippines.

It is interesting to note the role of parents in the whole documentation process. While some parents are aware of the need to register a child's birth with the National Registration Department or at the Philippine Embassy, some are not. Illiterate parents or those who have no access to information often fail to do this, and this compounds the problem. Malaysian law demands that a child must be registered within 42 days of birth, and in order to do that, the parents' identity cards, marriage certificates, birth certificates of other siblings and photos of all family members must be submitted to the National Registration Department (*New Straits Times*, 2007). If the parents do not have identity cards or passports, they can go to neither the Philippine Embassy nor the National Registration Department of Malaysia. However, there are situations in which, even if one parent holds a Malaysian identity card and can register the child's birth without any difficulty, there is a fear that the spouse will be repatriated to the Philippines; thus the registration of the child's birth is a lower priority. For those who have proper documentation, registering the birth of the child in the Embassy of the Philippines in Kuala Lumpur could mean a financial burden in addition to dealing with unfamiliar bureaucratic red tape. Most parents and children on the islands near Sabah do not have birth registration documents, and, as such, the process of documentation is beyond their ken.

The Star, a leading national daily in Malaysia, argued in 2012 that undocumented children are by-products of the massive influx of illegal immigrants into Sabah. Being undocumented is a complex issue that both sides of the national border find difficult to resolve. While the influx of migrants in the 1970s may have been political in nature, the migrants in the 1990s were economic migrants whose motivation to cross the border was mainly to search for work. The island of Sabah was the property of the Sultanate of Sulu before being ceded to Malaysia; thus, Sabah is the destination of choice for Filipinos because of its perceived and real economic benefits compared to neighbouring islands that remain part of the Philippine archipelago (see, for example, Warren, 1985).

Community-based initiatives in response to education neEds.

Cooke, a well-known local scholar in Sabah, argues that borders are socially negotiated boundaries that provide us with "an invitation to examine survival strategies in a more complex way" (2009, p. 55). Access to education as an issue, fortunately, does not rest on undocumented children alone (Kang, 2010), as the local community of immigrants at least attempts to remedy the issue. At the community level, there are individuals whose interests lie in the promotion of children's welfare such as in providing free education. Currently, there are two main types of community-based initiative that are spearheaded by private Filipino individuals in addition to the Philippine government's policy-level push to mitigate widespread illiteracy among the children (and adults). These initiatives are considered non-formal and structured, with at least five of them committed to the idea of providing free education to the undocumented.

(1) The Humana Learning Centre (HLC)

The founding in 1991 of HLC, a non-government organisation under the auspices of the Borneo Child Aid Society, was a refreshing initiative. HLC provides the basics: reading and writing in English, Bahasa Malaysia, Mathematics and Science. HLC has responded to the need for education options by providing basic education to undocumented children, especially those on the plantations, opening more than a hundred learning centres throughout Sabah in 2009 (Humana, 2009). The schools rely on the generosity of individuals, foreign embassies and corporate bodies that pledge to provide learning centre buildings, salaries for teachers, and so on (Humana, 2009). To some extent, large oil palm plantation owners display their sense of duty as part of their corporate social responsibility by donating regularly to HLC.

As of early 2014, there were 13,108 children in five areas – namely, Sandakan, Lahad Datu, Tawau, Semporna and Kinabatangan – that benefited from the HLC program. In total, HLC has 387 teachers, 21 of whom are Filipinos. Founder Tom Vening, an anthropologist from Europe, and his Filipino Muslim wife began operating three HLC alternative learning centres in plantations in Lahad Datu in 1991. HLC children are mixed in terms of ethnic affiliation, and the Centre provides education to both Indonesian and Filipino communities. These children are predominantly from the oil palm plantations, although there are also children from the construction and manufacturing sectors. There are 120 schools throughout Sabah run by HLC. One teacher has served HLC for more than 20 years and he has been instrumental in the development of the school. HLC also collaborates with the Indonesian government so that HLC's student certifications and transcripts are recognised by the Ministry of Education of Indonesia.

(2) Stairway to Hope Learning Centre (SHLC)

SHLC was established in June 2012 with initial capital of RM6000 and the strong support of Filipino community leaders in Sabah and the Philippine Embassy. The school facility was built thanks to the generosity of a Filipino Malaysian who offered 3,000 square feet of space on which the makeshift classrooms of SHLC now sit. There are 214 Filipino children aged 4 to 16 years registered with this learning centre, which occupies six classrooms taught by eight Filipino teachers for a minimal allowance. Classes are conducted three times a week, with two groups in each session. Subjects range from English, Bahasa Melayu, Arithmetic/Maths, Filipino, Science, Moral Values Education, Religion and Computer Studies to co-curricular

activities. What is interesting in this structure is that while the lead organiser, a Filipino entrepreneur, has applied for a permit to operate, the Ministry of Education cannot issue a licence as the students are undocumented Filipino children.

(3) Vision of Hope Learning Centre (VHLC)

Established in 2006, VHLC sits on a site offered for free by a Filipino-Malaysian donor. The curriculum is patterned after the curriculum of a private school in the Philippines. A total of 115 children are taught at three levels: Level 1 – Writing, Reading, Singing, Colouring, Maths/Counting, Phonics and Moral Values; Level 2 – Word Building, English, Science, Maths, Art Work, Moral Values; and Level 3 – Word Building, English, Science, Math Computer and Moral Values. VHLC is located in Kiningau, Sabah and has five Filipino teachers (1 licensed, 4 volunteers).

(4) Stairway to Success Learning Centre (SSLC)

SSLC was founded in Sandakan, Sabah in April 2012 with 134 children; nine of these are Malaysians who come for Maths and English lessons. There are eight Filipino volunteer teachers and four student teachers. It is a community-run centre that provides English, Malay, Mathematics, Science and Art classes for Kindergarten and Grade 1 in the morning session and Grade 2 and Grade 3 in the afternoon session. SSLCs are located at two sites – one owned by a Malaysian and another by a Filipino Malaysian – and the organisation pays RM150 rental per month for each site. At the time of writing, SSLC had applied for a permit, but because it does not own the school building at present the Ministry of Education has not issued the licence.

(5) Persatuan Kebajikan Pendidikan Kanak-kanak Miskin (PKPKM)

PKPKM, to some extent, is a sister learning centre of HLC in that it is managed by Mrs Rosalyn, the wife of HLC's Mr Vening. The difference is that PKPKM is designed for Filipino undocumented children who reside in the Lahad Datu and Semporna town centres, while HLCs are located in the Sabah interior. As of 2014, there were 1,721 Filipino children, 22 teachers (11 licensed teachers, 11 volunteer teachers) in PKPKM centres. PKPKM is registered on Malaysia's Registry of Societies and a licence was issued by the Ministry of Education for it to operate as a tuition centre. PKPKM began in 2012 with two learning centres in Semporna, with 120 students of Filipino and Indonesian parentage. Children learn Malay, English, Science, Mathematics, Art and Physical Education. As of 2014, there were nine learning centres in Bum Bum Island, Lahad Datu and Semporna, with monthly rental costs of between RM1,000 and RM2,500. PKPKM survives through the generosity of individuals and groups. According to Mrs Rosalyn, funding is a major concern in sustaining these learning centres.

The issue here is not how important local initiatives such as the establishment of non-formal schools in the community are. What is not clear is whether these private initiatives to help meet the educational neEds. of undocumented children still meet with state resistance. If the federal government is concerned about (government-provided) services and resources being enjoyed for free by undocumented immigrants, surely these initiatives by the local community should be a welcome exercise as they do not pose any threat to the development of Sabah and Malaysia. As we have observed, more than a decade after the implementation of the ban on access to education by non-citizens, one would expect a huge vacuum in the quality (or an absence) of education for undocumented children.

Across-the-border initiatives of the Philippine government

The Philippine government is aware of the educational neEds. of undocumented children of Filipino parents. The first initiative by the government was the signing of the Philippines–Malaysia Memorandum of Understanding (MOU) on Cooperation in the Field of Education during the State Visit of President Benigno S. Aquino III, as an offshoot of the 4th Philippines–Malaysia Joint Commission on Bilateral Cooperation (JCBC) meeting in Kuala Lumpur in 2000. By way of comparison, the Indonesian government responded to the educational neEds. of its undocumented children by sending Indonesian teachers to teach in local NGOs in the state. Another initiative of the Philippine government was the organisation of a fundraising campaign for five community-based learning centres, which had raised almost RM50,000 as of August 2014 in both cash and educational materials (personal communication, Filipino diplomat, August 2014). In addition, in September 2012, representatives from the Department of Education, Commission on Filipinos Overseas and the Department of Social Welfare and Development, at the request of the Embassy of the Philippines based in Kuala Lumpur, conducted a neEds.-assessment survey in the districts of Kota Kinabalu, Lahad Datu, Semporna and Tawau, "to check on the plight of undocumented school-aged Filipino children in Sabah". Based on this report, the team also conducted training seminars for volunteer teachers from the Filipino community. The Philippine government also created a channel whereby members of the Filipino community are encouraged to cooperate by engaging with learning centres for the undocumented, as the government continues to build partnerships with international and regional bodies to assist with the educational neEds. of these people. Lastly, given that one of the key issues in the "illegality" of children is access to government services, the Philippine government has convinced the National Statistics Office (NSO) to organise a delayed-registration exercise for undocumented immigrants. The NSO is a government arm in charge of documentation and the authentication of documents. Thus, a low-level but critical form of cooperation regarding both Malaysian and Filipino registration issues in Sabah has taken shape. This means that the Philippines, through its designated Embassy officials in Kuala Lumpur, will conduct the delayed registration of Filipino births in Sabah, as reflected in the Memorandum Circular No. 2013–02 or the Guidelines for the Delayed Registration of Birth of Filipinos in Sabah of 15 April 2013. This mobile registration of births is indeed a noble endeavour aimed at reducing the number of undocumented children.

While this is already an uphill task, there is also the lingering thought among undocumented parents that registering their children through the Philippine government would mean that they would no longer qualify for citizenship in Malaysia. In my interview with a 29 year-old whose parents were holders of IMM 13, he mentioned that he would rather wait for a citizenship offer from Malaysia than avail himself of the mobile birth registration offer from the Philippines. Although he is now an adult, he still neEds. to have his birth registered so that he can obtain a Philippine passport to make his residence in Sabah legal. The free birth registration exercise may be a good idea, but the undocumented feel that it will only jeopardise their plan to obtain Malaysian citizenship. They would thus rather remain undocumented than have paper documentation that states that they are from the Philippines. This is an interesting phenomenon. Undocumented workers would rather remain undocumented as a tactical move in order to ultimately attain Malaysian

citizenship. If this is so, what role would identity and ethnicity play in the whole scheme of citizenship and the issue of the nation-state?

Access to education

One of the fundamental rights enshrined in the United Nations Declaration of Human Rights is access to education. It is also enshrined in Article 28(a) of the Convention on the Rights of the Child. As a member nation of the UN, Malaysia acceded to the Convention, but it entered a reservation to Article 28(a) when it adopted the Convention in 1997. Malaysia's Education Act of 1966 (Act 550) was also amended in 2002 to limit access to free education to Malaysian citizens. This puts in great peril the large number of children born to foreign workers, undocumented immigrants, asylum seekers and refugees. Not only are there very limited opportunities for private education in places such as Sabah, Sarawak or far-flung areas in West Malaysia; tuition fees are very expensive and well out of the reach of the undocumented and those who are paid by the hour. Twelve years after the implementation of this federal law, a vast number of undocumented children have been affected, becoming illiterate, poor and further marginalised. Malaysia is under an obligation to respect Act 611 of the Child Act 2001 under the Convention on the Rights of the Child (CRC), which states that "every child is entitled to protection and assistance in all circumstances without regard to distinction of any kind, such as race, colour, sex, language, religion, social origin or physical, mental or emotional disabilities or any status". Furthermore, Act 611 is based on the core principles of the CRC – i.e. "non-discrimination, best interests of the child, the right to life, survival and development and respect for the views of the child". The CRC reflects a view of childhood as evolving and unique in that a child's capacity and ability to carry responsibility depend on their age as well as the social and cultural contexts of their upbringing (Alston, 1994; Boyden, 1997; Nykanen, 2001, as cited in Liden & Rusten, 2007). The question is: does this not apply to the undocumented children of Sabah? Without birth documentation, access to education, especially at the primary and secondary levels, is problematic for them. In Malaysia, before a child enters a public school, a string of paperwork is required, without which the child's registration is rejected, unless it is possible to guarantee the residential status of the child's parents.

The children interviewed in this study disclosed that they loved being at school and being able to meet their friends at school, rather than working in the market or roaming around town. Their aspirations are simple: to become a teacher, mechanic, policeman, restaurant operator, or plantation supervisor. It is obvious that children develop their aspirations based on their own experience. These children have never been outside their immediate neighbourhood, and their aspirations therefore reflect the kind of environment they live in. In one FGD session with the children, this is what Sherry, 8 years old, shared:

> I love to see other children going to school… I told my mother I also want to go to school because I want to meet other children, and play with them… When I grow up I want to be a teacher… I think it is good to be a teacher.

The sudden shift in the way undocumented child immigrants were treated – especially in terms of access to public/state-funded schools – can be explained partly by the perception that undocumented immigrants seemed to be enjoying state benefits at the expense of taxpayers, to the point that local residents were being deprived of basic services (Sadiq, 2005). This can also be gleaned from various (somewhat short-sighted) commentaries in national

news dailies, which accuse the immigrant community of being a drain on social services such as hospitals, clinics, schools and so on. Therefore, the majority of undocumented children are taught by their parents to remain as "invisible" as possible. This means that except in life-threatening situations, children do not need to be physically visible in public spaces such as hospitals and medical clinics. There are, however, situations in which children are at the forefront displaying their vulnerability, such as in hawker stalls, restaurants or the market, a common phenomenon for children who have no parents or adults attending to their everyday neEds. such as food and shelter.

Within the context of the Filipino family, a child's education has always been the parents' priority, as it is widely believed that education increases one's opportunity to succeed. It is no wonder then that, when it comes to schooling, some Filipino undocumented parents take the risk of sending their children to any available learning centre, such as the HLC. Despite the systematic blockade from the state apparatus, post 2002, children nonetheless continue to push the bar of public acceptance. Even so, some are not spared the threats and intimidation by the police and other government authorities. One teacher described an occasion when a van ferrying the HLC children to school encountered a police roadblock. Sensing that the children would not be able to get through the roadblock, the driver returned them to their village and told them to go to school another day. According to Ali, 9 years old, a Bugis,

> Sometimes we cannot attend class even if we are already very near the school when Uncle says, "we go home".

Children are encouraged by the teachers to wear the yellow HLC school uniform every time; roadblock authorities are considerably more lenient when they are in school uniform.

For children with an immigrant background, entry into preschool, or at least entry into primary school, coincides with their immersion in the host country's language and culture and requires assimilative work connected to established pedagogical goals (Adams & Kirova, 2006; Kang, 2010). Despite the legal constraints and discrimination they encounter on a daily basis, undocumented children do contest their situation in ways that are both redeeming and emancipating. On their own, children have shown that education is one of the ways to ensure that their lives on the streets improve. Nevertheless, they need support from the broader spectrum of society in the form of acceptance of their "presence" as they know no "home" except Malaysia.

Fifteen year-old Mary stopped going to school in 2003 when the federal government implemented the education ban. In her words,

> I really want to continue my studies because my friends also go to school. My parents cannot afford to send me to private school, so I guess this is my fate now… I once worked as a receptionist in a local hotel. Then a raid took place. I was told they are all from Kuala Lumpur, not our local people in Sabah. Luckily, I was informed early by my employer, so I left work and since then I have never worked. My father also wanted me to go back to Zamboanga (in Mindanao) to continue my high school but I do not want to do that because I do not know anyone there. I have never visited the Philippines although my father always told us stories about his home in Mindanao.

Another interesting observation during fieldwork was that some undocumented parents had sent their children back to Mindanao to finish high school. This was confirmed by one of the parents I met. He mentioned that he had sent his daughter home to finish third year high school in Mindanao: "My relatives are taking good care of her. She will come back when she finishes college". It is hoped that when the daughter returns she will secure a

passport before entering Malaysia. However, in another case, at least two 17 year-old boys told me that much as they want to continue their education, it has never occurred to them to study in the Philippines.

The essential understanding of transnationalism denotes that immigrants continue to maintain social connections despite years of separation between their country of origin and country of destination. In this particular study, however, there seems to be a "disconnect" between the perspectives of the parents and those of the undocumented children. While parent immigrants have lived in and maintained memories of a past life in the Philippines, and have the urge to re-live these connections, the second-generation children do not have real "social ties" to their parents' country of origin. These children have never visited the Philippines and their only connection to the country is the stories their elders share with them. Even then, these stories always conjure up images of poverty, insecurity and a lack of economic opportunities. In fact, when asked whether they wanted to visit their parents' country of origin, they said they would only do so to visit and would not want to live there, because their friends were all in Sabah.

Undocumented Employment

Malaysia has a population of 29.6 million, and 29.1 per cent are children aged between 0 and 14. UNICEF reports that 72,000 children in Malaysia are living under difficult conditions (http://www.humanium.org/en/malaysia/; retrieved on 10 August 2014). In this section I try to show the economic deprivation of undocumented children that forces them to find employment around their town or city. Article 32 of the Convention on the Rights of the Child protects children from any form of labour. Child labourers, especially those who are undocumented, have no alternative but to join the adult labour force. Forms of child labour in town centres include working in the local market – e.g. pushing carts loaded with fruits, vegetables or fish – and/or washing plates in restaurants. Some young girls work as domestic workers in middle-class Malaysian homes. Undocumented children are left to fend for themselves and roam around the town during the day, returning to the streets at night. These are mainly the children whose parents are in detention or have been repatriated to the Philippines. Children who have parents enjoy a relative sense of security in the sense that they have homes to go back to and see their parents on a daily basis. There are also children who have parents in Sabah but choose not to live with them, preferring instead to live with their friends on the streets.

In one of my morning visits to Kota Kinabalu's Filipino market,[5] I observed at least five children who started work as early as 5am when the market opened. Customers, both locals and outsiders, buy and sell myriad goods, especially fish, vegetables, bananas and other local produce. Children provide an important service to customers and vendors by bringing the goods from the market site to the carpark, bus terminus or nearby restaurants by pushcart.

Children in villages who work on rubber or oil plantations are transformed into "old boys", with older children (13–16 years old) helping their parents on the *ladang* (farm) after school. One HLC teacher confided that during the harvesting season, the children's attendance at school usually drops as the parents ask their children to skip school to help out on the farm. Moreover, plantation owners often demand that parents bring their children as additional labour. The question here is whether they get paid for doing the work. There seems to be a general consensus that child labourers receive low pay, and given the legal

constraints, their names are not listed on the payroll so they remain invisible workers on the plantation. Children as young as seven work, are paid low wages, and are invisible. When I visited the HLC in Lahad Datu to conduct the FGD, I met Joey, 13 years old, who confided:

> My father would ask me to skip school when it was time to harvest the oil palm. He neEds. me and all the family to go and help him so that we will get more. Besides, the oil palm cannot wait for us, it has to be harvested so that the company will get more money. My father also said that the company directs him to send his children to help with the harvest.

When I asked Joey about payment for his labour, he explained, with the help of his mother:

> Usually, my name is not on the payroll because the company does not allow children to work. So it is under the name of my father. My pay is low and different from other workers. My task is to pick up and gather fruit.

It is worth noting that child labour participation in farm work is often unrecorded. And because it is unrecorded, there is no way one can investigate the extent of farm work that the children are involved in and to what extent child labour contributes to the household economy.

Children who work in the town centre face a different problem. The visibility of children working in restaurants, offices or markets forces them to provide at least minimal documentation as required by the management. Children working as dishwashers, office telephone operators or receptionists are sometimes oblivious of their immigration status and, therefore, may invite the wrath of immigration authorities when raids and random checks are conducted. Even if child labourers make a living from decent work, they are still likely to find themselves subject to constant surveillance and intimidation by the authorities. Girls who are unable to continue studying because their parents cannot send them to private schools end up as domestic workers at the tender age of 13. These girls provide immediate relief for local middle-class households that badly need workers to carry out domestic tasks. Domestic service is an obvious and easy opportunity for young girls, especially those from nearby villages. The girls are employed under unfavourable conditions as house helpers and more often than not are separated from their parents. Children then become income-generating members of the household and are deprived of their right to education at an early age.

Implications and Conclusion

The experiences of the undocumented enrich our understanding of the situation of children in this part of Southeast Asia. Observations from this study reinforce what James and Prout (1990), Kehily (2004), Ennew (2010) and UNESCO (2012) suggest about the variability of childhood experience and the need to analyse it in the overall context of the position of children in the immigration nexus. One childhood experience relates to the way children are treated by the state apparatus with regard to their educational neEds.. In particular, since the 2002 amendment of the Education Act of 1996 denying undocumented children access to school, the grim reality of these children's future is clear. What does the future hold for undocumented children in Sabah? Undocumented children are marginalised primarily because they are denied the basic right to education, therefore depriving them of the right to live a decent life. Denial of the right to education – a child's basic right – creates the stark reality of children who live in poverty and face daily exposure to criminality, juvenile

delinquency, drug addiction and even terrorism. While the absence of economic resources may, to be sure, characterise a marginalised group, the lack of knowledge, political rights and capacity, recognition and power are also factors in marginalisation (Jenson, 2000). Young (1990), in her study of justice, contends that marginalisation is the most dangerous form of oppression, because it denies a whole category of people the opportunity to participate in social life and thus potentially subjects them to severe material deprivation.

Malaysia neEds. to seriously address the issue of the right to education and have the political will to change the landscape of marginalisation, especially in regard to the increasing number of undocumented children who have no access to education. Acknowledging the significance of community support is important in efforts such as meeting the educational neEds. of undocumented children. At the same time, it is more important for the state of Sabah to provide education even if these children are categorised as "undocumented", and it is therefore the prerogative of the current government of Malaysia to provide for the neEds. of these children. Assuming that Malaysia reneges on its responsibility because these people do not "legally" exist on paper, it can still be argued that Malaysia has benefited in many ways from the existence of its large undocumented population via their cheap labour or services, in addition to the direct and indirect profits that agents, plantation owners and market sellers have exacted from the sweat and blood of immigrants.

Is there really a difference in terms of experience and the value placed on education between poor citizen children and "other" poor non-citizen children in Malaysia? Malaysia already faces an overwhelming race and ethnicity problem (which is being fanned by the federal government in Kuala Lumpur). Being poor and non-citizens places these children in a very vulnerable position. Poor children who are Malaysian citizens suffer neglect and deprivation, but the situation is greatly exacerbated for the undocumented community of children. Citizenship plays a role in who gets what or who wears the blue-and-white school uniform. It also matters to children who spend time in the markets or on the plantations to eke out a living for their households. Constantly viewing the immigrant community as "suckers" of social benefits, thus leaving the majority deprived of these benefits, has reinforced the everyday belief of Malaysian citizens that the current situation is "acceptable".

In terms of future prospects, Sabah is at risk of perpetuating a society that has a large illiterate population, because these children will be part and parcel of the future labour force of Sabah. It will be to the detriment of the current government if the ban on access to education continues. The global and inclusive society that Malaysia is trying to embrace cannot afford the folly of a large uneducated, illiterate sector of society simply because the state apparatus deems it expedient. Repatriation as an exercise is counter-productive and will only encourage racist sentiments towards the state. Repatriating these immigrants to the Philippines would also be a futile exercise, as border crossings are considered an everyday ritual for many Filipinos. There must be an end to indiscriminate repatriation; instead, a comprehensive and sustainable development strategy for immigrants, as well as the local population, neEds. to be proposed and maintained. Ultimately, we know that education can open up opportunities to undocumented children (McCarthy, 2012; Devine, 2013) that will essentially transform their marginal position in Malaysia.

Notes

1. During fieldwork, the research team met a 73 year-old woman who told how she had crossed the high seas from Zamboanga del Sur to Sabah via Sandakan. Her experience illustrates that there are more than just a few individuals involved in this type of sojourn.
2. There is no Philippine consulate office in Sabah and there will not be one for as long as the Sabah claim by the Philippines remains unresolved.
3. On my trip to Sandakan from Kota Kinabalu, the bus I was on was stopped four times. At each stop, all of the passengers were required to alight and show their travel documents to the attending authorities. There were four men on the bus whom I later found out had entered Sabah less than three months ago and did not have the required residence visas to stay. One of the men said that he had paid RM50 to get through that stop. Luckily for him, he had the money. He was not quite sure, though, how many more stops there would be before he reached Sandakan.
4. IMM 13 is a visa given to the so-called Filipino refugees who left Mindanao in droves to evade the Mindanao crisis in the 1970s.
5. During my first fieldwork in 2006, the Filipino market (Pasar Filipin) was not officially recognised by the state tourism agency and was left to "take shape" on its own. However, in the last two years, there seems to have been a change of attitude, in the sense that the market is now advertised in local and international tourism brochures.

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