

THE VULNERABILITY OF BAJAU LAUT AS STATELESS PEOPLE IN SABAH

WAN SHAWALUDDIN WAN HASSAN¹ DIANA PETERS²

^{1&2}Faculty of Social Sciences and Humanities, Universiti Malaysia Sabah,
88400 Kota Kinabalu, Sabah.

dianap@ums.edu.my

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ABSTRACT The Bajau Laut or Sea Bajau or also often referred to with the derogatory label Palauh by other communities, are known to be living within their ancestral domain of the Sulu and the Celebes Seas or the Sulu-Semporna-South Sulawesi Triangle. During the pre-British period, their mobility around this region was well established as part of their civilization and was not an issue with other peoples in the land-based territories. However, the legal status of the Bajau Laut became problematic when citizenship and territories were formalized by the emergence of the nation-states of the Philippines, Malaysia and Indonesia. In the case of the Bajau Laut population located on the Malaysian side of Sabah, the dynamics of their own internal development has become more complicated. In Sabah, there are three groups of Bajau: The West Coast Bajau, the various groups of East Coast Bajau and the Bajau Laut who can be found along Sabah's east coast, and around the islands off of Semporna. These three groups can be differentiated by their language and dialects, as well as livelihood, status in life, education, community structure and their general worldviews. The West Coast Bajau and the East Coast Bajau have slowly integrated themselves into the Malaysian society, while the Bajau Laut continues their semi-nomadic life at sea and are generally regarded as stateless by the Malaysian Government. This paper looks into the changes that has occurred within the Bajau Laut group and how they are viewed by the Sabah government and society. One of the main finding of this paper is that the status of the Bajau Laut as stateless has made them more vulnerable and easily exploited. This in turn presents as a possible security problem to the state as these people pledges allegiance to no one.

Keywords: *Bajau, Bajau Laut, stateless, exploit, Sabah.*

INTRODUCTION

A stateless person is someone who is not legally recognized as a national of any country. A situation such as this has a devastating impact on the lives of individuals, their families and communities. Being stateless often leaves a person without legal documents and all the fundamental rights attached to it, such as access to education, healthcare, legal employment and freedom of movement. This lack of nationality results in the withholding of a sense of identity and belonging for an individual. The privileges associated as citizens entitles any individual to full state protection and benefits such as human rights, including employment, education, health care, property ownership, political participation and freedom of movement (Badariah, 2018). The United Nations (UN) Refugee Agency (UNHCR) estimated that there were 2.8 million stateless persons in the world for the year 2016, and of this about 40 per cent are those living in the Asia Pacific region. Within the ASEAN region, five countries namely Myanmar, Thailand, Brunei, Malaysia and Vietnam are home to more than 10,000 stateless persons (*Jakarta Post*, 2018). Peninsular Malaysia alone is estimated to be home to over 12, 400 stateless individuals (UNHCR, 2018). However, the number for East Malaysia cannot be ascertained given the complexity of history and irregular migrant flows into the state. Sabah represents an intergenerational case of stateless persons and persons of undetermined nationality, due to widespread lack of access to birth registration and other forms of valid identity proof, among other issues (Rodziana, 2017).

One such population in Sabah that is considered to be stateless is the Bajau Laut who are migratory people, thus the name Sea-Nomads or sea gypsies, who have historically roamed freely between the waters of the Sulu-Celebes seas. These group of Bajau Laut live on boats lives or huts built on water and often move about in the waters off the Philippines and Indonesia. Given the nature of their life, documentation is not a high priority for them. Hence, lacking any proof of citizenship they are neither accepted by Malaysia, the Philippines or Indonesia. While majority of the Bajaus who abandoned their boat-dwelling way of life become amalgamated into land-dwelling population, the Bajau Laut choose to preserve the boat-dwelling lifestyle. As a result, they are viewed as an outcast by the land-dwelling Bajaus, whilst

also left stateless and increasingly vulnerable which in the longer term would pose as a security threat to any state. This paper begins with a description of stateless, the Bajaus followed by changes that transformed them and their vulnerability because of their statelessness.

THE CONCEPT OF “STATELESS”

The definition of a stateless person is stipulated in Article 1 of the UN Convention relating to the Status of Stateless Persons 1954. The definition reads as follows.

“...a person who is not considered as national by the state under the operation of its law.’

(UNHCR, 2014: 6)

In other words, stateless person is someone without citizenship and therefore has no legal bond between a government and an individual. Stateless persons include the *de jure* stateless and the *de facto* stateless. *De jure* statelessness refers to a person who is not considered a national by any state under the operation of its law. That is, no state recognizes the person as its own national. *De facto* statelessness refers to a person with an ineffective nationality or who cannot establish their nationality. These are people who are not recognized as citizens by any state even if they have a claim to citizenship under the laws of one or more states (Massey, 2010). There are number of reasons why a person would become stateless. Their nationality may have been repudiated by their previous state (due to racial, religious or gender issues), the state that gave their nationality may cease to exist, they are denied citizen status in the country where they were born, or they (or their parents and ancestors have) have always been stateless people (UNHCR, 2014). In the case of the Bajau Laut, they are stateless because they have always been that way. They do not possess any kind of identification documents because they have never found the need for documentations. At the same time, the government made no effort to document them as well.

Having no proof of nationality inevitably leads to loss of legal bond and rights between an individual and a state. The individual has lost the right to reside within the territory whilst the state has no obligation to provide a space for the individual. This would also mean that the stateless individual holds no duty of allegiance to any country. With no country to offer diplomatic protection, the individual is left vulnerable as he/she is seen and treated as a foreigner everywhere and a national nowhere (ISI, 2014).

Being stateless, their rights are undeniably limited even though there are Articles in the UN Convention which highlights the necessity to treat stateless individuals equally. For example, Article 3 of the UN Convention relating to the Status of Stateless Persons 1954 states that, a stateless person should not be discriminated based on race, religion or country of origin. There is also Article 4 which allows them the privilege to practice religion of their own choice. In terms of economic survival, Article 17 specifies that a stateless person has the right to engage in wage-earning employment. Article 18 on the other hand, gives them the right to be self-employed. In addition, Article 19 states that they should be allowed to practice liberal profession. Despite all these stipulations, it is very much still the prerogative of the state to abide or to ignore the above.

The lack of opportunity, protection and participation for those who are stateless would be manifested in bigger issues such as development and poverty, skills and healthcare. The consequences of statelessness also do not end with the individual or the immediate family, but can cause spillovers to wider society and the international community of states (ISI, 2014).

THE SAMA/BAJAU

The Bajau Laut belong to a larger ethno-linguistic community known as the Sama Bajau, which spans both the Philippines and Sabah. According to the 2005 census in Sabah, 350,000 Sama Bajau lived in the state at the time. But it is much more difficult to pin down the numbers of people belonging to the Bajau Laut subgroup (Marshall et al., 2019). The Bajau Laut are mostly, if not all, sea-oriented, boat-dwelling, nomadic people. Some of them are boat-dwellers

in coral reefs and are often referred to as “sea nomads” or sea gypsies” in the European literature (Nagatsu, 2001). The Bajau do not address themselves as Bajau. Rather they are Sama or Jomo Sama or ‘a’ a Sama (Gusni Saat, 2003 & 2016; Clifton & Majors, 2011; Yap Beng Liang, 2001).

Presently, Sama populations are found as far north as Luzon, near Cebu, around the western shores of Mindanao (especially in the Zamboanga area), throughout all the Sulu Islands, and along the coasts of eastern Borneo (Nimmo, 1986: 26). Sama-Bajau has been known to be skilled seamen, boat-builders, artisan, pilots, fishermen, and inter-island traders (Sather, 1997: 41). It is also common among the Sama-Bajau to attach themselves with the place they came from for example, Bajau Simunul, Bajau Ubian, Bajau Tuaran, Bajau Semporna or Bajau Kota Belud. Among all these groups, the most mobile, the sea nomads distinguish themselves not by the name of a particular island or island group or place, but by identification with the sea itself, as ‘sea people’s (a’ a dilaut) (Sather, 1997: 36). The A’ a Dilaut were noted to be the collectors of mother of pearls, bêche-de-mer, shark fin and dried fish. In Sulu Island, a derogatory expression “luawan” or “Lutau” or “Pala’uh” among the Tausug in southern Philippines is common. Sather described this as, “...the Sama are associated historically with the geographical margins of the Sulu Sultanate, the peripheries of power and trade, political clientage, the sea and shoreline rather than the land, lesser degrees of religious orthodoxy, and in the case of boat nomads, exclusion from the community of co-religionists altogether, as a people without religion” (Sather, 1997: 44). Characteristically they are to be illiterate, lives in boats, afraid to contact people wearing leather shoes, rarely commit crimes, naïve and ignorant fisherfolks, nomadic and peaceful people, non-violent people, to Sather who ‘fight only with their mouths’(1997: 62).

THE HISTORY OF BAJAU IN NORTH BORNEO/SABAH AND CHANGE

The Sama has been the subject of Sulu Sultanate in a hierarchical system with sultan as the representative of God on earth. Supporting the sultan and this hierarchical network of leader-centred alliances, was a system of ranking. Prestige, which was attached primarily to titles and those who bestowed

them, was perpetuated by a formal ranking system, categorized by Kiefer as aristocrat estate (Kiefer, 1972). Aristocrats dominated the political system particularly at its geographical centre where the Taosug were numerically dominant. Beneath the aristocrat were the commoners who depended on the aristocrat for security and in return, gave their leaders political allegiance, labour and other forms of economic tribute.

The Sama/Bajau formed the second largest community of Muslims in North Borneo/ Sabah together with other Muslim groups which were the Brunei-Malay, Suluk (Taosug), Iranun, Idaan and Dusun descent such as Orang Sungai, Bisaya and Tidong. The Bajau originated from their traditional home which was around the southern parts of Mindanao, Basilan and some islands in the Sulu Archipelago (Tapián Tana, Cagayan de Sulu and Balangingi groups (Amrullah, 2018 & Ramli *et. al.* 2018). The presence of the Spaniard and later the Americans in the Philippines did have an impact on the movement of the Bajau and also the Taosug to North Borneo under the Chartered Company (Warren, 1971). Even before the presence of these Western powers in Southeast Asia, movement of people within Nusantara is normal as was noted by Warren of the Bajau's involvement in the slave trade during the 18th–19th century (Warren, 2002). Some Bajaus were also involved as collectors of marine and jungle product in the Sulu's Bornean dependencies. It was because of these activities that many Samal group began to open up new settlement in Sabah. By the 19th century, the Bajau acquired settlements at Marudu Bay, Tempasuk, Inanam, Kawang and Papar on the west coast and in the Omaddal, Sandakan and Darvel Bay regions on the east coast. The Bajau settlement at Marudu, Tempasuk, Inanam and Papar were later on being classified as West Coast Bajau with their base in Kota Belud.

In the east coast of North Borneo, the Chartered Company played a significant role in establishing Sandakan as the capital of the North Borneo in 1879. Before the advent of the Chartered Company, it has been under the influence of the Sulu Sultanate. During the same time the Spaniard had been harassing the Sulu Sultanate forcing the ruler their claim of sovereignty over Sulu. The Sulu Sultan seeking help from the Western powers in the area, i.e. the German or the British. Sultan Jamalul-Azam granted a land to the German in 1873, resulting in the opening of a Kampung German in Sandakan (Schult,

2000). It was during this period as well that the Samal group or better known as the Balangingi were raiding settlements for slaves (Warren, 2007: 182). It was from Sandakan that the Chartered Company enforced its rule especially law and order to the other area in the east coast notably in the Darvel Bay. This is because the Taosug and Samal inhabited islands scattered in the southern east corner of Darvel Bay became the major focus of resistance against the Company's measures to control the coast's economy (Warren, 2007: 139). Officers were sent to these areas accompanied by the steam gunboat, HMS Zephr, to Omaddal Island leading to the opening of Semporna as a government trading post in 1887 (Warren, 1971: 62–63).

It was during this stage that many Bajau moved from the Tawi-Tawi archipelago and Simunul to open settlements in Sandakan, Semporna and Tanjong Labian, between Tambesan and Tungku. Many complained about the Spanish rule and spoke about the desire to abandon Simunul and settle in North Borneo. Among those identified by the Chartered Company accompanying the Datus from the Philippines are agriculturalists, fisherman and native artisans such as potters, blacksmiths and attap makers needed by the British (Warren, 1971: 68):

Among the positive measures taken by the Company to promote greater permanency of Bajau settlement were to (Sather, 1997: 47);

1. Encourage coconut planting among the Bajau.
2. Enforce boat registration among the Bajaus-where the purpose was to register native vessels in order to maintain control of the maritime movements of the Bajaus; revenue collection with each boat having to pay a dollar per annum; the fee was looked upon as an acknowledgement of Company sovereignty. This measure was said to hinder movement of Bajau Laut to the extent that the Semporna Bajau Laut abandoned their previous practice of periodic long-distance voyaging into Indonesian waters (Sather, 1997: 48).
3. Require newly arrived Sama from the southern Philippines to settle in the vicinity of Semporna town or along the adjacent Tandu Bulong Straits.
4. Ensure the presence of the steam-gunboat HMS Zephyr and HMS Satellite in Semporna.

With the opening of Semporna's trading station, the Bajau Laut was quick to adapt to these changes. As a subject of the patron-client relations, the Bajau Laut have been known to be involved in barter trading with the patron by exchanging fish, collecting tripang and dried fish. In return the Bajau Laut received cassava, young coconut, fruit, areca nuts, sireh and other agriculture product, as well as textile and other manufactured goods (Sather, 1997: 61). Indirectly the Bajau Laut were part of the external markets beyond the Semporna region. However, in early 1920's, tripang was later traded as a commodity on a cash basis, thus breaking the patron-client relations that had tied the Bajau Laut all this while.

According to Sather, starting in 1954, the Semporna Bajau Laut began to abandon boat-dwelling. Most families lived, for at least part of each year, in wooden pile houses built over the sea. Households were generally large and often comprised of more than one family unit (2001: 4). Not only have the Semporna Bajau Laut abandoned their boats, but in recent years, many have also left fishing and made their living as paid laborers, marketing and small-time traders. Kampung Bangau-Bangau originally was a row of three tiny coralline islets (*pu'*), which the Bajau Laut call Pu' Bangau-Bangau referring to white herons that seasonally gather in large flocks around them and over the nearby shallows (Sather, 1997: 65). The Bajau Laut then established what was later known as Kampung Bangau-Bangau. By 1964, the total population of Kampung Bangau-Bangau was an estimated 510 people. Another Bajau Laut settlement across the straits facing Bangau-Bangau was Kampung Labuan Haji which is in Pulau Bum-Bum with a population of 140 people. Both are known as a Bajau Laut anchorage.

Staying on land has also changed many things for the Bajau Laut. Religiously, the Bajau Laut had long been deemed an outcast due to their pagan beliefs (Nimmo, 1990: 7). Their boat-dwelling lifestyle appeared to be the reason for their pagan beliefs and tend to believe in magic and the supernatural. However, things started to change when the Bajau Laut moved to on land. Religion is a case in point. In the past because of their lifestyle, the Bajau Laut did not have a *maskid* (mosque in Bajau Laut). But as they moved permanently on land, they were able to build their own *maskid* in order to perform prayers together with other Muslim jamaah or crowds.

Sather stressed that "...to outsiders, this absence of a prayer-house not only symbolized the religious exclusion of the Bajau Laut, as being 'without religion,' but also demonstrated their leaderless status" (1997:78). This meant they could only be a subject people without the outwardly tangible attributes of a political constituency, standing outside and apart from an otherwise enveloping network of leader-centred coalitions. A study by Nimmo (1990) in Sulu, shows how the Bajau groups in Sulu (such as in Sitangkai Bajau) who abandoned boat-dwelling to become house-dwellers have been incorporated into Islamic Sama culture.

The mode of work that involves the Bajau Laut has also changed. If before they were more into marine related work such as fishing, now the transition to money-for-labor employments is evidence how their environment has changed. The nature to barter fish for rice, cassava, sailcloth, netting-twine, all becoming economic necessities led the Bajau Laut to cash economy. Thus, Kampung Bangau-Bangau expanded as inter-marriages with the Bajau Laut occurred. The Bajau Laut children like others were exposed to education by attending schools in Semporna. In 1982, a primary school was built in Bangau-Bangau but unfortunately it was burnt down in a fire in 1992 believed to be arson.

VULNERABILITIES OF THE BAJAU LAUT

Without any legal identity, the Bajau Laut represent a very vulnerable group particularly those in Semporna. Firstly, because the Bajau Laut are stateless, they are being excluded from receiving healthcare, citizenship and spaces in the society (Allerton, 2014; Brunt, 2013 & 2015). They are not entitled to free healthcare as benefitted by a normal citizen. If they need any kind of service at the government hospital, they will have to pay based on the rates for foreign nationals, which is twice of that for the locals. Because they survive on a day to day basis, they are not financially able to afford hospital visits. The Bajau would normally barter fish for their staple food of rice, sago and maize, or they just buy them with the money they get from selling those fish. Rather, they would prefer to resort to traditional medicine practices. Even during pregnancy, they would enlist the services of a mid-wife among the

Bajau Laut for the delivery of a baby or resort to traditional medicine. Thus, it is no surprise that the Bajau Laut children are prone to skin infections, hookworm or skin lesions while the most serious health problems amongst adults are malaria, typhoid and tuberculosis (Sather, 1997: 75). Since the Bajau Laut children do not have document i.e. such as birth certificate, they are unable to receive an education. While most children from age of 7 to 12 are in school, the Bajau Laut children help their parents fishing or collecting shells. By denying these children access to education, their community will be trapped in an endless cycle of poverty as was their ancestors before them.

Secondly, the establishment of the Eastern Sabah Security Zone (ESSZone) following the 2013 bloody incursion in Tanduo, Lahad Datu, has greatly affected the livelihood of Bajau Laut who are dependent on marine sources for food, housing and even fuel. Through the creation of the Eastern Sabah Security Command (ESSCOM) in 2014, ESSZone was mapped out a securitized zone to prevent not only future incursions such as Tanduo, but also deter sea robberies and sea kidnappings. Unfortunately, the presence of ESSCOM has severely limited the movements of the Bajau Laut at sea. This in turn has greatly impacted their source of livelihood as they could not go gather marine products to be bartered or sold. This led some of them to resort to begging in towns. Children, babies and old women are increasingly visible in several towns in the east coast such as Lahad Datu, Tawau and even in Kota Kinabalu. They can usually be located begging at the traffic lights, plying sympathy from drivers who were waiting for the lights to change. Women and children are often seen begging around town, sometimes with baby in tow. In Lahad Datu town, they could be located close to the Lahad Datu market. There they will start begging from 9.00 am to 5.00 pm.

With the establishment of the ESSZone and the ensuing curfews within the area, there is a realisation amongst the Bajau Laut that any form of documentation to grant them secure passage across the water ways is essential. However, given their naivete the Bajau Laut has found themselves victims of those promising easy and quick identity documentation. Being uneducated and unsuspecting, they could not differentiate between those who are opportunist and taking advantage of them, from those who are sincere in wanting to help them. They are also unawares that the only individual that may be able to

provide a guarantee for their identity is only the *Ketua Anak Negeri*. That being said, the importance of ensuring this community is provided with some sort of identity documentation, has led the flood of documents circulating in the area such as the Surat Lepa (which is issued by the *Ketua Anak Negeri*), Census Paper issued by the Federal Task Force, or the census card.

The Bajau Laut's area for gathering marine products had already been downsized with the announcement of the Tun Sakaran Marine Park by the government in 2004. The marine park involves an area of 340 km consisting of Pulau Bohey Dulang, Bodgaya, Sibuan, Sebangkat, Selakan, Mantabuan and Maiga (Sabah Park). When the marine park was gazetted back in 2004, were approximately 2,000 inhabitants in the area, most of them are Bajau Lauts. With their traditional boats and equipment, it will be difficult for the Bajau Laut to earn a living and survive because they are only equipped to do shallow fishing. Furthermore, the use of pump-boats has also been banned by the government in 2016. Prior to this, pump-boats were the most economic mode of transport for the Bajau Laut, used not only for fishing but also for other daily activities. From observations at Kampung Labuan Haji, Pulau Bum-Bum in 2015, almost all occupants in this area owned a pump-boat.

The presence of fishing trawlers in the vicinity (Semporna) has also posed as a challenge to the Bajau Laut who are still using traditional methods and equipment for fishing. Trawling at its most basic is a boat pulling a net through the water. Trawls have been called "bulldozers of the ocean" by the Greenpeace group because it is able to scoop out as much of the marine life at any one time. The utilization of the fishing trawlers has resulted in overfishing, coral damage, quashing life within the seabed and also unwanted catch. While this is not related to the issue of stateless at all, it has worsened the life of the Bajau Laut who has been deprived many things including their chances of livelihood as they are the one practicing sustainable fishing.

Among the Bajau groups, the Bajau Laut are seen in a very negative way and often looked down upon. This has to do with their sea-faring way of life and using the lepa as a home. This is in contrast with the West Coast Bajau and East Coast Bajau who have settled and stayed on land, are educated and working either as government servants, private businesses or even setting

their own business venture. Historically, only after the Bajau shifted from sea-dwelling to sedentary were they considered by the Chartered Company as a main native group, as indigenous people in North Borneo (Nagatsu, 2001: 218). Before the change, the Bajaus were noted as troublemakers by the Chartered Company in Semporna due to their piracy and criminal activities and their disregard for the law (Warren, 1971). Perhaps as a result of their ignorance or perhaps fate, the Bajau Laut missed their chance to be considered as the subjects of the Chartered Company, and again as citizens of Malaysia after Sabah gained independence in 1963. Ironically, they are not only looked down upon by the other ethnic Bajaus, but also within their own Bajau Laut community, particularly those that have changed to a more sedentary lifestyle. This can be observed especially in Kampung Bangau-Bangau, Semporna and also those living in Kampung Labuan Haji, Pulau Bum-Bum (Sather, 1997).

CONCLUSION

Given their increasing vulnerability in terms of limited areas for livelihood, there may be a possibility that they could be exploited by syndicates, smugglers or even Kidnap for Ransom groups (KfR). Since they have no allegiance to any country, therefore there is no sense of betrayal on their part. While there are no empirical data available to support these accusations nevertheless, with their current status as stateless, they have nothing to lose or see nothing wrong with providing an outsider with information. After all, they are also regarded as an outsider. It is here that we have to be careful. They are part of us but the boat-dwelling need to be change in order that they can be accepted. ESSCOM had already carried out Census among the Bajau Laut in the east coast of Sabah. Hopefully we can come out with something solid that will once and for all settle the statelessness issue of the Bajau Laut.

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